



EPC | European Publishers Council



Europe's data privacy regulators' latest opinion on cookies is out of step with online businesses and their consumers

The Article 29 Working Party “Opinion 2/2010 on online behavioural advertising” adopted today, calls for an opt-in by users for placing cookies on their PCs. In a strong rebuttal, Europe’s media and advertising industry united to reject the Opinion, which is out of step with the relationships that businesses and consumers are building online and flies in the face of the reality of the Internet.

Angela Mills Wade, Executive Director of the European Publishers Council said: “This is an overly strict interpretation of the ePrivacy directive. If followed by Member States, it would kill any chance of the media building viable advertising revenues online and our serious efforts to give consumers effective control over the use of cookies. Only this week, speaking before the AMCHAM, Commissioner Reding said: ”This sector needs clarity not red tape (...). This is why self-regulation could work well in this area to complete the existing rules. I am considering this approach as a way to have codes of conduct (...).” Angela Mills Wade added that “we welcome this more nuanced approach by the Commission, their confidence in self-regulation and a balance between regulation and business interests.”

The Article 29 group is suggesting that whatever “information” is stored in cookies, it must be treated as if it were “personal” data and as such should be subject to explicit, prior consent. The Directive currently does not require an opt-in for cookies. In practice such a requirement would mean that users would have to confirm every single cookie placed on their PCs, leading to a permanent disruption of their Internet experience. The industry believes this is a gross misinterpretation of the intention of the Directive and a misrepresentation of the type of data typically collected and processed for the purposes of serving interest-based advertising to consumers on our websites. The ePrivacy Directive acknowledged that the controls in modern web browsers give users full and granular control over cookies.

“This opinion takes no account of the support we get from our consumers for interest-based advertising nor of the exchange in value they receive between effective advertising and access to high quality media content for free.” said Stephan Loerke, Managing Director, World Federation of Advertisers (WFA).

“Obviously, the Internet in Europe would become less attractive to users and would significantly undermine the growth potential of the digital economy. Such strict privacy regulations would not only jeopardise the existence of European online companies but would call into question the EU’s ambitious Digital Agenda, intended to increase Europeans’ access to ultra fast Internet and fostering the e-commerce sector.” said Stephan Noller, CEO of nugg.ad and IAB Europe Chair of the Policy Committee.

As media and advertisers develop new ways of reaching consumers through tailored, interest-based content and new opportunities in matching advertising based on users’ potential interests, cookies are essential to the smooth functionality underlying these new business models.

Angela Mills Wade said “these ‘data’ are not personally identifiable or sensitive, and do not harm consumers’ privacy. That is why at present the regulatory regime across Europe allows for consumer to control of the use of cookies themselves through their browser settings and options to opt-out of receiving cookies”.

“We are looking forward to a dialogue with the Article 29 Working Party to discuss the proposed concepts, their feasibility and practicability and provide our ideas how transparency and choice for users can be increased with more proportionate measures than an opt-in. Self-regulation could be the solution that contributes to increased transparency in a meaningful way that regulation could hardly achieve.” said IAB Europe Vice President Kimon Zorbas.

Background

The Article 29 Working Party consists of the “Privacy Authorities” of the 27 EU Member States. It regularly issues legally non-binding opinions and resolutions on several issues relating to privacy and personal data protection.

Cookies are small pieces of text, stored on a user's computer by a web browser. They are used by almost every website and are the backbone of the modern internet as websites use a lot of embedded content and services such as widgets from third party providers. Major browsers and similar applications allow users to control cookies by specifying when and which cookies to accept and to delete. The revised ePrivacy Directive requires users’ consent for placing cookies, which can be expressed implicitly. In point 66 of the new preamble in the ePrivacy Directive, the legislator recognised that special rules for cookies were warranted to avoid significant disruptions of the user’s experience.

The Article 29 Working Party Opinion 2/2010 on online behavioural advertising is available on: http://ec.europa.eu/justice_home/fsi/privacy/workinggroup/wpdocs/2010_en.htm

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About IAB Europe:

IAB Europe is the voice of the online advertising sector through its 30 national associations representing more than 5,000 company members, as well as corporate members including Adobe, Alcatel-Lucent, BBC.com, CNN, comScore Europe, Ernst & Young, Expedia, Fox Interactive Media, Gemius, Goldbach Media Group, Google, Hi-Media-AdLink, InSites Consulting, Koan, Microsoft Europe, Netlog, News Corporation, Nugg.ad, Nielsen Online, Orange Advertising Network, Publicitas Europe, Right Media, Selligent, Truvo, United Internet Media, Value Click, White & Case, Yahoo and Zanox. Supported by every major media group, agency, portal, technology and service provider, IAB Europe coordinates activities across the region including public affairs, benchmarking, research, standards settings, and best practices. www.iabeurope.eu

About EPC:

The EPC is a high level group of Chairmen and CEOs of leading European media corporations actively involved in multimedia markets spanning newspaper, magazine, book, journal, internet and online database publishers. Many EPC members also have significant interests in commercial television and radio. www.epceurope.org

About WFA:

The World Federation of Advertisers (WFA) is the only global organization representing the common interests of marketers. Through its network of 58 national advertiser associations on five continents and over 60 of the world's biggest marketers, WFA represents around 90% of global marketing communications, almost US\$ 700 billion annually. WFA champions responsible and effective marketing communications. www.wfanet.org

About AIG:

The Advertising Information Group brings together the European advertising tripartites which represent media, advertisers and agencies, including the relevant business stakeholders active in the online-/interactive-advertising ecosystem of its respective country members. The core members are the UK Advertising Association (AA), the Zentralverband der Deutschen Werbewirtschaft (ZAW), the Austrian Fachverband Werbung und Marktkommunikation (FWM) and the Hungarian Magyar Reklámszövetség (MRSZ), thus representing more than 50 percent of the total online-advertising revenues of the EU. www.aigeurope.org

About EACA:

The European Association of Communications Agencies (EACA) is a Brussels-based non-profit organisation whose mission is to represent full-service advertising, media agencies and agency associations in Europe. EACA aims to promote honest, effective advertising, high professional standards, and awareness of the contribution of advertising in a free market economy and to encourage close co-operation between agencies, advertisers and media in European advertising bodies. www.eaca.be

About EASA

The European Advertising Standards Alliance is the single voice of advertising self-regulation. EASA promotes responsible advertising through best practice in self-regulation for the benefit of consumers and business. EASA represents advertising self-regulatory bodies in 31 countries including 22 EU Member States and 15 industry associations supporting advertising self-regulation.

About Fedma:

The Federation for European Direct and Interactive Marketing (FEDMA) represents the Direct and Interactive Marketing industry at the European level. FEDMA's members are 29 national Direct Marketing Associations (DMA) from Europe and beyond, as well as companies that use direct and interactive marketing at a multi-national and pan-European level. FEDMA's membership represents the entire Direct Marketing value chain, ranging from small print houses and media agencies to large online retailers, including distance sellers, and media. Many of FEDMA's direct members are small and medium sized enterprises. www.fedma.org

About OPA Europe:

Founded in 2003 by some of the European Internet's leading content brands, OPA Europe represents the interests of first-rate online publishers before the advertising community, the press, governmental and European institutions and the public at large. OPA Europe seeks to establish and promote the Internet as an effective advertising medium for marketers and a sustainable media business for publishers, thereby ensuring the continued availability of quality content to serve the public good. Members of OPA Europe are: 24 Media (Greece), AdMeld (UK), Agora (Poland), Gruppo Espresso (Italy), International Herald Tribune/New York Times Media Group (Europe), I Kathimerini (Greece), Lambrakis Press (Greece), Le Monde Interactif (France), Il Sole 24 Ore (Italy), Le Temps (Switzerland), Prisacom/EI País (Spain), RCS Mediagroup (Italy), Turkuvaz Media group (Turkey), Unidad Editorial/EI Mundo (Spain) and Spiegel Online (Germany). www.opa-europe.org