

[Responsibility of business transferee failing to notify the transfer of personal information to customer-data subjects]

Facts

Claimant was a customer who had previously used a beauty salon until the business transfer in September 2012 between Respondent and the previous owner, but complained that she repeatedly received advertising messages from the beauty salon. So Claimant applied for dispute mediation, demanding Respondent to compensate damages on account of use of her personal information for advertising purposes without consent at the time of business transfer, and failure to indicate the mandatory [Advertisement] of [Ad] notices.

Reasoning

The beauty salon was transferred to Respondent in 2012 with its customer list including Claimant. However, the customers were not notified of the transfer of customer list by the transferor nor transferee at the time of business transfer, which has nothing to do with the franchisor concerned. Failure to take such action by both parties to the business transfer is in violation of Article 27(2) of the Personal Information Protection Act, which demands both parties to notify the data subjects without delay of the business transfer including personal information.

Respondent's messages containing event information offering a discount on service fees fall under the category of commercial advertisement under the Network Act. Thus Respondent was required to indicate [Ad] notice and refusal of such messages pursuant to the relevant provisions when sending messages via the Internet. Therefore, Respondent is in violation of Article 50(4) of the Network Act by failing to perform the above-mentioned obligations.

Mediation Decision

The Committee has decided that Respondent inflicted mental distress on Claimant, including fear of the abuse and misuse of personal information and infringement upon Claimant's right to self-determination of personal information in the course of the business transfer in September 2012. So Respondent shall pay damages up to KRW100 thousand to Claimant.