

UNDERSTANDING THE NEW GDPR FOR TRAVEL COMPANIES

Presented by Jeff Ment



MENT
LAW GROUP, LLC

Teach&Travel
The Official Publication of SYTA

 **SYTA**
The Voice of Student & Youth Travel®

 **syta youth foundation**
Travel Changes Young Lives for Good

What is the Problem?



Recent Headlines:

- “Uber’s license revoked in Brighton over data breach handling” IT Pro (5/2/18)
- “If you shopped at these 14 stores in the last year, your data might have been stolen.” Business Insider (4/6/18)
- “What to Know About the Latest Data Breach Hitting Sears and Delta Customers” Fortune (4/5/18)

What is the problem?



◎ Effect on Consumers

- Hackers search for data listed below because they can be used to make money by duplicating credit cards, and using personal information for fraud, identity theft, and even blackmail. They can also be sold in bulk in deep web marketplaces.
 - Member name
 - Date of birth
 - Social Security number
 - Member identification numbers
 - Email address
 - Mailing and/or physical address
 - Telephone numbers
 - Banking account numbers
 - Clinical information
 - Claims information

What is the Problem?



- How Does a Data Breach Effect Business?
 - A study by KPMG found that 19% of consumers would completely stop shopping at a retailer after a breach.
 - 33% would take an extended break from shopping at the retailer.

2017 Ponemon Cost of Data Breach Study

- Average cost per stolen record - \$141.00
- Average size of data breach has risen 1.8% to more than 24,000 records per breach.

[How Much Will a Breach Cost You?](#)

GDPR



Data Protection
Officer (DPO)



Compliance



25 May 2018



Data Breaches



Personal Data

The General Data Protection Regulation

What is the GDPR

- Under the European Charter of Fundamental Rights Article 8(1) the protection of natural persons with regard to the processing of personal data is a fundamental right.
- Prior to the GDPR this right was protected by the Data Protective Directive.
- The GDPR expands on the DPD and requires additional elements of protection.

What Countries Compose the European Union?

Countries	
<u>Austria</u>	<u>Italy</u>
<u>Belgium</u>	<u>Latvia</u>
<u>Bulgaria</u>	<u>Lithuania</u>
<u>Croatia</u>	<u>Luxembourg</u>
<u>Cyprus</u>	<u>Malta</u>
<u>Czech Republic</u>	<u>Netherlands</u>
<u>Denmark</u>	<u>Poland</u>
<u>Estonia</u>	<u>Portugal</u>
<u>Finland</u>	<u>Romania</u>
<u>France</u>	<u>Slovakia</u>
<u>Germany</u>	<u>Slovenia</u>
<u>Greece</u>	<u>Spain</u>
<u>Hungary</u>	<u>Sweden</u>
<u>Ireland</u>	<u>United Kingdom</u>



Does the GDPR Apply to Me?

- ⦿ All EU Citizens
- ⦿ All EU Companies
- ⦿ All Non- EU Companies that offer goods and/or services or monitor the behavior of EU data subjects



Expanded View of “Personal Data”

- Personal Data includes anything that relates to the person’s identity:
 - Name
 - Email Address
 - Bank Details
 - Social Media Updates
 - Medical History
 - Computer IP Address



GDPR

Collection of Personal Data

Personal Data in a Typical Online Travel Reservation

1.Trip Overview	2.Flights & Extras	3.Passenger
-----------------	--------------------	-------------

1. Passenger (Lead / Party) Name of the person responsible for the booking

Title ▾	First name(s)	Surname(s)
---------	---------------	------------

Lead passenger contact details

Email Address *

Telephone Number * So that we can contact you if we have any queries with your booking

United States Of America (+1) ▾	Area code	Phone number
---------------------------------	-----------	--------------

Address *

Personal Data in a Typical Online Travel Reservation



Credit Card



 PayPal



Use lead passengers' address for billing [view billing address details](#)

Credit or debit card details

*First name **

*Last name **



*Enter your card number **

Expiry Date *

Security Code *

MM ▾

YY ▾



I have read and agree to the [trip notes](#) and [terms and conditions](#)

When Can I Collect Personal Data?

- ⦿ Three conditions for gathering personal data
- ⦿ Allowable under Legitimate Legal Basis
- ⦿ Consent
- ⦿ Public Interest

When Can I Collect Personal Data?

- ⦿ Allowable under Legitimate Legal Basis (Article 6):
 - Necessary for performance of a contract
- ⦿ This covers collecting information in order to book the tour, make reservations and charge the customer.

Obtaining Consent

- When do I need Consent?
 - If you plan to use the data for later marketing then you need consent.
 - If you share data with others



Obtaining Consent

⦿ Consent

- Distinguishable from other matters
- Intelligible and easily accessible form
- Clear and plain language
- Right to withdraw consent at any time
- Performance of the contract cannot be conditioned on consent to process personal data that is not necessary to the performance of the contract

Sample Consent for Future Marketing from the individual company

I have read and accepted the [terms & conditions](#)

At Tours, Tours, Tours we'd love to keep in touch with you about new destinations and services that we think you would want to hear about. We will treat your data with respect and you can find out the details in our [privacy policy](#).

Yes, I would like to receive updates from Tours, Tours, Tours

No, Please do not send me updates from Tours, Tours, Tours.

By the way, if you change your mind, you can stop receiving updates at any time by contacting us at stopthemarketing@toomanyemails.com

Sample Consent for Future Marketing from Third Parties

- I have read and accepted the [terms & conditions](#)

At Tours, Tours, Tours we'd love to keep in touch with you about new destinations and services that we think you would want to hear about. We will treat your data with respect and you can find out the details in our [privacy policy](#).

- Yes, I would like to receive updates from Tours, Tours, Tours
- Yes, I would like to receive updates from Il Favoloso Hotel
- No, Please do not send me updates from Tours, Tours, Tours.
- No, Please do not send my updates from Il Favoloso Hotel

By the way, if you change your mind, you can stop receiving updates at any time by contacting us at stopthemarketing@toomanyemails.com

Sample Consent from ICO

Here at [organisation name] we take your privacy seriously and will only use your personal information to administer your account and to provide the products and services you have requested from us.

However, from time to time we would like to contact you with details of other [specify products]/ [offers]/[services]/[competitions] we provide. If you consent to us contacting you for this purpose please tick to say how you would like us to contact you:

Post **Email** **Telephone**

Text message **Automated call**

We would also like to pass your details onto other [name of company/companies who you will pass information to]/[well defined category of companies], so that they can contact you by post with details of [specify products]/ [offers]/[services]/[competitions] that they provide. If you consent to us passing on your details for that purpose please tick to confirm:

I agree

What about minors?

- Consent for Minors
 - Consent for children under 16 must be given by the parent of legal guardian of the child.
 - The same rules of consent apply.



What about medical information?

○ Medical Information

- Allergies, Diabetes, Medical problems.
- You may have a legitimate purpose during the tour but should be deleted upon completion.



The Right to Be Forgotten

- Under GDPR individuals have the right to be forgotten.
 - If an individual requests that their data be scrubbed you must comply unless there is a legal purpose for retaining the data.

Third Parties and Consent

- ⦿ Contract with third parties
 - Only disclose necessary data.
 - Third party will be responsible for data and destroy it when legitimate purpose is complete.
 - Third party will obtain their own consent for marketing.
 - It is unwise to take responsibility for third party consent.

GDPR

Privacy Policy

Privacy Policy

- The consent should link to the privacy policy that contains detailed information about how the data is used, stored, etc.

Privacy Policy

- What is in the Privacy Policy?
 - Identity and contact information of the business storing data
 - The purpose of the processing and the legal basis
 - Recipients or categories of recipients of the data if any
 - The period for which data will be stored
 - Right to access and erasure of data (No Charge)
 - Right to withdraw consent at anytime
 - Right to lodge a complaint
 - Whether the data will be processed for any purpose other than for the purpose it was collected

Tours, Tours, Tours Privacy Policy

- Answer why:

This Policy explains when and why we collect personal information about people who visit our website, how we use it, the conditions under which we may disclose it to others and how we keep it secure.

We may change this Policy from time to time so please check this page occasionally to ensure that you're happy with any changes. By using our website, you're agreeing to be bound by this Policy.

Any questions regarding this Policy and our privacy practices should be sent by email to contact@tourstourstours.com or by writing to 1 Great View, Tourspot, Great State 00160, you can telephone (999) 999-9999.

Tours, Tours, Tours Privacy Policy

- Tell them who you are:

We're Tours, Tours, Tours, Great State's largest tour operator dedicated to providing our customers with wonderful touring experiences. Tours, Tours, Tours is a limited liability company registered in Great State and operating with our tour partners throughout the United State and Europe. We work with over 100 subcontractors that include hoteliers and transportation companies. Also list subsidiaries here.

Tours, Tours, Tours Privacy Policy

- How is Personal Data Collected:

We obtain information about you when you use our website, for example, when you contact us about tours, to book a reservation, or if you register to receive our emails.

Tell them every instance that results in data collection.

Tours, Tours, Tours Privacy Policy

- What Type of Information is Collected:

The personal information we collect might include your name, address, email address, IP address, and information regarding what pages are accessed and when. If you make a payment online or purchase a product from us, your card information is not held by us, it is collected by our third party payment processors, who specialize in the secure online capture and processing of credit/debit card transactions, as explained below.

Tours, Tours, Tours Privacy Policy

⦿ How is Your Information Used:

We may use your information to:

- process a payment that you have made;
- Process bookings and reservations for your selected tour;
- to carry out our obligations arising from any contracts entered into by you and us;
- seek your views or comments on the services we provide;
- notify you of changes to our services;
- send you communications which you have requested and that may be of interest to you. These may include information about tours and promotions we think you will find interesting;

We review our retention periods for personal information on a regular basis. We will hold your personal information on our systems for as long as is necessary for the relevant activity, or as long as is set out in any relevant contract you hold with us.

Tours, Tours, Tours Privacy Policy

- ◉ Who Has Access To Your Information:

We will not sell or rent your information to third parties.

We will not share your information with third parties for marketing purposes.

Third Party Service Providers working on our behalf: We may pass your information to our third party service providers, agents subcontractors and other associated organizations for the purposes of completing tasks and providing services to you on our behalf (for example to book reservations for your tour). However, when we use third party service providers, we disclose only the personal information that is necessary to deliver the service and we have a contract in place that requires them to keep your information secure and not to use it for their own direct marketing purposes. Please be reassured that we will not release your information to third parties beyond the Tours, Tours, Tours network for them to use for their own direct marketing purposes, unless you have requested us to do so, or we are required to do so by law, for example, by a court order or for the purposes of prevention of fraud or other crime.

When you are using our secure online payment pages, your payment is processed by a third party payment processor, who specializes in the secure online capture and processing of credit/debit card transactions. If you have any questions regarding secure transactions, please contact us.

Tours, Tours, Tours Privacy Policy

- Consent and Opt Out:

You have a choice about whether or not you wish to receive information from us. If you do not want to receive direct marketing communications from us about tours and exciting travel opportunities, then you can select your choices by ticking the relevant boxes situated on the form on which we collect your information.

We will not contact you for marketing purposes by email, phone or text message unless you have given your prior consent. We will not contact you for marketing purposes by post if you have indicated that you do not wish to be contacted. You can change your marketing preferences at any time by contacting us by email: stopthemarketing@toomanyemails.com or telephone us at (999) 999-9999.

Tours, Tours, Tours Privacy Policy

- How to Access Your Information:

The accuracy of your information is important to us. We're working on ways to make it easier for you to review and correct the information that we hold about you. In the meantime, if you change email address, or any of the other information we hold is inaccurate or out of date, please email us at: contact@tourstourstours.com, or write to us at: 1 Great View, Tourspot, Great State . Alternatively, you can telephone (999) 999-9999.

You have the right to ask for a copy of the information Tours, Tours, Tours hold about you.

Tours, Tours, Tours Privacy Policy

- How to Access Your Information:

When you give us personal information, we take steps to ensure that it's treated securely. Any sensitive information (such as credit or debit card details) is encrypted and secure by design.

Non-sensitive details (your email address etc.) are transmitted normally over the Internet, and this can never be guaranteed to be 100% secure. As a result, while we strive to protect your personal information, we cannot guarantee the security of any information you transmit to us, and you do so at your own risk. Once we receive your information, we make our best effort to ensure its security on our systems. Where we have given (or where you have chosen) a password which enables you to access certain parts of our websites, you are responsible for keeping this password confidential. We ask you not to share your password with anyone.

Tours, Tours, Tours Privacy Policy

- Profiling:

We may analyze your personal information to create a profile of your interests and preferences so that we can contact you with information relevant to you. We may make use of additional information about you when it is available from external sources to help us do this effectively. We may also use your personal information to detect and reduce fraud and credit risk.

Tours, Tours, Tours Privacy Policy

- Use of Cookies:

Like many other websites, the Tours, Tours, Tours website uses cookies. 'Cookies' are small pieces of information sent by an organization to your computer and stored on your hard drive to allow that website to recognize you when you visit. They collect statistical data about your browsing actions and patterns and do not identify you as an individual. For example, we use cookies to store your country preference. This helps us to improve our website and deliver a better more personalized service.

It is possible to switch off cookies by setting your browser preferences. For more information on how to switch off cookies on your computer, visit our full cookies policy. Turning cookies off may result in a loss of functionality when using our website.

Tours, Tours, Tours Privacy Policy

- Links to Other Websites:

Our website may contain links to other websites run by other organizations. This privacy policy applies only to our website, so we encourage you to read the privacy statements on the other websites you visit. We cannot be responsible for the privacy policies and practices of other sites even if you access them using links from our website.

In addition, if you linked to our website from a third party site, we cannot be responsible for the privacy policies and practices of the owners and operators of that third party site and recommend that you check the policy of that third party site.

Tours, Tours, Tours Privacy Policy

- Users Under 16:

We are concerned to protect the privacy of children aged 16 or under. If you are aged 16 or under, please get your parent/guardian's permission beforehand whenever you provide us with personal information.

Tours, Tours, Tours Privacy Policy

- Outside of the EU:

As part of the services offered to you through this website, the information which you provide to us may be transferred to countries outside the European Union (“EU”). By way of example, as a United States Company our servers are located in the United States, which does not have similar data protection laws to the EU. By submitting your personal data, you’re agreeing to this transfer, storing or processing. We will take steps to ensure that appropriate security measures are taken with the aim of ensuring that your privacy rights continue to be protected as outlined in this Policy.

If you use our services while you are outside the EU, your information may be transferred outside the EU in order to provide you with those services.

GDPR

Storage of Personal Data

Compliance with Stored “Personal Data”

- ◎ Compliance with Stored Personal Data:
 - Keep a record of all current and existing data
 - How and when the individual provided consent (this is going forward, not retroactive)
 - How the data is being protected (By Secure By Design)
 - You want encryption and firewalls
 - Probably don't need pseudonymization
 - How the data is being used
 - Need a legitimate reason for keeping the data, includes marketing by consent.
 - Monitoring protocols to avoid breach

Compliance with Stored “Personal Data”

- ◎ What to Do Right Now:
 - Audit
 - Full Audit of all data held, how it is handled and how collected, what it is used for and how it is securely stored
 - You should be able to get this information with your web designer. You should work with them to ensure that you know the answers to these questions. You should ensure that they understand GDPR and can comply.

Compliance with Stored “Personal Data”

- ◎ What to Do Right Now:
 - Determine Adjustments
 - What is the legal basis of the data currently held
 - Adjust procedures for obtaining and storing data as necessary
 - Think about ease of access to destroy data if an individual exercises their right to be forgotten.
 - Staff needs to understand that personal data should not be shared at will. All of this data is now protected. No emails between staff about John Smith of 21 Devonshire.
 - Staff should only receive personal data necessary for their job and after use there should be a plan to destroy that data.

Breach

- ⦿ Must report any breach within 72 hours
 - describe the nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
 - communicate the name and contact details of the data protection officer or other contact point where more
 - information can be obtained;
 - describe the likely consequences of the personal data breach;
 - describe the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.
- ⦿ Individuals notified **ONLY** if “high risk”

Penalties for Non-Compliance

- If businesses are not compliant they can be fined up to \$20 million or 4% of annual turnover, whichever is higher.



Questions or Comments?



Please Contact Me:

Jeff Ment

(860)969-3200

jment@mentlaw.com

Strategic Partners

strategic PARTNERS

