



# Data privacy and GDPR in an NDC world

## ▶▶▶▶ WHY IS THIS IMPORTANT?

Just as is the case with existing distribution processes, distribution based on NDC, or any other means of personalization or shopping with enhanced content, must be compliant with privacy and data protection regulation. On 25 May 2018, the General Data Protection Regulation 2016/679 (GDPR) entered into force. GDPR introduces several major modifications in the privacy landscape. One of the key principles behind the new Regulation is to strengthen the protection of individual's data protection rights.

IATA's NDC changes the scope of personal data exchanges during the shopping process and the roles of the parties involved in that process by receiving, transmitting or responding to shopping requests from a traveler/customer. Applicable local laws vary in different jurisdictions around the globe, and may even still vary within the European Union. Any party processing passenger data is advised to consult their own legal counsel for more precise guidance.

## ▶▶▶▶ ZOOM INTO THE TOPIC

**Personal information/data:** Personal information/data means any information relating to an identified or identifiable natural person. Examples of personal information include: name, location data, online identifier, factors specific to the individual (e.g., physical, cultural, genetic, biometrics, etc.).

**Processing:** Any operation(s) performed on Personal Data. E.g.: collection, transmission, storage, combination, etc.

**Controlling:** Any operation that involves determining the purposes and means of the processing of personal data obtained at the source from an identified natural person.

**NDC and personal data:** When a shopping request is initiated by a seller on behalf of a traveler, it will include the basic information that an airline will need in order to be able to respond to the seller with relevant offers. This shopping request may also include additional information about the traveler (for personalized shopping), or about the specific needs of the traveler (for attribute shopping), such as specifying the cabin, aircraft features, ancillary product requirements, etc. Under the GDPR, this is where personal data is processed. The airline receives the shopping request from the seller and begins to build the offer accordingly.

**Responsibility:** Before implementing NDC, each party in the distribution chain (e.g., airline, seller, aggregator, etc.) needs to assess whether it processes personal data and

what that party's level of responsibility is under applicable law. A controller, a processor, a recipient or a third party involved in the processing do not all have the same scope of obligations, and privacy protection and compliance requirements may vary from one party to another and from one jurisdiction to another.

**Core privacy principles:** NDC parties' obligations to protect the traveler's privacy is generally about: (i) ensuring a *transparent information* of the traveler's rights prior to the shopping requests and throughout the processing through a complete and accessible privacy policy, (ii) choosing a *lawful ground* and, in certain jurisdictions, a *legitimate purpose* to the processing of their personal information, (iii) implementing *appropriate organizational and technical measures* to protect personal information, (iv) implement *contractual arrangements and safeguards* as required to implementing the processing, and (v) enforcing the *traveler's rights* with respect to its personal information (e.g., right of access, rectification, erasure, portability, retention, etc.).

## ▶▶▶▶ Some practical tips for NDC parties to keep in mind (this list is not exhaustive)

- ▶ Inform the traveler of any potential differences between making anonymous and personalized shopping requests
- ▶ At the time of the shopping request and for personalized offers, request the traveler's express consent that personal data can be passed onto other relevant NDC parties (including the airlines)
- ▶ Provide travelers with an easy way to expressly opt out from receiving any direct marketing communications
- ▶ Identify sensitive personal information, such as health data or shopping requests related to minors, which may be subject to specific compliance requirements in certain jurisdictions
- ▶ Inform the travelers of any transfer of their personal data in foreign countries for processing, or any other purpose
- ▶ Ensure that travelers can adequately exercise their rights under applicable laws
- ▶ Dedicate special attention to any notification or authorization requirements, which may be imposed by privacy regulators in applicable jurisdictions
- ▶ Obtain advice from competent privacy compliance experts in applicable jurisdictions



 **INDUSTRY STATE OF PLAY**

Building standards in the NDC environment requires a global effort from the industry, but compliance requirements around the implementation and use of these standards, including compliance with privacy laws, is each NDC party's sole responsibility. It is indeed each NDC party's responsibility to assess individually to which extent it may be subject to obligations under privacy laws.

These guidelines are distributed to help the parties involved in implementation and use of NDC standards to identify privacy regulatory requirements. That may be applicable before engaging in the controlling or processing of travelers' personal data using NDC standards, and with the understanding that IATA, and its members, observers and advisors are not thereby rendering legal or other professional advice or services. Fact patterns, regulatory environment, practices and interpretations may vary. If legal advice or other expert assistance is required, the services of a competent professional should be sought by each NDC party.

