

# EMAIL MARKETING ACROSS EUROPE

## National law requirements






## European email marketing requirements





This table below sets out national law consent requirements for sending business-to-consumer ('**B2C**') and business-to-business ('**B2B**') email marketing around Europe (including the European Economic Area member states, Switzerland and United Kingdom). For European Economic Area countries, the national law consent requirements derive from national law implementations of the European Union's Privacy and Electronic Communications Directive 2002/58/EC.





For the purposes of interpreting the table below:

- '**Opt-in**' means sending marketing to the recipient only where it has taken an unambiguous positive action to consent (e.g., ticking a box, clicking an "agree" button, or confirming consent in writing).
- '**Opt-out**' means sending marketing to the recipient unless they take an action to refuse or unsubscribe from marketing (e.g., ticking an "opt out" box or clicking an unsubscribe link).
- '**Soft Opt-in**' means that the sending of e-marketing to the recipient is permitted on an Opt-out basis if:
  - the recipient's details were originally collected "in the context of a sale";
  - the entity sending the marketing is the same legal entity that collected the recipient's details initially;
  - the marketing relates to "similar" products and/or services for which the recipient's details were originally obtained; and
  - the recipient is given the opportunity, free of charge, to object to the e-marketing, both at the time their details were collected and in each subsequent communication.
- '**Transaction required**' or '**Transaction not required**' indicates whether a completed sale transaction (i.e., the exchange of money for goods or services) is necessary in order to satisfy the Soft Opt-in requirement that the recipient's details are collected "in the context of a sale". Where a transaction is **not** required, a commercial relationship with the recipient must generally still exist in order to be able to rely on Soft Opt-in (e.g., the recipient has submitted a product enquiry or requested a quote from the business)



Country	Applicable legislation	First party e-marketing <i>(i.e. the entity that collects the data will send the e-marketing itself)</i>	Third party e-marketing <i>(i.e. the entity that collects the data will share with third party partner for e-marketing)</i>	National interpretation of "in the context of a sale" for purposes of applying the Soft Opt-in <i>(i.e. is a sale transaction necessary?)</i>
 <b>Austria</b>	Telecommunications Act.	<b>B2C:</b> Double Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Double Opt-in. Opt-out permitted where Soft Opt-in applies. <b>If relying on Opt-in (rather than soft Opt-in), double Opt-in<sup>1</sup> should be used.</b> Soft Opt-in does not apply to recipients who have registered on the Austrian national Opt-out list.	<b>B2C:</b> Double Opt-in. <b>B2B:</b> Double Opt-in.	Transaction <b>not</b> required.
 <b>Belgium</b>	Article XII.13 of the Code of Economic Law. Royal Decree of 4 April 2003 regulating advertising by electronic mail.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> If sent to an individual B2B email address: Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>Bulgaria</b>	Electronic Communications Act (Promulgated, SG No. 41/22.05.2007, last amended: SG No. 94/29.11.2019.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.




<sup>1</sup> A two stage process where two separate actions are required. For example, signing up to a mailing list on a website and then confirming the address by clicking on a link in an email.





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 <b>Croatia</b>	Electronic Communications Act (Official Gazette No. 73/2008, 90/2011, 133/2012, 80/2013, 71/2014, 72/2017).	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction <b>not</b> required.
 <b>Cyprus</b>	The Regulation of Electronic Communications and Postal Services Law (Law 112(I)/ 2004), as amended.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>Czech Republic</b>	Act on Certain Information Society Services (480/2004 Coll.).	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>Denmark</b>	Danish Marketing Practices Act no. 426 of 3 May 2017, article 10.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.

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 <b>Estonia</b>	Electronic Communications Act.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-out.	Transaction required.
 <b>Finland</b>	Information Society Code (917/2014), Chapter 24, Sections 200 & 202.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out if relates to the recipient's professional role. Otherwise Opt-in.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-out if relates to the recipient's professional role. Otherwise Opt-in.	Transaction required.
 <b>France</b>	Article L34-5 of the Postal and Electronic Communications Code.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>Germany</b>	German Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb - UWG) as last amended 18 April 209.	<b>B2C:</b> Double Opt-in <sup>2</sup> . Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Double Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Double Opt-in. <b>B2B:</b> Double Opt-in.	In practice, reliance on the Soft Opt-in is rare in Germany. Double Opt-in advised.





<sup>2</sup> A two stage process where two separate actions are required. For example, signing up to a mailing list on a website and then confirming the address by clicking on a link in an email.




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 <b>Greece</b>	<p>Article 11, paras. 1, 3 and 7 of Law 3471/ 2006 as amended and in force today.</p>	<p><b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.</p> <p><b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.</p>	<p><b>B2C:</b> Opt-in.</p> <p><b>B2B:</b> Opt-in.</p>	<p>Transaction <b>not</b> required.</p>
 <b>Hungary</b>	<p>Regulation (EU) 2016/679 of the European Union and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 65/46/EC (GDPR).</p> <p>Act V of 2013 on the Civil Code.</p> <p>Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (Info Act).</p> <p>Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities (Advertising Act).</p> <p>Act CVIII of 2001 on Electronic Commerce and on Information Society Services (E-commerce Act).</p>	<p><b>B2C:</b> Opt-in.</p> <p><b>B2B:</b> Opt-out.</p>	<p><b>B2C:</b> Opt-in.</p> <p><b>B2B:</b> Opt-out.</p>	<p>Soft Opt-in: N/A.</p>




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	Act C of 2003 on Electronic Communications.			
 Ireland	The European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out if relates to the recipient's professional role. Otherwise Opt-in.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in	Transaction required.
 Italy	The Italian Personal Data Protection Code (Legislative Decree No. 196 of 30 June 2003) as amended by Legislative Decree No. 101 of 10 August 2018.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies (email only, not SMS). <b>B2B:</b> Opt-in.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 Latvia	Law on Information Society Services, dated 4 November 2004.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-out.	Transaction required.

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 Lithuania	Law on Legal Protection of Personal Data 1996. Law of Electronic Communications 2004. Law on Advertising 2000	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies (email only, not SMS).	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 Luxembourg	Law of 14 August 2000 on e-commerce. Law of 30 May 2005 on electronic communications networks and services.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-out.	Transaction required.
 Malta	Processing of Personal Data (Electronic Communications Sector) Regulations – – Subsidiary Legislation 586.01 the "Regulations".	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 Netherlands	Telecommunications Act dated 5 June 2012.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.



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 <b>Norway</b>	The Marketing Control Act dated 9 January 2009.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>Poland</b>	The Act on e-Services ('e-Services'). Telecommunications Law ('Telco').	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Soft Opt-in: N/A.
 <b>Portugal</b>	Law 41/2004 of August 18 on processing of personal data and the protection of privacy in the electronic communications sector (amended by Law 46/2012 of August 29) that implemented Directive 2002/58 subsequently.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	Transaction required.
 <b>Romania</b>	Law No. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.

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 <p><b>Slovakia</b></p>	<p>Act on e-Commerce (22/2004 Coll.). Act on Electronic Communications (351/2011 Coll.).</p>	<p><b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.</p>	<p><b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.</p>	<p>Transaction required.</p>
 <p><b>Slovenia</b></p>	<p>Electronic Communications Act (Zakon o elektronskih komunikacijah; ZEKom-1). Personal Data Protection Act (Zakon o varstvu osebnih podatkov; ZVOP-1).  NB: new legislation expected soon but no changes in the drafts to these questions.</p>	<p><b>B2C:</b> Opt-in. Opt-out permitted where the Soft Opt-in applies. <b>B2B:</b> Opt-out.</p>	<p><b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.</p>	<p>Transaction required.</p>
 <p><b>Sweden</b></p>	<p>Marketing Practices Act (Sw. marknadsforingslagen (2008:486)) amended 21 July 2019.  The Electronic Communications Act (Sw. lagen om elektronisk kommunikation (2003:389)) amended 1 October 2019.</p>	<p><b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.</p>	<p><b>B2C:</b> Opt-in. <b>B2B:</b> Opt-out.</p>	<p>Transaction required.</p>

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 <b>Switzerland</b>	Article 3(1)(o) of the Federal Act on Unfair Competition.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>Spain</b>	Law 34/2002 on information society services and electronic commerce (LSSI).	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-in. Opt-out permitted where Soft Opt-in applies.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-in.	Transaction required.
 <b>United Kingdom</b>	Privacy and Electronic Communications (EC Directive) Regulations 2003 last amended on 19 December 2018.	<b>B2C:</b> Opt-in. Opt-out permitted where Soft Opt-in applies. <b>B2B:</b> Opt-out.	<b>B2C:</b> Opt-in. <b>B2B:</b> Opt-out.	Transaction <b>not</b> required.