

UOOU-02293/21

The inspection at this company was initiated on the basis of six complaints about the sending of commercial messages. The commercial messages were sent via SMS messages between May and June 2021 and contained an offer of financial services and loans with a link to the company's website. The commercial messages were sent from various phone numbers for the benefit of the audited company. The audited company stated that it did not send the messages in question, that it did not know the addressees of the commercial messages. At the same time, however, she stated that the sending of marketing messages for her is provided by another company and documented a contract on marketing cooperation, from which it follows that this company was supposed to send marketing SMS messages from its client database. She also stated that she discussed the timing of the mailings and their content with the given mailing company. Taking into account the fact that the audited person complained about the services of this mailing company several times and at the end of August this company stopped communicating, it ended cooperation with it on September 30, 2021. The audited company is, however, responsible for this mailing, based on objective responsibility, because she initiated (ordered) the given mailing that was sent on her behalf (i.e. promoted her services). The inspection thus established a violation in the dissemination of commercial communications, as the commercial communications in question sent via SMS messages were sent without the prior consent of the addressees. sent by SMS did not contain any opt-out option, e.g. an unsubscribe link at the end of the message, or an unsubscribe code or a clear contact where you can cancel the sending of such messages. Furthermore, it should be noted that, as part of this control, the sending company was also asked to provide cooperation, in particular about commenting on the addressees of business communications and documenting the consents given to their sending. She did not respond to this request, for which the Office imposed a disciplinary fine on her. The inspected person was fined CZK 10,000 in administrative proceedings for the above-mentioned violation, which took effect on May 17, 2022. Additional information: The Office in the first quarter of 2022 in connection with the increasing number of questions and findings from individual complaints that were delivered to the Office, and which related to the sending of commercial messages via SMS messages, he added the relevant question to the frequently asked questions section of Act No. 480/2004 Coll., which deals with the conditions , behind which commercial messages can be spread using SMS messages. - the commercial message must be clearly and distinctly marked, in the case of a text message, the message must contain at least a brief explanation with the abbreviation "OS", or introduction "OS: "- the

commercial communication must also include the name of the person on whose behalf the communication takes place. For the purposes of text SMS/MMS messages, the business name must be provided. The sender's identifier can, for example, be part of the alphanumeric code from which the message is sent. However, if the sender is different from the one for whose benefit the message is sent, the SMS/MMS message must contain both names. does not wish to send commercial messages. The SMS/MMS message must therefore always contain, for example, a phone number to which you can call for free or send a rejection message. In the case of SMS/MMS messages, the provision of an internet link, when clicked to unsubscribe, is not fully sufficient, as not everyone has a "smart" phone or is connected to the Internet. In the case of sending SMS/MMS messages from an alphanumeric code, i.e. not from a phone number, when it is not possible to send a rejection to such a message, other options must be used, e.g. specifying the phone number on which the unsubscribe will take place. As mentioned above, this opt-out should not be charged, so for example numbers with the area code 800 can be used.

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