



New GDPR from May 2018:

Operate legally compliant email marketing
and exploit additional opportunities

General information

The new EU General Data Protection Regulation (GDPR) comes into force on 25 May 2018.

This will offer a number of opportunities for success in your email marketing, but will also involve some changes.

Please be aware that if you already operate legally compliant email marketing, you will not need to make any major adjustments.

In the main, the current requirements imposed on email marketing will be supplemented by new provisions.

Objectives of the new General Data Protection Regulation include:

- Create uniform standards in all EU states.
- Give individuals more control over their data.
- Simplify data protection legislation within Europe.

The requirements will also apply in future within the scope of the ECO/CSA association guidelines, and are currently being incorporated.

The following provides an overview of how you can continue to implement email campaigns in line with legal requirements after 25 May 2018 using Inxmail's email marketing solutions.

You can use the time before the new GDPR comes into force to prepare: Take a little time to read through this summary and ask your data protection officer and/or legal affairs officer for information.

Inxmail products and the GDPR

At Inxmail, we have taken all the necessary measures to ensure that we comply with the legal requirements before the GDPR comes into force in May 2018.

All aspects that concern the further processing of data under contract have **already** been implemented. Our contract data processing (CDP) **already** complies with the new General Data Protection Regulation (GDPR), even though it has not yet officially come into force.

We have already introduced the necessary steps in the areas of product development, data protection and communication.

Important requirements, for example, relating to the revocation option for person-related link tracking, are currently being implemented.

Personalisation and data protection

Personalisation provides an important basis for purchasing decisions and customer loyalty. At the same time, customers are increasingly focussing on data protection. The GDPR provides an opportunity to harmonise these important requirements more fully using targeted marketing.

The GDPR opens up new ways to address your target groups and generate qualified leads. Customers who have expressly agreed to the use of their data will have a great interest in your products.

Seize this opportunity to achieve greater customer retention and a better customer experience.

Processes and documents

To adapt your email marketing to the requirements, please check the following points in particular:

- Documentation of data processing operations in your company
- Data privacy statements
- Declarations of consent (subscription process with all necessary information)
- Processes for revocation of consent, age verification and duty of disclosure

Consent and stricter prohibition of coupling

From May 2018, you will need to obtain an active consent for each intended use. This consent must be voluntary, specific, informed and clear.

For example: You collect the email address of your customer in order to allow the download of documents, such as a whitepaper.

If you also want to use this data to send marketing emails, you will also need to obtain the active, voluntary and express consent of the customer for this intended use.

The GDPR also strengthens the prohibition of coupling here by stating that the request for personal data should be restricted to the data that is absolutely necessary for fulfilment of the contract (in this example, this is the download of a document). For additional services, the user must be given a free choice.

You should therefore check in each individual case (for example, for a newsletter subscription) which details are necessary and restrict these to a minimum. For additional data and intended uses that are not necessary to fulfil the contract, you can provide optional items that are clearly identified as voluntary information or optional selections.

Person-related, anonymised tracking

You may also continue to use person-related or anonymised tracking. It is important that the recipient must always have the option to switch from person-related to anonymised tracking.

This is implemented in Inxmail's product solutions in such a way that it has no effect on the statistical analyses – no matter which type of tracking is activated for each recipient. When a recipient opts for anonymised tracking, it is not possible to see which links the recipient has clicked.

Pseudonymisation

The GDPR defines pseudonymisation as 'the processing of personal data in such a way that the personal data can no longer be attributed to a specific data subject without the use of additional information'. This helps to improve data protection. Important, please note: Data that can be directly attributed to a specific person should be saved separately from processed data.

When data cannot be attributed to a specific person, it is also not necessary to offer options concerning the correction, erasure or disclosure of information.

Pseudonymisation can offer a good way to strike a balance between continuing to use specific data and complying with the rigorous data protection requirements at the same time.

Age verification

The GDPR stipulates that the personal data of children under 16 years of age cannot, or more specifically, can only be processed with the consent of the parents. You should consider how you can integrate age verification into your subscription process. As things stand at present, you can also solve this using text, for example, as follows: 'By subscribing, I confirm that I am over 16...'.

Subscription and unsubscription process – revocation of tracking

In future, you must make the different purposes of data processing clear to the recipient. You will also need to obtain consent for each purpose as well as document this. This applies to the subscription process as well as the unsubscription process.

This means that a recipient can revoke their consent given for tracking but still subscribe to your newsletter.

Subscription process

Specifically, this means, for example, that you must implement the consent to receive your newsletter and consent to personalised tracking separately in your newsletter subscription form.

This consent must be documented and comprehensive information requirements must be fulfilled when the data is collected (for example, purpose of use, person responsible, contact details, data protection officer, revocability, right of appeal, legal basis for collecting the data...).

For this purpose, you may need to adapt your subscription page or subscription form accordingly to allow the differentiated, active consent options and fulfil the specifications from the obligation to provide information.

Furthermore, you should also check to see in which systems the subscription data is entered and saved.

Unsubscription process

Offer the recipient the same options as in the subscription process: For example, you can use a profile management and/or unsubscription page to offer the recipient a differentiated unsubscription for each intended use and an overview of the data that is saved for them.

Link parameters

Link parameters are often used in online shops as part of personalisation.

The GDPR applies here too: For example, do you add parameters for personalisation to a link in your newsletter with the aim of passing the email address or name of the user on to an online shop?

If so, you process personal data as part of the process initiated by the user when they click. This use with the purpose of entering into a contract and/or fulfilling any resulting obligations and/or orders is permitted by the GDPR.

Important, please note: The ePrivacy regulations that supplement the GDPR regard the browser as an insecure third system. To improve data protection when link parameters are used, Inxmail will encrypt the parameters in future when they are passed to third systems, provided the respective target system allows this.

Duty of disclosure

The recipient has the right to know what personal data has been saved about them by the service provider. In addition, this data must be available to the recipient in a structured and standard technical format.

It might be useful to offer an option on the profile management page or simply a page with information that allows the recipient to view and retrieve their data.

Right to erasure (duty to notify when data is disclosed to third parties)

Make sure to document the following:

- Which personal data your company processes
- Where the data comes from
- And, if applicable, the third parties to whom you disclose the data

Please also check your company's deletion procedure to ensure that data can be located quickly and deleted in the event of a delete request.

Conclusion

The GDPR develops German and European data protection legislation further, based in particular on the Data Protection Directive. This applies particularly to the principles of data processing and data protection.

Companies must adapt their data processing operations in preparation for when the GDPR comes into force and should analyse the adjustments that are required in detail and adopt the necessary measures.

As your customers will have more control over how their data is used, there is an opportunity to strengthen customer retention, customer experience and customer proximity. Qualified data can help you generate active sales opportunities.

With Inxmail, you have a reliable partner that can support you in meeting all the requirements placed on your email marketing by the GDPR. We will work with you and help you implement the GDPR requirements in connection with the use of our Inxmail solutions.

Legal note

Inxmail GmbH assumes no liability for the correctness, completeness and topicality of the information provided in this document. In particular, the information is also general in nature and does not constitute legal advice in any individual case. To solve specific legal cases and questions, please make sure you consult a lawyer.

Interested?

Would you like to maximise the success of your email marketing campaigns? We look forward to hearing from you!

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