

## Data protection responsibility for telecommunications services

If we provide telecommunication services to you, we generally provide these services as the data controller according to the General Data Protection Regulation (GDPR) and not as a commissioned processor.

A commissioned processor is an entity who processes personal data on behalf of the data controller (Art. 4 (8) GDPR). Commissioned processing may occur when we provide services that are not telecommunications services, such as when you use “iMos Contact”, our ACD system with an IVR system in the cloud.

However, not every processing of personal data on behalf of another entity constitutes commissioned processing. The data controller is the entity that decides on the purposes and means of processing this data (Art. 4 (7) GDPR). The processing of personal data necessary for the operation of a telecommunications service is normally the responsibility of the company providing the telecommunications service (recital 47 of Directive 95/46/EC).

The reason for this is that, as a telecommunications provider, we actually *decide* on the purposes and means of processing the personal data. This decision-making power is implicitly assigned to us by the Telecommunications Act (TKG) because of our functional role as a telecommunications provider (Artikel-29-Datenschutzgruppe: Stellungnahme 1/2010, p. 13).

The provision of telecommunications services is not one of the company’s own tasks (unless it is itself a telecommunications service provider). For a company, this service represents a foreign specialist service provided by a data controller – comparable to the service of lawyers acting as representatives in proceedings, or the service of the postal service in transporting letters (see Annex B of the German version of the German Data Protection Conference No. 13). Anyone using a telecommunication service cannot instruct the provider of the service if and how the latter has to carry out the processing of personal data for the implementation of the telecommunication service within the framework of the obligations of the TKG.

The provider of the telecommunications service is responsible for the processing of personal data, which it needs operationally to provide services and billing (§ 95 (1) TKG) or that it must process for legal reasons – for example § 111 TKG. Personal data that we legally collect and otherwise process for the purpose of providing the telecommunications service therefore includes in particular telephone numbers (or other connection identifiers), name and address of the subscriber, the connection address, and the date of birth of natural persons. For billing purposes, for example, the processing of an internal identifier for customers or prospects may be required.

The following in particular are telecommunications services:

- the operation of service numbers (beginning in Germany with 0137, 0180, 0700, 0800, 0900 or 118xy);
- the operation of local or national landline telephone numbers or mobile telephone numbers;
- the operation of telephone numbers for call tracking;
- and telecommunication services with conversion such as Mail2Fax and Fax2Mail.

As a provider of the telecommunications service, we exercise this responsibility for the provision of the telecommunications service alone. If, as a client, you are also a data controller for other reasons within the meaning of the General Data Protection Regulation, then there is no joint responsibility according to Art. 26 GDPR, as the areas of responsibility do not overlap. It is legally possible to transfer personal data to a data controller, where the parties do not jointly decide on the purposes and means of processing (see Kurzpapier Nr. 16 of the Deutsche Datenschutzkonferenz, p.2, section “Abgrenzung ...”).