



B2B Email Marketing European Legislation

What you need to know to run cross-border B2B email campaigns in Europe

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B2B Email Marketing European Legislation White Paper

Across Europe today, the sending of electronic communications is regulated by Article 13 of the 2003 European Directive on Privacy and Electronic Communications. However, for email marketing specifically, the "country of reception" principle applies – this means that the law of the country of the recipient of an email applies, even when the sender is situated abroad. Since at national level laws on data protection vary widely, this makes planning and executing cross-border email campaigns covering a number of European countries very complex.

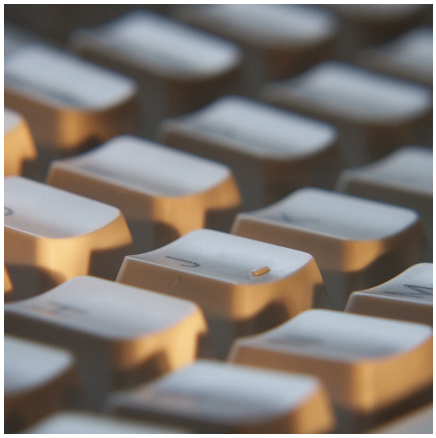
Another challenge faces B2B marketers specifically - laws on B2B email marketing are often vague, with many grey areas where it's difficult to find clear direction. Some countries have now specifically stated that (the often stricter) B2C regulations apply to B2B email marketing.

In addition, some countries will have rules about message content, others consider whether an opt-in is necessary on the basis of the volume of the campaign and some also require an opt-in for "generic", info@company.com email addresses!

The following table (see next page) aims to summarise the main items of interest to a B2B marketer wishing to run cross-border European email campaigns:

Informed consent: When collecting data, the data controller has to inform the subject of a variety of items: the types of data being processed, the purpose of the processing, the specific recipients in the event of a data transfer, the rights to withdraw consent, etc. Informed consent means that the data subject has to give firm, unambiguous consent (ticking a box, for example) for his or her data to be collected, processed, stored and transferred.

Opt-in: This is where it is compulsory for the recipient of an email marketing campaign to have given prior consent to receiving direct marketing messages via their email address. For many countries (like Germany), the sender of the email has to be able to provide an



objective evidence that he received the consent of the recipient. In those cases it is recommended to obtain a "double opt-in" – collect the data consent via telephone and confirm with a click on an email for example.

Opt-out: In this instance, a prior opt-in is not necessary, but the identity of the sender must be clear and the email must provide a valid address to which opt-out requests can be sent.

Soft opt-in: In most countries a "soft opt-in" is available when the recipient's email address has been collected in the context of a sale of a product or a service and the company uses the email address for direct marketing of similar products or services. A clear and easy opt-out facility must be included in all such communications.

Compulsory unsubscribe link: Although some countries do not specifically require this (and these countries are now very few in number), it is good practice to always include an opt-out facility in every marketing communication sent via email.

REMEMBER !

Informed consent means that the data subject has to give clear consent for their data to be collected

It is good practice to always include an opt-out facility in every marketing communication sent via email.



ABOUT CELSIUS

Celsius helps our B2B multi-national customers to gain the best return on their marketing investment by increasing their prospect and customer value. Our direct marketing and database solutions enable them to understand better their target markets, improve sales performance and broaden market coverage throughout Europe and, in many cases, beyond.

We cleanse, enhance, develop and manage customer and prospect databases for our customers and then help them to put them to work – using telemarketing and e- and postal-mailing. Our customers include SAP, Microsoft, Symantec, Continental AG, Cisco, Autodesk and outside the B2B sphere, BMW.

Our main office is in France's 'Silicon Valley' at Sophia Antipolis, not far from Nice, where our staff includes ten different nationalities and speaks thirteen languages.

To learn more, go to www.celsiusinternational.com or call Coraline Sidney on +33 4 92 94 40 00.

Country	Law of Reference	Informed Consent	Business Email Address	"Generic" Email Address	Opt-In Exemption if prior transactional relationship exists	Compulsory Unsubscribe Link
Austria	§ 107 of the new Telecom-Law 2003 (TKG 2003).	Yes	Opt-in is required if: - the email is sent for purposes of direct marketing, or - the mail was sent to more than 50 recipients.	Opt-in not required	Yes	Yes
Belgium	Chapter IV, art. 13 to 15 of 11 March 2003 Law on certain legal aspects of information society services	Yes	Opt-in required in all cases	Opt-in not required	Yes	Yes
Denmark	Section 6(1) of the 2000 and the 2005 Marketing Practises Act.	Yes	Opt-in required in all cases	Opt-in required	Yes	Yes
Finland	Section 27 (1) & (2) of the 2004 Act on the Protection of Privacy in Electronic Communications	Yes	Opt-in is generally required but IF the product or service advertised is in direct relation to the recipient's job title, prior consent is NOT required.	Opt-in not required	Yes	Yes
France	CNIL's 2 March 2005 Interpretation of the 1995 European Directive regarding email marketing in a B2B environment.	Yes	Opt-in is generally required but IF the product or service advertised is in direct relation to the recipient's job title, prior consent is NOT required.	Opt-in not required	Yes	Yes
Germany	§ 7. of the "Gesetz gegen den unlauteren Wettbewerb" (Law Against Unfair Competition)	Yes	Opt-in required in all cases	Opt-in required	Yes	Yes
Ireland	Section 13 of the European Communities (Electronic Communications Networks and Services) Regulations 2003	Yes	Opt-in NOT required	Opt-in not required	Yes	Yes
Italy	Chapter X, section 130 of Legislative Decree no. 196 of 30 June 2003	Yes	Opt-in required in all cases	Opt-in required	Yes	Yes
Netherlands	Article 11.7 of the Dutch Telecommunication Act	Yes	Opt-in required except if the personalised business email address is available publicly on the Internet (in social media for example). In these cases, prior consent is NOT required.	Opt-in not required	Yes	Yes
Norway	Act No. 2 of 9 January 2009 - Marketing Control Act	Yes	Opt-in required in all cases	Opt-in not required	Yes	Yes
Spain	General Telecommunications Law 32/2003 on Electronic Communications Act, amending the 2002 Law on Electronic Commerce and Services of the Information Society	Yes	Opt-in required in all cases	Opt-in required	Yes	Yes
Sweden	The 15 June 2008 Swedish Marketing Act	Yes	Opt-in is generally required but IF the product or service advertised is in direct relation to the recipient's job title, prior consent is NOT required.	Opt-in not required	Yes	Yes
Switzerland	New Federal Telecommunication Law of April 1st 2007	Yes	Opt-in required in all cases	Opt-in required	Yes	Yes
United Kingdom	December 2003 Privacy and Electronic Communications Regulations	Yes	Opt-in NOT required	Opt-in not required	Yes	Yes