

Trends Business Information company database/Trendstop – legitimate interest balancing of interests – 30/09/2019

Collecting, processing, managing and commercialising business information.

1. What is the purpose of the processing?

Management of business information: the Trends Business Information (TBI) business unit processes business-to-business data about companies. TBI relies on information that is public, such as in the Belgian Official Gazette (and Annex), the Crossroads Bank for Enterprises, the National Bank of Belgium, the Cause List of Court Registries, etc....

This information is included in the database for the purpose of making it available to other companies through various channels so that they are able to **limit their financial risks, prevent fraud**, comply with current legislation related to **money laundering**, etc. Since this concerns B-to-B information, it does not fall within the scope of the GDPR.

In addition, TBI collects data from **business professionals** (only name and e-mail address) that are also made available for marketing and data management purposes. These are a company's point of contact.

Companies can in turn use this to verify their stored data **for accuracy and update them** (cf. Art. 5 EU-GDPR "Principles relating to processing of personal data"). Thanks to services such as **data cleaning, data correction**, etc. ... available through various channels, a customer is able to **optimise files and keep them up to date**.

1.1. Is processing necessary to achieve one or more specific objectives of the organisation?

Yes, the above objectives **cannot be achieved without collecting, processing, systematising, analysing and interpreting company data (and related personal data)**. In this, TBI applies a strict ethical code, whereby the aim is to offer high-quality, correct, up-to-date and complete data.

1.2. Is the processing necessary to achieve one or more objectives of a third party?

A lack of essential data to feed business information puts a brake on the **development of the economy** and interrupts its growth or recovery. It also damages the economy by exposing healthy businesses to the harmful effects of doing business with **insolvent or even rogue companies**.

And it allows companies to explore **new market segments** in a targeted manner (direct marketing). They thus generate extra, healthy and therefore profitable business.

The regulations state that each company itself must prove that all personal data collected (purchased), stored, used for direct marketing campaigns, etc., are treated by them in accordance with the applicable legislation.

1.3. Does the GDPR, ePrivacy Regulation or any other national legislation specify the processing activity as a justified activity, subject to the completion of a balanced test and a positive result?

The processing of personal data with a view to **fraud prevention (risk & compliance)** is a legitimate interest of the controller in question. The processing of personal data for **direct marketing** purposes can be considered as being carried out for a legitimate interest:

- Reference to answer by the Minister of Justice on the occasion of a parliamentary question “protection of natural persons with regard to the processing of personal data” in the Companies Code:
 - *“The recipients of the services of business information offices also have a **legitimate interest that includes verifying the commitments they wish to make and estimating the credit risk.** These legitimate interests outweigh the rights of the natural persons concerned, since the processed personal data relate to their economic activities and thus transcend purely private interests.” (Chamber of Representatives, Parliamentary Question 54-1-003157 - 30/04/2019)*
- The GDPR mentions **legitimate interest as a possible legal basis for direct marketing.**
 - Recital 47 EU-GDPR
 - (47) The legitimate interests of a controller, including those of a controller to which the personal data may be disclosed, or of a third party, may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, taking into consideration the reasonable expectations of data subjects based on their relationship with the controller.

1.4. Is the interest legitimate?

The interest is the **freedom to do business and the provision of services related to the management of business information**: the Trends Business Information (TBI) business unit processes business-to-business data about companies with the aim of making it available to other companies through various channels.

1.5. Is the interest concrete enough and not speculative?

Yes

2. Is the processing necessary?

2.1. Why is the processing important to the controller?

The **core activity** of Trends Business Information is the collection, processing and commercialisation of company data and contact details of business professionals.

2.2. Why is the processing activity important to other parties to whom the data was made available, if applicable?

Correct and accurate business information is necessary to be able to limit **risks**: the risk of bankruptcy or credit risks for example. In addition, **correct contact information** for conducting **direct marketing** is important.

2.3. Is there another way to achieve the same goal?

Theoretically yes, but not in practice: a lot of data are available from public sources, but **for an individual company, combining and keeping this business information permanently up-to-date is not a core activity and would require disproportionately large efforts**. Data companies such as TBI ensure that companies have correct business information without having to handle the collection and updating of the data.

3. Weighing interests

3.1. Can the individual reasonably expect the relevant processing activity to take place?

Business leaders and founders can be held personally and severally liable for the company. The personal data, name-address-residence, of business leaders and founders, which are processed in this context, and to which the privacy law does apply, transcend personal interests.

Since the data are made available via **public sources**, the business leaders and managers involved can also reasonably expect that the data will be further processed.

Data from business professionals:

In addition, TBI collects data from business professionals (only name and e-mail address) that are also made available for **marketing and data management purposes**. These contact persons are a company's point of contact.

These data are collected **from the company of the data subject and/or from the data subjects themselves**. There is always **notification** made of the purpose of processing these data. An overview of the data obtained is always sent back in real time to the company of the data subject, which allows it to ensure that the data has been processed correctly.

Moreover, when collecting these data, the “reporting obligation” (cf. GDPR) is met, including the following **statement**: *“This information is processed in the database and contributes to the possibility of enabling customers to form an image of the creditworthiness of a company in order to avoid risks and to approach the right contact persons.”*

Each individual data subject will be informed by e-mail (insofar as the e-mail address is known) about inclusion in the database and the purposes for which these data are being processed. Each data subject always has the right to access, rectify and erase the data, and the right to be forgotten.

In addition, **Trends Business Information communicates extensively via newsletters, websites, publications, press releases, events ...** about the information and data being processed, such that a business professional could reasonably know that such processing exists.

Data subjects who are included in the database have the option of registering for a **newsletter**, whereby they are informed periodically – weekly – of news related to economic, fiscal and legal changes. Each newsletter always offers the possibility to unsubscribe and/or to be deleted.

3.2. Does the processing create extra value for the product or service that the individual uses?

Yes, risk reduction and new business

3.3. Could the processing have a negative impact on the rights of the individual?

The personal data being processed only **relate to business, professional activity and not to private life**. To a limited extent it can be annoying for people who have gone bankrupt, for example, that their history as manager or director can be found in the database.

3.4. Could the processing lead to unjustified damage to and fear on the part of the individual?

No, it largely concerns combining data from **public sources**

3.5. Would not processing could cause damage to the data controller?

Economic objective, threat to business continuity.

3.6. Would not processing cause damage to the third party?

Yes, business information is used extensively for competition analysis, strategic planning, fraud and compliance purposes and many other strategic functions. Business information

that is incomplete and/or incorrect means that users run the risk of payment defaults within their customer portfolio.

3.7. Is the processing in the interest of the individual to whom the personal data belong?

As a company it is essential that the data are up-to-date and displayed correctly to the stakeholders (customers). Among other things, they determine the (business) relationship with the company.

3.8. Were the legitimate interests of the individual aligned with the legitimate interests of the party relying on the processing?

Yes, this is essentially about the **interests third parties have in correct business information**. Personal data are only processed if it is important in this professional context. Moreover, the personal data can also be partially found in public sources (the Crossroads Bank, Belgian Official Gazette ...)

3.9. What type of data is processed? Does this type of data enjoy special protection under the GDPR?

Identification data and contact details (telephone, e-mail, postal address)

- Company natural persons: contact, contact details (tel, e-mail, URL)
- Company leaders: contact, position, duration of mandate, e-mail address, linking to other mandates.
- Operational managers: name, position, e-mail address

There are **no special categories of data** processed within the meaning of Articles 9 and 10 of the GDPR, except for “crimes related to bankruptcy” where business leaders are subject to a professional prohibition (cf publication in Belgian Official Gazette, court of first instance).

3.10. Is there a bi-directional relationship between the organisation and the individual whose personal data will be processed? If yes, how close is this relationship?

Not necessary.

3.11. Will the processing limit or undermine the rights of the individual?

No

3.12. Was the personal information of the individual obtained directly or indirectly?

Directly from the data subject or the company of the data subject, or from official sources.

3.13. Is there a power imbalance between the organisation and the individual?

No

3.14. Is it plausible that the individual could expect that their information will be used for this purpose?

Yes

3.15. Can the processing be considered intrusive or inappropriate? Can it be seen as such, particularly by the individual or in the context of the relationship?

No

3.16. Was an honest warning of processing provided to the individual? If yes, how? Are these clear and honest about the purpose of the processing?

When collecting data on the business professionals related to a company (see above), insofar as the e-mail address is known, the **reporting obligation** to the data subject is met via e-mail. They are informed about inclusion in the database and the purposes for which these data are being processed. They always have the right to access, rectify and erase the data, and the right to be forgotten.

3.17. Can the individual whose data are being processed check the processing activity or easily object to it?

Yes

3.18. Can the scope of the processing be changed to reduce or mitigate any underlying privacy risks or damage?

The scope of the processing has already been limited to the minimum necessary data, and in no way concerns sensitive data as provided for in Article 9 of the GDPR.

4. Guarantees and compensatory checks

- Data not coming from official sources is communicated **by the company itself**. The purpose of processing is always pointed out in a disclaimer on the survey form.
- Persons are individually **informed** by e-mail of the inclusion. The opportunity is offered for access, rectification, erasure and the right to be forgotten.
- **A newsletter with targeted items** is sent to data subjects, always with the option of deletion.
- **No profiling** is done based on personal data.

- Companies have an interest in correct and complete inclusion: they are used for **participation in economic life**. More than 680,000 unique visitors per day that the companies can consult.

5. Assessment of accountability, transparency, right to object and beyond

- 5.1. The existence of some, and the possible need for additional, measures to increase transparency and liability;

N/a

- 5.2. The right of the data subject to object to the processing of his/her data, and by extension the possibility to withdraw from the entire process without having to give a reason for such;

Each request to erase personal data is carefully considered on a case-by-case basis. There may indeed be a good reason for this in some cases.

- 5.3. Empowerment of data subjects: data portability and the availability of usable mechanisms for the data subject to access, rectify, delete, transfer or otherwise further process (or allow third parties to further process) their own data.

The data can be supplied in electronic format

6. Result of the assessment

Trends Business Information always weighs the privacy interests carefully against the importance of providing customers with the necessary business information. Since the processed personal data only concern the name, address and contact details, and these data can also be consulted via multiple sources (e.g. the Crossroads Bank for Enterprises, Belgian Official Gazette, etc.), the risk to privacy is low. In addition, it is important that the actions that follow from the processing of personal data by Trends Business Information transgress as little as possible.

The legitimate interest of Trends Business Information to provide complete information about companies and related people is essential so that customers can determine the conditions under which business can take place, determine (future) creditworthiness and make choices in the selection of potential business partners, therefore transcends the interests of the data subjects.