

LEGITIMATE INTEREST IMPACT ASSESSMENT

A) IDENTIFYING A LEGITIMATE INTEREST

Question	Answer	Guidance
1 What is the purpose of the processing operation?	Convert Experiences does not store any PII data but sets three cookies in order to run experiences, track visitor actions and deliver consistent variations across page loads. These cookies are a small bit of text that accompanies requests and pages as they go between the Web server and browser. They keep track of the variation a user has viewed and help to serve the same variation to the user consistently; track goals completed by a user; and determine whether a user is a part of an experience. They are described here: https://convert.zendesk.com/hc/en-us/articles/204495429-Convert-Experiences-Tracking-Cookies-Structure	The first stage is to identify a Legitimate Interest – what is the purpose for processing the personal data?
2 Is the processing necessary to meet one or more specific organisational objectives?	The cookies contain information that Convert Experiences application can read whenever the user visits the site. They keep track of the variation a user has viewed and help to serve the same variation to the user consistently; track goals completed by a user; and determine whether a user is a part of an experience. So in that sense they are necessary to store user-specific information.	If the processing operation is required to achieve a lawful business objective, then it is likely to be legitimate for the purposes of this assessment.
3 Is the processing necessary to meet one or more specific objectives of any Third Party?	The objectives are set by Convert Insights Inc. and not any other Third Party.	While you may only need to identify one Legitimate Interest for the purposes of an LIA – the interest that you are seeking to rely on - it may be useful to list all apparent interests in the processing, those of you as the Controller, as well as those of any Third Party who are likely to have a Legitimate Interest.
4 Does the GDPR, ePrivacy Regulation or other national legislation specifically identify the processing activity as being a legitimate activity, subject to the completion of a balancing test and positive outcome?	Recitals 47 to 50 in the GDPR give some examples of when a Controller may have a Legitimate Interest which would need to be confirmed by a LIA. For Convert Experiences, two of the six generic examples in the GDPR of where a Controller may have a legitimate interest are of a particular note. RELEVANT & APPROPRIATE RELATIONSHIP - where there is a relevant and appropriate relationship between the individual and the Controller in situations where the individual is a client or in the service of the organisation. REASONABLE EXPECTATIONS - the fact that individuals have a reasonable expectation that the Controller will process their Personal Data.	For example: Legitimate Interests might be relied on where an individual's (including client or employee) information is processed by a group of companies for the purposes of administration (Recital 48). If the Controller is processing sensitive Personal Data in the employee context, then they may be able to rely on Article 9(2) (b).

B) THE NECESSITY TEST

Question	Answer	Guidance
1 Why is the processing activity important to the Controller?	Convert Experiences is unable to run experiences and track visitors without this processing.	A Legitimate Interest may be elective or business critical; however, even if the Controller's interest in processing personal data for a specific purpose is obvious and legitimate, based on the objectives of the Controller, it must be a clearly articulated and communicated to the individual.

<p>2 Why is the processing activity important to other parties the data may be disclosed to, if applicable?</p>	<p>No other parties are involved</p>	<p>A Legitimate Interest could be trivial or business critical, however, the organisation needs to be able to clearly explain what it is. Some purposes will be compelling and lend greater weight to the positive side of the balance, while others may be ancillary and may have less weight in a balancing test. Consider whether your interests relate to a fundamental right, a public interest or another type of interest.</p> <p>Just because the processing is central to what the organisation does, does not make it legitimate. It is the reason for the processing balanced against the potential impact on an individual's rights that is key.</p> <p>It is important to consider whose Legitimate Interests are being relied on. Understanding this will help inform the context of the processing. In combination with the reason the Personal Data is being processed, this information will determine the weight of the Legitimate Interest that needs to be balanced.</p>
<p>3 Is there another way of achieving the objective?</p>	<p>No</p>	<p>If there isn't, then clearly the processing is necessary; or If there is another way but it would require disproportionate effort, then the processing is still necessary; or If there are multiple ways of achieving the objective, then a Privacy Impact Assessment should have identified the least intrusive means of processing the data which would be necessary; or If the processing is not necessary (It is unlikely that there will be many scenarios where a processing operation is not necessary where it has been identified as being a means to achieve a stated business objective), then Legitimate Interests cannot be relied on as a lawful basis for that processing activity</p>

C) THE BALANCING TEST		
Question	Answer	Guidance
<p>1 Would the individual expect the processing activity to take place?</p>	<p>Yes. They have signed a contract with Convert Insights Inc. so such processing is expected to take place for as long as they are a Convert Insights Inc. customer.</p>	<p>If individuals would expect the processing to take place then the impact on the individual is likely to have already considered by them and accepted. If they have no expectation, then the impact is greater and is given more weight in the balancing test</p>

<p>2 Does the processing add value to a product or service that the individual uses?</p>	<p>A/B Testing is the process of offering multiple options, for a web page, landing page, or design, to different portions of your audience and tracking each portion's reaction.</p> <p>For instance, you could create two separate landing pages, each with a different design, and allow 50% of visitors to see one and the other 50% to see the other. Then you can track each group's reaction and engagement with the page they received. When one page gets significantly more engagement, you know that it's of more value to your customer base.</p> <p>The idea that everything you do as a company and brand should create value for your customer base ties directly to the value of A/B testing; not only does A/B testing allow you to see, in the short term, how successful a campaign or strategy or design can be with your audience, it also allows you to gather long-term and highly valuable information about how to create value for your customers. A/B testing provides you with quantifiable, statistical information about what your customer base and online audience finds valuable.</p>	
<p>3 Is the processing likely to negatively impact the individual's rights?</p>	<p>No</p>	
<p>4 Is the processing likely to result in unwarranted harm or distress to the Individual?</p>	<p>No – the data we use can't result in a harmful breach.</p>	
<p>5 Would unwarranted harm or distress to the individual occur if the processing did not take place?</p>	<p>No</p>	
<p>6 Would there be a prejudice to Data Controller if processing does not happen?</p>	<p>Financial Harm</p>	
<p>7 Would there be a prejudice to the Third Party if processing does not happen?</p>	<p>N/A</p>	
<p>8 Is the processing in the interests of the individual whose personal data it relates to?</p>	<p>Yes</p>	
<p>9 Are the legitimate interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?</p>	<p>Yes</p>	<p>What are the benefits to the individual or society? If the processing is to the benefit of the individual, then it is more likely that Legitimate Interests can be relied on, as the individual's interests will be aligned with those of the Controller. Where the processing is more closely aligned with the interests of the Controller or a Third Party, than with those of the individual, it is less likely that the interests will be balanced and greater emphasis needs to be placed on the context of the processing and relationship with the individual.</p>
<p>10 What is the connection between the individual and the organisation?</p>	<p>Customer</p>	<ul style="list-style-type: none"> • Existing customer • Lapsed/cancelled customer • Employee or contractor • Business client • Prospect (never purchased goods or services) • Supplier • None of above

<p>11 What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?</p>	<p>No personal data is used or stored in Convert Experiences.</p> <p>Notes for transparency: On by default Currently session cookie ID (timeout 20 minutes on cookie and server cache). Currently falling under performance cookies in our interpretation of GDPR / ePrivacy Directive and ePrivacy Regulations. Off by default When cross browser targeting is turned on by the customers we insert unique cookie in URL to pick-up on the other domain (could be interpreted by GDPR as personal data). This feature is off by default as part of our privacy by default policy. When a unique visitor IDs are given by the customer to replace session IDs this could be interpreted as personal data This feature is off by default as part of our privacy by default policy. When geotargeting is used (not on my default) we could store country, region and city in CDN or server cache for correct targeting. Personalization experiences have the potential to contain small segments (under 100 unique visitors) and this could be interpreted by Privacy Authorities in Europe as identification of data subjects. For that reason, we added a warning to the summary of any Personalization Experience.</p>	<p>If processing Special Categories of Personal Data, an Article 9 condition must be identified as the lawful basis of processing.</p> <p>e.g. Data relating to a child etc.</p>
<p>12 Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so how close is that relationship?</p>	<p>Yes</p>	<ul style="list-style-type: none"> • Ongoing • Periodic • One-off • No relationship, or relationship has effectively ceased <p>Where there is an ongoing relationship, or indeed a more formal relationship, there may well be a greater expectation on the part of the individual that their information will be processed by the organisation. The opposite is also possible but it does depend on the purpose of processing.</p>
<p>13 Would the processing limit or undermine the rights of individuals?</p>	<p>No</p>	<p>If processing would undermine or frustrate the ability to exercise those rights in future that might well affect the balance.</p>
<p>14 Has the personal information been obtained directly from the individual, or obtained indirectly?</p>	<p>Indirectly</p>	<ul style="list-style-type: none"> • Directly • Indirectly • A mix of both <p>If the information was obtained directly from the individual then you should take due consideration of the notice of fair processing (e.g. your Privacy Notice), the relationship with the individual and their expectations of use. If the data was collected directly and these factors are positive, then it may help to tip the balance in favour of the processing operation. Where Personal Data is not collected directly, there may need to be a more compelling Legitimate Interest to overcome this. It will also depend on the context of the processing and if the organisation has a two-way relationship with the individual.</p>

15 Is there any imbalance in who holds the power between the organisation and the individual?	No, given the individual can opt out of even the limited data usage we rely on. The individual holds the greater power.	Does the individual have a choice regarding the processing of their personal information? If the organisation has a dominant position, this will tip the balance slightly against the use of Legitimate Interests. That said, the rights and freedoms of individuals laid down in the GDPR go some way to redressing this issue. The Controller will need to consider how it addresses any imbalance of power to ensure individuals' rights are not impacted.
16 Is it likely that the individual may expect their information to be used for this purpose?	Yes	<ul style="list-style-type: none"> • Yes • No • Not sure <p>Given the relationship between the parties, services/products being provided, including the information notices available, would the individual reasonably expect or anticipate that their information would be used for those or connected purposes? The stronger the expectation, the greater the chances that Legitimate Interests can be relied on.</p>
17 Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship?	The data is well protected with limited access, not shared with other controllers and retained only as long as strictly necessary.	Processing should not be unwarranted - intrusion into the private life of an individual may be justified based on the nature of the relationship or special circumstances. However, the greater the intrusion, perceived or otherwise, the more overwhelming the Legitimate Interest should be and the more the rights of the individual must be considered within the balance. Consider here the way the data is processed (e.g. large scale, data mining, profiling, disclosure to a large number of people or publication).
18 Is a fair processing notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?	Yes. Convert Insights Inc. Privacy and Data Usage Policy is promoted on our website.	Remember that the more unusual, unexpected or intrusive the processing, the greater the importance of making the individual aware of the processing. Particularly where Legitimate Interests are to be relied on.
19 Can the individual, whose data is being processed, control the processing activity or object to it easily?	Yes, they can easily opt out (https://www.convert.com/opt-out/) or contact us directly at support@convert.com .	<ul style="list-style-type: none"> • Yes (cover how you do this in the next section on "Mitigation and Compensating Controls") • No • Partly (Explain) <p>Giving the individual increased control or elements of control may help a Controller rely on Legitimate Interests where otherwise they could not. If individual control is not possible or not appropriate, explain why.</p>
20 Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms?	As stated above, there are no privacy risks or harms.	<ul style="list-style-type: none"> • Yes (cover how you intend to do this in the next section "Mitigation and Compensating Controls") • No <p>This is a similar concept to a Data Protection Impact Assessment. Where a DPIA might identify potential privacy harms it also allows the organisation to mitigate the risk of non-compliance by adapting or altering the scope of the activity. The same is true for an LIA. If you conclude that the processing presents a privacy risk to the individual, the processing can be limited or adapted to reduce the potential impact.</p>

D) SAFEGUARDS AND COMPENSATING CONTROLS

Safeguards include a range of compensating controls or measures which may be put in place to protect the individual, or to reduce any risks or potentially negative impacts of processing. These are likely to have been identified via a Privacy Impact Assessment conducted in relation to the proposed activity. For example: data minimisation, de-identification, technical and organisational measures, privacy by design, adding extra transparency, additional layers of encryption, multi-factor authentication, retention, restricted access, opt-out options, hashing, salting, and other technical security methods used to protect data.

Please include a description of any compensating controls that will be put in place or are already in place to preserve the rights of the individual.

1	We will not transfer or sell any user's personal data to any other company.		
2	We will retain the personal data in accessible form only for as long as necessary		
3	Data is encrypted using Transport Layer Security (TLS) technology to encrypt all data transmissions		
4	We follow Privacy by Design and by Default		
5	We offer an opt-out option		
6	All of Convert's servers are located in Europe, so we don't have to worry about data flow outside of the EU.		

E) REACHING A DECISION AND DOCUMENTING THE OUTCOME

Using the responses above now document if you believe you are able to rely on Legitimate Interests for the processing operation. Please explain, perhaps using bullet points, why you are, or are not, able to rely on this legal basis. You should draw on the answers you have provided in this LIA.

Outcome of Assessment: We meet the definitions and requirement of the GDPR in our justification to use Legitimate Interests. Based on our processes, we do not believe that our processing will have a detrimental or harmful impact on the data subject. Full details of our data usage and practices can be found at <https://www.convert.com/privacy-policy/>. Data subjects may contact us at support@convert.com to request removal or suppression from any data that we hold or to demand any other rights details within the GDPR.

Signed by: Dionysia Kontotasiou Role: Privacy and Security Officer

Dated: 4th May 2018

Review date: