

Sentient -Your GDPR Compliant Partner

THE FACTS

B2B DIRECT MARKETING & GDPR

Sentient supports the b2b industry segments to confidently embrace the future through DATA & technology. We provide the expertise and resources that underpin some of the world's most respected b2b brands.

For b2b marketing accurate and targeted data is crucial for its success. Sentient's services - Desk Research and Telephone Research are essentially designed with recent GDPR regulations to allow you to focus on your target audience to execute successful marketing campaigns geared towards better conversion rates and growth targets.

By making the investment in acquiring the relevant data to support sales and marketing, Sentient ensures its clients a rich, compliant and relevant customer data within defined target audiences.

B2B Direct Marketing & GDPR

As per the GDPR consent is not must for contacting people especially for b2b contacts. The GDPR clearly states that direct marketing can be considered a *legitimate interest*, thus allowing the processing of data without requirement of consent. However, organisations are now worried about Privacy and Electronic Communication Regulations (PECR). This is the regulation that defines which types of marketing communication require prior opt-in and which ones do not. Until the new ePrivacy regulation is announced, GDPR will be used in relation with the existing country - specific PECR regulation.

As per GDPR guidelines, under '[legitimate interest](#)' our data research is focused on specific, relevant target markets, ensuring messaging is well targeted and directly relevant to the person you are communicating with in accordance with the [Article 6 - Lawfulness of Processing of Regulation EU 2016/679 \(GDPR\)](#)

'...(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks.'

*In addition, [Recitation 47 of the GDPR 2016/679/EU](#) shows that processing of personal data (i.e. collection in this case) for direct marketing by the controller is clearly regarded as legitimate interest: *'...the processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate interest.**

For more information visit: www.yoursentient.com

Or contact us via Email: info@yoursentient.com or Tel: +44 207 062 2257



LEGITIMATE INTEREST - 4 THINGS YOU MUST DO

To justify that a legitimate interest applies, businesses will need to:

- Ensure all data research is focused on specific, relevant target markets
- Ensure messaging is well targeted and directly relevant to the person you are communicating with
- Build a plan for robust data management (CRM) system in order to track engagement and honour 'opt-outs'
- Ensure your database is always up to date and relevant with ongoing maintenance processes and data research

[ICO on Legitimate Interest - ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/legitimate-interests/](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/legitimate-interests/)

4 IMPORTANT GDPR FACTS

- Under GDPR - b2b marketers DO NOT ALWAYS NEED consent for holding and using personal data
- Under GDPR - b2b marketers CAN rely on **legitimate interest** as legal grounds for holding and using personal data
- Under GDPR - collection of b2b marketing data via automated or manual means from online sources IS ALLOWED if done correctly
- Under GDPR - processing, storage and using b2b marketing data for direct marketing IS ALLOWED

[Article 6 Point 1.\(f\) - gdpr-info.eu/art-6-gdpr/](https://gdpr-info.eu/art-6-gdpr/)

[Recital 47 of GDPR 2016/679 EU - gdpr-info.eu/recitals/no-47/](https://gdpr-info.eu/recitals/no-47/)

PECR AND E-PRIVACY REGULATIONS - THE FACTS

Alongside GDPR, email marketing is still ruled by PECR, which is likely to be replaced by new ePrivacy regulations in 2018 (timeline not yet specified):

- According to PECR, b2b direct marketing is on an opt-out basis (not requiring opt-in/consent)
- New ePrivacy regulations (replacing PECR) will determine if we can continue to use email marketing in b2b on an opt-out basis
- ePrivacy regulations are still being debated by the EU Parliament and Council, and the outcome and timeline for any changes is still very unclear
- According to leading MEP, Mariu Lauristan, responsible for the ePrivacy Regulation, it is not the European Parliament's intention to unnecessarily restrict b2b marketing
- Maintaining the b2b marketing 'opt-out' is the DMA's major lobbying focus at this stage - lead by DMA Group CEO, Chris Combemale

[DMA on ePrivacy - dma.org.uk/article/eprivacy-lobbying-and-the-threat-to-b2b-marketing-and-telemarketing](https://dma.org.uk/article/eprivacy-lobbying-and-the-threat-to-b2b-marketing-and-telemarketing)

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THE DIRECT MARKETING ASSOCIATION HAS ISSUED THE FOLLOWING ADVICE IN RELATION TO B2B MARKETING AND GDPR

“ When dealing with employees of corporates - that is limited companies, LLPs, partnerships in Scotland and government departments - the rules for telephone and direct mail are the same: opt-out. When emailing or texting, you do not need the prior consent/opt-in from the individual. You can therefore send them a marketing email/text as long as you provide an easy way to opt out of future communication from you. ”

“ For any b2b marketing communications, regardless of channel, the content must be about products and/or services that are relevant to the recipients' job role. This situation will not change under GDPR. These rules for email and text messages come under the Privacy and Electronic Communications Regulations (PECR) and this will not be affected by the implementation of GDPR. ”

“ What is important to remember when emailing or texting corporate employees is that where personal data is used for marketing (a work email address, for example) they have the right to prevent their personal data being processed for direct marketing, which is why you must provide a way to opt out of future communications. ”

[Guide to PECR - ico.org.uk/for-organisations/guide-to-pecr/](https://ico.org.uk/for-organisations/guide-to-pecr/)

So how do we help clients turn a legislative nightmare of complying with GDPR, into a success story?

Sentient is of a view that if you are a private-sector organisation, you can process personal data without consent if you have a genuine and legitimate reason (including commercial benefit), unless this is outweighed by harm to the individual's rights and interests. Private-sector organisations will often be able to consider the 'legitimate interests' basis in Article 6(1) (f). However, you will need to be able to justify why the processing is necessary to carry out your functions – in essence, that it is proportionate and there is no less intrusive alternative. And, as always, you will need to ensure you are fair, transparent and accountable.

The GDPR is clear that consent requires clear affirmative action, and Recital 32 sets out additional guidance on this:

“Consent should be given by a clear affirmative act... such as by a written statement, including by electronic means, or an oral statement. This could include ticking a box when visiting an internet website, choosing technical settings for information society services or another statement or conduct which clearly indicates in this context the data subject's acceptance of the proposed processing of his or her personal data. Silence, pre-ticked boxes or inactivity should not therefore constitute consent.”

The key point is that all consent must be opt-in consent – there is no such thing as 'opt-out consent'. Failure to opt out is not consent. Explicit consent is not defined in the GDPR, but is not likely to be very different from the usual high standard of consent. All consent must involve a specific, informed and unambiguous indication of the individual's wishes. The key difference is likely to be that 'explicit' consent must be affirmed in a clear statement (whether oral or written). Any requests of consent that is vague, sweeping or difficult to understand, then it will be invalid.

Sentient specialise in making sure that the data you have is compliant and within the legislative guidelines. We help our clients with complete data support needs and also help obtain branded opt-ins for their specific products or services at a business level.

Sentient's mission is to ensure the successful evolution of the b2b information and in the face of fundamental challenges and dramatic change - supporting brands to confidently embrace the future through DATA & Technology.

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THANK YOU!

If you have any questions, please feel free to contact Sentient on info@yoursentient.com

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