

Agreements to cover data collection and use

An agreement is needed to form a contract between the presenting venue and the touring company to manage the 'notifications' given to customers, the permissions obtained, and how the data will be used and/or shared. This ideally would be inserted into the contact between the two parties. The following is recommended as a standard text for clauses in presenting contracts, in relatively plain English. Some of the clauses are repeated as they apply to different communication methods. Separate clauses are required to cover the 1998 Data Protection Act and the 2003 Privacy and Electronic Communications Regulations:

“For the purposes of the agreement to present “X” at “Y”, the parties agree to work together to maximise attendances and audiences. To this end, each agrees to comply with the 1998 Data Protection Act and the Privacy and Electronic Communications Regulations 2003, in terms of notifying customers about who is collecting their data and obtaining permission separately for the touring company and the presenting venue to be able to contact them.”

The following clauses apply to notifications given to customers purchasing on-the-phone or over-the-counter and fall under the 1998 Data Protection Act:

“Specifically for mailings (contact by post), all customers will be asked to “opt-in” and give informed consent for their personal details to be kept and used by “(insert the legal name of the touring company/artist)” and “(insert the legal name of the presenting venue)” so that they can be kept informed about future events and activities by both. Where existing customers have not previously been asked or given such informed consent, the opportunity will be taken to seek their informed consent.”

Since explicit permissions are particularly required for methods other than mail (post), additional clauses are needed for e-mail, phone/fax and mobile/SMS (text) contact methods. Since these will require very specific procedures in Box Offices either over-the-counter or on-the-phone to obtain the permissions from customers and in systems to record them, it is essential to arrive at contractual agreement:

Specifically for capturing e-mail addresses, all customers will be asked to “opt-in” and give informed consent for their personal details to be kept and used by “(insert the legal name of the touring company/artist)” and “(insert the legal name of the presenting venue)” so that they can be kept informed about future events and activities by both. Where existing customers have not previously been asked or given such informed consent, the opportunity will be taken to seek their informed consent. Whenever, these customers are e-mailed, the message will start with the offer of an opt-out “unsubscribe”, at the top of the message.

Specifically for capturing phone numbers, all customers will be asked to “opt-in” and give informed consent for their personal details to be kept and used by “(insert the legal name of the touring company/artist)” and “(insert the legal name of the presenting venue)” so that they can be kept informed about future events and activities by both. Where existing customers have not previously been asked or given such informed consent, the opportunity will be taken to seek their informed consent. Whenever these customers are telephoned, the caller will

identify the organisation and their permission will be re-obtained at the start of the call before proceeding.

Specifically for capturing mobile phone numbers, for text messaging purposes, all customers will be asked to “opt-in” and give informed consent for their personal details to be kept and used by “(insert the legal name of the touring company/artist)” and “(insert the legal name of the presenting venue)” so that they can be kept informed about future events and activities by both. Where existing customers have not previously been asked or given such informed consent, the opportunity will be taken to seek their informed consent. Whenever, these customers are sent a message, the message will start with the offer of an opt-out “unsubscribe”.

Note that in the above the phrase “kept informed about future events and activities by both” is worded to enable contact not just about events but also about other activities and on subjects such as loyalty and membership schemes or fund-raising.

The following clauses apply to notifications given to customers purchasing on-line and fall under the Privacy and Electronic Communications Regulations 2003. These require a different regime for notifications and obtaining permissions:

“On-line, customers who have booked previously will be recognised before entering their purchase transaction, and will not be given notifications or their permissions sought, unless they have previously declined to be contacted by “(insert the legal name of the touring company/artist)”. The notification statement must include “(insert the legal name of the touring company/artist)” and obtain permission separately for “(insert the legal name of the touring company/artist)” to be able to contact them by “(insert communication methods as required: email and/or post and/or phone and/or SMS/text message). For email communications and SMS/text messages, whenever, these customers are contacted, the message will start with the offer of an opt-out “unsubscribe”, at the top of the message.“

“Under the Privacy and Electronic Communications Regulations 2003, customer data obtained in this way can only be used by “(insert the legal name of the touring company/artist)” in relation to “(insert the legal name of the presenting venue)”. If “(insert the legal name of the touring company/artist)” wishes to obtain permission to contact them for other purposes, they must obtain permission from the customers for their data to be used for that purpose, for example by an email requesting them to sign up to wider communication”

Note the following clauses which are required:

The “(insert the legal name of the presenting venue)” will not use the ‘soft’ or ‘assumed’ opt-in exception permitted under the Privacy and Electronic Communications Regulations 2003, in relation to the presentation of “X” at “Y” since this would prevent any sharing of data. “(insert the legal name of the presenting venue)” agrees to take all necessary and expeditious steps to ensure that customers are clearly offered an opportunity to give permission to “(insert the legal name of the touring company/artist)” to contact them”.

It is fundamental to this agreement that customer data will be supplied by “(insert the legal name of the presenting venue)” to “(insert the legal name of the touring company/artist)” for reporting, analysis and benchmarking purposes. Complete customer data will be supplied for data processing, and neither party will supply reports, analysis or any other form of data output after the data processing that could enable an individual to be identified. To that end, data processing will require the output data to be anonymised and at postal sector or ward level.”

Ends