

**BEST PRACTICE IN THE
EVER-SHIFTING DATA PRIVACY
REGULATIONS ENVIRONMENT**

10 THINGS YOU CAN DO NOW

ADMA

Association for Data-Driven Marketing & Advertising

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BEST PRACTICE IN THE EVER-SHIFTING DATA PRIVACY REGULATIONS ENVIRONMENT

10 THINGS YOU CAN DO NOW

1) BECOME FAMILIAR WITH THE KIND OF DATA YOUR ORGANISATION IS COLLECTING

PERSONAL INFORMATION: Your team needs to have a good understanding about what is and is not 'personal information'. This will also help better understand the shape shifters.

The term 'personal information' encompasses a broad range of information. Personal information must be handled in accordance with the Australian Privacy Principles (APPs)

Section 6(1) of Privacy Act 1988 (Cth) defines *personal information* as:
Information or an opinion about an individual who is reasonably identifiable;
(a) *Whether the information or opinion is true or not; and*
(b) *Whether the information or opinion is recorded in a material form or not*

Shape-shifting: contrast pseudonymised and de-identified (anonymised and de-identified (anonymised) information

Where there is uncertainty as to whether information collected falls within the definition of 'personal information', erring on the side of caution and treating the information as *personal information* will minimise risk exposure.

SENSITIVE INFORMATION: This is personal information that includes information or an opinion about an individual's:

- > Racial or ethnic origin;
- > Political opinions or associations
- > Trade union membership or associations
- > Sexual orientation or practices;
- > Criminal record;
- > Health or genetic information
- > Some aspects of biometric information

Generally, sensitive information has a higher level of privacy protection than other personal information.

2) UNDERSTAND WHERE AND HOW COLLECTION IS TAKING PLACE

Do an audit to identify all the points of collection of data/ personal information in your organisation. This is a critical step. Start with your own team and department, but it will be important to also work together with teams across various departments within the business so as to ensure that there is no gap which can lead to a breach.

Notice and Consent: Once you understand the collection points, do an Audit to check how your organisation is providing clear information (notice) to consumers. Ensure you are obtaining appropriate consent.

As first-party data becomes more important to your business, Marketers need to ensure this data is collected in a way that is compliant and can be utilised for marketing purposes.

It is each brands responsibility to make sure their sites display privacy notices and cookie transparency messages which use simple language.

Get smart about defaults and options including opt outs.

Consent around sensitive information: Understand the type of personal information your organisation is collecting so you can be sure that you have the right level of consent. Ensure the organisation is 'handling' the information appropriately and storing it securely.

Don't collect data 'for the sake of collecting data': Consider how the organisation intends on using any personal information it collects. Apply principles of 'ethics', consumer protection and 'fairness' (necessity, proportionality and user expectations). This will mitigate risk exposure now and continue to put your organisation in good stead as privacy laws develop.

3) UNDERSTAND HOW YOUR ORGANISATION MANAGES THE INFORMATION IT COLLECTS

Data Storage: Work with your IT infrastructure team to ensure your organisation has a secure environment to store the data you collect in a way that is compliant with legislative guidelines.

This includes understanding your organisation's current levels of user access. Ensure that the security levels around the different forms of data your organisation collects has the protection levels required by law.

Data processes and Practices: Understand and evaluate whether your business has best practice processes in place for the use of data it collects. This issue no longer impacts just the compliance team, if things go wrong it will fall in the lap of the marketer. Privacy by design is a requirement of most developing privacy laws internationally.

Access, Correction and Disposal: Become familiar with the process that your organisation follows in providing consumers transparency, user (options), controls over the personal information held about them. Understand how this works in relation to 'consent'.

4) ASSESS YOUR PARTNER ACCOUNTABILITY

Have a clear understanding of the journey the data your organisations collects goes on with your brand. This includes considering any partners you may use/need. Allocate the right level of responsibility and accountability in multiparty data ecosystems.

Look at your organisations due diligence with your current data partners and where this needs to be tidied up, start to work with your legal teams to ensure that the company understands the permissions, prohibitions and terms by which data can be collected, used, disclosed and managed in line with regulatory and consumer expectations.

5) REVIEW DOCUMENTATION

Work with your legal team, agencies and commercial teams to check that all documentation that your organisations have in place is reflective of your requirements under the data privacy regulations and that your data collection and management obligations to your customer. Following your obligations would most likely affect your entire media management process but it will help you make smart commercial decisions.

This includes reviewing the following:

- > Contracts and Agreements with partners (current and future);
- > The transparency and recency of your various Policies (Privacy, Cookies etc);
- > Your Terms and Conditions
- > Consent framework on marketing creative

6) ENSURE YOUR ORGANISATION HAS A CLEAR COMPLIANT PROCESS FOR ADVERTISING TAGGING AND TRACKING

FIRST-PARTY COOKIES/PIXELS

Tags enable information stored in cookies to be read and recorded by ad servers so that ad campaigns can be executed and measured accurately.

Make informed decisions by ensuring that:

- > any site tagging request is accompanied by clear details about the tag vendor's privacy policy and tracking capabilities.
- > no tagging and tracking is applied without written approval from the relevant internal department (which may need to update the Privacy policy)

- › website tagging and tracking are deployed via a tag managing platform so that all tags are cleanly managed and deployed

Have your team conduct a tag audit to help review all tags being deployed and record tracking and privacy details such as:

- › Tag name: what is the name and purpose of the tag?
- › Ad Tech description: what does the technology track or report?
- › Business justification for tag: why is the tracking required?
- › Cookie lifespan: what is the expiry date of cookies being dropped?
- › Opt-out option: what is the URL for any user wishing to opt out?
- › Tag expiration: when will this tracking tag be turned off or removed from the site?
- › Custom variables: is any other client-specific data being collected? (eg conversion data)
- › See if you have any deprecated 3rd party cookies dropping on your site.

There are many good tag managers that can be used to conduct this audit.

7) BECOME FAMILIAR WITH THE NEW PRIVACY / TARGETING SOLUTIONS THAT ARE EMERGING

Marketers need to be aware of the various targeting approaches that are emerging and watch their progress and development and how they work once launched.

It is likely that Marketers will need to adopt a mix of targeting approaches, but you shouldn't go blindly, so make contact with the Tech Platform offering the respective targeting approach and ask them to explain directly how it would work for your brand and the implications re: Privacy.

Test and Learn. This will be crucial in determining what works for your specific marketing strategy.

However get selective about cohorts and segmentation.

8) STAY UP TO DATE WITH PLATFORM COMPLIANCE

Each of the big tech giants (Facebook, Google, Amazon and Apple etc) will have compliance models for operating within and/or with their ecosystems.

It is important that marketers become familiar with and stay updated on these frameworks in order to ensure they can partner with them in whichever form is required.

Stay on top of the developments of the global tech giants - both in terms of their technology and platform policies and rules.

Best Practice Guides from the policies often give clear indications of what the platform deems acceptable. They are also good indicators of their priorities.

9) CONSIDER YOUR ORGANISATIONS 'INDIVIDUATION' GAP PROBLEM

Marketers need to start considering the inferences and granularity in how they use data. Seriously consider the question of when segmentation becomes 'singling out'. While Australian data privacy law may not *currently* expressly stop all methods of singling out (if the right precautions are taken), 'singling out' individuals will provide more risk exposure for your organisation (and in some instances may already be a breach of existing laws).

10) IMPROVE CROSS FUNCTION COMMUNICATION AND ASSESS THE SKILLS & CAPABILITY OF YOUR PEOPLE

Marketers need to work with the other functions in the business. Both Best Practice and Compliance relies on open communication between teams. Technology, agencies, ad-ops, compliance, legal, creative, strategy teams must work together with transparency in order to minimise risk exposure and ensure that privacy processes are being implemented throughout the business.

Ensure that your whole team is across their responsibilities when it comes to privacy. Make sure that the team knows your organisations privacy policy and internal processes. Make sure they know where to go for more information and what to do if there is fear of a potential breach.

Educate yourself/ your teams on developments in privacy (and SPAM) laws locally and internationally. This is a particularly fast moving and constantly developing area which can not be ignored (or left to other teams to deal with).

Regularly check in with your legal and compliance teams to ensure you are across any changes. Legal may also need to overlay other factors to ensure compliance with regulations in addition to privacy. Be open in your conversations so that you are getting the right advice for your particular circumstances.

Do education courses to remind yourself of the basics as compliance is built from understanding these foundational principles. Remember developments in data privacy laws have a knock-on impact on how global platforms develop their technology and offerings to partners and advertisers. So changes in this area will directly impact your organisation, your customers, your teams and you.

DON'T KNOW WHERE TO START TO COMPLY WITH THE EVER-CHANGING DATA PRIVACY REGULATIONS ENVIRONMENT?


ADMA is the principal marketing body of Australia, we are Australia's largest and go-to industry body for ambitious data-driven marketers.

We regroup all and only the trustworthy and time-saving resources you need in one place to ensure no mistakes are made. We provide a roadmap for our members to harness the power of data-driven marketing responsibly and intelligently. We pride ourselves to spark innovations and we give guidance to turn ideas into reality.







In addition to being your trusted resources center, we offer a 360 assessment via our Marketing Skills Assessment tool, so you know where your team's gaps are and get away with an actionable strategic plan to upskill and retain your talent. Tap Into the best marketing's minds with our leading education delivered by hand-picked real-world experts at the top of their field.

Marketing doesn't stand still, nor does ADMA, and we help you keep the pace and stay relevant

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