

12/22/2021

Data protection conference publishes new guidance on telemediaThe conference of independent federal and state data protection supervisory authorities (DSK) has published a new version of the guidance on telemedia. The paper offers specific assistance for websites, apps or smart home applications in implementing the new provisions of the Telecommunications Telemedia Data Protection Act (TTDSG). In addition, the orientation guide gives affected citizens a better picture of the legal framework. The supervisory authorities are thus reacting to the changed legal situation. Since December 1, 2021, the TTDSG has regulated, among other things, the protection of privacy when using telemedia.

The State Commissioner for Data Protection and Freedom of Information, Prof. Dr. Dieter Kugelmann sees the legal changes that have been made as overdue: "It was time for an adapted legal regulation to create clear conditions. In particular, it has an impact on the use of cookies and similar technologies to record usage behavior. With the TTDSG, the federal legislature has now implemented the requirements of the European ePrivacy Directive into national law after a delay of more than a decade." The TTDSG basically requires the consent of the users if information is stored on their end devices or if such information is accessed. Exceptions to this consent requirement are limited to cases in which the storage and reading of the information is absolutely necessary so that an expressly requested telemedia service can be made available. The corresponding criteria can be found in the orientation guide.

"When examining whether, in exceptional cases, consent is dispensable, it should be noted that the requirements for this differ from the criterion of legitimate interest according to the General Data Protection Regulation (GDPR)," says the state commissioner. "A weighing of interests alone according to the GDPR does not automatically meet the narrow requirements of the TTDSG. In order to implement the new legal situation, it is therefore not sufficient, for example, if only the names of the legal bases are exchanged in a data protection declaration."

Since December 1, 2021, the stricter provisions of the TTDSG have been applied to the storage and reading of information on and from end devices. The provisions of the GDPR continue to apply to the subsequent further processing of the personal data collected in this way. There are also some hints on this in the new orientation guide.

"Bodies that operate websites or offer apps and other telemedia should therefore urgently review the use of cookies and other technologies. In particular, the exact design of the technologies and their necessity must be revised. The time, type and

duration of storage and the subsequent data processing must comply with the legal requirements. The orientation guide that is now available is intended to help with this,” advises Prof. Kugelmann.

With a view to corresponding offers from outside Germany, it is planned to make an English version of the orientation guide available in the near future. Furthermore, a public consultation process will be carried out on the guidance provided.

Further information: Guidance from the supervisory authorities for providers of telemedia (OH Telemedien 2021; as of

December 1st, 2021) Podcast Datenfunk Episode 014: A colorful plate full of cookies - cookies, banners and the new TTDSG

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