

The ePrivacy Directive: Publisher FAQs April 2012

This document provides some basic guidance for publishers regarding the revised ePrivacy Directive. It is intended as guidance only and does not constitute legal advice.

We are providing this information because as part of the Government's advice, they are recommending site owners understand how all the different tracking mechanisms and cookie technologies they make use of work. The information listed below can then be used to conduct an audit.

For example you may have analytics on your site together with non-affiliate links including cookies that change the site's appearance based on consumer preferences. All of this information whether for commercial or non-commercial uses should be accounted for. You should also include the function of the cookie (tracking, functional, analytics etc.).

You might want to create a chart that explains what the cookie is and what it does. You can use our cookie list as a template for this.

Many advertisers are also carrying out audits on their site to understand the full range of cookies and tracking devices they are using. They are then establishing the functionality of these cookies and documenting them to understand how necessary and intrusive they are.

This set of FAQs is based on the range of questions we have so far been asked by our publishers and advertisers.

As a network we will also issue further guidance ongoing to both advertisers and publishers.

The ePrivacy Directive although already UK law will be enforced from May 26th 2012. This document also contains a series of links that offer further guidance and context.

How does Affiliate Window use cookies?	Description
What type of cookies do you use?	Digital Window use first party tags on text, banner and dynamic links provided to publishers for tracking and rewarding your activity on behalf of advertisers. Our first party tags are used solely to identify when a user has clicked on a publisher links.
How are the cookies used?	A cookie is set when a user clicks on a publisher link and is redirected to the advertiser's website. The purpose of the cookie is to store information related to the click including a timestamp and an identifier that is unique to each publisher. The unique affiliate id is the only information stored about an publisher inside a Digital Window cookie.
Why is this necessary?	The cookie is necessary because the information it stores, such as click through time, publisher identifier, IP address will be combined with information captured at the point of sale to ascertain whether a valid transaction has been driven by a publisher.

What data file is stored on a user's terminal?	A standard text cookie is set on the user's machine. It will remain in place for a pre-defined period of time, which is determined by the advertiser.
How do we advise the user that cookies will be placed on their terminal? <i>E.g. Privacy Policy</i>	Our tracking contains a privacy policy and information about how it will be used, which can be viewed within the HTTP Headers. An example can be seen here . Affiliate Window cookies are set when a user engages with content on a publisher's site. We believe the publisher has the responsibility to ensure they have the user's informed consent to set cookies, including those generated by Digital Window.
Who generates the cookie?	The cookie is generated by Digital Window, however it will be read as a first party cookie. Publishers need to ensure their site complies with the ePrivacy Directive when setting cookies.

How intrusive are the cookies?	Description
Does the cookie enable you to create a profile of an individual's browsing activity?	No
Is the cookie used to target online ads?	No
Does the cookie save information about a user's previous activity on the site?	No
How long does Digital Window store information for?	Transaction data is stored by Digital Window indefinitely in order to address any possible historical issues as well as maintain an audit trail. Information stored on a consumer's machine is according to the set cookie period for that particular programme (e.g. industry standard being 30 days).
How would you describe the intrusiveness of the cookie?	Low (It is generally accepted within the industry that affiliate tracking is low-risk in terms of intrusiveness as it does not capture data about a user's browsing behaviour). It is worth noting that the behavioural retargeting industry is the area of digital marketing under most scrutiny and they have created a framework for addressing some of the key elements of the ePrivacy Directive. It is also worth stating this is not enough to seek informed consent but is considered a valuable and important first step in a layered, ongoing approach to tackling all the provisions of the Directive.

How are third party cookies used?	Description
Does the site display content from a third party e.g. video streaming?	No
Is any information collected passed to a third party?	No

What is the best way to obtain consent?	Description
What Do Publishers Need To Do?	All publisher sites need to ensure they comply with the ePrivacy Directive when setting cookies based on user interaction with their sites. Digital Window will release full guidance and tools that will help make publisher sites more ePrivacy friendly.
Will Affiliate Window offer publishers an opt-out?	<p>We have developed an opt-out solution but we are initially unlikely to offer this as a solution. By having the solution ready we will be able to switch it on should this be required.</p> <p>We do not anticipate the affiliate industry being the main area of digital marketing that is scrutinised from May 2012 so will be watching other industries to see whether there are any developments.</p> <p>We are also focusing on consumer transparency and education rather than technical solutions at this stage (May 2012).</p>
Have you seen any examples of how other organisations are managing the need for consent?	<p>Currently our industry has not been asked to provide overt consent to users for our tracking to operate.</p> <p>The closest comparison is probably the behavioural retargeting industry, which currently provides information about how their advertising works in the form of a clickable logo inside each piece of creative.</p> <p>However, the key difference between an affiliate network and a behavioural retargeter is the need for the latter to track the online behaviour of users, something our tracking does not do. We do not capture personally identifiable information and our ads are not served based on consumers' browser behaviour.</p>
What else is the industry doing?	The IAB Affiliate Marketing Council has created a legislation committee to address regulatory issues. Digital Window, incorporating Affiliate Window and buy.at, is a member of this committee and is working to create industry solutions and standards that address the ePrivacy Directive.

	<p>The major initiative the committee has devised is the Five Point Plan. This is a work in progress and we would advise checking the AMC blog for ongoing updates.</p> <p>A consumer facing affiliate site that explains the mechanics of our discipline is scheduled for launch in May 2012.</p>
What else is Affiliate Window doing?	<p>We will be releasing full guidance to all our publishers and advertisers in April 2012. Should you want to receive regular updates from the Strategy team at Affiliate Window please subscribe to our monthly newsletter (strategy@affiliatewindow.com).</p>
Other useful guidance	<p> Cookie Audit Reminder Conducting a Cookie Audit AMC 5 Point Plan Your Online Choices Your Ad Choices </p>