

# Use of personal data – legal conditions

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## Why care about legal aspects?

- Remote reading of energy consumption constitutes processing of personal data
  - Relevant legislation:
    - ◆ The Danish Act on Processing of Personal Data
    - ◆ General Data Protection Regulation
  - The structure of the energy sector is complex and involves a number of interested parties – which one is the actual data controller?
    - ◆ Production companies, distribution companies etc..
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## Data Privacy – why?

- The Danish Act on Processing of Personal Data has been in force since 2000
  - The regulation has been brought into focus since 2000 due to the technical progress
  - The institutions of the EU has adopted a regulation on data privacy (GDPR) that will become effective on May 28 2018
    - ♦ The GDPR will tighten up the requirements on data controllers as well as data processors
    - ♦ The level of fines will increase significantly – up to 4 % of the annual global turnover or EUR 20m
  - In the media a spotlight is more and more often shone on data privacy compliance – particularly in relation to security breaches
  - Data privacy compliance is likely to become a competitive resource – thus compliance will have an impact on business value
  - The Danish Data Protection Agency will conduct compliance raids on Danish authorities and companies (similar to Dawn Raids) → risk of non-compliance
  - Data controllers and data processors are bound to demonstrate compliance and data flows
  - Implementing and completing a compliance project will, in our experience, take several months
    - ♦ Main areas to focus on are Human Resources, CRM and IT
    - ♦ Support of the management is essential
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## Data Privacy – a brief introduction

- Personal data – any information relating to an identified or identifiable natural person
    - ♦ Information on the energy consumption of a household
    - ♦ Consumption data offers an insight into the daily routines of a natural person (the contracting person and his/her family)
  - The Danish Act on Processing of Personal Data applies to all processing of personal data, generated and obtained using smart meters
    - ♦ Irrespective of whether data is transmitted to the energy company (the data controller) in real time or whether the data is downloaded on the meters – either way the data is “collected”
  - Transmitting data/making data available is considered “processing”
  - Confidential/sensitive data may be disclosed through smart metering
  - Standards and guarantees for data protection and security – the key to reap benefits of smart metering
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## Security and data privacy aspects

### Security

- Smart metering (grids) – traditional supply system security combined with IT security
  - ♦ Traditionally: Segregated for other information systems
  - ♦ Now: Combination of IT systems of the energy sector and the open nature of the internet → risk of
    - Misuse of confidential information
    - Misrepresentation of data
    - Attacks on supply systems as being “critical infrastructure”
  - ♦ Providing a number of operators in the energy sector with detailed consumption data may concern consumers – especially in connection with smart grids
- New transmissions and data flows based on information technology → new threats, risks and vulnerabilities

### Data privacy

- Smarts grids: Intelligent electric systems, that enable integration of the users’ behaviour and acts (producer and/or consumers) in order to provide sustainable, cost-effective and secure energy supplies
- Meters that accurately reflect the consumers’ actual energy consumption and that indicate the actual time of consumption
- Involved parties should implement suitable safeguards, so as to protect fundamental rights of natural persons, when developing smart grids
- Traditionally, the energy sector does not focus on the data privacy - lack of awareness in relation to data privacy roles
  - ♦ The data controller vs. the data processor – obligations and responsibilities
- Legal basis for processing personal data
  - ♦ Order on remote reading of electricity consumption - consent

## What to do?

- Compliance with The Danish Act on Processing of Personal Data and the GDPR is a prerequisite for a beneficial utilisation of data and value creation for the distributors as well as the consumers of energy supplies
  - Evaluation and legal assessment of current setup
    - ◆ Evaluation of, optimisation of and adjusting signed data processing agreements
    - ◆ General overview of (i) the nature of the personal data being processed, (ii) the purposes of the processing and (iii) the actors having access to the personal data
  - Privacy by design/default – developing new products
  - DPIA
  - Data Protection Officer (DPO)
  - Research and statistics
  - Competitive resource
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## Contact

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