

Issue or channel	Key European law and clause(s)
<p>Data processing, which includes 'collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;' (art. 4.2) . Such use might be in the context of e.g. email, SMS/MMS, OBA, that deploys 'personal data' *</p>	<p style="text-align: center;">GDPR Regulation (EU) 2016/679: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN</p> <p>Article 6 (1) Processing shall be lawful only if and to the extent that at least one of the following applies: (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes; (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.</p> <p>Article 4 (11) 'consent' of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her</p>
<p>Cookies; third party cookies in relation to Online Behavioural Advertising. Clarity on responsibility for third party cookies may vary nationally. Under GDPR, a 'controller' is defined as the natural or legal person, public authority, agency or other body which,</p>	<p style="text-align: center;">The EU 'Cookies Directive' 2009/136/EC: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0136&from=EN which amended the E-Privacy Directive 2002/58/EC: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0058&from=EN</p> <p>The storing of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned has given his or her consent, having been provided with clear and comprehensive information, in accordance with Directive 95/46/EC (<i>note - now replaced by the GDPR</i>), inter alia, about the purposes of the processing. This shall not prevent any technical storage or access for the</p>

<p>alone or jointly with others, determines the purposes and means of the processing of personal data (art. 4)</p>	<p>sole purpose of carrying out the transmission of a communication over an electronic communications network, or as strictly necessary in order for the provider of an information society service explicitly requested by the subscriber or user to provide the service.'</p>
<p>(Direct) Electronic communications such as Email/SMS/MMS</p>	<p style="text-align: center;">Directive 2002/58/EC on privacy and electronic communications: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0058</p> <p>1. The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent. 2. Notwithstanding paragraph 1, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with Directive 95/46/EC (<i>note - now replaced by the GDPR</i>), the same natural or legal person may use these electronic contact details for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use.</p> <p>4. In any event, the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited (art. 13)</p>
<p>E-commerce; distance selling & related electronic communications</p> <p>Provisions from the Directive relate to Information requirements in the context of</p>	<p style="text-align: center;">Directive on electronic commerce 2000/31/EC of 8 June 2000 on certain legal aspects of information society services: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32000L0031</p> <p>Article 5 provides requirements for information about the 'service provider' who should render 'easily, directly and permanently accessible to the recipients of the service and competent authorities, at least the following information' which in summary is name, address, email, trade registration number, supervisory authority if applicable, VAT number if the activity is subject to VAT.</p>

<p>e-commerce</p>	<p>Where information society services refer to prices, these are to be indicated clearly and unambiguously and, in particular, must indicate whether they are inclusive of tax and delivery costs.</p> <p>Article 6 requires that commercial communications observe: (a) the commercial communication shall be clearly identifiable as such; (b) the natural or legal person on whose behalf the commercial communication is made shall be clearly identifiable; (c) promotional offers, such as discounts, premiums and gifts, where permitted in the Member State where the service provider is established, shall be clearly identifiable as such, and the conditions which are to be met to qualify for them shall be easily accessible and be presented clearly and unambiguously; (d) promotional competitions or games, where permitted in the Member State where the service provider is established, shall be clearly identifiable as such, and the conditions for participation shall be easily accessible and be presented clearly and unambiguously.</p>
<p>*Defined as 'any information relating to an identified or identifiable natural person - one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person (art.4)</p>	