

REPORT

COOKIE PLEDGE SPECIAL GROUP

1st ROUNDTABLE DISCUSSION (28TH April 2023 / 10h00-13h00)

Initiative for a voluntary business pledge to simplify the management by consumers of cookies and personalised advertising choices

Participants:

- 22 stakeholders in person, 10 stakeholders online:
- EDPB Secretariat
- European Parliament, IMCO Secretariat
- European Commission (DG JUST.B3, DG JUST.C3, DG CNECT; DG COMP)
- Chair: Marie-Paule BENASSI (Head of Unit, DG JUST.B3)

Introduction:

This was the 1st roundtable discussion in the context of Commission's "Initiative for a voluntary business pledge to simplify the management by consumers of cookies and personalised advertising choices". It followed the announcement made by Commissioner Reynders during the Consumer Summit of 28 March 2023 to explore the options with the industry to simplify the management of cookies and advertising choices.

Deputy Director General of DG JUST, Nils Behrndt, made some introductory remarks explaining the general context of the initiative and its goals. He highlighted that complex cookie consent mechanisms, heavy use of advertising trackers and privacy concerns are increasingly seen as problematic by European consumers. He explained that the initiative is an open call to stakeholders to search for voluntary solutions to address these issues.

The chair recalled that topics for discussion at the roundtable were outlined in the discussion note sent to participants prior to the meeting. She pointed out that consumer protection and consumer law are at the centre of this initiative. Indeed, even if online content is offered free of monetary payment, a commercial relationship is established when a consumer accepts to visit a website exposing him/her to advertisement (as a means to finance the content provision). Two aspects were proposed to structure the discussion: 1) the transparency and clarity of the business model based on digital advertisement and 2) alternatives to tracking-based advertising.

Discussion:

Following the introduction, each organization was given the opportunity to express their opinion on the issues and questions outlined in the discussion paper.

The key issues/topics, which emerged during the debate, were the following:

- Defining the scope of the pledge: Most of the participants stressed the need for a clear demarcation for the pledge, e.g. whether it should cover all cookies or only cookies used for advertisement purposes, whether it should also cover applications or only websites, other methods of tracking, etc.
- Definition of the key concepts: Participants also underlined the need to define key concepts in the field of digital advertising, especially the concepts of tracking based advertising or contextual advertising.
- Cookies other than for advertisement: Several participants underlined that cookies are not only used for advertisement purposes, but also for audience measurement, monitoring of advertising, fraud prevention, frequency capping, etc... Said participants argued these cookies are needed and the pledge should not lead to them being impossible to use.
- Compliance with existing legislation: The Commission underlined that the pledge has to be compliant with all relevant legislation. To ensure full consistency colleagues from respective Commission's services were actively following the pledge discussion and were present in the meeting as well as the EDPB Secretariat. Certain participants insisted that Data Protection Authorities should also be fully associated. The Commission explained that it is organising meetings, exchanging discussion papers, and further documents to ensure cooperation between data protection authorities and consumer authorities.
- The potential competition issues and the risk that gatekeepers will see their position reinforced on the digital advertisement market and the relationship between the pledge and the DMA.
- The need for more participation of civil society was brought up during the discussion.
- Implication for the press: Publishers emphasised the importance of cookies and targeted advertisement to provide quality content to consumers without relying on subscriptions, allowing a broad access to information and media in general.
- Extent of the voluntary pledge: some organizations were concerned that an adoption by the market leaders would lead to a forced adoption by other, smaller market participants, whether they choose it or not, thus putting into question the voluntary nature of the pledge.
- Alternatives to tracking-based advertising: several stakeholders raised concerns that diverting from tracking-based advertising would lead to a massive change in their business model. Some participants pointed out that contextual advertising did not seem a viable option, as the feedback on its use is not satisfactory enough, necessitating further studies and improvements as well as an important engagement from the advertisers to agree to use alternative models. Other stakeholders welcomed the Commission's initiative to explore alternative business models that are more respectful of consumers' fundamental rights, including contextual advertising.
- The "centralisation" of consent via automated browser-based solutions: Several stakeholders did not agree with solutions that would permit users to manage all their cookie consent process from browser settings (centralisation). They called for diversity in approaches and the possibility to continue direct contact with their users in order to present them their business model instead of relying on one-size-fit-all generic choices. They raised a risk of limiting competition and innovation by standardising cookie uses. Others welcomed advanced data protection control solutions without needing to centralise choices or store them in a browser.

Next steps:

The Commission proposed the creation of three working groups that would start drafting principles to which businesses could pledge to implement: (1) presentation of information on business models and their consequences in terms of privacy and consent to consumers; (2) alternatives to tracking based advertising; (3) technical solutions for automated management of consumer choices. The Commission will facilitate and coordinate the work of the groups. Participation in these working groups will be enlarged to interested

national members of the EU level groups that took part in the round table. Depending on the results of the working groups, it may appear that the pledge could need to be adapted to various types of businesses according to their functions in the digital advertising ecosystem.

The Commission informed stakeholders that it will open a dedicated “wiki” platform for stakeholders to provide written contributions for the working group they choose to participate in, exchange views, and participate to collective drafting of the “principles” for the pledge.

Finally, the Commission outlined the expected timeline for this project with two meetings of the working groups - in June and September 2023. A plenary meeting should take place in October 2023 with the aim to finalise the content of the pledge by the end of 2023.
