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SalesViewer's Compliance with the California Consumer Privacy Act

SalesViewer GmbH (hereinafter referred to as the Provider) is a company that provides its web analytics service SalesViewer® (hereinafter referred to as SalesViewer®) to website operators. Salesviewer® provides website operators with various data and insights on companies who visit their website.

The Provider has asked us to analyze whether Salesviewer® is compliant with the California Consumer Privacy Act. As explained below, the use of SalesViewer® by a website operator is fully compliant with the California Consumer Privacy Act.

I. Functionality of SalesViewer®

SalesViewer® is a web analytics service provided by the Provider to website operators who wish to learn more about the companies visiting their websites.

SalesViewer® functions through a javascript-based tracking code that is embedded in the website of the website operator in order to collect certain data on visits to the website. The data collected through the tracking code is limited to company information. Any website visits which are private accesses and are not affiliated with a company are filtered out of the data. The collected data is then encrypted via a one-way irreversible function known as hashing, which pseudonymizes the data. This pseudonymized and filtered data is then transmitted to the Provider. Through this process, no cookies (small files that websites put on the website visitor's device to store information about the visitor's preferences) or similar files are stored on the devices of the website visitors.

The pseudonymized data received through SalesViewer® is then processed through a number of algorithms and matched with a database of company-related data to determine information pertaining to companies who visited the website, such as:

- Date of the website visit
- Name of the company
- Industry of the company
- City of the company

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- Number of pages visited
- Visitor behavior (duration of the visit, pages the visitor clicked on, etc.)
- Source of visit (google, facebook ads, etc.)

This company-related information is then provided to the website operator through a secure platform, allowing the website operator to consider such information for sales optimization, marketing, and similar purposes.

II. Compliance with the California Consumer Privacy Act

In the United States, with the exception of certain industry-specific U.S. federal laws, consumer privacy and data protection laws are mostly enacted on a state level and differ between states. Recently, several states have moved to adopt legislation related to consumer privacy and data protection which include protection of consumer data transferred over the internet. The most notable of such laws is the California Consumer Privacy Act (hereinafter referred to as the CCPA), which was enacted in California in 2018 and took effect beginning January 1, 2020.

The CCPA, among other things, limits the collection, sale, and disclosure of a consumer's personal information and provides consumers with certain rights and protections regarding their personal information. Rights and protections provided to consumers by the act generally include the right to request a business to disclose and/or delete any personal information collected, sold, or disclosed about that consumer.

The applicability of the CCPA is limited to companies who fit specific criteria. Companies subject to the CCPA include businesses who

- 1) do business for profit;
- 2) collect consumers' personal information (or on behalf of which such information is collected);
- 3) alone or jointly with others determine the purposes or means of processing such personal information;
- 4) do business in the State of California; and
- 5) satisfy one or more of the following three thresholds:
 - A) have annual gross revenue in excess of \$25,000,000
 - B) buy, sell, share and/or receive the personal information of at least 50,000 California consumers, households, or devices for commercial purposes; or
 - C) derive 50% or more of its annual revenues from selling consumers' personal information.

For the CCPA to be applicable, a website operator who uses SalesViewer® must first meet the above criteria.

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If a website operator who uses SalesViewer® meets the above criteria, the application of the CCPA is still further limited in that it only applies to the collection of *consumers'* personal information. "Consumer" is defined under the CCPA to be a natural person who is a California resident. A company is not considered a "consumer" under the act. The definition of "personal information" is also limited in the CCPA. The act specifically states that personal information "does not include consumer information that is deidentified." "Deidentified" is defined in the CCPA to be information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular consumer, provided that the business which uses the deidentified information:

- 1) has implemented technical safeguards that prohibit reidentification of the consumer;
- 2) has implemented business processes that specifically prohibit reidentification of the information;
- 3) has implemented business processes to prevent inadvertent release of deidentified information; and
- 4) makes no attempt to reidentify the information.

As outlined above, SalesViewer® is designed to collect data only on companies which visit a website operator's website, and not personal information related to private individuals. To the extent that any personal information of a private individual visiting the website is tracked through the tracking code, such personal information, as described above, is filtered out. Further, all data collected via the tracking code is encrypted via a one-way irreversible function (hashing) prior to the data being transmitted to the Provider in pseudonymized form. This filter and encryption process renders any data processed by SalesViewer® to be considered "deidentified" information under the CCPA. As a result, the data ultimately collected by SalesViewer® does not qualify as "personal information" of a "consumer" under the act, and any requirements outlined in the CCPA do not apply to a website operator's use of SalesViewer®.

Thus, due to the business processes and safeguards implemented by the Provider, the use of SalesViewer® by a website operator is fully compliant with the California Consumer Privacy Act.



C. Christian Thier