

# Mailchimp's Statement on the Bavarian DPA's March 2021 Decision Concerning the Use of Mailchimp's Newsletter Tool





The Bavarian Data Protection Authority (DPA)—the BayLDA— issued a decision concerning the use of Mailchimp’s newsletter and marketing tools by a German publishing company. We want to take this opportunity to help our customers understand the impact of this decision and to offer clarity about its implications.

First, we want to reassure our customers that they can continue using Mailchimp to host and share content with EU contacts. The DPA’s decision only determined that a specific Mailchimp customer failed to take certain steps to comply with data transfer requirements under the GDPR and the recent “Schrems II” decision by the Court of Justice of the European Union (CJEU). The DPA did not make any determination about Mailchimp’s compliance measures.

We also want to be clear that the DPA made its decision without contacting Mailchimp; we would have welcomed the chance to be heard during the process to explain our approach to EU/UK data export compliance, including the supplemental measures we make available to our customers to help them comply with the Schrems II requirements. Unfortunately, the DPA took the view that there was no obligation to inform Mailchimp about the ongoing process or the decision or let Mailchimp join the process.

For more context, as a result of the Schrems II decision, data exporters— our customers— are now required to conduct data transfer assessments before transferring EU data to vendors in other countries, like the US. These assessments should consider the risk of EU data being subject to foreign surveillance laws, such as Section 702 of the US Foreign Intelligence Surveillance Act (FISA), and assess whether the vendor is able to provide adequate supplemental measures, in addition to the EU-approved standard contractual clauses, to protect EU data. In general, nearly all US-based cloud service providers are in scope for these laws.

The Bavarian DPA determined that, in this instance, the German Mailchimp customer’s transfer was unlawful because they failed to conduct a transfer assessment. The DPA classified the infringement by the customer as minor and decided that no further enforcement action or fine would be necessary.

Mailchimp takes global privacy concerns very seriously, and we strive to assist our customers with data export compliance by providing a variety of contractual, policy, and technical measures to safeguard against unauthorized access to our users' data.



More information about Mailchimp's use of the standard contractual clauses and our supplemental measures is provided in our easily accessible and publicly available FAQ [here](#). We're here to help our customers with their questions and hope this information helps our customers complete any required transfer assessments and reach the determination they need to make about Mailchimp as their processor.