

**This is a summary of the decision of the Commissioner.**

The Data Protection Office received a complaint from Complainant (a customer of Respondent No 1) against Respondent No 1 (A company in the ICT Industry) and Respondent No 2 (An organisation in Mauritius) with regard to disclosure of Complainant's personal data. This office opened an inquiry.

The complainant declared that:

- Respondent No 2 has addressed her a pamphlet by post, using her full name and address, where she had no previous dealing with them and have never given anyone her consent to disclose her name and address to Respondent No 2 and have never allowed Respondent No 2 to use her name and address for any reason whatsoever.
- Respondent No 2 should have shown more consideration before using anyone's personal data for whatever reason. There has been breach of confidentiality under the Data Protection Act.
- Respondent No 1, if involved, has also committed a breach of confidentiality and privacy under the Data Protection Act.
- Complainant's residential address was not given to any shop, nor purchased any item that have to be delivered at her address and Complainant's relatives, friends, neighbours or any other acquaintances do not have her exact address.
- Complainant's have no dealing with Respondent No 2 or any of its affiliated organisations
- Complainant's other bills are printed differently when compared to the name and address printed on the pamphlet.

Respondent No 2 claimed that:

- He organized a fund raising campaign so as to meet the cost of their project and is not a profit making exercise.
- The addresses of the individuals to whom the pamphlets were sent have been obtained from the Respondent No 1 public directory and from other acquaintances, such as social workers and other collaborators of the project, who suggested names of potential donors.
- Respondent No 1 did not make use of any other data and have no database for the list of pamphlets sent.
- Secretary of Respondent No 2 declared that she received a list of stickers which contained names and addresses from Respondent No 2 and were asked to put the stickers on the pamphlets for fund raising of project. The pamphlets were then posted.

After several requests for statement from respondent no 1, the latter denied disclosure of personal data and informed that the advancement in technology and the fact that their customers willingly give their personal details to third parties, even if they have a confidentiality

agreement with Respondent No 1, might cause confidential personal data of their customers, sometimes inadvertently, be disclosed in the public domain and thus can be used by third parties. Respondent No 1 informed that he has no control over such disclosure of personal data of their customers.

Analysis of the several evidences available went in favour of the claim of the complainant and that the personal data might have been disclosed from Respondent No 1 database and Respondent no 1 was informed that this office has no other option than to deduce that there has been an offence under section 29(1) of the Data Protection Act committed by his employee(s). Respondent no 1 was given further time to find out for any possible breach by any of their employee(s) but no reply was received.

The Data Protection Commissioner decided as follows:-

In the light of the lengthy investigation carried out by this office in this case as required by the lack of reliable evidence during the first stages of the enquiry to conclude a breach of the Data Protection Act, I am of the view that the delay cannot be attributed in all fairness to this office but to the particular circumstances of this case.

The evidence gathered has revealed a breach of section 29(1) of the Data Protection Act, in particular the fact that Complainant's name does not appear in Respondent's No 1 public list and yet the name and address of Complainant in the pamphlet is exactly the same as the bill issued by Respondent's No 1 and which thus leads to infer that the personal data of Complainant was obtained by Respondent no. 2 from Respondent no. 1 but without the authorisation of Complainant. There is a high probability that the sticker in the pamphlet sent to the Complainant may have been printed from Respondent's No 1 printer.

The matter is thus referred to the police under section 20 of the Data Protection Act for prosecution purposes.