

The data policy serving the business activity

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What serves the business activity?

“Get closer than ever to your customers. So close that you tell them what they need well before they realize it themselves”.

- Steve Jobs

- Data is an important key to success for companies today.
 - Statistical data.
 - **Personal data.**
- Business intelligence (BI), e.g. for product positioning or pricing.

How to handle personal data?

Since 25 May 2018: **GDPR**.

REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 April 2016

on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

(Text with EEA relevance)

(OJ L 119 4.5.2016, p. 1)

- Directly applicable and binding in the EU / EEA.
- Strict requirements for the handling of personal data.
- Applies in **B2C as well in B2B** scenarios.

But...

...some myth-busting

- Consent is not the only legal basis for processing personal data.
- GDPR allows processing for **marketing** and **advertising** purposes – even without consent.
- GDPR allows **international data transfers**.
- GDPR allows “**profiling**”:

“any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements”

Using customer data

- Profiling as such is also possible on the basis of a weighing of interests. No “hard” consent requirement as default under GDPR.
- This means: Using your customer data base (e.g. CRM) to analyze a natural person's economic situation or personal preferences is possible (stricter requirements exist if profiling produces legal effects concerning natural persons).
- But: compliance with further provisions of the GDPR is key.
 - Transparency, Transparency, Transparency!
 - Data protection principles (e.g: lawfulness, fairness and transparency; data minimization; integrity and confidentiality).
- Accountability: the data controller is responsible for, and must be able to **demonstrate compliance** with the principles.

The data policy

- Documented set of guidelines for ensuring the proper management of an organization's digital information, specifically customer data.
- In practice:
 - “How to”-guidelines for employees (especially sales & marketing).
 - Development of internally binding regulations.
 - Creation of data tables and legal purposes of data processing operations to facilitate the daily handling of data by the departments.
 - Rules for the marketing department, which tools may be used and which may not.
 - Creation of data maps: which business unit uses which kind of data?

The data policy

Positive consequences for companies under GDPR.

- **First**, compliance with the accountability principle. Data controller must be able to demonstrate compliance.
- Art. 24 (1) GDPR: “... *the controller shall implement appropriate technical and **organisational measures** to ensure and to **be able to demonstrate** that processing is performed in accordance with this Regulation*”.

The data policy

- **Second**, fast internal reaction to current developments in the field of data protection becomes possible.
 - April 2019: German Data Protection Conference (Association of all German Data Protection Supervisory Authorities) is of the opinion that every user tracking requires consent, if the tracking tool can track user behavior, in particular across websites or devices.
 - June 2018: Judgment of the ECJ on a joint controllership between the operator of a Facebook site (Fanpage) and Facebook.
- **Third**, fulfilment of data subject rights is facilitated.
 - Right of access: Data subject has the right of access to personal data processed by the data controller.
 - Information on action taken on a request shall be provided without undue delay and in any event **within one month** of receipt of the request.

Thank you.

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