

**Resolution
of the 80th Conference
of the Data Protection Commissioners of the Federation and of the Länder
of 3 / 4 November 2010**

Data protection in connection with digital metering and control of energy consumption

The Energy Industry Act stipulates that since the beginning of 2010 digital meters measuring the actual energy consumption (e.g. electricity and gas) and the actual time of use (Smart Metering) have to be installed into houses and flats. This is intended to allow consumers to better control and manage their energy consumption in the future and to contribute to improving energy efficiency.

Digital meters facilitate the recording of consumption which is accurate to the second. This information consists of personal data allowing to create detailed user profiles. Many acts of daily life in the home entail at least indirectly the consumption of energy. Thus, the use of these resources reflects daily routines. Therefore, the detailed recording of the consumption harbours a high potential of scrutinizing the data subjects' lifestyles. This is especially true if, besides the total consumption in the domestic area, also the consumption of individual terminal equipments is recorded. Additional risks arise when the digital meters are further developed into control centres for appliances operated in the household.

The detailed metering of energy consumption can lead to profound violations of the data subjects' personal rights and impair both the right of informational self-determination and the constitutionally guaranteed inviolability of the private home. By long-term recording, the possibility of combining such consumer profiles with other data and by reading those data by remote access more threats to the data subjects' privacy are to be feared.

The efficient distribution and use of energy must not be accompanied by impairments relating to data protection law. However, the legal norms in the Energy Industry Act that were enacted to date for the introduction of digital meters protect the data subjects' privacy only inadequately.

The Conference of the Data Protection Commissioners of the Federation and of the Länder therefore demands a legal regulation for the collection, processing and use of the information

on consumption collected by digital meters. It is necessary that such a regulation takes the data subjects' legitimate interests into account and stipulates a strict purpose limitation for the personal data that were collected. The regulation must also ensure that the principles of transparency of data processing are respected and that the data subjects' rights are protected.

In this connection, data protection must be guaranteed already when planning and designing the infrastructure for energy metering and the technical equipments. This applies particularly to the principle of data reduction and to the data subjects' data sovereignty. Thus it is necessary to ensure that detailed consumption data of terminal equipments are processed under the exclusive control of data subjects and that consumption data involving a direct or indirect reference to persons are not transferred to third parties. The utilization of environmentally friendly and cost effective tariffs must not be made dependent on the data subjects' revealing of personal user profiles.

For digital meters and intelligent distribution and/or processing networks (smart grids) technical and organizational measures have to be created that are according to the respective current state of the art and which guarantee in particular the confidentiality, integrity, availability and transparency when processing all data relating to energy consumption, control, and other data. This also includes the encryption of personal consumption data. The requirements for technological data protection and IT security must be laid down by binding standards taking the sensitivity of the data and the risks of abuse to be expected into account. In addition, an integrated data protection- and security management system has to be created for data processing systems.