

LfD Lower Saxony warns cooperative banks against profiling for advertising purposes

The Lower Saxony State Commissioner for Data Protection (LfD) has checked a cooperative bank that is testing so-called smart data processes as a pilot bank. Although the review has not yet been completed, the knowledge gained so far has prompted the LfD to send warnings about the implementation of such procedures to the other 89 cooperative banks in Lower Saxony.

The smart data processes are used to filter out specific people from the customer base for specific advertising measures. For this purpose, score values are formed, which are intended to make a statement as to whether a customer is very likely to be interested in a specific product. This can be, for example, a real estate loan, a credit card or a securities savings plan. The customer then receives advertising for the relevant product. Payment transaction data, among other things, is analyzed to form the score values and, in some procedures, data on the living environment of customers from external service providers is also used.

For example, 162 data fields are used to calculate whether someone is interested in a consumer loan, including the following information from the payment transaction data:

receipt of social benefits,

household and food expenses,

amount of vehicle costs,

Amount of the "basic costs", e.g. for energy suppliers,

amount of salary or pension received,

amount of withdrawals from ATMs,

Sales in the e-payment category, e.g. PayPal and Amazon.

In addition, data on the living environment is purchased from external service providers and is included in the calculation, for example:

proportion of the population with a secondary school leaving certificate,

average number of children per household,

average number of people per household,

household net income,

average private purchasing power for mortgage loans, consumer credit, life insurance and private health insurance, Percentage of population with marital status “divorced”.

This processing cannot be justified either by weighing the interests of the bank and the data subject or by the consent forms used. They are therefore illegal.

Conducting behavioral forecasts based on payment transaction data does not meet the reasonable expectations of customers. But that would have to be the case, among other things, so that a balancing of interests could be used as a legal basis. In another case, the LfD Lower Saxony had already imposed a fine of 900,000 euros in July 2022 because a bank had exceeded the limits of the balancing of interests when processing personal data for advertising purposes.

The consent forms used also do not meet the legal requirements because the customers cannot decide for themselves whether and which specific Smart Data procedures are carried out. Instead, they can only generally consent to profiling for advertising purposes without being able to control the extent to which this happens.

“Payment transaction data is very sensitive because it contains information about consumer behavior, relationships with other people, the economic situation and personal preferences. They enable a large number of conclusions to be drawn about the professional and private lives of those affected,” says state data protection officer Barbara Thiel. “It must therefore be ensured that the data subjects can exercise control over the processing of this data. I have chosen to issue warnings to stop banks committing serious breaches of data protection law. I will also carry out on-the-spot checks to verify that the banks are implementing the procedures despite the warning.”

The customers themselves should also be careful when agreeing to their bank's advertising measures and look carefully at what they are signing. In addition, consent given under data protection law can be revoked at any time and without further requirements. Anyone who is unsure whether their own personal data is being processed for Smart Data procedures can request information from their bank free of charge in accordance with Article 15 of the General Data Protection Regulation.

Press release as PDF download (not fully accessible).