

## DA.109 Ban on impeding rights or choices of users

Authors: Winfried Veil

Last update: 2023-08-06 12:15:23 | By: Winfried Veil

Created at: 2023-08-06 12:04:37

### Art. 6 (2) Data Act - Trialogue Agreement

The third party shall not:

- (a) make the exercise of the rights or choices of users unduly difficult including by offering choices to the users in a non-neutral manner, or coerce, deceive or manipulate the user, by subverting or impairing the autonomy, decision-making or choices of the user, including by means of a digital interface with the user *or a part thereof*;**
  
- (b) use the data it receives for the profiling of natural persons within the meaning of Article 4(4) of Regulation (EU) 2016/679, unless it is necessary to provide the service requested by the user, notwithstanding Article 22(2), points (a) and (c) of Regulation (EU) 2016/679;
  
- (c) make the data it receives available to another third party, unless contractually agreed with the user, and provided that the other third party takes all necessary measures agreed between the data holder and the third party to preserve the confidentiality of trade secrets;
  
- (d) make the data it receives available to an undertaking designated as a gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925;
  
- (e) use the data it receives to develop a product that competes with the product from which the accessed data originate or share the data with another third party for that purpose; third parties shall also not use any non-personal product or related service data made available to them to derive insights about the economic situation, assets and production methods of or use by the data holder;
  
- (ea) use the data it receives in a manner that adversely impacts the security of the product or related service(s);

(eb) disregard the specific measures agreed with a data holder or with the trade secrets holder pursuant to article 5(8) of this Regulation and break the confidentiality of trade secrets;

(f) prevent the user that is a consumer, including through contractual commitments, from making the data it receives available to other parties.