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The control of compliance with obligations in the dissemination of business communications was initiated on the basis of 7 initiatives received by the Office. The messages were sent via SMS messages and contained commercial offers for discounts on the purchase of passenger cars and also encouraged visitors to visit websites designed to directly support the offered goods and services. The inspected person stated during the inspection that he had ordered the service of sending business messages based on a contractual relationship with two companies. In addition to the controlled person's customer database, these companies also use their own database to send SMS messages. The inspection found that the telephone numbers in question, to which the commercial messages were sent, are not the contact details of the customer of the inspected person, but come from the internal sources of the sending companies, based on the business activities of both companies and on the basis of the consent of these addressees. These companies stated that each of the recipients was properly informed of their rights before giving consent, where consent is granted by filling out the registration form on the respective websites. The registration of the telephone contacts of the complainants in question was documented by both companies with print screens of the screen of the registration cards or an extract from the database, which is linked to the telephone numbers in question. In order to assess the operation of the registration process and the related granting of consents to send commercial communications for the benefit of the controlled person, the Office carried out a test registration on the given website. He found that no confirmation was sent to the entered test e-mail address or phone number, no information that would prove after its confirmation (so-called double opt-in) that the user of the entered e-mail address or phone number is really the person , which performed this registration and which, even in the case of ticking the relevant box, agreed to the sending of business communications. The Office also checked these facts with specific addressees (complainants), who agreed that they had never been to the relevant website, had never registered, had not entered their personal data, and had not even given their consent to the sending of commercial messages in connection with visiting these websites. Thus, by ordering the service of sending commercial communications, the audited person committed a violation of § 7 paragraph 2 of Act No. 480/2004 Coll., on certain services of the information society, as it did not prove that the addressees of commercial communications had given their consent to the sending of commercial communications. The same violation was also committed by the two companies that sent commercial communications to the inspected person. Objections to the inspection report were not filed by the inspected person. For this action, the Office imposed a fine of CZK 7,000 on the inspected person, when the administrative

body took into account in particular the extent of the consequences of the offense, which was relatively small considering the fact that only 7 complaints were filed.

#### Recommendation:

If a commercial company intends to use other subjects, including their contact database, to promote its products and services, it is always necessary to check with these subjects what kind of contacts they are, whether the addressees of the commercial communications have given proper consent to the sending of commercial communications, especially given only after that they have received clear and precise information for which the trading company provides this consent. The trading company should then be able to sufficiently prove the given consents in the event of any ambiguities.

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