

UOOU-03912/20

The check with this company was

initiated on the basis of 75 complaints. The commercial messages in question have been sent

in the period August 2020 to February 2021. It contained an offer of various consumer goods

goods and linked to the websites of several online stores. Control

found that the domains themselves intended for sending commercial messages (except

one) do not function as websites themselves and are their holders or owners

unknown (the inspector failed to identify them) natural persons. The same

hosting services of these domains are provided on IP addresses belonging to

the address range of foreign companies or the corresponding IP address is no longer possible

trace. The controller also requested the cooperation of the relevant registrars

domain names from which commercial messages are distributed. Just in case

of several domains (relating to the seven commercial messages sent) was specific

sender detected. The other actual senders can then be traced to the controller

failed. However, the online stores for whose benefit it was in question

commercial messages disseminated, operated by a controlled person at the time of the mailings. The

however, she did not respond to any of the calls for cooperation. For not providing

cooperation within the framework of control (violation of § 10, paragraph 2 of the control regulation) eat

a penalty of CZK 100,000 was imposed. Checking for submission

commercial communications states that the person responsible for disseminating commercial communications is how

the actual sender of commercial communications, as well as the entity or entities,

for whose benefit the commercial communications were disseminated. Public liability

for an offense according to § 11 paragraph 1 of Act No. 480/2004 Coll., on certain services

information society, is formulated as objective responsibility, that is

liability for consequences, when in relation to a legal entity there is no need

investigate the culpability of the resulting illegal situation and it is not possible to exempt from responsibility by simply transferring private funds to another person right. The company on whose behalf the commercial communications are sent is thus, she cannot absolve herself of her responsibility, on the contrary, she must still be able to provide evidence consents of the addressees of commercial communications or must be able to secure these consents through the company (sender) that commercial communications she sent. However, the controlled person consents to sending business communications to she did not provide proof of the relevant e-mail addresses. The reviewer thus came to the conclusion that that the controlled person is a disseminator of commercial communications, since in his relevant commercial messages were sent. Furthermore, the inspector stated violation of § 7 paragraph 4 letter b) of the above-mentioned law, because sent business the message did not contain information about the sender on whose behalf the communication was made makes or in some cases even contained misleading information when, as the sender, for whose benefit the commercial communications are circulated, stated another subject. Objections to the protocol of were not submitted to the control by the controlled person. For violation of the above provisions, a penalty of CZK 200,000 was imposed on her, which she has already acquired legal power. In view of the fact that the penalty has not yet been paid, has been forwarded to the relevant customs authority for enforcement.

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