



Quick reference guide: examples of contractual necessity

Processing activities	Can you rely on legal basis of contractual necessity?
Performance of a contract for the purchase of items from an online retailer:	
■ Processing credit card information and billing address for payment purposes	Yes
■ Processing home address for home delivery	Yes
■ Processing home address if the customer has opted for shipment to a pick-up point	No
Profiles	
■ Online retailer wishes to build profiles of user's tastes and lifestyle choices based on website visits	No
Termination	
Online subscription service that can be cancelled at any time:	
■ Processing data about the use of the service to issue invoices	Yes
■ Retention of usage history following termination (consider alternative lawful basis of legal obligation)	No
Taking steps prior to entering into a contract	
■ Unsolicited marketing	No
■ Preliminary processing carried out solely on the initiative of the data controller or at the request of a third party	No
■ Taking steps at the request of the data subject, such as the data subject providing their postal code to see if a particular service provider operates in their area	Yes
■ Financial institutions duty to check identity documents of new customers (instead, the appropriate legal basis would be compliance with a legal obligation)	No

Processing activities	Can you rely on legal basis of contractual necessity?
Service improvement	
<ul style="list-style-type: none"> ■ Collection of organisational metrics relating to a service 	No
<ul style="list-style-type: none"> ■ Details of user engagement 	No
<ul style="list-style-type: none"> ■ Processing for the purposes of improving a service or developing new functions within an existing service 	No
Consider alternative lawful bases such as legitimate interest or consent	
Fraud prevention	
<ul style="list-style-type: none"> ■ Monitoring and profiling customers for fraud prevention purposes 	No
Consider alternative lawful bases such as legal obligation or legitimate interests	
Online behavioural advertising	
<ul style="list-style-type: none"> ■ Online behavioural advertising and associated tracking and profiling of data subjects which finances the provision of the online service <p>Although behavioural ads may support the service, consent is required prior to placing cookies necessary to engage in behavioural advertising</p>	No
Personalisation of content	
<ul style="list-style-type: none"> ■ Tailored news aggregation service based on profile created by user of his/her interests 	Yes
<ul style="list-style-type: none"> ■ Profiling by online hotel search engine of user's past behaviour and financial data when returning search results 	No
<ul style="list-style-type: none"> ■ Displaying personalised product suggestions on an online market place based on previous views 	No

Based on the draft [guidelines](#) published by the European Data Protection Board on the use of contractual necessity as a legal basis for processing in the context of online services, 9th April 2019.