



How does GDPR and PECR affect your direct email service module

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This is a brief overview of how the changes in privacy rules in Europe are being managed by DMA Europa Group in regards to our direct email service module.

Storage and processing of contact data?

The big question for all businesses at the moment is 'can we continue to store and process our existing data?'

Under the current guidelines established by the ICO there are six lawful bases for processing data. To lawfully store and process data a company must comply to at least one of these bases. In the instance of all DMA Europa Group's customers we believe that we will be covered for the most part by 'Legitimate Interest' and in a small part by 'Consent'.

Legitimate Interest

Data can be processed so long as: 'processing is necessary for the purpose of the legitimate interests of [the data holder] except where such interests are overridden by the interests or fundamental rights [of the subject].'

Legitimate interest can be judged by breaking it down into a three-part test:

1. Purpose – Are you pursuing a legitimate interest?

The GDPR currently specifically mentions marketing as a potential legitimate interest. As data held by DMA Europa Group on behalf of its clients is used exclusively for marketing purposes we are currently covered in this regard.

2. Necessity – Is processing the data necessary for the purpose?

Here 'necessary' means that the data must be targeted for your purpose and proportionate to your requirements. Our data lists include only the business contact information for individuals who have been identified as relevant to the product or services being sold by our clients. The data we hold is necessary for our purpose of distributing marketing messages and we couldn't carry out our purpose using other, less intrusive means.

3. Balancing – Do the contact's interests override our legitimate interest?

Finally, we need to consider if the contact would not reasonably expect us to use their data in such a way. Since we are using the data for the sole purpose of distributing relevant marketing messages to their business contact details it would be reasonable to expect such activity. It would be unreasonable to share their details with third parties etc. but this is not something we would ever do.

It is worth noting the Legitimate Interest will only be valid where a contact has not specifically requested that their data be deleted. Under the GDPR all individuals have the 'right to be forgotten'. In this instance the final 'Balance' would reflect that that would not reasonably expect their data to be used. (The option might be provided to allow a small amount of data to be retained for future reference to make sure they are not added back to a list they have asked to be removed from).

Consent

A clear and unambiguous indication of consent to hold and process the data has been given. At the point of consent a clear description of how the data can be used must be given and clear information on the right to withdraw consent must be given.

DMA Europa Group doesn't envisage Consent being a requirement for many of its clients due to the targeted, B2B nature of the majority of its marketing activities which is a 'Legitimate Purpose' (see above).

However, there will be some instances where consent may be a requirement:

1. Where personal or private contact details are being used (B2C activity).
2. Where the contact resides in a country where double opt-in for all communications is a legal requirement. (Germany for example).
3. Where additional data beyond contact details are stored – for example credit card details for e-commerce campaigns.

A final consideration to this question is where the data is stored. Currently legislation says that data of EU nationals must be held either within the EU or in a country where an agreement is in place that personal data will be held and managed in accordance with EU law. DMA Europa Group currently stores all data either within its own private servers (located in a UK based datacentre) or with third party CRM systems that conform to EU laws on data storage [Privacy Shield].

Are we allowed to send marketing emails to our contact list?

Emails are currently governed by the Privacy and Electronic Communications Regulations (PECR) and this will remain as it is until any revised ePrivacy Regulation is agreed and in force. Revised regulations were expected to be agreed in December 2017, however they are still being debated by the EU Parliament and Council of Ministers – the process is not currently expected to start until Q2 2018.

Under current PECR regulations you are required to have consent before sending electronic mail marketing. 'Soft opt-ins' are acceptable as consent when mailing to customers; to individuals who have provided their contact details to you; or to the business contact details of people working for any corporate body. [NOTE: Soft Opt-Ins are not allowed in EU countries where a 'double opt-in' is a legal requirement].

DMA Europa Group client contact databases can be divided into three categories:

1. Customers – These are contacts that are in the mailing list due to previous activity with the business. They are legitimate recipients of email marketing unless they have ever specifically requested to be removed from future communications.
2. Prospective Customers – These are contacts that have been identified as potential customers by the client and added to the mailing list. These details have been received through business cards, email communications or legitimately sourced from a company website.
3. Bought Data – All bought data will have been sourced from a provider that follows the PECR

Future changes to the PECR may require action to be taken to amend soft-opt ins. This is likely to involve direct activity to confirm which contacts wish to receive direct marketing communications. Until the amended regulations are published DMA Europa Group is unable to comment or offer guidance on what activity must be taken. Should any future changes directly affect any of our clients we will work with them to ensure all future activities continue to meet with all EU and UK law.



GDPR policy statement

DMA Europa Group recognises that the General Data Protection Regulation (GDPR) is being introduced on May 25th 2018. The stated intention of the policy makers is to protect and empower all EU citizens with regards personal data privacy and to re-shape the way organisations across the region store and process that data. As a responsible company we will make every reasonable effort to comply with the regulation across the scope of our business operations.

As a communications company DMA Europa Group acts as both a data processor and data controller in multiple functions; both within the day-to-day operation of our business and in acting as an agent to our clients.

Our official policy document outlines the steps that we've taken to assess our data policy with regards to the latest regulations and the measures we've taken to ensure that we comply to the best of our ability.

As part of our operations it may be necessary to discuss GDPR with our clients and offer our opinion on related policy with regards to the services that we provide. Our general GDPR advice document offers our current opinion on how to deal with changes and what changes we have made to our service.

It should be noted at all times that DMA Europa Group is acting to the best of our knowledge and in good faith in all activities undertaken to comply with regulations. However, we are unable to offer any legal advice or service, so clients should conduct their own due diligence and seek legal advice for specific queries.

The intention of the DMA Europa Group is to maintain our GDPR Policy as an ongoing platform for development. As such, amendments may be made to our processes to ensure we continue to meet or exceed the requirements of all relevant data protection laws.

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