



Lawful basis for processing personal data

There are six lawful basis in total:

1. Consent
2. Contractual Necessity
3. Legal Obligation
4. Vital Interest
5. Public Interest
6. Legitimate Interest

Consent

A data process is one action. So a data subject (i.e. your customer) can be involved in multiple data processes; one for audit purposes, one for billing, one for delivering the service. Sales & Marketing are eager to upsell and cross-sell to customers and this is another data process - sending marketing email.

Under the existing ePrivacy directive you require an opt-in to send any direct marketing emails. Opt-in is not the same as consent. Consent under the GDPR means that a data subject allows you to process their data. In order to send marketing emails you need both. This means your data subject has to agree to two tick boxes:

- Opt-in to receiving marketing email (ePrivacy)
- Consent to having their data processed (GDPR)

This means for your customers, that you can contact them about what they have bought but you cannot send them additional marketing email unless they consented (GDPR) and opted in (ePrivacy) to this.

A basic example to illustrate: A kitchen appliance company has sold a freezer to a customer. The company may contact the customer about the freezer, it's maintenance, warranty etc. However, the company may not contact the customer about the dishwasher offer coming up in June (unless they have opted in and given consent to do so).

Contractual Necessity

In the run up to closing a contract and while fulfilling a contract / ongoing sales relationship, you are in your right to create a data process for handling customer data. You may contact your customers about the contract and any information they need around this. For this legal basis money has to have exchanged hands, it's not an option for free services or products.

You cannot send them marketing email.

Legal Obligation

You may have to hold onto contracts, invoices, etc., for legal reasons. This would include audit or tax purposes. This means you can process customer data for this purpose (careful, this doesn't mean you can contact customers with sales and marketing messages). This lawful basis only applies if it's dictated by EU or member state law.