



GOOD B2B EMAIL MARKETING PRACTICE 2018

This guidance assembles good practices and ground rules for email marketing to companies; so-called b2b email marketing. This guidance has been prepared by the Data & Marketing Association of Finland (Asiakkuusmarkkinointiliitto, ASML, www.asml.fi). ASML offers its member companies supplementary counselling as membership service.

1. OF LEGISLATION AND RESPONSIBILITIES

Basic division for legislation:

- EU's General Data Protection Regulation concerns the processing of b2b **personal data**; among others, collection and processing of data, creation of target groups, transfer and disclosure of data, etc.
- Act on Electronic Communications Services (previously Information Society Code) and its Chapter 24 regulates as a special enactment the **sending** of electronic **direct marketing** being subject to prohibition and permit; in the future, these will be subject to the ePrivacy regulation in preparation in the European Union.

A company engaging in marketing is always responsible for the different parts of its entire email marketing, such as informing, management of permits and prohibitions, and the content of messages, irrespective of whether a part of the operations is conducted by subcontractors or as purchased services. As regards the service provider contracts, it is important to take into account the obligations of Article 28 of the General Data Protection Regulation. If personal data are transferred outside the EU/EEA area, the adequate level of data protection must be ensured by using approved practices; for example, model contract clauses of the EU Commission.

The entirety and lifecycle of personal data processing related to email marketing must naturally be organised in compliance with the obligations of GDPR and other relevant legislation, whether it concerns the enrichment of leads, extraction of target groups or deletion of data.

2. TO WHOM CAN BE SENT AND ON WHAT GROUNDS

The grounds for sending b2b email marketing can be divided into three basic groups mentioned below. The email transmission service can be a separate service or it can be included in the company's marketing automation, CRM service or other service. For all of these it is important to note that the terms and conditions of contract of the service supplier may contain restrictions which may differ from the framework set by national or EU's legislation. It is also beneficial for the company to master practices relating to email filtering and turn-round outside the legislation, such as so-called sender score.

Within the framework of legislation, a company can collect b2b email addresses directly from the persons themselves, or it can acquire them from other sources within the limits of the law. If the company acquires or updates contact data from a third party, it is preferable for the company to make sure about the data acquisition method, timeliness, quality, updating cycle and method, etc. The collection and processing of email addresses can be based on

- specific, separate, express permit
- legitimate interest referred to in GDPR, Article 6 1.f; for example, relating to a content product downloadable from a website
- customer contract, membership or respective relationship

In all above-mentioned cases, the data controller needs to inform the data subject about data collection and data processing in accordance with GDPR. Make sure that you will get to your systems adequate log data or respective data relating to these grounds of origin so that you can prove your processing and transmission rights.

Grounds for b2b email marketing

1. The most common grounds for sending electronic b2b marketing is a separate consent, such as a traditional newsletter subscription. When requesting the permit, it should be specified to whom and for what purpose the permit is given.
2. A valid customer relationship gives the company an opportunity to send b2b customer marketing by email to its corporate customers. In this case, attention should be paid to that the customer contract in question is in force and that the doing is genuinely connected to the customer, membership or other respective grounds.
3. The company can, in a limited manner, send b2b email marketing without consent, pursuant to national legislation, based on the recipient's authorisation on the basis of the position or if the recipient operates on behalf of the company in a task, to which the marketed goods or services are related. However, the company needs to provide an opt-out option.

The company must thus not conduct b2b email marketing by sending mass transmissions to work email addresses without permit, customer relationship or connection of the marketed commodities to the recipient's work tasks or sphere of responsibility required by legislation.

3. MARKETED COMMODITIES AND SENDER

A commodity marketed with B2B email marketing must be a so-called b2b product or service, which the company also otherwise offers to companies and their employees to be used in business. Marketing can also be something else than direct marketing of the company's products in email. It can be, for example, an invitation to participate in an event organised by the company or a request to take part in a competition or lottery arranged by the company.

A company cannot use a list intended for b2b email marketing for consumer marketing. If the customer relationship is both of consumer and corporate type, this should become apparent already e.g. in the informing pursuant to GDPR.

Identify

- what is marketing
- what is customer communications within corporate customer relationships (inform also this at the beginning of the customer relationship)
- what is other type of communication (e.g. an invitation to participate in an annual decision-maker survey)

Do not disguise marketing into some other kind of doing. Marketing must be identifiable as marketing at a first glance. The company engaging in marketing should always become apparent from the sender information of the message or from the message itself, at the latest.

According to law, it is prohibited to send such email marketing, in which the sender party is concealed or hidden, and which does not contain a valid address to which a request to opt-out from marketing can be sent.

4. RIGHT TO PROHIBIT AND CANCEL

The recipient must be able to easily prohibit or cancel a previously given consent by means of a link in the message or by replying to the message. Basically, a company needs to accept other ways to opt-out than sent via email. Prohibitions and consent cancellations must be taken into consideration without delay. The

company sending the message is responsible for providing the opt-out option, even if a subcontractor were used.

Careful management of prohibition and transmission analytics is essentially important. Created processing rules must be complied with so that appropriate actions are made without delay and regularly made to the list; for example, an obsolete, inactive or passive address is deleted from the list. This is often done by the service supplier and, before commencing the cooperation, the company should first review the service supplier's so-called bounce policy and other respective elements.

5. OTHER

If, for technical or other reasons, it is not possible to send back a reply message to the transmission address, the arriving message should then contain contact information by means of which the recipient can easily contact the company sending the message.

Even though GDPR does not expressly regulate a so-called address source entry, it is preferable to use it or some other distinct informing method which tells the recipient why they are receiving the marketing message. General information or just the company's name does not sufficiently identify the data source. If messages are only sent to existing customers, the message content or its other elements can disclose the customer nature of the message.

Keep the company's or corporation's Business ID and link to the privacy policy in the so-called footer or otherwise as a permanent part of marketing emails, likewise a link to the privacy policy.