

Guideline on the Treatment of Databases in Market and Social Research

This 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)

The current version of this guideline considers the amendments of the Federal Data Protection Act (BDSG) in the year 2009.

1. Introduction

The pluralisation of basic values and attitudes in the society and the differentiation found in goods and services has led, among other things, to an individualisation of attitudes, needs and behaviour and thus of the styles of consumerism. Relations between suppliers of goods and services and their customers are becoming individualised accordingly. The main focus of marketing is shifting from product management to customer relations management.

As a result, broader demands have to be made of market and social research in terms of the treatment of databases according to section 4. These must be taken into account in the self-regulatory mechanisms of market and social research.

The present guideline therefore amends the basic professional rules that govern German market and social research, as dictated in particular by the "ICC/ESOMAR International Code of Market and Social Research" and the "Declaration for the Territory of the Federal Republic of Germany" that precedes the Code, with

respect to the scientific treatment of databases.

Besides the professional and legal framework for market and social research – in particular the data protection regulations – laid down in the professional rules the scientific treatment of databases – like all aspects of market and social research – calls for the observance of the methodological requirements of market and social research as documented in the quality standards for market and social research, as well as the principles of ethical research behaviour.

2. Definitions

2.1. Key numbers

In the present guideline, key numbers refers to any results of mathematical statistical operations that are calculated, i.e. altered as defined by Article 3, paragraph 4, no. 2 BDSG, in the form of indices, types or such-like from characteristics stored in the database or from data specifically collected for that purpose or from existing information, and that are assigned to individual sets of data (cases) as statistical expected values.

2.2. Mathematical statistical classification or assignment procedures

In the present guideline, mathematical statistical classification or assignment procedures refer to all procedures, on the basis of which key numbers are assigned to the individual cases recorded in a database according to probabilities on a case by case basis.

2.3. Databases

In the present guideline, databases refer to all integrated data collections which consist of a number of homogenous data sets (cases).

2.4. Personal databases

In the present guideline, personal databases refer to all databases which exclusively or inclusively contain personal data as defined in Article 3, paragraph 1 BDSG, namely "any information concerning the personal or material circumstances of an identified or identifiable natural person (data subject)".

2.5. Institutions carrying out research

Institutions carrying out research can be private-sector market and social research agencies, as well as academic and university research facilities, corporate research departments, local authorities, institutions for official statistics and individual researchers working along the same lines.

3. Operators of databases

3.1. General

The databases with which market and social research operate are maintained by research institutions, their clients or other parties.

3.2. Databases run by research institutions

If research institutions maintain personal databases of participants in studies for market and social research, these shall exclusively be used for carrying out follow-up or repeat interviews and for (access) panel organisation purposes. They contain the names and addresses of persons willing to participate in research, along with details of various characteristics which will be used as selection criteria for participating in further studies. Maintaining such databases is permissible provided the persons concerned have been informed by considering methodological aspects about the necessary processing of their personal data and

have given their consent to this (see also the "Guideline on the Treatment of Addresses in Market and Social Research").

3.3. Databases run by clients

The clients of market and social research themselves are responsible for ensuring that their databases are operated in accordance with legal requirements. In this context especially the legal provisions of Article 28 BDSG are relevant. The research institution must bring to the client's attention any legal problems, particularly in terms of the data protection laws, regarding the treatment of these databases it gets known about. These problems and the corresponding information about them must be documented by the research institution.

3.4. Databases run by other parties

If personal databases run by other parties are used for market and social research, these are usually qualified collections of addresses belonging to commercial suppliers of addresses, which are important when drawing samples for studies involving special target groups. The conditions that have to be met in order for the use of the data stored in such databases to be permissible are listed in detail in the "Guideline on the Treatment of Addresses in Market and Social Research".

4. Ways of using databases

4.1. Five basic ways of use

Five basic ways of using databases can be distinguished in market and social research:

1. drawing samples from databases,
2. mathematical statistical analysis of databases,
3. merging databases,
4. adding research results to databases,
5. using databases to augment research results.

4.2. Drawing samples from databases

The legal provisions which are relevant for drawing samples in general and therefore also from databases and for the transmission of addresses that is necessary in this context are described in the „Guideline on the Treatment of Addresses in Market and Social Research“.

4.3. Mathematical statistical analysis of databases

When conducting mathematical statistical analysis of data already contained in databases, the databases or samples drawn from there, are merely investigated using scientific methods in search of possible hitherto unnoticed patterns and relationships between the characteristics recorded therein. In the process, key numbers may be calculated and assigned to the individual cases in the database as statistical expected values. This is done by means of mathematical statistical methods of classification or assignment.

The mathematical statistical analysis of databases for purposes of market and social research is permissible provided no personal data are processed in doing so.

4.4. Merging databases

When databases are merged, the characteristics in one (receiving) database are augmented by characteristics contained in the other (donating) database by means of mathematical statistical methods of classification or assignment on a case by case basis as additional characteristics. One condition for this is that the two databases contain a number of common characteristics, so that the assignment can be carried out on the basis of similar combinations of characteristics.

Merging databases for purposes of market and social research is permissible as long as no personal data are processed in doing so.

4.5. Adding research results to databases

4.5.1. General

When research results are added to databases, the characteristics already stored in the database are augmented on a case by case basis by new characteristics (e.g. key numbers) as statistical expected values. Whereby the underlying data behind the research results may have been collected either among persons included in the database or among persons not involved therein.

Research results can be added to databases in different ways:

4.5.2. Transmission of rules for data addition

In this method of adding research results to databases the research institution transmits the mathematical rules to the client which can be used to calculate the key numbers and assign them on a case by case basis as statistical expected values. The client performs the data addition himself. This procedure is permissible.

4.5.3. Addition of key numbers to databases

In this method of adding research results, the client transmits the database, to which the research results are to be added, to the research institution. The research institution carries out the calculation and the case by case assignment of the key numbers and transmits the appropriately augmented database back to the client. This procedure is permissible if the client has the corresponding consent of the individuals affected by the addition of data. If these persons cannot be identified prior to the addition of the research results, the consent of all individuals included in the database must be obtained.

4.5.4. Addition of data in a personalised form

The addition of data collected by research institutions in market and social research to the databases of clients or other parties in a personalised form is not permissible.

4.6. Using databases to augment research results

When databases are used to augment the results of market and social research, characteristics stored in a database are added to the data collected on a case by case basis. These databases are often ones that are operated by the client commissioning the study. Augmentation of research results from databases is permissible provided the anonymity of the respondents is preserved.

5. Consent of the persons included in a database

5.1. Consent to participate in a survey

Participation in a survey for purposes of market and social research is always based on the corresponding consent of the persons selected for the study. This basic principle of the professional rules in German market and social research also applies when the persons included in a database are to be interviewed and the research results are to be added to this database in the form of statistical expected values as described above. The demands resulting from the respondents' right to object are described in detail in the "Guideline on the Treatment of Addresses in Market and Social Research".

When obtaining the respondents' consent, among other things also the purpose of the study must be explained by considering methodological aspects. If the purpose or one of the purposes of the study is to calculate and assign key numbers on a case by case basis as statistical expected values, then this purpose too must be pointed out.

5.2. Consent to the addition of research results

If the personal data contained in a database are to be processed or utilised, the consent of the persons concerned is required. The operator of the database shall at the same time obtain their consent for purposes of market and opinion research if research results are to be added at a later time.

6. "Scoring" according to Article 28b BDSG

Under the professional principles and rules of German market and social research it is prohibited without exception for research institutions in market and social research to decide upon the creation, execution or termination of a contractual relationship according to Article 28b "Scoring" BDSG on the basis of probability values. Nevertheless research results – especially key numbers calculated and assigned on a case by case basis as expected statistical values – can be used for these purposes by clients.

In these cases duties of information concerning the calculation of the key numbers may arise for the research institutions towards the client, if the latter according to Article 34, paragraph 2 BDSG as responsible body for the decision shall provide information to the data subject. The duties of information exist towards the data subject if the client refers the data subject concerning this to the research institution. The data subjects' rights of information must be fulfilled free of charge and in a generally understandable way.

7. 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 studies of market and social research are carried out in Germany or from Germany. It therefore also applies when such studies are carried out from abroad in order to conduct research in 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. If the situation is weighed up at a later time or by other authorities, it cannot

be ruled out that different standards may result regarding the permissibility of the procedures described.

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