

The DBA was entitled to refuse a request for deletion

Date: 31-01-2022

Decision

Private companies

No criticism

Complaint

The right to erasure

Basic principles

Basis of treatment

In connection with the processing of a complaint, the Danish Data Protection Authority stated that Den Blå Avis was entitled to refuse a request to delete a user profile and a number of additional information.

Journal number: 2021-31-5439

Summary

A complainant had requested the DBA (hereinafter 'DBA') to delete the person's user profile and other related personal data. However, DBA rejected the request on the grounds that DBA had received three independent complaints from buyers on DBA about complaints and that DBA therefore needed to store the information for the purpose of blocking complainants' access to DBA's platform. During the case, the DBA stated that the complainant had previously tried to circumvent the blocking by creating new profiles via different e-mail addresses, and that the storage of information about complaints had precisely contributed to the DBA being able to close all the profiles.

The DBA further stated that the storage of information about complaints could happen because the processing was necessary to protect the vital interests of the buyers.

The Danish Data Protection Authority found no basis for overriding the DBA's assessment that the storage of information was necessary to block complainants' access to the DBA's platform. However, the supervisory authority found that the correct basis for treatment in the case was the so-called "balancing of interests rule", and that the treatment could not take place on the basis of consideration of the buyers' vital interests.

1. Decision

After a review of the case, the Danish Data Protection Authority finds that the DBA is not obliged to delete the information in question pursuant to the data protection regulation[1] article 17, subsection 1.

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 on 14 August 2021 you contacted DBA and requested to delete your user and the information that DBA processed about you, including information about your e-mail, name and CPR number.

DBA responded to your inquiry on August 16, 2021 and stated in this connection that DBA stores personal data "to resolve disputes between buyers and sellers, enforce the company's advertising policy and prevent people who are blocked from using DBA's website from registering on new".

DBA also stated that your profile and associated personal data would not be deleted, and that information about you is automatically deleted after 24 months of inactivity at DBA.

### 2.1. DBA's remarks

DBA has generally stated that the Company has denied your request for deletion on the grounds that the Company received three independent complaints from buyers on DBA about you.

DBA has stated that it is paramount for the safety of DBA's users and the company's efforts to prevent fraud on DBA's platform that DBA can block and maintain the blocking of sellers who do not deliver the goods that the buyers have paid for. DBA is therefore only able to maintain the block and prevent you from creating a new profile on DBA if the company stores information about you for identification purposes.

According to the DBA, you have previously tried to bypass the block by creating new profiles via eight different email addresses. The DBA has been able to close all these profiles precisely because the company has been able to identify you based on the information. DBA has also stated that the company does not store information about your CPR number.

DBA has stated that storing the information also enables DBA to assist the police with any investigation.

The DBA has also claimed that the storage of the information about you can take place in accordance with the data protection regulation, article 6, subsection 1 letter d, as it is the only way in which DBA can prevent you from creating a new profile on DBA's platform and defrauding more buyers. Therefore, the DBA is of the opinion that the company pursues a legitimate purpose and complies with the principle of storage limitation

## 2.2. Your comments

You have generally stated that you have the right to have your profile and associated personal data deleted from DBA, and that DBA's continued storage of information about you is therefore illegal.

## 3. Reason for the Data Protection Authority's decision

According to the data protection regulation, article 17, subsection 1, letter a, the data subject has the right to have personal data about him/her deleted by the data controller without undue delay, and the data controller has a duty to delete personal data without undue delay if the information is no longer necessary to fulfill the purposes for which they were collected or otherwise processed.

Furthermore, it follows from Article 17, subsection 1, letter c, that the data controller must delete information if the data subject objects to the processing in accordance with Article 21, subsection 1, and there are no legitimate reasons for the processing that precede the objection, or the data subject objects to the processing pursuant to Article 21, subsection 2.

As the case is disclosed, the Danish Data Protection Authority finds that the DBA processes the relevant information about you in relation to the fact that several complaints have been received about you and that you have therefore had access to your profile blocked on the basis of the "balancing of interests rule" in Article 6 of the Data Protection Regulation, PCS. 1, letter f, and not on the basis of the data protection regulation, article 6, subsection 1, letter d, as stated by the DBA.

In this connection, the Danish Data Protection Authority finds that there is no basis for overriding the DBA's assessment that processing the personal data in question is necessary for the DBA to pursue a legitimate interest that precedes your interest in the information not being processed, cf. Article 6, subsection of the data protection regulation. 1, letter f.

In this connection, the Danish Data Protection Authority has emphasized that the DBA will only be able to block you from creating a new user by continuing to store the information in question.

According to the data protection regulation, article 21, subsection 1, the data subject has the right at any time - for reasons relating to the particular situation of the person in question - to object to an otherwise lawful processing of his personal data.

The right to object, however, only applies when the processing of information takes place on the basis of the regulation's article 6, subsection 1, letter e or f.

If the processing takes place in accordance with the regulation's article 6, subsection 1, letter e or f, an objection from the data subject means that the data controller must carry out a renewed assessment of the necessity of the processing and possibly

stop the processing in continuation thereof and delete the information, cf. the data protection regulation, article 17, subsection 1, letter c.

If the data controller demonstrates compelling legitimate reasons for the processing that precede the interests, rights and freedoms of the data subject, or the processing is necessary for legal claims to be established, asserted or defended, the processing can continue to take place.

In this connection, the Danish Data Protection Authority finds that you have not put forward such reasons in support of your objection regarding your particular situation that your objection is justified, cf. the regulation's article 21, subsection 1.

After a review of the case, it is the Danish Data Protection Authority's assessment that neither the condition in the regulation's article 17, skt. 1, letters a or c are met, just as none of the other conditions in Article 17, subsection 1, is found relevant to be processed in the case, which is why you do not have the right to have the information deleted in accordance with Article 17, subsection of the Data Protection Regulation. 1.

Furthermore, it is the Danish Data Protection Authority's assessment that the processing cannot be considered to be in breach of the principle of "storage limitation" in Article 5, paragraph 1 of the Data Protection Regulation. 1, letter e, as the information is automatically deleted by the DBA after 24 months of inactivity.

[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).