



# AUDIENCE ANALYTICS & INSIGHT

**Managing the data lake: Integrating behavioural and survey data to deliver improved audience insights**

**The key implications of the General Data Protection Regulation**

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## WHAT IS PERSONAL DATA?

Art 4: “...any information **relating to an identified or identifiable** natural person (‘data subject’); an **identifiable** natural person is **one who can be identified, directly or indirectly**, in particular by reference to an **identifier** such as a name, an **identification number, location data, an online identifier** or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”

## HOW ARE YOU ALLOWED TO PROCESS PERSONAL DATA? – Article 5: the 6 Principles

- **lawfulness, fairness and transparency** - processed lawfully, fairly and in a transparent manner
- **purpose limitation** - collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- **data minimisation** - adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- **accuracy** - accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay
- **storage limitation** - kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed
- **integrity and confidentiality** - processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures

## HOW ARE YOU ALLOWED TO PROCESS PERSONAL DATA? – Article 6: Lawfulness of Processing

**Consent** – *data subject has given consent to the processing of his or her personal data for one or more specific purposes*

**Definition** - *any **freely given, specific, informed and unambiguous indication** of the data subject's wishes by which he or she, **by a statement or by a clear affirmative action**, signifies agreement to the processing of personal data relating to him or her*

**Legitimate Interests** - *processing is **necessary** for the purposes of the legitimate interests pursued by the controller or by a third party, **except** where such interests are **overridden by the interests or fundamental rights and freedoms** of the data subject...*

**Recital 47** – *The processing of personal data for direct marketing purposes **may** be regarded as carried out for a legitimate interest'*

**Pros & Cons to both**

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## **PROS & CONS OF CONSENT V LEGITIMATE INTERESTS**

### **Consent**

- Greater rights
- Mandatory in some cases
- Art 7 Right to withdraw consent

### **Legitimate Interests**

- Art 21 right to object, including profiling - conditional
- Art 21 right to object to Direct Marketing, including profiling - unconditional

## PROFILING

**Art 22.1:** *The data subject shall have the right not to be subject to a **decision** based **solely** on automated processing, including **profiling**, which produces **legal effects** concerning him or her or **similarly significantly affects** him or her....unless....*

**Art 22.2:** *.....the decision: **is based on the data subject's explicit consent.***

**Art 22.3:** *If you rely on explicit consent....the data controller shall implement suitable measures to **safeguard the data subject's rights and freedoms and legitimate interests**, at least the right to obtain **human intervention on the part of the controller, to express his or her point of view and to contest the decision.***

**Art 35.3:** *“A **data protection impact assessment**....shall in particular be required in the case of a **systematic and extensive evaluation** of personal aspects relating to natural persons which is based on **automated processing, including profiling**, and on which decisions are based that produce **legal effects** concerning the natural person or **similarly significantly affect** the natural person.”*

## ICO KEY RECOMMENDATIONS FROM BIG DATA PAPER

- consider whether the big data analytics to be undertaken actually requires the processing of personal data. If not, **anonymise**.
- be **transparent** about processing of personal data by using a **combination of innovative approaches** in order to provide meaningful **privacy notices** at appropriate stages throughout a big data project. This may include the use of **icons, just-in-time notifications and layered privacy notices**.
- embed a **privacy impact assessment** framework into big data processing activities to help identify privacy risks and assess the **necessity** and **proportionality** of a given project.
- adopt a **privacy by design** approach in the development and application of big data analytics. This should include implementing **technical and organisational measures** to address matters including data **security**, data **minimisation** and data **segregation**.
- develop **ethical principles** to help reinforce key data protection principles. Employees in smaller organisations should use these principles as a reference point when working on big data projects. Larger organisations should create **ethics boards** to help scrutinise projects and assess complex issues arising from big data analytics.
- implement **innovative techniques** to develop **auditable machine learning algorithms**. Internal and external **audits** should be undertaken with a view to explaining the rationale behind algorithmic decisions and checking for **bias, discrimination and errors**.

“Not only useful but essential”

Lord Smith, Chairman, Advertising Standards Authority

# AD LAW

Edited by  
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The essential guide  
to advertising law  
and regulation

IPA



# Thank you

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