

Final Decision

Case Register	379610
National file number	11.17.001.009.186
Controller	Trustona Media Limited
Date	2/9/2022

Trustona Media Limited
By email: info@trustonamedia.com

Dear Sir,

Further to the exchange of communications between Cyprus SA (the Commissioner for Personal Data Protection) and Trustona Media Limited (the Controller) concerning a complaint involving the use of tracking cookies on the Controller's website.

Description of the Case

The data subject (DS) lodged a complaint in Germany with the North Rhine-Westphalia SA, and was thereafter received by the Cyprus SA on 13 July 2021. The complaint involves the use of tracking cookies without consent through the Controller's website, www.coffeeness.de.

██████████ (the complainant) stated that while visiting the website www.coffeeness.de he noticed that certain tracking cookies were enabled during the browsing session without giving his explicit consent. Following this, on 3rd of May 2021 he sent an email to info@coffeeness.de requesting that these cookies must be removed, to which he did not receive a reply. After not receiving the requested information, the data subject lodged a complaint on 1 June 2021, regarding the controller's failure to remove the tracking cookies.

The complainant also provided relevant documentation which demonstrated that the cookies which were enabled during his browsing session were Facebook Pixel and Google Analytics.

It is also noted that the complaint involves the use of cookies which falls under the ePrivacy Directive and thus it cannot be handled in accordance with the procedure provided in Article 60 GDPR. Despite this, considering that the cookies were already set prior to the complainant's consent, the Cyprus SA has investigated the legal basis for the possible collection and processing of the complainant's personal data under the GDPR.

Investigation by Cyprus SA

Cyprus SA carried out an examination of the website and it was determined, among other things, that pre-activated tracking cookies were found in addition to the necessary cookies before any consent was given. The cookies that are activated on the website before receiving consent of the visitor which do not fall into the category "Necessary Cookies" were the following:

Mautic_device_id (tracking)
mtc_id (marketing)
mtc_id (tracking)

Although the Google Analytics and Facebook Pixel cookies were detected on the website, they were not enabled before any consent was given.

Moreover, as per the Cyprus SA request, the Controller proceeded without delay with the appropriate changes on the website to comply with the ePrivacy Directive and the GDPR.

Cyprus SA assessment

Considering the fact that

- i. Although the Controller did not respond to the complainant's email on 3/5/2021, they had indeed configured, at a later stage, the Google Analytics and Facebook Pixel cookies to be enabled only upon receiving consent from the website visitors.
- ii. the tracking cookies that were enabled without consent at the date of the Cyprus SA examination, were removed by the Controller as soon as they were notified

Cyprus SA is of the view that the above observations appear to be a minor infringement which only slightly affects data subject's rights and freedoms.

After consideration of the significance of the infringement and the controller's cooperation in the investigation process, the Cyprus SA considers that the investigation proceedings can be concluded as no further supervisory measure is necessary at this stage.

The Commissioner reserves the right, in the event of any future complaints lodged by data subjects, to use all powers afforded to her by the GDPR and by national Law 125(I)/2018.

Commissioner
for Personal Data Protection