10 PRACTICAL STEPS TOWARDS GDPR COMPLIANCE FOR MARKETERS

IF YOU'RE ONLY GOING TO READ ONE GUIDE, MAKE IT THIS ONE.

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WHAT DOES GDPR HAVE TO DO WITH ME?

Are you based in the US, UK, mainland Europe or elsewhere? Your location is not the issue ... if you market or sell to EU businesses or citizens, then GDPR applies to you.

What emotion do you feel each time you see the letters G.D.P.R.?

Confusion, mild terror, frustration, apathy, panic, excitement ... or maybe a deep and unsettling rumble that's getting louder by the day?

Marketers are bracing themselves for May 2018 when the General Data Protection Regulation (GDPR) is enforced across the EU. Put simply, it's a radical shake-up of data protection laws.

Organisations that break the rules face potential fines that run into millions.

And Marketing might be to blame. Because GDPR involves us.

Unless you're planning to retire or quit soon, GDPR will happen on your watch. So it's vital to be well prepared.

But there's good news too. GDPR could lead to a big improvement in the effectiveness of your Marketing going forwards.

Let's dive right in and get some things clear.

WHAT'S GDPR AND EPRIVACY ALL ABOUT?

The General Data Protection Regulation (GDPR) is being enforced from May 25, 2018.

It applies to anyone collecting or processing personal data of any EU citizen no matter where you are based in the world.

GDPR is, in fact, law already but May 2018 will mark the end of the two-year 'grace period' allowed for companies to prepare themselves before any prosecutions begin.

GDPR comes with potentially hefty financial penalties for data breaches - which can be 4% of global turnover or

In addition, the local Supervisory Authorities (SAs) have the right to order a temporary or permanent ban on personal data processing.

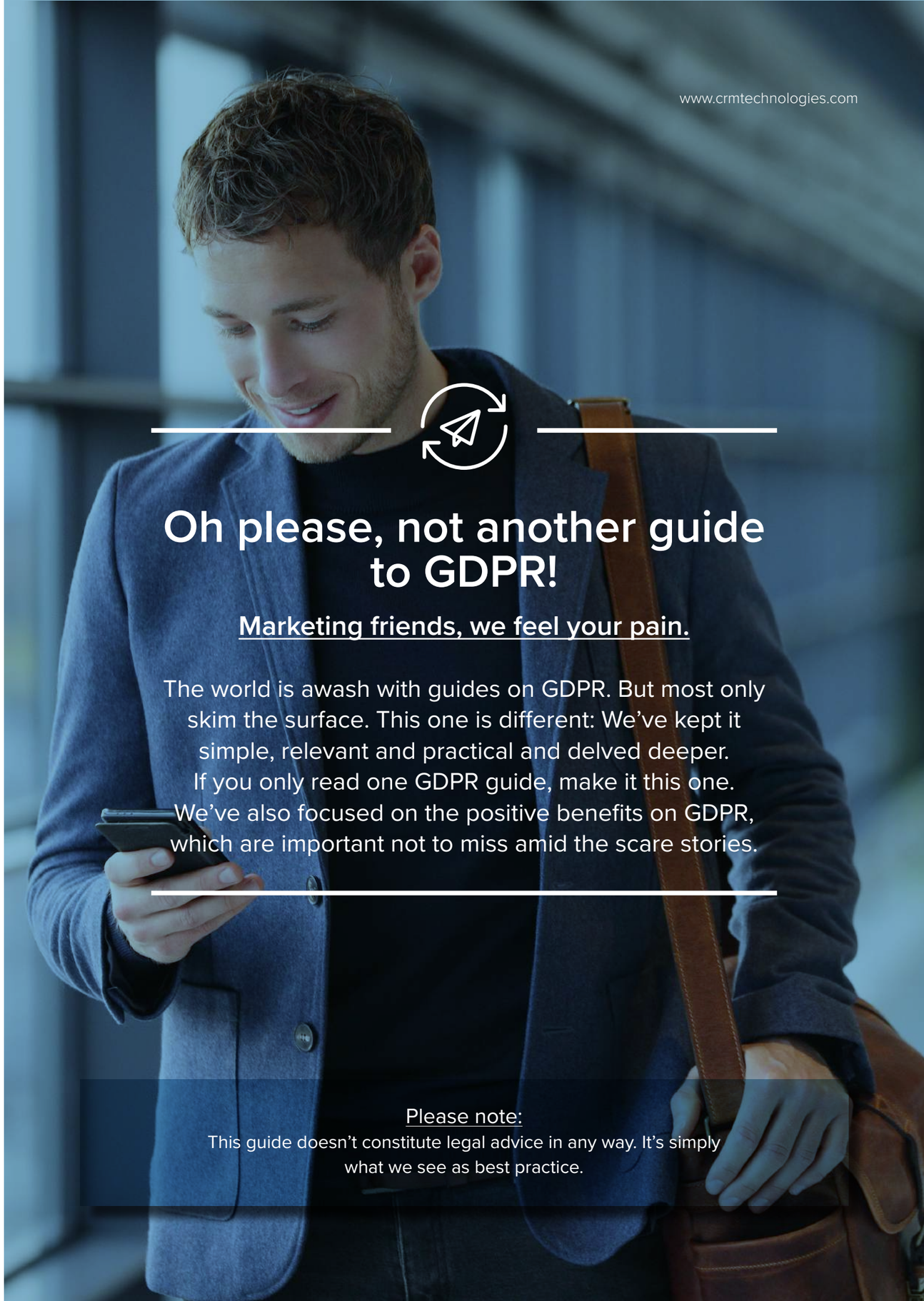
THIS GUIDE IS ABOUT EPRIVACY TOO

People often use the names GDPR and the ePrivacy Regulation interchangeably. Actually, they are two different things. But they're happening alongside each other — so tackling them together is a good idea.

The ePrivacy Regulation covers rules on the need for explicit consent for cookies, outbound emails, SMS and the use of automated calling machines.

The ePrivacy Regulation is not yet law. However, the EU are aiming to have it in place by 25 May 2018 because of the obvious alignment with GDPR.

In this guide, we've simply referred to GDPR ... to keep the language simple. But the guidance is also relevant to the ePrivacy Regulation as it stands today.



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LEGITIMATE INTEREST

Major law firms are suggesting that companies should use ‘legitimate interest’ as the legal justification for which you store and process personal information under GDPR with regard to Direct Marketing.

This obviously needs agreement with your legal team and the appropriate changes made to your privacy policies.

However, the ePrivacy Regulation has no such provision. It states that explicit consent is required for cookie tracking and for unsolicited email. For Marketers, it therefore makes sense to adopt a consent approach as virtually everyone markets online.

RULES FOR CONSENT

✓ Must be explicit (no pre-ticked boxes).

✓ Must be unbundled (not hidden in other agreements/actions etc).

✓ Must be clear what the consent is for and must be granular (what’s received and how often).

✓ Must be time bound (current thinking in B2B is up to 24 months before consent is required again).

✓ Must be easily removed (opt-out).

x Mustn’t be penalised for not giving consent (one for the lawyers to argue but not giving access to a white paper download unless consent is received might be construed as being ‘penalised’).

WITH CONSENT THE BURDEN OF PROOF IS ON YOU

Timestamps and an audit trail of when consent has been given or removed must be maintained.

KEY CHANGES EFFECTING MARKETING

- Expanded definition of what constitutes personal data.
- No distinction between business (B2B) and consumer (B2C).
- Privacy by default (the need to gain explicit consent or have a legitimate. interest or a contractual agreement for the capture and processing of personal data).
- The right to be forgotten.
- The right to request to be supplied with your own personal data.
- Burden of proof is on you to prove the relevant permissions have been obtained should a complaint arise.

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SALES & MARKETING: WHY WE NEED TO PAY ATTENTION

The world is changing ... our world.

While much of GDPR is about protecting personal data, the new legislation isn't just something for your IT Security department to tackle. As we have mentioned, GDPR and ePrivacy has some major implications in how we capture, store and process data on EU citizens as well as how we communicate with them online.

There are major positives too ...

Marketing:

GDPR will affect all areas of inbound and outbound Marketing. It's a huge opportunity for marketers to adopt a more personalised approach and to identify new areas to drive genuine interactions with prospects and customers.

Sales:

After May 2018, Sales will have to adjust to more strategic data collection and management, resulting in more valuable conversations with prospects who have chosen how they want to engage with your company.

WHAT SHOULD I KNOW? GIVE ME THE HEADLINES

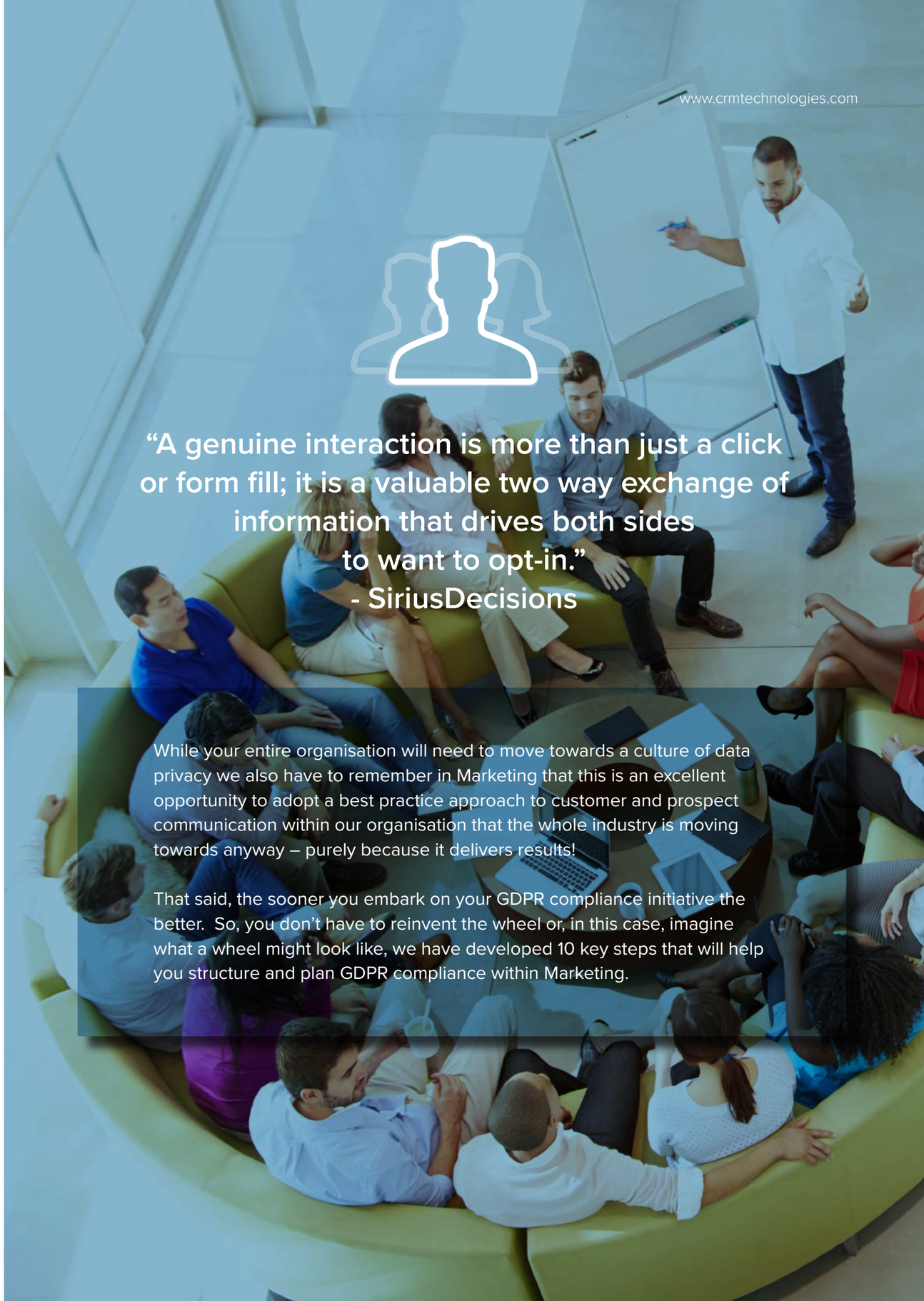
OK. Here's a cluster of some of the changes on the way from GDPR and ePrivacy:

- One set of new rules will apply across the EU. There's no distinction between people and businesses.
- The term 'personal data' is very wide and could range from their IP address to political views.
- New players to come within the scope of the laws will include communication services such as Facebook Messenger, Skype, WhatsApp and others.
- Organisations should provide privacy by default. Consent must be unambiguous and have demonstrable proof.

With something so big, so all-encompassing like GDPR, where do you start? And with a deadline approaching fast, what's even possible?

We have based our ten steps on our own experience of data privacy projects coupled with best practice privacy frameworks coming from experts such as SiriusDecisions.

The main point to make at this stage is that come 25th May 2018, should a complaint arise, your local SA will be looking for proof that you have at least understood the Regulations, that you have put in place a process to address them and that you have demonstrable proof that you have tested them. Even if your process isn't perfect initially, the mere fact that you have shown due diligence will go a long way to minimising any consequences.



"A genuine interaction is more than just a click or form fill; it is a valuable two way exchange of information that drives both sides to want to opt-in."
- SiriusDecisions

While your entire organisation will need to move towards a culture of data privacy we also have to remember in Marketing that this is an excellent opportunity to adopt a best practice approach to customer and prospect communication within our organisation that the whole industry is moving towards anyway – purely because it delivers results!

That said, the sooner you embark on your GDPR compliance initiative the better. So, you don't have to reinvent the wheel or, in this case, imagine what a wheel might look like, we have developed 10 key steps that will help you structure and plan GDPR compliance within Marketing.

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CORPORATE ALIGNMENT

What are the risks you face from GDPR — and how much resource should you devote to your programme? This value-versus-cost analysis will vary between organisations, depending on how much personal information you gather and how it's used with your organisation's own tolerance of risk.

Getting a clear picture is the first thing to do. This must be explained to your executive sponsors, who should come from IT, Legal, Sales and Marketing leadership stretching up to C-Level where appropriate.

GDPR IS A CORPORATE WIDE ISSUE EVERYONE MUST BE ALIGNED.

Next, you'll begin to create a culture that values and enables data privacy. This will help Marketing but it's essential for everyone.

The core team running your GDPR readiness programme will potentially need to come from Sales, Marketing, HR, Finance, and IT amongst others.

In our experience, Marketing typically will not 'own' your company's GDPR programme — because readiness in your department will be a smaller part of a much wider project. Leadership could come from Legal or IT. However, it may be Marketing's job to create awareness around GDPR within your organisation.

Who's wielding the big stick with GDPR?

The new laws will be enforced across Europe by local Supervisory Authorities (SAs). These will have the power to order investigations, bans and fines.

It's likely the main focus of your local SA will be to identify companies that have shown negligence – for example, by not creating, testing and auditing a data privacy process.

Suggested activities:

- ☐ Agree business impact, threat and opportunity with your top team.
- ☐ Create a high-level compliance strategy with ownership and timings.
- ☐ Include people, technology and measurement.
- ☐ Gain executive sponsorship and budget.
- ☐ Invest in appropriate legal counsel.
- ☐ Get other specialist outside help where needed.

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SYSTEMS AUDIT

How big is the challenge? You're about to find out.

You need to complete a full audit of personal data held within your Sales and Marketing systems — wherever it resides across your organisation and beyond. At the same time, determine who has access to the data at any given point.

Ultimately, you'll be looking at a matrix of systems that store personal information and associated activities.

It may be much bigger than anyone realised, especially when you include core systems, such as your Marketing Automation and CRM systems, as well as any add-ons/apps/platforms in your wider marketing technology stack.

What about external marketing partners?

Yes, them too. Our integrated world makes the job harder. But your GDPR compliance relies on your third-party partners doing their bit as well.
This includes third party partners who process your data and who now have their own obligations under GDPR, plus any channel partners you employ to sell your products and services.
Note that any of these third parties must now be expressly identified to the individual during the consent gaining process.

Put simply, if you trust third parties with your data, you need to trust them with GDPR. Start out by identifying the data they hold.

Suggested activities:

- ☐ Invest enough time to complete the analysis.
- ☐ Work with other teams — so you don't miss anything.
- ☐ Include Marketing and Sales operations, regional teams and web teams.
- ☐ Assess personal data held by your own systems.
- ☐ Identify all external marketing services and what they hold.
- ☐ Start to identify potential risk areas — such as data that you know will be old and lack any proper consent.

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DATA CAPTURE

Any fresh data you glean tomorrow should be part of the solution, not part of the problem. So getting your data capture process correct is a priority as you to start to turn the tide.

It's important to design campaign activities and programme tactics to support compliant data capture. Your existing forms will need updating to reflect the need for consent. You may consider various tactics to gain consent including additional fields on forms, timed or exit pop-ups, lightboxes etc.

A centralised form centre should be considered, creating form templates for specific use cases to be deployed across all campaigns. This reduces the number of forms within the system whilst increasing compliance with GDPR (and other data processes) by ensuring that any required processing is present and consistent.

How does data arrive into your organisation?

You need to ensure GDPR compliance at all data capture points which might include:

- Data appending
- Individual capture
- Online capture
- Event capture
- Sales capture
- Third party data purchase
- Surveys

Suggested activities:

- ☐ Agree data privacy policies and processes with teams/functions.
- ☐ Perform a gap analysis on global forms.
- ☐ Identify potential compliance issues.
- ☐ Roll out an opt-in process to all forms that are currently active.

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DATA STORAGE

Remember the vast amounts of data you identified in the audit stage — across multiple locations as well as third party systems? Currently, it's valuable to your organisation. But in the GDPR-world, much of it could be toxic and lead to those fines and other penalties we talked about earlier.

Rather than ditch this data, it's time to ensure you have the correct consent. You also need to establish who has access to the locations where data is held — and make sure the data is stored securely.

Someone else stores our customers' data

Compliance with GDPR gets more complicated in the SaaS world.

You (and your data processing partners) are responsible for personal data, wherever it resides. That means your SaaS partners should be GDPR-compliant and the same goes for the process you use to transfer data in either direction. Make sure your vendor contracts reflect these new obligations.

Suggested activities:

- ☐ Examine the personal data that resides in each system.
- ☐ Establish the age of the data.
- ☐ Check the completeness of key fields. For example, knowing whether the personal data belongs to a customer (as opposed to a prospect) will be important to prove an existing contractual arrangement is in place.
- ☐ Review email contacts, opted-in contacts and mobile contacts (for SMS).
- ☐ Ensure personal data will remain safe - because you have the correct maintenance, security and access policies in place.

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DATA USAGE

Many organisations bury their Preference Centres. Perhaps all you see is ‘unsubscribe’ in tiny text at the foot of an email.

In the GDPR world, your Preference Centre will be your greatest ally and it needs to take centre stage — because you want people to engage fully with its consent options.

Consent must be explicit not bundled with other things. It needs to be granular and we suggest that it clearly identifies frequency and channel of communication – For example an opt-in that states “Receive our monthly newsletter by email” with a thumbnail of a previous newsletter clearly explains the “what”, “when” and “how”. Whereas an opt-in “to receive marketing communications from us” clearly doesn’t. Also, consent cannot last a lifetime: 12-24 months could be reasonable before asking someone to renew so your tactics for gaining opt-in and your preference centre need to recognise this.

A correctly-designed Preference Centre will manage all these things for you and keep the privacy data orderly and auditable, proving you’ve always sought consent.

At last ... something positive about GDPR!

Well done for hanging in there.
Yes, there’s a massive upside to GDPR. New data privacy laws may prove the catalyst for more effective and personalised marketing around genuine interactions.

Gaining people’s consent in the right way builds trust, encourages engagement and makes each interaction more relevant.

Post GDPR, the data you hold will be of lessor volume but much greater value: A clean prospect database, holistic view of contacts, detailed analytics resulting in better targeting.

Suggested activities:

- ☐ Ensure data is captured consistently across regions and in a reportable manner.
- ☐ Consider where you need consent: Inbound/ outbound, profiling? Include your website, apps and social media.
- ☐ Design, build and document data processes to support your global Preference Centre.
- ☐ Review your existing lead scoring model and update to include single and double opt in scores where necessary.
- ☐ Capture an audit trail of permission updates: Record changes required to CRM & MAP to manage opt-in stamps.

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DATA MAINTENANCE

As with any corporate initiative, it's possible to have a burst of enthusiasm at the start and then old habits return over time.

But GDPR requires a culture change that everyone owns. There's no going back and responsibility must be shared.

Your organisation needs a governance structure. However, accountability for data privacy should exist across all functions instead of being 'outsourced' to a central team.

People's consent and preferences must be renewed continually.

Catch 22: When merely asking for someone's permission is illegal

After May 2018, you may not be able to email old contacts and ask if you can keep them on your subscription list. That very act could be breaking the law. The gate has closed. So it's important to reach them now if your current legislation allows.

Suggested activities:

- ☐ Develop a data processing governance framework.
- ☐ Ensure accountability exists across all functions.
- ☐ Review your data cleansing and augmentation processes.
- ☐ Drive opt-ins within your existing contact database*.
- ☐ Re-engage with inactive contacts.
- ☐ Renew consent in a meaningful and continuous way.

* Use the opportunity you have now in European countries that have an opt-out policy for B2B (such as the UK).

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DATA DELETION

Personal data that lacks consent must be removed from your systems - as well as from those belonging to your Marketing partners.

You need a process for erasure and proof that it's happened. Rather chillingly, individuals will have a legal right to ask you to send them all the data you have about them. If you have stored their data without consent then they may report you to their local regulator.

In theory, if you have a secure way or archiving data (away from any further processing/use) you can bring that data back into play should the individual opt-in in the future. That said, methods of doing this have not yet been adopted or proven as being compliant so tread carefully (and discuss with your legal team).

'Help! My audience just shrank from 100k to 30k'

This kind of reduction may happen with GDPR. At a gut level, it feels terrible to any marketer.

But think about it for a moment: What if the missing 70k never responded at all - or resented your organisation every time an email arrived?

And what if the 30k become more engaged and you could interact with them in a genuine way - which they welcomed. Suddenly your open, click-thru and conversion rates for email will dramatically increase. Think quality not quantity.

Suggested activities:

- ☐ Purge any existing records where there's no record of an opt-in.
- ☐ Make sure you also include data where consent has expired.
- ☐ Also include requests from individuals to be removed.
- ☐ Ensure you can prove that data has been put beyond use.

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EDUCATION, EDUCATION, EDUCATION

GDPR can feel strange right now. Like an unwanted imposition, especially if people have to change their habits and there's extra work involved.

However, employees, especially those in Marketing — need to be educated, updated and reminded about GDPR and ePrivacy. It should be a standard part of employee training and ingrained in everyone's mind.

Otherwise, you'll be dogged by maverick behaviour that could lead to investigations, fines and serious damage to your brand. It's important to stress personal accountability and ownership for everyone.

One day, we'll wonder what the fuss was all about ... maybe.

Over time, GDPR should become part of corporate culture ... and as natural as health & safety, Internet usage policy at work, and recycling.

It'll just be another business process for *doing the right thing*.

Suggested activities:

- ☐ Work out the implications for your business by function: GDPR will affect employees in Marketing, Sales, IT, Legal, Finance business units and regions, plus others potentially.
- ☐ Team with HR to provide corporate-aligned training to all functions up to senior executives
- ☐ Include data privacy training as part of your induction process.
- ☐ Make training ongoing, so everyone stays alert and up to date.
- ☐ Check on training provision at your external Marketing partners.

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COMPLIANCE ROADMAP

In reality, few organisations will have every detail of GDPR compliance perfectly polished by May 2018.

But it's important to hit the big milestones and have a roadmap for keeping up direction and momentum.

Compliance must build not diminish as you add new prospects, customers, products, territories and partners.

Along the way, you'll most likely need to adapt your programme as new challenges arise.

So exactly how do you embed a Data Privacy Culture?

Just like any business culture it is based on shared values, attitudes, standards and belief. Start by setting the standards. Make sure you monitor and reinforce the standards. Educate the doubters as to the value of data and why the standards are enforced. Over time shared values and beliefs will emerge.

Suggested activities:

- Develop a roadmap for on-going compliance.
- Outline specific milestones.
- Ensure your GDPR readiness programme team meets regularly.
- Use external specialists to support momentum and provide outside perspective.
- Adjust policies as needed to minimise gaps, eliminate onerous steps and keep pace with changes to regulations.
- Report regularly to executive sponsors.

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MEASUREMENT & REPORTING

When the fire alarm sounds, everyone knows what to do. In the case of GDPR, you need to be ready in case your local SA visits your organisation with a stack of awkward and searching questions.

You must demonstrate compliance - from proving consent to verifying data disposal. You need systems to establish the facts beyond doubt.

Your GDPR policy cannot simply be printed and then placed in a cupboard to gather dust. It needs to be functioning 24/7 ... and subject to measuring, testing and reporting. Think fire drills.

So when the alarm sounds for real, there's no drama.

The Fire Drill

Make sure you run (preferably random, unannounced) drills for:

- Data breach (data falling into the wrong hands).
- Data misuse (external complaints for personal data usage).
- Data access requests (an individual asks for all the information you store on them).
- Data deletion requests (and individual asks for all their information to be deleted).

Document the drills you run. Get someone to represent the individual and ask them to report on their experience after the drill.

Suggested activities:

- ☐ Align with IT and other departments to deliver systems that can demonstrate proof of compliance.
- ☐ Capture audit trails of permission opt-ins and changes.
- ☐ Include compliance in MAP and CRM systems.
- ☐ Conduct 'fire drills' and external checks.
- ☐ Implement systematic and measurable metric reporting.
- ☐ Be able to produce internal and external-facing reports.

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TO CONCLUDE

With the seconds ticking away to May 2018, Marketing and Sales professionals need to act swiftly to move towards compliance.

It’s essential that you...

- Gain executive sponsorship for your readiness programme.
- Raise awareness of GDPR within your organisation.
- Consider people, technology and measurement.
- Develop a project plan for achieving compliance.
- Get outside specialist help where needed to build momentum and hit your key project milestones.
- Make sure you run and document your ‘fire drills’ at least once before May 2018.

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Hopefully this guide has turned any mild terror, frustration or even apathy you may be feeling towards GDPR into enthusiasm or at the very least resigned yourself to the fact that GDPR cannot be ignored. Remember you are not alone, it effects everyone doing business in the EU. If you need a shoulder to cry on or assistance with your GDPR compliance project we are here to help.

We are working with many of our customers on their GDPR plans so we are sure we can help accelerate yours.

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