IAPP PRIVACY ACADEMY 2012

October 10-12
San Jose, CA

www.privacyassociation.org/academy
Cookie Catch Up

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By the end of this session you will

Understand what the rules on cookies really are, how they apply to US sites... & have a practical view of what to do next

The IAPP materials also contain charts and know-how
Clear, comprehensive information & consent for storage/retrieval of information from user devices

Article 5

Confidentiality of the communications

5.3 Member States shall ensure that the use of electronic communications networks to store information, or to gain access to information stored, in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned is has given his or her consent, having been provided with clear and comprehensive information, in accordance with Directive 95/46/EC, inter alia about the purposes of the processing, and is offered the right to refuse such processing by the data controller.
What about web-beacons?

Thank you for signing up to the ICO e-newsletter.

Subject: Thank you for signing up to the ICO e-newsletter

You have received this email as ruth.boardman@twobirds.com is currently subscribed to receive ico communications.

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Hello Ruth,

Thank you for subscribing to the new ICO e-newsletter.

From the end of this month you'll receive our monthly update of information rights news and developments.

We use a third party provider, Adestra, to deliver our monthly e-newsletter. We gather statistics around email opening and clicks using industry standard technologies including clear gifs to help us monitor and improve it.

To find out more about how we look after your subscriber details, view our privacy notice. You can unsubscribe at any time.

You can view the latest edition of the ICO e-newsletter here.

Thanks,
ICO
Cookies which are strictly necessary to the service/communication are exempt

<table>
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<tr>
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<tbody>
<tr>
<td>Session cookies</td>
<td>Serving forms</td>
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<tr>
<td>Permanent customisation cookies</td>
<td>Keeping track of progress on a site (shopping carts)</td>
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<tr>
<td>Permanent authentication cookies</td>
<td>Temporary authentication cookies</td>
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<tr>
<td>Social plug ins</td>
<td>Some security cookies</td>
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<tr>
<td>Ad-serving cookies</td>
<td>Media player cookies</td>
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<td>Analytics</td>
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Browser settings – may be part of the solution in the medium term

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<th>'...Where it is technically possible and effective, in accordance with the relevant provisions of Directive 95/46/EC, the user's consent to processing may be expressed by using the appropriate settings of a browser or other application...' (Recital 66)</th>
<th>The lack of user understanding and the fact that default settings allow cookies precludes general reliance on consent given via browser settings at the moment (Opinion on OBA adopted on 22nd June 2010 (WP171))</th>
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<tr>
<td>Work is ongoing</td>
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Work is ongoing
What about US sites targeting EU users?
AdChoices helps but is not the answer

Best Practice Recommendation/Self-Regulatory Framework for 3rd Party OBA

- Developed by EASA, IAB and others
- Published on 12th April 2011 (see www.easa-alliance.org/page.aspx/386)
- Promotes enhanced notice and choice as way forward
- Explicit consent limited to certain segments/technologies
- This is part of a solution but it does not produce 'consent'
- Article 29 WP Opinions
What about implementation in EU member states?
There are 3 broad approaches to implementation

<table>
<thead>
<tr>
<th>Follow the Directive</th>
<th>Opt-out</th>
<th>Two-tier approach</th>
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<tbody>
<tr>
<td>Belgium, Denmark, Finland, France, Hungary (Directive +),</td>
<td>Czech Republic</td>
<td>The Netherlands</td>
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<tr>
<td>Italy, Portugal, Slovakia, Spain, Sweden, UK</td>
<td>Poland ?</td>
<td></td>
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Follow our legislative tracker at http://mail.twobirds.com/ve/ZZ71716262C72LU63Crh
Whose law applies?
Consent challenge!

Mark the following sites...
The Information Commissioner’s Office is the UK’s independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

We can help you

- Find out what personal information is held about you
- Access information from a public body
- Prevent unwanted sales calls and spam emails
- Find out information about the environment

Find out how to request CCTV footage under the Data Protection Act

> Latest news

- 15 September - Action taken over security flaw in online form
  The Child Exploitation and Online Protection Centre and SOCA have taken action after the discovery of a security flaw on CEOP’s website...

- 13 September - Cashier spied on sex attack victim’s bank records
  Custodial sentences need to be available to the courts to stop the unlawful use of personal information, Information Commissioner Christopher Graham will say...

> Information for organisations

- Data Protection Act
- Privacy and electronic communication
- Freedom of Information Act
- Environmental information
- Decision notices
- Guidance index
- Register of data controllers
- Do I need to notify and how do I maintain my register entry?
Accept cookies from EVM.dk

Evm.dk is using cookies to develop statistics by usages of this website. You can always erase cookies from evm.dk when you want to.

ACCEPT COOKIES >>

MINISTRY OF BUSINESS AND GROWTH
DENMARK

NEWS THE MINISTER PUBLICATIONS ABOUT US CONTACT

Better access for venture capital in the EU
June 29, 2012 NEWS

Minister for Business and Growth Ole Søhn

“ I am happy that the Presidency has reached agreements with the...”
Tracked Visits to ICO Website prior & post explicit cookie opt-in

 ICO asks visitors to opt in GA cookie
At-A-Glance

Tuesday, October 9
8 – 9 a.m.  Certification Foundation Registration
9 a.m. – 5 p.m.  Certification Foundation Training

Wednesday, October 10
7 – 9 a.m.  Breakfast
7 a.m. – 7 p.m.  Registration Open
Bird & Bird
& Online Client Services

Email: 
Password: 

☐ Remember me  (This uses cookies. More info here.)  
Technical Assistance | Reset your password

This will save you time as you will not be asked to log-in again on this computer. To do this we need to store and access a 'permanent' cookie on your computer. By ticking this box, you consent to this.
We help clients based in 118 countries achieve their goals around the world...

Read more about how our extensive international reach can help wherever you are doing business >>
PM thanks Olympic volunteers
David Cameron praises army, police and 70,000 volunteers working at London 2012

latest news
Maria Miller appointed as Culture Secretary

hot topics
- Payment/non-payment of performers at Olympic Ceremonies
- Ex-patients
- News Corporation’s proposed acquisition of BSkyB

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from the dcms blog

Blog Feed
Featured on the UK Parliament Website

Summer opening of Parliament
Guided tours include the Commons and Lords Chambers, the Queen's Robing Room, the Royal Gallery and Westminster Hall

Parliamentary news
What's On Bills & legislation Watch

Latest news from the House of Commons and House of Lords

Government's progress towards implementation of Universal Credit
Work and Pensions Committee takes evidence

House of Commons
Democratically elected house, makes laws and checks the work of Government

House of Lords
Checking and shaping draft laws and challenging the work of Government

Committees
MPs and Lords check the work of Government and scrutinise legislation
Implied consent as a basis for compliance with the Privacy and Electronic Communications Regulations.

Much of the debate around the so-called “consent for cookies” rule has focussed on the nature of the consent required for compliance. Implied consent has always been a reasonable proposition in the context of data protection law and privacy regulation and it remains so in the context of storage of information or access to information using cookies and similar devices.

(ICO Guidance, May 2012)
"Although the Information Commissioner cannot completely exclude the possibility of formal action in any area, it is highly unlikely that priority for any formal action would be given to focusing on uses of cookies where there is a low level of intrusiveness and risk of harm to individuals, if an organisation can demonstrate they have done everything they can clearly to inform users about the cookies in question and to provide them clear details of how to make choices. Whilst he does not consider they are exempt from the rules the Commissioner is therefore unlikely to prioritise, for example, first party cookies used for analytical purposes and cookies that support the accessibility of sites and services, in any consideration of regulatory action."

ICO Guidance, May 2012
6 step plan

1. Audit: know what cookies you have and why
2. Exemptions: assess where cookies are exempt
3. Easy consent:
   Ts & Cs users have to accept?
   Consent during personalisation
4. Policy: enhance your cookie policy
5. Notice: make this more prominent
   - assess cookies and countries to determine
     approach to consent
...6. Build a tool-kit for your web-teams
# Resources

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<thead>
<tr>
<th>EU</th>
<th>UK Guidance</th>
<th>2 Birds Resources</th>
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Questions
Thank you

ruth.boardman@twobirds.com