

Marketing Handbook

Marketing and the Law

Data protection?

Privacy policies?

Cookies?

Trademarks, Intellectual property and Copyright?

Trades description act

Trading in today's busy and ever changing world can potentially be a mine field, but if your business aims to trade and act responsibly in all areas of business, then theoretically you shouldn't incur any problems.

This document aims to provide a brief overview of the laws that can impact on your marketing and give you food for thought.

The most common areas of marketing that could be impacted by the law are:

Email marketing and data protection

Email marketing and unsubscribes

Prize draws and competitions

Privacy policies and cookies on websites

Opt in or Opt out?

The requirement is customers should opt in first rather than being given the option to opt out if you have assumed to add people to your database for electronic communications.

X – add adding Ann Jones whom you met today at networking to your database and give her the option to opt out/unsubscribe to future emails you may receive.

✓ – ask Ann Jones to confirm in writing that she is ok to be added to your database. Then always include an unsubscribe/opt out option at the end of any email campaign communications.

EU Data Protection Regulations (EUDR) seeks to protect data and harmonise laws in every EU country. They want to see a change from an opt out system to an opt in rule.

Often data protection is referred to more with personal consumer data (B2C) rather than business to business (B2B) data however, B2B data is still regarded by many as personal data. The EUDR states that in the future, you will not be able to store B2B or B2C prospective customer's name, direct phone number, job title, mobile, email address, actions or behaviours as well as IP address without their prior consent.

Switchboard numbers, company names and addresses are not personal information.

This will affect web analytics and online marketing.

This could become law in early 2015 and then if so, a legal requirement with two years.

What can you do?

Get consent, ASK FIRST!

Cookies Law

The cookies law, or known as PECR (European e-Privacy directive) is where companies are now required to gain explicit consent from customers for the cookies they use.

CAP code

The CAP code and BCAP code are designed to ensure that all advertising, online or offline is legal, honest, decent and true.

These codes differ by broadcast based advertising and non broadcast.

Connected to this code and something else to be mindful of when advertising is the ASA. The ASA is the Advertising Standards Authority. They rule over adverts and can impose fines if they deem any advert to be against regulations.

Data Protection Act

This Act affects all companies that hold information about individuals. This could mean a database of customers from a marketing viewpoint.

As part of the act and according to the ICO, the key principles to be adhered to are:

Does the individual know you have their data and why?

Do they know if you pass their data on?

Is it held securely?

Is there limited access to it?

Do you destroy information that is no longer needed?

- Note - You also have to be aware for online marketing campaigns (especially email) that if you are using a 3rd party provider to store your data or send your email (e.g. Mail Chimp, iContact etc), if you are based in the EU your data must be stored in the EU unless you have specific permissions (not just from the customer but as part of your Data Protection license to store data outside of the EU). Most 3rd party sites are based in the US so fall fowl of this regulation.

**** MUST DO****

Register your business under the Data Protection Act - <https://ico.org.uk/for-organisations/register/>

Consumer Law

The emphasis here is to have harmonised laws for clarity and to ensure fair trade and to ensure traders act responsibly, honestly and ethically. E.g. to not be unfair, misleading or aggressive. Regulations referenced here are:

CPR's and BPR's - Consumer Protection Regulations and Business Protection Regulations.

Other Laws to be mindful of:

Bribery Act

Green claims guidance

Alcohol marketing bill

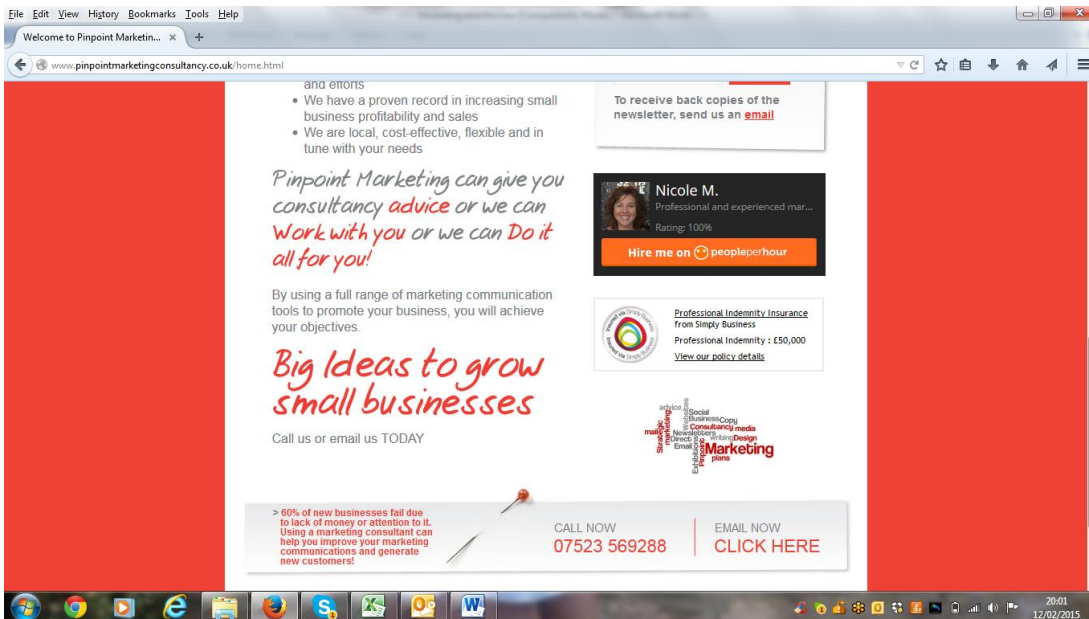
Food labelling regulations

Being protected

Any marketing professionals you use to work with you to grow your business, should be covered by Professional Indemnity insurance. Feel free to ask to see their cover or certificate to ensure you are in safe hands.

Pinpoint Marketing displays our cover on our home page.

<http://www.pinpointmarketingconsultancy.co.uk/home.html>



The screenshot shows a web browser window displaying the homepage of Pinpoint Marketing. The page features a red background with white and black text. Key elements include:

- A navigation menu at the top: File, Edit, View, History, Bookmarks, Tools, Help.
- A header area with the text: "Welcome to Pinpoint Marketing...".
- Main content area with the headline: "Pinpoint Marketing can give you consultancy advice or we can work with you or we can Do it all for you!".
- A sub-headline: "Big Ideas to grow small businesses".
- A call to action: "Call us or email us TODAY".
- A sidebar on the right with a profile for Nicole M., a "Professional and experienced mar..." with a "Rating: 100%" and a "Hire me on peopleperhour" button.
- Below the profile, a section for "Professional Indemnity Insurance From Simply Business" with "Professional Indemnity : £50,000" and a "View our policy details" link.
- A word cloud graphic with "Marketing" as the central word.
- A footer area with a statistic: "> 60% of new businesses fail due to lack of money or attention to it. Using a marketing consultant can help you improve your marketing communications and generate new customers!".
- Contact information: "CALL NOW 07523 569288" and "EMAIL NOW CLICK HERE".
- A taskbar at the bottom showing various application icons and the system clock: 20:01 12/02/2015.

Other law based areas to be mindful of

Companies must always state its statutory and regulatory position eg a company or LLP registered in England under number xxxxxx whose registered office is at..... and if the company is FCA regulated, state xxxxx is Authorised and regulated by the Financial Conduct Authority for xxxxxxxxx business with firm number xxxxxxxxxxxx

Falling foul of these requirements is a fine and potentially criminal offence!

Take home message:

Always seek professional and legal advice.

And ask first!

Register your business under the Data Protection Act - <https://ico.org.uk/for-organisations/register/>

Note: the advice and information here does not constitute legally binding advice.

Sources:

CIM – I'm not a lawyer, but ... What's new in marketing Law.