Programmatic Advertising in HbbTV

PRIVACY COMPLIANCE
Programmatic Advertising

Programmatic buying ecosystems

- Data
- Social Data Tools
- Data Suppliers
- DMP
- Data Exchanges

Real Time Bidding

Advertising Investment
- Advertiser
- Media Agency
- Ad Server
- Trading Desk
- DSP
- SSP

Audience
- Publisher
- Affiliate Network
- Sales House
- Ad Network

Buying Solutions

Metrics
- Audience Metrics
- Web Analytics
- Post Evaluation (ad effectiveness)

Interactive Advertising Bureau
www.iabspain.net

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Programmatic Advertising Ecosystem
Cookies/Tracking Consents: Prior to GDPR

- EU “Cookies Directive” was a 2011 amendment to the ePrivacy Directive
- Required consent for cookies and other online tracking technologies (cookies, pixels, web beacons, SDKs, etc.)
- However, “implied consent” was generally accepted as adequate
  - This was accomplished through “cookie banners” that essentially said that by continuing to use a service you are agreeing to being tracked
In 2018, unclear how prescriptive GDPR rules for getting “consent” to data processing impacted ePrivacy Directive rules on cookies(trackers)....

- ePrivacy Regulation did not come to fruition to clarify things....

- So, market practice generally continued unchanged with implied consent “cookie banners” until well into 2019 ➔ when various EU data protection regulators issued guidance tracking consent + important top EU court decision

- Court decisions and regulatory guidance have continued to evolve in the EU on the legal requirements for the use of cookies and “similar technologies,” but now clearly the law that:
  - With some exceptions, GDPR-sufficient consent (express, opt-in consent) is required for the use of any “non-essential” tracking technologies

- Consent requirement applies to all tracking technologies – cookies, pixels, web beacons, SDKs or other “similar technologies” (defined as “any technology that stores or accesses information on a user’s device” including device fingerprinting, local storage, etc.)
### ePrivacy Directive vs. GDPR

<table>
<thead>
<tr>
<th>ePrivacy Directive</th>
<th>GDPR</th>
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<tbody>
<tr>
<td>• “Cookie” consent rules apply to <em>any storage of information on or collection of information from, user devices</em></td>
<td>• Applies to personal data</td>
</tr>
<tr>
<td>• Applies beyond personal data</td>
<td>• Requirements apply to data controllers and data processors</td>
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<tr>
<td>• Applies regardless of data controller/processor roles</td>
<td>• Data controllers bear primary legal responsibility</td>
</tr>
<tr>
<td>• Exceptions apply:</td>
<td>• Imposes strict legal requirements for obtaining consent (including consent under ePrivacy Directive)</td>
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<tr>
<td>• Transmission of communications</td>
<td></td>
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<tr>
<td>• Essential for services <em>users have specifically requested</em></td>
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**Scope of Consent Requirement**: Regulators have made clear that the opt-in consent requirement extends to all types of tracking technologies used for any purpose, with the only exceptions being:

- **“Strictly Necessary” (a/k/a “Essential”) trackers***: EU regulators have defined “essential” trackers very narrowly – only those trackers strictly necessary to effectuate the basic functions and security of a service (e.g. shopping cart)

- **1st Party basic analytics (law is mixed)**: EU regulators are split on this topic – some regulators have said that you need GDPR-level consent for even basic measurement & performance analytics, whereas others have said you can default these trackers “on” – some regulators have changed their own previous guidance on this in the past 12 months, so it is an evolving issue

Tracking for any other purpose, including but not limited to advertising/marketing, ad measurement, and content personalization requires express, opt-in consent of the user.
Ad Tracking & Targeting Consent: CMPs

To collect and honor the consents needed for online tracking and targeting under European law, publishers on web & mobile typically use a Consent Management Platform (CMP) tool which generally involves 2 components:

- Cookie/tracker Banner (pop-up)
- Cookie/tracker “Privacy Preference Center” (where users can exercise more granular choice)

1) Banner:

Users can either “Accept” to clear the banner, OR they can click on “More Settings” to get to the Privacy Preference Center (next slide)
2) Privacy Preference Center:

- Ad Tracking & Targeting Consent: CMP
The IAB (Internet Advertising Bureau) advertising / ad tech industry association that created an industry self-regulatory framework (Transparency & Consent Framework (TCF)) for compliance with the cookie/tracking consent rules in Europe.

IAB TCF principally set up to address consents for programmatic advertising and all the ecosystem players collecting and/or processing user personal data in connection with the RTB process.

IAB TCF sets out specific set of consents for that must be gathered for 3rd party trackers and downstream processing of user personal data + tech specs for passing consent “strings” downstream to IAB TCF members.

Belgian DPA recently issued a decision finding certain aspects of the IAB TCF to be a violation of GDPR.
Ad Tracking & Targeting Consent: CTV

- CMPs not yet widely implemented in CTV environment
- Off-the-shelf CMP products had not been available until fairly recently for CTV
- UX more challenging with remote control navigation

Example: TVN Player (Poland)
Ad Tracking & Targeting Consent: HbbTV

- CMPs not yet widely implemented in HbbTV environment
- Off-the-shelf CMP products just starting to come to market
- As with CTV apps generally, UX more challenging with remote control navigation

Example: RTL (Germany)