



Fundraising
Institute
Australia



FIA/PFRA DATA EXPLAINER, GUIDE AND SELF-ASSESSMENT QUESTIONNAIRE

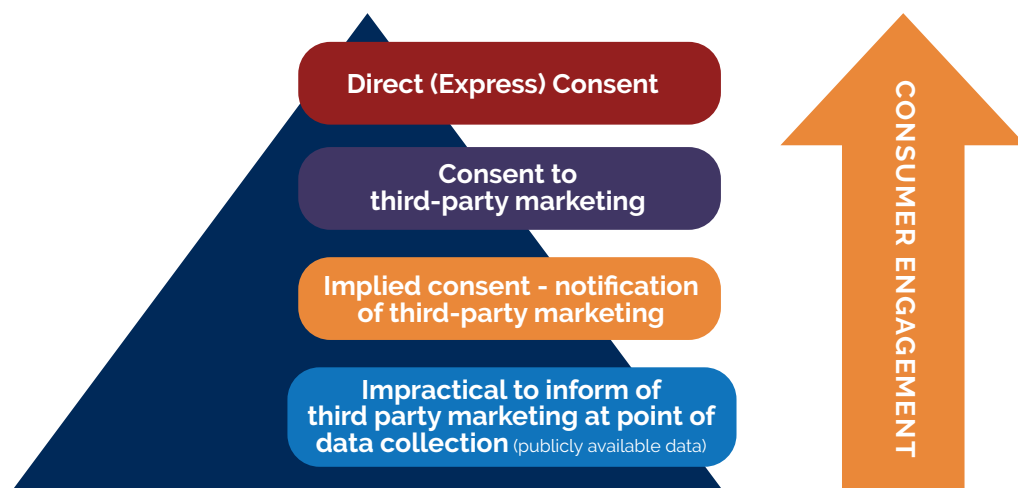
BACKGROUND

- The Office of the Australian Information Commissioner (OAIC) is the statutory regulator of personal information under the Privacy Act.
- Fundraising Institute Australia (FIA) and Public Fundraising Regulatory Association (PFRA) members are subject to the requirements of the Act if their turnover is \$3m or more. Even where member turnover is under \$3m, FIA and PFRA advise adhering to the Australian Privacy Principles (APPs) contained in the Act as a demonstration and commitment to best practice in the collection, use and disclosure of donor and supporter personal information.
- The definition personal information can be found (link here). The Act employs the term ‘dealing with’ personal information in terms of its use and disclosure (See APP3). Though not defined in the Privacy Act, the OAIC indicates:
 - ‘**Use**’ means the handling or undertaking of activity in respect of information within its effective control.
 - ‘**Disclosure**’ means to make information available to others outside the entity and to release subsequent handling of such information from the entity’s control.
- A wide range of operations can be performed on personal data, including by manual or automated means. These include the 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 of personal data.

CONSIDERATIONS

- Using data from third-party sources requires additional considerations in terms of responsibility for adhering to Australian Privacy Principles as well as best-practice data management and use.
- When it comes to selecting data from a third-party, terminology like “cold” or “warm” data can be misleading. While it is important to consider the level of engagement the prospective donor will have with the campaign, from a privacy compliance perspective, it is more pertinent to consider how the data was collected.
- Charities should ask to what extent the prospective donor consented or was notified that the data had been collected and that it might be transferred to others in the regular course of fundraising and direct marketing purposes. <https://www.oaic.gov.au/privacy/your-privacy-rights/your-personal-information/consent-to-the-handling-of-personal-information>
- The guide provided here is designed to enable fundraisers to consider the data collection processes used and to determine whether adequate steps have been taken to ensure that the data is compliant with Australian Privacy Principles and with best-practice fundraising and marketing.

ENGAGEMENT AND LEVEL OF CONSENT



DATA COLLECTION AND THE AUSTRALIAN PRIVACY PRINCIPLES

Data collection for third-party marketing can occur based on a range of compliant methods, if following APP guidelines:

Data collection where gaining consent / notification is impracticable (normally from publicly available data sets like White Pages)

- Notification must occur as soon as is practical – e.g. within the first and subsequent calls / letters

Implied consent using third-party marketing notification with opt-out

- Notification at the point of data collection
- Must outline that third parties will receive the data to be used for marketing purposes
- Must explain how to opt out and give access to the privacy policy of data collector

Implied consent using third-party, bundled consent

- Consent to marketing from third parties at the point of data collection
- Must outline that third parties will receive the data to be used for marketing purposes
- Must explain how to opt-out and give access to the privacy policy of data collector

Named third-party consent / double opt-in

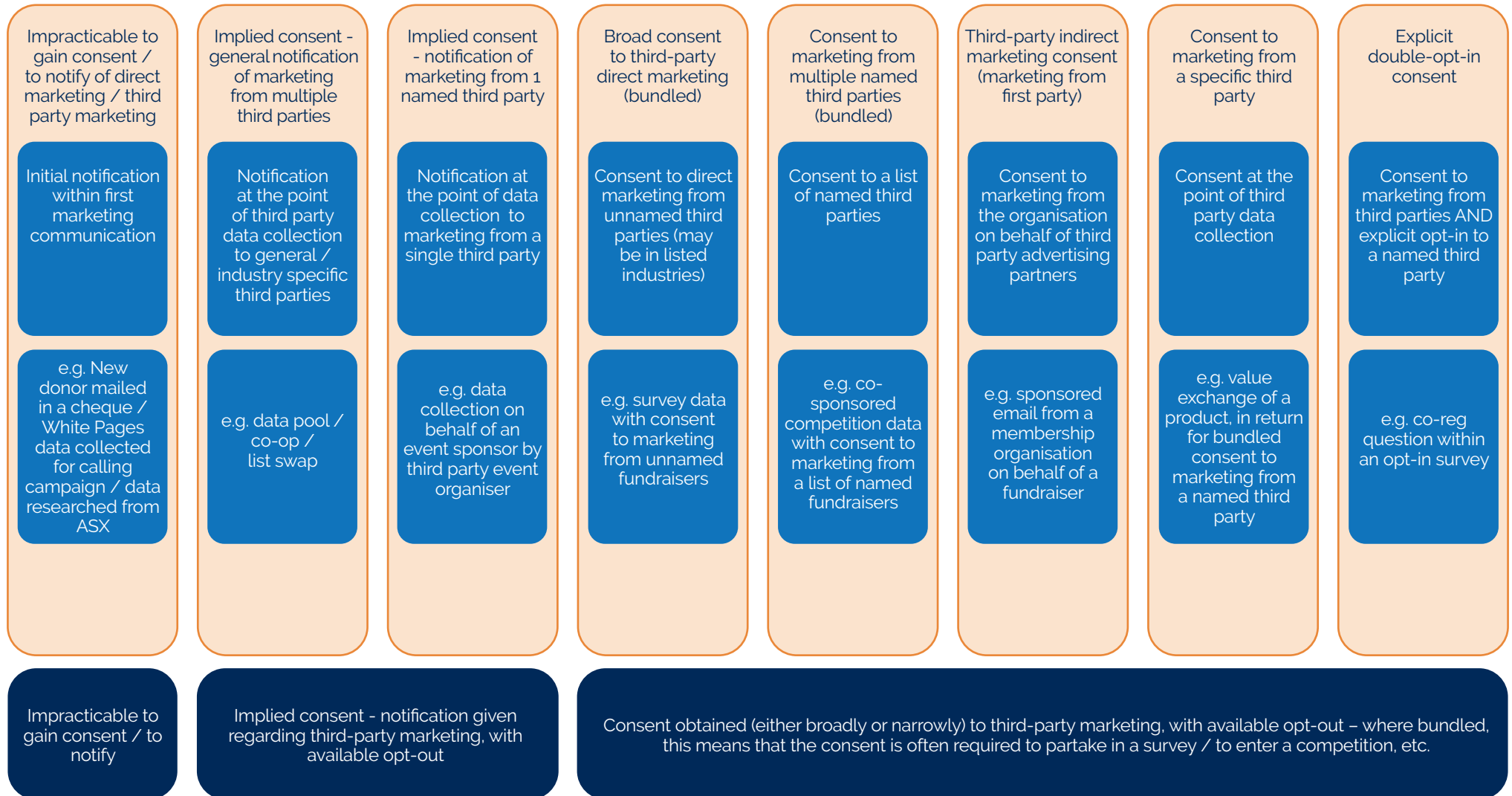
- Consent to marketing from third parties at the point of data collection AND an opt in to marketing from a named third party
- Must outline that third parties will receive the data to be used for marketing purposes
- Must explain how to opt-out and give access to the privacy policy of data collector

Example methods, consent levels and data types overleaf.

NOTE ON THE AUSTRALIAN COMMUNITIES AND MEDIA AUTHORITY (ACMA) EXEMPTIONS AND THE APPS

- Certain exemptions are available to the fundraising sector such as the Do Not Call Register legislation
- Note, however, that the data must have ALSO been collected in a privacy-compliant manner
- For example, receiving data collected by a third party that neither notified the individual or third-party marketing / gained consent, where it was practical to do so, is not compliant for calling or emailing
 - eg. if an email address collected from a customer in a luxury car dealership, you couldn't share it with a third party fundraising organisation for telephone fundraising unless that customer had consented or had not opted out of the sharing of their email address.

Level of third party marketing consent provided



Consent Self-Assessment Questionnaire:

Can I use the data source for direct marketing?

1. Was the data collected:

a. Directly from the related individuals

GO TO 2

b. From a third party

GO TO 3

(please turn over)

2. What level of consent was provided?

CONSENT

a. The individual directly consented to direct marketing when their data was collected

Additionally:

1. a clear and compliant notification statement was provided at the point of data collection
2. they were clearly shown how to access the related Privacy statement
3. they have not opted out of all / channel-specific communications, that would restrict the activity
4. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out

IMPLIED CONSENT

b. The individual was notified that our direct marketing might take place within our notification statement at the point of data collection

Additionally:

1. a clear and compliant notification statement was provided at the point of data collection
2. they were given the option to opt out
3. they were clearly shown how to access the related Privacy statement
4. they have not opted out of all / channel-specific communications, that would restrict the activity
5. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out

IMPRACTICABLE TO GAIN CONSENT

c. The individual would reasonably expect direct marketing to occur from us, based on their relationship with us

Additionally:

1. they have not opted out of all / channel-specific communications, that would restrict the activity
2. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out

IMPRACTICABLE TO GAIN CONSENT

d. It was impracticable to gain consent

Additionally:

1. they have not opted out of all / channel-specific communications, that would restrict the activity
2. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out

3. What level of consent was provided to the third party?

CONSENT

a. The individual consented to direct marketing from our business / entities within our industry / third parties in general when their data was collected

Additionally:

1. a clear and compliant notification statement was provided at the point of data collection
2. they were clearly shown how to access the related Privacy statement
3. they have not contacted the source to opt out of all / channel-specific communications, that would restrict the activity
4. they have not contacted us to opt out of all / channel-specific communications, that would restrict the activity
5. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out

IMPLIED CONSENT

b. The individual was notified that third-party direct marketing might take place from our business / entities within our industry / third-parties in general within a notification statement at the point of data collection

Additionally:

1. a clear and compliant notification statement was provided at the point of data collection
2. they were given the option to opt-out
3. they were clearly shown how to access the related Privacy statement
4. they have not contacted the source to opt out of all / channel-specific communications, that would restrict the activity
5. they have not contacted us to opt out of all / channel-specific communications, that would restrict the activity
6. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out

IMPRACTICABLE TO GAIN CONSENT

c. It was impracticable to gain consent

Additionally:

1. they have not contacted the source to opt out of all / channel-specific communications, that would restrict the activity
2. they have not contacted us to opt out of all / channel-specific communications, that would restrict the activity
3. we will use a clear notification statement within our communication, outlining the location of our Privacy Policy and how to opt out