

Bonus cards and the Personal Data Act

Report 2005: Summary in English

It is getting increasingly common that companies offer their customers bonus cards. Bonus cards/customer reward cards are here referred to as a card that the customer uses to collect bonus points by letting his purchases be registered. The card gives the customer different benefits such as special offers, discounts and refunds in the form of vouchers.

The bonus cards give rise to extensive registers that contain data of a large number of people. The largest registers contain several million customers. When the customer uses the bonus card, detailed information about the customer's purchase is often being registered. That information is the basis for bonus points. At the same time the data gives a customer profile that can be used for *advertising based on purchases*. This means that the bonus customers receive directed offers based on previous purchases, for example the same kind of products already purchased by the customer. It is sometimes possible to draw conclusions about the customer's lifestyle and hobbies from the data. Therefore this kind of data is often regarded as sensitive data.

Some ten years ago, the Data Inspection Board carried out an extensive investigation regarding registration of electronic footprints, for example by the customer reward cards of the retail trade. It was then discovered by the Data Inspection Board that the technology and possibilities of creating customer profiles already existed, but that the retail trade chose to refrain using the data for advertising based on purchases. The reason for this was that the companies did not want to risk pushing the customers away by doing something that could be considered as an invasion of personal privacy. In order to follow the development, in 2003 the Data Inspection Board had a closer look at two major companies in the market, Ica and KF. It appeared that Ica, but not KF, had begun to use advertising based on purchases. The issue had a huge impact in the mass media. The Data Inspection Board was also contacted by other companies in the field and therefore had the reason to believe that more companies had begun to use advertising based on purchases.

Therefore, during 2005, the Data Inspection Board has carried out a project with the purpose of checking how personal data is processed when the customers use bonus cards. The focus of the inspection has mainly been what kind of data that is being collected, whether or not the bonus customers receive advertising based on purchases, if consent is obtained from the customers, what kind of information the bonus customers are provided with, whether or not data is being shared and for how long the data is being stored.

In order to check how personal data is being processed when customers use bonus cards, the Data Inspection Board has investigated a number of companies. Regarding personal privacy interests, it has been particularly interesting to investigate to what extent the customers' purchasing habits are being mapped out with the purpose of providing the customers with directed offers that are based on previous purchases. As a result of the investigation, the Data Inspection Board has made a number of remarks to the companies regarding deficiencies in the processing of personal data. The purpose of the report is to give advice and guidance to companies that want to use bonus cards for advertising based on purchases, but also to draw individuals' attention to what one should be aware of when getting a bonus card and what rights the Personal Data Act provides.

The bonus cards give rise to extensive registers containing data of a large number of people. The companies that were investigated had between seven thousand and three million customers with bonus cards. It was not unusual that they had several hundred thousand bonus customers. It was evident that detailed information about what the customers had purchased often was registered when they used the bonus card, fundamentally the same kind of information that appears on the cash receipt. Approximately half of the companies stated that they use advertising based on purchases at present, and a few others stated that they were about to begin doing that. Advertising based on purchases implies mapping out for example the customer's eating habits, hobbies or travelling habits.

In the opinion of the Data Inspection Board, it should be permitted to register what products the customers purchase and to use advertising based on purchases, if consent has been obtained from the customers after they have been provided with clear and distinct information on what is being done. If the information is unclear in these respects it means that the customers have not given their consent, which makes the processing unlawful. The Data Inspection Board has noted that several companies provide the customers with unclear information in these respects. These companies must therefore make sure that they improve the information given to new bonus customers and they must also complete the information provided to the bonus customers they already have. Otherwise it is not permitted to use advertising based on purchases. Even if the customers have bonus cards they always have the right to reject directed advertising.

Thus, customers who consider applying for a bonus card have reason to study the information on how their personal data will be used and decide on whether or not they want to have the bonus card on these conditions, and if they want to receive directed advertising. For example it could be of interest for the customer to find out if the company registers in detail what products that are being purchased by the customer, if the data is being analysed in order to send out directed offers, or for what other reasons the data might be collected, and for how long the data is stored.

The Data Inspection Board recommends that the companies even after having provided the customers with information, and consent has been obtained, restrict the information that is registered. When it comes to detailed information about the purchase, the companies should aim at keeping the data as short time as possible. The customers must be informed of for how long the company stores detailed information regarding the purchase and then give their consent. In the opinion of the Data Inspection Board it is doubtful whether such data needs to be stored for longer than one year. Furthermore, The Data Inspection Board does not consider it to be permitted to store the data for all time, or indefinitely, for example as long as the customer uses the card or is a bonus customer.