

REGISTER NUMBER: 305

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 28/09/2007

Case number: 2007-583

Institution: OHIM

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and address of the controller

Office for Harmonization in the Internal Market (Trade Marks and Designs)
Avenida de Europa, 4
E-03008 Alicante
Spain

2/ Organisational parts of the institution or body entrusted with the processing of personal data

(a) General Affairs and External Relations Department (GAERD), Information Sector - Mr. Etienne Sanz De Acedo, Deputy Director
(b) Information Technology and Facilities Management Department (ITFMD), IT Infrastructure and Operations Service - Mr Eamon Kelly, Head of Service

3/ Name of the processing

Call Centre Technology

4/ Purpose or purposes of the processing

This notification refers to a set of processing operations of personal data performed by means of an off-the-shelf call centre software (Solidus eCare) in two separate areas of OHIM's activities. Although each area is managed by their respective controller in separate departments and concerns different categories of data subjects, the processing operations of personal data are identic and are submitted to the EDPS as one notification.

OHIM's Information Centre Sector (GAERD) provides OHIM's customers with a two levels information service : A Switchboard and an Information Centre (see notably case EDPS 2007-0128, "Silent monitoring", EDPS opinion issued on 18/07/2007).

On the other hand, OHIM's ITFM department provides OHIM's staff with a Help Desk whose mission is to provide all relevant support to ensure the day-to-day functioning of the services, either as concerns information technology or logistic.

Both the switchboard and help desk teams are outsourced.

Solidus eCare provides a series of tools used to monitor the incoming calls at OHIM's Switchboard and Information Centre on the one hand, and at OHIM's Help Desk on the other hand.

The processing operations of personal data consist in the collection of statistical data of the different groups by their respective controllers (Switchboard, Information Centre level / Help Desk) and the collection of statistical data regarding individual staff members.

Basically, as concerns the present notification, Solidus eCare provides with 2 modules as follows:

(1) the Information Manager Module which allows the group coordinator to view real time information as concerns the activity of voice calls, performance and alarms (see samples in annex 1 to the notification to the DPO).

Data gathered by this module are stored in Solidus eCare's built-in database and can be further extracted and combined later on with the Report Manager Module.

(2) the Report Manager Module is used to produce periodical statistics both at group level (see samples in annex 2 to the notification to the DPO) and at individual level (see samples in annex 3 to the notification to the

The purposes are to have a continuous monitoring of incoming calls (real time) and a monitoring of volume of calls received. This monitoring helps at assessing and improving the quality of the services offered. The main objective is to ease the planning of activities and the coordination of workflow and teams.

The individual statistics concerning statutory staff members (Information Centre) may be used as an objective input taken into account in the annual appraisal exercise.

The individual statistics concerning non statutory staff members (Switchboard, Help Desk) are used to assess the compliance with Service Level Agreements concluded with respective providers (see annexes 4 and 5 to the notification to the DPO).

5/ Description of the category or categories of data subjects

- statutory staff members (Information Centre at GAERD)
- non statutory staff members (Switchboard at GAERD and Help Desk at ITFMD)

6/ Description of the data or categories of data(*including, if applicable, special categories of data (article 10) and/or origin of data*)

No special categories of data in the sense of article 10 of Regulation 45/2001 are processed in this context.

Information Manager Module:

- Staff member's name
- Extension number (phone)
- Real time situation showing the status of the servicing person, such as logged off, servicing, idle,
- Status time (= how long the line has been in this status)
- Service group

(See samples in annex 1 to the notification to the DPO).

Report Manager Module (generally for a range period: day, week, month, ...):

- Staff member's name
- Reference period
- Date and time of availability
- Duration of activity per day
- Number of calls received
- Number of calls attended
- Number of calls rejected
- Number of calls abandoned
- Average duration of servicing

(see samples in annex 2 to the notification to the DPO).

The Report Manager Module also provides group statistics (main purpose, see samples in annex 3 to the notification to the DPO).

7/ Information to be given to data subjects

Data subjects are addressed a data protection statement once a year (see annex 6 to the notification to the DPO).

8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)

Data subjects are to submit a written request to their respective coordinator (controller).

9/ Automated / Manual processing operation

The processing operations of personal data are fully automated with the Solidus eCare software.

10/ Storage media of data

The data are stored in a built-in database of the Solidus eCare software.

Reports are generated in a html or pdf format stored on network drive. Access to network drive is restricted to authorised users only (Standard Windows XP security scheme). These reports may occasionally be printed and kept by the controller.

11/ Legal basis and lawfulness of the processing operation

The processing operations of personal data are performed in the context of staff evaluation either in accordance with article 43 of the Staff Regulation and OHIM's administrative decision ADM-00-37 dated 09/07/2001 on the adoption of a Code of Good Administration Behaviour (Information Centre, see annex 7 to the notification to the DPO), or in accordance with the provisions of Service Level Agreements concluded with the respective service providers (Switchboard, see annex 4 to the notification to the DPO, and Help Desk, see annex 5 to the notification to the DPO).

12/ The recipients or categories of recipient to whom the data might be disclosed

The data may be disclosed either to respective line managers (Head of service, Deputy directors or Director of Department), the respective authorizing officers who have to authorize payments, and to the respective service provider where relevant (Switchboard, Help Desk).

13/ retention policy of (categories of) personal data

Data in Solidus eCare's built-in database are kept for 1 year.
Individual statistics related to statutory staff members are kept for 1 year.
Individual statistics related to non statutory staff members are kept for 5 (+2) years in accordance with article 38§6 of OHIM's Financial Regulation (attached as annex 8 to the notification to the DPO).
Group statistics reports (non personal data) are kept for 3 years.

13 a/ time limits for blocking and erasure of the different categories of data
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

No time limit. When justified, the rights of rectification, blocking, erasure and objection data will be granted with immediate effect.

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

Not applicable

15/ Proposed transfers of data to third countries or international organisations

Only the data concerning outsourced activities are transferred to their corresponding and respective service providers.

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

The processing operations are intended to evaluate personal aspects related to the data subjects as foreseen in article 27.2.(b) of Regulation 45/2001. The processing operations also refer to the monitoring of the use of electronic means (phone) and therefore falls within the scope of e-monitoring.

AS FORESEEN IN:

~~—Article 27.2.(a)~~

~~Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,~~

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

~~—Article 27.2.(c)~~

~~Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,~~

~~—Article 27.2.(d)~~

~~Processing operations for the purpose of excluding individuals from a right, benefit or contract,~~

Other (general concept in Article 27.1)

e-monitoring

17/ Comments

(i) This prior check refers to processing operations of personal data already performed within OHIM for several years. Therefore, it shall be considered as an "ex-post" prior check.

(ii) Annex: Notification to the DPO (DPN-2007-042), including the following annexes

Annex 1 – Samples real time monitoring (Information Manager Module)

Annex 2 – Samples individual report (Report Manager Module)

Annex 3 – Samples group report (Report Manager Module)

Annex 4 – Service Level Agreement (Switchboard)

Annex 5 – Service Level Agreement (Help Desk)

Annex 6 – Data protection statement

Annex 7 – Decision ADM-00-37 dated 09/07/2001 on the adoption of a Code of Good Administration Behaviour

Annex 8 – OHIM's Financial Regulation

(iii) Translation and available linguistic versions

All documents provided in this prior check notification are available only in English, except:

- Annex 4 - Model SLA for switchboard available in French

- Annex 7 - Decision ADM-00-37 (Code of Good Administration Behaviour) available in French

- Annex 8 - OHIM's Financial available in French

These linguistic versions are transmitted only by email.

(iv) As concerns the processing operations of personal data related to appraisal reports, please refer to case EDPS 2004-0293.

PLACE AND DATE: ALICANTE, XX SEPTEMBER 2007

DATA PROTECTION OFFICER: LUC DEJAFFE

INSTITUTION OR BODY: OHIM (Office for Harmonization in the Internal Market)