

COMITATO PER LA PROTEZIONE DEI DATI PERSONALI

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Political Marketing

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Is Political Marketing a Form of Marketing?

It is a member of the great marketing family

See:

- > **European Union:**
 - Recital 30 of Directive 95/46
 - Art. 13 of Directive 02/58
- > **Council of Europe:**
 - Recommendation no. 95/4

(*some principles ... applicable to all forms of direct marketing, including not only commercial marketing but also political marketing *)
- > **FEDMA:**
 - Submission on e-commerce, 5 August 1997

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Is Political Marketing a Form of Marketing?

In the case of one-to-one political propaganda

- > **similar issues** (*invasiveness, possible costs for recipients*)
- > **no offered products/services, rather advertising "something"**
- > **does not always require an answer from recipient**

HOWEVER, peculiar features:

- > **specific risks**
- > **different grounds for lawfulness**

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Political Propaganda as a Fundamental Means for Citizens to Participate in Democratic Life

- > **Duty to allow some types of data collection for lawful customised propaganda purposes**
 - eg, use of public sources**
- > **Preventing inappropriate use and protecting citizens' freedoms and rights**
 - right to privacy
 - personal identity (*canvassing, outward components of communication*)

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What Data?

Non-Sensitive Data (*name, contact details*)

- > **Public sources** (*telephone directories, electoral rolls, lists of citizens abroad*)
 - purpose specification principle
 - public availability under the law, not de facto (eg e-mail addresses collected via software/search engines: *Italian Radical Party Case*)
- > **Internal lists of bodies/associations** (*schools, non-profit, sports associations*)
 - more unexpected and/or embarrassing
 - customised letters
 - lawful data extraction
- > **Data from commercial activities**
 - purpose specification principle
 - specific consent

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7 855	> Mario, 7 v. Marica	06 5 073 151
	> Massimiliano, 13 v. G. della Voipe	06 72 671 957
00 980	> Michele, 45 v. Ratto delle Sabine	06 41 404 011
70 297	> Nicola, 140 v. Fosso S. Maus	06 2 026 359
00 640	> Pasqualina, 30 v. Cliege	06 23 236 315
32 639	> Patrizia, 65 v. Piffetti	06 2 020 617
26 648	> Remo Salvatore, 22 v. Melpomene	06 2 290 856
	> Renato, 3 v. Baleari	06 5 640 498
40 091	> Riccardo, 150	06 71 353 007
53 296	> dr. Roberto, 7	06 44 232 075
05 253	> Rocco, 9 v. Zai	06 4 064 121
83 564	> Rosa, 132 v. A.	06 6 591 444
10 276	> Rosa, 20 v. U. Peruzzi	06 87 138 747
32 218	> Salvatore, 115 v. Prassila	06 50 916 211
47 365	> Salvatore, 19 v. U. Bordoni	06 66 183 014
42 342	> Savino, 35 v. De Marco	06 206 878
04 518	> Savino, 75 v. Fosso Dragoncello	06 5 657 109
20 062	> Sergio, 8 v. Etiopia	06 86 207 852
01 825	> Umberto, 30 v. L. Mantegazza	06 5 371 447
03 887	> Vincenzo, 3 v. G. Garibaldi	06 5 880 618
86 432	> AVERSARIO Andrea	
	WWW.GARANTEPRIVACY.IT	06 2 261 213
		06 2 261 721

What Data?

Sensitive Data


- > **Medical data (hospitals)**
- > **Members, adherents, sympathisers**
 - Specific information notice and consent
 - Data quality (*supporter, sympathiser or merely contacted person?*)
 - Data from surveys (*is it lawful to retain identification data?*)
 - Related/satellite organisations (*Italy, Authorisation no. 3/2004 by Garante*)
 - Internal communications to support external candidates/in connection with internal election (*Cnil Communiqué, 22/02/2001*)
 - Profiling within internal databases

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What Data?

Sensitive Data (members, adherents, sympathisers)

- > **American experience** (lists of candidates losing elections)
- > **Risks related to specific lists** (eg non-voters)
- > **For-profit political marketing: Sardinian pans**




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Enhanced Political Competition: Specific Information

- > **Commercial profiling** (*Aristotle International*)
- > **Profiling via internal databases** (*US election campaign: 44,000 anti-Clinton Republican Revolutionaries*)
- > **Continuous contacts with citizens**
- > **Candidates' permanent promotion** (*unlike derogation in Directive: for elections only*)

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Institutional Communication and E-Government



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Enhanced Political Competition: Specific Information

In addition to:

- e-mail;
- sms-messaging;
- pre-recorded calls

- > **New communication approaches**
 - MMS
 - Ads in commercial newsletters (*Italy, Buongiorno.it case/USA, DNC's FreeIsp service*)
 - Interactive TV
 - Silent marketing (*Canada, no-ring phone calls*)

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Regulations?

Data protection: General rules

- > **European Union**
 - Directive 95/46 (Art. 8; Recitals 30 and 36)
 - Directive 02/58 (Art. 13)
- > **Council of Europe**
 - Rec. (85) 20 on direct marketing
 - Rec. (95) 4 on telecommunications
- > **European Article 29 WP**
 - Opinion no. 5/2004 on unsolicited communications for marketing purposes

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Other Regulations

- > **Interaction with sector-related legislation/regulations**
- > **Lawfulness and fairness of data processing may depend on provisions applying to electoral, communication and/or propaganda matters**
 - timing of propaganda
 - fair practices
 - limitations on expenditure/financing
 - campaign manager's legal position
 - relationships with candidates
 - survey transparency

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Need for Appropriate Safeguards Applying to Data on Political Opinions (Directive 95/46, Recital 36)

- > **Fair, appropriate information**
- > **Awareness of use for political purposes/sophisticated processing operations**
- > **Data quality** (accuracy, eg participation in a meeting)
- > **Opt-in/opt-out** (with regard to source of data)
- > **Exercise of rights** (poor attention to citizens' complaints)
- > **Retention period**

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No Restrictions on Movement of Ideas

- > **Responsible/mindful marketing is in the operators' interest** (promoting image of candidates/parties)
- > **Risks for politics**
 - exclusion of out-of-target recipients
 - reduced gamut of electoral choices
 - unappealing for people because of profiling concerns

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To Do?

- > **Worldwide Shared Rules?**
(Models: Charter of Venice Sydney Declaration on Information Notice)

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To Do?

- > **Next Conference: a "Decalogue"**

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