

GDPR navigating the new data Landscape

It's been over a year since GDPR was introduced. We remember the flood of "opt-in" emails and articles warning businesses of huge fines. Much of this was unnecessary and showed a lack of understanding of the regulation. And, it resulted in many of our hotel clients removing data that could be legitimately used for direct marketing purposes. I would like to share M&IT's (march '19 edition) letter from RefTEech's, Simon Clayton. Perhaps, we can now put our fears behind us and get on with building new business opportunities. It's Time To Move On!

Marriott data breach



It was sad to see a letter incorrectly stating that "the ICO must be rubbing its hands with joy over a possible fine". Despite all the publicity and education around GDPR and the efforts of the Information Commissioner's Office (ICO), people are still getting it wrong. I contacted the ICO to allow them to help me counter this claim.

Their response sums it up well: "Focusing on big fines makes for great headlines, but thinking that GDPR is about crippling financial punishment misses the point. Issuing fines has always been and will continue to be, a last resort.

"We always prefer collaboration to sanction. We will continue to encourage and reward those who engage with us to resolve issues and who can demonstrate strong accountability arrangements and data protection by design." I couldn't have said it better myself...

Simon Clayton, chief ideas officer, RefTech

DATA BY RGA, we're ready. But, have you adjusted to the new data environment and do you understand "Legitimate Interest?"

Do you ask your customers for permission before using their data or qualify them under "legitimate interest" processing? Do you go a step further and tell them what it will be used for? Is your Privacy Policy transparent and clear as to the use and operation of personal data in your control? Have you incorporated a [Privacy by Design](#) policy for all data in your control? If the answer to any – or all – of these questions is no, you could be in trouble if you haven't changed your ways in the new GDPR era.

You should already have an inventory of all the data lists. And, if your company is anything like some of the ones I have worked with over the years, it is likely to be very long one. This list includes – [Every Single Database](#). AND YES, that includes, every spreadsheet, .csv file, Filemaker Pro, Access, Salesforce file, etc., on every laptop, computer and server that contains "personal" data, and, don't forget to "tag" the origins of the data. Data management and data security is now of key concern and all the data stored and used by your organisation must be "secure" and managed efficiently.

Need to Know:

- Where the data is stored
- What data it contains (i.e. fields)
- How many records
- When it was created
- When it was last used
- Where it was sourced
- What is it used for
- Data Flow - Who uses the data

HELP IS AVAILABLE – [RGA DataLab](#)

RGA specialise in the meetings, events & hospitality industry. We have worked with organisations of all sizes, both in the UK and internationally, to support a wide range of data cleansing and enhancement requirements. We can quickly telephone contacts on your database to:

- Capture clear consent and relevance for your marketing communications
- Establish a robust audit trail around consent for compliance purposes
- Verify and validate existing email addresses and obtain opt-in consent
- Append new opted-in email addresses to contacts in your database
- Build new opted-in lists to match your specifications

In addition, we can carry out a full refresh of your data, validating and enhancing existing records (job title, role, responsibility, product interest) and profiling contacts to capture valuable insight to increase the relevance of future communications, by either electronic or postal marketing.

Marketing only to those individuals who are receptive to your offer will make your marketing communications more effective, increase conversion rates and ROI, and reduce customer churn. It is an opportunity to reactivate lapsed accounts, build a deeper understanding of customer interests and generate new business from your existing data assets.

GDPR at a Glance - Email marketing

The Privacy and Electronic Communications Regulations (PECR)

It is widely anticipated that PECR will be replaced by new e-Privacy Regulations

The only difference between B2C and B2B marketers now is in connection with email and text marketing to employees of corporate organisations. When dealing with sole traders or partnerships, the rules governing B2C marketing will apply to B2B marketers so the general position for email and sms will be that you will need opt-in consent. For telephone and direct mail, you need to offer an opt-out. The present understanding is that if you have had an existing email exchange with a prospect or customer this will be considered consent.

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. However, 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 communications 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.

- Clear and plain language must be used
- Consent must be freely given, informed, specific and unambiguous
- The individual must agree by a clear affirmative action
- Pre-ticked boxes or silence will not equal consent
- The right to object to marketing must be made clear

You won't need consent for Postal Marketing

- Quoting from the ICO website, “You won’t need consent for postal marketing but you will need consent for some calls and for texts and emails under PECR.” This means that brands may have some customers they can only reach by mail because mail is still subject to fewer regulations than electronic communications.
- Mail is recommended as the channel to use to get consent by the DMA. Some brands will choose to repermission some customer segments, and mail is well suited to this.

DATA BY RGA: YES, we’re ready for GDPR and following GDPR guidelines
<http://www.privacy-regulation.eu/en/recital-47-GDPR.htm> (see excerpt below)

- Processed under GDPR Legal Basis, a mixture of consent and legitimate interest
- Each contact on our database is telephoned circa 6 months to determine their interest and relevance in receiving direct marketing and research information from MiCE venues & services.
- Our research team in Oxfordshire speak directly to the named individual, colleague or a company representative (identified on our internal database) and explain the information gathered will only be provided to RGA’s network of Meeting and Event venues / suppliers.
- Our databases include the type of contact who provided the information and preferred delivery (post, email, telephone) for direct marketing communications
- Regular communication with our contacts enable us to immediately address changes
- The date we contacted the individual is logged on our internal database
- RGA data is provided on a 12-month usage licence. Together with, a data refresh facility, so, amendments can be made to the data annually
- Telephone numbers and company addresses included in our databases are those registered in the public domain
- RGA store and transport data in compliance with GDPR and Cyber Essentials guidelines.
- Click here to see our revised [Terms & Conditions and Privacy Policy](#)

RGA data is available for up to 12 months multi-channel use (single site/single brand), as a client prospecting tool for MiCE products and services. OPT-IN contacts collected during that time may remain on your system. However, in compliance with GDPR these contacts should be regularly updated. As we are updating our data circa 6 months, our [refresh facility](#) can help meet this requirement. Plus, providing you with amendments and additions to the data at regular intervals.

Confused about how and when GDPR Legitimate Interest should be used?

Hopefully, the outline below helps. Also, included is a “final statement” we strongly suggest all clients using RGA data include in their email despatch.

[Click to see DMA guidance from ICO:](#)

DMA example, “an IT software company could argue that IT Directors would reasonably expect to receive marketing emails relating IT software products. They are responsible for purchasing software products for their company and therefore have in interest in receiving offers about products that might create efficiencies.”

Therefore, using Legal Basis “Legitimate Interest” will allow the MiCE industry hotels, venues & services to continue direct marketing in the new GDPR landscape. As long as, marketing is directed towards potential buyers with an interest in receiving information about their services. RGA data is unique as we telephone each organisation to identify corporate, association and agency buyers of meetings industry products.

RGA example, “a hotel, venue, destination or service provider to the meetings industry could argue that organisers of conference, meeting and events in organisations, associations and event management agencies would reasonably expect to receive marketing emails about meetings industry

The new General Data Protection Regulation (GDPR) was passed in May 2016 and is enforceable on 25 May 2018. services. They are responsible for purchasing meeting industry products for their company and therefore have an interest in receiving offers about products/services that might create efficiencies."

RGA have produced a "final statement" and suggest all users of Data by RGA include this in any email despatch using RGA data:

(name of your organisation) make every attempt to ensure that you are receiving this information as a meetings industry professional organising conferences, meetings and events and we are providing you with relevant direct marketing information under the GDPR processing basis of Legitimate Interest. We respect your right to privacy but should your preferences have changed and you do not wish to receive future information please let us know by clicking the opt-out link below."

[Click here to download sample of Legitimate Interest Assessment form from ICO](#)

Latest [guidance from the Information Commissioner](#) says that legitimate interests may be the most appropriate basis when:

"the processing is not required by law but is of a clear benefit to you or others; there's a limited privacy impact on the individual; the individual should reasonably expect you to use their data in that way; and you cannot, or do not want to, give the individual full upfront control (i.e. consent) or bother them with disruptive consent requests when they are unlikely to object to the processing."

GDPR may be onerous but it's not all bad news. In fact, it presents an opportunity to transform your relationship with your clients. It just calls for a new approach and a new way of thinking. In the longer term the GDPR presents a great opportunity to get your data in shape and communicate more closely, strengthening trust and engagement with clients.

Gwyneth Gibbons, Managing Director – 01993 835240

Recital 47

EU GDPR

(47) The legitimate interests of a controller, including those of a controller to which the personal data may be disclosed, or of a third party, may provide a legal basis for processing, provided that the interests or the fundamental rights and freedoms of the data subject are not overriding, taking into consideration the reasonable expectations of data subjects based on their relationship with the controller.

Such legitimate interest could exist for example where there is a relevant and appropriate relationship between the data subject and the controller in situations such as where the data subject is a client or in the service of the controller.

At any rate the existence of a legitimate interest would need careful assessment including whether a data subject can reasonably expect at the time and in the context of the collection of the personal data that processing for that purpose may take place.

The interests and fundamental rights of the data subject could in particular override the interest of the data controller where personal data are processed in circumstances where data subjects do not reasonably expect further processing.

Given that it is for the legislator to provide by law for the legal basis for public authorities to process personal data, that legal basis should not apply to the processing by public authorities in the performance of their tasks.

The processing of personal data strictly necessary for the purposes of preventing fraud also constitutes a legitimate interest of the data controller concerned.

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

This page can also be addressed <http://www.privacy-regulation.eu/en/r47.htm>.