

UOOU-01951/20

The inspection at this company was initiated on the basis of nine complaints about the sending of commercial messages, the subject of which was the offer of FFP2 and FFP3 respirators and subsidy programs including price lists. In addition, these commercial messages contained a direct link to e-shops where these products were offered. The controller first found out who was the sender of these commercial messages. However, using the sending IP addresses, it was found that these commercial messages are sent via foreign companies Amazon Web Services Inc. or Google LLC. And only in the case of one IP address was it a domestic company. The sending domain names also coincided with the domains of the e-shops that these commercial messages promoted. The control was thus initiated at the company that is the operator of the given e-shops. However, this company stated through its legal representative that the given commercial messages do not correspond to the actual offer of the e-shop. In addition, these commercial messages were not created and sent out with her knowledge, and on the contrary, the controlled person feels that her business name has been damaged by this. However, it stated that it is not excluded that these commercial messages were sent by one of its affiliate partners, without the consent and consent of the controlled person. The inspected person checked its database of external entities, however, until the end of this inspection, it was not able to find out the given affiliate partner. The inspectors also approached the companies from which the inspected person ordered or through which they implemented their marketing campaigns, however, they were not among the sent commercial messages and orders established the appropriate connection. In view of the conflicting information, the auditors could not determine with certainty who was the actual sender of these commercial messages, i.e. whether the sender was actually the person being audited, or his affiliate partners, or marketing companies. However, the fact that the commercial messages in question were sent for the benefit of web sites (e-shops) operated by a controlled person, is unquestionable from the texts of business communications sent, but also from the documents for these websites (in particular terms and conditions, personal data protection conditions, contact details provided on the website). The Office thus concluded that the controlled person is the disseminator of the commercial communications in question, as they were disseminated for his benefit and is therefore responsible for the dissemination of unsolicited commercial communications. In this context, the audited person committed a violation of Act No. 480/2004 Coll. The audited person was fined CZK 50,000 in administrative proceedings for this violation. It has already entered into force. Recommendation: In this context, the Office once again calls on entrepreneurs who want to

promote their products and services through affiliate partners, third parties, etc., to always check these partners thoroughly. It is also important to know whether the addressees of commercial communications have given their consent for such sending. The main reason is that the companies on whose behalf commercial communications are sent have objective responsibility for the dissemination of commercial communications carried out by another person. Thus, even these companies must be able to document the consents of the recipients of commercial communications, or they must be able to secure these consents through the company that actually sent the commercial communications.

ContextLocation: Document folders > Site map > Main menu > Supervisory and decision-making activities > Completed inspections > Inspections for the year 2021 > Unsolicited commercial communications - 2nd half-year > Commercial companyView current documents | document archive | documents including the archive