



GDPR RULES FOR EMAIL MARKETING

SUMMARY

2021-03-29

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This guide is made in the Digital Marketing workstream 2020 and intended as a basic guideline to support marketing activities to different stakeholders on our main markets, with regards to the GDPR legislation.

The guide is developed based on, at the time, known local marketing activities and in collaboration with Cargotec legal dept.

Note that this guide is intended as a summary for gaining a quick understanding of what we can and can not do.

Please see detailed legal information for each market if you are uncertain how to interpret the information, or contact Cargotec legal dept.

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WHAT IS GDPR AND WHY IS IT IMPORTANT

The **General Data Protection Regulation** (EU) 2016/679 (**GDPR**) is a regulation in EU law on data protection and privacy in the European Union (EU) and the European Economic Area (EEA). It also addresses the transfer of personal data outside the EU and EEA areas. The GDPR's primary aim is to give individuals control over their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU

Controllers and processors of personal data must put in place *appropriate technical and organizational measures* to implement the data protection principles. Business processes that handle personal data must be designed and built with consideration of the principles and provide safeguards to protect data (for example, using pseudonymization or full anonymization where appropriate). Data controllers must design information systems with privacy in mind. For instance, using the highest-possible privacy settings by default, so that the datasets are not publicly available by default and cannot be used to identify a subject. No personal data may be processed unless this processing is done under one of the six lawful bases specified by the regulation (consent, contract, public task, vital interest, legitimate interest or legal requirement). When the processing is based on consent the data subject has the right to revoke it at any time.

The GDPR was adopted on 14 April 2016, and became enforceable beginning 25 May 2018. As the GDPR is a regulation, not a directive, it is directly binding and applicable, but does provide flexibility for certain aspects of the regulation to be adjusted by individual member states.

Source: wikipedia

GENERAL REQUIREMENTS FOR ALL MARKETS

- If a recipient has declared their objection to receiving commercial communication, the sender should ensure that this person **no longer receives such advertising in the future**. The recipient may receive advertising again only once some prerequisites are met (e.g. consent to receiving advertising content has been given again)
- When sending marketing by email, organisations must always **indicate a valid address to which the recipients may send a request to cease the marketing**.

DEFINITION OF RELATIONSHIP

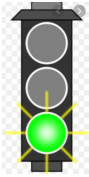
Established relationship

1. The sales is done directly via Hiab sales to the end customer
2. Hiab has received the contact details directly from the prospect / end customers together with an approval of use for marketing purpose
3. Prospect / End customer filled in contact form and opt-in to receive sales and marketing related information
4. End customer register the equipment in the system [SAP/FSM] by himself and accepting the terms and conditions

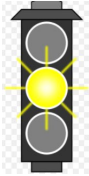
Non established relationship

1. The end customer data from the delivery card [SAP/FSM] has been registered by the dealer on behalf of the customer, we can't claim that we have an established relationship with the customer. The established relationship is between the dealer and end customer.

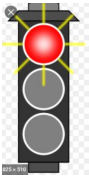
EXPLANATION FOR THE TRAFFIC LIGHTS



Indicates that in principle it's fine to go ahead with the mailing without a prior consent from the selected target audience (individual recipients), regardless if there is an established or not established relationship. Always check additional requirements for each market.



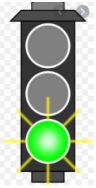
Indicates that it's possible to make a mailing to a selected target audience, but there are specific conditions that need to be checked / fulfilled before any mailing. See detailed Google sheet <https://docs.google.com/spreadsheets/d/19N1SzicYXyeHB00YqmipHZpQ75Lq-wyKxT51VQt0sFw/edit#gid=157964901>



Indicates that several conditions must to be fulfilled before any mailing, regardless if there is an established or not established relationship. See detailed Google sheet

<https://docs.google.com/spreadsheets/d/19N1SzicYXyeHB00YqmipHZpQ75Lq-wyKxT51VQt0sFw/edit#gid=157964901>

SWEDEN



Established relationship

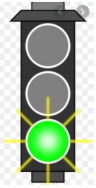
- An email that is sent to an address that is **clearly linked to a company** must be considered to be aimed at companies. The same applies where a **person is contacted in his/her professional role**. In such cases, active consent from the company or person is not required, as long as the personal message is relevant to the recipient's professional role
- Moreover, each email message should **offer the recipient an opportunity to refuse** further emails from the sender through an **unsubscribe link clearly** visible within the email

Non established relationship

- If there is no established customer relationship, organisations sending an email to a company or person contacted in relation to his/her career **must state the source of the address**. The message must **contain the name of the company and its address from which the message originated**, as well as **an address or telephone number** so that the recipient can contact the source

Additional requirements

- When sending marketing by email, organisations must **always indicate a valid address to which the recipients may send a request to cease the marketing**.



FINLAND

Established relationship

- Direct marketing to legal persons is **allowed if the recipient has not specifically prohibited it**. Any legal person shall be allowed the opportunity to prohibit, easily and at no separate charge, the use of its contact information in connection with any email sent in direct marketing.

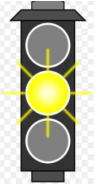
Non established relationship

- Electronic direct marketing can **only be targeted at persons who have given their prior consent** to such marketing. Because no customer relationship yet exists in the case of potential customers, consent to electronic direct marketing is required.
- An individual employee has **the right to object to the receipt of electronic direct marketing**. With regard to each direct marketing message, there must always be the opportunity, easily and free of charge, to object to the use of the contact information.

Additional requirements

- When sending marketing by email, organisations must **always indicate a valid address to which the recipients may send a request to cease the marketing**.

UK



Established relationship

- The contact details of the recipient is obtain **in the course of the sale or negotiation for the sale** of a product or service to that recipient;
- The direct marketing **relates to similar products and services** only
- The recipient is **given a simple means to refuse** (free of charge, except for the costs of the transmission of the refusal) the use of his/her contact details for the purposes of direct marketing, both at the time the details were initially collected
- And for each subsequent communication.

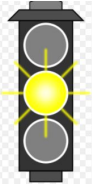
Non established relationship

- **Not required to obtain the prior consent** of the recipients when sending marketing messages to '**corporate subscribers**' = company address (not individual email) contact@, info@
- Requires prior consent when sending to an **individual email address** if relationship is not established. This also include sole traders

Additional requirements

- If a **recipient has declared their objection to receiving commercial communication**, the sender should ensure that this person **no longer receives such advertising in the future**. The recipient may receive advertising again only once some prerequisites are met (e.g. consent to receiving advertising content has been given again)

GERMANY



Established relationship

- Allowed if the company has obtained the customer's email address in connection with the sale of goods or services directly from them and the entity sending the marketing is the same legal entity that collected the recipient's details initially
- Allowed to do direct advertising of **its own similar goods or services** if the customer has not objected to this use and
- Customer has been **clearly and unequivocally advised, when the address is collected and each time it is used**, that they can object to such use at any time, without costs arising by virtue thereof, other than transmission costs pursuant to the basic rates.

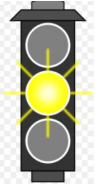
Non established relationship

- Emails for advertising purposes only with the recipient's consent. Such consent must be verified through a double opt-in method, under which the recipient ticks a box online and receives a verification email, which ensures that the recipient has actually given their consent.

Additional requirements

- If a recipient has declared their objection to receiving commercial communication, the sender should ensure that this person **no longer receives such advertising in the future**. The recipient may receive advertising again only once some prerequisites are met (e.g. consent to receiving advertising content has been given again).

FRANCE

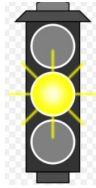


Established relationship

- With regard to **professional addresses of employees** (i.e. nameoftheemployee@nameofthecompany.fr), it is possible to send marketing emails on the condition that **the recipient was informed at the time of the collection of their details that his/her email address would be used for marketing purposes** and was given the opportunity to **opt-out in a free and simple way**.
 - Furthermore, the subject of the email must also **relate to the profession of the person** being solicited. For example, sending an email about software to an IT manager is acceptable without his prior consent. However, if the marketing is not related to the employee's profession, the opt-in rule applies
- With regard to **already existing customer relationship and the message concerns products or services similar to those already provided to the customer**, it is possible to send marketing emails on the condition that the **recipient was informed at the time of the collection of their details that his/her email address would be used for marketing purposes** and was given the opportunity to opt-out free of charge on each occasion an email was sent

Non established relationship

- Marketing emails sent to generic email addresses of legal entities (i.e. contact@nameofthecompany.com) are not subject to the principles of prior consent and to the right to object



THE NETHERLANDS

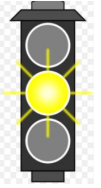
Established relationship

- **No prior consent is required** for e-marketing if the recipient is a legal entity or a natural person (name.name(at)company.com) **acting in the exercise of its/his profession or business**, and if the sender, when transmitting the communication, makes use of an email address that the **legal entity or natural person has consciously provided for this purpose**
- The recipient **must have the opportunity to opt-out** at least for the label, product or service for which the email was compiled. Opt-out may refer to several or all labels, products or services.

Non established relationship

- As a general rule, the same rules apply to business to business ('B2B') marketing as with B2C, which require organisations to **obtain the prior consent of the recipient** when sending a marketing message to a legal person. **Organisations are required to obtain the prior consent** of the recipient when sending a marketing message to a natural person, such as an employee.

ITALY



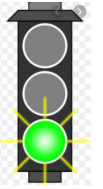
Established relationship

- **Consent is not required** for email marketing purposes where the following conditions apply: **there is an existing customer relationship**. The data controller must have obtained individuals' contact details in the context of the sale of a product or service; the marketing is carried out for similar products and services. Marketing messages must only concern the data controller's own similar products or services; and
- the individual is **given the opportunity to opt-out**. The individual must be given **the possibility to object** to the processing of his personal data at any time, using simple means and free of charge, both at the time of collecting the personal data and with any subsequent future communication.

Non established relationship

- In regulating B2B relations, organisations are required to **obtain the prior consent** of business recipients before sending marketing messages. In addition, it is **unlawful to ask recipients to consent to receiving marketing messages on the occasion of the first commercial communication**, or to only inform him/her about the right to oppose to further communications

USA



Non established relationship / Established relationship

- Organisations are not required to obtain the prior consent of the recipients before sending them marketing messages

Additional requirements

- However, they cannot contact recipients who have expressed that they do not want to receive marketing messages.

BUILT TO PERFORM



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