

GDPR AUTOMOTIVE

RETENTION PERIOD STRUCTURE



INTRODUCTION

The General Data Protection Regulation (GDPR) is a data privacy act ensuring the protection of personal data and is in force across the European Union. The GDPR replaces the Dutch Personal Data Protection Act (PDPA).

The processing of personal data must have one or more specific, explicit and legitimate purposes, as well as a valid basis, which is listed exhaustively in the PDPA. The processing of personal data must be carried out solely for the purpose for which they were collected or for other compatible uses.

Personal data are defined as all information relating to an identified or identifiable natural person, the data subject, and include data like name, address, place of residence, telephone, e-mail address, copy-passport and/or driving license, finance and bank account details, and license plate number. In this document, the meaning of data subject includes, but is not limited to customers, prospects or drivers.

RETENTION PERIODS?

Personal data must not be retained for longer than necessary. Data must be erased or irreversibly made anonymous after fulfilling their purpose or at the completion of a legitimate retention period.

As a car dealer or Importer, you process the personal data of your customers, prospects, and/or drivers (data subjects). In the majority of cases, this makes you the controller, because you determine the purpose and resources of the personal data. According to the GDPR, the controller is accountable and therefore must establish the retention period. The GDPR assumes that establishing the retention period falls under 'accountability', meaning that you must be able to justify the retention period.

This annex will describe how retention periods will be used in the automotive sector. These retention periods do not depend on the form (digital vs. hard copy) nor on the means (systems/applications/ documents, etc.) that are used for the processing/storage of these personal data.

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TIERED RETENTION PERIODS

Personal data is defined as all information relating to an identified or identifiable natural person. This includes customer data (data on the data subject) and vehicle data (when traced back to a data subject). A tiered approach should be taken to retention periods.

DISTINCTION BETWEEN VEHICLE PREFERENCES AND VEHICLE DATA

When detailing a retention period structure, a distinction must be made between **data relating to the data subject (customer data), data relating to (vehicle) preferences** and **vehicle data**. Vehicle data of a customer wanting to enter into a new transaction (purchase of a new vehicle) are no personal data. But, data relating to the data subject or vehicle data may also be processed for other purposes. For that reason, a distinction must be made. Vehicle data alone are usually retained for longer and will not be subject to privacy laws for as long as they can't be traced back to a person.

TIERED RETENTION PERIODS: GUIDING PRINCIPLE

One-size does not fit all. Each retention period must be adjusted based on the purpose for which the data are retained. For tax purposes, a 7-year retention period is legal. But, this means that these personal data in particular can be processed for that purpose only. Imagine that a warranty has an applicable warranty period of 3 years. The retention period, in that case, must be of 3 years at least. The same data, including the name, address and place of residence/purchase, will have a separate retention period for each of the purposes, i.e. 7 years for tax purposes and 3 years for the warranty. In other words: every purpose has its own retention period.

WINBACK PERIOD

An important retention purpose of personal data for companies is the so-called Winback. Winback means the winning back of a customer, prospect and/or driver for a repeat purchase. Winback therefore does not only include the mailing of brochures but relates to the whole of direct marketing activities. A reasonable Winback retention period for personal data depends on a number of factors. For example, the warranty period, the longevity or the possession of the purchase. This will be explained in further detail in this document.

WINBACK

Four types of data can be distinguished relating to the Winback purpose, namely:

1. **Data subject and vehicle preference**
2. **Data subject and servicing**
3. **Data subject and additional products and services**
4. **Vehicle Data**



SUB 1 DATA SUBJECT AND VEHICLE PREFERENCE

This is about the personal data of the data subject, including preferences for brand and model for example, but also about family composition and other information that is relevant to determine potential choices and choice moments of the data subject. This only concerns data which is relevant for Winback purposes; how often a headlight bulb has been replaced is therefore irrelevant.

SUB 2 DATA SUBJECT AND SERVICING

Vehicles require servicing and are therefore brought to a garage or workshop. Vehicles require a certain servicing interval. Based on expected future developments, interval periods and/or servicing mileage will increase. Vehicles with a servicing interval of 30,000 km or every 2 years already exist.

SUB 3 DATA SUBJECT AND ADDITIONAL PRODUCTS AND SERVICES (webshop)/other contract relationships

Data subjects buy an accessory from a dealer, purchase something in a webshop, sign a servicing contract, or rent a car, for example. These are often personal preferences. Other forms that have not been listed in the other categories, will also fall into this category.

SUB 4 VEHICLE DATA

Vehicle data are personal data for as long as the data are associated with the data subject. Once the vehicle is sold, the vehicle data will be transferred to the new subject, but without the personal data from the previous data subject.

ESTABLISHING THE RETENTION PERIOD

1. RETENTION PERIOD DATA SUBJECT AND VEHICLE PREFERENCES (AVG. 10 YEARS)

For data relating to the data subject and the vehicle preference it is relevant to establish a retention period. After all, these are personal data (customer data) or vehicle data attributed to the data subject. The retention period for personal data relating to a data subject is based on the average period a data subject owns a car. Research has shown that this period is **5 years on average**¹. This means that when a data subject goes to a different dealer for the purchase of a next vehicle, the initial dealer may (following the modification of part 1b of the registration) process the personal data for the purpose of winning back the customer. If unsuccessful within 5 years following the first ownership period, the initial dealer may no longer process the personal data after that period.

In the above scenario it is assumed that the data subject purchased the vehicle from the dealer (purchase). In case a quotation has been submitted, but a different vehicle was chosen (lost sale) a similar approach will be followed. The data subject demonstrated a specific interest in the vehicle, the brand and the company. The dealer should therefore be allowed to approach this data subject again at a later date. In this situation, the 5-year Winback period will start from the moment the quotation has been submitted.

¹ Source RDC, Dutch Central Bureau of Statistics



First customer status: purchase of vehicle (e.g.: modification of part 1b of the registration certificate after 5 years)



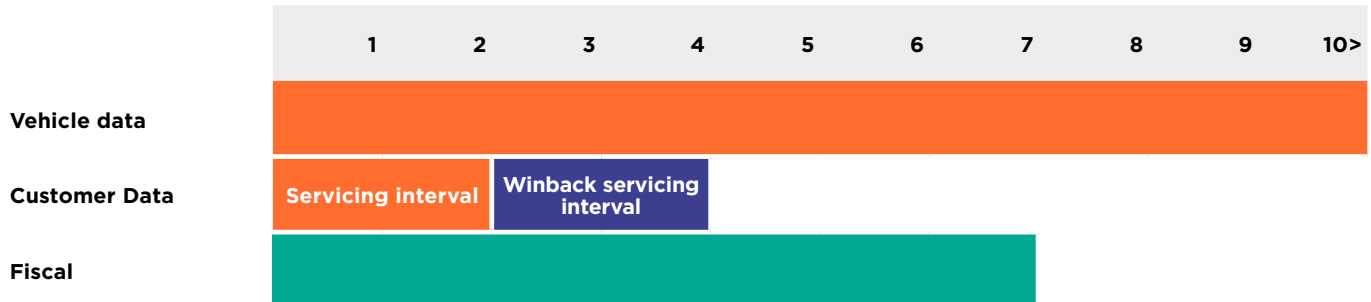
First customer status: lost sale vehicle (e.g.: quotation in year 0)



2. RETENTION PERIOD DATA SUBJECT AND SERVICING (AVG. 4 YEARS)

With regard to servicing, the Winback period will be extended to the servicing interval period following the next servicing (i.e. a total of **2 servicing intervals**). The servicing interval period for the industry has been set at 2 years. Servicing intervals may vary per brand and model, up to a 2-year period. The periodical vehicle inspection also has intervals of up to 2 years. A data subject who after 2 years goes to a different dealer (than the dealer who previously serviced the car), entitles the initial dealer to win back the servicing of the vehicle by his company for a period of 2 years following the next service due (2 + 2 years). If the data subject has the servicing performed elsewhere, this retention period ends, the Winback is lost.

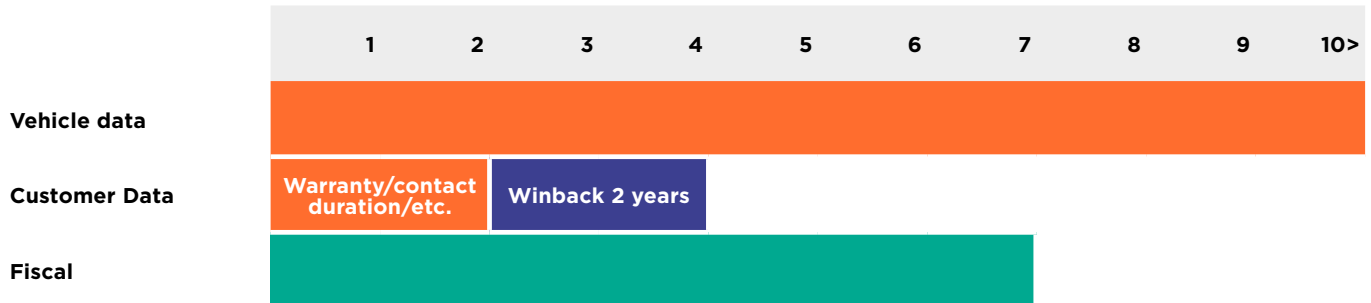
First customer status: workshop visit (e.g.: last workshop visit in year 0)



3. RETENTION PERIOD DATA SUBJECT AND ADDITIONAL PRODUCTS AND SERVICES (AVG. 4 YEARS)

The standard retention period relating to additional products and services is 4 years. We assume the use of factory accessories with a 2-year warranty (most common) and a 2-year Winback period. Hence, a retention period of 4 years in total. However, if the warranty period, the conformity period, the contract or the longevity is longer than 2 years, the Winback period can be adjusted to match this period.

First customer status: purchase of additional products or services (e.g. accessories, servicing contract in year 0)



4. RETENTION PERIOD VEHICLE DATA: NO RETENTION PERIOD

It is not necessary to determine a retention period for the data of the vehicle itself, because these data are not considered personal data. However, it will be relevant to know what has been done to the vehicle for its entire product life. It will be necessary, however, to disconnect the data of the data subject from the vehicle data.

PROCESSING OF **PERSONAL DATA** DURING THE WINBACK PERIOD

During the Winback period it is only allowed to process the personal data that are needed for the Winback, such as name, address, place of residence, telephone number, e-mail address, type of car, last purchase and contract type (private lease). The processing of the personal data during the Winback period must be limited to activities aimed at the Winback. There is some room for interpretation, but this is not unlimited. The processing of personal data for activities like mailings etc., must be in balance with the objective. Namely, winning back the data subject.

In addition, it is important to mention that these retention periods are separate from the retention periods that apply to the blocking of direct marketing or direct marketing channels, such as direct mail or telemarketing. These are permanent, therefore not dependent on the duration or the possession of the vehicle. Result: personal data consisting of name, address, postal code, place of residence and telephone number remain in the customer database when blocked for direct marketing purposes, but only to make sure that the customer cannot be approached for direct marketing purposes.

On top of that, these retention periods, relating to the retention of personal data for marketing and sales purposes, are separate from other legal retention periods for a specific purpose. As such the tax authorities require personal data to be kept for a period of 7 years. This means that for a webshop purchase the personal data must be processed over a period of 7 years for the tax authorities, while within this 7-year period, for the marketing and sales purposes, a 4-year period applies for the processing of personal data for marketing and sales (Winback).



CONCLUSION

The advantage of this retention period structure is that no one-size fits all approach exists. And, that the Winback period depends on the type of transaction.

The data retention periods in this document are indicative, based on objective data, and form an industry standard. In specific cases, derogations up and down are possible. Make sure that in such cases you can substantiate why a certain retention period has been chosen.

GLOSSARY

PERSONAL DATA

Any information relating to an identified or identifiable natural person, such as the data from a data subject, including but not limited to name, address, place of residence, telephone, e-mail address, copy-passport and/or driving license, finance and bank account details, and license plate number.

PROCESSING OF PERSONAL DATA

Any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

DATA SUBJECT

EAn identified or identifiable natural person to whom the personal data relates. In this manual, a data subject means a customer, prospect or driver.

CONTROLLER

The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data, such as the car dealer who needs personal data to process a sales agreement, for example.

PROCESSOR

A natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller, such as an advertising agency who on behalf of the car dealer takes care of a DM mailing.

BASIS

A justification for the processing of personal data. The legal grounds are 6, namely 1) necessary for the agreement with the data subject, 2) legitimate interest of the controller, 3) consent of the data subject, 4) legal obligation, 5) general interest public authorities, 6) vital interests of data subject.

ABOUT INDI

This publication is the result of the GDPR work groups organised by the INDI association.

The INDI-platform is an initiative of the automotive department of the Dutch Association for the Bicycle and Automotive Industry (RAI Vereniging) and the car dealer section of the Dutch Association for Car Dealers and Repairers (BOVAG). The INDI platform acts as the central hub for the collection, validation and exchange of names and addresses for importers and dealers within the brand channel. The collective purchasing of source files provides you with significant cost benefits. An intelligent interface connects your DMS or CRM system to the INDI-platform. INDI cleans up and completes your data where necessary and, once permission has been obtained, exchanges the fully updated information.

INDI works closely with RDC, who guarantee the storage, validation and the exchange of customer data. RDC records the ownership and the agreements relating to the use of data. INDI guarantees the usage agreements are reliable and secure. To that effect, annual audits are carried out by the RDC as part of this assurance. You can rely on INDI for advice on compliance with the General Data Protection Regulation (GDPR).

The INDI-platform is an initiative of the automotive department of the Dutch Association for the Bicycle and Automotive Industry (RAI Vereniging) and the car dealer section of the Dutch Association for Car Dealers and Repairers (BOVAG).

Disclaimer: The contents of this publication have been prepared with the greatest care. It may be possible, however, that the information provided in this publication is incomplete or incorrect or may contain errors. Although the INDI Association makes every effort to provide all information as complete and accurate as possible, it cannot be held responsible for any consequences arising from the use of this information.



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