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Switching electricity and gas providers must not be made more difficult - data protection officers advise on plans by credit bureaus

In the past few weeks, there have been discussions about alleged plans by credit bureaus that could make it more difficult for citizens to switch electricity and gas. The state commissioner for data protection and freedom of information in Rhineland-Palatinate, Professor Dieter Kugelmann, explains: "Databases in which the data of several million citizens are stored without their consent must be evaluated critically. Because for a corresponding data collection a legal basis is necessary: The existence of a legitimate interest of the electricity and gas companies, which could be considered, is doubtful with regard to the creation of such a database, because the energy suppliers would only be taking on their own customary commercial risk at the expense of data protection. The main concerns are that profiles with the length of contract periods should be created in order to decide who to enter into a contract with, in which case the databases would lead to the selection of customers and to discriminate. The envisaged databases are also not comparable to credit reports that are intended to protect against breaches of contract such as non-payment." Kugelmann welcomes the deliberations of the working group for credit agencies of the German federal and state data protection supervisory authorities on November 2nd and 3rd, 2020 on this topic: "From the point of view of the Working group, there are considerable doubts about the processing of positive data such as information on the duration of the contract by credit agencies in the energy supply industry on the basis of Article 6 Paragraph 1 Sentence 1 lit. f) General Data Protection Regulation. Positive data is information that does not contain any negative payment experiences or other non-contractual behavior. This result of the working group should be forwarded to the data protection conference as a draft decision." Kugelmann continues: "It shows that the use of data that indicates that a citizen has changed the energy supply contract or that is evaluated to that effect is very problematic. The background to the discussions are reports from the NDR and the Süddeutsche Zeitung, according to which two large German credit bureaus are planning a database in which contract data from electricity and gas customers are to be stored across the industry. Customers can currently choose their electricity and gas provider by regular price comparisons and changing providers can benefit from lower prices or special offers for new customers. However, frequently changing customers are less interesting for companies than long-term customers. For this reason, providers have an interest in making possible a decision even before the contract is signed in order to find out how often potential customers change their energy provider.

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