

FOR PRIVACY PROTECTION AND STATE TRANSPARENCY Tatari tn 39 / 10134 Tallinn / 627 4135 / info@aki.ee /

www.aki.ee Registration code 70004235 PRELIMINARY WARNING in personal data protection case no. 2.1.-1/21/2663

Injunction maker Data Protection Inspectorate lawyer Geili Keppi Time and place of injunction 15.06.2022 in Tallinn Addressee

of injunction - personal data processor IPF Digital AS e-mail address: est-legal@ipfdigital.com Copy: privacy@ipfdigital.com

Responsible person of the personal data processor Board member RESOLUTION: Based on § 56 (1), (2) point 8 of the

Personal Data Protection Act, § 58 (1) and Article 58 (2) points d and f of the General Regulation on the Protection of Personal

Data (IKÜM), the Data Protection Inspectorate issues a mandatory injunction to the data processor to comply with : 1. Add an

opt-out option to SMS messages and emails reminding you to fill out a pending request, through which data subjects can

refuse to use their electronic contact data for direct marketing. 2. In case you want to send notifications reminding you to

complete an application in progress, then in accordance with § 1031 of the Electronic Communications Act, ask natural

persons for their prior consent to use their electronic contact data for direct marketing. 3. Change your data protection

conditions and stop sending direct marketing offers based on legitimate interest. I set the deadline for the execution of the

order to be 15.07.2022. Report compliance with the order to the e-mail address of the Data Protection Inspectorate at

info@aki.ee by this deadline at the latest. REFERENCE FOR DISPUTES: You can contest this order within 30 days by

submitting either: - an appeal in accordance with the Administrative Procedure Act to the Data Protection Inspectorate or - an

appeal in accordance with the Administrative Court Procedure Code to the Tallinn Administrative Court (in this case, the

appeal in the same matter cannot be reviewed). Challenging a precept does not stop the obligation to fulfill it or the

implementation of measures necessary for fulfillment. WARNING: If the injunction has not been complied with by the specified

deadline, the Data Protection Inspectorate will impose a penalty of 1,000 euros on the addressee of the injunction on the basis

of § 60 (2) of the Personal Data Protection Act for each point of the unfulfilled injunction. A fine may be imposed repeatedly -

until the injunction is fulfilled. If the recipient does not pay the penalty, it will be forwarded to the bailiff to start enforcement

proceedings. In this case, the bailiff's fee and other enforcement costs are added to the enforcement money. FACTUAL

CIRCUMSTANCES: On 09.08.2021, XXX submitted a complaint to the inspectorate, according to which the data subject

received several unwanted reminder SMS messages every time he started filling out a credit application on the

<https://credit24.ee/> website, but left it unfinished. In the complaint, the applicant also pointed out the fact that he had refused

direct marketing and withdrawn the corresponding consent, but he also received reminder messages after that. On

10.11.2021, the inspectorate submitted an inquiry to IPF Digital AS and initiated supervisory proceedings against IPF Digital AS on the basis of § 56 (3) point 8 of the Personal Data Protection Act. On 19.11.2021, IPF Digital AS responded to the inspection's inquiry. PERSONAL DATA PROCESSOR'S EXPLANATION: According to the explanations of IPF Digital AS, a reminder message is sent to the person who started filling out the loan application on the Credit24 website based on legitimate interest (IKÜM art. 6 paragraph 1 p f). Since personal data was processed on the basis of legitimate interest, the processor also submitted an assessment of legitimate interest. According to IPF Digital AS, sending reminder messages is not direct marketing, i.e. by refusing direct marketing, the customer does not refuse to receive reminder messages. According to the explanations given in the impact assessment, the company's website Credit24 system automatically registers when the data subject starts filling out the loan application and transmits his phone number to the company during the verification process in the loan application. If the data subject does not complete the loan application, the company will send a reminder message to the data subject about the loan application being left in progress in the following wording: "Hello, [name]! You started applying for additional money on our website, but the application was left unfinished. By continuing here, <http://go.c24.ee/Pakkumine>, you will see your personal offer immediately after submitting the application. To unsubscribe from messages or have additional questions, call our customer service at 6143400. Credit24 | Background power, always there!". In the impact assessment, it is explained that when sending reminder messages, IPF Digital AS has an economic interest in selling products and services and concluding loan agreements, in addition, they want to ensure better customer service and support the company's customers. In the opinion of IPF Digital AS, it is not possible to achieve the company's goals without sending reminder messages. Also, in the company's opinion, there are no measures that are less intrusive to the rights of data subjects to achieve the goals.

GROUND OF THE DATA PROTECTION INSPECTION: First, the inspection explains the concept and nature of direct marketing. The concept of electronic direct marketing is not defined in the law, but in practice, offers sent to both natural and legal persons in connection with the sale of a product or the provision of a service are treated as direct marketing. Direct marketing is mostly about sending commercial messages. According to § 5 (1) of the Information Society Service Act, commercial communication is the transmission of any kind of information that is designed to directly or indirectly promote the offering of goods or services on behalf of the service provider or to enhance the reputation of the service provider. The easiest way to recognize direct marketing is by this result. If sending an offer in any way promotes the activities of the entrepreneur, it is always direct marketing. In this case, it is precisely the promotion of the activity, as sending such messages potentially

increases the total number of credit applications and thus also the number of borrowers. In addition, the data processor himself has pointed out in the legal interest analysis that a reminder message with information about the possibilities of continuing the loan agreement application increases the possibility that the person who started filling out the loan agreement application will return to the unfinished application and conclude a loan agreement with the company. Therefore, the inspectorate cannot accept the position as if it were not direct marketing. The requirements for conducting electronic direct marketing stem from § 1031 of the Electronic Communications Act (ESS), which stipulates, among other things, that the use of electronic contact data of a natural person for direct marketing is permitted with his prior consent. An exception may also be a previous customer relationship. Exceptions are provided for situations where the seller receives the buyer's (natural or legal person) electronic contact data (e.g. e-mail address, telephone number) within the scope of the sale of its product or service. In such a case, the direct distributor may use the buyer's contact data without his prior consent for direct marketing of his own similar products or services, but only on the condition that the buyer is given the opportunity to refuse the use of his contact data for direct marketing at the time of initial collection of his contact data and in each separate message sent to him.² Thus, the prior customer relationship exception can be used only in the case: 1) The customer has consumed the service before (so it does not apply to initial pending requests, as the contract has not yet been concluded) 2) The customer has not used the opportunity to opt out of direct marketing offers. The option to opt out should be similar to consent and simple. The recipient of an advertising offer must be given a clear and understandable opportunity to refuse offers in a free and simple way. Opting out of direct marketing offers cannot be done during a phone call, because then it is not possible to identify the caller. In addition, it increases the risk that the data subject will still receive unsolicited messages. One of the simpler and clearer solutions could be to use an unsubscribe link at the end of the e-mail. SMSs must have an opt-out link attached to e-mails in the same way. IPF Digital AS has taken the position in the presented legitimate interest analysis that the interests of the company outweigh the rights and interests of individuals. Please note that the basis of legitimate interest cannot be used in the case of direct marketing, as there is a separate regulation for this in the ESS. In terms of direct marketing, it must be clarified that direct marketing by e-mail or SMS can only be done with the prior consent of the person and using other ESS regulations. In the context of direct marketing on the basis of legitimate interest, we can only talk about the part that is not regulated by the ESS, such as profiling and, for example, targeted advertising on internet pages.³ IPF Digital AS is a credit institution that offers consumer loans and credit accounts to individuals. A credit institution is always in a stronger position than an individual, due to

the fact that there is a relationship of dependence between the borrower and the lender, and excessive influence can put certain vulnerable members of society in an even more vulnerable situation. Among other things, the inspectorate draws attention to the fact that this may be an aggressive trading technique, as by sending such repeated and consistent messages, consumers are pressured and they may make decisions that they would not otherwise make. 2 ESS § 1031 paragraph 3 3

Legitimate interest guide page 7. /signed digitally/ Geili Kepp's lawyer under the authority of the general director