

A large blue circle on the left side of the slide. To its right, a dark blue circle overlaps it. Further right, a semi-circular shape with horizontal white stripes overlaps the blue circle.

# THE TRANSPARENCY & CONSENT FRAMEWORK (TCF)

09 February 2022

[iab europe.eu](https://www.iab.eu)

# Agenda

- High-level summary of findings in the final ruling
- Sanctions / orders to IAB Europe
- Next steps post-ruling
- Preliminary assessment of implications for TCF participants / Q&A

# High-level summary of findings

- TC String (user preferences) is personal data processed within the TCF
- IAB Europe is a data controller for the recording of the TC String and a joint controller for the collection and subsequent dissemination of users' consent, objections and preferences in the TC string
- IAB Europe is also (?) a joint controller for the related processing of [users'] personal data for the TCF purposes in the context of OpenRTB
  
- IAB Europe has not established a legal basis for processing the TC String
- Processing of personal data under OpenRTB on the basis of the current TCF is incompatible with the GDPR due to breaches of principles of lawfulness, fairness and transparency
  - Breach of accountability principle - absence of tech. & org. measures to guarantee TC String integrity
  - Some of the allegations in the Inspection Service report and the complainants' submissions are not upheld by the Litigation Chamber (e.g., that the TCF of necessity entails unlawful processing of special category data)

# Sanctions / Orders to IAB Europe in the ruling

IAB Europe must :

- Establish a legal basis for processing / sharing the TC String.
- Delete personal data collected in its capacity as controller of TC String established in the global-scope context
- Prohibit the use of legitimate interests as a legal ground for processing by organisations participating in the TCF in its current format, via its terms of use
- Require CMPs to take a harmonised and GDPR-compliant approach on information disclosures to users
- Ensure compliance of the TCF with obligations of integrity and security as well as data protection by design and default – guarantee integrity of the TC String, introduce strict vetting process for participating organisations
- Ensure that IAB Europe has a record of processing activities aligned to its role as a controller for the TC String, carry out a data protection impact assessment, designate a DPO

## Next steps post-ruling

- Key work-tracks
  - Appeal on the merits and Request for suspension of execution of the decision (Markets Court) - *to be decided*
  - Launch of work on an Action Plan to be submitted before April 2nd 2022
    - (?) time for approval of the Action Plan by the APD
    - 6 months to execute the Action Plan once approved

# Implications for TCF participants

- Contrary to the complainants' allegations, cookie banners are not illegal.

Contrary to the complainant's allegations, there is no order for TCF participants to delete data collected via the TCF.

The APD did not assess the compliance of TCF participants but IAB Europe's own compliance in relation to its controllership of the TC String + lawfulness of legal basis established via the TCF based on the minimum requirements of its Policy.

Publishers who are concerned about whether TCF can still be used to collect valid consent can already supplement the information disclosures they make about data processing purposes (e.g. adding categories of data collected, using a subset of vendors etc...)

Similarly, Vendors can already implement/supplement their own technical and organisational mechanisms to ensure the validity of the legal basis they receive via upstream partners.

Any changes to the TCF will need to be approved by the existing TCF instances - will be communicated to the TCF community in advance, and with adequate deadline for implementation.