

Unlocking potential: how to contact European constituents under GDPR

Based on questions I received at my AASP Summit presentations I have the impression that many US organizations have stopped communicating with their overseas constituents, archived these records or even deleted them. In the case of European constituents this may be due to risk of contravening GDPR. This document proposes an alternative: work within the rules to engage with your constituents in Europe and unlock their giving potential.

Disclaimer: I'm not a lawyer; please seek legal advice specific to your organization for the ideas and recommendations discussed in this document.

GDPR refresher

The EU GDPR came into force on May 28, 2018. It enshrined in law the rights of individuals to access their data and to stop organizations from processing their data, and it set out the behaviors that organizations should follow with that data. In simple terms, it applies to organizations in Europe and elsewhere with records of European citizens. The legislation was retained in the UK after Brexit (and is unlikely to be rolled back).

Nonprofits utilize two types of opt-in to communicate with constituents under GDPR. **Consent** is the ideal and is an active opt-in by the constituent to receive communications and have their data processed and retained. **Legitimate interest** is commonly used for mail when active opt-in has not been obtained but there is a good reason to be contacting the constituent. Examples are to thank for a donation, to invite to an alumni event or to send a membership pack. Note that email communications must have had an active opt-in to comply with PECR (although there is some impetus in the UK to change the rules so that charities have the same rights as companies to use a "soft opt-in" for email, which would operate a bit like legitimate interest does for mail).

What it is not – step away from the delete button!

If you have constituents in Europe you may be wondering what to do with these records. **GDPR does not mean you can never contact these people again. It also does not mean you should delete them.**

Why have organizations distanced themselves from their European constituents?

There are of course very particular reasons an organization might take a cautious approach to their European constituents, but I would guess:

- Fear of contravening regulations (and the huge fines, reputational damage).
- Misunderstanding of what they can and cannot do with these records.
- Lack of time and resources to tackle the issue.
- Assuming a mailing campaign to these constituents would be prohibitively expensive.

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Could this mean organizations are missing out on potential supporters?

It strikes me that if an organization has a pool of records of individuals in Europe, and a valid reason to have those records, but they're not doing anything with them at all, they are missing out on potential supporters. The same could be said for organizations who do not accept gifts from anyone in Europe, but could do so.

Consider this: although GDPR has been challenging and not without its faults, one of the interesting positives has been the improvement in engagement rates. Donors are reassured that charities are handling their data appropriately and, most importantly, honoring requests for opt outs and contact preferences. The era of mass marketing by charities is gone. Trust and engagement are the new normal.

Spin this thought out and you have to ask, why wouldn't you want to tap into this pool (this whole continent!) of engaged supporters?

There is much to gain: when contact is done well

I live in the UK and I'm a British citizen, so GDPR applies to me. I donate at least twice a year to the Grand Canyon Trust in Arizona. They look after and advocate for a part of the world which means a great deal to me. When I first donated several years ago I checked a box to be kept in touch. Every now and then they mail me their membership magazine and I treasure these. I've moved house a couple times and I emailed them with my new details. They responded straight away. As a donor I feel valued and reassured that they are taking care of their records in exactly the way I would expect. I'm proud to continue to support them and to spread the word about their important work.

How it feels to be shut out: when it's not done well

I spent my junior year of university on exchange (junior year abroad, as it used to be known) at a liberal arts college in Massachusetts. For a while after I returned to the UK the college kept in touch with me then it dwindled. This year I reached out to them to see if I could get my alumni directory login refreshed. After getting tumbleweed for several weeks and having to clarify my question again and again I was told that as a rule they do not keep in touch with JYA alumni in Europe. As a data practitioner I could guess the reason behind this; as an alumnus it felt like a door slamming in my face.

So one organization took a broad and sensible approach, asked for consent at the time of donating, honors that consent, responds promptly to contact and gets a loyal supporter in return.

The other organization took a narrow approach. Assuming they are doing this with every JYA in Europe (and perhaps 4-year graduates and postgrads as well!!) they are missing out on engaging with thousands of individuals. Think of the untapped potential!

Ok, we have constituents in Europe – what should we do?

1. Figure out what data you have for these individuals in the EU and UK. How many of these records are mailable? How many have an email (and an email opt-in)?
2. For the mailable records, do you have an opt-in from them (and a timestamp of when that happened) or could you apply the legitimate interest test to these records?
 - Legitimate interest would be an existing relationship with the constituent and also that they would reasonably expect to hear from you because of this, ie. alumni, donors, event attendees, members. If it's donors this should be reasonably recent. A common practice is to use the date of GDPR (May 28, 2018) as a cutoff.
3. Are there historic opt-outs lurking on the records that need to be consolidated or filtered out?
4. Make sure the records are clean: resolve duplicates, check households to make sure you're only sending one piece of mail, clean up addresses.
 - If you have a lot of addresses that don't look like they're in the correct format find out if your mailing house can clean them for you.
 - If you're cleaning them yourself, this is my go-to reference for overseas address formatting, one I've been using for more than 20 years (the page has a delightful web 1.0 appearance but is regularly updated): **Frank's Compulsive Guide to Postal Addresses** columbia.edu/~fdc/postal/
5. Decide who to target. Start small. Track results then roll out to the next batch of records.
 - What if you have addresses from years ago and there's a good chance the constituents have moved? Start small with your most recent records. For the rest, consider doing a social media campaign to invite people overseas to update their details – make sure you've got a dedicated web page ready for them to visit.
6. Talk to your mailing house about how to minimize costs. Can they advise on the optimum size, design and paper stock of the mailing and on airmail vs. surface mail? I can assure you there will be individuals who will be *thrilled* to receive your mailer. International mail still does have the power to grab attention.
7. Devise what your email campaign and mailer would be seeking to do. It could invite individuals to stay in touch, support a campaign, to confirm their email address, update their details or interests and preferences.
8. Review your privacy policy and work with your legal counsel if it needs adjusting. It must explain what data you collect, where you store it and for how long, what you use it for and who you share it with. There are plenty of great examples out there of privacy policies that cover both US and European needs. Look to well-resourced institutions with overseas constituents, like MIT, Stanford and Cornell.

9. Work on your donation and profile update forms. Make sure there are clear checkboxes for opt-in/opt-out (and by method, ie. mail/email/SMS/phone). Make sure there is a clear link to your privacy policy. Test your forms (desktop AND mobile please!). Look at what the automatically generated acknowledgement says and make sure it has the appropriate privacy and preference links.
10. Put in place a process for responding promptly to enquiries and opt-in/opt-out requests. Make sure staff know how to respond. You might not get snowballed by the number of opt-ins but they will be really good quality – constituents who are *engaged* and *interested*.

What if you don't take gifts from overseas?

To which I'd ask, why not? Obviously it depends what your organization does. Universities, conservation charities, zoos and museums are more likely to have constituents overseas. But people love supporting organizations that mean something to them, wherever they are. It would be a narrow view to assume that overseas constituents don't want to give.

How does this all fit in with US privacy laws?

Privacy laws are emerging on a state by state basis and federal will happen at some point. Whilst none of these are expected to mirror GDPR they do have a lot of similarities. If you are interested in getting out in front of these emerging laws, you could use your European constituent pool as a starting point. Since GDPR is one of the strictest standards, understanding how to contact people and remain compliant would be a useful exercise and ideal preparation for new state laws. It will help get your privacy policy in shape (if it's not already) and tune up your processes for storing opt-ins and personal information. Visit my [resources page](#) for documents on US privacy law, links to useful articles and experts to follow.

What about prospect research?

Under GDPR in the UK prospect research services have changed. They can operate under legitimate interest but only so long as the charity's privacy policy sets the expectation that donors will be included in prospect research, and that sensitive information (ie. religion, ethnicity) is excluded. The types and sources of data used in screening have also changed.

It's early days as to the implications of state privacy law for prospect screening in the US, so don't expect any clear answers yet. However, if you are thinking about it and want to imagine how it might be done under GDPR-like privacy law, these UK resources may be a helpful place to start:

- prospectingforgold.co.uk/news-hub/how-to-tell-your-supporters-about-wealth-screening/
- charityconnect.co.uk/post/conducting-major-donor-prospect-research/7175
- factory.com/gdpr-resources/ look for their PDFs "Guide to GDPR compliant wealth screening" and "Why Factory is GDPR compliant a one page summary".