

**Avoid doing
something illegal
when using emails for
campaigns.**

**Learn when and why
sending out
promotional emails and
newsletters is illegal.**

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Are you doing something illegal when using customers' emails for campaigns without even knowing it?

Emails are often thought as an easy and cheap way to perform marketing campaigns as opposed to the old-fashioned physical letters. However, using emails for sales- and marketing campaigns or just for sending out newsletters might backfire as you will most likely get a huge fine from the authorities. Emails should definitely be used with caution.

Use of emails for marketing campaigns

We often get requests for Healthcare Professionals' (HCP's) and Healthcare Organisations' (HCO's) emails from clients and marketing bureaus, who would like to do an email marketing campaign. And yes, we do have the data in our database on HCP's and HCO's; however, we do not disclose these unless we have obtained the HCP's and HCO's prior consent to use the email – i.e. obtained email permissions.

Why? Because it's illegal.

Email permissions

Email permissions have been a hot topic for a while now. Physical mailings as part of a marketing strategy can be costly and is sometimes considered to be old-fashioned. Sending emails as opposed to physical letters would be an easy and cheap way for the healthcare industry to market their products towards the HCP's and HCO's. However, the basic rule in EU is that no one is allowed to send emails with direct marketing purposes, unless the email holder has given his/her prior consent to receive such emails, cf. the EU Directive 2002/58/EC on privacy and electronic communications¹.

An exemption from this basic rule is the situation where the email is obtained from a customer in connection with a sale. In such case the email may be used for direct marketing of similar products or services, provided that the

email holder is given the opportunity, free of charge, to object against the use of his/her email for direct marketing at the time of collection and on the occasion of each subsequent email sent to the customer.



Take this example

If a person creates a customer account using his/her email on a website that sells IT equipment in connection with a purchase, the company owning the website may send marketing emails to this person as long as;

- these marketing emails only concern IT products, and
- as long as the person is given the opportunity to object against receiving any further marketing material each and every time he/she receives a marketing email from the company.

Hence, the products that are marketed through emails must be within the same product category. This means that if the company expands its product range to include e.g. clothes, the company may not send marketing emails

¹ Amended by EU Directive 2006/24/EC and EU Directive 2009/136/EC

regarding this new product range without obtaining a prior consent from this person. The key word here is '*consent*'. By creating a customer account, it is assumed that the person is interested in this company's products and hence would like to receive marketing emails occasionally. However, it can not be expected that the person is also interested in other types of products – e.g. if the company expands its product range. Therefore, the EU Directive limits the possibility to use emails in order to protect the person against spamming.

Marketing strategy

If it is part of your marketing strategy to perform email campaigns, it is of outmost importance that you obtain the necessary email permissions from the HCP's and HCO's, or have a third party to collect these for you. Either way, it will improve your customer database significantly and be valuable for your company.

What to do?

- Collect email permissions before carrying out an email marketing campaign or sending out other promotional material by email – or get a third party to do this for you.
- Respect if people do not wish to receive marketing emails from you – it is not worth annoying people and creating bad will.
- Remember: you will definitely not be popular within your own company, if you receive a huge fine from the local authorities.
- Double check local legislations in countries where you consider doing a marketing campaign by email – a EU directive are minimum rules, which might be implemented differently across Europe.

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