Swedish Authority for Privacy Protection

Our ref.:
DI-2021-7331

Date:
2021-09-10

Final decision in IMI case register 134972

Decision of the Swedish Authority for Privacy Protection

The case will be closed without further action.

Background

A complaint was lodged with the UK SA on 20 September 2019. The complainant had bought a product in 2017 from a company that was later purchased by Irootfor (hereinafter the company). On three occasions in August 2019 (2nd, 4th and 20th), the complainant received marketing SMS from the company. In order to unsubscribe, the complainant had to text a non-UK number that would charge a fee according to the complainant. The complainant instead sent out a tweet (on Twitter) on 4 August which the company did not respond to. The complainant sent out another tweet on 20th August informing the company about potential fines for GDPR breaches. On 20th September 2019, the complainant received a fourth marketing text and sent out another tweet which the company responded to and offered removing the complainant's number from their database. The complainant requested that the company removed everyone's numbers and would otherwise file a complaint. The company informed the complainant that they have removed all numbers and would stop sending marketing SMS. On the question (from the UK SA complaint form) on what else the company could do in order to resolve the complaint, the complainant answered that the company should remove information of all customers who have not consented to receiving marketing SMS and issue a public apology.

Findings

Firstly, we note that the complainant has used an informal way to contact the company (by a tweet on Twitter). It is understandable the complainant did not want to pay a fee in order to object to the marketing SMS but at the same time it is also understandable that the company did not give a formal response through Twitter directly. Most likely, there were other ways to contact the company (such as email) other than SMS. Secondly, we note that when the company responded to the complainant, they apologised for the text messages and removed the complainant's number. They also followed the complainant's request and removed all numbers in order to stop sending text messages. Accordingly, the issue seem to have been resolved and was probably due to a lack of communication in the contact through Twitter. In respect of the

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complainant's requirement of a public apology, that is not something the GDPR regulates. We would also like to inform you that direct marketing by electronic communication is regulated by the Swedish Marketing Act (SFS 2008:486) over which the competent supervisory authority is the Swedish Consumer Agency. The demarcation between the Marketing Act and GDPR is yet not clear which means that there is the possibility that we are not even competent to handle the case.

Other remarks

Direct marketing by electronic communication is regulated by the Swedish Marketing Act (SFS 2008:486) over which the competent supervisory authority is the Swedish Consumer Agency. The demarcation between the Marketing Act and GDPR is yet not clear which means that there is the possibility the issue falls without the scope of our competency.

Conclusion

The Swedish SA considers the subject matter of the complaint investigated to the extent appropriate and that no further action is required. Accordingly, the case should be closed.

Notice. This document is an unofficial translation of the Swedish Authority for Privacy Protections (IMY) decision 2021-09-10, no. DI-2020-7331. Only the Swedish version of the decision is deemed authentic.