

Guideline on the Treatment of Addresses 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, in particular the provisions of the new Section 30a BDSG (see Appendix 3) and the fundamental permission thus created for the commercial collection, processing or use of personal data for purposes of market or opinion research.

1 Introduction

This guideline defines and specifies how the data protection provisions are to be applied to the treatment of addresses and – where applicable – other personal data, when carrying out studies of market and social research. Beyond this, it prescribes the ethical and professional rules of conduct associated with them. Market and social research is used as a generic term which also includes, in particular, media and opinion research.

2 The Federal Data Protection Act (BDSG) as the legal framework

The Federal Data Protection Act (BDSG) in the version promulgated on 14 January 2003 (Federal Law Gazette I, p. 66), last amended by Article 1 of the Act of 14 August 2009 (Federal Law Gazette I, p. 2814), in force from 1 September 2009 is applicable to the collection, processing and use of personal data, irrespective of whether this is done using data processing systems or non-automated fil-

ing systems. The addresses of natural persons are per se personal data; the addresses of companies and organizations are personal data if they also contain names of individuals (owner, staff) or if they can be assigned to identified or identifiable individuals, for example through the description of a function (e.g. head of purchasing department) or the expression of an opinion.

Personal data that are subject to the secrecy of social data are governed by the regulations of the Social Security Code (SGB). Personal data recorded by provider of telecommunication and teleservices are governed by the regulations of the Telecommunications Act (TKG) and the Teleservices Act (TMG) respectively.

In this guideline, the term addresses refers to any information which allows the data subjects to be contacted directly; in particular name and place of residence or postal address, phone number, fax number, e-mail address and suchlike.

The BDSG and the data protection provisions of other laws do not apply to data obtained from surveys or observations when those data do not involve a personal reference; neither directly by name and/or address nor indirectly by identification through other characteristics.

3 Definitions of key terms used in the BDSG

3.1 Personal data

According to Section 3 paragraph 1 BDSG, personal data are “any information concerning the personal or material circumstances of an identified or identifiable natural person (‘data subject’)”. The BDSG does not distinguish whether these data are collected at the data subject himself or herself (as assumed in principle

in Section 4 paragraph 2 BDSG, and normally the case in market and social research), or whether they refer to him or her, when having been obtained from other sources.

3.2 Automated processing

Section 3 paragraph 2 BDSG defines automated processing as “the collection, processing or use of personal data by means of data processing systems”.

3.3 Non-automated filing system

According to Section 3 paragraph 2 BDSG, a non-automated filing system is “any non-automated collection of personal data which is similarly structured and which can be accessed and evaluated according to specific characteristics”. Examples of non-automated filing systems in market and social research include completed paper questionnaires, observation records and suchlike which have not yet been rendered anonymous.

3.4 Special categories of personal data

In transposing “Directive 95/46/EC of the European Parliament and of the Council of 25 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data”, the class of “special categories of personal data” was created in the BDSG and linked to certain special conditions due to their particular sensitivity. These are defined in Section 3 paragraph 9 BDSG as “information on racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health or sex life”. And in Section 4a paragraph 3 BDSG it is stated: “Where special categories of personal Data (Section 3 (9)) are collected, processed or used, the consent must also refer specifically to these data.” As the sen-

sitivity of personal data also depends on the context a broad definition of the class of “special categories of personal data” must be chosen in market and social research.

If these special categories of personal data are the only data that are to be collected in market and social research, explicit consent must be obtained at the beginning of the interview. However, if special categories of personal data are to be collected together with other personal data, the necessary explicit consent must be obtained by means of an additional transitional query – the answer to which must be recorded –, unless dealing with an extensive set of questions which are anyway mentioned at the beginning of the interview. Respondents who refuse to answer questions about a “special” subject matter must be directed to the next group of questions.

3.5 Rendering anonymous and aliasing

The BDSG distinguishes between “rendering anonymous” and “aliasing”. In market and social research, the common feature shared by both processes is that the personal references in the collected data are removed for third parties and cannot be restored by the latter or else only by investing a disproportionate amount of effort.

3.5.1 Rendering anonymous

According to Section 3 paragraph 6 BDSG, rendering anonymous is defined as “the alteration of personal data so that information concerning personal or material circumstances cannot be attributed to an identified or identifiable natural person or that such attribution would require a disproportionate amount of time, expense and effort”.

In market and social research, the collected data is to be rendered anonymous as soon as possible by the purpose of the research project for which they were collected. In addition, details from data without reference to an address must be left out, if they could result in the identification of an individual (e.g. the vehicle iden-

tity number of a newly purchased car, or a combination of profession and place of residence).

3.5.2 Aliasing

According to Section 3 paragraph 6b BDSG, aliasing is defined as “replacing the data subject’s name and other identifying features with another identifier in order to make it impossible or extremely difficult to identify the data subject”.

In market and social research, the collected data is to be aliased as soon as possible by the purpose of the research project for which they were collected. Whereby address data and survey data are stored separately and code numbers are assigned that are common to both, in order to recombine address data and survey data. In the case of single surveys, this is only done temporarily and exclusively for purposes of quality checks on the data collected; in the case of follow-up or repeated surveys it is also done with the prior consent of the respondents until the overall study has been completed in order to be able to link the survey data from the different interviews as necessary.

As long as address data and survey data can be combined, the survey data, too, are considered to be personal data under the terms of the Federal Data Protection Act.

4 Origin of addresses

4.1 Addresses from generally accessible sources

When addresses are taken from generally accessible sources, such as telephone directories or address lists, it can in principle be assumed that the data subject’s legitimate interest in ruling out the possibility of processing or use does not clearly override the interest of the controller. The interest of the controller is based on the legal permission for market or opinion research of Section 30a BDSG. The data subject’s legitimate interest cannot clearly override it if – in line with the legal regulations of Section 30a BDSG – the data subject’s address data are separated from the survey data, and the survey data are

only ever transmitted to third parties after being rendered anonymous.

4.2 Addresses from mailing houses

When drawing samples for certain studies on specific target groups, market and social research agencies, as well as university-based and company-based research institutions engaged in the same activities, make use of the databases of mailing houses. It is permissible to report to the mailing house by name double entries and addresses that cannot be located or do not belong to the target group. Reporting addresses that do not belong to the target group must be confined to this fact and must not include any adjustment of this target group feature of the address, since personal data collected by interview or observation must not be transmitted to the mailing house. (For how to deal with cases in which the data subject on being contacted has objected to their data being used for purposes of market or opinion research, see section 5. Duty to furnish information and right to object)

4.3 Addresses from Residents’ Registration Offices

When addresses supplied by Residents’ Registration Offices are used for a research project, the research agency conducting the study must in principle be in possession of a clearance certificate (made out by the ministry of the interior of the federal state in which the research agency is based) and must send this to the relevant Residents’ Registration Offices together with a letter of recommendation from the client.

Residents’ Registration Offices are obliged to observe the registration laws and data protection laws of the respective federal state, along with the regulations governing their implementation. The latter may result in further conditions being imposed on the research agency receiving the information, such as an obligation to delete immediately the addresses of persons who refuse to participate, i.e. not waiting until the survey has been concluded. The addresses supplied by the Residents’ Registration Offices

must be used only for the intended research purpose(s).

4.4 Digression: Recruitment of respondents by physicians in attendance

In demoscopic health research, respondents for certain studies are recruited in collaboration with the physicians in attendance. This is necessary in particular when the research goal calls for interviewing people with specific clinical pictures or complaints and the corresponding therapies and the respondents cannot be recruited by means of other screening procedures.

For the recruitment of respondents by physicians in attendance two procedures are available: the physician agrees to inform patients meeting the necessary criteria about the survey – while pointing out the voluntary nature of participation – and either

1. hands over a questionnaire supplied by the research agency to patients willing to participate, taking back the completed questionnaire and passing it on to the research agency conducting the survey. (Note: The questionnaires must contain neither the names nor the address data of the respondents, nor any other details that could lead to their identification. Nor must the physician pass on in other form names and address data of patients having participated in the survey.)

or else

2. asks for consent of patients willing to participate in line with Section 4a BDSG, and passes on their names and addresses to the research agency conducting the survey.

In the first procedure, the patients participating in the survey do not need to release the physician from his/her professional discretion, since no personal data are passed on. In the second procedure, the physician must furnish proof of having been released accordingly from his/her professional discretion.

4.5 Addresses from clients

The transfer of addresses is subject to the regulations of the Federal Data Protection Act (BDSG), the Social Security Code (SGB), the Telecommunications Act (TKG) or the Teleservices Act (TMG). Furthermore it is necessary to distinguish whether a “transfer” is intended, in which case the research agency as recipient becomes the controller of these data, or whether the addresses are simply being “made available” to the research agency in the context of a contract under the terms of Section 11 BDSG or Section 80 SGB, in order to fulfil a contract as bound by instructions. In the latter case, the client remains solely the controller towards the data subjects; the research agency is only responsible towards the client. Also when a contract has been assigned in line with Section 11 BDSG the professional rules in German market and social research must be observed.

4.5.1 Transfer of addresses according to the regulations of the Federal Data Protection Act (BDSG)

According to Section 30a paragraph 1 BDSG a client who is operating commercially is allowed in principle to transmit addresses for purposes of market or opinion research *“if there is no reason to believe that the data subject has a legitimate interest in ruling out the possibility of collection, processing or use”*.

Commercial operation occurs when addresses are continuously or repeatedly used for purposes of market or opinion research. When these conditions for commercial operation do not exist, the client, as controller is allowed according to Section 28 paragraph 1 no. 2 BDSG to transmit addresses also for purposes of market or opinion research *“as far as necessary to safeguard legitimate interests of the controller and there is no reason to assume that the data subject has an overriding legitimate interest in ruling out the possibility of processing or use”*.

At the transfer of addresses belonging to the class of “special categories of personal data” it must be ensured in accordance with Section 4a paragraph 3 BDSG, that the data subject has given explicit consent for his or her address to be transmitted, or that such consent is asked for before the address will be transmitted to the research agency. According to Section 30a paragraph 1 special categories of personal data must only be collected, processed – and thus also transmitted – or used for a specific research project.

Notification of double entries and untraceable addresses by name is permissible only if it is confined to this fact and the associated possibility of cleaning up the client’s address files is not the primary (here non-research) purpose of the study.

Notification of changes of addresses and/or selection criteria (e.g. use of specific consumer goods) by name is permissible only if the respondent himself/herself spontaneously – e.g. without being suitably prompted – insists on such a correction being made by the client.

4.5.2 Transfer of addresses according to the regulations of the Social Security Code (SGB)

The regulations of the Social Security Code apply to data which are subject to secrecy of social data under the terms of Section 35 SGB I. This not only includes data concerning statutory social insurance and governmental social services, but also all “private secrets” which have been entrusted to members of health care professions, psychologists, lawyers, youth and family counsellors, social workers and – as is relevant in terms of conducting surveys – private-sector health, accident and life insurance companies. Research agencies can assume that any client from this sector is aware about this. He can demand that the staff of the research agency be formally bound to uphold the secrecy of social data under the terms of Section 35 SGB I, including the regulations for fines and penalties described therein, in addition to their already existing obligation to maintain confidentiality according to Section 5 BDSG.

The transfer of addresses which are subject to secrecy of social data is governed by Section 75 SGB X. It requires that transfer is necessary for a specific project of scientific research in the field of social service benefits or a specific project of planning tasks in the field of social service benefits by a public authority. Whether or not one of these requirements is fulfilled has to be determined by the supreme federal or state authority in charge. This procedure is the responsibility of the client.

Instead of transmitting addresses, they can also be made available in the context of a contract awarded in line with Section 80 SGB X. The latter corresponds to Section 11 BDSG (see section 4.5.4).

4.5.3 Transfer of addresses according to the regulations of the Telecommunications Act (TKG) and of the Teleservices Act (TMG)

Personal data that are stored by providers of telecommunication services or electronic media services are subject to the provisions of the Telecommunications Act (TKG) and the Teleservices Act (TMG) respectively. They are more restrictive than those of the BDSG. According to Section 95 paragraph 2 TKG, a provider of telecommunication services is only permitted to use the customer data of subscribers for market research, if the customers have given their consent. According to Section 11 paragraph 2 TMG, a provider of teleservices is only permitted to use the personal data collected in order to provide those services for other purposes – i.e. including market and social research –, if the users have given their consent.

If a client who is not a provider of telecommunication services or electronic media services himself, such as the research agencies, has address data of his customers – obtained either from freely accessible sources or from the customers themselves – then the regulations laid down in section 4.5.1 apply.

4.5.4 Addresses made available according to Section 11 BDSG or Section 80 SGB X

When engaging in activities according to Section 11 BDSG or Section 80 SGB X (see section 4.5.2), no “transfer” of addresses takes place as defined by the data protection law, instead the addresses are simply “made available”. Hence the client is responsible for the compliance with data protection regulations during all the activities of the contracted research agency in which these addresses are used. He is also responsible that processing and use of the addresses “made available” is permissible.

According to Section 11 BDSG, the “collection, processing or use of personal data on behalf of others” requires that the agent is collecting, processing or using the data only in accordance with the written instructions of the client. If the agent believes that a client’s instruction contravenes the BDSG or other data protection regulations, he must immediately bring this to the client’s attention.

According to Section 11 paragraph 2 BDSG the client must “verify compliance with the technical and organizational measures taken by the processor before data processing begins and regularly thereafter. The result shall be documented.” These measures are described in the BDSG in the Annex to Section 9 sentence 1 (see Appendix 3 of this guideline).

Also when a contract is awarded in line with Section 11 BDSG, the professional rules that govern market and social research in Germany – in particular the obligation to render research data anonymous towards the client and other third parties – must be observed.

4.6 Cooperation of research agencies

When private-sector and/or academic research agencies cooperate in market and social research it might be necessary to use jointly address data and possibly also survey data in a personalized form. The joint use of address data is permissible, provided the participants are adequately

informed about the origin of the address and their right to object to its use, when they are approached by the research agency conducting the study. The additional joint use of the survey data in a personalized form is permissible, provided the participants by considering methodological aspects are informed as to the purpose and scope of the joint use of their survey data, and they give their consent to it.

The joint use of address data and possibly also of survey data in a personalized form must be agreed upon contractually in advance by the research agencies (see Appendix 1: sample text). It is only permissible if it is done exclusively for research purposes.

4.7 Recording of collected addresses according to Section 30a BDSG

4.7.1 Single surveys

In the case of single surveys, addresses must be stored only for conducting quality checks and where necessary for data editing before the completion of fieldwork. They must be deleted or irreversibly separated from the survey data as soon as these research steps have been completed.

4.7.2 Follow-up or repeated surveys and recruiting panel members

In the case of follow-up or repeated surveys and when recruiting panel members, names and addresses as well as selection criteria of individuals and households can be stored if the data subjects have agreed to participate in later or continuous studies and have consented to the necessary storage of their data. The selection criteria must be stored separately from the names and addresses. The merging of the data necessary for a specific selection of respondents is done by means of a code number.

The use of the stored data for purposes other than those research purposes indicated to the recruited individuals and households is not permissible in follow-up or repeated surveys, too. The storage of information about previous participation(s) is allowed in order to make an overview of the

time intervals between surveys possible and to avoid contacts being too frequent. Once the last intended survey has been completed, the names and address data of the respondents must be deleted. They must be deleted immediately if the respondent states in the interim period that he/she does not wish to participate in any further studies.

When individuals or households are recruited face-to-face or in writing for follow-up or repeated surveys, or for access panels, the "Statement concerning data protection and the total confidentiality of your responses to interviews and questionnaires" must be handed over. When they are recruited by telephone, this statement must either be sent subsequently or be handed over at the time of the first personal or written contact. In the case of online surveys, the "Statement concerning data protection" must either be sent to the respondents by email or displayed on their screen together with an option for printing it out. The "Statement concerning data protection" must be adapted in content to fit the data collection method used.

4.8 Addresses transmitted by private individuals

If the methodological approach of a study designates the addresses of additional persons belonging to the study's target group being supplied to the research agency by already existing respondents (snowball sampling), the research agency must explicitly inform those additional persons about the origin of the addresses and the voluntary nature of participation at the time of asking for consent to participate in the study.

5 Duty to furnish information and right to object

According to Section 28 paragraph 4 BDSG, "in approaching the data subject for the purpose of advertising or market or opinion research ... the data subject shall be informed of the identity of the controller and of the right to object". Immediately before this, it says: "If the data subject lodges an objection with the controller regarding the processing or use of

his or her data for advertising purposes or market or opinion research, processing or use for these purposes shall be unlawful." And furthermore: "If the data subject lodges an objection with the third party to which the data were transferred [i.e. the research agency] ... to the processing or use for purposes of advertising or market or opinion research, the third party shall block the data for these purposes."

As a result of this, the respondent must be informed of the identity of the client (in addition to that of the research agency and the general purpose of the study) if the latter has transmitted or made available the addresses of the target individuals to the research agency. If for methodological reasons this information cannot be supplied at the beginning of the interview, then it must be given at the end of the interview. In this case respondents' wish to revoke an interview already given must be complied with. For the information of the right to object to the processing or use of their data for purposes of market, opinion and social research the research agency must provide its interviewers with a correspondingly worded text which is binding (see Appendix 2). In mail surveys this must be done in the accompanying letter and in online surveys in the e-mail invitation to participate.

If the objection raised by the contacted person only apply to the processing or use of his/her data by the research agency carrying out the study, these data must be blocked on the level of the research agency. If the objection apply to the processing or use of the data for purposes of market or opinion research in general, the research agency, in addition to blocking the data within the agency, must also inform the controller (usually the client or a mailing house) which has transmitted the address data of this objection, so that the data can be blocked there, too.

6 Use of the addresses

6.1 Addresses for gross samples

Gross samples are drawn from stored addresses belonging to the research agency, transmitted by outside organisations or by the client, or made available under the terms of Section 11 BDSG or Section 80 SGB X. The addresses or telephone numbers are given to the interviewers in order for them to conduct the survey, or – in case of mail surveys or online surveys – they form the basis for mailing questionnaires or for e-mail invitations to participate in the survey.

6.2 Addresses from net samples

A net sample comprises the actually conducted interviews on the basis of a gross sample. In the case of a single survey, the addresses must be separated from the survey data as soon as possible and destroyed, or else – e.g. addresses from telephone directories – the addresses must be neutralised in such a way as to make it impossible to recombine them with the survey data. In online surveys, the address data must a priori be stored separately from the survey data or separated from the survey data when they are returned, and deleted as soon as possible.

If respondents have agreed to participate in a follow-up or repeated survey, the address data must be separated from the survey data immediately, too, and be stored separately until re-used. After the last survey wave has been completed, and also when respondents withdraw their consent to participate in a follow-up or repeated survey, the same rules apply as for single surveys.

6.3 Augmenting a sample by secondary data

The data collected in the context of a study may be augmented with data already existing at the client, provided this is necessary with regard to the research objective and the anonymity of the participants is preserved with respect to the client. It shall be noted that also the augmentation of survey data from companies with data about production, turnover, orders

etc. must not lead to the possibility to identify the single companies.

Since already the participation in a survey is in itself a personal datum, the client must not be given an address file of the net sample for the sample of augmentation. Therefore the augmentation may happen only at the gross sample; preferably in advance (together with the transfer of addresses) or later (equalizing with the net sample by the research agency).

If the client wants the gross sample to be augmented by data which he does not wish or is not allowed to transmit to the research agency in a form allowing persons or companies to be identified, then these data must be transmitted (and later analysed) in an encoded form. Encoded means that the client is not allowed to let the research agency know the meaning of the characteristics he is adding to the single research units, so that – to the agency – these characteristics are simply codes. The client is responsible for that the data he transmits for the purpose of augmentation have been collected with the data subjects according to Section 4 paragraph 2 BDSG or that one of the exceptions from this principle provided for in the law apply.

6.4 Addresses not resulting in interviews (non-responses)

The names and address data of such persons must be marked accordingly in order to be able to check that random sampling has been observed.

A subsequent treatment of addresses with a view to a higher sample response is permissible provided people are exempted who have forbidden further contacts for this survey and/or have refused any participation in market and social research surveys. The addresses of those people must be deleted or blocked immediately. The deletion of the remaining addresses which did not lead to an interview is to be conducted analogously to that of the net sample.

6.5 Avoiding excessively frequent interviews

It is permissible for the client to mark the addresses of the gross sample in order to avoid for methodological reasons repeated, multiple or excessively frequent interviews of the same person or company. On the other hand, transmitting the net sample to the client for that reason is not permissible, since the information about having participated in a study in itself already constitutes a personal datum.

6.6 Delivery of incentives to participants

Since it is not permissible to transmit the net sample to the client, incentives to the participants of a study cannot be delivered by the client but only by the research agency carrying out the study itself, or by a party commissioned with doing so. In case of commissioning the participants must be informed about the necessary transfer of their address data and give their consent to this. The commissioned party must be contractually obliged not to pass on the addresses to third parties, to use them only for delivering the incentives and to delete them immediately afterwards.

When participants receive incentives by means of a prize draw or suchlike, it is allowed with the consent of the data subjects to inform the client of the winners' address data – provided the prizes can only be awarded by him. In doing so it must be ensured that no personal survey data are transmitted along with the address data. The winners must be drawn either by the research agency carrying out the study itself, or by a party commissioned with doing so (subject to the above-mentioned contractual requirements).

6.7 Transfer of personal data at respondents' request

When conducting market and social research studies, individual respondents sometimes spontaneously request that their survey data be transmitted to the client in a personalized form, in spite of the assurance of their being rendered anonymous given at the beginning of the inter-

view, or else they ask for the client to get in touch with them.

In such cases the research agency carrying out the study is only permitted to give these persons the appropriate address at which to contact the client, since it is not permitted to transmit any personal data to the client. When commissioned in accordance with Section 11 BDSG, too, the research agency may only give such individuals an address at which to contact the client. The permissibility of communicating the address at which to contact the client is always conditional upon the corresponding request by the respondent indeed being made spontaneously and not being the result of a specific question or suitable remark.

7 Data security measures

According to Section 9 BDSG, the research agencies are obliged to *"take the necessary technical and organizational measures to ensure the implementation of the provisions of this Act, especially the requirements listed in the Annex to this Act. Measures shall be necessary only if the effort required is in reasonable proportion to the desired purpose of protection."* (See also Appendix 4 of this guideline.)

According to Section 4e no. 9 BDSG, the supervisory authority must at the time of registering also be given *"a general description allowing a preliminary assessment to be made of the appropriateness of the measures taken pursuant to Section 9 to ensure security of processing"*.

From this it follows when dealing with personal data, that the working procedures which are relevant in terms of data protection must be documented and that the compliance with these regulations must be monitored. The result of these checks and the measures taken as consequences must also be documented.

The corporate data protection official shares the responsibility for the working procedures relevant in terms of data protection. The appropriateness of and compliance with these regulations and the effectiveness of the measures taken as consequences

is examined on site by the supervisory authorities for data protection.

When personal data are collected, processed or used on behalf of others according to Section 11 BDSG, the client is responsible for the compliance with data protection regulations. That means he is not only entitled but according to Section 11 paragraph 2 BDSG actually obliged to “*verify compliance with the technical and organizational measures taken by the processor before data processing begins and regularly thereafter*”.

8 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. It cannot be ruled out that case law may result in different standards regarding the permissibility of the treatment of addresses in market and social research.

October 1998 (revised in September 2001, May 2005 and May 2011)

Appendix 1

Sample text for the contractual rules governing the transfer and joint use of personal data between research agencies

In the context of their cooperation on ... *(name of study)* ... personal data are to be transmitted by ... *(name of supplying agency)* ... to ... *(name of receiving agency)* ... and jointly used exclusively for research purposes.

(Name of supplying agency) ... undertakes to inform the participants in the study about the purpose and scope of the transfer and the joint use of their personal data and to obtain the corresponding consent by considering methodological aspects.

(Name of receiving agency) ... undertakes to use the personal data transmitted in accordance with the professional rules of German market and social research and exclusively for the above-mentioned research purpose(s), and in doing so to observe the principles of proper data processing – in particular of data security under the terms of Section 9 BDSG.

Name and address of supplying agency

Place, date, signature

Name and address of receiving agency

Place, date, signature

Appendix 2

Sample text for informing respondents of the identity of the controller and of their right to object, in accordance with Section 28 paragraph 4 BDSG (as part of the general request to participate in a study)

We have received your name and your ... *(specify type of address data)* ... from ... *(name and contact data)* ... for purposes of market, opinion and social research. The Federal Data Protection Act gives you the right to object to your data being processed or used for these purposes. If you wish to exercise this right, your data will be blocked in accordance with your objection.

Appendix 3

BDSG Section 30a “Commercial data collection and recording for purposes of market or opinion research

(1) The commercial collection, processing or use of personal data for purposes of market or opinion research shall be lawful if

1. *there is no reason to believe that the data subject has a legitimate interest in ruling out the possibility of collection, processing or use, or*
2. *the data can be acquired from generally accessible sources or the controller would be allowed to publish them, and the data subject’s legitimate interest in ruling out the possibility of collection, processing or use does not clearly override the interest of the controller.*

Special categories of personal data (Section 3 (9)) may be collected, processed or used only for a specific research project.

(2) Personal data collected or recorded for purposes of market or opinion research may be processed or used only for these purposes. Data which were not acquired from generally accessible sources and which the controller may not publish may be processed or used only for the research project for which they were collected. They may be processed or used for a different purpose only if they have been rendered anonymous in such

a way that the identification of the data subject is no longer possible.

(3) Personal data shall be rendered anonymous as soon as allowed by the purpose of the research project for which they were collected. Until then, the features enabling information concerning personal or material circumstances attributable to an identified or identifiable person shall be kept separately. These features may be combined with the information only where necessary for the purpose of the research project.

(4) Section 29 shall not apply.

(5) Section 28 (4) and (6) through (9) shall apply accordingly."

Appendix 4

"Annex (to Section 9, first sentence)

Where personal data are processed or used in automated form, the internal organization of authorities or enterprises is to be such that it meets the specific requirements of data protection. In particular, measures suited to the type of personal data or categories of data to be protected shall be taken

1. to prevent unauthorized persons from gaining access to data processing systems for processing or using personal data (access control),
2. to prevent data processing systems from being used without authorization (access control),
3. to ensure that persons authorized to use a data processing system have access only to those data they are authorized to access, and that personal data cannot be read, copied, altered or removed without authorization during processing, use and after recording (access control),

4. to ensure that personal data cannot be read, copied, altered or removed without authorization during electronic transfer or transport or while being recorded onto data storage media, and that it is possible to ascertain and check which bodies are to be transferred personal data using data transmission facilities (disclosure control),
5. to ensure that it is possible after the fact to check and ascertain whether personal data have been entered into, altered or removed from data processing systems and if so, by whom (input control),
6. to ensure that personal data processed on behalf of others are processed strictly in compliance with the controller's instructions (job control),
7. to ensure that personal data are protected against accidental destruction or loss (availability control),
8. to ensure that data collected for different purposes can be processed separately.

One measure in accordance with the second sentence nos. 2 to 4 is in particular the use of the latest encryption procedures."