

Data Protection Compliance of the web analysis system SalesViewer®

SalesViewer GmbH (hereinafter referred to as the provider) provides companies with the web analysis system SalesViewer® (hereinafter referred to as SalesViewer®) for integration on the website.

The provider has informed us of the functionality described below and has asked us to assess its conformity with data protection law on the basis of the General Data Protection Regulation (GDPR) and the current relevant jurisdiction.

A. Functionality

Within the scope of the SalesViewer® a javascript-based tracking code is used on the website of a company (hereinafter referred to as website operator), with the help of which the following information (hereinafter referred to as company data) is determined within the scope of the procedure described below:

- Name, origin and industry of the visiting company
- Source/referrer of the visiting company
- Keyword
- Visitor behaviour (e.g. (sub)pages visited, time of visit, duration of visit)

No cookies or similar information are stored on the end devices of the website visitors. The rulings of the European Court of Justice of October 1, 2019 (Case C-673/17 - Planet49), the German Federal Court of Justice of May 28, 2020 (Case No. I ZR 7/16 - Cookie Consent II) and Section 25 of the German Telecommunications Telemedia Data Protection Act (TTDSG), which explicitly refer only to the access to or the storage of information in the end device, therefore are not applicable to this web analysis system and therefore have no effect on the SalesViewer®. The "Guideline for telemedia providers from 1 December 2021", that was updated by the German Data Protection authorities in December 2022, confirms this assessment.

Instead, the visiting company is identified by means of the comparison with generally accessible information described below. For this purpose, the online identification of the website visitor is encrypted via a one-way function that can no longer be calculated afterwards (so-called hashing) and, after a pre-selection through which private accesses are filtered out, is transmitted to the provider in a pseudonymised form.

These online identifiers are compared by the provider with a database limited to company-related data.

As far as company-related accesses can be identified within the scope of this procedure, corresponding company-related data of the website visit are made available to the website operator via a secure and encrypted login area of the provider, where it is also possible to research further generally accessible data (e.g. address and contact data) about the visiting companies. The software is purchased as "software as a service" in the form of a free and a rental model for the website operator's own use. The provider therefore provides his services on behalf of the operator of the respective website.

For this purpose, the provider maintains a contract on order processing in accordance with the provisions of Art. 26 GDPR for the implementation of the legal requirements (order design, compliance with technical and organisational measures, etc.).

B. Compliance with the GDPR

The provisions of the Basic Data Protection Regulation (GDPR) only apply to the extent that personal data is collected and processed within the meaning of Article 4 GDPR.

The SalesViewer® is designed to identify companies visiting the website. Since only company data is collected and processed, a relevance in terms of data protection law can be ruled out for lack of personal reference. Otherwise, the visitor data is only collected and processed in pseudonymized form.

Even if personal data were collected, such data processing is lawful on the basis of the general balancing of interests clause (Art. 6 Para. 1 lit. f GDPR) it is necessary to safeguard the interests of the person responsible or of a third party and if the data protection interests, fundamental rights and freedoms of the person concerned do not prevail.

The present marketing, market research and optimisation purposes pursued by the website operator automatically constitute legitimate interests within the meaning of Art. 6 para. 1 lit. f GDPR.

Due to

- the limited processing purpose
- pseudonymous data processing
- the low level of interference resulting from the limitation to company data

- the provision of information on the website in accordance with Art. 13 GDPR and
- the simple possibility to object (opt-out)

the legitimation of the described data processing by SalesViewer® is to be assumed on the basis of legitimate interests in the sense of Art. 6 para. 1 lit. f GDPR.

Accordingly, the SalesViewer® can also be used in accordance with the data protection regulations if the website operator and the provider agree on an order processing in the sense of Art. 28 GDPR, the visitors are informed in the data protection declaration according to Art. 13 GDPR and a technical possibility to object (opt-out) is offered.

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