

Hands-on Guide to “Marketing and Consent” (GDPR/PECR)

What is it?

Your marketing emails and texts not only have to comply with data protection laws (GDPR), but also the ones around electronic marketing known as the **Privacy and Electronic Communications Regulations (PECR)**.

Processing of personal data is lawful only if, and to the extent that, it is permitted under EU data protection law. Each and every data processing activity requires a legal basis.

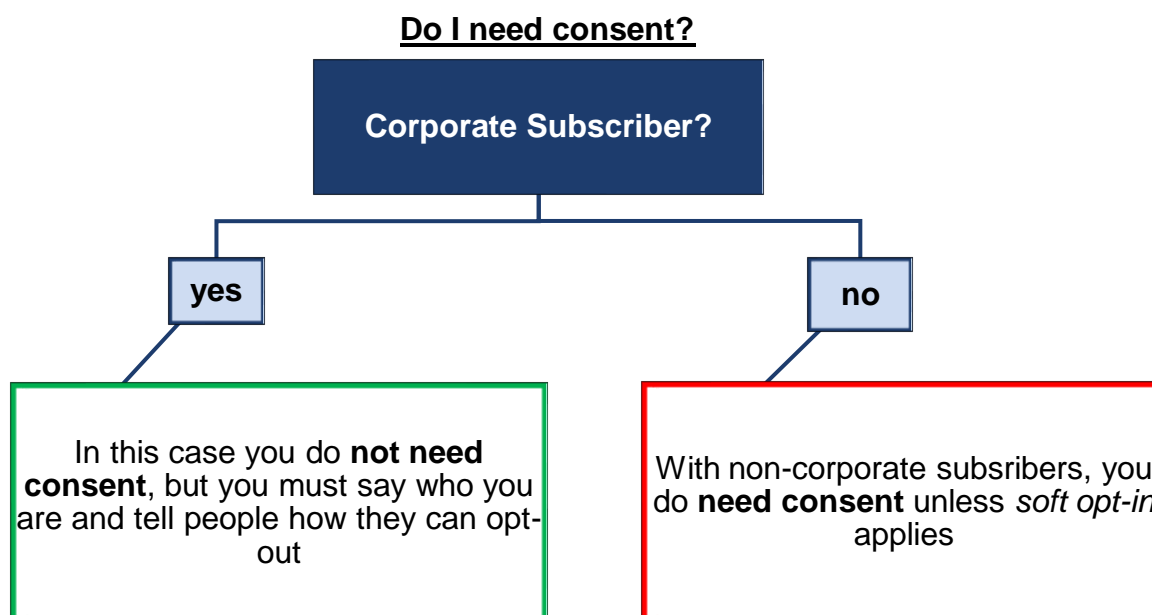
Consent provides a legal basis.

What do I need to do?

For consent to be valid, you must make it very clear to people exactly what they’re consenting to.

You also need to make it so they take ‘affirmative action’ – or, in other words, actively take a step to give you their consent. You can’t use pre-ticked opt-in boxes for this reason, and they’re specifically banned.

Rules about sending electronic marketing are different for **Corporate Subscribers** and **Non-corporate Subscribers**.



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What happens if I do not follow the guidance?

The fines for violating the GDPR can be very high. The higher maximum amount is **€20 million** or **4% of total annual global turnover** (whichever is higher), plus *data subjects* have the right to seek compensation for damages.



Conclusions

If you want to send some marketing to your customers by email or text, you will probably need their consent in addition to your lawful basis. Conforming to GDPR and PECR is not only a requirement under law, but is also evidence of good practice and bodes well for future customer engagement

Remember, as an NMDA member you have access to our dedicated legal helpline, as well as a number of industry experts for your assistance. Should you require further information in respect of the article above, contact the legal advice line at any stage for advice and assistance as appropriate.



Helpful terms

Direct marketing – “Marketing messages aimed directly at someone, rather than a mass marketing appeal such as a flyer in a magazine.”

Subscriber – “A subscriber is someone who is subscribed to a product, service, or organization”

Corporate subscribers – “Limited companies and limited liability partnerships.”

Non-corporate subscribers – “Private individuals, sole traders, and some partnerships.”

Soft-opt in – “Where an organisation sends marketing messages using customer data they gathered when that customer has bought or expressed interest in their product or services. Customers must have a chance to opt-out at the time that you collect their data and any time after that.”



The Full Terms and Guidance

NMDA has further guidance and case studies available online. If you have any questions regarding marketing Consent or would like to suggest further topics for these operational guides, please contact our dedicated member helpline on **01788 538303**.