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ONCE YOU ARE SCREENED, THERE IS NO GOING BACK

Credit scoring in Austria – Consumers often unaware of being screened – Data increasingly used to predict future behavior

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Credit checks as a means of socially “winnowing” out consumers – Data increasingly used for predicting consumers’ personal circumstances in the future

Evaluations of creditworthiness, especially largely automated scoring procedures, increasingly decide whether consumers are accepted as a party to a contract. The Chamber of Labor (referred to by its German abbreviation as “AK” below) commissioned a study to be done by the Institute for Technology Assessment at the Austrian Academy of Sciences. It analyzes the scoring methods used and their social consequences.

The result shows that credit checks are anything but transparent. Consumers are in the dark. They are often unaware they are even being screened, let alone what personal data is being collected. The quantity of data combed through for the purpose of scoring is growing rapidly with digitalization. The focus is no longer just on consumer performance with regard to payments. Increasingly the intent is to look into the future and determine what the situation of the consumer will be in 2018: Job, marital status, ... These kinds of statistical methods inevitably lead to ethical and legal problems – many facets of social reality simply cannot be depicted in numbers. AK consumer advocate Gabriele Zgubic: “Statistical processes are used for classifying and winnowing out consumers.”

It was agreed in the government agreement to have legal regulations on scoring. The AK calls for clear regulations on how data on creditworthiness can be used. This is the only way consumers can be protected from opaque and excessive data analyses.

What exactly is scoring?

Scoring means awarding points, similar to sports. Rating and scoring are evaluation processes – mathematical procedures for assessing a certain behavior. Scoring methods attempt to use facts about a person, general experience and statistical values to predict a customer’s behavior as reliably as possible. For instance, they predict the mathematical-statistical probability that a customer will meet or fail to meet payment obligations is calculated. Can the consumer afford to sign the contract? Will the consumer pay punctually and remain loyal to the company for a long time? Everything a business knows about the potential client or thinks it knows based on statistical attributes assigned to the client is incorporated in a numerical value (the score) and then in the entrepreneurial decision; i.e., when a contract is approved or rejected, when terms are set and in any price or interest negotiations that are conducted. The creditworthiness and probability of default are expressed as a risk value.

Frequent moves lead to minus points, for instance. They are deemed indications of an unsettled life. Young singles and young people who just recently started working or who live in a rental apartment instead of a condominium tend to be rated lower. Credit ratings are also negatively affected by divorces, child support, seasonal work, or receipt of allowances for maternity or other types of leave. Plus points are awarded for the marital status “married”.

Knowledge is power

Lenders, insurance companies, leasing companies, etc., etc., etc. – all of them have always tried to assess and mitigate the risks involved in business transactions. Internally, companies ponder complex customer assessment models and new service providers advertise their analysis tools and piles of data to awaken the need at companies for (allegedly) better hedging of risks. Credit scoring long ago ceased being confined to just classic loans and is also used in online trading and order placements.

The business community says credit scoring is justified because of the need to manage risks. It argues that scoring protects consumers against falling into debt and it tries to refine credit checks using ever larger data quantities and complex calculations.

AK study: looking into a crystal ball

Today, all behavioral traits and data of a person really are of interest. An infinite number of statistical assumptions about a person are incorporated in the assessment. Assessments are automated to a large extent. The digital scores people are given are difficult to influence anymore.

For instance, data about consumers' mobile phone location can indicate something about the life they are leading (places of residence, conduct in relationships, nighttime rest). Prospecting in databases (including in social networks) helps a company forecast whether a person will still have a job in three years and still be in a joint martial household. These factors, in turn, influence the probability of a debt being repaid.

Companies no longer look merely backward (e.g., to access recent payment performance) but increasingly also forward to predict (probable) consumer conduct in the future. Retrospective reviews are susceptible to error in actual practice. That applies even more so to forecasts. In the meantime, statistical processes are being used in this context to classify and winnow out entire parts of the population. The situation is exacerbated by the international trend to augment scoring models with external information including information which is sensitive from a data protection standpoint and was absolutely not intended for assessments of creditworthiness (e.g. entries in Facebook).

Juggling data

The AK study shows that people are increasingly perceived as risk and cost factors. Their risk profiles are therefore being refined at great effort and expensive. Efforts to eliminate social uncertainty and inequalities are receding ever further into the background.

Many go so far as to ascribe data doubles to consumers in scoring. The motto seems to be this: others know more about me than I myself know. The possibility of people to influence information saved about their own person is diminishing.

Mass surveillance: nor more privacy

AK consumer advocate Daniela Zimmer: "Average consumers are unaware of the use of scoring, the practical process involved, the variables applied and their weighting. As a rule, those affected do not even find out their actual score. Often it is not even known that scoring is being carried out."

"Consumers are hardly able to understand the methodology of scoring models and are therefore unable to question the assessment."

Regulation deficit: The scope of regulation is absolutely inadequate given the relevance of scoring decisions for each and every individual. Under the Austrian Commercial Code, credit reporting agencies are allowed to use information about a debtor's credit situation and ability to pay. The distribution of items of information about a person's private life that are not connected to creditworthiness is expressly not covered. It is completely unclear how much leeway there can be in interpreting this connection. Many items of highly personal, private and sensitive information about an individual's life and health can help companies predict the probability of default. The leeway in interpretation must be narrow.

Gaps in the right to information, correction and deletion: If consumers want information about the data saved in a rating database about their own person, the Austrian Data Protection Act entitles them to be told the complete content of the data in an understandable manner (e.g., codes and abbreviations must be explained). With automatic decision-making processes, the criteria for the rating must be divulged but also the relative weight of the criteria in the overall assessment so consumers who were rejected can understand why. Data processors like to invoke business and operating secrets in these contexts.
Rules already in place such as the right to obtain information often do not go far enough. The lender is not always the data processors. For that reason, the right to be informed about which data is being processed does not apply to consumers in this case. The data protection authorities decided in connection with the databases of KSV 1870 (major pro-creditor association in Austria) that late payments entered in the register of small consumer loans (*Kleinkreditevidenz*) have to be checked for correctness at least once a year and all other data at least once every three years.

Those affected can object to being entered in a rating database without citing a reason if the file is publicly accessible and inclusion is not mandatory under the law. The data must then be deleted within eight weeks. Since the Austrian Consumer Credit Act went into force in 2010, there has been a major exception: A person's right to deletion without having to cite a reason no longer exists for banks' databases organized as an information group system. Of course, a person can still enforce a claim to deletion if the data is incorrect, stems from illegal sources, violates information duties or entails special interests in secrecy of those involved. A decision by the data protection authorities regarding the Austrian register of consumer loans (*Konsumentenkreditevidenz*) serves as a guiding principle for the safekeeping period of data. In the case of late payments, the deletion must be made at the latest five years after the debt is completely paid; otherwise seven years after satisfaction of the debt.

Disproportionate passing on of the business risk: Automated credit checks for small amounts and general business risks are excessive and must therefore be restricted. It is clear that credit cannot be extended without collateral. What is worrisome is the trend toward multiple forms of security being demanded, e.g., a rating profile is drawn up, a restriction is put on the transfer of a life insurance policy and a loan default insurance policy has to be taken out at the borrower's expense. The bank is furnished triple security but it is unclear what the source of the business risk is, for which the borrower must also pay.

Scoring of dubious quality: A scoring process can quickly lead to incorrect forecasts unless it is constantly monitored. A German study from 2009 analyzed the data quality of credit reporting agencies regarding self-disclosure of information by test persons. The result shows about 45 percent of the items of information indicate incorrect, incomplete or wrong entries.

AK calls for better security

The regulation on scoring is anchored firmly in the government agreement. Zgubic: "The matter has to be tackled quickly. What is needed is clear, comprehensive regulation and supervision based on separate scoring provisions."

The AK concretely demands:

Greater clarity for the people affected. Neither banks nor credit reporting agencies reveal what details are incorporated in the assessment of creditworthiness. Currently consumers must be informed when data about them is being processed. The information should in each case also include the origin of the data and any recipients of the data and disclose the fundamental logic of the evaluation process. The different evaluation and calculation methods must not only be disclosed, they must also be checked by independent supervisory authorities.

Use of only certain types of data: The data collection must be restricted to data directly relevant to creditworthiness. Basically, those items of data would pertain to the income situation and the expected expenditures. In addition, data improperly collected is not allowed to be processed in scoring models. The data is not allowed to be either old or discriminatory.

Internal checks within company: Data on creditworthiness is not allowed to be made available to all employees. A data protection officer in the company should be put in charge of monitoring compliance with the provisions.

Set limits: A suitable approach would be to ban scoring, e.g. by landlords and in the form of minimum limits to curb the excessive collection of data.