



German Data Protection Authorities Examine the Use of Website Analytics Tools

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Recently released statistics show that between 65 and 80 percent of all German Internet sites use “tracking tools” (such as Google Analytics, clickmap or Piwik) to analyze usage statistics.

Bavarian Data Protection Agency (DPA) Examined Thousands of Websites

According to a communication dated 7 May 2012, the DPA of the German federal state of Bavaria has completed its examination of thousands of websites in Bavaria checking whether sites using tracking tools are in compliance with German privacy laws. The DPA found that 97 percent of the examined sites failed to meet the applicable privacy requirements.

Fines Have Not Been Imposed

In its communication the DPA further states that it plans to send individual requests to the relevant operators shortly. These will demand the operators stop the alleged violations but will, at this stage, refrain from imposing fines. Under German privacy laws, fines of more than €50,000 can be imposed where companies violate mandatory data protection laws.

Examinations Will Continue Across Germany

Similar examinations have been announced in other German states and are due to be completed over the next few months.

How to Achieve Compliance When Using Tracking Tools

According to the Duesseldorfer Kreis, the conference of German data protection authorities, website operators using tracking tools need to implement the following:

1. **Truncate IP addresses** – use a method known as “IP masking” to tell the tracking tool to only use a portion of the users’ IP address, rather than the entire IP address and to implement this anonymization service into the source code of the website.
2. **Explain opportunity to opt-out** – include a notice in the website privacy policy explaining to users both (i) the use of the tracking tool and (ii) the opportunity to object to the tracking of their data by using an opt-out browser add-on, if available.
3. **Enter into a Data Processing Agreement with the tracking tool operator** – enter into a written data processing agreement with the tracking tool operator.

Free Online Checks Available

The Bavarian DPA offers online checks for Bavarian website operators with regard to a data compliant use of the most popular tracking service, Google Analytics. Before accepting such service, companies are advised to carefully check their current data compliance status to ensure it meets at

least minimum standards – for example, having available a public register or fulfilling legal data protection requirements of online services on their websites. The level of data compliance in Germany is constantly rising; however, there is still a lot to do in the vast majority of enterprises.

For more information about online checks please refer to the website of the Bavarian DPA (http://www.la.bayern.de/la/datenschutzaufsicht/p_archiv/2012/pm005.html).

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