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DSK decision on credit bureaus and electricity and gas contracts - Kugelmann: Customers with a clean record must retain freedom of contract Credit bureaus and energy suppliers are or have been considering creating a central data pool ("energy supplier pool") for electricity and gas contracts, among other things. It is also intended to store data from customers who have always behaved in accordance with the contract - so-called positive data. The conference of independent data protection supervisory authorities of the federal and state governments (DSK) has now decided in a resolution that corresponding plans in accordance with Article 6 paragraph 1 sentence 1 lit. f) General Data Protection Regulation (GDPR) would be illegal. There is a risk of "transparent consumers".

The resolution states, among other things: "Every citizen has [...] the right to use the competition between energy suppliers and to look for cheap offers on the market. The desire to record supposed "bargain hunters" in a central data pool in order to be able to identify them as such when initiating a contract and possibly exclude them from offers does not constitute a legitimate interest i. s.d. Article 6 paragraph 1 sentence 1 lit. f) GDPR. It was precisely the aim of the legislator to enable effective and undistorted competition in the supply of electricity and gas by liberalizing the energy market. The attempt to identify price-conscious consumers who are willing to switch and possibly to exclude them from certain offers would run counter to this objective." Last year, the plans of credit agencies and energy suppliers became public. A DSK working group then prepared a relevant decision. The State Commissioner for Data Protection and Freedom of Information (LfDI)

Rhineland-Palatinate, Professor Dieter Kugelmann, says: "Anyone who wants to conclude a new electricity or gas contract and has not previously been guilty of anything should not have to fear any restrictions. It would not be acceptable if he or she were labeled as a "problematic" customer in a data pool. Customers with a clean record must retain freedom of contract. The decision shows once again that the DSK can make important decisions in the interests of consumers and the protection of their data quickly and unanimously number of contracts concluded and the respective duration of the contract), provide indications as to whether consumers intend a longer contractual relationship with an electricity supplier or whether they regularly use new customer offers. The consequence would be that consumers who regularly choose the most cost-effective offer on the market for them could later be excluded from utility companies if they were offered attractively priced offers. With a view to the legal assessment, the DSK therefore formulates: "Even if the interests of the company were considered legitimate, the legitimate

interests and fundamental rights of the customer prevail in such cases. Consumers who are loyal to the contract can rightly expect that their data will not be processed beyond the purpose of the contract, which may limit their ability to operate freely on the market." not lead to transparent consumers" can be found here.

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