

Digital Content Next

Legal and Legislative Committee
April 10, 2018

Dial-in: 866.740.1260

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Analysis of Google GDPR Terms

Discussion re Next Steps

Google's GDPR Position on Consent and Publishers

April 10, 2018



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Google's Published Position

- Google claims to be a co-controller for certain advertising services including AdWords and DoubleClick for Publishers
- Google will place the full burden on publishers to obtain consent from end user



Google's official blog for news, tips and information on AdWords

Changes to our ad policies to comply with the GDPR

Thursday, March 22, 2018

Consent is a High Standard

- Clear affirmative act

**freely given,
specific,
informed, and
unambiguous**

- Right to refuse or withdraw consent at any time
[Recital 42]

Automated Decision-Making? Requires “Explicit” Consent”

About DoubleClick Search bid strategies

Introduction to DoubleClick Search bid strategies



NEXT: HOW BID STRATEGIES WORK >

DoubleClick Search (DS) bid strategies **optimize your advertising spend** across the engine accounts within an advertiser. They monitor the performance of keywords and product groups, and adjust bids to achieve the highest number of conversions, the greatest amount of revenue, the best position, or highest number of clicks your campaign budgets allow. Depending on the engine, bid strategies also [set or recommend bid adjustments](#) for your location targets, mobile devices, and remarketing targets. Instead of manually setting bids and bid adjustments in response to changes in your advertising goals or in the overall advertising landscape, use a DS bid strategy to automate the process.

A DS bid strategy can also automate the processes of creating and managing [location targets](#) and [product groups](#).

Explicit Consent > Affirmative Act

- “Explicit” consent = direct action and correlation
 - “I consent to ...,”
 - Checking of a box
 - Clicking of a button next to “By checking this box, you consent to ...”
- Choosing technical settings for an app (not pre-set controls) is an affirmative action (“unambiguous”) but may not be enough for “explicit” consent.

Google Wants All of the Benefits and None of the Liability

Google
don't be evil

Recommendations to Google

- Responsibility: Obtain consent where Google has a direct relationship with the data subject
- Full Transparency: Disclose data processing practices regarding all Controller Services
- Data Use Limitations: Use personal data collected from or through publisher properties for the sole purpose of fulfilling the goals of the publisher
- Accountability: Provide for mutual indemnification and mutual and appropriate limitations on and carve-outs of liability to accurately reflect an appropriate allocation of risk between the parties
- No “Take it or Leave it”

Questions?

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Analysis to be shared with DCN members and public

Open Letter to Google

- include major points from legal analysis
- list questions for Google
- Potential signatories: DCN, News Media Alliance, European Publishers Council and Association for Online Publishing (UK)