

Policy Briefing from the Affiliate & Partner Marketing Association, July 2nd 2025

Introduction

- The [Data \(Use and Access\) Act \(DUAA\)](#) officially became UK law on 19 June 2025, updating - but not replacing - existing data protection and privacy legislation such as the [UK GDPR](#), [Data Protection Act 2018](#), and the [Privacy & Electronic Communications EC Directive Regulations 2003 \(PECR\)](#).
- The new legislation aims to enhance flexibility while promoting digital innovation. Post-Brexit, it marks a significant step in the UK's evolving data governance outside the European Union (EU), aiming to balance innovation with regulatory oversight.

Top Line Highlights

- The Act seeks to enable the **smart use of technology** in public and private services. For example: the creation of a secure and reusable digital identity system and new standards for NHS data interoperability, aiming to reduce the friction in sharing patient information between hospitals and GPs.
- The House of Lords pushed for stricter AI training data rules, including opt-outs for copyrighted material, in the Bill's passage through Parliament. While no agreement was reached, the **UK Government committed to publishing a report on AI copyright enforcement in the coming months.**
- The new law tweaked the 'cookie rules' creating **clarity on exemptions.** Significantly the amendments to PECR exempt the need for consent when collecting and using information for **statistical purposes** about how a service is used (e.g. basic analytics). However, unlike 'strictly necessary' exemptions these still require an opt out.
- The Information Commissioner's Office (ICO) - to become the Information Commission - has been granted **increased fines under PECR to tackle non-compliance.**

- The exact **implementation date** remains unclear. However, the ICO says a phased approach will take place between “*now and June 2026*”.
- The ICO will issue updated PECR guidance, incorporating feedback from its recent consultation (N.B., APMA [responded](#) to this). ***It is expected to consult industry again in 2025*** on certain aspects of the PECR revisions now that the new law is in place.

In Detail: Key Points for Affiliate & Marketing Sector

The DUAA amends UK data protection law, but it doesn't overhaul the main rules for affiliate and partner marketing. However, the risks of non-compliance are now higher.

There are several things that affiliate and partner marketing businesses should be particularly aware of:

1. **Cookie rules:** The DUAA allows organisations to set some types of cookies (and other technologies) without having to get consent (e.g., for scientific research). The Act amends PECR to prohibit the setting of a cookie (or other technology) unless:
 - An organisation has provided the subscriber or user with clear and comprehensive information about the purposes, and gives their **consent**;
 - The storage or access is necessary for the sole purpose of carrying out the **transmission** of a communication over an 'electronic communications network';
 - The storage or access is **'strictly necessary'** to provide an information society service. There are now some non-exhaustive examples of strictly necessary purposes, including security, fraud prevention, fault detection and authentication;
 - The storage or access is for the sole purpose of enabling a service provider to collect information for **statistical purposes** about how their online service is used;
 - The storage or access is for the sole purpose of enabling a service to adapt its appearance or functions in accordance with someone's **preferences**; and
 - The storage or access is for the sole purpose of working out the subscriber or user's **geographical location when they request emergency assistance**.

2. **Putting cookie compliance in the enforcement spotlight:** In raising the maximum fines under PECR to GDPR levels (**£17.5m or 4% of global turnover** - whichever is higher), it increases the level of enforcement risk for non-compliant organisations.
3. **Reducing other regulatory requirements when processing personal data:** In particular, when **automating decision-making** (i.e., the use of AI). These now only apply where special category data (e.g., sensitive health records) are processed. However, despite the deregulatory emphasis, expect to see greater scrutiny of the use of AI when processing personal data in general.
4. **Changes to international data transfers:** The DUAA introduces a new 'data protection test' when an organisation is transferring personal data to a 'third country'. It also aims to simplify international transfer rules but this may complicate EU-UK data flows, with an adequacy review due by the end of 2025.
5. **Children & online services:** The new law explicitly requires organisations to consider the use of children's personal information. Following - where relevant - the 15 standards in the ICO's [Age Appropriate Design Code \(AADC\)](#) will ensure compliance.
6. **Developing Codes of Conduct:** The DUAA places a new duty on the ICO to encourage representative bodies (e.g., trade bodies like APMA) to work with the ICO **to produce codes of conduct in order to demonstrate compliance.**
7. **The ICO is to become the Information Commission:** The Act transfers the powers of the ICO to the **new Information Commission**, and gives it new reporting powers. Expect to see a regulator with 'more teeth'.

APMA Comment & Analysis:

The new law does not really change much in practice for affiliate marketing. However, enforcement of non-compliance is expected to ramp up with the ICO now having greater fines under PECR.

It also 'opens the door' for a more proportionate approach for affiliate marketing business models where there is a lower risk to people's privacy. The new legislation allows basic analytics (e.g., Google Analytics) to run without consent if users are informed and can opt out. Consent is still required for ad tracking, retargeting, and third-party marketing cookies.

Companies should obtain legal advice and follow all guidance to comply with the new law. APMA believes there is a good case for cookies (and other technologies) used to record actions in affiliate marketing to be considered 'attribution cookies'.

The ICO has published detailed guidance (including a checklist) for organisations [here](#).

For further information please contact the APMA at hello@theapma.co.uk.