




EU e-marketing requirements



The table below sets out the legal position in relation to the e-marketing requirements in Europe.

For the purposes of this table, the term "Opt-out Rule" means that the sending of e-marketing to the recipient is permitted on an opt-out basis if:

- » the recipient's details were originally collected "in the context of a sale";
- » the entity sending the marketing is the same legal entity that collected the recipient's details initially;
- » the marketing relates to "similar" products and/or services for which the recipient's details were originally obtained; and
- » the recipient is given the opportunity free of charge to object to the e-marketing, both at the time their details were collected and in each subsequent communication.



Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
Austria 	Telecommunications Act	B2C – Opt-in. Opt-out permitted where Opt-out Rule applies. B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.	B2C – Opt-in. B2B – Opt-in.
Belgium 	Article XII.13 of the Code of Economic Law Royal Decree of 4 April 2003 regulating advertising by electronic mail	B2C – Opt-in. Opt-out permitted where Opt-out Rule applies. B2B – If sent to an individual B2B email address: Opt-in. Opt-out permitted where Opt-out Rule applies. If sent to a generic email address (i.e. info@; sales@ etc) Opt-out.	B2C – Opt-in. B2B – Opt-in.
Bulgaria 	"Electronic Communications Act (Promulgated, SG No. 41/22.05.2007, last amended: SG No. 58/18.07.2017"	B2C – Opt-in. Opt-out permitted where Opt-out Rule applies. B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.	B2C – Opt-in. B2B – Opt-in.




Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
<p>Croatia</p> 	<p>Electronic Communications Act (Official Gazette No. 73/2008, 90/2011, 133/2012, 80/2013, 71/2014, 72/2017)</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Cyprus</p> 	<p>The Processing of Data of a Personal Character (Protection of the Individual) Law (138(1)/2001)</p> <p>The Regulation of Electronic Communications and Postal Services Law (Law 112(I)/ 2004), as amended</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Czech Republic</p> 	<p>Act on Certain Information Society Services (480/2004 Coll.)</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Denmark</p> 	<p>Danish Marketing Practices Act no. 426 of 3 May 2017, article 10.</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Estonia</p> 	<p>Electronic Communications Act</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-out.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-out.</p>

Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
<p>Finland</p> 	<p>Information Society Code (917/2014), Chapter 24, Sections 200 & 202</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies. B2B – Opt-out.</p>	<p>B2C – Opt-in. B2B – Opt-out.</p>
<p>France</p> 	<p>Article L34-5 of the Postal and Electronic Communications Code</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies. B2B – Opt-out.</p>	<p>B2C – Opt-in. B2B – Opt-out.</p>
<p>Germany</p> 	<p>German Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb - UWG) as last amended 17 February 2016</p>	<p>B2C – Double Opt-in. Opt-out permitted where Opt-out rule applies. B2B – Double Opt-in. Opt-out permitted where Opt-out rule applies.</p>	<p>B2C – Double Opt-in. B2B – Double Opt-in.</p>
<p>Greece</p> 	<p>Article 11, paras. 1, 3 and 7 of Law 3471/2006 as amended and in force today.</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies. B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in. B2B – Opt-in.</p>
<p>Hungary</p> 	<p>Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (Info Act). Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities (Advertising Act). Act CVIII of 2001 on Electronic Commerce and on Information Society Services (E-commerce Act). Act C of 2003 on Electronic</p>	<p>B2C – Opt-in. B2B – Opt-out.</p>	<p>B2C – Opt-in. B2B – Opt-out.</p>

Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
	<p>Communications.</p> <p>For certain sectors, such as medicine, other legislation may apply</p>		
<p>Ireland</p> 	<p>The European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011</p>	<p>B2C – Opt-out provided there has been compliance with the Opt-out Rule.</p> <p>B2B – Opt-out provided there has been compliance with the Opt-out Rule.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-out provided there has been compliance with Opt-out Rule.</p>
<p>Italy</p> 	<p>Consolidation Act regarding the Protection of Personal Data (Data Protection Code – Legislative Decree No. 196 of 30 June 2003)</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out rule applies.</p> <p>B2B – Opt-in.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Latvia</p> 	<p>Law on Information Society Services, dated 4 November 2004</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-out.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-out.</p>
<p>Lithuania</p> 	<p>Law on Legal Protection of Personal Data 1996</p> <p>Law of Electronic Communications 2004</p> <p>Law on Advertising 2000</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted for marketing to existing clients.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Luxembourg</p> 	<p>Law of 14 August 2000 on e-commerce</p> <p>Law of 30 May 2005 on electronic communications networks and services</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-out.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-out.</p>
<p>Malta</p> 	<p>Processing of Personal Data (Electronic Communications Sector) Regulations – Legal Notice 16 of 2003 as amended – implementing Directive</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>

Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
	2002 / 58 / EC (as amended) – the "Regulations"		
<p>Netherlands</p> 	Telecommunications Act dated 5 June 2012	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Norway</p> 	The Marketing Control Act dated 9 January 2009	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – If sent to an individual B2B email address: Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>If sent to a generic email address which does not belong to an individual person (i.e. info@; sales@ etc.): Opt-out.</p>	<p>B2C – Opt-in.</p> <p>B2B – If sent to an individual B2B email address: Opt-in.</p> <p>If sent to a generic email address which does not belong to an individual person (i.e. info@; sales@ etc.): Opt-out.</p>
<p>Poland</p> 	<p>The Act on Personal Data Protection ('PDP')</p> <p>The Act on e-Services ('e-Services')</p> <p>Telecommunications Law ('Telco')</p>	<p>B2C: Opt-in.</p> <p>PDP provides an Opt-out regime for the use of personal data for first party marketing. However, under the e-Services and the Telco, it is required to obtain prior consent of the end-user for sending marketing communications via e-mail, SMS or other electronic means.</p> <p>B2B: Opt-in.</p> <p>Current wording of the Telco, (as amended from 25 December 2014), requires to obtain prior consent of the end-user (including business users) for sending marketing communications via e-mail, SMS or other electronic means connected to public networks.</p>	<p>B2C: Opt-in.</p> <p>PDP provides an Opt-in regime for the use of personal data for third party marketing. Moreover, under the e-Services and the Telco, it is required to obtain prior consent of the end-user for sending marketing communications via e-mail, SMS or other electronic means.</p> <p>B2B: Opt-in.</p> <p>Current wording of the Telco, (as amended from 25 December 2014), requires to obtain prior consent of the end-user (including business users) for sending marketing communications via e-mail, SMS or other electronic means connected to public</p>

Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
<p>Portugal</p> 	<p>Law 41/2004 of August 18 on processing of personal data and the protection of privacy in the electronic communications sector (amended by Law 46/2012 of August 29) that implemented Directive 2002/58 subsequently</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-out.</p>	<p>networks.</p> <p>B2C – Opt-in.</p> <p>B2B – Opt-out.</p>
<p>Romania</p> 	<p>Law No. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>The possibility to Opt-out must be offered both at the receipt of the electronic address and on the occasion of each e-marketing message sent, if the customer did not initially oppose it.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Slovakia</p> 	<p>Act on e-Commerce (22/2004 Coll.)</p> <p>Act on Electronic Communications (351/2011 Coll.)</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>Slovenia</p> 	<p>Electronic Communications Act (Zakon o elektronskih komunikacijah; ZEKom-1)</p> <p>Personal Data Protection Act (Zakon o varstvu osebnih podatkov; ZVOP-1)</p>	<p>B2C – Opt-in. Opt-out permitted where the Opt-out Rule applies.</p> <p>B2B – Opt-out.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>

Country	Applicable legislation	First party e-marketing <i>(entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(entity that collects the data will share with third party partner for e-marketing)</i>
<p>Sweden</p> 	<p>Marketing Practices Act (Sw. marknadsföringslagen (2008:486)) amended 4 May 2017</p> <p>The Electronic Communications Act (Sw. lagen om elektronisk kommunikation (2003:389)) amended 17 May 2017</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-out.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-out.</p>
<p>Spain</p> 	<p>Law 34/2002 on information society services and electronic commerce</p>	<p>B2C – Opt-in. Opt-out permitted where Opt-out Rule applies.</p> <p>B2B – Opt-in. Opt-out permitted where Opt-out Rule applies.</p>	<p>B2C – Opt-in.</p> <p>B2B – Opt-in.</p>
<p>United Kingdom</p> 	<p>Privacy and Electronic Communications (EC Directive) Regulations 2003 last amended on 30 December 2016</p>	<p>B2C: Opt-in. Opt-out permitted where Opt-out Rules applies</p> <p>B2B: Opt-out.</p>	<p>B2C: Opt-in.</p> <p>B2B: Opt-out.</p>

Fieldfisher

November 2017