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Digital Marketing

5. Legal Aspect: GDPR and Digital Marketing

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1. Introduction

- The internet and social networks have provided easy access to consumer data, leading to some misuse of personal information.
- Individuals have become victims of unwanted promotional messages, calls, or emails offering products, often without their consent or having shared their data.
- To protect privacy and personal data, significant legal acts have been introduced. In the EU, the General Data Protection Regulation (GDPR) was adopted in 2016, which began to be applied on May 25, 2018. This regulation imposes severe penalties for improper processing of personal data.



1.1. Goals of GDPR

- **Main Goal: To increase individuals' control over their personal data.**
 - Enabling users to decide whether they want to receive promotional messages.
- **Scope of Rights and Obligations:**
 - Defining individuals' rights to data protection.
 - Obligations of data controllers and processors.
 - Ensuring data protection on an international level.
- **GDPR also introduces a list of sensitive data, including:**
 - Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or union membership.
 - Genetic data.



1.1. Goals of GDPR

- Biometric data for the purpose of unique identification of a person.
- Data concerning health.
- Data about a person's sex life or sexual orientation.
- **The processing of this data is allowed if:**
 - The individual to whom the data relates has given explicit consent for processing for one or more purposes, unless the processing is required by law without consent;
 - Processing is necessary for the protection of the vital interests of the data subject or another person if the data subject is physically or legally incapable of giving consent;
 - The data being processed is personal data which the data subject has obviously made public;



1.1. Goals of GDPR

- Processing is necessary for the establishment, exercise, or defense of legal claims, or when a court is acting within its jurisdiction;
- Processing is necessary for the public interest in the area of public health, such as protection against serious cross-border health threats or ensuring high standards of quality and safety of healthcare and medicines or medical devices, based on law that provides adequate and specific measures for the protection of the rights and freedoms of the data subject, especially in terms of maintaining professional secrecy.



1.2. Principles of Personal Data Processing

- Any company that processes personal data, whether as a data controller or processor, must follow the following basic principles outlined by the GDPR:
 1. Lawfulness, fairness, and transparency
 2. Purpose limitation
 3. Data minimization
 4. Accuracy
 5. Storage limitation
 6. Integrity and confidentiality



1.3. Basic Obligations of Data Controllers and Processors

- Appointment of a data protection officer.
- Informing individuals whose data is being processed.
- Keeping records of processing activities.
- Conducting data protection impact assessments and consulting the supervisory authority before data processing begins.
- Notifying affected individuals and supervisory authorities in case of data breaches.



1.4. Basic Rights of Data Subjects

- **The GDPR grants the following basic rights to individuals:**
 - Right to be informed about data processing.
 - Right of access to data being processed.
 - Right to rectify and supplement data.
 - Right to erasure (right to be forgotten).
 - Right to restrict processing.
 - Right to data portability.
 - Right to object.
 - Right not to be subject to automated decision-making, including profiling.



2. IMPACT OF GDPR ON DIGITAL MARKETING

- **Data Protection in Digital Marketing**
 - GDPR imposes new obligations on companies that collect and process personal data for digital marketing purposes.
 - Direct advertising and the use of tracking technology (such as cookies on websites that track user behavior) is no longer possible without the explicit consent of the user.
- **Consent for Data Processing**
 - Consent must be:
 - Voluntary, specific, informed, and unambiguous.
 - The individual must be informed about what data is being collected, for what purpose, and the duration of its use.



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- **Specificities of Consent:**
 - If consent is part of a broader statement, it must be clearly separated from other matters.
 - Simple and clear language should be used to avoid confusion.
- **Revocation of Consent**
 - **Right to withdraw consent:**
 - The individual can withdraw consent at any time.
 - Withdrawal must be easy, e.g., via email or by clicking "unsubscribe" in promotional emails.
 - **Obligation to inform:**
 - Users must be informed about their right to withdraw consent before it is requested.





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Questions & Answers

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