

## GDPR Guidance: A Practical Approach to Preventing the Pain of Privacy and Anti-Spam Compliance

- *By Rachel Fields, Client Success Consultant*

The General Data Protection Regulation ([GDPR](#)) goes into effect May 25, 2018. For some professional services firms, preparing for GDPR can pose some daunting challenges. But with some basic guidance, you can prepare your [CRM](#) and [eMarketing systems](#) to help your firm be compliant.

### Where to Begin

Has your firm already done anything to comply with the Canadian Anti-Spam Law (CASL), which went into effect in July of 2017? If so, start there. Unlike GDPR, CASL has a provision for implied consent. If your firm is relying on implied consent, it needs to be converted to express consent within two years of the date of implied consent OR the conditions of implied consent must be renewed within two years. In short, if your firm has Canadian contacts, then your best bet is to also get express consent from them as well as from EU contacts, and those processes might already be under way. Rather than creating a separate process for GDPR, have one that is compliant with both CASL and GDPR.

### Identify Contacts

If your firm has decided to collect express consent from all contacts, then you can skip the process of first identifying non-U.S. contacts because you will be requiring all contacts to opt-in, regardless of where in the world they are located. However, most U.S.-based firms probably won't be applying 'opt-in only' to their entire universe of contacts and, therefore, will need a way to accurately identify contacts outside the U.S.

If you have contacts without a mailing address, as most firms do, then you must decide what to do about these contacts and how you are going avoid having these types of geographically ambiguous records in the future. If your Outlook or your CRM automatically applies United States as the country for new records, the obvious search for pulling all contacts where country does not equal U.S. would be misleading. Secondary searches based on phone number area codes and other address fields likely will be required to find contacts outside the U.S. and contacts where there is not enough data to determine the contact's location. Exporting these search results to a spreadsheet will allow for an aggregated view, which might be useful in spotting anomalies and/or similar data circumstances between contact records.

Once you think you have accurately assembled your sets of contacts (U.S., non-U.S. and unknown) do a simple math check to be sure you have accounted for all people records in your system. Next, it might be good to look a little more closely at the geographically ambiguous records and decide if they need to be kept at all: What other data are they missing? Can you trace a relationship to a current professional in the firm? Are there any recent activities on their record (mailings sent, events attended etc.)? Then look at the audit trail to determine the last time any data on the record was added or changed. Chances are good you have a number of records that you can clean out of your system and not have to worry about. For contacts that do have a relationship with someone in the firm, reach out to that internal person to try to get more information about the person. They may tell you that the contact can be taken out of the mix.



### **Evaluate Your Data Quality**

While you are going through the exercise of putting your contacts into accurate geographic buckets, this is a great time to take stock of your overall [data quality](#). The issue of ongoing missing address data can be handled with consent forms. By setting some or all of the address-related fields to required, contacts will be forced to provide you with their location data in order to grant consent. However, there is another widespread data quality issue that will undermine your ability to be GDPR and CASL compliant – duplicates. If you have more than one record with the same email address, express consent information would have to be applied to all records with that email address. It is important to keep in mind that, more than likely, your automated process that applies consent form information to a contact in your CRM will only be able to apply the data to one record at best. In some instances, the process may error out if it encounters duplicates and consent would not be recorded at all.

### **Create Segmentation**

Once you've identified U.S. vs non-U.S. contacts, you'll need to create containers to hold them in your CRM. The method/terminology for this segmentation will depend on the CRM system. In InterAction, you'll be creating folders, while other systems might utilize "lists," "segments" or "categories." Ultimately, the goal will be to divide your contacts into groups that reflect whether consent is required (Canadian and EU contacts) or consent is not required (U.S. contacts.) Note that this is assuming that your firm has not elected to adopt a 100% opt-in policy. If you will be moving to collect consent for all contacts regardless of where they are, then you only need to segment based on whether consent has been provided or not.

### **Create Additional Fields to Hold Consent Data**

To be GDPR and CASL compliant, organizations must record the date consent was given as well as the method used to grant consent. Each organization will have to decide for itself what methods of consent it will be accepting. For example, your firm may decide that consent is only valid when provided through a web form, or maybe you will also accept emails and/or other types of confirmation. Factors to consider will be ease of use for your contacts and the resources required to support various methods of valid consent. Whatever method or methods your firm chooses can be entered as picklist values for the Method of Consent field. Use a picklist to avoid free-form text from being entered, which will ensure adherence to only acceptable methods of consent as defined by your firm. You will also want to restrict editing access to your consent fields to only those individuals or systems that are essential to the consent-gathering process.

### **Create the Process**

The specifics of automation will vary depending on your organization's interpretation of these regulations as well as the CRM and eMarketing systems in use. However, at its core, this automation will be based on a daily query, search or report that looks at the value of the Date of Consent field and determines if the value is blank or, depending on the firm's interpretation of CASL, more than two years old. If either one of those conditions is true, the contact will need to be added to a suppression list, which is used by your eMarketing application to block the sending of emails to any contact on that list. You will also need the converse search that finds any contact record on the suppression list that *does* have valid consent data to account for anyone who gave consent since the last time the search was run. Those contacts would then be removed from the suppression list and become eligible to receive the mailings they have indicated they wanted.

If your firm has relied on the CASL provision for implied consent, you will also need a separate process that identifies implied consent contacts where consent date is two years minus X days/months old and

puts those contacts on a renewal list. If your eMarketing system supports it, those contacts may be able to automatically receive consent emails without any human intervention, but once the two-year mark has passed for contacts with implied consent, you will no longer be able to email them without updating the implied consent date. Automated processes must include moving those contacts from the renewal list to the suppression list. This is an added layer of complexity that can be avoided if your firm interprets CASL to not rely on implied consent, but rather requires express consent from all Canadian contacts.

### **Create the Communications**

It stands to reason that any process that requires gathering consent also requires communications with the contacts for whom consent must be gathered. Ideally, these communications can be drafted, revised and finalized while the CRM and eMarketing system pieces are being created. It will be important to keep in mind that any message or form asking for consent should use clear and simple language, state plainly what is being consented to, contains your organization's contact information and requires a positive indication of consent, which means pre-filled checkboxes are not acceptable. This is true for both CASL and GDPR.

In addition to the external communications, firms should consider implementing an internal communication plan that explains these regulations, what the firm's interpretation of each is and the subsequent impact on operations. For example, if your professionals typically add their new contacts to mailing lists, they should be informed that non-U.S. contacts will not automatically receive mailings such as newsletters or event invitations until those contacts have given consent.

### **Document Thoroughly and Test Often**

Process documentation in professional services firms is often an afterthought that may or may not be addressed depending on what else needs to be done. Documentation of processes regarding GDPR and CASL, however, should be considered a necessary step of the processes themselves. This is not a "nice to do" situation – this is a requirement of GDPR. If your process changes over time for any reason, be sure the documentation is updated as well. Consider having ownership of this process and documentation written into the job description of one or more employees. New employees will need to be familiar with the processes they are inheriting. Finally, periodic testing should be performed to ensure that any automatic processes have not been adversely affected by system updates or other changes to the firm's infrastructure.

### **The Changing Landscape**

When dealing with compliance in the area of anti-spam and privacy regulations such as these, it's important to note that some of these laws are new and additional ones are being developed throughout the world. This means that the compliance landscape is constantly changing. Additionally, many of the existing regulations have not yet been thoroughly tested. As a result, some of the guidance and best practices may change as new developments occur. The purpose of this article is to provide general guidance and best practices for professional services firms on the development of their compliance programs. The steps outlined in this article should not be seen as prescriptive, but rather as illustrative. This article is also not intended to be exhaustive since each firm will have unique existing systems and unique processes that will need to be considered.

If you need assistance with your firm's specific circumstances, or you just don't have enough resources to dedicate to the development or implementation of these processes, [CLIENTSFirst can help](#).

*For more than 10 years, the team at **CLIENTS**First Consulting has been helping professional services firms and other organizations successfully select and implement CRM and eMarketing systems to maximize value, adoption and return on investment. If you need help with CRM Success, please contact us at 404-249-9914 or [Info@ClientsFirstConsulting.com](mailto:Info@ClientsFirstConsulting.com).*