

UOOU-01318/20

The inspection of this company was initiated on the basis of more than 100 complaints about the sending of unsolicited commercial messages. The subject of the inspection was the assessment of compliance with the obligations arising from Act No. 480/2004 Coll., on certain services of the information society, in the dissemination of commercial communications by electronic means, e-mail. The commercial communications in question contained an offer of various types of goods and services of online stores and also encouraged visitors to visit the websites where the online stores are operated. The office launched an inspection on the basis of an analysis of the sending domain addresses, namely the company that was the owner or holder of the sending e-mail addresses at the time of the mailings in question, although the commercial messages were disseminated for the benefit of another company, which in the period in question was the operator of websites that were the subject of commercial communications. As part of the inspection, the Office inquired about the legal reason for sending commercial communications, both to the inspected person and to another company for whose benefit the commercial communications were disseminated. However, none of the companies responded to the calls sent. Therefore, the Office imposed a disciplinary fine of CZK 100,000 on the inspected person for non-cooperation during the inspection. As part of this inspection, the Office imposed administrative fines in the aggregate amount of CZK 50,000 on two other companies (obliged persons) for failure to cooperate. The Office found a violation of § 7, paragraph 2 of Act No. 480/2004 Coll., as these companies did not prove that they had appropriate legal title (consent). Furthermore, a violation of § 7 paragraph 4 letter b) of Act No. 480/2004 Coll., since the commercial communications in question did not contain direct information about the sender on whose behalf the communication takes place, only links to the relevant websites were provided. As a disseminator of commercial communications in the position of the client, i.e. the person on whose behalf the commercial communications are sent, the Office identified one entity that operated online stores that were advertised in the commercial communications sent. The inspected person did not object to the inspection protocol. At the end of November 2020, the Office initiated joint administrative proceedings with all interested companies, i.e. both the sender of commercial communications and the company on whose behalf the commercial communications were sent. Recommendation: The Office is increasingly encountering cases of variously linked companies, both in the persons of executives and with common places of business. And also with the fact that such companies constantly alternate in the positions of operators of online stores and senders of business messages.

These companies also do not provide the proper cooperation that is required under the controls. The intentions of these companies are purely expedient. The Office is proceeding with these companies on the one hand using all legal means, such as the imposition of disciplinary fines for non-cooperation, on the other hand in light of the decision, which was also confirmed by the decision of the Municipal Court in Prague, about which the Office has already informed on its website.

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