THE TRANSPARENCY & CONSENT FRAMEWORK (TCF)

A European perspective on the work of the W3C’s « Improving Web Advertising » Business Group

W3C TPAC Break-out Session, 30 October 2020

iab europe
IAB Europe Transparency & Consent Framework (TCF)

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- W3C BG work in a European context
- The EU’s legislative framework for privacy and digital advertising
- The Transparency & Consent Framework today
- Uptake & evolution going forward
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W3C BG work in a European context

- W3C BG work up to now has focused on browsers as being well-placed to safely engage in cross-site tracking for digital advertising
- The EU, with the world’s oldest and most demanding legislative framework for privacy & data protection, allows cross-site tracking by *any data controller* that can meet the requirements of the law
- TCF was created to facilitate compliance with certain of those requirements
- Today’s session covers relevant aspects of that framework and how the TCF enables companies to meet those requirements
- Future landscape needs to accommodate multiple paradigms, all ensuring strong consumer protection
- We are actively seeking more browser engagement on TCF’s further evolution
Privacy and data protection are different but related concepts under EU law

Charter of Fundamental Rights of the European Union

Article 7 - Respect for private and family life
Everyone has the right to respect for his or her private and family life, home, and communications.

Article 8 - Protection of personal data
1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her.
3. Compliance with these rules shall be subject to control by an independent authority.
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The EU’s legislative framework for privacy and digital advertising

- **Privacy** => notion of user device being part of the “personal sphere”, confidentiality of electronic communications, even if data are not personal
- Governed by the [ePrivacy Directive](https://www.legifrance.gouv.fr/eli/dir/2012/7/16/00/0169/FR/pdf) (“Cookie Directive”) – opt-in user consent required to store or access stored information on a user device

Member States shall ensure that the storing of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned **has given his or her consent, having been provided with clear and comprehensive information**, in accordance with Directive 95/46/EC, inter alia, about the purposes of the processing.

-- ePrivacy Directive Article 5(3)
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The EU’s legislative framework for privacy and digital advertising

- **Personal data** => data that can be used to directly or indirectly identify a natural person – governed by the [General Data Protection Regulation](https://en.wikipedia.org/wiki/General_Data_Protection_Regulation) (GDPR)
- GDPR is an expanded, more prescriptive version of a law that was adopted already in 1995 - many key concepts are not new
- Under GDPR, personal data may only be processed if one of six prescribed legal bases can be established for the processing
- Out of the six, three are relevant for digital advertising
  - Consent of the user
  - Legitimate interests of the data controller, provided certain conditions are met
  - Contract
- Consent must be “specific”, “informed”, “unambiguous” and “freely-given”
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The EU’s legislative framework for privacy and digital advertising

Key features of GDPR relevant for digital advertising

- Broad definition of personal data includes IP addresses, pseudonymous identifiers
- Narrower legal bases for processing than under the 1995 Directive
- Basic paradigm is “informed choice” (whether opt-in or opt-out) + baseline security guarantees (privacy by design & default)
- Aim is to enable free movement of personal data across the EU by balancing the fundamental right to the protection of data with other rights, including freedom to conduct a business and right to information
- Key principles are rendered in specific user rights, data controller obligations
- Enforcement by independent authorities
- Steep fines for breaches – up to 4% of global annual turnover or EUR 20 million, whichever is higher
- GDPR explicitly foresees processing of personal data for digital advertising
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The EU’s legislative framework for privacy and digital advertising

Principles governing processing of personal data under GDPR

▪ Lawfulness
▪ Fairness
▪ Transparency
▪ Purpose limitation
▪ Data minimisation
▪ Accuracy
▪ Storage limitation
▪ Integrity & confidentiality
▪ Accountability

These principles are given effect in specific user rights and data controller obligations.
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The EU’s legislative framework for privacy and digital advertising

User rights arising from the principles

- Right to receive information about data processing in a concise, transparent, intelligible, easily-accessible form
- Right to receive specified information about processing
- Right to know whether personal data are being processed, and to access the data
- Right to rectification
- Right to erasure
- Right to restrict or object to processing
- Right to data portability
- Right not to be the object of automated decision-making w/o human intervention that produces legal or equivalent effects
Data controller obligations arising from the principles

Data controllers are obliged to render the various data subject rights laid down in the Regulation. In addition, they must:

- Implement data protection by design and default
- Maintain records of processing activities
- Implement appropriate technical & organizational measures to ensure a level of security appropriate to the risks associated with the processing
- Comply with breach notification requirements
- Conduct DPIAs under specified circumstances
- Appoint a Data Protection Officer
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The Transparency & Consent Framework (TCF) today

What problem does the TCF solve?

- TCF enables first parties (publishers, advertisers) to obtain ePrivacy consent for access & storage and to establish a GDPR legal basis for publishers themselves and on behalf of third parties who have no direct line of communication to the user.
- Standardised language for UIs, API and digital string for logging and transmitting user choices to authorized third parties facilitates legal compliance and accountability, achieves efficiencies in leveraging third-party vendors for delivery & measurement of digital advertising, and can facilitate enforcement by regulatory authorities
User Interface

TCF Policies

Global Vendor List (GVL)

TCF Technical Specifications

IAB EUROPE TCF v2.0

Decentralized*

Central Governance
We needed to speak the same language

- Standardised set of rules on how to ask consent
- Centralised registry of companies to enable transparency into data practices
- Standardised understanding of the law
- Standardised definitions of purposes
- Standardised technical protocol for communicating consent
What a basic ad call looks like (simplified)

- Gender, age, interests
- IP address
- Location data
The GDPR applies to personal data

- Any information relating to an **identified** or **identifiable** natural person is **personal data**

**Identified** - data which directly points out a natural person

- Name
- Address
- Phone number
- Email address
- Physical address

**Identifiable** - data which can be used to single out a person

- Identification numbers
- Location data*
- Cookies
- Browsing history
- Behavioural profiles
Since the GDPR applies, we need a LEGAL BASIS

• Under GDPR, processing personal data is **illegal** without a **legal basis** (justification)

• Cookies already required **consent** under European Law

• GDPR raised the bar on what is considered user consent:
  • **Specific itemisation** of processing **purposes** and third party vendors
  • A **clear indication** from the user
  • Companies are far more **accountable** and have to prove they got consent
A quick side-note on Legitimate Interest

• Legitimate Interest is another legal basis for processing personal data, in practice it works more as an **opt-out**.

• Although the user doesn’t have to give their consent, publishers still need to **inform** users about third parties, data collection, and where to opt-out.

• The TCF allows vendors to declare if they justify their processing using **consent**, **legitimate interest**, or **both**.
Key questions in a post-GDPR European internet

Website.com

Ad Space

Ad Space

Ad Tech

Ad Tech

Ad Tech

Ad Tech

Ad Tech

Am I disclosing the right information?

Do I have consent?

Who is allowed to receive data?

Am I disclosed?
Key questions in a post-GDPR European internet

- Types of data collected
- Purposes of data processing
- Third-parties who will receive the data

Am I disclosing the right information?

Do I have consent?

- How can I trust that the user knows who I am and what I’m doing with their data?
- Has my legitimate interest been explained?

Who is allowed to receive data?

- Which types of data did the user consent to being collected?
- Which types of data processing has the user consented to?
- How do I pass that information on?

Am I disclosed?
The TCF enables improved transparency into our ecosystem

- **Legal basis** (lawful processing)
- **Transparency** (information, accountability)
- **User rights** (access, rectification, deletion)
- **Security** (pseudonymization, encryption)
Enabling an unprecedented level of transparency and control

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Privacy policy: https://www.av-scan-enodo.com/privacy-policy/

Purposes:

- Information storage and access
- Personalisation
- Ad selection, delivery, reporting
- Content selection, delivery, reporting
- Legitimate Interest, delivery, reporting

Features:

- Precise Geographical Location Data

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Features:

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Standardisation is key

- Standardised purposes descriptions create **consumer familiarity**
- Standardised purposes, definitions and descriptions create **industry consensus**
- In turn, this provides **legal certainty to users** and **participating companies**

Examples of TCF purposes (there are a total of 10 standard purposes)

- Basic ads
  - Ads can be shown to you based on the content you’re viewing, the app you’re using, your approximate location, or your device type.

- Personalised ads profile
  - A profile can be built about you and your interests to show you personalised ads that are relevant to you.

- Show personalized ads
  - Personalised ads can be shown to you based on a profile about you ads that are relevant to you.

- Ad Measurement
  - The performance and effectiveness of ads that you see or interact with can be measured.
Making it simple for the user: STACKS

Purpose “Stacks” enable Publishers to present granular purposes in a simplified manner, without depriving users of more granular information and choice.

For example

Basic ads + Personalised ads profile + Show personalized ads + Ad Measurement

combine into

**Personalised ads, and ad measurement**

“Ads will be personalised based on a profile. More data will be added to better personalise ads. Ad performance will be measured.”
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The Transparency & Consent Framework (TCF) today

Governance, compliance enforcement

- TCF is a collaboration between IAB Europe, supported by 25 European National IABs (5000+ companies, 1000s of publishers), and IAB Tech Lab
- TCF is an open-source, cross-industry standard with a multi-stakeholder governance of European buy-side, intermediary & sell-side actors
- IAB Europe develops the Policies, IAB Tech Lab the technical specifications
- TCF is an open-source, cross-industry standard with a multi-stakeholder governance of European buy-side, intermediary & sell-side actors
- Compliance enforcement entails suspension for breaches of TCF Policies or Technical Specifications
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Uptake & evolution going forward

- TCF is implemented on hundreds of thousands of sites, large & small, that address users sitting in the EU
- Over 600 vendors and 120 CMPs are registered for v2
- Between 70% and 80% of non-app bid requests emanating from EU websites carry a TC or TCF string
- Aspiration to have a version of TCF approved as a GDPR trans-national Code of Conduct in 2021
- Technical measures to ensure integrity of the TCF string a focus of current work