

Full title of law or regulation	<p>Confianza Online Ethical Code (COEC). Articles 13-19 exc. 18</p> <p>https://www.autocontrol.es/wp-content/uploads/2021/05/codigo_confianza_online_2021.pdf</p>
Title of relevant section	Title IV. Protection of Personal Data
Article 13. General principles	
	<ol style="list-style-type: none"> 1. Adhering entities that produce advertising or contractual transactions with consumers through electronic distance communications media must abide by the current regulations on matters of personal data protection. 2. Adhering entities must ensure that all information and communication regarding the processing of personal data of users is easily accessible and easy to understand, and that simple and clear language is used. 3. Personal data may only be collected for processing when appropriate, relevant, and not exceeding the scope and specific, explicit and legitimate ends for which they were obtained, and may not be subsequently processed in a manner incompatible with those purposes. 4. Personal data must be accurate and up-to-date, truthfully corresponding to the current situation of the person affected, and only considered accurate when provided by them, by the mediator or intermediary or when they are obtained for the exercise of the right to portability. 5. When personal data are no longer necessary for the purposes for which they were collected, or are inaccurate, they must be deleted or rectified without undue delay. 6. Adhering entities must respect user privacy as well as assure the confidentiality and security of personal data, utilizing the technical and organizational means necessary to do so, taking into account the state of technology, the costs of application and the nature, scope, context and purposes of the processing, as well as the risks for the rights and freedoms of the people. 7. Adhering entities shall support initiatives to help educate the consumer about how to protect their privacy on electronic distance communications media. 8. Entities adhering to this Code shall actively participate in training activities related to data protection organized by entities that promote self-regulation systems. These activities shall take place at least biannually and consist of sessions led by experts in data protection from both the public and private sectors. They should be arranged with particular attention to the needs of small and medium-sized adhered businesses.
Article 14. Data collection	
	<ol style="list-style-type: none"> 1. The collection of personal data through fraudulent, unfair, or illegal means is prohibited. 2. When entities adhering to this Code gather personal data through electronic distance communications media, or within the context of the provision of an information society service, they must inform the owners beforehand, in a concise, clear, intelligible and easily accessible manner, using clear and simple language, of the following points, unless the data subject already has said information: <ol style="list-style-type: none"> a) The identity of the data controller and representative, as the case may be, as well as the contact details that allow for communication with them, which must comprise at minimum one postal address or PO box, in addition to one of e-mail. b) The purposes of the processing and its legal basis (if this legal basis is the fulfillment of a legitimate interest of the data controller or for a third party, that legitimate interest must be identified). c) The recipients or categories of recipients of the personal data, if applicable.

d) The contact details of the Data Protection Officer, when applicable.

e) If the provision of personal data meets a legal or contractual requirement, or is necessary for the formation of a contract, as well as the mandatory or optional nature of the provision of personal data and the possible consequences of the refusal to provide them.

f) The possibility of exercising rights of access, rectification, deletion, objection, restriction of processing and portability of data, as well as the right to withdraw consent at any time. Additionally, the right to lodge a complaint with the supervisory authority.

g) Transfers of personal data to third countries or international organisations, where appropriate, as well as appropriate safeguards offered by the responsible party (for example, binding corporate rules or clauses of the type approved by the European Commission) and the means provided to obtain a copy of these or indication of where they have been made available, or the existence or absence of an adequacy decision by the Commission.

h) The period for which the personal data will be stored or, when that is not possible, the criteria used to determine that period.

i) The existence of automated decision-making, including profiling, and, in those cases, meaningful information about the logic involved, as well as the significance and envisaged consequences of such processing for the data subject.

3. When the personal data has not been collected from the owner, the origin of the data and its categories must be conveyed in an express, precise and unambiguous way, together with the points contained in Section 2.

4. The information referred to in section 3 must be provided, unless it has been previously provided:

a) Within a reasonable time and, at the latest, in the month following the recording of the data,

b) No later than the time of the first communication addressed to the data subject, or

c) No later than the moment when the data are sent for the first time to another recipient.

5. When the data controller plans the further processing of personal data for a purpose other than that for which the data were collected, the data subject will be provided with, prior to said further processing, information on that other purpose and any other relevant information pursuant to paragraph 2, also ensuring that there is a legal basis for the proposed processing.

Article 15. Processing for purposes not included in the contract

If during the process of formation of a contract, the consent of the data subject is requested for the processing of data that is not required for the execution of the same, the request for consent must be presented in such a way that it is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and simple language. It will be presumed that consent is not freely given if the completion of the contract is conditional on such consent. Consent must be obtained from a clear affirmative action; for example, by checking a clearly visible box, and not checked by default in the contract itself, or through equivalent processes, such as an email address or through a telephone number with no additional costs (note: e.g. not a premium rate). In any event, the data controller must be able to demonstrate that the data subject gave his/ her consent.

Article 16. Processing of data obtained from publicly available sources

When data is obtained from sources available to the public and whose purpose is for advertising or marketing, as long as the data subject has not refused or objected to having their data used for said purposes, and the legitimate interest in sending this type of communications prevails over the rights and fundamental freedoms of the data subject,

which require protection of personal data. In any case, in each communication, the owner must be informed of the points set out in section 3 of article 14 of this Code; In particular, clear information will be provided, and separately from the rest of the information, of the right to object to the sending of such communications.

Article 17. Data processing for marketing and advertising purposes

1. Entities that advertise online and collect, capture, and process personal data must inform data subjects, through a notice on their website, of such process and obtain consent. However, this consent will not be necessary if the legitimate interest of the entity in sending the commercial communications prevails over the fundamental rights and freedoms of the recipients of these messages; the entity must evaluate the existence of this legitimate interest meticulously. In any case, the data subject may object to them at any time. The data subject will be informed explicitly of this right to object, and clearly and separately from any other information. The consumer should be able to exercise their right of opposition through simple, free means, such as an email address or via a phone number not subject to premium rates. When the data subject objects to the processing of data for the purposes of advertising or commercial 'prospecting', he or she must be informed of the existence of public lists for opting out, the identifying of the responsible party, its address and the purpose of the processing.

2. In the case of commercial communications by means of electronic communication, and without prejudice to fulfilling the duty to provide information, the entity must necessarily obtain the consent of the data subject, unless there is a prior contractual relationship and the communications refer to products or services from the company similar to those originally sold. If these requirements are met, it will also be necessary for the entity to allow the data subject to oppose the sending of these communications (for example, by checking a box) both at the time of collecting personal data, and in each delivered communication. They will also apply the provisions on the right of opposition indicated in the previous section, with the exception that, when commercial communications are sent by email, they must include at least one email address or another valid electronic address where the consumer can exercise their right to object.

3. The entities adhering to this Code may carry out their advertising campaigns themselves or via the contracting of third parties, the latter being able to act as processing managers or controllers, depending on whichever entity it is that participates in the setting of the identification parameters of the of the campaign recipients.

4. Personal data may only be communicated to other data controllers so that they may be processed for advertising purposes, and this is the case unless there is another legal basis that legitimizes this communication of data, with the consent of the data subject, who must know clearly and precisely the purpose of the processing and the identity of the recipient or, at least, the category of the recipient of their data.

5. Adhering entities may perform data processing for advertising purposes for third parties when they have informed the data subjects about the specific and definite sectors of activity with respect to which they may receive information or advertising and provided that the data subject has given their consent to that end or agreed another legal basis that legitimizes this data processing.

6. Adhering entities that wish to process data related to advertising or commercial prospecting activities are obliged, under the terms established in the regulations, to consult beforehand the public opt-out lists.

Article 18. International Data Transfers. We have not translated this from the 2018 COEC. See Chapter V Articles 44 and 45 from the GDPR: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679>

Article 19. Consent of the owner

1. The consent of the owner/ data subject means any freely given, unambiguous, specific

and informed means by which he or she, by a statement or by a clear affirmative action that accepts the processing of personal data relating to him/ her.

2. Apart from meeting the above conditions, consent must also be explicit in the following cases:

a) When processing special categories of personal data for specific purposes, provided that the law allows processing based on consent.

b) When consent is the basis that justifies the adoption of decisions based solely on automated decision-making, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.

c) When it is the lawful basis that legitimises the transfer of data to another country or international organisation.

3. The processing of personal data may be on legal bases other than consent, in accordance with the provisions of the regulations, the data controller being responsible for determining the most appropriate legal basis for each processing. The processing will be legal when the data subject has given his or her consent or at least one of the following conditions is met:

a) Processing is necessary for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject prior to entering into a contract.

b) When processing is necessary for the purposes of legitimate interests pursued by the controller or by a third party, provided that such interests do not prevail over the fundamental rights and freedoms of the data subject which require protection of personal data. *Note: GDPR reads ...except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data.*

c) When processing is necessary for compliance with a legal obligation to which the controller is subject.

d) When processing is necessary in order to protect the vital interests of the data subject or of another natural person.

e) When processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

4. Consent may be withdrawn at any time; the withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. (El consentimiento podrá ser revocado en cualquier momento, y no se le atribuyen efectos retroactivos.) In no case may such an exercise be impeded. It shall be as easy to withdraw as to give consent.
