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Deficiencies on all levels: Berlin supervisory authority confronts website operators
with unlawful tracking

Given the continuing deficits in the use of tracking techniques and third-party services

The Berlin Commissioner for Data Protection and Freedom of Information has websites
large-scale campaign launched. Around 50 Berlin companies received these days
post the request, the tracking on their websites in accordance with the applicable
bring privacy rules. Otherwise, the supervisory authority formal investigation procedures
initiate, which can lead to an order or a fine.

"The legal situation is clear: if website operators monitor the behavior of their users

If you want to track cookies and other technologies, you need one to do so

Legal basis," says Maja Smoltczyk, Berlin Commissioner for Data Protection and
Freedom of Information. Even if many websites now have differentiated cookie banners with
display several levels, this often does not result in effective consent being obtained at all.

Processing occurs with the use of tracking techniques and third-party services
personal data, at least the IP address of the user. This mostly serves
not only to analyze the behavior of users, but also

To create and enrich personality profiles across the entire Internet use. This

Data is regularly submitted to a variety of advertising networks around the world.

"Data protection law means that it must be just as easy to refuse tracking
like consenting to it. The refusal must not be more complex or even hidden," explains the
Data Protection Officer. "In addition, the consent queries are often embedded in
incomplete or ambiguous information and labels. As the

Website operators want to prove with such a design that the users*

voluntarily and informed consent is beyond me.”

At the Berlin Commissioner for Data Protection and Freedom of Information, in addition to personal

Complaints are also increasing general suggestions for checking tracking processes on websites

a. The mass of information not only shows the concerns of the citizens, but also

an indicator of how many website operators are still struggling with the legal

to meet the framework conditions.

The supervisory authority has the design features and concrete data streams for its action

documented on the selected websites and the operators with the concrete

confronted with deficits in data protection law. In her writing she uses the documented

Facts in relation to the legal provisions and points out particularly critical ones

points in individual cases. In addition to the above shortcomings, it also presents a persistent and

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major problem is the extent to which tracking is based on legal bases other than one

Consent is based without the legal requirements for this being met.

The notices were sent to companies whose cookie banners were considered special

have been noticed to be deficient, which have a comparatively large number of users or which

possibly process particularly sensitive data. Companies from various countries are affected

Sectors, in particular online trade, real estate, finance, social networks, law

Services, software, health, education and comparison portals.

Those responsible were asked to immediately start the data processing in accordance with to comply with data protection regulations. In any case, a second one follows

Documentation of the websites, depending on whether past and/or ongoing violations are determined, may result in further action by the authority.

“The action complements the already ongoing investigation procedures, which are based on personal complaints based and is a signal to Berlin website operators,” says Maja Smoltczyk, Berliner

Commissioner for data protection and freedom of information.