



FAQS ON GDPR AND E-PRIVACY

SENTIENT - Your GDPR Compliant Partner



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ABOUT

Our mission is to continue to progressively foster fully researched data services, leveraging technology and skilled resources so that we may endeavor to solve and enable evolving b2b markets to thrive amidst of fundamental challenges to successfully embrace the future through DATA . Sentient with its committed leadership and team efforts is always prepared for future industry developments and changes so that we may endeavor for 100% customer satisfaction.

The GDPR a Regulation that applies systematically across the EU, our recommendations ought to evolve to take account of future guidelines issued by relevant European authorities, in addition our understanding of applying the law in practice from May 2018. We intend to keep this guidance under review and update it in light of relevant developments and stakeholder's feedback.

This FAQ are the most likely made inquiries in association with GDPR. However if you have any further questions at that point please get in touch with us at info@yoursentient.com

NEW B2B DATA COLLECTION(1/2)



Would we be able to gather/get new contact information for marketing purposes from the web? Or on the other hand would it be advisable for us to utilise old information held in our frameworks or database?

NEW PERSONAL DATA
OR CONTACT DATA
CAN BE COLLECTED
BY ORGANISATIONS
UNDER THE LEGITIMATE
INTEREST CLAUSE OF
THE 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.'

By definition under Article 4 - Definitions of Regulation EU 2016/679 (GDPR), **processing** includes the collection or obtaining of personal data:

'Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction'

Article 4 (2) - the definition of '**processing**' includes **collection**, which can be by automated means or directly from the subject.

NEW B2B DATA COLLECTION(2/2)



Is it necessary to obtain contact information directly from the contact? Are we only able to utilise the contact data / information in the event that it is given by the contact over website.

Not necessarily – the clauses/articles mentioned in the sections above support the collection and processing of personal data even if not obtained directly from the contact.

PERSONAL DATA CAN BE
COLLECTED AND
PROCESSED EVEN IF NOT
OBTAINED DIRECTLY FROM
THE CONTACT



Data collection

AUTOMATED ONLINE DATA GATHERING



Could machine learning or computerized programs be utilised to gather contact information from the web?

The definition of the term 'processing' (see Article 4 of GDPR EU 2016/679) clearly shows that data can be collected by automated means.

At Sentient, we use machine learning for data collection on some processes. However, when we do so we make sure that data collected is not used 'as is', and is further validated and augmented.



AUTOMATED
MEANS
CAN BE USED TO
COLLECT DATA

ASSENT (1/3)



Is consent a legal obligation for sending out marketing communications? Or consent is essential prior to any marketing communication?

CONSENT IS NOT
A MUST FOR
CONTACTING
PEOPLE –
ESPECIALLY FOR
B2B CONTACTS

Consent is only one of six lawful bases of processing, with another being *legitimate interest*.

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.

Currently, every member state has its own PECR which is based on ePrivacy Directive 2002/58/EU. There are plans for this to be replaced with a EU-wide ePrivacy Regulation, which is currently in draft proposal stage.

Until the new ePrivacy regulation is announced, GDPR will be used in relation with the existing country-specific PECR regulation. This means that any marketing communications you were able to send on an opt-out or soft opt-in basis before May 2018, you will still be able to send on an opt-out basis when GDPR comes into force.

Take for example the UK, where the current PECR is based on the ePrivacy Directive 2002/58/EU & states that different, and usually less strict, rules apply to b2b communication - people within a legal entity may be contacted for direct marketing purposes, but certain safeguards should be taken (see 'Email Marketing under PECR').

The Direct Marketing Communication guide by ICO (based on PECR) clearly shows that consent is not applicable for B2B communication. However, the individual within the business has the right to opt-out of such communications. It is therefore important when sending emails that the recipient should be given an option to opt-out in line with the requirements of the PECR and GDPR.

GDPR ARTICLE REFERENCES

Article 6 Point 1.(f)
Recital 47 of GDPR 2016/679 EU

SUPPORTING LINKS

Lawful basis for processing - consent
<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/consent/>

For more information visit: www.yoursentient.com

or contact us: EMAIL: info@yoursentient.com

TEL: +44 207 0622 257

ASSENT(2/3)



When sending out any marketing communication, do we need to contact with an option to opt-out from further communications?

Prior to marketing a product, event or service, it is good practice to inform the recipient or data subject of the details of the controller and why the person is being contacted, as well as provide an opt-in/out for future marketing communications.

However, this does not need to be sent as a separate email every time contact is made and can be combined with the actual marketing message.

Every email should include a link to a privacy notice that clearly states the details of the controller (*a representative of the controller or the contact person*) as well as any other relevant information that you need to supply to the individual under GDPR - see ICO guidance on the footnotes of this page for a quick overview of what information should be provided in privacy notices under GDPR.

Providing this privacy notice at the time of the first marketing communication will then be in accordance with the following GDPR Articles:

Article 14 - "Information to be provided where personal data have not been obtained from the data subject"

Article 12 - "Transparent Information, communication and modalities for the exercise of the rights of the data subject rights"
(Data subject rights are covered under Articles 15 through to Article 22)

PRIVACY NOTICES CAN BE INCLUDED WITH MARKETING COMMUNICATIONS AND DO NOT NEED TO BE SENT SEPERATELY

Can consent be applied for receiving communications across product or service to market other products or services by the organisation?

CONSENT ON NEW PRODUCTS / SERVICES CAN APPLY TO NEW PRODUCTS AND SERVICES IF THEY ARE SIMILAR TO THE ORIGINAL ITEM THAT GAINED CONSENT

GDPR does not explicitly discuss this point. However, Article 13: unsolicited Communication of the Directive 2002/58/EU (which is the basis of the Privacy and Communication Regulations in the UK) states that new products or services must be similar to the one that the customer originally purchased.

CONSENT - SUPPORTING LINKS

What are PECR?

<https://ico.org.uk/for-organisations/guide-to-pecr/what-are-pecr/>

Direct Marketing under PECR

<https://ico.org.uk/for-organisations/guide-to-pecr/electronic-and-telephone-marketing/>

The Conditions for Processing

<https://ico.org.uk/for-organisations/guide-to-data-protection/conditions-for-processing/>

Email Marketing under PECR

<https://ico.org.uk/for-organisations/guide-to-pecr/electronic-and-telephone-marketing/electronic-mail-marketing/>

Direct Marketing Guidance – page 38

<https://ico.org.uk/media/for-organisations/documents/1555/direct-marketing-guidance.pdf>

ICO Direct Marketing Checklist

<https://ico.org.uk/media/for-organisations/documents/1551/direct-marketing-checklist.pdf>

Conditions for Processing – Legitimate Interest

<https://ico.org.uk/for-organisations/guide-to-data-protection/conditions-for-processing/>

Blog clarifying the issue of consent in GDPR compliance

<https://iconewsblog.org.uk/2017/08/16/consent-is-not-the-silver-bullet-for-gdpr-compliance/>

10 things B2B marketers need to know about the GDPR and data protection

<https://dma.org.uk/article/10-things-b2b-marketers-need-to-know-about-the-gdpr-and-data-protection>

ICO – Marketing

<https://ico.org.uk/for-organisations/marketing/>

Direct Marketing under PECR(UK)

<https://ico.org.uk/for-organisations/guide-to-pecr/electronic-and-telephone-marketing/>

Right to be informed

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-be-informed/>

CONTACT - INFORMATION RETENTION

How long data be held for with businesses?
Is there a specified term for retaining data collected for a client?

There are no specific guidelines given in the GDPR or the ePrivacy Directive 2002/58/EU regarding data retention duration. *Recitation 64 of the GDPR 2016/679 EU* states that data should not be retained with the sole purpose of being able to react to potential requests.

The data protection principles on which GDPR is based clearly and emphatically state that it is important that data is not retained longer than is necessary.



GDPR ARTICLE REFERENCES

Recitation 64 GDPR EU 2016/679

SUPPORTING LINKS

<https://ico.org.uk/for-organisations/guide-to-data-protection/principle-5-retention/>

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or contact us: EMAIL: info@yoursentient.com

TEL: +44 207 0622 257

CONTACT - INFORMATION RE-USE



Can we continue to use collated contact details without being validated again?

Collected data cannot be re-used (*if it is not reasonably recent*) without validation. Sentient's recommendation is that data that is more than one or two years old is not used without re-verification or validation.

Article 5: 'Principles Relating to Processing of Personal Data' states that:

1. Personal data shall be:

- (a) processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
- (b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ; further processing for *archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes ('purpose limitation');*
- (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are in accurate, having regard to the *purposes for which they are processed, are erased or rectified without delay ('accuracy');*
- (e) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; *personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');* *accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')*

SENTIENTS RECOMMENDATION IS THAT DATA MORE THAN 1-2 YEARS OLD IS NOT USED WITHOUT RE-VERIFICATION

PECR/PRIVACY SHIELD

What is the PECR/ePrivacy regulation?
Does PECR override GDPR?

PECR stands for *Privacy and Electronic Communication Regulations*. Currently there is no standard EU PECR, with member states producing their own versions of the regulations (which by and large are similar to one another) based on ePrivacy Directive 2002/58/EU (which is referred to in GDPR).

THERE IS CURRENTLY NO COMMON EU PECR, BUT STANDARDISED REGULATIONS ARE IN PROGRESS

However, in the context of GDPR enforcement, the EU is also looking at a common Digital Single Marketing Strategy which would enforce standardised PECR across all member states of the EU (including the UK).

A draft proposal of the PECR was released in January 2017: <https://ec.europa.eu/digital-single-market/en/news/proposal-regulation-privacy-and-electronic-communications>





THANK YOU!

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