

## **FOXXUM Data Protection Declaration**

The purpose of this Data Protection Declaration is to inform the user (hereinafter referred to as the “user”) of the Smart TV Portal (hereinafter referred to as “Smart TV Service”) provided by Foxxum GmbH (hereinafter referred to as “FOXXUM”), headquartered at Wall 55, 24103 Kiel, Germany, as the responsible body for data protection with regard to the collection, processing and use of personal data for certain optional additional offers and services.

After the acceptance of this Data Protection Declaration by the user, the Smart TV Device will be connected to the internet, which will give the user access to Smart TV services. In addition to the limited processing of personal data during the internet connection, which is required for the internet-based functions of the Smart TV, the use of other Smart TV services also requires the collection and processing of other personal data of the user.

If the portal is used by the user, FOXXUM is entitled to modify this privacy policy at any time by sending a notification via the Smart TV Portal. Any modified version of this privacy policy is effective as soon as it has been reported through the Settings Menu and confirmed by the user.

Should the user have any questions, complaints or opinions about this privacy policy or its application, the user can get in contact via the following e-mail address: [dataprivacy@foxxum.com](mailto:dataprivacy@foxxum.com).

The user can also contact the Corporate Data Protection Officer of FOXXUM at any time concerning data protection matters using the following information: Sebastian Assenheimer, Medienmonster, Festung Friedrichsort, Deichweg 20, 24159 Kiel, Germany. E-Mail: [assenheimer@medienmonster.com](mailto:assenheimer@medienmonster.com), Phone: +49 431 540 2889 11

### **1. Use of the Smart TV Portal and Applications**

The user will be able to access and use the Smart TV Portal operated by FOXXUM via the Smart TV. To ensure that the Smart TV Services are operating properly, FOXXUM may have to collect certain additional personal data of the user.

The following personal data will be collected by FOXXUM during the use of the portal: MAC Address, anonymised IP-Address, country, language, software and firmware versions, bootloader version, as well as the source and brand of the TV set.

The personal data collected during the use of the portal can be used to contact the user or to improve the user experience with regard to the use of the portal (e.g. upgrade of the existing services or development of new services).

The legal basis for the data collection described above is user’s consent in accordance with Article 6(1)(1)(a) of the GDPR.

The portal may contain links to other websites or applications. The user is hereby informed and agrees that it is assumed that they have left the portal as soon as these links are used. FOXXUM is not responsible for the privacy policy practised by these websites and applications or their content. For this reason, the user is obliged to observe the privacy policy of these third-party websites or applications separately.

FOXXUM is entitled to anonymise the user's usage and operating data, and to use of it for statistical surveys, performance reviews, marketing campaigns, annual reports and other similar tools of FOXXUM and its partners. FOXXUM is also entitled to save/store and process such data and forward it to its partners for a period of time necessary to achieve the purposes set forth herein.

Provided that the user has granted separate authorisation, FOXXUM and its partners can occasionally utilise the user's information collected through portal surveys directly for marketing purposes.

All personal data gathered by FOXXUM through the portal will be stored and used by FOXXUM for the services related to the portal.

The user will receive the access to the applications offered by FOXXUM or their partners via the portal. The applications can, if necessary, have access to information about the user agent of the web browser for the definition of user's device.

For example, certain applications, such as Facebook and Twitter, redirect the user to the corresponding websites. For the use of third-party applications, the data protection regulations of the relevant third parties apply.

The Smart TV portal uses Piwik, an open-source software that collects and stores data. This information is for marketing and optimization purposes. Piwik creates from the data usage profiles with a pseudonym. For this purpose, the software stores cookies on the user's device (text files) which can be used to analyse the use of the website by the user. The IP-Address of the user will be anonymised immediately after processing and before storage. The data is stored on the servers of the provider in Germany.

The user can delete the cookies in the Smart TV Portal by resetting the portal within the settings. To delete the cookies within the applications, a reset to factory settings of the Smart TV is necessary. In both cases, it is likely that some of the functions of the offer can't be used.

## **2. Use of Cookies**

FOXXUM will use cookies to ensure the proper performance of the Smart TV Services as well as to improve the user experience. Cookies are small text files stored in the Smart TV's web browser of the user.

In connection with the supply and offering of Smart TV Services, FOXXUM will use permanent cookies to define the user on his or her next visit. This type of cookies generally continues to exist in the system, although the browser is closed by the user; this means that they remain stored during the period defined by the cookies or until they are manually deleted by the user. The legal basis for the data collection described above is the user's consent in accordance with Article 6(1)(1)(a) of the GDPR.

FOXXUM will collect and process the following personal data of the user:

- The point at which the user left the portal on his or her last visit. In this way, the user can resume his or her next visit where he or she left off on the previous visit.

- The consent (if any) given by the user for the membership contract. In this way, FOXXUM will determine whether the user has the right to access or use the portal services.
- The location and firmware of the Smart TV. In this way, FOXXUM will identify the applications that can be offered for the user's Smart TV.
- The device utilised by the user (TV or another device). Once a Smart TV is used by the user, the portal services appear on the screen.

The user can delete the cookies in the Smart TV portal by resetting the portal within the settings. In order to delete the cookies within the applications, a reset to factory settings of the Smart TV is necessary. In both cases, it is likely that some of the functions of the offer can't be used.

### **3. Rights of the User**

The users affected by the collection and processing of personal data by FOXXUM are subject to the following data collection and processing rights:

#### a) Information right according to Art. 15 of the GDPR

The users can request information from FOXXUM as to whether personal data is processed by FOXXUM. However, no right of access exists if the provision of the requested information must be kept secret for legitimate reasons, in particular because of a predominantly legitimate interest of a third party. In this case, a balance should be made between the interest of information of the data subject and the interest of the third party to maintain secrecy. A right of information is also excluded if the personal data can't be deleted due to statutory retention periods or serve exclusively for data protection or data protection control, if the provision of the requested information would require a disproportionate effort and the processing for other purposes by appropriate technical and organisational measures is excluded. If the right to information is not excluded, information about the following data can be requested from FOXXUM:

- Purpose of data collection and processing;
- Categories of processed personal data;
- Recipients or categories of recipients to whom personal data is disclosed;
- Duration of storage of personal data or, if that is not possible, criteria for determining the duration of storage;
- Existence of a right to rectify or delete or restrict the processing of personal data or a right to object to such processing;
- Existence of a right of appeal to a supervisory authority;
- If personal data was not collected from the data subject: available information about data source;
- If applicable, the existence of automated decision-making, including profiling, and meaningful information on the logic involved, and the implications and pursued effect of automated decision making;
- If applicable, in the case of transmission to recipients in third countries, unless otherwise decided by the EU Commission on the adequacy of the protection level under Art. 45 (3)

GDPR, information about which are the suitable safeguards in accordance with Art. 46 (2) GDPR for the protection of personal data.

- b) Right to receive a copy in accordance with Art. 15 (3) of the GDPR and the right of data transferability pursuant to Art. 20 of the GDPR

Users have a right to receive a copy of the personal data concerning them and, in this context, data transferability, if the processing is based on the consent of the data subject (Art. 6 (1)(1)(a) or Art. 9 (2)(a) of the GDPR) or is based on a contract with the data subject and the processing is carried out by means of automated procedures. The right to data portability includes, as far as it does not affect the rights and freedoms of third parties: obtaining personal data in a structured, common and machine-readable format; Enabling the transmission of these data to another person in charge by the data subject, without this being impeded in any way by FOXXUM. As far as technically feasible, the user can demand from FOXXUM that FOXXUM transmits the personal data directly to another person responsible.

- c) Right to rectification and restriction of processing according to Art. 16 of the GDPR and in accordance with Art. 18 of the GDPR

If a user finds out that FOXXUM has incorrect personal data of the user, the user can request FOXXUM the immediate rectification of this incorrect data. In case of incomplete personal data, complementation can be requested.

A user can request the restriction of processing if:

- The accuracy of the personal data is contested, for the duration of the verification of accuracy by FOXXUM;
- The processing is illegal and, instead of erasure, the restriction of the use of personal data is required;
- The personal data is no longer needed by FOXXUM for the purposes of processing, but is required by the user to assert, exercise or defend legal claims;
- Objection was filed in accordance with Art. 21 (1) of the GDPR until it was determined whether legitimate reasons of FOXXUM outweigh the reasons given for restriction.

Restriction of processing means that personal data is processed only with the consent of the user or to assert, exercise or defend legal claims or to protect the rights of a third party or for reasons of important public interest. Before lifting a restriction, FOXXUM will inform the user.

- d) Right to erasure in accordance with Art. 17 of the GDPR

The user has a right to erasure of personal data ("right to be forgotten"), unless the processing is necessary for the exercise of the right to freedom of expression, the right to information or to fulfill a legal obligation or to perform a task carried out in the public interest, and one of the following reasons applies:

- The personal data is no longer necessary for the purposes for which it was processed;
- The basis of justification for the processing was exclusively the interim revocation of the data subject's consent;

- An objection against the processing of personal data made public by FOXXUM was filed;
- An objection to the processing of FOXXUM's non-public personal data was filed, and there are no legitimate reasons for processing;
- The personal data was not illegally processed;
- The erasure of personal data is no longer required to fulfill a legal obligation subject to FOXXUM.

There is no claim to erasure if, in the case of legitimate non-automated data processing, the erasure is not possible, or it is only possible with disproportionately high effort due to the special nature of the storage and the interest in the erasure is low. In this case, instead of erasure, the restriction of processing can be required.

#### e) Objection and revocation of consent

If the processing of personal data is based on Art 6 (1)(1)(f) of the GDPR (legitimate interest of the controller or a third party), the user has the right to file an objection at any time for reasons arising from their particular situation against the processing of personal data concerning them. This also applies to a type of profiling based on Art. 6 (1)(1)(e) or (f) of the GDPR. After the exercise of the right of objection, FOXXUM will no longer process the personal data involved, unless FOXXUM can prove compelling legitimate grounds for processing that outweigh the interests, rights and freedoms of the user. The same applies to the case of processing for the purpose of asserting, exercising or defending legal claims of FOXXUM.

The user can at any time object the processing of personal data for direct marketing purposes. This also applies to a profiling associated with such direct advertisement. After exercising a right of objection, FOXXUM will no longer use the personal data involved for direct marketing purposes. The data subject has the opportunity to inform FOXXUM of the objection by phone, by e-mail, by fax or informally via post, if necessary.

The user affected by the data collection and storage has the right to revoke the granted consent at any time with future effect. The revocation of the consent can be communicated to FOXXUM by phone, by email, by fax or informally via post. The revocation does not affect the legality of the data processing until receipt of the revocation. If the data processing takes place exclusively on the basis of the prior consent, FOXXUM will immediately stop the data processing after a revocation of the consent.

#### **4. Organisational Measures for Data Protection**

The processing of personal data by FOXXUM is subject to appropriate technical and organisational measures to ensure that personal data is protected. These include, in particular, the pseudonymisation and encryption of personal data, data backup and the evaluation of technical and organisational measures.

#### **5. Right of appeal**

According to Art. 77 of the GDPR, the users affected by the collection and processing of personal data have a right to appeal to the supervisory authority responsible for FOXXUM. A complaint can

also be addressed to the supervisor responsible for the usual residence or workplace of the user concerned.

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As of 22.05.2018