Technical Tools for Legal Consent:

Do Not Track Meets the Needs of GDPR & CCPA Consent Rights

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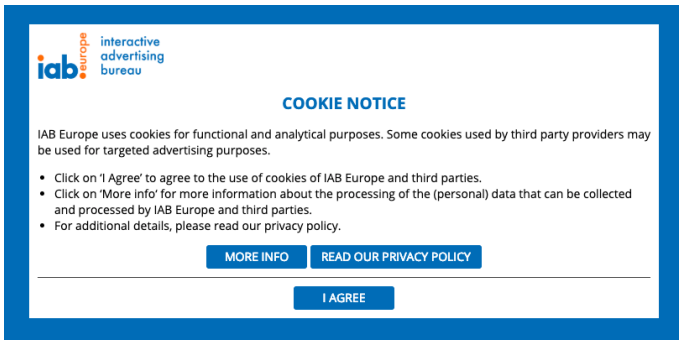
What's wrong with this picture?

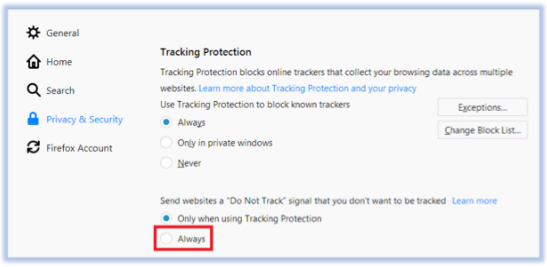


- No way to decline consent – lonely "I agree" is not a choice!
- Not clear and unambiguous.
- Acknowledges third parties, but never names them.
- Cookies set immediately, before consent is requested.
- Likely illegal under European GDPR law (pending case)
- No opt-out button as required by California's CCPA law.
- If users agree, consent is saved indefinitely. If users do not agree, they are pestered repeatedly.
- Not only is this specific user interface deliberately unusable, a web full of these dialog boxes on multiple websites is pointless, frustrating, and makes a farce of the notion of privacy choices and privacy laws.

A better path forward

Send a "Do Not Track" request with your browsing traffic

- Use a Do Not Track browser-based HTTP signal for consent.
- Users set a default choice once. Rather than *improve* consent experiences, can largely *eliminate* pointless cookie notices.
- Companies can ask for specific exceptions. Need to limit this to a reasonable frequency of requests.
- Live implementations are already close to Europe's GDPR and California's CCPA requirements, even though some implementations pre-date recent laws.
- Europeans and Californian children under 13 must *opt-in* to tracking. Adult Californians must *opt-out* of tracking. California teens between 13 and 16 must *opt-in*, with consent from teen or parent. Do Not Track cannot tell a user's age, but can work with multiple opt-in or opt-out frameworks.
- Proven to work at web scale.



What is at stake?

- **Financial impact:** estimated $333 billion spent on ads in 2019. Google captures nearly one third of revenue. Challenge: preserve economic value while enabling privacy choices.
- **Democratic elections:** targeted ad data used in Brexit and US 2016 Presidential campaigns by Russians to suppress turnout, undermine faith in the process, and create social divisions.
- **Surveillance:** the National Security Agency (NSA) used Google PREFID tracking cookies to hack track, then hack targets. NSA bought Google ads to strip anonymity from Tor users.
- **Trust:** Pew finds over 90% of Americans believe consumers have lost control over how personal information is collected and used by companies.
- **Privacy rights**: intrinsic harm independent of applications.

Challenges

- History shows companies do not have incentive to design usable consent mechanisms.
- Apple removed Do Not Track from Safari over fingerprinting concerns, despite low entropy.
- Likely requires additional laws, case law, or regulations.
- Future work: understanding users' current mental models of consent, designing new consent mechanisms, and *testing* the usability of consent dialogs to get it right.
- Precedent and guiding examples: Schumer box for disclosing credit card rates, as required by law, and designed with extensive study of usability.