



Digital Marketing in the Spotlight – Webinar

Questions & Answers

If a company is using a third-party product on its website to sell parts via a portal and the third party is dropping cookies, should the initial company issue a cookie banner or the third party, or both? The website looks like the initial company's website and not the third parties.

The process to answer this question is to take one step back and consider who is actually designing the website and opting for the third-party solution. The answer is the website editor/developer. Because the website editor is choosing a specific third-party solution instead of another, and responsible for designing the overall website, the company owning/editing the website will be responsible for implementing a compliant cookie banner and collect consent properly. It means making sure that the third party chosen can also abide to such obligations, and not dropping cookies before the visitor actually gives consent, for instance.

An interesting parallel can be made with the ICO enforcing action against British Airways. British Airways faced a rather serious data breach of credit card information because of a third-party payment module they had been using on their website. The ICO fined British Airways because it found the company was responsible for the solution implemented on its website, even if the module was actually developed by a third party.

How can supply side and demand side platforms start to identify consented data?

This is a very interesting question and basically pointing at the biggest challenge at this time in the whole AdTech industry. Even the Data Protection Authorities do not really have produced satisfactory guidance on this point.

Once the data is sent to the supply-side platform, it enters a completely data protection-free zone with massive broadcasting and leakage of data to thousands of different AdBrokers. Keeping track of consent in such context is a real technical challenge, for the simple reason that the industry has not been designed around this consideration.

When an individual is visiting a website, their cookie ID is matched with a substantial volume of existing data sets and profiling information by the AdBrokers, and this cookie ID is broadcasted along with the categories of interests relevant for them.



The IAB is currently trying to address the issue of keeping track of consent along the chain – with various results. One sure thing is that website editors must start to record properly consent to their cookie banner from their visitors as they will be more and more asked to demonstrate they have actually captured consent. Only a proper industry standard designing a common and reliable technical solution will allow the AdTech industry to comply with the current position of European Data Protection Authorities.