



# What Happens Now?

Changes in Marketing Laws after  
Brexit



## GDPR: What Will It Change?

Despite voting to leave the EU at the referendum in June the General Data Protection Regulations (GDPR) are likely to have a significant impact on UK business. An impact that cannot be ignored.

In short the general school of thought believes that, despite leaving the EU, if Britain wishes to continue to trade we must adhere to largely the same data protection regulations as the remaining EU member states.

This is a much larger shake up than the Data Protection Act of 1998, it is Europe wide and if you store, manage, use, collate or maintain 'Personal Information' will affect your business.

The key terminology here is 'Personal Information' – it is also the phrase that has caused most uncertainty with the interpretation of the legislation. It's about as clear as mud.

Hard-line interpretations state that personal information includes anything from a collection of IP addresses and the utilisation of cookies, through to archived HR records and even anonymised survey results.

By contrast more liberal interpretations would only include where an individual, and only when communicated to as a consumer, can be identified by the information they disclose.

The likely outcome here is believed to be somewhat more hardline probably due to the EU legislative authors being from countries who already have significantly tighter data protection laws than the UK.

# What Does This Mean for Marketers?

In direct marketing terms this means there is likely to be a shift towards 1st party opt-in on both B2B and B2C direct marketing activity.

Again this is where a common misconception with data is important to clarify. There are two types of opt-in; 1st Part Opt-in and 3rd Party Opt-in. 1st Party opt-in refers to when an individual/ company contact has explicitly said yes to receive more information from a particular company or brand.

For example, when making a purchase online through John Lewis you may opt-in to receive their marketing information/ offers. This type of opt-in would be OK under the proposed regulations as the individual has specifically opted in to receive more information from that company/ brand.

3rd Party opt-in refers to where an individual or company has been asked if they are happy to receive information from 3rd parties e.g. Compare the Market will gather your details and opt-in to sell on your information to other companies.

This is where you're likely see the tick box using the phrase "carefully selected partners".

De facto the overwhelming majority of consumer data is 3rd party opted in and business data is collated and used on an opt-out basis as is the current legal requirement.

A shift towards requiring businesses that wish to conduct direct marketing to only do so on a 1st party opt-in basis will have extremely significant consequences on the industry.

*"The general school of thought believes that, despite leaving the EU, if Britain wishes to continue to trade we must adhere to largely the same data protection regulations as the remaining EU member states."*

A woman with short, layered blonde hair is smiling warmly at the camera. She is wearing a black top with a patterned neckline and a delicate necklace. She is seated at a light-colored wooden desk. In front of her is a black laptop with the 'Lenovo' logo visible on the lid. To the right of the laptop, there is a white notebook, a black pen holder containing several colorful pens, and a grey calculator. A white mug is partially visible in the foreground. The background is a softly blurred office environment.

The time to act is now. Invest in purchasing legal, compliant and ethically sourced data and achieve your own 1st party opt-in list that will be fully compliant for when GDPR does take effect.

# What Has Been Done So Far?

List owners and data aggregators have already begun to achieve 1st party opt-in's on their databases as the vast bulk of these will currently only be on a 3rd party level – as per the current legislative requirement.

It is impractical and commercially not viable for these list owners to 1st party opt-in each individual list for each individual client.

Data aggregators and list owners will therefore still offer email and data services however this will be predominantly via managed ('souls') email broadcasts and non-named data for postal and telemarketing.

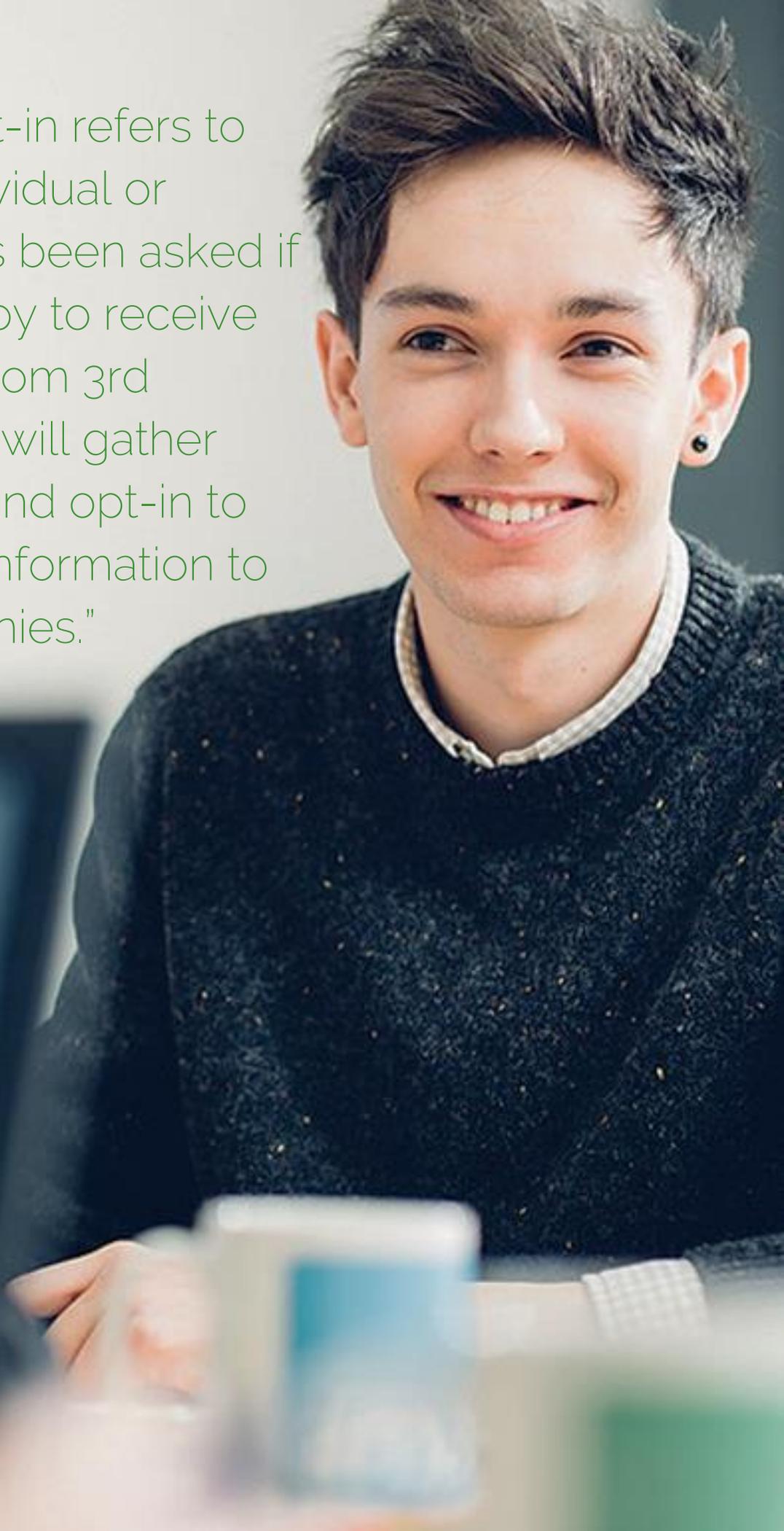
Via email this would allow the data owner to broadcast your message to their 1st party opted-in email list thereby achieving legal compliance.

In anticipation of GDPR taking affect many consumer data list owners have already moved towards this practice of not releasing data to an end user and prefer to run managed email broadcasts.

This is likely therefore to cause an increased cost of direct marketing activity due to short term increased investment in achieving 1st party opt-in and a longer term requirement for increased investment in administration – in short, prices will rise.

“1st Party opt-in refers to when an individual or company contact has explicitly said yes to receive more information from a particular company or brand.”

"3rd Party opt-in refers to when an individual or company has been asked if they are happy to receive information from 3rd parties. They will gather your details and opt-in to sell on your information to other companies."



# What Create Customers Recommends

The legislation is unlikely to take effect for another 18 months. The time to act however is now. Invest in purchasing legal, compliant and ethically sourced data and achieve your own 1st party opt-in list that will be fully compliant for when GDPR does take effect.

It is worth noting at this point that it is believed that even data of this nature will have to be re-opted-in every 12 months.

Many people are already purchasing lists with the sole intention of achieving a 1st party opt-in either through simple telemarketing asking if they can send through further information or via more sophisticated email broadcasts aiming to acquire newsletter or mailing list sign ups – this is much the same process that the list owners are currently undertaking.

It must not be forgotten that this legislation is Europe wide, Germany, The Netherlands, The Nordics amongst other member states have 1st Party opt-in legislation already in place – the advice we offer does not change.... If you wish to conduct direct marketing in the years to come, act now.