

REPORT

COOKIE PLEDGE - 2nd PLENARY MEETING (19 DECEMBER 2023 / 10h00-13h00)

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

Participants:

- 45 stakeholders (20 attending in person and 25 attending online)
- EDPB Secretariat
- European Commission (DG JUST.B3, DG JUST.C3, DG CNECT; DG COMP)
- Chair: Marie-Paule BENASSI (Head of Unit, DG JUST.B3)

The introduction:

On 19 December 2023, the Commission held the 2nd Plenary meeting of the Cookie Pledge initiative, a voluntary business pledge to simplify the management by consumers of cookies and personalised advertising choices. The initiative was announced 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.

The meeting started with the introduction by the chair, who reminded the initiative's objectives, the main steps already taken and the focus of the plenary meeting, namely the discussion on the draft pledging principles sent to participants on Thursday, 14 December. The chair recalled that the principles go together and should work in synergy. Stakeholders will have the opportunity to submit additional comments and the principles will be further refined. The aim is to finalise the pledging principles for the Consumer Summit of 18 April 2024.

The discussion:

After the introduction, each organization was given the opportunity to express their opinion on the pledging principles. Stakeholders raised the issue of a short timeline to consider the draft principles and consult with members, in case of associations. Therefore, many stakeholders made a first round of comments, and it was agreed that subsequent comments will be submitted in writing.

The main points raised by stakeholders were the following:

- More information on governance model would be useful (including what would be the consequences for those who do not fulfil the requirements of the pledge once signed).
- Operationalising the principles and giving examples would provide more clarity on the principles.
- More guidance is needed on the process of joining the pledge, especially in the case of associations and of their members.

- There is a need to clarify how the principles should work in a B2B relationship.
- Legal certainty – some pointed out that although the EDPB provided its opinion, a clear endorsement by the EDPB would be more appropriate.
- Links with the DMA and DSA were signaled not to be entirely clear and the overall impact on competition seemed missing.
- Some stakeholders explained that processing for legitimate interest required consent and principle A was unclear in this respect.
- Principle D, regarding providing at least one further alternative to tracking based advertising, was considered problematic by a number of stakeholders, in particular by publishers. Some of them already declared it will be impossible for them to implement this principle for economic reasons.
- Concerns were expressed about the EDPB views on principle H, namely that no systems for the pre-recording of positive cookies choices have yet been assessed as compliant. The pre-recording would therefore be limited to negative choices. This was not acceptable to a number of stakeholders who insist they want to keep a possibility to have direct contact with their users.
- There were questions on whether the principles could be unbundled to allow more stakeholders to commit at least to some of the principles.
- Some stakeholders considered that the pledge principles were against the ‘Pay or OK’ model.
- Some stakeholders were dubious about the real simplification provided by the principles and/or did not think that the pledge was targeting a reduction of the cookie fatigue since consent would in any case still be necessary for advertising with personalisation features, including contextual advertising.
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The Commission recalled that the Pledge is a voluntary initiative and in no case it would cause a deterioration of consumers' position. The Commission pointed out that the objective of the Pledge was also to offer a simplification for the digital advertising eco-system actors and encouraged participants to carefully reflect on the simplifications that could be gained, including in relation to the examination of their compliance to consent requirements.

The EDPB reiterated its overall support for the pledge initiative, as expressed in the covering letter to their opinion. The comments made are meant to ensure that there is no misunderstanding on the interpretation of the GDPR and e-privacy legislation that could be eventually derived from the pledge principles. The EDPB Secretariat clarified its position in more detail on some of the principles and underlined that the discussions on the pledge do not pre-empt the assessment of the “pay or OK model” but confirmed that national authorities will take into account the fact that businesses have eventually committed to the pledge.

Next steps:

The Commission will update the principles taking into account the comments from the EDPB in January and share the amended version with stakeholders. Stakeholders will be able to submit comments by the end of January.

The Commission will finetune the pledge principles in February and prepare a document on the practical aspects of the pledge and its governance.

The aim is to present final pledge principles and possible pledgers at the next Consumer Summit in April 2024.
