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European Data Laws Looming

I visited the Technology for Marketing & Advertising Exhibition at Earls Court, and it became clear that this sector is coming of age.

Product and service solutions are more sophisticated than they were two years ago when I last visited, and there is much clearer thinking about what is and what isn't relevant; both to the customer of these services and to the vendors who had stands.

One message I felt was really pertinent to all business owners – e-mail marketing is not dead. However, I went to the exhibition to find out how the proposed European Directive to put further controls on Internet marketing would affect these businesses. Guess what? Hardly any of the stand holders I spoke to were aware of it!

This country has a vested interest in ensuring that the up-coming European Directive on Internet Marketing is not going to be embraced by marketers in this country.

Here is an extract from Simon Akers' blog:

> The main proposed changes- to summarise- are as follows:
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> **1. Opt-in only (one-to-one) marketing**- new regulation would rule out contact from organisations that isn't expressly permitted by your prospective customer: meaning the END of targeted online ads, the END of prospect databases as we know them; the END of direct mail and the END of the cold or follow-up sales calls- unless you can prove explicit consent.
> **2. Analytics restrictions (IPs)-** the end of analytics?-The proposals would reclassify online users' IP addresses as private- thus INACCESSIBLE to marketers, leaving your analytics tools as a hit counter with the most basic of information.
> **3. Profiling Veto**- you're no longer able to target marketing to specific consumer profiles, risking your marketers shooting in the dark- you are also prohibited to gather individuals' data without their explicit consent. This is the most RIDICULOUS sanction for growing businesses who seek to learn about their customers, innovate and grow using consumer insight. This makes it difficult to tailor the experience of your brand or process; targeted marketing RIP.
> **4. The 'right to be forgotten'** - Individuals are set be given the right to request the complete deletion of their data from your company's records. Agreed- this is the least problematic and most well-intentioned; however it will be a logistical NIGHTMARE – and one that's set to COST your firm money to implement.
> (source: DMA; Acknowledgements: Jo Clayton)
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> See the whole blog at:
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> http://www.dmpoint.co.uk/view/624/proposed-data-laws-take-action-now

Of the marketing elements identified at the exhibition, the items listed in RED will be directly affected by this Directive:

Customer Relationship Management

Campaign Management Software / Marketing Automation
CRM / SaaS
Customer Intelligence
Customer Service Products & Services
Digital Asset Management
Marketing Resource Management
Multi-channel / Integrated Marketing
Sales Force Automation / Forecasting & Analysis Tools
Social CRM

Data

Address Management Systems
Business Intelligence
Data Analysis, Mining & Profiling
Database Integration / Convergence
Databases, Data Management Software & Services
Lead Generation
Market Research
Marketing Analytics

Digital

Advertising / Affiliate Networks
Ad Serving Technology
Affiliate Campaign Management
Affiliate Marketing
Apps (advertising)
Behavioural Targeting
Blogging
Cloud Computing
Contextual Advertising
Content Management / Enterprise Web Content Management
Digital Marketing
eCommerce / Secure Payments
Email Marketing
Hosted / Managed Services
Mobile Marketing / SMS
Mobile Networks
Online Advertising (targeted)
Pay-per-click
Product Feeds
Rich Media / Online Video Advertising
SEO
Social Media / Web 2.0
Streaming Media
Viral Marketing

Voucher Sites
Web Design & Development / Usability
Website Analytics & Reporting
Web Translation / Localisation

Direct

Address Management Systems
Digital Printing Solutions
DM Agencies
Global Marketing Processes
List Management / Brokering
Mailing House / Fulfilment Services
Postal & Distribution Services
Promotions & Incentives
Telemarketing

If you believe that you are affected by changes in the law governing your sector, you should follow the advice from Simon Akers – contact your MP or MEP, your local Chamber of Commerce, your local networking events and share his article.

Like most of the other half-brained 'Directives' from Europe, most of the southern countries will be ignoring it, it's only the likes of Denmark, Belgium, Holland and Germany as well as us, who actually implement these dictats.

As an example of good legislation: When Europe introduced their Health & Safety Directive it was meant to improve safety standards in the work place. Look what happened:

The first European directives on safety and health at work were adopted on the basis of the general market harmonisation provisions (ex Articles 100 and 100a TEC). This was due to a lack of an explicit legislative competence in the Treaty in the field of safety and health at work until the mid-1980s. Until then occupational safety and health was seen as an annex to market harmonisation and the economic policies of the European Economic Community. For example, Directive 77/576 EEC on the harmonisation of national laws on safety signs at the workplace or Directive 78/610 EEC on the harmonisation of occupational exposure limits to vinyl chloride monomers were adopted on this basis.

The Single European Act 1987 was a major step forward in that it introduced a new legal provision on social policy to the Treaty aiming at 'improvements, especially in the working environment, as regards the health and safety of workers'. By inserting this provision into the Treaty, the importance of safe working conditions was made evident. Moreover, the new Social Chapter authorised the European Commission to promote social dialogue between employers and labour representatives at a European level.

With the Treaty of Amsterdam in 1997, the legislative competence in the fields of European social policies was further strengthened by the incorporation of the social agreement into the EC Treaty. The Lisbon Treaty – apart from the renumbering of the Articles on social policy – kept the substance of the provisions of ex Articles 136 ff TEC (now Articles 151 ff of the Treaty on the Functioning of the European Union).

In other words the beaurocrats in Brussels enshrined a directive into the European Treaty. This will happen with all Directives as they think up more and more ways to curb business freedoms.

What did Britain do to ensure that our own perfectly good workplace legislation (The Health & Safety at Work Act 1974) was implemented according to Europe – we spawned a whole new career of zealots to stop people doing things that they had done for years without being 'nannied' by government.
As a result David Cameron commissioned Lord Young to have a quick look at the issue of compensation claims (800,000 in 2009!) resulting from over-beaurocracy. Here is an extract from Lord Young's report:

'Despite the success of the Act (H&S Act 1974), the standing of health and safety in the eyes of the public has never been lower, and there is a growing fear among business owners of having to pay out for even the most unreasonable claims. Press articles recounting stories where health and safety rules have been applied in the most absurd manner, or disproportionate compensation claims have been awarded for trivial reasons, are a daily feature of our newspapers.
All this is largely the result of the way in which sensible health and safety rules that apply to hazardous occupations have been applied across all occupations. **Part of the responsibility lies with the EU where the Framework Directive of 1989 has made risk assessments compulsory across all occupations, whether hazardous or not, and part to the enthusiasm with which often unqualified health and safety consultants have tried to eliminate all risk rather than apply the test in the Act of a 'reasonably practicable' approach.**
Businesses now operate their health and safety policies in a climate of fear. The advent of 'no win, no fee' claims and the all-pervasive advertising by claims management companies have significantly added to the belief that there is a nationwide compensation culture. The 'no win, no fee' system gives rise to the perception that there is no financial risk to starting litigation; indeed some individuals are given financial enticements to make claims by claims management companies who are in turn paid ever-increasing fees by solicitors. Ultimately, all these costs are met by insurance companies who then increase premiums. However**, any employer not covered by accident insurance faces bankruptcy, which encourages them to follow every recommendation of their health and safety consultant, no matter how absurd.'**

The point is that when European Commissioners decide that they will impose restrictions on our activities, the initial intentions are probably good ones; but in their zeal to bring everyone down to a common denominator, they force strictures that punch holes in our socio-economic structures that damage our economy.

If Brussels is allowed to impose draconian restrictions on our digital marketing practices, then it will kill off the digital age as far as business is concerned.

We shouldn't be put in the same position as we were with H&S. Let's stop the zealots *before* not *after* we have had enough with brainless laws from Europe!

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