

Serious criticism of Group Buy ApS' handling of requests for insight

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Decision

Private companies

Serious criticism

Complaint

The right to access

Exercise of rights

In a complaint, the Danish Data Protection Authority has expressed serious criticism of the fact that the company Group Buy ApS handled a request for insight as a request for deletion.

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The Danish Data Protection Authority hereby returns to the case where [X] (hereafter complainant) complained to the Danish Authority on 13 September 2020 that Group Buy ApS did not respond to his request for access.

Summary

The Danish Data Protection Authority has made a decision in a case where a former customer has complained about Group Buy ApS's handling of his access request.

In the case, the complainant approached Group Buy ApS to cancel his subscription and to request insight into information about himself. Group Buy ApS acknowledged the following day that it had received the request and stated that information about complaints would be deleted. The complainant stated on the same day that the request should not be understood as a deletion request, but that the request was a request for insight.

Three months later, the complainant contacted Group Buy ApS again and stated that he still had not received insight into information about himself. Group Buy ApS acknowledged and stated again that information about complaints would be deleted. The complainant again - on the same day - pointed out that his inquiry was a request for insight - and not a request for deletion. The complainant then lodged a complaint with the Norwegian Data Protection Authority.

The Danish Data Protection Authority found in the case that Group Buy ApS had not handled the complainant's access request in accordance with Article 15 of the Data Protection Regulation, cf. Article 12, subsection 2 (the data controller's obligation to

facilitate the exercise of the data subject's rights), since Group Buy ApS - despite the fact that the complainant made Group Buy ApS aware of this several times - handled the complainant's request as a request for deletion, and not as an insight request.

The Danish Data Protection Authority's decision illustrates that data controllers have an obligation to facilitate the exercise of data subjects' rights, cf. the regulation's article 12, subsection 2, and that it would be contrary to this obligation to treat a request as something else. Data controllers must therefore be aware of what a request from the data subject relates to.

1. Decision

After a review of the case, the Danish Data Protection Authority finds that there are grounds for expressing serious criticism that Group Buy's processing of personal data has not taken place in accordance with the rules in Article 15 of the Data Protection Regulation[1], cf. Article 12, paragraph 2.

Below follows a closer review of the case and a rationale for the Data Protection Authority's decision.

2. Case presentation

It appears from the case that the complainant contacted Group Buy on 10 June 2020, where the complainant, among other things, canceled a subscription and requested access to information about him that Group Buy may process.

On June 11, 2020, Group Buy responded to the inquiry and stated that information about complaints would be deleted as a result of his inquiry, except for information that Group Buy was required to retain by law.

On the same day, the complainant replied to Group Buy's message and stated that he had not requested to have information about himself deleted, but that he had asked for access to information about him.

The complainant contacted Group Buy again on 8 September 2020 and stated that he had still not received insight into information about him, despite the fact that the deadline for a response had long since passed, which is why the complainant intended to lodge a complaint with the Data Protection Authority.

On September 9, 2020, Group Buy responded to the inquiry and stated that information about complaints would be deleted.

The complainant stated again on the same day that his inquiries should not be understood as deletion requests, but that he wanted insight into information about himself.

The complainant then filed a complaint with the Danish Data Protection Authority on 13 September 2020, which the Danish Data Protection Authority sent for consultation on 11 November 2020 and requested Group Buy for an opinion on the case.

Group Buy issued a statement on the matter on 21 January 2021, after which the statement was sent to the complainant on 9 February 2021. The complainant has not made any comments as a result.

2.1. Complainant's comments

The complainant has generally stated that Group Buy has not responded to his request for access despite the fact that he has requested this several times and made it clear to Group Buy that he wanted access to information about him and not that information about him was deleted.

2.2. Group Buy's comments

Group Buy has informed the case that Group Buy acknowledges that mistakes have been made in the handling of the complainant's case.

Group Buy has also stated that the customer service employee who dealt with the case, due to the complainant's language in his initial inquiry, misunderstood the complainant's inquiry, which is why it was incorrectly registered in Group Buy's system and thus handled incorrectly from start to finish. The case therefore also ended up in the wrong department, which deleted all information that Group Buy was not legally obliged to store.

Group Buy only became aware that the complainant wanted insight into information about him when the Data Protection Authority contacted Group Buy. As a result, Group Buy has stated that Group Buy will contact complainants with a view to handing over the (remaining) information that Group Buy processes about complaints.

In conclusion, Group Buy has stated that, as a result of the present case, Group Buy has changed the organization so that the person who handles GDPR in Group Buy now sits together with the customer service employees, so that there is easier access to sparring between them.

3. Reason for the Data Protection Authority's decision

3.1.

It follows from Article 15 of the Data Protection Regulation that the data subject has the right to obtain confirmation from the data controller as to whether personal data relating to the person in question is being processed. In addition, the data controller has a duty to provide the data subject with a range of information about, among other things, the data controller and its processing of personal data.

It also follows from the provision that if the data controller processes information about the data subject, the data subject has

the right to be provided with a copy of the personal data being processed, cf. Article 15, subsection 3.

Pursuant to the data protection regulation, article 12, subsection 2, it is the responsibility of the data controller to facilitate the exercise of the data subjects' rights according to, among other things Article 15 on the right of access.

3.2.

The Danish Data Protection Authority finds that Group Buy's handling of the complainant's request for access has been in breach of Article 15 of the Data Protection Regulation, cf. Article 12, subsection 2.

The Danish Data Protection Authority has thereby emphasized that Group Buy, by having deleted information which was immediately covered by the complainant's right of access, without having previously dealt with the complainant's request for access, has not sufficiently given the complainant the opportunity to exercise his right of access.

Group Buy has effectively also cut off complainants' access to appeal pursuant to section 39, subsection of the Data Protection Act. 1, and Article 79 of the Data Protection Regulation, as the complainant, in the event that the Data Protection Authority or the courts in connection with a complaint were to uphold the complaint, would no longer be able to access the information.

The Danish Data Protection Authority has noted that Group Buy understood the complainant's inquiry as a request for deletion, and that Group Buy only became aware in connection with the complainant's complaint to the Danish Data Protection Authority that the complainant wanted access to information about himself.

However, this is of no importance for the decision of the case, as the complainant subsequently pointed out several times that he requested insight - and not deletion. As a result, it must have been clear to Group Buy that the complainant did not want information about him deleted, but rather insight into information about him.

As a result, the Danish Data Protection Authority finds grounds for expressing serious criticism of Group Buy's handling of the complainant's request for access, cf. the data protection regulation, article 15, cf. article 12, paragraph 2.

The Danish Data Protection Authority has taken note of what Group Buy stated that Group Buy will approach the complainant and respond to his request for insight, as well as that Group Buy has made an organizational change which should prevent similar cases in the future.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free exchange of such data and on the repeal of Directive 95/46/EC (general regulation on data protection).