

Zürich, 26. November 2019 STG/GRF

## Using fusedeck without Consent (without «Opt-in»)

To Whom It May Concern:

Based on information provided by Capture Media AG, we have reviewed the possibility of using fusedeck without consent (without «opt-in»). We have reached the following conclusions as a result of our review:

- We have concluded that the EU Cookie Directive including its respective national implementations is *not* applicable to the use of fusedeck *without* cookies («cookieless tracking»). Consent is *not* required for «cookieless tracking» because no cookies or other information is stored in the browser or terminal equipment of website visitors and other persons for tracking purposes.
- We have concluded that – within the scope of the European Data Protection Regulation (GDPR) – consent is *not* required for the use of fusedeck *without* cookies and *with* anonymized IP addresses and with hashing as well as salting of all IDs. Insofar as personal data is processed in spite of anonymization, such data processing can be justified as necessary on grounds of prevailing legitimate interests, in particular economic interests, in accordance with art. 6 lit. f GDPR and based on the availability of fusedeck's privacy-friendly settings.
- We have concluded that Capture Media AG processes fusedeck-related personal data as a processor in accordance with art. 28 GDPR. Capture Media AG and its customers that use fusedeck are *not* considered joint controllers according to art. 26 GDPR.
- We would like to point out that the rights of data subjects, i.e., the rights of website visitors and other persons, have to be guaranteed. Such rights include transparent information (privacy policy) as well as the right of access and the right to object («opt-out») to the cookieless tracking.
- We recommend that fusedeck is used with «cookieless tracking» and privacy-friendly settings in order to limit data protection-related risks. How fusedeck is actually used remains the decision of individual users of fusedeck.

Please note that our review is limited to the use of fusedeck as reviewed above. This review is non-binding for the individual use of fusedeck. In case of using additional tracking options and services

or if in doubt, we recommend asking an experienced and qualified specialist such as a lawyer for legal advice.

Yours sincerely,



Martin Steiger, Attorney-at-law