



Forget-Me-Yes[®]



Data Privacy Compliance White Paper

Data Privacy Rights

What Are The Loopholes?



Your *right-to-erasure* process has a giant loophole that could cost your company an incredible amount of money. This loophole could cause your company to “remember” people you were supposed to forget, causing you to be noncompliant. The moment you contact one of those people, they can report your noncompliance and begin the very expensive process of defending your company’s actions. This white paper will help you to understand this loophole – and give you a very easy way to address it.

Right-to-Erasure (RoE) a.k.a. Right-to-be-Forgotten (RtbF)

The right-to-erasure is often the final step in a data subject access request (DSAR). A data subject asked your company if you have any of the personal information, and you checked your various systems and responded to the request.

The data subject may now request that you erase all of their personal information from your company’s records. There are exceptions where you are allowed to deny such an erasure request, such as the need to keep a record of all customer transactions. But if someone has not done business with you yet, and they exist solely in your sales and marketing systems, you have no valid business reason to keep their personal information.





Once the request has been given, all references to that person must be deleted from all company systems within a specified period of time (e.g. 30 days). Any communication to that person after this time period has passed will be irrefutable proof that you did not erase their personal information from your company's systems. If this happens to many people at once due to the loopholes discussed in this paper, the regulatory body could fine you, bring you into court, or ask you to enter an arbitration process – all of which can be very expensive. This is why it is incredibly important for you to close the loopholes that would cause your company to remember someone they were supposed to forget.

Restoring your CRM system

Your company has at least one CRM system, the most common one of which will be Salesforce. Even if you use other tools, such as marketing automation systems (e.g. Marketo), or automated phone systems (e.g. RingCentral), they typically use Salesforce (or a similar CRM) as their system of record. If you are able to successfully delete a prospect from Salesforce, other tools should synchronize to it and delete them as well.

The challenge comes when your CRM system needs to be partially or completely restored due to deletion or corruption of a significant number of leads or contacts. It's important to understand that no known backup systems are able to support deletion of an individual record inside a backup of your CRM system. This problem has been known since the advent of the GDPR, as you can see in [this article](#). This means that although the data subject that requested to be forgotten has been deleted from your CRM system, they are in every version of every backup that has been made since they were entered into your system.





If you restore your CRM system with any of those backups, you will restore everyone that has been forgotten since the last time you took a backup. The worst part is that – even if you realize that you are about to restore a number of forgotten people – there is no way for you to know which records that you are about to restore should actually be deleted. Your company has forgotten these people because they asked you to!

Turnover of salespeople

What is the biggest value a new salesperson typically brings to your company? Is it their wonderful phone skills or cheery personality? Is it their industry knowledge and ability to understand the competition? These are all valuable, but one of the things that salespeople that work in a particular industry usually bring to the table is their list of contacts they can call and email to sell them the latest product or service that they are selling. Longtime salespeople refer to this as their Rolodex – although none of them are actually using a Rolodex.

What happens when your new salesperson uploads their thousand-person list of contacts into your CRM system? If someone starts a campaign with these new contacts, thousands of people will start getting contacted by your company – some of which you were supposed to have forgotten. Depending on the number of records and the level of salespeople turnover in your company, this could be a major violation of one or more regulations.

Mergers and acquisitions

If your company merges with or acquires another company, there will typically be a merging of your CRM system. Once again, you will end up inserting into your company's database thousands of people that you were supposed to no longer be contacting. The moment your company begins contacting them, it will be obvious that you have “remembered” people that you were supposed to have forgotten, and they can file a noncompliance report.





Defending yourself

Each of these scenarios has a defense that you can explain to some type of judge or arbitration manager, but none of these defenses have been tested in court yet! That means it is really unclear what would happen if you used them in court. You certainly have no precedent to use as a defense. It is possible they will understand your explanation and not fine your company for noncompliance; however, it is also very possible that they do not buy your explanation and end up finding your company a very large fine. The only thing you know for sure is that if you are accused of non-compliance by a regulatory agency, it will cost your company thousands of dollars to simply have the conversation and explain why you did what you did.

Solving this is easy

ComplyTrusts' Forget-Me-Yes® (FMY) solution solves this problem once and for all. It is an inexpensive SaaS service, priced based on the number of DSAR requests you perform each month. It allows you to enter the data subjects' information into a website that automatically queries the information in your CRM system and prepares a report that you can use to satisfy the DSAR phase of the process. If the data subject requests to be deleted, it can also automatically delete the data subject from your CRM system. It also creates a record of deletion that can be used as proof at a later date.

What it can do that no other tool does is ensure that this person never gets put back into your CRM system via any process that might do so. FMY stores just enough information on the data subject to be able to constantly re-query your CRM system to see if any process has accidentally put a forgotten person back into your CRM system. This data is encrypted and stored in such a way that no one has direct access to it – not you, not ComplyTrust, not anyone. The process has been vetted by privacy lawyers, and you can see their evaluation [here](#).





At any time you can query the database with one or more data subjects, and Forget-Me-Yes® will provide proof of deletion. It will also notify you if their information gets put back into your CRM system and deleted.

This gives you a single tool to satisfy both DSARs and right-to-erasure requests, with the added benefit of knowing that they will never again appear in your system, no matter what other process might try to do so.

ComplyTrust Forget-Me-Yes® – remembering who you're supposed to forget.

Why is this important..



Your name is never fully erased



Companies can sell your contacts' info



Reduction of non-compliance risk, lawsuits, negative brand effect, potential penalties, and other costly consequences



Compliance enforcers will seek to establish the perceived “best-effort” of compliance in any situation where a penalty might arise



The use of the FMY platform demonstrates more than just “best-effort” or other ‘good faith’ comparable



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