



## Aspects of compliance: Short intro to the W3C

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Rob van Eijk  
Article 29 Data Protection Working Party (WP29)

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## Confidentiality of the communications

### Recital 66 (2009/136/EC):

- Third parties may wish to store information on the equipment of a user, or gain access to information already stored, for a number of purposes, ranging from the legitimate (such as certain types of cookies) to those involving unwarranted intrusion into the private sphere (such as spyware or viruses).
- It is therefore of paramount importance that users be provided with clear and comprehensive information when engaging in any activity **which could result in** such storage or gaining of access. The methods of providing information **and** offering the right to refuse should be **as user-friendly as possible**.

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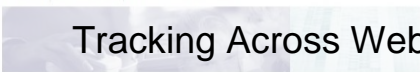
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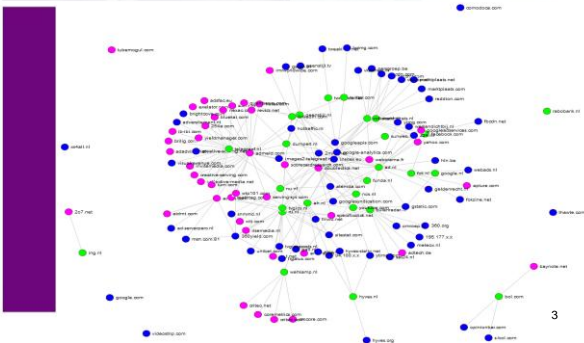
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## Tracking Across Websites



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## 1<sup>st</sup>/3<sup>rd</sup> parties versus controller - processor

### Recital 32 (2002/58/EC):

Where the provider of an electronic communication service or of a value added service subcontracts the processing of personal data necessary for the provision of these services to another entity, such subcontracting and subsequent data processing should be in full compliance with the requirements regarding **controllers and processors** of personal data as set out in Directive 95/46/EC.

### WP29 Opinion 1/2010 (WP169):

- The **controller** determines the purposes and the essential elements of the means.
- The **processor** is a separate legal entity than the controller and processes data on behalf of the controller
- A **third party** is the residual category of actors who have no specific legitimacy or authorization in processing personal data.

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## DNT and consent

### WP29 Opinion 16/2011 (WP188):

The Article 29 WP welcomes recent initiatives by browser providers to develop privacy solutions such as Do Not Track, which could pave the way for compliant consent mechanisms based on browser settings, on the condition that:

- such mechanisms truly enable users to express their consent on a case by case basis
- without being tracked by default

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## Elements of consent

### Recital 17 (2002/58/EC):

Consent may be given by **any** appropriate method enabling a freely given, specific and informed indication of the user's wishes.

### Recital 66 (2009/136/EC):

- Where it is technically possible and effective, in accordance with the relevant provisions of Directive 95/46/EC, the user's consent to processing may be expressed by using the appropriate settings of a browser or other application.

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## Elements of consent

### WP29 Opinion 15/2011 (WP187):

Specific elements of the legal framework related to consent. For consent to be valid:

- It must be freely given, as in free not to consent
- It must be specific, as in specifying the exact purposes
- Consent must be informed, as in directly provided and clear in what the user is consenting to and for what purposes.
- It must be unambiguous as in leaving no doubt as to the individual's intention to provide consent
- It must be based on an individual's action

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## Thank you!

drs. ing. Rob van Eijk, CPM  
email: [r.vaneijk@cbpweb.nl](mailto:r.vaneijk@cbpweb.nl)  
[r.j.van.eijk@umail.leidenuniv.nl](mailto:r.j.van.eijk@umail.leidenuniv.nl)

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