

SWIMS AS
Postboks 123
0323 OSLO

*Exempt from public disclosure:
Offl. § 24 andre ledd*

Your reference

Our reference
20/02315-1

Date
21.06.2023

Closure of case - Swims AS

Introduction

Datatilsynet is the Norwegian Data Protection Authority and the national supervisory authority under the European Union General Data Protection Regulation (GDPR). Our task is to supervise compliance of the GDPR and oversee that both public and commercial actors do not violate Norwegian citizens' fundamental right to data protection.

We received a complaint from a customer of Swims.com on 3 March 2020, regarding the possible loss of personal data following a cyber-attack towards the warehouse of Swims AS ("Swims").

Decision

Datatilsynet has decided to close the case.

Factual background

The complainant received a message from Swims stating that Swims experienced delays in deliveries due to a cyber-attack. The Complainant explained that she requested information from Swims regarding the cyber-attack and whether her personal data was affected. As she was worried that her personal data could be lost, she filed a complaint with Datatilsynet.

Swims provided the Complainant with an answer within a week and stated that no customer information was lost. Swims informed the Complainant that the servers of their logistical partner had been encrypted by a hacker group, however it was released a few days later. According to Swims, no data was stolen or lost in the attack.

Based on the complaint, Datatilsynet sent a request for information to Swims on 19 March 2020.

Swims has explained that they experienced a security incident with their logistical partner, due to a manual error. Moreover, Swims has stated that further training has been provided to avoid a similar incident in the future and that the customers have been informed of the incident. Furthermore, Swims explained that there has been no loss, unauthorised disclosure

of, or access to personal data of their customers. Swims' logistical partner reported the cyber-attack to the police and sent a data breach notification to the Supervisory Authority in the Netherlands.

The applicable legal framework

Article 3 GDPR prescribes that the Regulation applies to the processing of personal data of data subjects in the European Union by a controller not established in the Union, where the processing activities are related to the offering of goods or services to data subjects in the Union. As Swims AS offers a service to data subjects in the EU/EEA, your processing of personal data about Norwegian citizens falls within the territorial scope of the GDPR.

We consider that this case is cross-border pursuant to Article 4(23)(a) GDPR and that we are the lead supervisory authority pursuant to Article 56(1) GDPR.

Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, cf. Article 5(1)(f) GDPR. The controller shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk for the rights and freedoms of natural persons, cf. Article 32(1) GDPR.

Please note that pursuant to Article 33 GDPR, it is the controller that should carry out notification of a data breach to the supervisory authority. The processor may be authorised by the controller to notify on their behalf. In any case, the notification should be sent to the controller's lead supervisory authority.

Datatilsynet's assessment

Datatilsynet considers that there is no need for further investigation into this case and that Swims has handled the security incident in an appropriate manner. In conclusion, Datatilsynet hereby closes the case.

Right of Appeal

As this decision has been adopted pursuant to Article 56 and Chapter VII GDPR, the present decision may be appealed before Oslo District Court ("Oslo tingrett") in accordance with Article 78(1) GDPR, Article 25 of the Norwegian Data Protection Act, and Article 4-4(4) of the Norwegian Dispute Act.¹

Kind regards

Tobias Judin
Head of Section

Anne Eidsaa Hamre
Legal adviser

¹ Act of 17 June 2005 no. 90 relating to mediation and procedure in civil disputes (Lov om mekling og rettergang i sivile tvister (tvisteloven)).

This letter has electronic approval and is therefore not signed

Copy: the Complainant