

Revisions to the German Federal Data Protection Act

By Rick Buck, CIPP Director of Privacy and ISP Relations

The information in this document is not intended as legal advice. Rather, it is intended to serve as a primer for our clients on the recent changes to Germany's Federal Data Protection Act. Many of the questions raised by the statute will require careful analysis by your legal counsel.

In response to a number of high-profile data security breaches, the German Bundestag recently passed a revision of the Federal Data Protection Act requiring consumer permission of the use of their address for direct mail solicitation. The revised law was drafted to restrict the illegal use of personal data and to give consumers more control over the use of their personal data.

The new law, which goes into effect on September 1, 2009 is specifically directed at direct mail advertising. It does not impact e-mail communications in Germany, which already requires opt-in. Data collected prior to September 2009 will be grandfathered for compliance until August 2012. The German government has made provisions for several exemptions to this law including:

- An existing relationship with the consumer
- the source of the third-party data is clearly stated on the direct mail envelope
- Business-to-business marketing campaigns
- Data collected from public directories to market a company's own products
- Charity or political direct marketing
- Cold prospecting if the mailing clearly states where the data was first collected

For more information on this or other deliverability-related subjects, contact Rick Buck, CIPP director of privacy and ISP relations for e-Dialog: (781) 372-3317 or or rbuck@e-dialog.com.