

Press Release

Federation of German Consumer Organisations wins lawsuit against Google

25 unlawful clauses in Google's privacy policy and terms of service

Berlin, 19/11/2013 – Following a claim by the Federation of German Consumer Organisations (vzbv), the Berlin Regional Court now declared several clauses of the Internet company Google unlawful. All in all 25 clauses in the privacy policy statement and the terms of use are affected, which have been phrased too broadly or illegally restrict consumer rights.

“This decision is an important message to IT companies. They need to rethink in the matter of data protection and take German regulations on data protection and consumer rights seriously” says Gerd Billen, Executive Director of the vzbv. In the privacy policy statement Google had, inter alia, declared they “may collect device-specific information” or “may combine personal information from one service with information, including personal information, from other Google services”. It remained unclear to consumers, to what exactly they were asked to give their consent. Moreover, personal information could be collected, interpreted and processed even without active consent. From the vzbv's point of view it is not possible to give a lawful consent to the use of personal data during registration just by ticking off the statement: “I agree to the Google Terms of Service and have read the Privacy Policy”.

Inadmissible discrimination of consumers

Furthermore twelve of the terms of service contained phrases, which restricted consumer rights. For instance, Google excluded its liability for damages to life, body and health. The Internet company also reserved the right to check, change and delete all data submitted in their services, moreover the right to directly access a device in order to remove applications as well as the right to completely cease to provide functions and features at their will. The user would only be informed about changes in service if this was ‘reasonably possible’. There was no further explanation given. Google also entitled itself to change the terms of service unilaterally without the consent of the consumer. The vzbv considered this an inappropriate disadvantage. In the end, the Berlin Regional Court agreed and declared the prosecuted terms unlawful.

Power of representative action in matters of data protection

For several years the vzbv has taken action against ineffective data protection clauses. But this is only possible, if the privacy policies are rated as a part of the general terms and conditions. Otherwise, under applicable law, the consumer associations lack an instrument to take legal action in order to stop illegal practices, such as wrongly obtaining and passing on information from consumers. Gerd Billen, Executive Director of the vzbv, demands: "Consumer associations have to be enabled to take action against breaches of data protection regulations without obstacles. We urgently need an extended right of action." The new German government is asked to provide an according regulation. Already the sub-working group Consumer Policy has supported this idea during the coalition negotiations.

Judgement of the Berlin Regional Court ruled on November 19, 2013 - Case No. 15 O 402/12 -, not yet final and binding

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