

How to Safely Leverage Customer Data Without Breaching Privacy

Customer data is an undervalued intangible business tool. Gathered and used correctly, it can provide you with a competitive edge.

Here are eight practical tips to help you gather data and comply with privacy laws:

1. Adopt a clear, comprehensive and flexible privacy policy

- We recommend a privacy policy that is comprehensive (in that it gives as many details as possible) but with some flexibility if circumstances change.
- The catch-all should be a last resort. You will be best placed to rely on a specific term.
- The policy should be clearly drafted and as simple as possible, taking into consideration the size, complexity and industry of your business.

2. Review your business operations to identify the points at which personal data is collected and obtain agreement to the privacy policy at each point

- We suggest that you undergo a thorough review of your organisation and identify all points or situations where data is collected (whether directly or indirectly) – for example, when products or services are purchased, when enquires are made in store, over the phone or online, through apps, through competitions and promotions.
- At each point of collection, ensure that customers give their informed consent to the collection, use, storage, disclosure of that information. If your business has a comprehensive privacy policy, this could be done by making customers aware of the privacy policy at the point of collection and obtaining their agreement to their personal data being processed in accordance with the privacy policy.

3. Invest in staff training on privacy issues

- Your business should have guidelines and processes in place around privacy and protecting personal data.
- Staff should be trained on these guidelines and processes so that they understand and know how to implement them.
- Training will also help staff identify a privacy red flag and know when to escalate matters or seek approval if they are uncertain about a privacy issue.

4. Ensure that your business has a Privacy Officer

- It is a requirement under the Privacy Act for a business to have a Privacy Officer to deal with all privacy related matters.
- As well as appointing a Privacy Officer, make sure that the Privacy Officer has the time and other resources needed to perform that function effectively.

5. Check that it is lawfully to share personal data before sharing it

- Make sure that your business has a process in place to confirm whether you have consent from each person prior to transferring their information to others. If in doubt as to whether consent has been obtained, assume that it hasn't and ask again.
- Don't share personal data with others without a binding contract in place which, among other matters, requires them to comply with the Privacy Act and to only use the personal data for the limited purpose required for the purposes of the contract.

6. Invest in technical and physical security measures

- Limit staff access to customer data on a need to know basis only.
- Ensure strict use of access cards and complex network passwords, and adopt other security measures appropriate to the size and complexity of your business.
- Invest in appropriate IT systems, including antivirus and encryption software.

7. Understand your contractual obligations in relation to personal data and privacy

- Before your business enters into a contract make sure you understand what your business's obligations are in respect of personal data and ensure that you are able to comply with those obligations.
- When entering into contracts with overseas entities, make sure that your obligations in relation to personal data are consistent with the Privacy Act.
- Consider data ownership provisions (data is valuable – don't just give it away). For example, if you are required to collect and transfer personal data to the counterparty, do you have ongoing ownership and/or use rights?

8. Keep up to date with changes in the privacy landscape

- This is particularly important with the Privacy Bill expected to come into force in 2020.
- Ensure that you are up to speed with any changes required to your business operations when the new Privacy Act comes into force.