

GDPR and you

Chapter one

2016

Responsible Marketing

DM
Data &
Marketing
Association **A**

/ Contents

DMA overview.....	02
Introduction.....	03
Penalties.....	03
Big data.....	03
Adapting to GDPR.....	04
Executive summary.....	05
Awareness.....	06
Preparedness.....	07
Conclusion.....	12
Glossary of terms.....	13
Methodology.....	15
About the DMA.....	16
Copyright and disclaimer.....	17

/ DMA overview

The general Data Protection Regulation (GDPR) is the EU's new policy framework, giving consumers greater data and privacy protection while keeping the economic opportunities of digital transformation alive so that modern marketing concerns like big data can be used to create both jobs and economic value.

Issues of data protection are now board level, integral to the brand, and must be considered to be critical business risks not just compliance issues. Any loss of customer trust, such as security breaches, will have reputational damage which will have financial consequences to both brand and shareholder value that will be serious risks, on top of possible fines.

There are less than two years before companies must be compliant, and the DMA's new research assesses how ready companies are. Our first report shows that both B2B and B2C, but particularly B2B brands, are unprepared so far. This research should act as a call to arms so businesses start taking the GDPR changes seriously.

The GDPR is not just another law that marketers need to pay attention to. It's a whole new way of doing business that will fundamentally change not just how marketers do what they do, but will guide the development of one-to-one marketing for decades to come.

The DMA's involvement with the GDPR has been long, and we are happy to report that the final requirements for businesses are far better than those set out in the original text, and the efforts of our team and our partners at the Advertising Association have been fruitful.

We will also monitor the progress of awareness of the GDPR, and this research is the first step. We will repeat this research at intervals throughout the next two years.

If any members feel they need to know more about the GDPR and what they need to do, they can access the GDPR part of the DMA's website at dma.org.uk/gdpr, which includes webinars, articles and perspectives. They can take further training with the IDM, who have a GDPR course and an online DPR Award.

Rachel Aldighieri
DMA MD

/ Introduction

The EU General Data Protection Regulation (GDPR) proposes to change the relationship between companies, citizens and their data. Many changes will come as a result of the GDPR, but one overarching principle is that data protection is a board level issue and should be seen as a critical business risk rather than a compliance issue. Loss of customer trust, security breaches and the reputational damage of fines could pose risks to brand and shareholder value.

The GDPR will mean changing the way businesses hold, process and deal with customer data. Customers will have more control over their data, and businesses will be held accountable for breaches of data privacy or data security, and the penalties can be harsh - €20 million or 4% of global turnover, whichever is the larger.

Penalties

Penalties are set so high so that they can have an effect on every business, from single person startups to huge tech giants like Facebook or Google. That's just the monetary impact. Reputational impact could be worse.

Concepts like data protection and data security have always been of concern to marketers because of what happens when it goes wrong.

If your customer's details fall into the wrong hands then your brand suffers – look at the effects of breaches at brands as diverse as TalkTalk or Ashley Madison. The fallout from the Ashley Madison hack was significant and included divorces, resignations, suicides and dozens of legal cases. According to Talk Talk's results, the hack cost them £42 million, more than halving the group's profits and sending its share price plunging.

Prudent marketers have always taken data protection seriously.

Big data

In 2013 Norwegian data scientist Petter Bae Brandtzæg talked about Big Data with his Stiftelsen for Industriell og Teknisk Forskning (SINTEF) ICT colleague Åse Dragland. She wrote that, "A full 90 percent of all the data in the world has been generated over the last two years. Internet-based companies are awash with data that can be grouped and utilized. Is this a good thing?"

<https://www.sciencedaily.com/releases/2013/05/130522085217.htm>

One of her conclusions was that, "Vulnerability and data protection are the dark sides of our new entry into huge data sets and registers."

Fast-forward to 2016 and the outgoing Information Commissioner Christopher Graham said, "People have never been so aware of what their personal data is, and never cared so much about how it is used. The law is changing to reflect that.



“The EU data protection (GDPR) reforms promise to be the biggest shake up for consumers’ data protection rights for three decades. Organisations simply cannot afford to fall behind. We know data protection officers understand this, and we know they sometimes find their views ignored in the boardroom. The new law gives directors 20 million reasons to start listening.”

Adapting to GDPR

Already law, the new legislation will come into force in May 2018. There are compelling arguments for adapting to the legislation now. Two years may seem like plenty of time, but some of the changes will be significant and alter the way you and your business will work. Two years should be enough time to manage this through. Just. But it means starting now.

We asked marketers to tell us about their expectations and concerns of this new legislation. We measure marketers’ awareness and preparedness of the GDPR over the coming two years in a 6-monthly tracker series.

For the latest information on the GDPR, go to our special GDPR website at dma.org.uk/gdpr

/ Executive summary

- 1** Marketers don't yet know how the GDPR will influence their marketing or whether the changes will benefit them or consumers more.
- 2** B2B marketers are not only less aware of the GDPR legislation, they also underestimate the impact of the GDPR compared to B2C marketers.
- 3** There is little consensus over who manages those changes required to comply with the new GDPR regulations. More than one in five marketers simply don't know at all.
- 4** Of those changes needed before the GDPR comes into force, operational plans are more likely to be ready, while strategic plans are more likely to be planned but not ready.
- 5** Marketers feel they are better prepared than the companies they work for.

/ Awareness

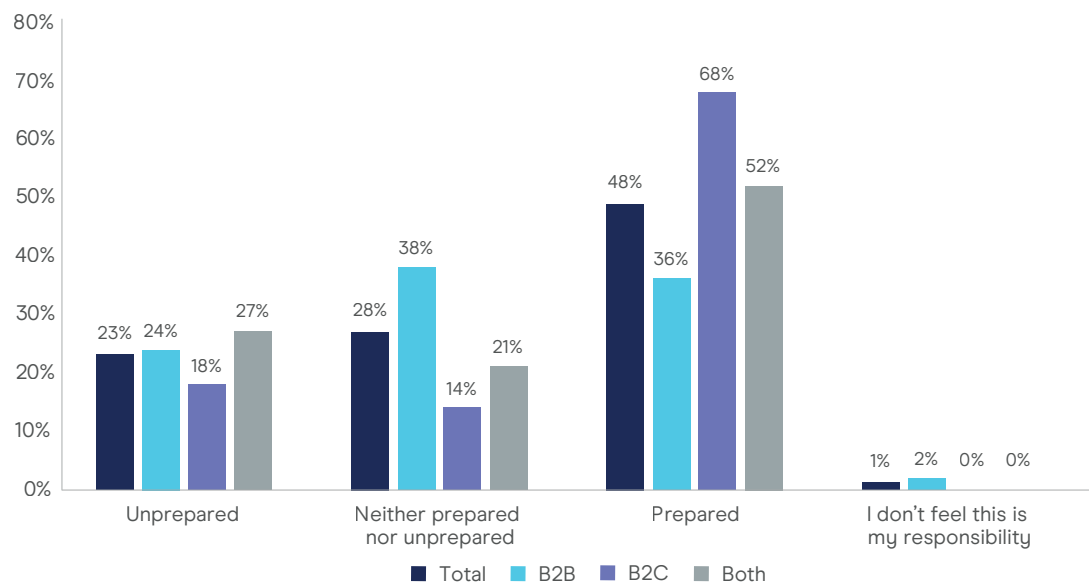
Those marketers operating in a B2B world are less aware of what changes the GDPR will bring than those who work in B2C marketing.

Almost one in ten (9%) of B2B marketers have no awareness of the GDPR, while 40% have a 'good' awareness, two-thirds the proportion of B2C marketers.

Those working in B2C marketing are significantly more aware of the new legislation, which is confirmed by the responses of those who work in both B2B and B2C, where responses track closely to B2C responses.

B2B marketers may operate in a greyer area under current legislation. Such distinctions of legitimate consent that exist between B2B and B2C marketers at present will disappear under the GDPR. Questions such as 'what is legitimate interest' remain unanswered in the GDPR, but will be clearer once the ICO publishes its guidance.

Chart 1 – How aware are you of the incoming changes contained in the new European data protection regulation?



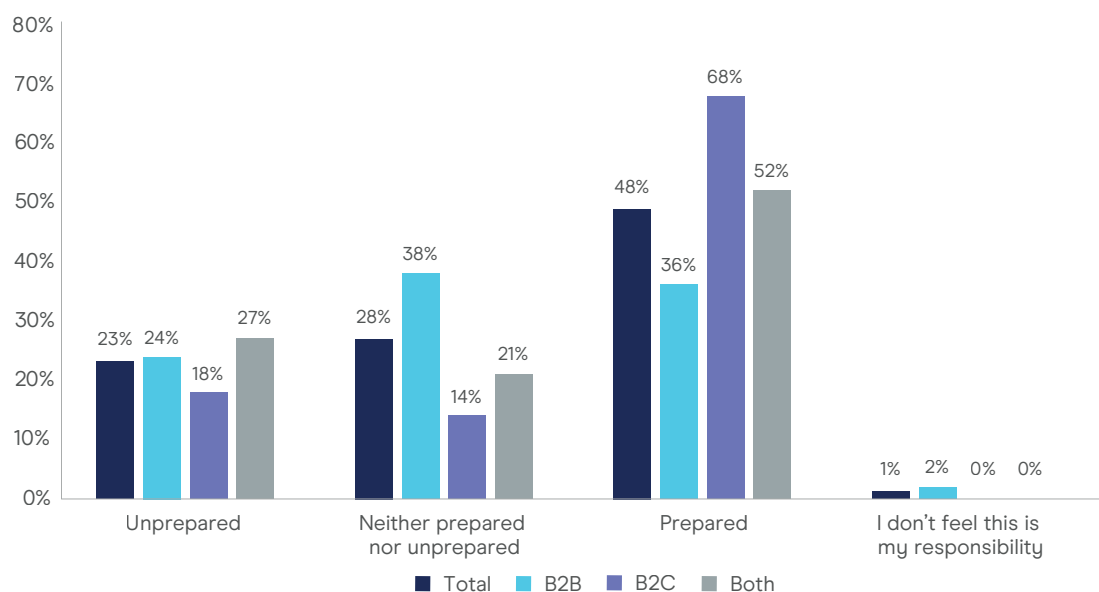
/ Preparedness

B2C marketers feel more prepared than B2B marketers, with twice as many B2C marketers claiming to be 'prepared'.

Those working in both B2B and B2C worlds fall somewhere in the middle, suggesting their preparedness is split between the demands of less prepared B2B clients and more prepared B2C clients.

For B2B marketers, there are fewer fines or other sanctions for those breaching data protection rules now. B2C marketers have more compliance demands now, and may therefore feel more prepared. B2C marketers may also have been targeted with more warnings about the incoming GDPR.

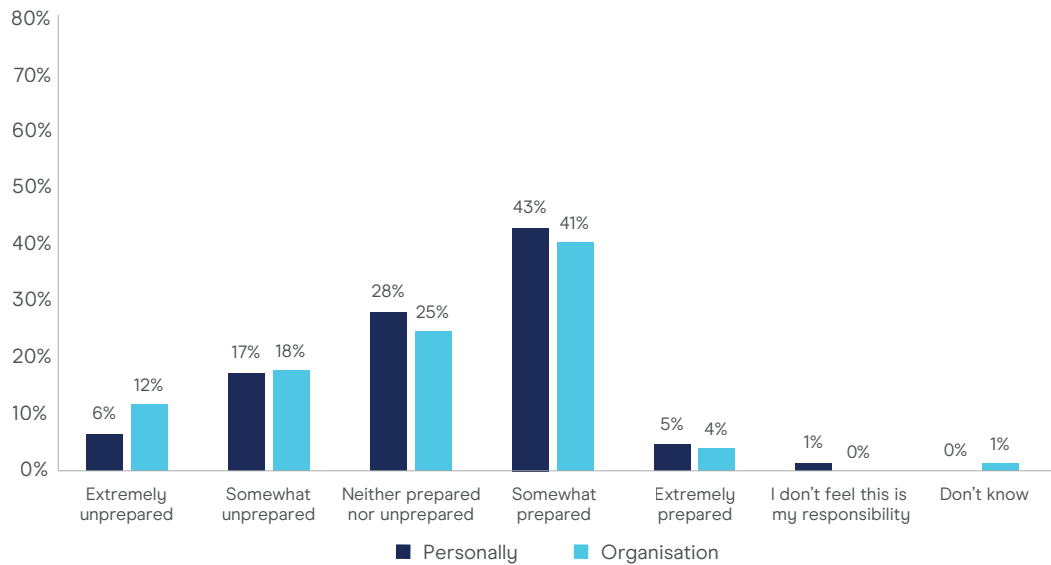
Chart 2 – At this time, how prepared are you, personally, for these changes?



When we look at personal versus organisational preparedness, we see that individuals consistently rate themselves as more prepared than the organisation they work for. According to our research, 12% of respondents claimed their organisation is 'extremely unprepared' for the GDPR. For personal preparedness, this halves to 6%.

This personal confidence may also reflect individual training that has yet to filter through to the rest of the organisation.

Chart 3 - Personal vs organisational preparedness



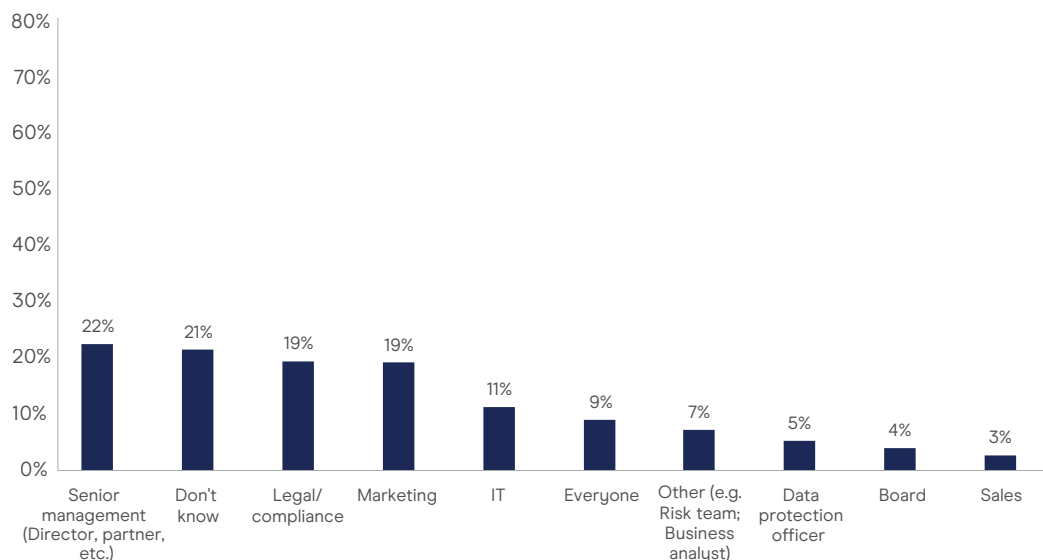
When asked who bears the responsibility for changes brought about by the new GDPR regulations, respondents were free to give any answer they liked. More than one in five (21%) admitted to not knowing the answer.

One-third of respondents gave more than one answer and there is little consensus on display here.

If one had to pick a 'right' answer, it would be 'everyone' (9% chose this) as responsibility will not lie with a particular department, but of course senior management (22% chose this – the most popular score) would have to drive this change through by 2018.

Larger organisations will need to hire a data protection officer by 2018 to be responsible for data security and compliance within the business. Opt4 estimates 28,000 data protection officers will be needed throughout Europe to comply.

Chart 4 – Who, do you feel, has ownership for implementation of the new data protection regulation changes in your organisation?



Respondents priorities over the coming two years closely match the changes companies say they will carry out in the coming two years. This is as expected – if something is a priority, then it will presumably be carried out soon.

However, there are some disparities.

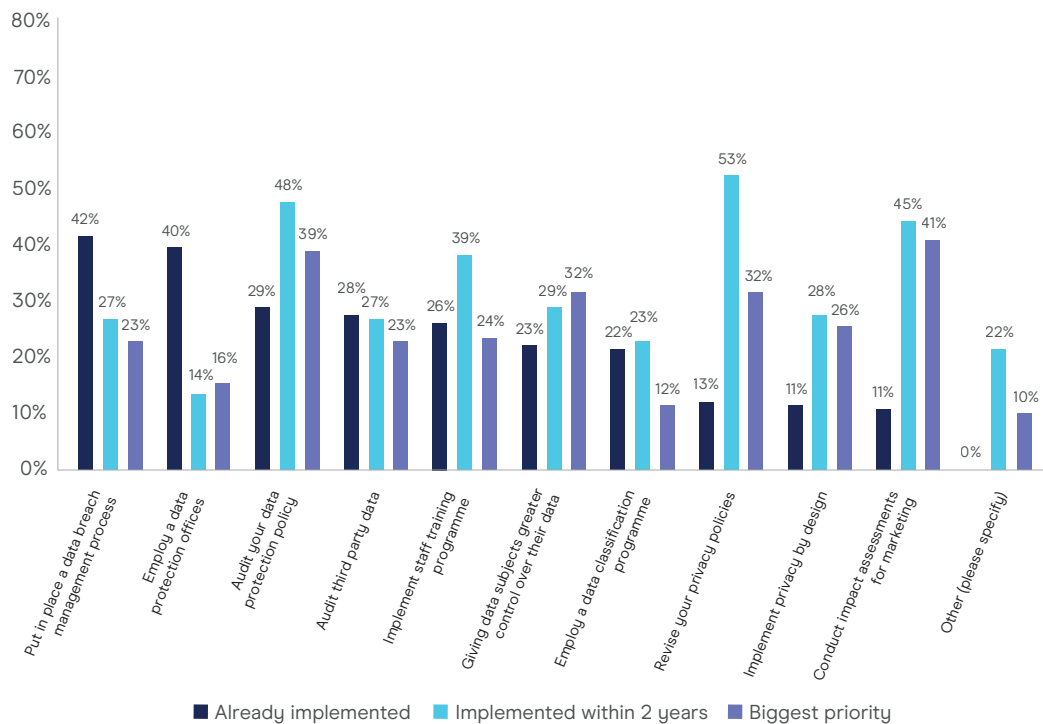
Some measures will be implemented within two years, but are less of a priority. These include 'revising privacy policy' (53% implementing within two years to 32% flagging as a priority), most likely because the final changes to privacy policy wording will not be necessary until the GDPR comes into force, so can wait until May 2018.

However, 'implementing a staff training plan' (39% within two years, 24% as a priority) and 'Audit your data protection policy' (48% to 39%) may be a riskier strategies as the GDPR expects businesses to be prepared as the law comes into force in May 2018.

There is a pattern to the changes that have already been implemented by respondents – operational changes are more likely to be already implemented, while strategic plans are more likely to be planned but not yet implemented.

Operational changes will be more expensive and require greater lead-in times to get moving. Strategic plans are exactly that, strategic. Final implementation might not be necessary until the 11th hour in 2018.

Chart 5 - Biggest priority compared to what is being introduced within the next 2 years.



One of our most striking findings is that those working in B2B marketing apparently underestimate the impact of the GDPR on their business. Our research suggests that 26% of B2B and 33% of B2C marketers estimate they will be 'very' or 'extremely' affected by GDPR changes.

However, of those marketers who deal in both B2B and B2C this proportion rose to two-thirds (66%) saying they would be 'very' or 'extremely' affected.

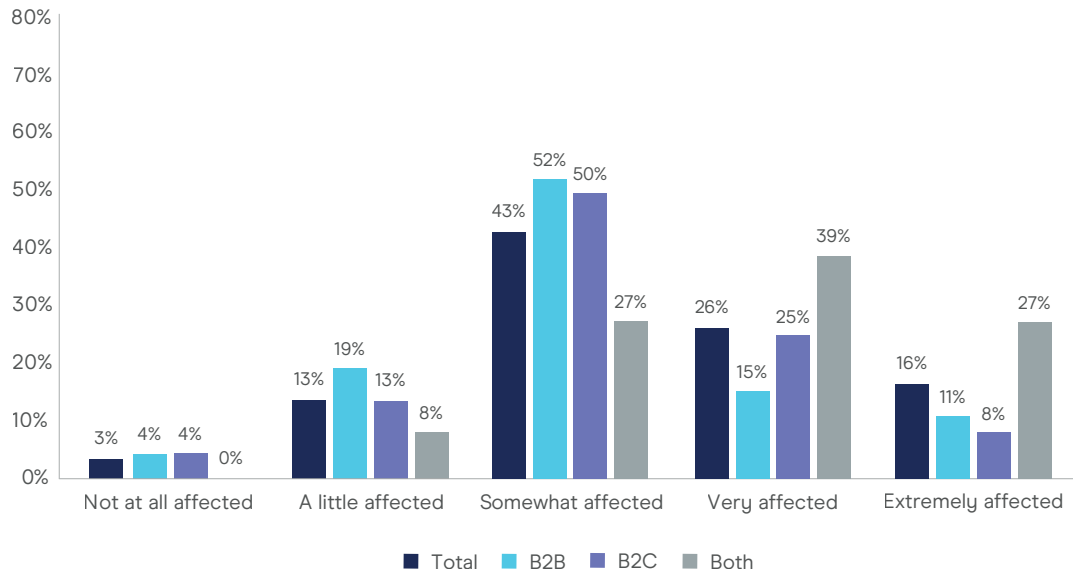
This finding seems surprising, particularly because we know that for those who deal in both B2B and B2C marketing, awareness of the changes coming due to the GDPR tracks to B2C marketers.

This anomaly can be explained if we consider that B2B marketers underestimate the impact GDPR will have. Those working in both B2B and B2C are as aware of the legislation as B2C marketers, and therefore see the problems facing the B2B sector.

B2B respondents, who aren't necessarily aware of the potential problems – it's an 'unknown known' to them. They therefore underestimate the impact of the GDPR, and this should be of some concern to the B2B sector.

In particular, a great deal of B2B marketers' work relies on 'legitimate interest' which could change significantly under the GDPR. Restrictions around 'legitimate interest' will tighten, and B2B marketers will feel this acutely in 2018.

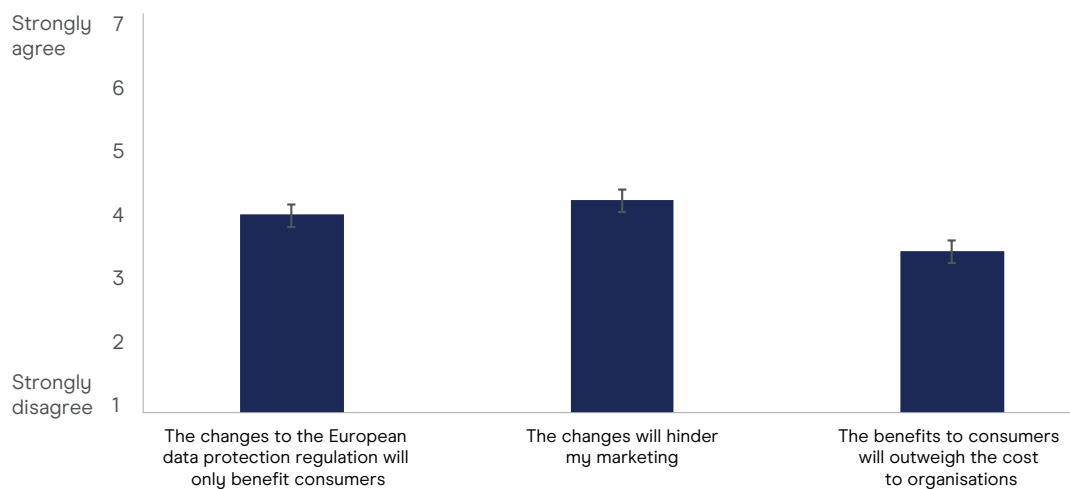
Chart 6 - When the law comes into place, to what extent do you think your organisation will be affected by these changes?



Finally, when asked to rate whether, “Data protection changes will only benefit consumers”, “changes will hinder my marketing” and “benefits to consumers outweigh the cost to organisations” on a seven-point scale, respondents chose close to mid-point, and there was very little variation in responses.

What we can take home from this is simple – marketers simply don’t appreciate the impact of the GDPR. However, we do know that lobbying by the DMA and Advertising Association has helped to reduce the impact on business, with a significant shift towards the interests of business, while keeping the concerns of consumers vital, in the final text.

Chart 7 – How much do you agree with the following statements:



/ Conclusion

While the GDPR is law now, we have two years before it comes into force, but the time to adapt is now.

Awareness is reasonably high, but an alarming 30% of respondent believe their company is unprepared for the new rules.

In addition, we can see from our research that B2B marketers underestimate the GDPR's impact on them. Almost seven in ten B2C marketers (68%) said they felt 'prepared' for the changes, dropping by almost half (36%) for their B2B counterparts.

While marketers will have to comply with the GDPR, the regulations go further and attempt to ingrain data protection within every business. Everyone in the business will be responsible and every company, whatever the size, will need to do something to get their business ready.

As we have said before, there is no need to panic. Yet.

As long as marketers start getting their business GDPR ready today, then tomorrow they will find they are compliant.

In America there is a phrase known as 'eat that frog'. It means do the most difficult things first. In this case we urge you to start – that's the first step and the most difficult step. But the most important.

We will check on the progress of GDPR awareness throughout the two-year implementation plan and keep you updated at dma.org.uk/gdpr

/ Glossary of terms

General Data Protection Regulation

We have put together a glossary of key words and phrases used in the GDPR. This is intended for anyone who isn't familiar with the data protection lingua franca.

If you think any other terms or words should be added to this list, get in touch with our external affairs manager, Zach Thornton, via email Zach.Thornton@dma.org.uk

- **Anonymous data** – A process that removes personally identifiable information from a data set. This means that the data subject cannot be identified.
- **Consent** – In the GDPR it means 'any freely given, specific, informed and unambiguous indication' of a person's wishes and is one of the legal grounds organisations use to process personal data.
- **Data breach** – When an organisation loses control of personal data it holds and cannot guarantee its security. A recent example is the Talk Talk hacking scandal in which hackers stole personal data belonging to 100,000s of Talk Talk customers.
- **Data controller** – The organisation that is the custodian of personal data and decides how that data will be used.
- **Data classification programme** – A process of organising a data set to determine what personal data an organisation holds and categorising it. Appropriate security measures can then be taken to protect more sensitive data.
- **Data processor** – An organisation that processes data on behalf of the controller. For example, an email system that uses data collected by a high street bank to send its marketing emails would be a data processor.
- **Data protection officer or DPO** – Responsible for making sure an organisation is compliant with data protection law. The GDPR will require many organisations to hire a data protection officer.
- **Data subject** – A person whose personal data is held by an organisation.
- **GDPR** – Stands for General Data Protection Regulation. The piece of legislation created by the European Union (EU) that will update and harmonise data protection law across the EU.
- **Personal data, personally identifiable information or PII** – Any data that can identify a person. For example, name, phone number or personal email address. What is personal data is complicated by the fact that some data can be used to identify a person but in other instances could not.

- **Privacy by default** – Where a new product or service has its privacy settings set at the highest level by default. The customer can then choose to change those settings if they so wish.
- **Privacy by design** – This means thinking about data protection and privacy issues at the start of a campaign, not leaving data protection policy to the legal or compliance team. Marketers should be thinking about the impact of a campaign on privacy and possible steps to mitigate those risks.
- **Privacy impact assessment** – The formal process of checking a marketing campaign to ensure it is compliant with data protection law but also to identify potential risks. Where needed, action should be taken to mitigate potential adverse risks to privacy.
- **Privacy policy** – Explains to people how their personal data will be used by an organisation, who the organisation are and any other extra information. Privacy policies are also known as ‘privacy notices’ or ‘how we use your information/data’ but there are others.
- **Profiling** – Defined as any form of automated processing that analyses personal data to make predictions, segmentations or other groupings. For example, Sainsbury’s Nectar card collects personal data and tracks buying habits to profile people and send offers on products and services they enjoy.
- **Processing** – How organisations make use of personal data whether by collection, recording, structuring, storage, dissemination, erasure or any other method. Collecting email addresses and sending out marketing communications via email is a form of data processing.
- **Pseudonymous data** – Data that has been encrypted to make it unreadable without a key to unlock the data set. This is a privacy measure advised in the GDPR.
- **Third party** – An organisation or person permitted to process personal data by the data controller or processor. May also refer to a ‘third party data supplier’, who collects data to sell to third parties for marketing purposes. ‘Third party data’ is data bought by an organisation off a third party data supplier.

/ Methodology

DMA Insight: GDPR and you is an initiative undertaken by the DMA's External Working Party and the Internal Working Party.

The research was conducted between March and April 2016 via an online survey and promoted on the DMA home page and via various other sources. DMA members found a link via a select number of weekly newsletters, social networks and websites.

A wide range of both DMA members and non-members completed the survey. This sample included a cross section of company types and sizes. Respondents operated in a wide range of sectors. The data was collated and analysed by the DMA's Marketing and Insight department, who also wrote the report. The final report was produced in collaboration with the DMA's External and Internal working parties, designed by the DMA's in house design team.

The survey consisted of a maximum of 31 questions, a mixture of both qualitative and quantitative questions. These questions were reviewed by the DMA and the working parties to ensure they reflected the current industry scenario. The survey had 117 respondents (42% B2B, 28% B2C, and 30% both).

Findings were launched on 17 June 2016, hosted on the [GDPR](#) section of the DMA website.

/ About the DMA

The Data & Marketing Association (DMA) comprises the DMA, Institute of Data & Marketing (IDM) and DMA Talent.

We seek to guide and inspire industry leaders; to advance careers; and to nurture the next generation of aspiring marketers.

We champion the way things should be done, through a rich fusion of technology, diverse talent, creativity, insight – underpinned by our [customer-focussed principles](#).

We set the standards marketers must meet in order to thrive, representing over 1,000 members drawn from the UK's data and marketing landscape.

By working responsibly, sustainably and creatively, together we will drive the data and marketing industry forward to meet the needs of people today and tomorrow.

www.dma.org.uk

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