SUOMEN PERIMISTOIMISTOJEN LIITTO

To the European Data Protection Board

Re: Comments on the Guidelines 01/2021 on Examples regarding Data Breach Notification

The registered Association of Finnish Collection Agencies welcomes the guidelines and the opportunity to place comments. We seek to address a scenario where unclarities may continue to prevail.

Let us assume that a credit information provider fails to remove payment remarks available to the public once the statutory preservation time (and thus allowed availability to the public) has lapsed. Presumably, should a credit institution or similar receive such "out of date" payment remarks when performing a check, it may result in an unjust denial of credit.

The definition of a breach in the GDPR is the following:

> 'personal data breach' means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

When looking at the GDPR wording above, it easily indicates situations where something happens to the personal data. In the provided example though, the problem is that "nothing happens" (save for the query by the creditor). That is, no erasure or such takes place.

In WP250, the provided guidance on what constitutes a breach could suggest that the example above is a breach. However, the situation is yet not simple to recognize under the breach types, confidentiality, integrity, and availability. For example, credit institutions can be provided with payment remark information lawfully per se.

Should the example above be a breach, a similar challenge may also occur in a more complex context. Namely, should for example loan providers have the obligation to report received payment installments to a central register (where the respective loans

must be recorded as well) maintained by a third-party controller, the same negative consequences to the data subject as in the example above may materialize if a loan provider fails to report a payment installment. Here, it is not unambiguously clear, who should notify whom about the breach.

We provide this for the EDPB, should it merit attention in the draft guidelines.

In Helsinki, on the 1st of March 2021

the registered Association of Finnish Collection Agencies