

## Leaflet on Telecommunications Secrecy

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### **The Telecommunications Secrecy**

- Telecommunications secrecy not only protects phone calls and faxes, but also modern forms of communication such as e-mails. It is a fundamental right (Article 10 of the German Constitution – Grundgesetz), which is regulated more precisely in § 3 TTDSG.
- First, telecommunications secrecy protects the content of communication: what was discussed during the call? Which data has been transferred? What's in the email or chat message? And also: What is in the subject of the e-mail?
- Second, telecommunications secrecy also protects the "nearer circumstances of telecommunications": who phoned or emailed with whom? Which WWW pages were called? Who tried to establish a telephone connection?
- Not only we as a company, but also you personally have to comply with the secrecy of telecommunications. Incidentally, this obligation already results from the law (§ 3 TTDSG).
- Please note: Telecommunications secrecy is valid indefinitely, even if you no longer work for us (§ 3 (2) TTDSG). It applies to all persons who are not officially responsible for the respective matter - including all other colleagues, your family and the press.

### **Your duty to preserve the telecommunications secrecy**

- Information subject to the telecommunications secrecy must be treated with the strictest confidence. For example, you are not allowed to analyze single-item credentials or logfiles via telecommunication links, check e-mail inboxes or similar, unless this is permitted exceptionally. The most important permission is contained in § 3 Abs. 3 S. 1 TTDSG: If we can only provide the telecommunication service or protect our telecommunication systems only if we are aware of certain information subject to the telecommunications secrecy, we are allowed to take notice. §§ 9 and 10 TTDSG allow us to store and use connection data, as far as this is necessary for the billing. In order to combat malfunction and fraud, § 12 TTDSG allows us in certain cases to use connection data.
- Please note that these permits only exist as far as the knowledge, storage or use is absolutely necessary for the respective purpose. For example, if you have to look into a mailbox to fix a technical error, you can do so only insofar as it is unavoidable: If, for example, it is sufficient to evaluate the header of an e-mail, you are not allowed to read the message itself. Of course, you can not pass on things that are subject to the secrecy of telecommunications, even if you have exceptionally acquired legal knowledge of the administration - even the partners of TNG. The only exception: If you happen to find out that a serious crime named in § 138 StGB is planned.

### **Information duty**

- The police or other authorities may contact you and request certain information, such as users or other information subject to telecommunications secrecy. In case of such inquiries, please forward these requests immediately to the partners. You are not allowed to provide any information, if this is not expressly part of your area of responsibility.

### **Consequences of violations**

- If you violate the telecommunications secrecy, you may face up to five years imprisonment. § 206 StGB makes it (among other things) punishable to pass on information that is subject to the telecommunications secrecy. It is also a punishable offense to suppress entrusted broadcasts (especially e-mails) without authorization, for example to delete them or to hold them back for a long time.
- Certain violations of the TKG may also result in a fine, e.g. if inadmissible data is collected or not deleted (§ 149 TKG). Other fines and penalties are also possible, such as those related to violations of data protection law (Art. 82, 83 DS-GVO and §§ 42, 43 BDSG), to betrayal of business and trade secrets (§ 23 GeschGehG), spying on data (§ 202 a StGB) or computer fraud (§ 263 a StGB).
- Serious damages to TNG may be caused by a so-called data breach becoming public knowledge and customers might lose confidence in TNG and no longer use our services. In addition, we may be required to notify a data breach to all those directly affected and, if necessary, additionally inform the public.
- If it comes to damages due to violations of the telecommunications secrecy, we and possibly you will be personally liable for these damages. You may also face labor law consequences if you violate telecommunications secrecy. Depending on the seriousness of your misconduct, a warning, a timely termination or even a termination without notice may be possible.