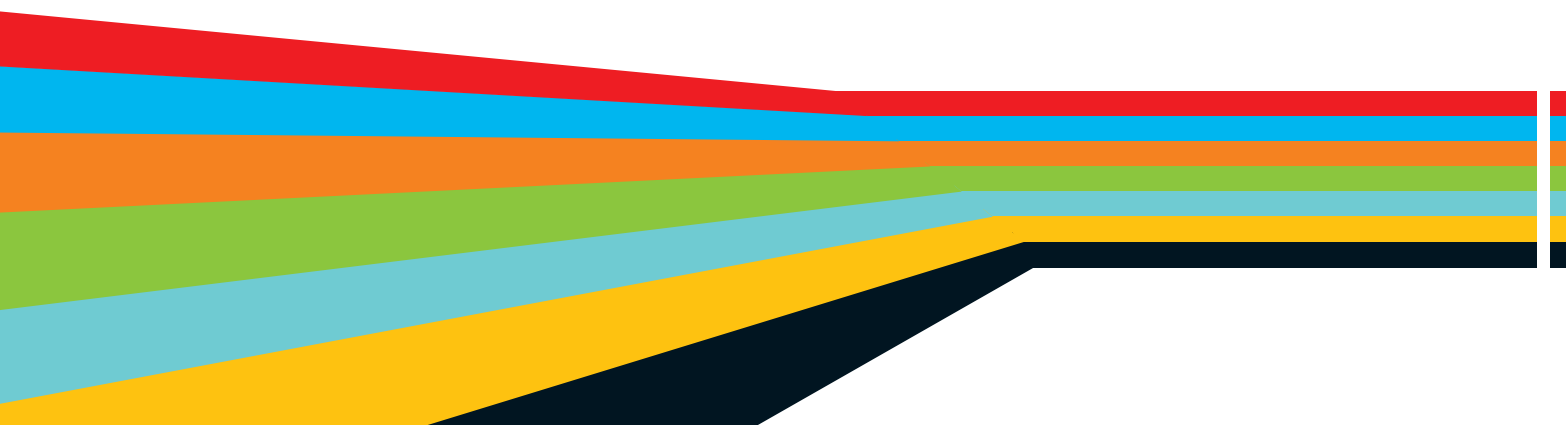




THE GDPR OPPORTUNITY WITH MAIL

THE KEY FACTS



INTRODUCTION

The General Data Protection Regulation (GDPR) has far-reaching implications for Royal Mail and its customers, however, we are optimistic that the new data laws will have a positive impact on relationships between organisations and consumers.

While this document does not impart any legal advice, it is designed to share some of the key points from the GDPR. It also highlights the important and unique role that mail will continue to play in driving business success in a GDPR world.

For more detailed guidance on the GDPR, please visit mailmen.co.uk/gdpr to download our full guide “The GDPR Opportunity With Mail”.

WHAT IS THE GDPR?

The GDPR becomes enforceable on 25th May 2018. It is intended to extend additional protection for individuals and their data, providing greater transparency and control over where their data is saved and used.

WHO DOES IT APPLY TO?

The new Regulation applies to ‘controllers’ and ‘processors’ of data. A ‘controller’ is responsible for how and why the data is processed, while the ‘processor’ is responsible for processing personal data on behalf of the controller. The GDPR applies to the processing of personal data carried out by organisations operating within the EU. It also applies to organisations outside the EU that offer goods or services to individuals in the EU.

Under the GDPR, fines could be a maximum of 4 per cent of group annual global turnover, or €20 million, whichever is greater. The Information Commissioner has blogged on the subject, saying “This law is not about fines. It’s about putting the consumer and citizen first.” She continues “Issuing fines has always been, and will continue to be, a last resort.”

CONSENT OR LEGITIMATE INTERESTS

To be GDPR compliant, the starting point for organisations is to identify which of the six legal bases for processing personal data they are using for each processing task. For marketing communications, this can often be a choice between the following two legal bases: **Consent or Legitimate Interests**.



CONSENT

CONSENT IS DEFINED AS:

“ Any freely given, specific, informed and **unambiguous** indication of the data subject’s wishes by which he or she, **by a statement or by a clear affirmative action**, signifies agreement to the processing of personal data relating to him or her. ”

THE ICO OUTLINES THAT CONSENT MUST BE:

Unbundled: Consent must be separate from other terms and conditions. Consent should not be a precondition of signing up to a service unless necessary for that service.

Active opt-in: Pre-ticked opt-in boxes are invalid, use unticked opt-in boxes or similar active opt-in methods with equal prominence.

Granular: Give granular options to consent separately to different types of processing where appropriate.

Named: Name your organisation and any third parties that will be relying on consent. Precisely defined categories of third-party organisations will not be acceptable.

Documented: Keep records to demonstrate what the individual has consented to, including what they were told, and when and how they consented.

Easy to withdraw: Tell people they have the right to withdraw their consent at any time, and how to do this. It must be as easy to withdraw as it was to give consent.

No imbalance in the relationship: Consent will not be freely given if there is imbalance in the relationship between the individual and the controller.

The Information Commissioner’s blog explains that consent is not the “silver bullet” and that organisations can consider other lawful bases. One of these is Legitimate Interests. If you can meet the conditions for a legitimate interest, you won’t need consent for postal marketing.

LEGITIMATE INTERESTS

Under GDPR, legitimate interests may apply where:

“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.”

The GDPR states the processing of personal data for direct marketing may be regarded as carried out for a legitimate interest.

The ICO adds:

“A wide range of interests may be legitimate interests. They can be your own interests or the interests of third parties, and commercial interests as well as wider societal benefits. They may be compelling or trivial, but trivial interests may be more easily overridden in the assessments.”

LEGITIMATE INTERESTS ASSESSMENT

The ICO has outlined that in order to use legitimate interests you need to apply the following 3 part assessment:

- 1 **PURPOSE TEST: ARE YOU PURSUING LEGITIMATE INTERESTS?**
- 2 **NECESSITY TEST: IS THE PROCESSING NECESSARY FOR THAT PURPOSE?**
- 3 **BALANCING TEST: DO THE INDIVIDUAL’S INTERESTS OVERRIDE THE LEGITIMATE INTERESTS?**

You must balance your interests against the individuals rights and freedoms. In particular, if they would not reasonably expect you to use data in that way, or it would cause them unwarranted harm, their interests are likely to override yours.

If you are relying on legitimate interests for direct marketing, the right to object is absolute and you must stop processing when someone objects. You must include details of your legitimate interests in your privacy notice.

THE GDPR OPPORTUNITY

New regulations can initially seem a little daunting, but the GDPR presents an opportunity to create relationships with customers and prospects that are more transparent and trust based. Something UK consumers have voiced they feel is lacking as shown in the ICO Annual Tracker 2016.

A BRAND DIFFERENTIATOR

The GDPR provides an opportunity for organisations to embrace data protection as a brand differentiator – a core value that engenders better, more trusting relationships with consumers. Something mail can help a great deal with.

MAIL COULD HELP YOU THRIVE IN A GDPR WORLD

Whilst the GDPR is good news for customers, it is going to force some change on marketers. As we all review our marketing choices, we'd like to suggest a number of ways that mail could help you ensure success in a GDPR world.

YOU WON'T NEED CONSENT FOR POSTAL MARKETING

If you can meet the conditions for legitimate interest then you won't need consent for postal marketing whereas you may need consent for some calls, texts and emails. Due to the challenges involved in gaining consent to GDPR standards, brands may have some customers they can only reach by mail.

BRANDS WILL HAVE FEWER REGULATORY UNKNOWNNS WITH MAIL

As mail is not in scope of Privacy and Electronic Communications Regulation (PECR) or the proposed e-Privacy Regulation - which has no clear timeframe for implementation yet – brands may have fewer regulatory unknownns when contacting customers by mail in comparison to electronic channels.

MAIL OFFERS HIGHER RESPONSE RATES THAN EMAIL

In a world where trust and frequency of communication are increasingly important, mail is welcomed by recipients and offers higher response rates than email*. Consumers recognise that mail takes more effort than email. So when it's used, it reassures them that companies recognise and value them.

IT'S EASY TO STAY IN TOUCH VIA MAIL

While people are more likely to have multiple email addresses, including ghost ones they do not check – people generally only have one residential address, and our home-mover data services make it possible to stay in touch if your customer moves.

DON'T FORGET THE POWER OF UNADDRESSED MAIL

Not everyone will grant consent via repermissioning. Door drops offer targeted services that are delivered with addressed mail that enables companies to re-engage audiences without using personal data.

WE CAN HELP KEEP YOUR DATA CLEAN AND ACCURATE

The GDPR makes organisations accountable for the accuracy of customer data. Royal Mail has GDPR-ready industry leading update and suppression files.

* US Data & Marketing Association Response Rate Report 2017

SOURCES OF FURTHER INFORMATION

Information Commissioner's Office (ICO) – www.ico.org.uk

Direct Marketing Association (DMA) – www.dma.org.uk

Data Protection Network (DPN) – www.dpnetwork.org.uk

Royal Mail can help and support every step of the way. We have a team of Media Specialists as well as Media and Data Planners to help you. And, we have lots of case studies, insight, tools and data planning support – all free of charge.

We also offer price incentives to invest more in mail – whether you are new to the channel or investing in a different use of it.

To discuss how we can help you, call us on **0800 014 2362** or visit royalmail.com/gdpr-mailwise.
For further insights about mail and useful tools visit mailmen.co.uk/gdpr