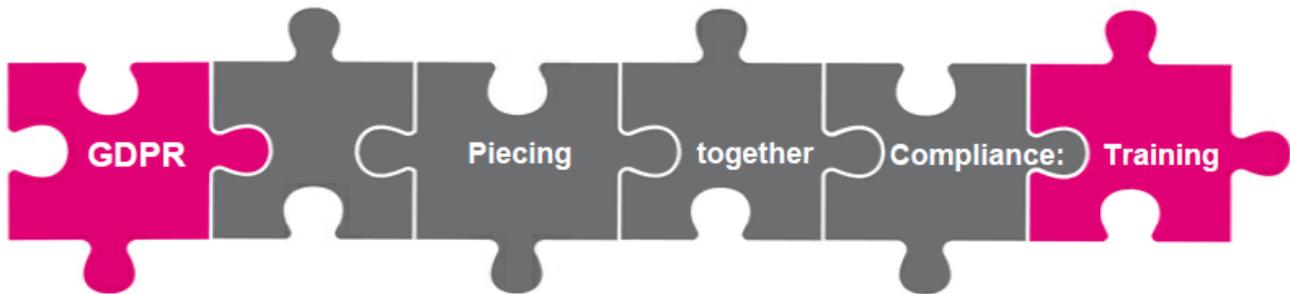


# GDPR - RETAIL

**"Data! Data! Data!...I can't make bricks without clay". Arthur Conan Doyle**

From the early days of Sherlock Holmes, it has been recognised that information is king. The General Data Protection Regulation (GDPR) coincides at a time when so many new technologies and methods are available to retailers to better understand their customer's purchasing trends. A personalised retail experience has almost become an expectation of the modern consumer. Data is fast becoming the "clay" to the bricks.



The GDPR affects all retailers who process consumer data in Europe. It is important to ensure that you have the correct processes and procedures in order to use your consumer database.

Some examples of the types of activities which may be affected include:

- profiling of consumers and their shopping behaviours;
- adopting new technologies which capture more consumer data or uses consumer data in a different way.
- data sharing arrangements; and
- direct marketing of products or offers.

### **Profiling, tracking, iBeacons and data analytics**

Analysing consumer behaviour to dictate tailored marketing has been a cornerstone of retail for a number of years. Loyalty programmes are an example. Retailers will be able to individualise the types of loyalty vouchers to suit the buying habits of that particular consumer. iBeacons and other tracking related tools are also starting to make their way onto the consumer scene to help tailor the experience or to encourage specific consumer behaviours. The technology already exists to tailor television advertisements to particular households.

Under the GDPR all profiling activities must be justified and consumers must be informed of such activities.

How do you extract the consumer's data from their datasets?

### **Privacy by design and new technologies**

The intention of the GDPR is to ensure that privacy compliance is a board level concern in all businesses. This means that from the conception of a new process to the practical implementation, the risks to privacy of consumers and how best to mitigate those risks must be properly assessed and dealt with.

### **Data sharing**

Data sharing is commonplace in today's connected society. Outsourcing and sub-contracting arrangements may involve transfers of personal data. In our experience, many businesses fail to have adequate data sharing agreements in place to set out the respective responsibilities of each party. The GDPR introduces further requirements on retailers in relation to the specific contractual obligations that must be imposed upon their suppliers and these revised arrangements ideally need to be in place by May 2018.

### **Direct marketing**

GDPR brings the issue of consent back under the spotlight and takes a more prescriptive approach towards transparency.

Along with the GDPR, a new e-Privacy Regulation (which governs direct marketing and other forms of electronic communications) is also on the horizon. Marketing and advertising now expands across a number of different platforms including social media and instant messaging applications. The proposal is for these

channels to be addressed directly in the e-Privacy Regulation. In the meantime, existing marketing laws apply alongside GDPR.

With the onset of the GDPR, data protection law will now impose responsibilities on both the data controller and the data processor.

### Our experience and how we can help:

- defending major retailers on data breaches;
- sharing data between large retailers with the objective of preventing fraud;
- use of CCTV in the context of warehouse monitoring;
- dealing with large scale subject access requests;
- merging and divesting customer databases in acquisitions and disposals;
- advising on the adoption of iBeacons in one of Europe's busiest shopping streets;
- advising on data capture technology through existing CCTV facilities;
- use of ANPR on retail sites;
- advising on the approach to privacy by design and how to manage risks inherent in new technologies;
- carrying out privacy impact assessments;
- novel privacy issues in the context of 3D printing;
- providing tailored legal support and advice; and
- delivering privacy training to senior management and employees .

### How can we help?

At DWF, our approach to GDPR is that it presents an opportunity for you, with the correct assistance, to use privacy compliance as a competitive advantage to increase customer trust.

Our data protection experts have a wealth of experience working with high profile retailers and data analytics businesses.

### Our retail sector expertise

- From farm to fork, factory to front door, our expert sector team advises on a full range of legal disciplines in a multi-jurisdictional context.
- We are the most popular law firm that FTSE 100 retailers currently turn to, according to a report compiled by The Lawyer Market Intelligence team.
- Extension of your in-house team. Having worked in-house for some of the largest retailers, as well as on secondments, our industry experts understand your commercial needs and the energetic legal solutions required.
- Direct to your inbox: our weekly Retail & Food Regulatory update uses a traffic light system keep you up to date.

## Get in touch



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