



Final Decision

IMI Article 61 VMAN number	124739
IMI Case Register entry	101981
National file number	43.6.1-540/20
Controller	[REDACTED]
Date of complaint	11 May 2020

With regard to the abovementioned cases and pursuant to Article 60(3) of the General Data Protection Regulation (GDPR), the Autoriteit Persoonsgegevens (Dutch Data Protection Authority, hereafter: NL SA) has issued the following final decision:

Summary

The NL SA has received the following complaint about [REDACTED]. This company allegedly used the data of a data subject that purchased goods from the online pharmacist for marketing purposes.

On 11 May 2020, a complaint was filed with the North Rhine Westphalian DPA (hereafter: DE-NRW SA) against [REDACTED]. The complainant states that the controller uses his data for marketing purposes despite the fact that the complainant had chosen to use the opt-out option for direct marketing. On 29 March 2019 an employee of [REDACTED] confirmed via e-mail, that the personal data of the complainant were blocked for marketing mailings. Nevertheless, the complainant received postal marketing letters on 2 November 2019 and 10 January 2020. As the main establishment of [REDACTED] is in the Netherlands, the NL SA is competent to act as the lead authority. The DE-NRW SA forwarded this complaint to the NL SA.

Norm allegedly infringed

- Article 21 (2) GDPR states that where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning him or her for such marketing, which includes profiling to the extent that it is related to such direct marketing.

The complainant states that even though an employee of [REDACTED] confirmed via e-mail, that the personal data of the complainant had been blocked for marketing mailings, the complainant continued to receive postal marketing letters a few months later.

Investigation by the NL SA

The NL SA contacted the controller to verify whether the controller failed to exercise the right of the data subject to object to processing of his personal data for direct marketing purposes. [REDACTED] has certified that the customer had two duplicate accounts. Upon request of the data subject in March 2019 his data was blocked for advertising. However since the second account was still open for direct marketing, the



controller continued to erroneously send out advertising. After this internal research by [REDACTED], the second account of the data subject is now also blocked for advertising. To prevent this problem from occurring again, the controller will take steps to implement an improved duplicate check and integrity check of the entered data.

Proposed action by the NL SA

After the contact that the NL SA had with [REDACTED], the NL SA is satisfied that the issue causing the complainants problem has been resolved and the controller takes measures to reduce the risk of similar issues to reappear. The NL SA observes that this was an incident and that, in view of the above, appropriate action has been undertaken. The NL SA does not see any meaningful infringement of the obligations set out in the GDPR by [REDACTED] and decides that no further action is required. Henceforth, the cross-border complaint case (national reference 43.6.1-540/20) should be closed.

The Hague, Netherlands,
22 January 2021