

AUGUST 2019

LAW UPDATES

kavlak.

11

ISSUE



Current Decisions Of The Personal Data Protection Board

According to the Personal Data Protection Law No. 6698 (“Law”), administrative sanctions are imposed on companies, which are the data controllers, by receiving complaints or ex officio detected by the Personal Data Protection Board (“Board”). Recently, sanctions imposed on data controllers for data breaches have been accelerated and the number of penalties imposed by the Board have increased. The Board’s new decisions are stated below:

In the Board Decision dated May 31, 2019 and numbered 2019/165, although it was possible to provide controlled access to the members, who want to benefit from the club services, by alternative means, the sports club obtained the palm print data from the members as biometric data. The Board imposed an administrative fine to the sports club claiming that the sports club’s such act has infringed the principle of “To have a connection with the act and to be limited and measurable for the purpose of processing”, because the club restrained the members by the application that, if the data subject does not give their explicit consent, they could not benefit from the club services.

In the Board Decision dated May 31, 2019 and numbered 2019/166, as a result of two different data processing activities related to a single transaction, in which the information belonging to another person is sent without being subject to any of the processing conditions regulated in the Law, the data controller lawyer who has not fulfilled the principle of “Preventing the unlawful processing of personal data” was fined 50.000 TRY.

Finally, in the Board Decision dated July 8, 2019 and numbered 2019/204, the data subject was called via their mobile phone in order to provide information and advertisement without receiving the explicit consent of the data subject prior to such call by an investment and security company. Since the Board found it not to be in line with any processing conditions in the Law, the company was fined 75.000 TRY.



RTUK Regulations on the Internet Broadcasts

Regulation on the Presentation of the Radio, Television and On-Demand Broadcasts on Internet ("Regulation") has been published on the Official Gazette dated August 1, 201 and numbered 30849. ("Regulation") In accordance with Article 1 of the Regulation, the aim of the Regulation is to determine the rules and procedures regarding the presentation of the broadcast services through the Internet, the broadcast license to be granted to the media service providers, the broadcast transmission authority to be granted to the platform operators, and the supervision of such broadcasts.

Article 5(2) of the Regulation states that media service providers who wish to provide radio, television and on-demand broadcasting services through the internet shall have a broadcast license from the Radio and Television Supreme Council (RTÜK) and the platform operators shall obtain broadcast transmission authorization.

The Regulation further states that the Regulation is also applied to the establishments, where broadcast contents or hosting service providers are in a foreign country, which broadcast in Turkish language include commercial broadcasts targeting Turkey or that concerns Turkey.

The Regulation states that the fee for radio broadcast license fee through the Internet is 10,000 (ten thousand) Turkish Liras, TV broadcast license fee through the Internet is 100,000 (hundred thousand) Turkish Liras, and on-demand broadcast license fee through the Internet is 100,000 (hundred thousand) Turkish Liras. If RTUK detects broadcast services through Internet without a broadcast license, the issue is announced on RTUK's website

Finally, Regulation Amending the Regulation on Procedures and Principles on Auditing Commercial Communication Revenues of Media Service Providers and Declaration and Payment of the Supreme Council's Share was also published on the Official Gazette of, August 1, 2019. This regulation requires the media service providers holding internet broadcasting license to declare their commercial communication revenues.

Communiqué on the Determination of the Chambers which the Craftsmen and the Artisan will be Registered

Communiqué for on the Determination of the Chambers which the Craftsmen and the Artisan will be Registered was published in the Official Gazette dated August 1, 2019 and numbered 30849. The purpose of the Communiqué is to specify the rules and procedures for the determination of which chamber the craftsmen and the artisan, who have been registered with the Registry of the Craftsmen and Artisan in accordance with the Craftsmen and Artisan Professional Organizations Law dated June 7, 2005 and numbered 5362, will register.

In the Communiqué, the chamber registrations for the cities which are considered as metropolitan and the cities which are not in such status have been regulated. Accordingly, it is stated that the registration of the new members which are operating in the districts of metropolitans will be made with a petition, which expresses the preference of the applicant submitted to these chambers or the relevant chamber which is located in the metropolitan centre. Registration of new members in the centre of the cities which are not considered as metropolitan and their connected districts will be made in accordance with Article 5 of the Communiqué.

According to the Communiqué, there will be no registration for craftsmen and artisan in the chambers if they have not fulfilled their obligation to be registered with the Registry of the Craftsmen and Artisan. The information of the craftsmen and the artisan will be sent to the related chamber via ESBIS for the registration at the Registry of the Craftsmen and Artisan. It is stated in the Communiqué that the profession chambers of the craftsmen and the artisan will be determined by the decisions of Craftsmen Artisan and Merchant and Industrialist Detection and Coordination Council, and in accordance with the availability of the relevant craftsmen and artisan profession branch.

New CyberSecurity Program Canada



On August 14, 2019, the federal government launched a new cybersecurity certification program CyberSecure Canada (“CyberSecure”) aimed at helping small and medium-sized businesses protect against cyber threats. The release of CyberSecure is just one of the measures implemented by the government following its announcement of the Digital Charter dated May 21, 2019 which includes provisions regarding personal data protection. CyberSecure is a voluntary certification program wherein businesses implement numerous basic cyber security controls designed to safeguard against the most common kinds of cyber threats.

Such basic cyber security controls are intended to be relatively easy and inexpensive for small and medium-sized businesses. Basic cyber security controls may include implementing two-factor authentication, developing policies regarding passwords, backing up and encrypting data, enabling automatic updates for software and hardware etc.

The Standards Council of Canada will be responsible for accrediting certification bodies, who will evaluate business’ compliance with CyberSecure and grant the certification. Businesses who are found to be in compliance with CyberSecure will be able to display a certification mark or logo on their website or other promotional materials.

Auto play Videos and Endless Scrolling are going to be removed: “Social Media Addiction Reduction Technology Act”

On July 30, a bill, aiming to control the social media addiction and banning the auto play videos and endless scrolling feature, which are considered to be addictive, was introduced by Josh Hawley, the senator of Missouri, United States. It is offered that name of the bill to be the “Social Media Addiction Reduction Technology Act” or the “Smart Act”.

Josh Hawley stated that the social media companies are using practices that exploit human psychology and minds by substantially interfering with consumers’ freedom of choice.

With the provisions of the Act, It is aimed to avoid the misleading models which lead to the attraction of the users towards the social platforms. One of the provisions of the Act regulates the existence of “accept” and “refuse” buttons in same font and size to ensure the awareness on their choices of the users. Explicit consent and demand by the users for more content (except the advertisements) in the auto play videos has been stated under the provisions of the Act as requirement.. In addition, usage of user friendly interface has been stated as an obligation for the platforms under the Act.

The most polemical part of the Bill has been the stipulated limitation on the time spent in platforms such as Twitter, You tube, Instagram. Time limitations for the use of these kind of platforms has been stated as 30 minutes per day. It is further stated that such limit can be changed or removed by the users manually. However; it is regulated that such manual arrangement will be cancelled after 30 days, and the 30 minutes limitation which per day will be forced again.

The draft aims to make people more conscious technology users, who can choose and modify their contents, contrary to what they have already become, the addictive people as a result of the addictive social media platforms.

LAW UPDATES

kavlak●

11
ISSUE

About Our Firm

Kavlak Law Firm, growing since 2006 with its qualified and dynamic lawyers, is one of the leading law firms of Turkey. With our effective works provided for our client portfolio which includes, by majority, local, international and multinational commercial and financial organizations, we provide distinguished legal support. Kavlak Law Firm, with the lawyers it co-operates in all of the major cities of Turkey, and worldwide, is able to respond immediately to clients' demands, provides a time-efficient service, based on mutual trust, works on long-term cases with each client, and adapts the clients' working principles and provides service accordingly.

Please visit our web site at www.kavlak.com.tr for further information on our legal team and practice areas.

Please contact us at info@kavlak.av.tr, 0212 324 55 00

This document is for informational purposes only and not for the purpose of providing legal advice. You should contact authorized persons for legal consultancy to obtain advice with respect to any particular issue or problem. Use of and access to this document or any of the e-mail links contained within the document do not create an attorney-client relationship between Kavlak Law Firm and the user or browser.

kavlak●