

Digital Content Next

Legal and Legislative Committee
October 14, 2014

Dial-in: 866.740.1260
Code: 4731000



Agenda

- From OPA to Digital Context Next
- Status of DNT Standards – DAA and W3C
- Update on Technical Correction of VPPA
- The EU Right to be Forgotten: Where We're Coming From and Where We Might Be Going (Presentation from Nabiha Syed at [Levine Sullivan Koch & Schulz, LLP](#))

From Online Publishers Association *to* Digital Content Next

Digital Content Next is the only trade association that exclusively serves the unique and diverse needs of high-quality digital content companies that manage trusted, direct relationships with consumers and marketers.

Intelligence of a Think Tank with the Voice of a Trade Association

Lead discussions and action on critical, big picture issues.

- Develop members-only and public research.
- Provide strategic advocacy.
- Engage directly with agencies and marketers.
- Connect our members to resources / information.
- Promote the benefits of high-quality digital content.

DCN Trust Principles

1. We believe in an open Internet in which consumers and marketers may directly associate with our brands.
2. We are aware of the many choices of consumers across more and more platforms. We will honor their trust in our brands and relentlessly advocate for their respect.
3. We are aware of the many choices of marketers across more and more platforms. We will shine a light on the falsehoods and misconceptions in the modern digital marketplace in order to defend members' businesses, particularly in the areas of ad tech and cross media attribution.
4. We will have a seat at the table representing trusted first party relationships in any discussion among advertisers, policy makers and the press.
5. We will create a trusted forum among members to share strategic insights, best practices and tactics in order to ensure a vibrant original content marketplace.

Our constituents

Our members, who we advocate for to the trade, in the legislative arena and within the digital media ecosystem.

The consumers who come to our members' brands because they trust what will be delivered, whether it's comedy, entertainment, financial analysis or investigative reporting.

The marketers who choose to invest money in our members' content and brands to associate with the high-quality trusted experiences that they deliver.

And agencies. They are our partners and we work to deliver insights to them about the digital content ecosystem that competitively positions our members and helps them make smart media recommendations to their clients.

Digitalcontentnext.org + InContext

The screenshot shows the DCN website header with the logo and tagline "Advancing the Future of Trusted Content". Below the header, there are two main navigation tabs: "INCONTEXT" and "RESEARCH". Under "INCONTEXT", there are sub-tabs for "INNOVATION" and "REVENUE". The main content area features a featured article titled "INCONTEXT / An inside look at the business of digital content" with a thumbnail image of a woman. Below this, there is a section for "INCONTEXT MARKETING" with a featured article titled "Recommended Reading: Coverage of DCN's Content All Stars" dated September 24, 2014. At the bottom, there is a logo for "Alliance for Audited Media" with the tagline "TRANSACTION WITH TRUST".

This screenshot shows a different layout of the DCN website. The header is similar, but the navigation tabs are "INCONTEXT", "RESEARCH", "EVENTS", "MEMBERSHIP", and "ABOUT". The main content area features a large image of a woman looking up, with a lightbulb and arrows around her head, and a megaphone labeled "PUBLISHERS". Below this image, there is a section for "INCONTEXT RESEARCH" with a featured article titled "The Trust Principle: Digital Content Can't Thrive Without Trust" dated September 17, 2014. To the right of the main content area, there is a "Twitter" feed showing three tweets from @DCNorg. At the bottom, there is a section for "OUR MEMBERS" with logos for NPR, About.com, The New York Times, PBS, and Forbes.

This screenshot shows a third layout of the DCN website. The header is similar, but the navigation tabs are "INCONTEXT", "RESEARCH", "EVENTS", "MEMBERSHIP", and "ABOUT". The main content area features a large image of a woman looking up, with a lightbulb and arrows around her head, and a megaphone labeled "PUBLISHERS". Below this image, there is a section for "INCONTEXT RESEARCH" with a featured article titled "The Trust Principle: Digital Content Can't Thrive Without Trust" dated September 17, 2014. To the right of the main content area, there is a "Twitter" feed showing three tweets from @DCNorg. At the bottom, there is a section for "OUR MEMBERS" with logos for NPR, About.com, The New York Times, PBS, and Forbes.



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Status of Do Not Track Standards – DAA and W3C

DAA

- DNT standard put on hold indefinitely
- No consensus on need to publish standard
- Will try to import pieces of standard to principles

W3C

- DNT standard nearly complete
- Pending issues
 - Market Research exception language
 - Incorporation of definition of “tracking”
 - Effect on 1st/3rd party construct

Legislative Language

- Tentative agreement with CDT on language to expand the “ordinary course of business” clause in the VPPA. Would include:
 - “development and delivery of products and services”
 - “performance and operations analytics”

Next Steps

- Seek approval from DCN Legal and Legislative Committee of legislative language
- Build Coalition
- Lobby Congress to pass technical correction during lame duck session

The EU Right to be Forgotten:

Where We're Coming From &
Where We Might Be Going

October 14, 2014

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Content Matters.

Where did this all come from?

On 25 January 2012, the European Commission proposed a comprehensive reform of the EU's 1995 data protection rules to strengthen online data protection rights and boost Europe's digital economy.

What does the Commission want?

Three Pillars:

One continent, one law

One-stop shop

Same rules for **all** companies

Article 17 of the proposed EU Data Protection Regulation contains a subheading called
“right to be forgotten and to erasure.”

“The data subject shall have the right to obtain from the controller the erasure of personal data relating to them and the abstention from further dissemination of such data, especially in relation to personal data which are made available by the data subject while he or she was a child.”

Article 17 “right to be forgotten and to erasure” Proposal:

- (1) data must be deleted if it is no longer needed.
- (2) data must be deleted if “the data subject withdraws consent on which the processing is based...”
- (3) the data controller must erase the data if the individual objects to their data collection for a specific reason.
- (4) if data is not processed in accordance with the data protection regulation

The data controller has to inform third parties of request to exercise this right.

Are there any exceptions to the initial proposal?

Theoretically

- (1) freedom of expression
- (2) public health, historical, scientific, or statistical research;
- (3) compliance with a national or EU legal obligation;
- (4) cases where access to data was restricted.



GOOGLE SPAIN

Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González

(May 13, 2014)

“The Court observes in this regard that even initially lawful processing of accurate data may, in the course of time, become incompatible with the directive where, having regard to all the circumstances of the case, the data appear to be **inadequate, irrelevant or no longer relevant, or excessive** in relation to the purposes for which they were processed and in the light of the time that has elapsed.”

Three takeaways from the Google decision:

Territoriality

Right to be Forgotten

Applicability to Search



JURISDICTIONAL GRAB?

(And who is a data controller?)



Do We Have
the Right to
Be **Forgotten?**

[Webmaster Tools] Notice of removal from Google Search



Inbox x



wmt-noreply@google.com

to me ▾



Notice of removal from Google Search

We regret to inform you that we are no longer able to show the following pages from your website in response to certain searches on European versions of Google:

[sherwen/](#)

For more information, see

<https://www.google.com/policies/faq/?hl=en>

Got feedback? [Leave it here](#). Be sure to include this message ID: [WMT-114002]

Google Inc. 1600 Amphitheatre Parkway Mountain View, CA 94043 | [Unsubscribe](#).

Google has removed **41.8%** percent of a total of **497,695** search links it evaluated, which includes **several news articles**

Is Google striking the right balance?

“We can’t leave it up to search engines to decide on the right balance between freedom of expression and right to be forgotten,” Austrian Justice Minister Wolfgang Brandstetter

It's not over yet...



Data Protection Working Group Statements
(September 3, 2014)

- search engine as data controller
- freedom of expression exception remains (*see* Article 10 ECHR, “taking due account of the public interest...in relation to the personal quality of the data subject”)
 - public figure exception?
- archiving exception in the public interest?
 - social protection
- making or defending legal claims
- performing public interest tasks
 - exercising official authority
- no commercial interest exception

Looking Forward

- Will we see a harmonized response?
- Do bloggers fit in the freedom of expression exception?
- Should Google remain in this position?
- How will this affect social networks?

EUROPEAN LAWMAKERS APPROVE DATA PRIVACY OVERHAUL AFTER
SNOWDEN LEAKS

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FUTURE TENSE

THE CITIZEN'S GUIDE TO THE FUTURE

OCT. 21 2013 5:26 PM

European Lawmakers Approve Data Privacy Overhaul After Snowden Leaks

By Ryan Gallagher



A protester in Berlin supports former NSA employee Edward Snowden.

Photo by Sean Gallup/Getty Images

Lawmakers in the European Parliament have moved to combat clandestine mass surveillance programs by voting in favor of introducing tougher new data protection rules.