

Bavarian State Office for
data protection supervision

Ansbach, June 30th, 2021

press release

Cross-country examination

Consents on websites of media companies are usually ineffective

Corrections are required

“Complaints against cookies on websites now take the top spots with many supervisory authorities

of the case statistics. This often hardly reflects the high sensitivity of the users

transparent technologies and business practices, but also shows that many responsible people always

trying to exploit supposed scope again or even ignoring limits. Also in front of

1 December 2021 with the Telecommunications and Telemedia Data Protection Act

The subsequent clarification of the basic need for consent for cookies is the joint examination

a wake-up call for all those responsible to check the use and processing of their websites and

adjust if necessary” Michael Will, President of the Bavarian State Office for Data Protection Supervision, stated on the

occasion of the

transnational testing of websites in the media industry.

The data protection supervisory authorities of several German countries have approved the use of cookies and their integration

examined by third-party services on media company websites. Overall, on the basis of a common

49 websites in 11 countries were checked using the same test catalogue. The focus was on user tracking of values

aim. Most of the tested websites do not meet the legal requirements for the

Use of cookies and other tracking techniques. The media companies are thus breaking the law

their users to protect their information technology systems and their personal data

Data. Even the first adjustments made by some of those responsible have not yet been able to fully compensate for the legal
deficits.

constantly eliminate. The practice of the media companies means there are considerable problems for users

risks. The personal data collected as part of user tracking is used in particular to creation and enrichment of comprehensive and cross-site personality profiles. These will for online marketing, in particular in the real-time bidding process (real-time auction of advertising space) set.

The state data protection authorities involved have an impact on the companies in their area of responsibility create data protection-compliant conditions. If necessary, they will take regulatory action.

For the coordinated investigation, the authorities from Baden-Württemberg, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland, Saxony and Schleswig-Holstein will send a jointly developed questionnaire to media companies in their respective countries from mid-August 2020 legal jurisdiction. Not all of the company's websites were checked, but rather their strongest offers. The selected websites were already technical before the questionnaires were sent out address

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- 2 -

secured and analyzed. Such was a comparison between the answers of the media companies and the

actual technical design of the pages possible. In addition to the bodies already mentioned, the supervisory authority in Bavaria also participates in the evaluation of the content of the test results.

A very high number of cookies and third-party services are used on the examined media websites are mainly used for user tracking and advertising financing. The websites usually ask differentiated user consent for the use of cookies and third-party services.

In the majority of cases, however, these consents are not effective. As part of the exam were presented the following deficiencies were found:

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Wrong sequence: Third-party services that require consent are often activated when the web pages are integrated and cookies are set - i.e. before the consent request.

Missing information: On the first level of the consent banner, only insufficient sufficient or incorrect information about user tracking.

Insufficient scope of consent: Even if the user takes the opportunity to already rejecting everything on the first level of the consent banner, numerous cookies and third-party services active that require consent.

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Not a simple refusal: While all first-level consent banners have a toggle

There is an area to consent to all cookies and third-party services

is often missing at this level an equally simple possibility to use the to reject zertracking in its entirety or to be able to close the banner without a decision.

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Manipulation of users: The design of the consent banner shows numerous forms of nudging. This means that users are subliminal to the submission of consent, for example by replacing the consent button with a colored

cial highlighting is made much more prominent than the reject button or by using the

refusal of consent is unnecessarily complicated.

Further information on the data protection-compliant design of Internet pages can be found on the website of the BayLDA in the FAQ section.

Ansbach, June 30, 2021

Michael Will

president