

**From:** Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>  
**Sent:** Thursday, March 19, 2020 2:57 PM  
**To:** [REDACTED]  
**Subject:** Printed advertisements - the green agenda

Dear [REDACTED]

I write to you on behalf of the Danish Competition and Consumer Agency. First and foremost, I hope you all in the DG JUST Consumer Policy Unit are doing well and are getting through this special time. We had been looking forward to meeting you in Croatia in March, but we hope that this situation will not last too long and that we can meet again some other time soon.

I am writing to you because we are considering whether to take any action on all the printed advertisements that citizens receive in their mailbox. This is primarily due to climate and environmental considerations, but also because many citizens find it annoying to receive these advertisements. It is possible to discard advertisements with a so-called opt-out solution, according to which citizens order a sticker they can put on their mailbox. The sticker shows, that you do not want to receive advertisements. But in other areas, such as telephone inquiries and inquiries by mail, one must not approach citizens without consent - opt-in solution - and there may be reason to consider whether this should also apply in the analogue world.

We are interested to hear whether, as part of the Green Agenda, the Commission has made some considerations on printed advertising and, for example an opt-in scheme? We are also interested in discussing your view on such an opt-in solution in the light of the rules of eg. the Commercial Practices Directive.

We would therefore like to inquire whether the Commission has the opportunity to meet with the Danish authorities, for example in May or June for a discussion of these matters?

Kind regards

**Susanne Aamann**  
Forbrugerjuridisk Chef  
Konkurrence- og Forbrugerstyrelsen /  
The Danish Competition and Consumer Authority  
Direkte +45 4171 5285  
E-mail [saa@kfst.dk](mailto:saa@kfst.dk)



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markeder. Se vore privatlivspolitik på  
[kfst.dk](http://kfst.dk).*

**Fra:** [REDACTED]

**Sendt:** 19. marts 2020 19:28

**Til:** Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>

**Cc:** [REDACTED]

[REDACTED]

[REDACTED]

**Emne:** RE: Printed advertisements - the green agenda

Dear Ms Aamann,

Thanks for your message, I too hope that you and your colleagues are managing to cope with the current unprecedented situation.

Thanks also for raising an interesting point. I cannot comment on the extent to which the unsolicited printed advertisement can be considered contrary to the existing consumer legislation addressing consumer rights or unfair commercial practices – I leave this to my colleague [REDACTED] (here in copy) and her team in unit JUST E2. From JUST E1's perspective, it could be indeed interesting to explore the sustainability aspect of these practices and their relation with our planned efforts to better empower consumers to contribute to the green transition agenda. I will discuss with the members of my team working on this. We can certainly plan a focused discussion in person if you plan to be in Brussels later in the spring/summer. If you have already any factual evidence (e.g. statistics on the economic and environmental cost of such advertisement, consumers attitudes to it, etc.) please do share it in the meantime.

Looking forward to further discussions, I wish you and your colleagues good health and positive spirits in the coming weeks.

Best regards,

[REDACTED]

**Fra:** Susanne Aamann

**Sendt:** 20. marts 2020 22:09

**Til:** [REDACTED]

**Emne:** SV: Printed advertisements - the green agenda

Dear [REDACTED]

Thank you very much for your prompt and positive reply. We look forward to starting a dialogue with [REDACTED] and her team in unit JUST E2.

We very much appreciate the offer to meet and discuss the sustainability aspect of these practices.

We will return with suggestions for dates.

Kind regards.

**Susanne Aamann**

Forbrugerjuridisk Chef

Konkurrence- og Forbrugerstyrelsen /

The Danish Competition and Consumer Authority

Direkte +45 4171 5285

E-mail [saa@kfst.dk](mailto:saa@kfst.dk)



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**From:** Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>

**Sent:** Thursday, June 18, 2020 16:43

**To:** [REDACTED]

**Cc:** Pernille Berglund Gunge (EM-DEP) <[pbg@em.dk](mailto:pbg@em.dk)>; Kristina Agerbæk Riber <[KAR@kfst.dk](mailto:KAR@kfst.dk)>

**Subject:** Unsolicited printed advertisement

Dear [REDACTED]

I am writing to you to follow up on my e-mail below to [REDACTED] regarding unsolicited printed advertisement.

We had a fruitful meeting last week with [REDACTED] and some colleagues from his team, but as I understand it, it would be relevant, that we have a discussion with your team too.

As also described in my e-mail below, the Danish Government are considering whether to take any action on all the printed advertisements that citizens receive in their mailbox - primarily due to climate and environmental considerations. In Denmark is possible to discard advertisements with a so-called opt-out solution, according to which citizens order a sticker they can put on their mailbox. The sticker shows, that you do not want to receive advertisements.

What we are interested in discussing such an opt-in scheme for unsolicited printed advertisements in relation to the UCPD. Would it be possible to have a meeting with us maybe for just half an hour during week 27 (29/6-3/3)? In is also possible for us the week before.

Kind regards

**Susanne Aamann**

Forbrugerjuridisk Chef

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markeder. Se vore privatlivspolitik på*

*[kfst.dk](http://kfst.dk).*

Fra: [REDACTED]

Sendt: 19. juni 2020 11:44

Til: Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>

Cc: Pernille Berglund Gunge (EM-DEP) <[pbg@em.dk](mailto:pbg@em.dk)>; Kristina Agerbæk Riber <[KAR@kfst.dk](mailto:KAR@kfst.dk)>; [REDACTED]

Emne: RE: Unsolicited printed advertisement

Dear Susanne Aamann,

We will be very pleased to meet you « virtually » on this topic. It should be feasible in week 27 but please bear with me for a few days more: we are currently involved in heavy legislative work and I don't know exactly when we are going to be available that week.

My assistant [REDACTED] will be in contact with you mid next week (week 26<sup>th</sup>) once we know better of our availabilities to fix the meeting

Best regards

[REDACTED]



[REDACTED]

**European Commission**

DG Justice and Consumers

Head of Unit

JUST E2 – Consumer and Marketing Law

LX40 04/015

B-1049 Brussels/Belgium

[REDACTED]

[REDACTED]

[REDACTED]

*"The views expressed are purely those of the writer and may not in any circumstances be regarded as stating a formal position of DG JUST or the European Commission".*

**From:** Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>

**Sent:** Tuesday, June 23, 2020 10:24

**To:** [REDACTED]

**Cc:** Pernille Berglund Gunge (EM-DEP) <[pbg@em.dk](mailto:pbg@em.dk)>; Kristina Agerbæk Riber <[KAR@kfst.dk](mailto:KAR@kfst.dk)>; [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Subject:** SV: Unsolicited printed advertisement

Dear [REDACTED]

Thank you very much for your reply.

We will await [REDACTED] for further information.

Kind regards

Susanne



**Fra:** [REDACTED]  
**Til:** [Susanne Aamann](#)  
**Cc:** [Kristina Agerbæk Riber](#)  
**Emne:** RE: Unsolicited printed advertisement  
**Dato:** 24. juni 2020 09:25:48  
**Vedhæftede filer:** [image003.png](#)  
[image004.png](#)  
[image005.gif](#)

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Dear Ms Aamann,

Following your request for a meeting with [REDACTED], can I kindly propose some dates taking into account our Unit's availabilities?

- On 6 July at 11h00
- On 7 July at 11h00

If the above dates do not suit you, please do not hesitate to contact me in order to find a more convenient one.

Best regards,

[REDACTED]

[REDACTED]

-----  
**Assistant to the Head of Unit**



**JUST.E.2 Consumer and Marketing Law**  
**Directorate General Justice and Consumers**  
**European Commission**  
**Rue Luxembourg 40 - B - 1000 Brussels**  
**Tel:** [REDACTED]  
**E-mail:** [REDACTED]

---

**Fra:** [REDACTED]  
**Til:** [Susanne Aamann](#)  
**Cc:** Pernille Berglund Gunge (EM-DEP); Kristina Agerbæk Riber; [REDACTED]

**Emne:** RE: Unsolicited printed advertisement  
**Dato:** 29. juni 2020 19:40:55  
**Vedhæftede filer:** [image001.png](#)  
[image002.gif](#)  
[image003.jpg](#)

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Dear Ms Aamann,

In agreement with Ms [REDACTED], I would like to inform you, prior to our meeting of 7 July, about the latest parliamentary question on a possible 'Yes, please' scheme for printed advertising put forward by a Member of the European Parliament, and the Commission's reply to it of 30 April 2020.

Please see the links below:

Question: [https://www.europarl.europa.eu/doceo/document/E-9-2020-000008\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-000008_EN.html)

Answer: [https://www.europarl.europa.eu/doceo/document/E-9-2020-000008-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-000008-ASW_EN.html)

Best regards,

[REDACTED]  
Deputy Head of Unit / stv. Referatsleiter



**European Commission / Europäische Kommission**

Directorate General Justice & Consumers / Generaldirektion Justiz & Verbraucher  
Unit E2 Consumer and Marketing Law / Ref. E2 Verbraucher- und Marketingrecht  
LX40 04/11  
Rue du Luxembourg 40  
B-1050 Brussels

[REDACTED]

---

**Fra:** Susanne Aamann

**Sendt:** 11. december 2020 13:11

**Til:** [REDACTED]

**Cc:** Tine Nielsen Hertz (EM-DEP) <[tne@em.dk](mailto:tne@em.dk)>; Pernille Berglund Gunge (EM-DEP) <[pbg@em.dk](mailto:pbg@em.dk)>; Cecilie Toft Nørgaard (EM-DEP) <[cetono@em.dk](mailto:cetono@em.dk)>

**Emne:** Follow up on meeting regarding an opt-in scheme for printed advertisements in Denmark

Dear [REDACTED]

I am writing to you in order to follow up on our meeting in July regarding an opt-in scheme for printed advertisements in Denmark.

In light of the discussion at the meeting, we would like to follow up regarding the points being discussed on such a scheme being based on environmental considerations vs. the protection of the consumers' economic interests.

Please find our follow up letter attached.

Keeping in mind, that it is a busy time for the Commission, I would like to ask if it is possible to give just a brief feedback on when you have the opportunity to follow up on our inquiry, as the political negotiations in Denmark regarding this issue, among other things, await a clarification of the relationship with relevant EU-regulation.

Thank you very much in advance.

Kind regards

**Susanne Aamann**

Head of Unit, Consumer Policy Division

The Danish Competition and Consumer Authority

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Head of Unit

████████████████████  
Directorate-General for Justice and Consumers

Date: 11. december 2020

Case: FORCE-20/12511-2

Ref: /KAR

Dear Mrs. ████████████████████,

I am writing to you as a follow up on our meeting on 7 July 2020 about a possible “opt-in”-scheme for printed advertisements in Denmark.

As discussed at our meeting on 7 July, the Danish Government are considering whether to take action against all the printed advertisements that citizens receive in their mailbox - primarily due to climate and environmental considerations. In Denmark, it is possible to discard advertisements with a so-called opt-out solution, according to which citizens order a sticker they can put on their mailbox. The sticker shows that you do not want to receive advertisements.

The purpose of an “opt-in”-scheme is to ensure, that printed advertisements only reach those who wish to receive them. This anticipated lower demand may lead to less production of printed advertising and thus lower CO2 emissions.

As we also discussed at the meeting, a regulation based on environmental considerations will fall outside the scope of the Unfair Commercial Practices Directive.

However, our understanding from the discussion of the meeting was also, that since the UCP directive regulate the protection of the consumers' economic interests, all commercial practices from businesses that are affecting the consumers' economic interests are covered by the total harmonization of the UCP directive.

A derived effect of an “opt-in”-scheme in relation to affecting the consumers' economic interest is, that consumers are not offered the printed advertisements unless they actively request them, and thus are not presented to the same choices and options in the market.

Therefore, in the light of the discussion at the meeting, we would like the Commission to confirm, that if the scheme is justified in environmental reasons, it falls outside UCP even though such a scheme can be expected to have a derived effect on consumers' economic interests.

Thank you in advance for your much-appreciated reply on this matter.

**Danish Competition and  
Consumer Authority**

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**MINISTRY OF INDUSTRY, BUSINESS  
AND FINANCIAL AFFAIRS**

Yours sincerely,

Susanne Aamann  
Head of Unit  
Danish Competition and Consumer Authority

**Fra:** [Susanne Aamann](#)  
**Til:** [REDACTED]  
**Cc:** [Kristina Agerbæk Riber](#); [Cecilie Toft Nørgaard \(EM-DEP\)](#)  
**Emne:** SV: Follow up on meeting regarding an opt-in scheme for printed advertisements in Denmark  
**Dato:** 27. januar 2021 12:09:58  
**Vedhæftede filer:** [image001.gif](#)

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Dear [REDACTED]

We kindly bring our questions to mind, please see e-mail below.

If you need any further information from us, you are of course welcome to contact us.

Venlig hilsen

**Susanne Aamann**

Kontorchef, Forbrugerpolitisk Center  
Konkurrence- og Forbrugerstyrelsen /  
The Danish Competition and Consumer Authority  
Direkte +45 4171 5285  
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Fra: ve\_just.e.2(JUST) <[just-e2@ec.europa.eu](mailto:just-e2@ec.europa.eu)>

Sendt: 2. februar 2021 15:39

Til: Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>

Emne: Ares(2021)901964 - [Re] 'Opt-in' scheme for printed advertising in Denmark

Please find attached document Ares(2021)901964 from [REDACTED] (JUST.DDG.E.2) dated 02/02/2021.

Veillez trouver ci-joint le document Ares(2021)901964 de [REDACTED] (JUST.DDG.E.2) daté du 02/02/2021.



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Directorate E – Consumers

Brussels,  
JUST/E2/LR/Ares(2021)

Ms. Susanne AAMANN  
Head of Unit - Consumer Policy  
Division  
Danish Competition and  
Consumer Authority  
Carl Jacobsens Vej 35  
2500 Valby

E-mail: [SAA@kfst.dk](mailto:SAA@kfst.dk)

**Subject: ‘Opt-in’ scheme for printed advertising in Denmark**

Dear Ms. Aamann,

Thank you for your letter of 11 December 2020 in which you outline a possible ‘opt-in’ scheme for printed advertising in Denmark and its possible consequences for Danish consumers. My apologies for the delay in responding to you.

You explain that the Danish Government is considering an ‘opt in’ scheme primarily due to climate and environmental considerations.

In its reply of 30 April 2020 to the parliamentary question E-8/2020<sup>1</sup>, the Commission stated that an ‘opt-in’ scheme for printed advertisement, which does not pursue, directly or indirectly, the objective of the protection of consumers' economic interests, but other goals such as environmental protection, would fall outside the scope of the Directive 2005/29/EC on unfair commercial practices. See in this respect the relevant case law of the Court of Justice (C-540/08 *Mediaprint* and C-206/11 *Köck*). The Court of Justice has also held that it is for the national authorities and courts to decide whether a national provision is intended to directly or indirectly protect the interests of consumers (C-13/15 *Cdiscount*).

In any event, it is necessary to verify that the national law complies also with other Union law and, in particular, with the fundamental freedoms laid down in the Treaty on the Functioning of the European Union (TFEU). That means that national law must be non-discriminatory, and any potential obstacles to the internal market would have to be

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<sup>1</sup> [https://www.europarl.europa.eu/doceo/document/E-9-2020-000008-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-000008-ASW_EN.html)

justified by an overriding reason of public interest and be proportionate. As mentioned during our meeting of 7 July 2020, I recommend consulting the relevant services in DG GROW (in particular unit GROW B1 – free movement of goods, and GROW E1 – services).

Please note that the above is an informal assessment of my services based on the information you have provided and not a formal position of the European Commission.

Yours sincerely,

*(e-signed)*

A thick black horizontal bar used to redact the signature of the Head of Unit.

Head of Unit

**Fra:** Kirstine Dahl

**Sendt:** 19. marts 2021 08:30

**Til:** [REDACTED]

**Cc:** Maria Egstrand <[MarEgs@erst.dk](mailto:MarEgs@erst.dk)>; Mette Godiksen <[MetGod@erst.dk](mailto:MetGod@erst.dk)>; Cecilie Toft Nørgaard (EM-DEP) <[cetono@em.dk](mailto:cetono@em.dk)>; Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>

**Emne:** Concerning requirements on printed advertisements in relation to EU law/The Green Deal

Dear colleagues,

I hope you have all settled well into your new positions following the reorganization, and despite the ongoing pandemic are doing well.

I am writing to you because the Danish government is considering whether to take any action on all the printed advertisements that citizens receive in their mailbox. This is primarily due to climate and environmental considerations, but also because many citizens find it bothersome to receive these advertisements. At the moment, it is possible to discard advertisements with a so-called opt-out solution, according to which citizens order a sticker they can put on their mailbox. The sticker shows, that you do not want to receive advertisements. But in other areas, such as telephone inquiries and inquiries by mail, one must not approach citizens without consent - opt-in solution - and there may be reason to consider whether this should also apply in the analogue world.

We are interested in discussing your view on such an opt-in solution in the light of the rules of the Services Directive and the TFEU's articles on free movement of goods. We have already been in contact with Commission Experts concerning the Commercial Practices Directive who suggested that we also took these rules into consideration. We would therefore like to inquire whether you or relevant colleagues have time to meet with experts from the Danish Business Authority, Competition and Consumer Authority and Ministry of Industry, Business and Financial Affairs, after the Easter holiday at the beginning of April for a discussion of these matters?

Kind regards

**Kirstine Dahl**

**DANISH BUSINESS AUTHORITY**

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[www.erhvervsstyrelsen.dk](http://www.erhvervsstyrelsen.dk)

MINISTRY OF INDUSTRY, BUSINESS AND FINANCIAL AFFAIRS

**Fra:** Kirstine Dahl <[KirDah@erst.dk](mailto:KirDah@erst.dk)>

**Sendt:** 18. april 2021 09:20

**Til:** [REDACTED]

**Cc:** Maria Egstrand <[MarEgs@erst.dk](mailto:MarEgs@erst.dk)>; Mette Godiksen <[MetGod@erst.dk](mailto:MetGod@erst.dk)>; Cecilie Toft Nørgaard (EM-DEP) <[cetono@em.dk](mailto:cetono@em.dk)>; Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>; Tine Strand Thomsen <[TineTh@erst.dk](mailto:TineTh@erst.dk)>

**Emne:** SV: Concerning requirements on printed advertisements in relation to EU law/The Green Deal

Dear colleagues,

I hope you are doing well.

Did you have the chance to investigate this inquiry? Also, as a follow up to [REDACTED]'s e-mail – would you also know which experts on the Services Directive would be relevant to direct the message to?

Best,

Kirstine

Kind regards

**Kirstine Dahl**

**DANISH BUSINESS AUTHORITY**

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MINISTRY OF INDUSTRY, BUSINESS AND FINANCIAL AFFAIRS

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**From:** [REDACTED]  
**Sent:** Monday, April 19, 2021 2:07 PM  
**To:** [KirDah@erst.dk](mailto:KirDah@erst.dk)  
**Cc:** [REDACTED]; Maria Egstrand <[MarEgs@erst.dk](mailto:MarEgs@erst.dk)>; Mette Godiksen <[MetGod@erst.dk](mailto:MetGod@erst.dk)>; Cecilie Toft Nørgaard (EM-DEP <[cetono@em.dk](mailto:cetono@em.dk)>); Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>; Tine Strand Thomsen <[TineTh@erst.dk](mailto:TineTh@erst.dk)>; [REDACTED]  
**Subject:** FW: Concerning requirements on printed advertisements in relation to EU law/The Green Deal

Dear Ms Dahl,

Due to the reorganisation in DG GROW your e-mail below might have remained unanswered. I am now responsible for DK in the area of free movement of goods but am also copying my colleague [REDACTED] from the services unit and [REDACTED] from DG JUST, which you might have spoken to already.

No problem to organise a call, what about next week? On my side best options would be:

- Monday 26<sup>th</sup> - all day
- Wednesday 28<sup>th</sup> – in the afternoon
- Friday 30<sup>th</sup> – all day

I leave it also to the colleagues to express their preferences.

Best regards,

[REDACTED]  
**Legal Officer**



**European Commission**

Directorate - General for Internal Market, Industry,  
Entrepreneurship and SMEs

**GROW/E2 Enforcement II**

1040 Brussels, Belgium

Office: [REDACTED]

Tel: [REDACTED]  
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Fra: [REDACTED]

Sendt: 19. april 2021 15:29

Til: [REDACTED] Kirstine Dahl <[KirDah@erst.dk](mailto:KirDah@erst.dk)>

Cc: [REDACTED]

[REDACTED] Maria Egstrand <[MarEgs@erst.dk](mailto:MarEgs@erst.dk)>; Mette Godiksen <[MetGod@erst.dk](mailto:MetGod@erst.dk)>; Cecilie Toft Nørgaard (EM-DEP <[cetono@em.dk](mailto:cetono@em.dk)>; Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>; Tine Strand Thomsen <[TineTh@erst.dk](mailto:TineTh@erst.dk)>; [REDACTED]

Emne: RE: Concerning requirements on printed advertisements in relation to EU law/The Green Deal

Dear all,

Wednesday 28<sup>th</sup> – in the afternoon works for me.

Many thanks and all the best,

[REDACTED]

Legal Officer



**European Commission**

Directorate General Justice & Consumers

Unit E2 Consumer and Marketing Law

LX40 04/11

Rue du Luxembourg 40

B-1050 Brussels

[REDACTED]  
[REDACTED]



**Fra:** Kirstine Dahl <[KirDah@erst.dk](mailto:KirDah@erst.dk)>

**Sendt:** 21. april 2021 14:14

**Til:** [REDACTED]

[REDACTED]; Maria Egstrand <[MarEgs@erst.dk](mailto:MarEgs@erst.dk)>; Mette Godiksen <[MetGod@erst.dk](mailto:MetGod@erst.dk)>; Cecilie Toft Nørgaard (EM-DEP <[cetono@em.dk](mailto:cetono@em.dk)>; Susanne Aamann <[SAA@kfst.dk](mailto:SAA@kfst.dk)>; Tine Strand Thomsen <[TineTh@erst.dk](mailto:TineTh@erst.dk)>; [REDACTED]

**Emne:** SV: Concerning requirements on printed advertisements in relation to EU law/The Green Deal

Dear [REDACTED], dear [REDACTED],

Thank you very much for your replies. I understand if the reorganization has caused a few unanswered e-mails. Wednesday 13-14 would be perfect for us. We will send you the invitation ASAP.

Best,

Kirstine

Med venlig hilsen

**Kirstine Dahl**

Fuldmægtig

**ERHVERVSSTYRELSEN**

Europapolitik og EUs Indre marked

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**Fra:** [Susanne Aamann](#)  
**Til:** [REDACTED]  
**Cc:** [Cecilie Toft Nørgaard \(EM-DEP\)](#); [Søren Boisen Westh \(EM-DEP\)](#)  
**Emne:** Danish Opt-in scheme regarding unsolicited advertisements  
**Dato:** 2. juli 2021 12:37:04  
**Vedhæftede filer:** [Opt-in scheme regarding unsolicited advertisements.pdf](#)  
[image001.gif](#)

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Dear [REDACTED], [REDACTED] and [REDACTED]

As previously discussed with the European Commission, The Danish Government is considering whether to adopt new legislation on the printed advertisements citizens receive in their mailbox - primarily due to environmental considerations.

In continuation of our discussion I hereby send you the attached note, that describes the current opt-out scheme in Denmark regarding unsolicited printed advertisements and a similar model for a possible opt-in scheme.

Please do not hesitate to contact us, if you have any further questions.

Kind regards

**Susanne Aamann**

Forbrugerjuridisk Chef  
Konkurrence- og Forbrugerstyrelsen /  
The Danish Competition and Consumer Authority  
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[kfst.dk](http://kfst.dk).*



European Commission

Date: 2. juli 2021

Case: FORCE-19/13390-47

Ref: /SAA

## Opt-in scheme regarding unsolicited printed advertisements

As previously discussed with the European Commission, The Danish Government is considering whether to adopt new legislation on the printed advertisements citizens receive in their mailbox - primarily due to environmental considerations.

This note describes the current opt-out scheme in Denmark regarding unsolicited printed advertisements and a similar model for a possible opt-in scheme.

### *The current opt-out scheme in Denmark*

Currently in Denmark, it is possible to discard advertisements with a so-called opt-out solution, according to which citizens can order a sticker they can put on their mailbox. The sticker shows that a given address does not want to receive printed advertisements. It is possible to order the sticker regardless whether it is private citizens, traders, institutions, associations, clubs, authorities, etc., and for what purpose. The stickers are valid until the citizen, trader etc. either moves from the address or actively unsubscribes from opt-out scheme. A registration is registered in a database; cf. the provisions of the Danish Postal Act in this regard.

It is a Danish distribution company (FK Distribution) that administrates the database and the registrations. The distribution company is also in charge of handling complaints regarding the scheme.

There are two different stickers to choose from:

1. "Advertisement - No thanks"-sticker: You do not receive unsolicited printed advertisements. You will however still receive local weekly newspapers, free newspapers, evening school catalogs and similar material.
2. "Advertising and free newspapers - No thanks"-sticker: You do not receive unaddressed printed advertisement, local weekly newspapers or other material, such as evening school catalogs.

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**MINISTRY OF INDUSTRY, BUSINESS  
AND FINANCIAL AFFAIRS**

The sticker do not cover everything. For instance, the citizen will continue to receive information material from the state, region and municipality. Charities, patient associations, political parties and religious institutions may also send printed matter even if there is a mark on the mailbox.

It can be, for example, election material or church magazines. Personalized advertisements with a name and address are exempted from the scheme, but it is also possible to avoid receiving these by subscribing to a special list administered by the authorities. It can be, for example, election material or church magazines.

Both the sender and distributor must respect if an address has registered the opt-out scheme and have a sticker on the mailbox. If someone receives an advertisement despite the sticker, it is possible to complain to the advertising distributor. If the complaint is rejected it is possible to complain to the Consumer Ombudsman.

The scheme is supplemented by an opt-out plus scheme, according to which citizens can choose what type of material they want to receive, eg. whether they do not want offer newspapers from supermarkets, but would like to receive the local newspaper

The scheme is not statutory. It was made by the industry in collaboration with the Consumer Ombudsman. The framework for the scheme is based on a voluntary agreement between the relevant parties set out in a set of guidelines issued by the Consumer Ombudsman.

#### *A model for a possible opt-in scheme*

It is the intention that a possible opt-in scheme should work in a similar way as the current opt-out scheme. However, with the important distinction that in order to receive printed advertisement, the citizen, trader etc. needs to put a sticker on the mailbox. If they do not, it will **not** be allowed to deliver printed advertisements to the address. Just as in the current scheme the citizen, trader etc. can order a sticker that they can put on their mailbox. It is also the intention, that the opt-in scheme will be administered by the industry itself, such as the current opt-out scheme.

As the scheme has not been adopted yet, it is currently not planned in detail, whether the scheme will include an option to differentiate between the types of printed advertisements or catalogs etc. one wishes to receive in the mailbox, but it is a possibility. Furthermore, it will also be possible to work out a solution after which local newspapers are excluded from the scheme, so that these will continue to be distribute.

As mentioned above, the current opt-out scheme is not statutory, but has been prepared by the industry in collaboration with the Consumer Ombudsman. The framework for the scheme is based on a voluntary agreement between the relevant parties set out in a set of guidelines issued by the Consumer Ombudsman. An opt-in scheme could likewise be based on a voluntary agreement or it could be statutory. The scheme could be implemented in the Danish Market Practices Act, if it is decided to make the new scheme statutory.

The intention of introducing an opt-in scheme is to lower the amount of printed advertisements in order to limit the negative environmental impact of these advertisements.

According to the Danish Ministry of Environment, the most recent Danish data indicates that 113.400 ton of printed advertisements was distributed in 2016 (including catalogues, advertisements etc.). That amounts to 42.2 kg. per household. According to the waste statistics 138.000 ton of unsorted paper waste was collected from the Danish households in 2019. 132.000 ton was recycled, while 5.300 ton was incinerated.

Furthermore, the share of households who are a part of the current opt-out scheme has been stable at around 50 percent since 2017. It seems reasonable to assume that the reverse scheme – an opt-in solution – will have a significantly lower subscription rate than the current opt-out scheme, due to a variety of factors, such as the availability of digitalized advertisements, continued urbanization etc. All things being equal, if the share of Danish households who actively opts in to a new scheme were to be 25 percent, the amount of wasted paper would be reduced by 50 percent, which amounts to roughly 56.000 ton of printed advertisements per year. Thus, it is the Danish Ministry of Environment assessment that an opt-in scheme will have a positive environmental impact by reducing the total amount of distributed paper in Denmark.

Therefore, the opt-in scheme seems proportionate to the objective pursued since the magnitude of the potential environmental benefits surpasses those of the current opt-out scheme. However, it is impossible to assess exactly how environmentally beneficial an opt-in scheme will be, given the uncertainty of the aforementioned assumptions.

#### ***Alternative solution to an opt-in scheme***

It will also be an option to make an alternative solution to on an opt-in scheme. Such a solution may consist of improving the existing opt-out scheme.

This can be done by making it easier to maintain the opt-out scheme when moving. This presents challenges today because one registers the

address of the opt-out scheme and not oneself as a person. Therefore, the scheme does not automatically follow a person when moving.

In addition, the scheme could be strengthened by setting requirements for the paper on which the distributed advertisements are printed. Such requirements are difficult to enforce in national regulation, and it is therefore more likely that such a solution were to be negotiated on voluntary terms between the relevant parties in Denmark. However, this option would need further investigation.

Yours sincerely

Susanne Aamann  
Head of Consumer Policy Unit

**Fra:** [Susanne Aamann](#)  
**Til:** [REDACTED]  
**Cc:** [Søren Boisen Westh \(EM-DEP\)](#)  
**Emne:** VS: Danish Opt-in scheme regarding unsolicited advertisements  
**Dato:** 7. oktober 2021 14:27:51  
**Vedhæftede filer:** [Opt-in scheme regarding unsolicited advertisements.pdf](#)  
[image001.gif](#)

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Dear [REDACTED], [REDACTED] and [REDACTED]

As previously discussed with the European Commission, The Danish Government is considering whether to adopt new legislation on the printed advertisements citizens receive in their mailbox - primarily due to environmental considerations.

In the light of the discussions, the Commission has requested some further information from Denmark, which we have submitted in the attached note on 2 July 2021. The note describes the current opt-out scheme in Denmark regarding unsolicited printed advertisements and a similar model for a possible opt-in scheme.

We would like to inquire, if you have had the opportunity to look into the matter?

We are of course available if you have further questions.

Kind regards

**Susanne Aamann**

Forbrugerjuridisk Chef  
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The Danish Competition and Consumer Authority  
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E-mail [saa@kfst.dk](mailto:saa@kfst.dk)



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**Fra:** [Sanne Erholt \(EM-DEP\)](#) på vegne af [Brian Wessel \(EM-DEP\)](#)  
**Til:** [REDACTED]  
**Cc:** [Søren Boisen Westh \(EM-DEP\)](#)  
**Emne:** Danish opt-in scheme regarding unsolicited printed advertisements.  
**Dato:** 21. december 2021 09:52:53  
**Vedhæftede filer:** [Scannet fra EM-DEP-SLG-MF-19001.pdf](#)

---

Please find attached letter with reference to a Danish opt-in scheme regarding unsolicited advertisements.

Kind regards,  
Sanne Erholt  
/On behalf of Brian Wessel



Slotsholmsgade 10-12  
1216 København K



EAN 5798000026001

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**MINISTRY OF INDUSTRY, BUSINESS  
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European Commission

**DEPUTY PERMANENT SECRETARY OF STATE FOR INDUSTRY, BUSINESS AND FINANCIAL AFFAIRS**

**Opt-in scheme regarding unsolicited printed advertisements**

As previously discussed with the European Commission, the Danish Government is considering whether to adopt new legislation on the printed advertisements citizens receive in their mailbox - primarily due to environmental considerations.

In the light of the discussions, the Commission requested further information from Denmark, which The Danish Competition and Consumer Authority submitted in the attached note on 2 July 2021. The note describes the current opt-out scheme in Denmark regarding unsolicited printed advertisements and a similar model for a possible opt-in scheme.

Referring to the latest mail dated 7 October 2021 from the Danish Competition and Consumer Authority we would like to inquire if the Commission have had the opportunity to look into the matter and possibly come closer to a legal clarification of whether the scheme complies with EU law.

We are of course available if you have further questions.

Yours sincerely,



Brian Wessel  
Deputy Permanent Secretary for Business Regulations and International Affairs.

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**Fra:** [Søren Boisen Westh \(EM-DEP\)](#)  
**Til:** [REDACTED]  
**Cc:** [Sigrid Dahlerup \(EM-DEP\)](#); [Susanne Aamann](#); [Cecilie Toft Nørgaard \(EM-DEP\)](#)  
**Emne:** Danish opt-in scheme regarding unsolicited printed advertisements.  
**Dato:** 26. januar 2022 10:36:37  
**Vedhæftede filer:** [Opt-in scheme regarding unsolicited advertisements.pdf](#)

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Dear [REDACTED], [REDACTED] and [REDACTED]

As previously discussed with the European Commission, The Danish Government is considering whether to adopt new legislation on the printed advertisements citizens receive in their mailbox - primarily due to environmental considerations.

In the light of the discussions, the Commission has requested some further information from Denmark, which we have submitted in the attached note on 2 July 2021. The note describes the current opt-out scheme in Denmark regarding unsolicited printed advertisements and a similar model for a possible opt-in scheme.

Furthermore, we have asked in both October and December whether you have had the opportunity to look into the matter. We eagerly await your response.

We are of course available if you have further questions.

Kind regards,



**SØREN BOISEN WESTH (EM-DEP)**

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**Til:** [REDACTED], [REDACTED]  
[REDACTED], [REDACTED]  
**Cc:** Sigrid Dahlerup (EM-DEP) ([sigdah@em.dk](mailto:sigdah@em.dk)), Susanne Thaarup (EM-DEP) ([sustha@em.dk](mailto:sustha@em.dk)), Cecilie Toft Nørgaard (EM-DEP) ([cetono@em.dk](mailto:cetono@em.dk))  
**Fra:** Søren Boisen Westh (EM-DEP) ([soewes@em.dk](mailto:soewes@em.dk))  
**Titel:** Request: Danish opt-in scheme regarding unsolicited printed advertisements  
**Sendt:** 22-02-2022 17:31

Dear [REDACTED], [REDACTED] and [REDACTED]

In recent days, the possible opt-in scheme regarding unsolicited printed advertisements has once again caught the attention of the Danish Parliament.

As you know, we submitted the attached note on 2 July 2021 describing a model for a possible opt-in scheme as a result of your request in the spring of 2021.

Once again, we would like to request whether you have had the opportunity to look into the matter?

We kindly ask you to confirm that you have received this mail.

Kind regards,



**SØREN BOISEN WESTH (EM-DEP)**  
Head of Section

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**Fra:** [GROW E2](#)  
**Til:** [Søren Boisen Westh \(EM-DEP\)](#)  
**Cc:** [Susanne Aamann](#); [Sigrid Dahlerup \(EM-DEP\)](#); [Cecilie Toft Nørgaard \(EM-DEP\)](#)  
**Emne:** [Re] Request: Danish opt-in scheme regarding unsolicited printed advertisements (EM Id nr.: 450570) - Ares(2022)2137476  
**Dato:** 23. marts 2022 18:44:06  
**Vedhæftede filer:** [Reply to DK authorities on Danish Opt-in scheme11.pdf](#)

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## EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP  
AND SMES  
Single Market Enforcement  
E.2 – Enforcement II

Brussels, 23.03.2022  
grow.e.2/az(2022)2119221

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e-mail: [soewes@em.dk](mailto:soewes@em.dk)

Dear Sir,

We would like to thank you for your letters of 21 December 2021, 26 January 2022 and 22 February 2022, referring to the note of 02 July 2021 by the Danish Competition and Consumer Authority concerning a Danish initiative for implementing an Opt-in scheme regarding unsolicited printed advertisements.

In your letters, you inquire over the compatibility of such scheme, intended to replace the non-statutory opt-out scheme currently in force, with EU primary and secondary law. You also explain that ‘the intention of introducing an opt-in scheme is to lower the amount of printed advertisements in order to limit the negative environmental impact of these advertisements.’

The present reply is intended to provide some preliminary informal and general guidance over the main elements of the scheme.

We note that the proposal envisaged in the note raises several questions with respect to free movement of goods and services as well as environmental and consumer protection.

The Commission has already stated in its reply of 30 April 2020 to the parliamentary question E-8/2020<sup>1</sup> that an ‘opt-in’ scheme for printed advertisement, which does not pursue, directly or indirectly, the objective of the protection of consumers' economic interests, but other goals such as environmental protection, would fall outside the scope of the Directive 2005/29/EC on unfair commercial practices<sup>2</sup>.

Furthermore, the Court of Justice has held that it is for the national authorities and courts to decide whether a national provision is intended to directly or indirectly protect the interests of consumers (C-13/15 *Cdiscount*). This position was reiterated in the letter of

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<sup>1</sup> [https://www.europarl.europa.eu/doceo/document/E-9-2020-000008-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-000008-ASW_EN.html)

<sup>2</sup> See the relevant case law of the Court of Justice (C-540/08 *Mediaprint* and C-206/11 *Köck*)

DG JUST of 2 February 2021 in reply to the letter of the Danish Competition and Consumer Authority 11 December 2020<sup>3</sup>.

When it comes to the fundamental freedoms, it is true that national rules restricting the free movement of goods or services need to be non-discriminatory, justified by an overriding reason of public interest and proportionate. However, any assessment of (1) the possible existence of a restriction of the free movement of goods or services and (2) the compatibility of a national measure with EU law depends on the specific features of each measure, including its concrete wording, the objectives pursued and justification, along with evidence presented.

Moreover, we note that the proportionality test to be carried out on national measures restricting fundamental freedoms is composed of three steps: the measure must be suitable to attain the overriding reason in the public interest, must not go beyond what is necessary to attain it and no less restrictive means should be available to achieve it. With respect to the latter, the abovementioned Danish note itself outlines a potential alternative scheme, which, in its own terms, would be less restrictive on fundamental freedoms. This appears to suggest that the Danish authorities themselves acknowledge the existence of less restrictive means.

At this stage however, as previously pointed out, the Commission services cannot provide a complete assessment, only on the basis of the information supplied in the brief explanatory note informally sent by the Danish Competition and Consumer Authority.

In order to receive a more detailed and comprehensive answer, we invite the Danish authorities to notify a draft under the applicable notification rules<sup>4</sup>. The notification procedure would allow all Commission services concerned as well as all other Member States to carry out a transparent and accurate assessment based on the concrete phrasing of the proposal and would also provide private stake-holders with the possibility to submit their views.

Such an open and comprehensive process of information and consultation would enable a complete assessment, on the basis of all the relevant aspects and comments.

We would like to thank the Danish authorities for their spirit of cooperation and remain at their disposal to pursue a fruitful dialogue.

Yours faithfully,

*[electronically signed]*

  
Head of Unit

Contact: 

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<sup>3</sup> Danish Competition and Consumer Authority letter with reference: FORCE-20/12511-2/11 December 2020; European Commission letter with reference: Ares(2021)901964/02 February 2021

<sup>4</sup> Single Market Transparency Directive 2015/1535 (TRIS notification) or Directive 2006/123/EC on services in the internal market.