

YouSee A / S '(TDC A / S') processing of personal data

Date: 28-03-2019

Decision

Private companies

The Danish Data Protection Agency expresses serious criticism that TDC, among other things, has not continuously deleted personal data in their temporary database after the implementation of a specific marketing campaign.

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Summary

The Danish Data Protection Agency has dealt with a case of its own motion, in which YouSee A / S (hereinafter TDC) has sent e-mails to a number of citizens with marketing material. In connection with the preparation of a marketing campaign, TDC has erroneously, based on their temporary database, sent e-mails to a number of customers, former customers and others who at some point have given their consent to receive marketing material per. e-mail.

On 28 March 2019, the Danish Data Protection Agency ruled in the case and found that TDC's processing of personal data in the situation in question was in breach of Article 5 (1) (e) and Article 6 (1) of the Data Protection Regulation. 1, letter a, of which the Danish Data Protection Agency has expressed serious criticism.

It was the Data Inspectorate's assessment that TDC has not continuously deleted personal data in their temporary database after the implementation of a specific marketing campaign, and that the company has thus stored personal data for a longer period than is necessary for the purpose for which the data was processed. , just as TDC did not demonstrate that the processing of the personal data in question had taken place on the basis of the data subjects' consent.

Decision

The Danish Data Protection Agency hereby returns to the case, where YouSee A / S (hereinafter TDC) in mid-November 2018 sent e-mails to a number of citizens under the topic "It is new and it is better!".

It is noted at the outset that the Danish Data Protection Agency can only take a position on matters covered by the Data Protection Ordinance and the Data Protection Act. Thus, with this decision, the Danish Data Protection Agency has not taken a position on the issue of consent to direct marketing, as it falls within the Consumer Ombudsman's competence.

Decision

Following a review of the case, the Danish Data Protection Agency finds that there are grounds for expressing serious criticism that TDC's processing of personal data has not taken place in accordance with Article 5 (1) of the Data Protection Regulation [1]. Article 6 (1) (e) and Article 6 (1) 1, letter a.

Below is a more detailed review of the case and a justification for the Danish Data Protection Agency's decision.

## 2. Case presentation

In mid-November 2018, the Danish Data Protection Agency received a number of inquiries from citizens who had received e-mails from TDC for marketing purposes.

In response to the Danish Data Protection Agency's request of 29 November 2018, TDC issued a statement in the case on 20 December 2018:

In connection with the preparation of a marketing campaign, YouSee has by mistake sent e-mails to a number of customers, former customers and others who at some point have given consent to receive marketing material per. e-mail.

The e-mail sent out was intended as an internal test, which was to be sent to quite a few employees in YouSee. By human error, the email was sent to the wrong people.

The email was titled "Are you ready for an even better connection?" and then contained an unfinished description of a broadband product: "Get the connection of the future to DKK 0 the first month [not specified] Mbit - completely without binding [not specified] DKK / month. Minimum price DKK [not specified]..."

When YouSee sends out emails as part of a marketing campaign, an IT system (Silverpop) is used. The IT system retrieves email addresses and content for the email from a temporary database.

Before the broadcast, the temporary database is filled with e-mails from another IT system (Unica), which has access to YouSee's customer database.

Once the emails in question have been sent, the contents of the temporary database can be deleted.

By mistake, the contents of the temporary database have not been permanently deleted. As a result, not only have emails been sent out to current customers, but also to people who no longer have a customer relationship with YouSee and people who may have withdrawn their consent.

After the erroneous sending of e-mails, YouSee has deleted the temporary database and ensured that the contents of the temporary database will be deleted on an ongoing basis in the future. The contents of the temporary database are now deleted

every seven days. ”

Furthermore, TDC has stated the following:

The temporary database has contained information on the following categories of persons:

Customers

Former customers

Persons who have given consent to receive marketing material per. e-mail

The temporary database contains the following categories of personal data:

Email address

Other information related to a customer relationship (varies from campaign to campaign, but can be, for example, customer number and telephone number)

The contents of the temporary database constituted a selection of YouSee's customer database. The IT system with the temporary database was established on 22 May 2016, and the database may therefore have contained personal data back to this date.

The contents of the temporary database are processed solely for the purpose of being able to distribute marketing material in a specific campaign. The storage of personal data in the temporary database is based on Article 6 (1) of the Data Protection Regulation. 1, letter a (consent).

The storage of emails in the temporary database until the sending of emails in a specific campaign has been in accordance with the basic principles of Article 5 of the Data Protection Regulation. The unintentional storage of emails in the temporary database in the time after the implementation of a specific campaign, on the other hand, cannot be based on Article 5 (1) of the Data Protection Regulation. 1, letter e. ”

Justification for the Danish Data Protection Agency's decision

The Danish Data Protection Agency has assumed that since the establishment of the temporary database in question on 22 May 2016, TDC has not carried out ongoing deletion of personal data that has been processed in connection with the distribution of marketing material.

Furthermore, the Danish Data Protection Agency has assumed that there has been processing of general, non-sensitive information covered by Article 6 of the Data Protection Regulation.

Finally, the Danish Data Protection Agency has assumed that personal data was mistakenly processed during the preparation of a marketing campaign, in which connection a number of e-mails were sent out in draft form to the data subjects.

The Danish Data Protection Agency finds that TDC's processing of personal data in the situation in question has been in breach of Article 5 (1) (e) and Article 6 (1) of the Data Protection Regulation. 1, letter a.

In this connection, the Danish Data Protection Agency has placed particular emphasis on what TDC stated, including that TDC has not carried out continuous deletion of personal data in the temporary database after the implementation of a specific marketing campaign, and that the company has thus stored personal data for longer than necessary. for the purpose for which the information was processed.

Furthermore, the Danish Data Protection Agency has emphasized that TDC has not demonstrated that processing, including storage, of the personal data in question has taken place on the basis of the data subjects' consent.

The Danish Data Protection Agency thus finds that there are grounds for expressing serious criticism that TDC's processing of personal data has not taken place in accordance with the Data Protection Regulation.

The Danish Data Protection Agency has noted that TDC has deleted the temporary database and ensured that the content will in future be deleted every seven days.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General data protection regulation).