



GDPR AUTOMOTIVE

RETENTION PERIOD STRUCTURE



INTRODUCTION

The General Data Protection Regulation (GDPR) has been applicable since May 25, 2018, and has been enforced since that date. The GDPR is a European privacy law that regulates the protection of personal data throughout the European Union.

Since the introduction of the GDPR, organizations have been required to handle personal data with care, be transparent about its processing, and give data subjects more control over their own data. In recent years, privacy and data protection requirements have been further tightened and supervision by the Dutch Data Protection Authority has become more active.

In addition, there is increasing attention to new technologies, such as AI and advanced data processing, which also fall within the scope of the GDPR.

It is therefore important that organizations regularly update their privacy policies to remain compliant with the GDPR and any additional regulations.

WHAT DOES THE GDPR ENTAIL?

In order to process personal data, there must be one or more specific, explicitly described, and justified purposes, and there must be a valid legal basis, as listed in the GDPR.

Personal data may only be processed for the purpose for which it was collected. In addition, no more personal data may be collected and it may not be stored for longer than is necessary to achieve the purpose of the processing.

Once the purpose of the processing has been achieved, the personal data must be deleted, destroyed or, where appropriate, anonymized.

WHAT IS PERSONAL DATA?

Personal data refers to all information about an identified or identifiable natural person*, a data subject. This includes name and address details, date of birth, copy of passport and/or driver's licence, financial information, bank account number, and license plate number. Although the meaning of a data subject is not limited to a customer, prospect, or driver, this manual will focus specifically on those groups.

WHAT ARE RETENTION PERIODS?

Personal data may not be stored for longer than necessary. Once the purpose has been achieved or after the end of a substantiated retention period, data must be destroyed or irreversibly anonymized.

As a car company or importer, you process personal data of customers, prospects, and/or drivers (data subjects). In most cases, you are the controller because you determine the purpose and means. The GDPR assumes accountability on the part of the controller; you must determine the retention period yourself. The GDPR considers determining the retention period to be part of accountability, which means that you must be able to substantiate a retention period.

This document describes how retention periods can be handled in the automotive sector. The retention periods do not depend on the form (digital vs. hard copy) or the means (systems/applications/documents, etc.) used to process/store this personal data.

*This includes independent entrepreneurs such as sole traders or general partnerships. These entrepreneurs have the same rights and obligations.

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LAYERED RETENTION PERIODS



Personal data refers to all information about an identified or identifiable natural person. This includes customer data (data about the data subject themselves) and vehicle data (which can be traced back to a data subject). A layered approach should be adopted with regard to retention periods.

DISTINCTION BETWEEN VEHICLE PREFERENCES AND VEHICLE DATA

In the elaboration of the retention period structure, a distinction is made between, on the one hand, data about the data subject (customer data) and data relating to (vehicle) preferences and, on the other hand, vehicle data. A customer will want to enter into a new transaction (purchase of a new vehicle); vehicle data is not personal data in itself, provided that it cannot be linked to an identified or identifiable natural person. Data about the data subject and vehicle data are also processed for other purposes; for this reason, among others, a distinction must be made.

In addition, vehicle data alone will generally be retained for longer and are not subject to privacy legislation as long as they cannot be traced back to individuals.

LAYERED RETENTION PERIODS: THE MAIN PRINCIPLE

There is no "one-size-fits-all" solution. Each retention period must be linked to the purpose for which the data is to be retained. For tax purposes, the legally required retention period is seven years. However, this means that personal data may only be processed for that purpose. Suppose that a warranty period of three years applies in the context of a possible warranty obligation, then the retention period is at least three years. For the same data, such as name, address, place of residence, and purchase, a separate retention period applies for the different purposes, namely 7 years for tax purposes and 3 years for warranty purposes. In other words, each purpose has its own retention period.

THE WINBACK PERIOD

An important purpose for companies to be able to retain personal data is the so-called winback. Winback is understood to mean the recovery of a customer, prospect, and/or driver for making a repeat purchase. Winback is therefore not just about sending brochures, but relates to all direct marketing activities. The reasonable period for retaining personal data for winback depends on a number of factors. For example, the warranty period, the useful life, or the ownership of what has been purchased. This is explored in more detail in this memorandum.



Insofar as the processing of personal data takes place in the context of warranty, service, useful life, or other obligations arising from the agreement, this processing is based on the performance of the agreement.

After the contractual phase has ended, personal data may be retained for a reasonable and justified period of time for the purpose of win-back activities. This processing is based on the legitimate interest of the organization, whereby a balancing of interests is always carried out. The data subject has the right to object at any time to the use of his or her personal data for direct marketing purposes.

The specific rules of the Telecommunications Act/ePrivacy regulations also apply to the actual contacting of data subjects via electronic channels (such as email, SMS, or WhatsApp). In practice, this means that marketing via these channels is generally only permitted if the data subject has given their consent (opt-in), unless there is an exception for existing customers (soft opt-in).

Soft opt-in (existing customer relationship)

You may contact an existing customer without separate consent, provided that:

- > the contact details were obtained in the context of a purchase or agreement;
- > the offers are for your own and similar products/services;
- > the customer can easily and free of charge unsubscribe (opt-out) when the details are obtained and with every message

Do's

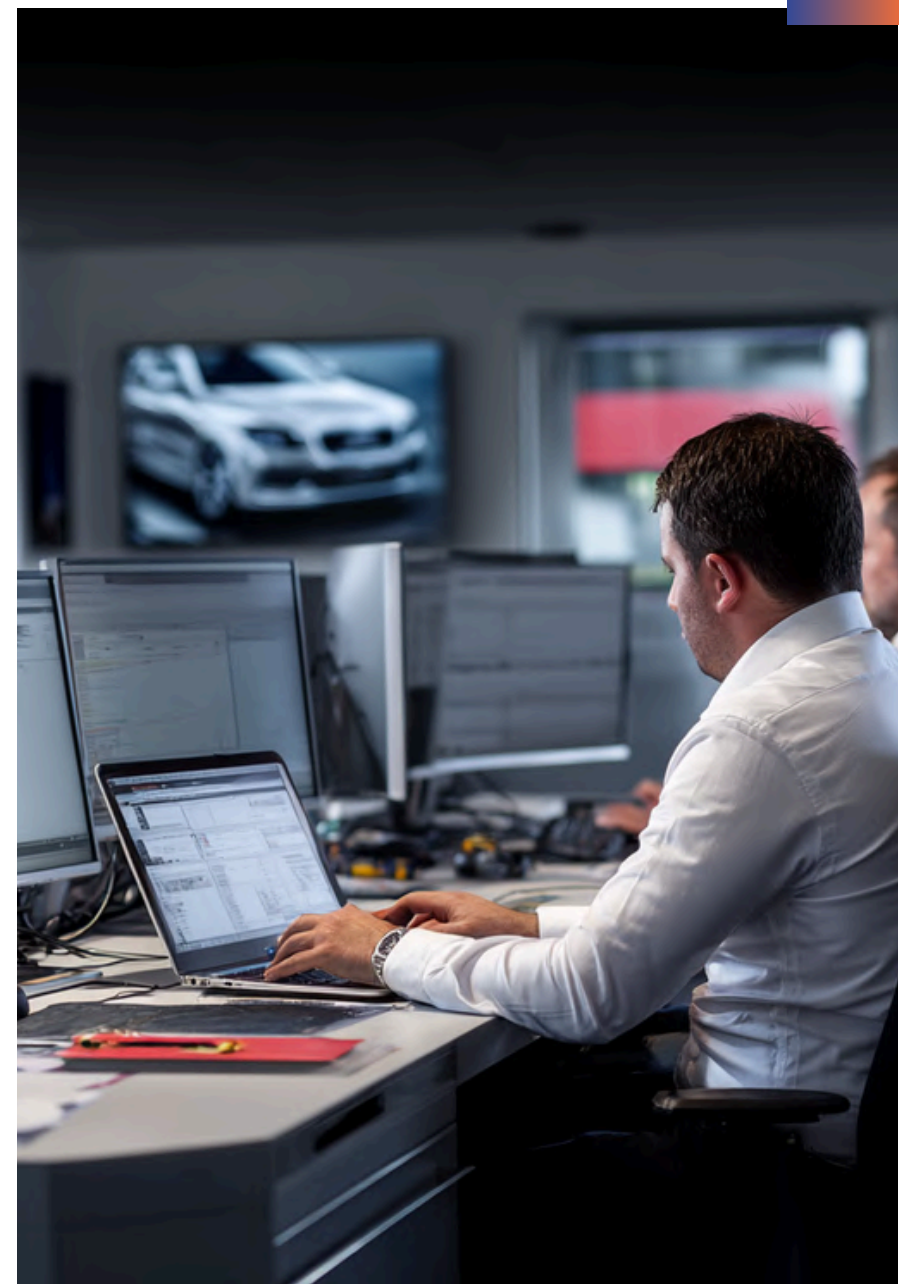
- > Ensure that it is clear for each channel whether it is opt-in or soft opt-in.
- > Always include a clear unsubscription option (e.g., unsubscribe).
- > Process unsubscriptions and objections immediately in your systems.

Don'ts

- > Do not send marketing if someone has objected or unsubscribed
- > No WhatsApp/SMS campaigns without a valid basis (consent/ soft opt-in)
- > Do not use "service messages" as disguised advertising.

Please note:

From July 1, 2026, you will only be allowed under Dutch legislation to call customers if they have given their explicit consent. From then on, you will no longer be able to use soft opt-in to call existing customers.



A WINBACK

In order to further elaborate on the purpose of winback, four types of data are distinguished, namely:

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

AD 1 DATA SUBJECT AND VEHICLE PREFERENCE

This concerns personal data of the data subject, including preferences for, for example, brand and model, but also, for example, family composition and other information that is relevant for determining the possible choices and moments of choice of the data subject. This concerns only information that is relevant for winback. It does not concern, for example, how often the headlight bulb has been replaced.

AD 2 DATA SUBJECT AND MAINTENANCE

Vehicles require maintenance and are brought to the workshop for this purpose. Vehicles have a specific maintenance interval. The trend is that the time interval and/or the number of kilometers traveled on the basis of which maintenance must be carried out is increasing. There are now vehicles with a maintenance interval of every 30,000 km or every 2 years.

AD 3 INTERESTED PARTIES AND ADDITIONAL PRODUCTS AND SERVICES

(E.g., accessories (webshop) / other contractual relationships)

Data subjects purchase an accessory from a dealer, make a purchase in a webshop, enter into a maintenance contract, or rent a car. This often involves personal preferences. Other forms not mentioned that cannot be classified under the other categories also fall under this category.

AD 4 VEHICLE DATA

This concerns personal data as long as vehicle data is linked to the data subject. However, when the vehicle is sold, vehicle data will be transferred to the new data subject, but without the data of the previous data subject.



B DETERMINING THE RETENTION PERIODS

1. RETENTION PERIODS FOR DATA SUBJECTS AND VEHICLE PREFERENCES

It is necessary to set a retention period for data subjects' data and vehicle preferences. After all, this concerns personal data (customer data) or vehicle data that can be attributed to a data subject and therefore qualifies as personal data within the meaning of the GDPR.

The period for which the personal data of a data subject is retained depends on the average period of time that a car is owned by a data subject. An industry average shows that this period is 5 years on average. This means that when a data subject goes to another car company to purchase their next vehicle, the original car company may continue to process the personal data for 5 years (after changing the registration number part 1B) for the purpose of winning back the customer. If this is not successful within 5 years after the first period of ownership, the original car company must delete the personal data after this period or anonymize it in such a way that it can no longer be traced back to a data subject, unless another legal basis or retention obligation applies.

The above is based on the scenario in which the data subject purchased the vehicle from the car company in question (purchase). Where a quote has been issued but another vehicle has ultimately been chosen (lost sale), a similar approach is followed. The data subject has shown concrete interest in the vehicle, the brand, and the company, and the car company should be given the opportunity to approach this data subject again at a later date. In this case, the 5-year win-back period will commence from the moment the quotation is issued.



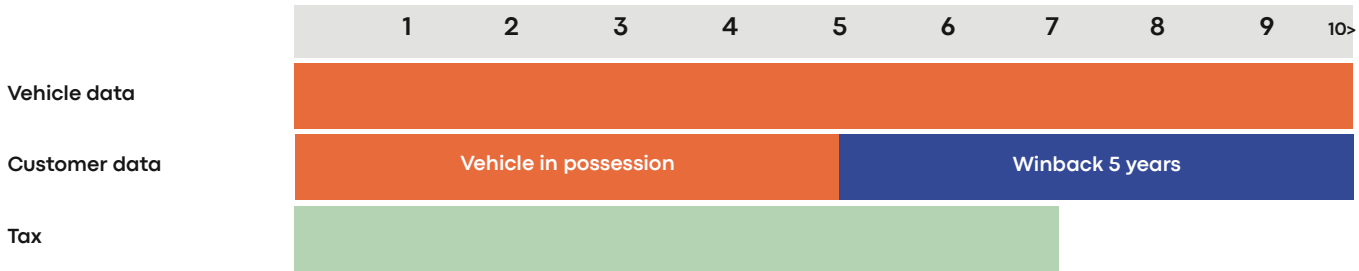
B Lost lead

In addition to the purchase or quotation scenario (lost sale), car companies may process personal data obtained in the context of pre-sales activities. This could include participation in (dealer) events, requesting information/brochures, test drives, configurator use, lead forms, showroom visit registrations, and other forms of orientation in which a data subject shows interest in the brand, vehicle, or services of the dealer.

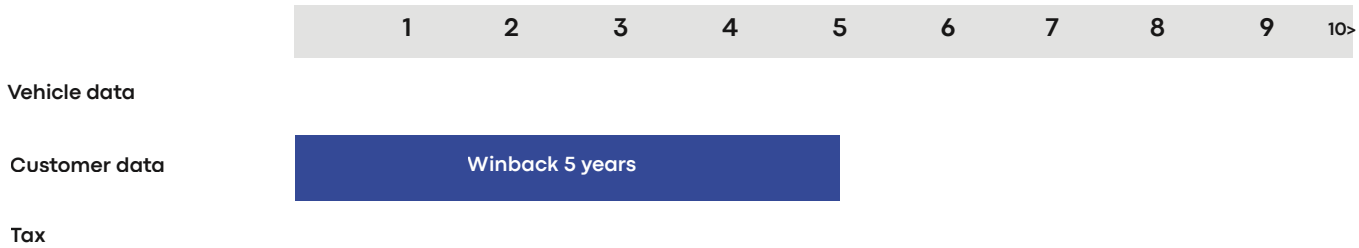
Because in these cases there is (usually) no concrete sales process or contractual relationship, a retention period of 5 years is not appropriate. A shorter retention period is therefore used for this type of loose lead. The dealer may process this personal data on the basis of legitimate interest (marketing/winback), provided that the data subject has been informed of this in a transparent manner and can easily object (opt-out).

If no further contact takes place during this period and no further interest is shown, the personal data must be deleted or anonymized at the end of this period, unless another legal basis applies.

Initial customer status: vehicle purchase (e.g., change to part 1b after 5 years)



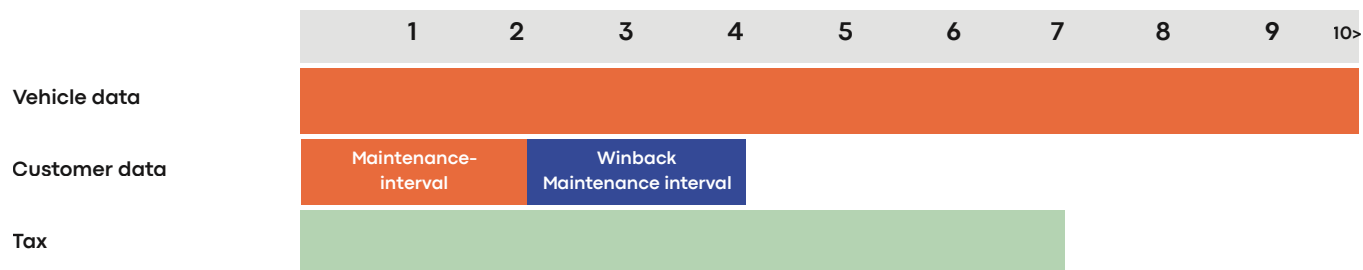
Initial customer status: lost sale vehicle (e.g., quote in year)



2. RETENTION PERIOD FOR DATA SUBJECTS AND MAINTENANCE

For maintenance, a win-back period will apply once the maintenance interval has been reached, after the next one (i.e., a total of two maintenance intervals). The maintenance interval period for the industry is set at two years. Maintenance intervals vary by make and model, up to 2 years, and MOT intervals also run up to 2 years. This means that if a data subject goes to another car company for maintenance after 2 years (other than the car company where the previous maintenance was carried out), the previous car company has until the next maintenance to get the data subject back to its company for maintenance (2 + 2 years). If the customer then has the maintenance carried out elsewhere, this retention period comes to an end and the winback has not been successful.

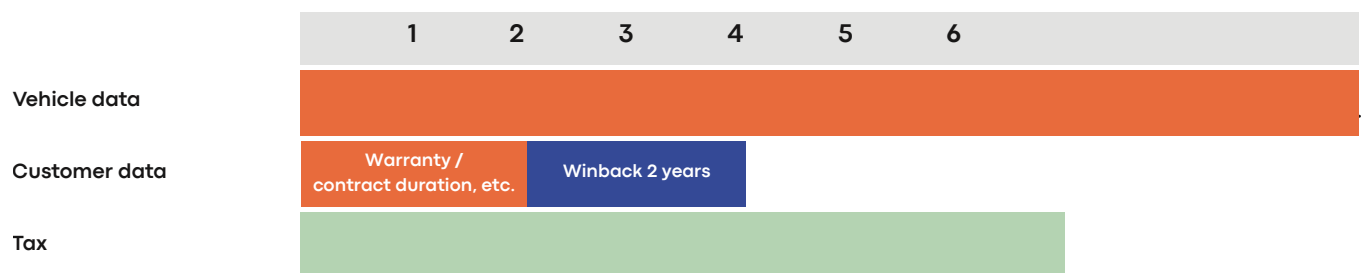
Initial customer status: workshop visit (e.g., last workshop visit in year 0)



3. RETENTION PERIODS FOR RELATED AND ADDITIONAL PRODUCTS AND SERVICES

For additional products and services, the standard retention period is 4 years. We assume factory accessories with a two-year warranty (most common) and a win-back period of 2 years. This results in a total retention period of 4 years.

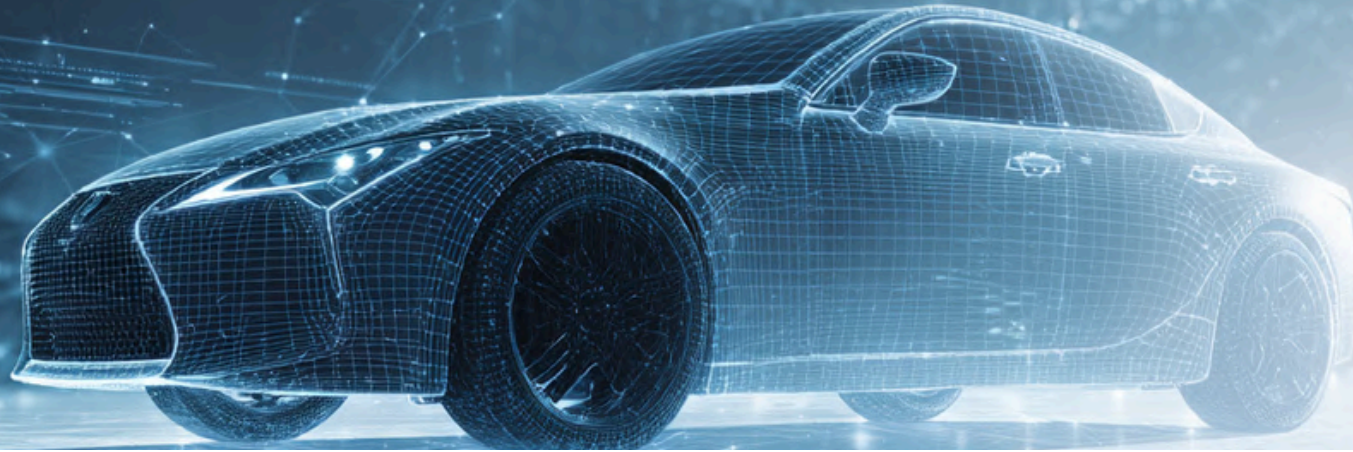
Initial customer status: purchase of additional products or services (e.g., accessories, maintenance contract in year 0)



4. VEHICLE DATA RETENTION PERIOD: NO PERIOD

It is not necessary to set a retention period for the vehicle data itself. This data does not constitute personal data as such. It is relevant to know what has been done with a vehicle throughout its entire product life. However, further consideration will need to be given to how data relating to the data subject can be decoupled from the vehicle data.





C PROCESSING OF PERSONAL DATA DURING THE WINBACK PERIOD

During the winback period, only personal data that is necessary for the winback may be processed, such as name, address, telephone number, email address, car type, last purchase, and contract type (purchase, private lease) and, if applicable, any additional data for which the customer has given their explicit prior consent (opt-in). During the winback period, the processing of personal data must be limited to activities aimed at the winback. This can be interpreted fairly broadly, but not without limits.

The processing of personal data for activities such as mailings and the like must remain proportionate to the purpose, namely winning back the data subject.

It is important to note that these retention periods are separate from the periods that apply to blocking direct marketing or direct marketing channels (such as direct mail and telemarketing). In practice, such blocking (opt-out) must be respected permanently and is therefore not dependent on the term of an agreement or the period during which the vehicle is owned. Consequence: personal data such as name, address, postal code, place of residence, and telephone number usually remain included in the customer database (e.g., in a so-called block list/suppression list) after blocking direct marketing, but solely for the purpose of preventing the data subject from being approached again for direct marketing. The principle of data minimization applies here: only record the minimum necessary data for this blocking and do not use this data for other purposes.

Furthermore, these retention periods, which concern the storage of personal data for marketing and sales, are separate from other legal retention periods for a specific purpose. For example, personal data must be retained for 7 years for the tax authorities. This means that when a purchase is made in a webshop, the personal data will be processed for a period of 7 years for the tax authorities and, within those 7 years, the personal data may be used for marketing and sales purposes (winback) for a period of 4 years.

CLOSING REMARK

The advantage of this retention period structure is that it does not take a 'one-size-fits-all' approach. And the win-back period depends on the type of transaction.

The retention periods mentioned here are indicative, based on objective data, and constitute an industry standard. In specific cases, deviations above and below these periods are possible. In such cases, always provide a thorough and careful explanation of why a particular retention period has been chosen.



DEFINITION OF TERMS

PERSONAL DATA

All information about an identified or identifiable natural person, including – but not limited to – name, address, place of residence, telephone number, and email address, date of birth, a copy of a passport and/or driver's licence, financial data, bank account number, and license plate number.

Data relating to legal entities does not, in principle, fall under the definition of personal data, unless this data relates (in part) to an identified or identifiable natural person, such as data relating to a sole trader, partner, director, or contact person.

PROCESSING OF PERSONAL DATA

Any processing or set of processes relating to personal data or a set of personal data, whether or not carried out by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, aligning or combining, blocking, erasing, or destroying data.

DATA SUBJECT

An identified or identifiable natural person to whom the personal data relates. In this manual, a data subject specifically refers to a customer, prospect, or rider.

DATA CONTROLLER

The natural person or legal entity, agency, or other body that, alone or jointly with others, determines the purposes and means of the processing of personal data, such as a car company that needs personal data to be able to execute a sales agreement, for example.

PROCESSOR

A natural or legal person, public authority, agency, or other body that processes personal data on behalf of the controller, such as an advertising agency that handles a direct mail campaign on behalf of a car company.

LEGAL BASIS

A justification for why personal data may be processed. There are six bases, 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) public interest in the public sphere,
- 6) vital interest of the data subject.



IMPORTANT LINKS

Regulators & authorities (Netherlands)

- Personal Data Authority
- <https://autoriteitpersoonsgegevens.nl>
- Supervisor of compliance with the GDPR and privacy legislation

- Authority for Consumers and Markets (ACM)
- <https://www.acm.nl>
- Regulator of telemarketing, consumer protection, and enforcement of the Telecommunications Act.

- National government
- <https://www.rijksoverheid.nl>
- Official publications and explanations of laws and regulations.

Legislation and regulations

- General Data Protection Regulation (GDPR)
- <https://eur-lex.europa.eu/eli/reg/2016/679/oj>

- Telecommunications Act
- <https://wetten.overheid.nl/BWBR0009950>

- ePrivacy Directive
- <https://eur-lex.europa.eu/eli/dir/2002/58/oj>

Direct marketing & mail

- Postfilter
- <https://www.postfilter.nl>

Register for objections to addressed advertising mail

- Stichting Reclame Code
- <https://www.reclamecode.nl>

- DDMA
- <https://www.ddma.nl>





ABOUT INDI

This publication was created by the GDPR working groups organized by the INDI Association.

The INDI platform is an initiative of the RAI Association's Automotive Division and BOVAG Car Dealers. The Interface NAW Dealers and Importers platform, or INDI for short, is the central collection, validation, and exchange point for name and address details for importers and dealers within the brand channel. The collective purchase of source files results in significant cost savings for you. The DMS or CRM system connects to the INDI platform via an intelligent interface. INDI then cleans up the data, supplements it where necessary, and exchanges the fully updated information when permission has been given. INDI works closely with RDC, which guarantees the storage, validation, and exchange of customer data. They accurately record ownership and agreements regarding the use of the data. With INDI, you are assured of reliable safeguarding of the usage agreements. Annual audits at the RDC are part of this safeguarding. You can also rely on INDI for clear advice on compliance with the GDPR.

The INDI platform is an initiative of RAI Vereniging's Cars division and BOVAG Car Dealers.

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