

Email Marketing Across Europe

January 2024

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 (e.g. 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).

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 <p>Austria</p>	<p>Telecommunications Act.</p>	<p>B2C: Double Opt-in. Opt-out permitted where Soft Opt-in applies.</p> <p>B2B: Double Opt-in. Opt-out permitted where Soft Opt-in applies.</p> <p>If relying on Opt-in (rather than soft Opt-in), double Opt-in¹ should be used.</p> <p>Soft Opt-in does not apply to recipients who have registered on the Austrian national Opt-out list.</p>	<p>B2C: Double Opt-in.</p> <p>B2B: Double Opt-in.</p>	<p>Transaction not required.</p>
 <p>Belgium</p>	<p>Article XII.13 of the Code of Economic Law.</p> <p>Royal Decree of 4 April 2003 regulating advertising by electronic mail.</p>	<p>B2C: Opt-in. Opt-out permitted where Soft Opt-in applies.</p> <p>B2B: If sent to an individual B2B email address: Opt-in. Opt-out permitted where Soft Opt-in applies.</p>	<p>B2C: Opt-in.</p> <p>B2B: Opt-in.</p>	<p>Transaction required.</p>

¹ 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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 Bulgaria	Electronic Communications Act (Promulgated, SG No. 41/22.05.2007, last amended: last amended: SG No. 32/26.04.2022, effective since 28.07.2022.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction not required.
 Croatia	Electronic Communications Act (Official Gazette No. 76/2022).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out.	B2C: Opt-in. B2B: Opt-in.	Transaction required.
 Cyprus	The Regulation of Electronic Communications and Postal Services Law (Law 112(I)/ 2004), as amended.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in.	B2C: Opt-in. B2B: Opt-in.	Transaction required.

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 Czech Republic	Act on Certain Information Society Services (480/2004 Coll.).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction required.
 Denmark	Danish Marketing Practices Act no. 866 of 15 June 2022, article 10.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction required.
 Estonia	Electronic Communications Act, 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).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out.	B2C: Opt-in. B2B: Opt-out.	Transaction required.

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 <p>Finland</p>	Information Society Code (917/2014), Chapter 24, Sections 200 & 202.	<p>B2C: Opt-in. Opt-out permitted where Soft Opt-in applies.</p> <p>B2B: If sent to an individualised B2B email address: Opt-in. If sent to a non-individualised email address (or an individual email but the role of the individual is essentially related to the service/product being marketed and the controller can verify this): Opt-out.</p>	<p>B2C: Opt-in.</p> <p>B2B: If sent to an individualised B2B email address: Opt-in. If sent to a non-individual email address (or an individualised email but the role of the individual is essentially related to the service/product being marketed and the controller can verify this): Opt-out.</p>	Transaction required.
 <p>France</p>	Article L34-5 of the Postal and Electronic Communications Code.	<p>B2C: Opt-in. Opt-out permitted where Soft Opt-in applies.</p> <p>B2B: Opt-out.</p>	<p>B2C: Opt-in.</p> <p>B2B: Opt-in.</p>	Transaction required.
 <p>Germany</p>	German Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb - UWG) as last amended 24 April 2022.	<p>B2C: Double Opt-in². Opt-out permitted where Soft Opt-in applies.</p> <p>B2B: Double Opt-in. Opt-out permitted where Soft Opt-in applies.</p>	<p>B2C: Double Opt-in.</p> <p>B2B: Double Opt-in.</p>	Transaction required. In practice, reliance on the Soft Opt-in is rare in Germany. Double Opt-in advised.

² 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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 Greece	Article 11, paras. 1, 3 and 7 of Law 3471/ 2006 as amended and in force today.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction not required.



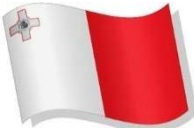
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 Hungary	<p>Regulation (EU) 2016/679 of the European Union and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 65/46/EC (GDPR).</p> <p>Act 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>Act C of 2003 on Electronic Communications.</p>	<p>B2C: Opt-in.</p> <p>B2B: Opt-out.</p>	<p>B2C: Opt-in.</p> <p>B2B: Opt-out.</p>	<p>Soft Opt-in: N/A.</p>




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 <p>Ireland</p>	<p>The European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011.</p>	<p>B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out if relates to the recipient's professional role. Otherwise Opt-in.</p>	<p>B2C: Opt-in. B2B: Opt-in.</p>	<p>Transaction required.</p>
 <p>Italy</p>	<p>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.</p>	<p>B2C: Opt-in. Opt-out permitted where Soft Opt-in applies (email only, not SMS). B2B: Opt-in.</p>	<p>B2C: Opt-in. B2B: Opt-in.</p>	<p>Transaction required.</p>
 <p>Latvia</p>	<p>Law on Information Society Services, dated 4 November 2004.</p>	<p>B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out.</p>	<p>B2C: Opt-in. B2B: Opt-out.</p>	<p>Transaction required.</p>




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



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 Netherlands	Telecommunications Act last amended 1 June 2023.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction required.
 Norway	The Marketing Control Act dated 9 January 2009.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in when sent to an individualised email. Opt-out permitted where Soft Opt-in applies. Opt-out when sent to a non-individualised email.	B2C: Opt-in. B2B: Opt-in when sent to an individualised email. Opt-out when sent to a non-individualised email.	Transaction required.
 Poland	The Act on e-Services ('e-Services'). Telecommunications Law ('Telco').	B2C: Opt-in. B2B: Opt-in.	B2C: Opt-in. B2B: Opt-in.	Soft Opt-in: N/A.




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 Portugal	Law 41/2004 of August 18 on processing of personal data and the protection of privacy in the electronic communications sector subsequently amended (including by Law 46/2012 of August 29 that implemented Directive 2002/58).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in when sent to an individualised email. Opt-out permitted where Soft Opt-in applies. Opt-out when non-individualised email unless recipients have registered on the Portuguese National Opt-Out List.	B2C: Opt-in. B2B: Opt-in when sent to an individualised email. Opt-out when non-individualised email unless recipients have registered on the Portuguese National Opt-Out List (updated on monthly basis).	Transaction required.
 Romania	Law No. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction required.
 Slovakia	Act on e-Commerce (22/2004 Coll.). Act on Electronic Communications (452/2021 Coll.).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out permitted when an individual's business contact details are made publicly available.	B2C: Opt-in. B2B: Opt-out permitted when an individual's business contact details are made publicly available.	Transaction required.

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 Slovenia	Electronic Communications Act (Zakon o elektronskih komunikacijah; ZEKom-2).	B2C: Opt-in. Opt-out permitted where the Soft Opt-in applies. B2B: Opt-out.	B2C: Opt-in. B2B: Opt-in.	Transaction required.
 Spain	Law 34/2002 on information society services and electronic commerce (LSSI).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-in. Opt-out permitted where Soft Opt-in applies.	B2C: Opt-in. B2B: Opt-in.	Transaction required.

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 Sweden	Marketing Practices Act (Sw. Marknadsföringslag (2008:486)) amended 1 September 2022. The Electronic Communications Act (Sw. Lag (2022:482) om elektronisk kommunikation).	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out, if the email relates to the recipient's professional role. Otherwise opt-in.	B2C: Opt-in. B2B: Opt-out, if the email relates to the recipient's professional role. Otherwise opt-in.	Transaction required.
 Switzerland	Article 3(1)(o) of the Federal Act on Unfair Competition.	B2C: Opt-in. B2B: Opt-in.	B2C: Opt-in. B2B: Opt-in.	Soft Opt-in: N/A.
 United Kingdom	Privacy and Electronic Communications (EC Directive) Regulations 2003, last amended on 29 March 2019.	B2C: Opt-in. Opt-out permitted where Soft Opt-in applies. B2B: Opt-out. 'Do not email' list is good practice.	B2C: Opt-in. B2B: Opt-out.	Transaction not required.