

# Guideline for the Deployment of Data Trustees in Market and Social Research

**T**his guideline is issued by the associations of market and social research in Germany:

- ADM Arbeitskreis Deutscher Markt- und Sozialforschungsinstitute e.V.
- Arbeitsgemeinschaft Sozialwissenschaftlicher Institute e.V. (ASI)
- BVM Berufsverband Deutscher Markt- und Sozialforscher e.V.
- Deutsche Gesellschaft für Online Forschung e.V. (DGOF)

## 1 Objective of the guideline

The fundamental ethical and professional principles of market and social research demand that the anonymity of the participants in scientific studies shall be strictly safeguarded (command of rendering anonymous) and that scientific studies shall be kept clearly separate from all non-research activities (command of separation) – in particular from direct advertising and sales promotion. At the same time, these commands are scientific methodological requirements in order to ensure the quality of the collected data.

The quality of data collection depends among other things on samples being drawn from up-to-date and as accurate as possible data. Therefore any necessary updates and corrections to an address file identified by the research agencies while conducting a scientific study should be made in order to maintain the quality of the sampling frame for later studies. The quality of data collection also depends on avoiding excessively frequent participation in studies and on avoiding participation in studies on subjects that are mutually incompatible.

However, the described maintenance of an address file shall not be done at the client, since this would contravene both the command of rendering anonymous and the command of separation. In principle, an address

file can be maintained by the research agencies conducting the study. The disadvantage from this for the clients is that they are constrained to using the same research agency when commissioning subsequent studies, which substantially limits them. The aim of using data trustees is to avoid this situation. Such data trustees serve as an institution that safeguards the anonymity of the participants in a study by standing between clients and research agencies, working for them exclusively for purposes of scientific research.

In order to conduct scientific studies of market and social research personal data is transferred in both directions between research agencies and the data trustee. However, between clients and the data trustee personal data is transferred only from the client to the data trustee (“one-way-street”). The transfer of personal data from the data trustee to the client is inadmissible in all cases.

The transfer of personal data from and to the data trustee is a professional rule equivalent to the transfer between research agencies which is in principle permissible provided they are used exclusively for research purposes (see the “Declaration for the Territory of the Federal Republic of Germany concerning the ICC/ESOMAR International Code of Market and Social Research”, section 4, paragraph 4). Beyond it, the rules laid down in this guideline are to be interpreted and applied particularly in connection with the latest respective versions of the “Guideline on the Treatment of Addresses in Market and Social Research” and of the “Guideline on the Treatment of Databases in Market and Social Research”.

## 2 Definition of the data trustee

In this guideline, a “data trustee” is an independent institution, in the shape of a natural or legal person, which manages address files of actual and/or potential participants in scientific studies of market and social research.

## 3 Formal requirements for data trustees

Data trustees shall have demonstrably the IT as well as legal expertise and experience that is necessary in order to carry out their duties. They shall be familiar with the professional principles and rules of German market and social research, and bind themselves by contract with the research agencies and their clients for whom they act to adhere to these during their activities as a data trustee. Data trustees shall not act at the same time as a research agency or a client.

The duties to be laid down in the contract also include the fact that the field of activities of the data trustee (see chapter 4) shall be separated in organizational and technical respects from activities not serving market and social research and shall not combined with such activities. In order to ensure this, data trustees shall not be active also in the field of direct marketing, advertising and sales promotion.

Data trustees shall have a residential or corporate address in Germany and shall be legally and factually independent of the research agencies and clients for whom they act. The requirement of factual independence rules out that data trustees act under the terms of Section 11 of the Federal Data Protection Act.

Data trustees shall fulfil their obligation to notify in accordance with Section 4d and Section 4e of the Federal Data Protection Act and shall take the

necessary technical and organizational measures to protect the personal data entrusted to them, particularly as required in the Annex to Section 9, first sentence of the Federal Data Protection Act.

#### **4 Field of activities of the data trustee**

The field of activities of data trustees comprise the administration of address files to conduct scientific studies in market and social research by the appropriate research institutions, while strictly safeguarding the anonymity of the data subjects towards the clients commissioning such studies and towards other parties. The administration of address files includes their provision, maintenance, integration and augmentation. The professional rules for obtaining the necessary consent of the data subjects are laid down in the sub-chapters 5.1 and 5.2.

In addition to the following rules on the administration of address files by a data trustee for conducting scientific studies in market and social research the requirements regarding the different ways of handling databases shall – if relevant – also apply, which are particularly laid down in the “Guideline on the Treatment of Databases in Market and Social Research”.

##### **4.1 Provision of address files**

In this guideline, the provision of address files refers to their storage at the data trustee and the transfer to the research agency/agencies for the purpose of conducting scientific studies.

The transfer of address files by the data trustee to a research agency is permissible only for scientific studies on behalf of the client/clients who transferred the address files to the data trustee. Transfer for scientific studies on behalf of other clients requires the consent of the party/parties who transferred the address files to the data trustee. The data trustee shall document the consent.

##### **4.2 Maintenance of address files**

In this guideline, the maintenance of address files refers to the entry, correction, blocking and deletion of addresses by the data trustee for the purpose of updating the address files as sampling frame in scientific studies. The instructions for the maintenance of address files can be issued either by the client or the research agency conducting the study. In the case of differing or contradicting instructions it is the data trustee’s responsibility to verify them.

##### **4.3 Integration of address files**

In this guideline, the integration of address files refers to the merging of two or more address files by the data trustee to serve as a common sampling frame for scientific studies.

The integration of address files from different clients in order to conduct scientific studies is only permissible if all the clients involved have given their consent. Such consent shall be documented by the data trustee.

##### **4.4 Augmentation of address files**

In this guideline, the augmentation of address files refers to the addition of information by the data trustee for the purpose of goal-directed improvement of the sampling frame for scientific studies. This information can include details of the participation in studies already conducted and/or blockings for further studies – to prevent excessively frequent participation in studies and participation in studies on incompatible topics – as well as personal or material characteristics of individual persons – to improve the possibilities of selecting specific target groups. The augmentation can be based on information supplied by the client or by the research agency.

#### **5 Information and consent of the data subjects**

In principle, the processing (i.e. recording, alteration, transfer, blocking and erasure) and the use of personal data in order to conduct scientific studies in market and social research by the deployment of a data trustee require the appropriate consent of the data subjects (for details see also sub-chapter 5.1 and 5.2). The clients commissioning scientific studies and the research agencies conducting them are each individually responsible that the requisite consent is given in the necessary concrete and specific form and is documented. The data trustee is obliged to make sure that this is the case.

Beyond it, the requirements regarding the rights of participants in scientific studies in market and social research to be informed about the source of their address data and to contradict to their use shall be observed, as particularly laid down in the “Guideline on the Treatment of addresses in Market and Social research”.

##### **5.1 Consent obtained by the client**

The data trustee is allowed to administer only the address files transferred by the client for that the client has obtained the necessary consent of the data subjects, having revealed the identity of the data trustee and explained the scientific purpose of the transfer. The consent obtained should be comprehensive enough to cover any later transfer (e.g. for updating or correcting of addresses or for studies of other clients).

If a data subject subsequently indicates to the client that he objects to his personal data being processed by the data trustee, the client shall immediately arrange for these data to be deleted by the data trustee. The data trustee shall immediately fulfil this request.

## **5.2 Consent obtained by the research agency**

The data subjects shall be informed by the research agency conducting the scientific study about the fact and the concrete scientific purpose(s) of the intended transfer of personal data to the data trustee and their processing and further use, and their corresponding consent shall be obtained. If the transfer is a methodological prerequisite for participating in the study, the consent shall be obtained at the beginning of the first collection of data (usually an interview). If participation in the study is methodologically possible also without personal data being transferred to the data trustee, the consent shall be obtained at the end of the collection of data (usually an interview) at the latest. The consent obtained should be comprehensive enough to cover also transfers of data in connection with conducting later studies (e.g. adding additional selection criteria).

If the only information being transferred concerns participation in studies already conducted and/or blocking for further studies, the consent of the data subjects is not necessary.

When obtaining the consent the standard leaflet which is enclosed as an appendix to this guideline shall be handed over (when data is collected face-to-face or in writing) or made available (when data is collected online) to the data subjects. When data is collected by telephone the information contained in the leaflet shall be communicated orally. In this case, if a data subject wishes the leaflet shall subsequently be sent to him by post or made available online.

If a data subject subsequently indicates to the research agency that he objects to his personal data being processed by the data trustee, the research agency shall immediately arrange for these data to be deleted by the data trustee. The data trustee shall immediately fulfil this request.

## **5.3 Duty of the data trustee to provide information**

The data trustee is obliged to inform the data subjects on request at any time about the personal data relating to them. The data trustee shall comply immediately with any request to correct incorrect data and to block or delete individual or all data.

The obligation of the data trustee to block individual data includes the transfer of telephone numbers or other address data to blocking-lists maintained by associations, if the data subjects wish.

## **6 Final provisions and disclaimer of liability**

This guideline forms part of the professional rules that govern German market and social research, resulting as they do from the law and the methodological standards, but also from common practice. It always applies when data trustees are set up in order to conduct or commission market and social research in Germany or from Germany.

The principles and procedures described in this guideline are, inter alia, the result of weighing up the personal rights of the data subjects on the one hand, and the right to conduct research, together with the resulting methodological requirements, as well as the right to obtain information on the other. The issuers cannot guarantee indemnity. It cannot be ruled out that if the situation is weighed up at a later time or by other authorities different standards may result regarding the permissibility of the procedures described.

## **7 Entry into force**

The professional rules of conduct described in this guideline shall enter into force at the time of their being accepted by the associations representing market and social research in Germany, on January 16th 2012.

January 2012

## Appendix

### **Leaflet on the processing and use of personal data for purposes of market and social research by a data trustee**

*(Name of research agency)* and *(name of data trustee)* work in accordance with the provisions of the Federal Data Protection Act and all other data protection regulations. Beyond this, they are bound by the professional principles and rules that govern German market and social research, whose regulations are in some cases stricter than the provisions of the law.

The strict safeguarding of the anonymity of the participants in scientific studies and the clear separation of scientific studies from non-research activities – in particular direct advertising and sales promotion – belong to the fundamental ethical and professional principles of market and social research. They also apply when data trustees are deployed. The purpose of the deployment of a data trustee is to allow samples for scientific studies to be drawn on the bases of up-to-date and as accurate as possible address files, while at the same time safeguarding the anonymity of the persons to be interviewed.

The following are responsible for adherence to the provisions of data protection laws and the professional principles and rules:

*(Name and address of research agency)*  
*(Name of officer in charge)*  
*(Name of company data protection official)*

*(Name and address of data trustee)*  
*(Name of officer in charge)*  
*(Name of company data protection official)*

#### **What will happen to your data?**

1. *(Name and address of client)* has transferred your address to *(name and address of data trustee)* as data trustee after you have consented kindly to the transfer and use of your address.
2. *(Name and address of data trustee)* has transferred your address together with other addresses to *(name and address of research agency)* in line with your consent, so that *(name and address of research agency)* can draw a sample from the transferred addresses and carry out a study for purposes of market and social research.
3. If your address data change *(name of the client)* will notify this to the data trustee, so that samples drawn for later studies for purposes of market and social research will always be based on up-to-date and as accurate as possible address files.
4. If *(name of the research agency)* while conducting a study finds that your address data are incorrect or incomplete, the research agency will report this to the *(name of the data trustee)*, with your consent, so that the data trustee can correct the address file accordingly. *(Name of the client)* as the client will not be told of this correction, because your anonymity and the confidentiality of your data are strictly safeguarded at all times.
5. If you have participated in a study *(name of research agency)* will report this to the data trustee to prevent you from being approached too frequently to participate in studies for purposes of market and social research.
6. With your consent *(name of the research agency)* will transfer specific characteristics (e.g. car ownership) belonging to you to the data trustee, so that the possibilities of interviewing specific target groups will be improved.
7. You are entitled at any time to receive from *(name of data trustee)* information on the data recorded about you. If you request for incorrect data to be corrected or for your data to be deleted, *(name of trustee)* shall comply with your request immediately.