

The GDPR and ePrivacy Regulation

Catherine Armitage, Head of Digital Policy,
World Federation of Advertisers





1. GDPR 6 months on...

GDPR was forecast to destroy digital advertising as we know it

“GDPR will force marketers to relinquish much of their dependence on behavioural data collection”

**Harvard
Business
Review**

“Google: GDPR will tighten the screws on how the whole industry handles data”

MW Marketing Week

“Ad tech firms are quitting Europe, blaming the GDPR”

DIGIDAY

“The day after tomorrow: when ad blockers and GDPR kill all adtech and martech”

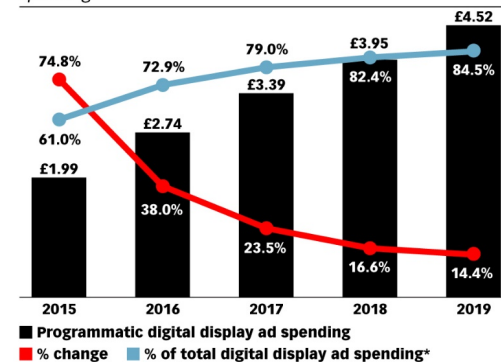
The Drum

But in the end, programmatic growth predictions still remain



Wayne Blodwell, CEO, The Programmatic Advisory – speaking at WFA meeting in London in September 2018

UK Programmatic Digital Display Ad Spending, 2015-2019
billions of £, % change and % of total digital display ad spending*



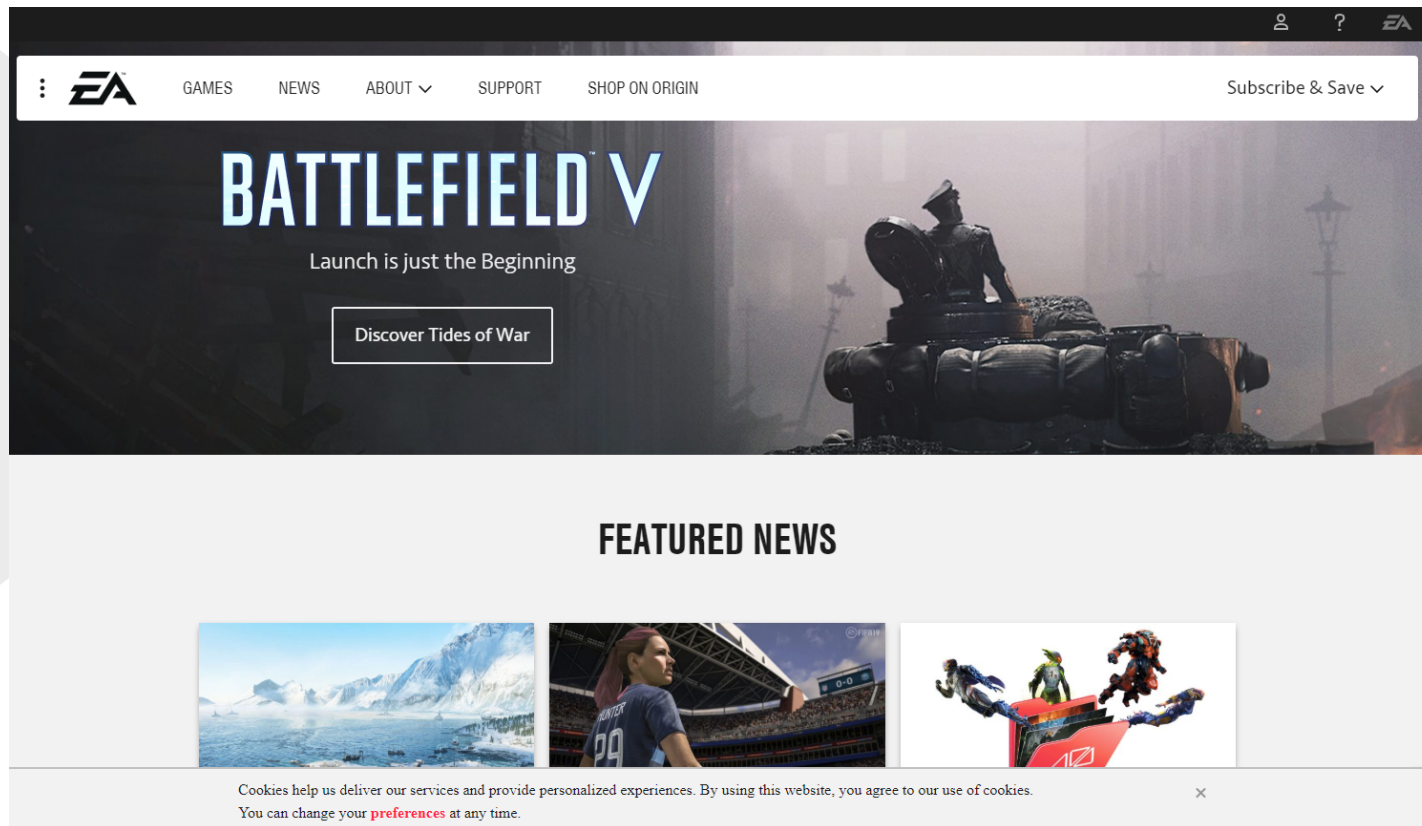
Note: digital display ads transacted via an API, including everything from publisher-erected APIs to more standardized RTB technology; includes native ads and ads on social networks like Facebook and Twitter; includes advertising that appears on desktop/laptop computers as well as mobile phones, tablets and other internet-connected devices; *includes banners, rich media, sponsorship, video and other

Source: eMarketer, Dec 2017

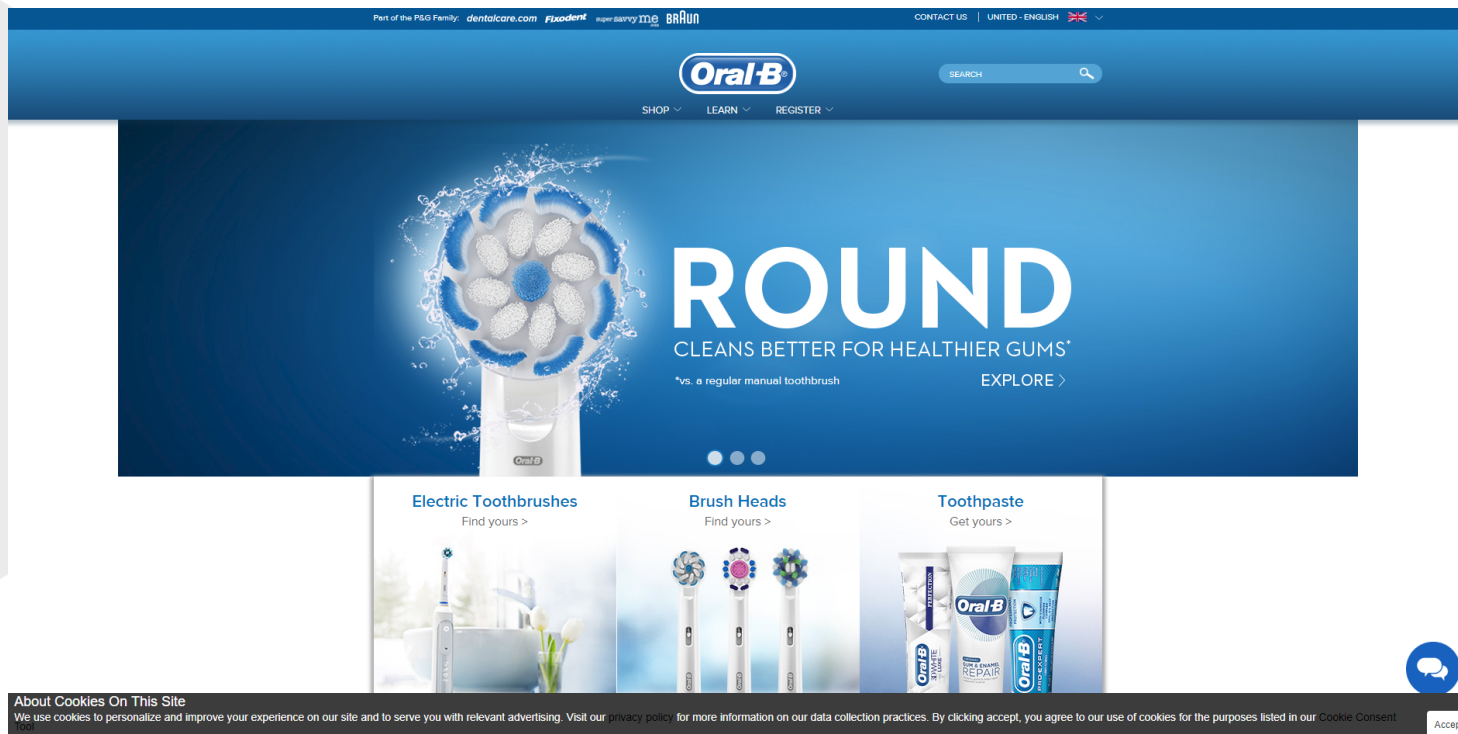
233181

www.eMarketer.com

Implementation: what companies are doing



Implementation: what companies are doing



Implementation: what companies are doing

☀️ Packaging to suit the weather : Your package will be sent out in a cool pack ☀️ Info

Need Help ? Cart | £0.00

HOW MYM&M'S USE COOKIES TO IMPROVE YOUR EXPERIENCE?

How MyM &M's use cookies to improve your experience?


MyM&M's asks you to accept cookies to enhance your experience, to offer functions adapted to your needs and propose relevant content.

Red and Yellow need cookies to be able to simplify your browsing on MyM&M's website by measuring and analyzing traffic statistics (analytic cookies) and at the same time proposing contents and personalized ads (marketing cookies).

Be informed that, you can learn more about our use of cookies, understand their functioning and [modify your access parameters at any time](#).

By clicking on the button below, you accept our cookies policy regarding the [use of cookies](#) on our [Privacy Policy](#) page.

ACCEPT THE USE OF COOKIES



23.06.18

Topical products

Just Married

PRE-PRINTED

What consumers are experiencing

PUBLISHERS

The image shows two overlapping screenshots of publisher consent forms. The top screenshot is from Autodesk, featuring a white background with a blue header. It includes sections for 'Customer feedback' and 'Digital advertising', each with 'Yes' and 'No' radio button options. A 'CONTINUE TO SITE' button is at the bottom. The bottom screenshot is from Bloomberg, showing a dark-themed 'Your choice regarding cookies on this site' dialog. It lists 'Required cookies', 'Functional cookies', and 'Advertising cookies' with 'Out' and 'In' buttons. A 'Submit Preferences' button is at the bottom.

ONLINE SERVICES

The image shows two overlapping screenshots of online service consent forms. The left screenshot is from MyFitnessPal, displaying a 'Data Consents' screen with a blue header. It includes an 'Accept All' button and a 'Transfer Outside of Country/Region' option. A modal dialog box is overlaid with the text 'You must accept all data consents to create your MyFitnessPal account.' and an 'OK' button. The right screenshot is from Facebook, showing a 'Terms, Data Policy and Cookie Policy' screen. It includes a 'Delete Account' button and a 'Close' button. A modal dialog box is overlaid with the text 'Your options' and a 'Close' button.

What regulators are thinking

“A mobile app for photo editing asks its users to have their GPS localisation activated for the use of its services. The app also tells its users it will use the collected data **for behavioural advertising purposes**.

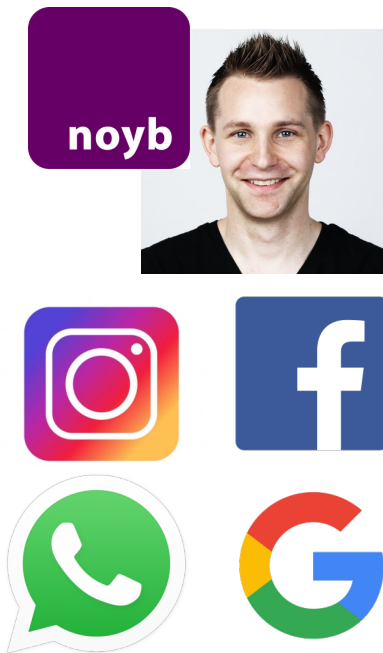
Neither geolocation or online behavioural advertising are **necessary for the provision** of the photo editing service and go beyond the delivery of the core service provided.

Since users cannot use the app without consenting to these purposes, the consent **cannot be considered as being freely given**.”



GDPR complaints related to advertising

1



2

Regulatory complaint concerning massive, web-wide data breach by Google and other “ad tech” companies under Europe’s GDPR

by Johnny Ryan | Sep 12, 2018 |
Announcements, Brave Insights,
GDPR, Policy, Privacy

3

~~PRIVACY~~
~~INTERNATIONAL~~

Have you heard of these companies? Because they've likely heard of you..

Acxiom

Criteo

Equifax

Experian

Oracle

Quantcast

Tapad

No? Well they've definitely heard of you!





2. ePrivacy

ePrivacy – What is it?

- An **EU law** that is currently being reviewed.
- Would enter into force in **2019 at the earliest**.
- While the GDPR sets out rules that apply to all personal data, **ePrivacy adds specific rules** pertaining to the confidentiality of communications, online tracking (including cookies) and direct marketing.
- Expected to have a **broad impact on targeted online advertising**.

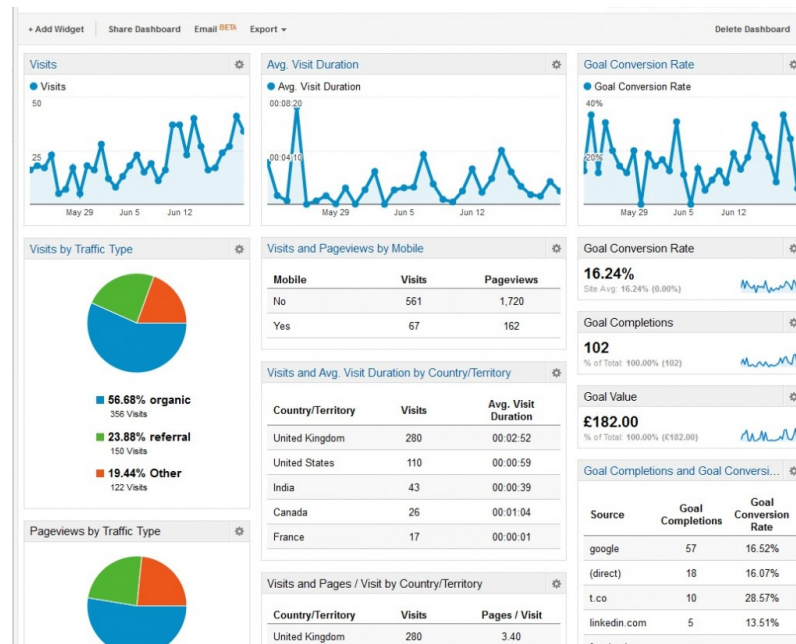
Tracking for online advertising could be switched off by default



- Draft text moves the consent request to software level upon installation.
- May end-up mandating that these settings must be set to no tracking by default.

WFA Delete
Commission Maintain
Parliament Maintain
Council Delete? TBC

Web analytics could be limited



Consent required for web analytics carried out by third parties

WFA Extend exception to 3 rd parties
Commission Maintain
Parliament Extend exception to 3 rd parties
Council Extend exception to 3 rd parties

ePrivacy is not aligned with the GDPR

- The General Data Protection Regulation (GDPR) sets out 6 legal bases for data processing, whilst the draft ePrivacy proposal only makes one of these (consent) available to companies.

WFA

Add GDPR
legal bases
(e.g. legitimate
interest)

Commission

Maintain

Parliament

Maintain

Council

Maintain

All online content would need to offer 2 tiers



#1 Targeted ads using cookie data
(browsing history, interests etc.)



#2 Contextual ads only
(no browsing data collected)

WFA Remove
Commission Not in original proposal
Parliament Maintain
Council TBC

Direct marketing rules could apply to all targeted advertising

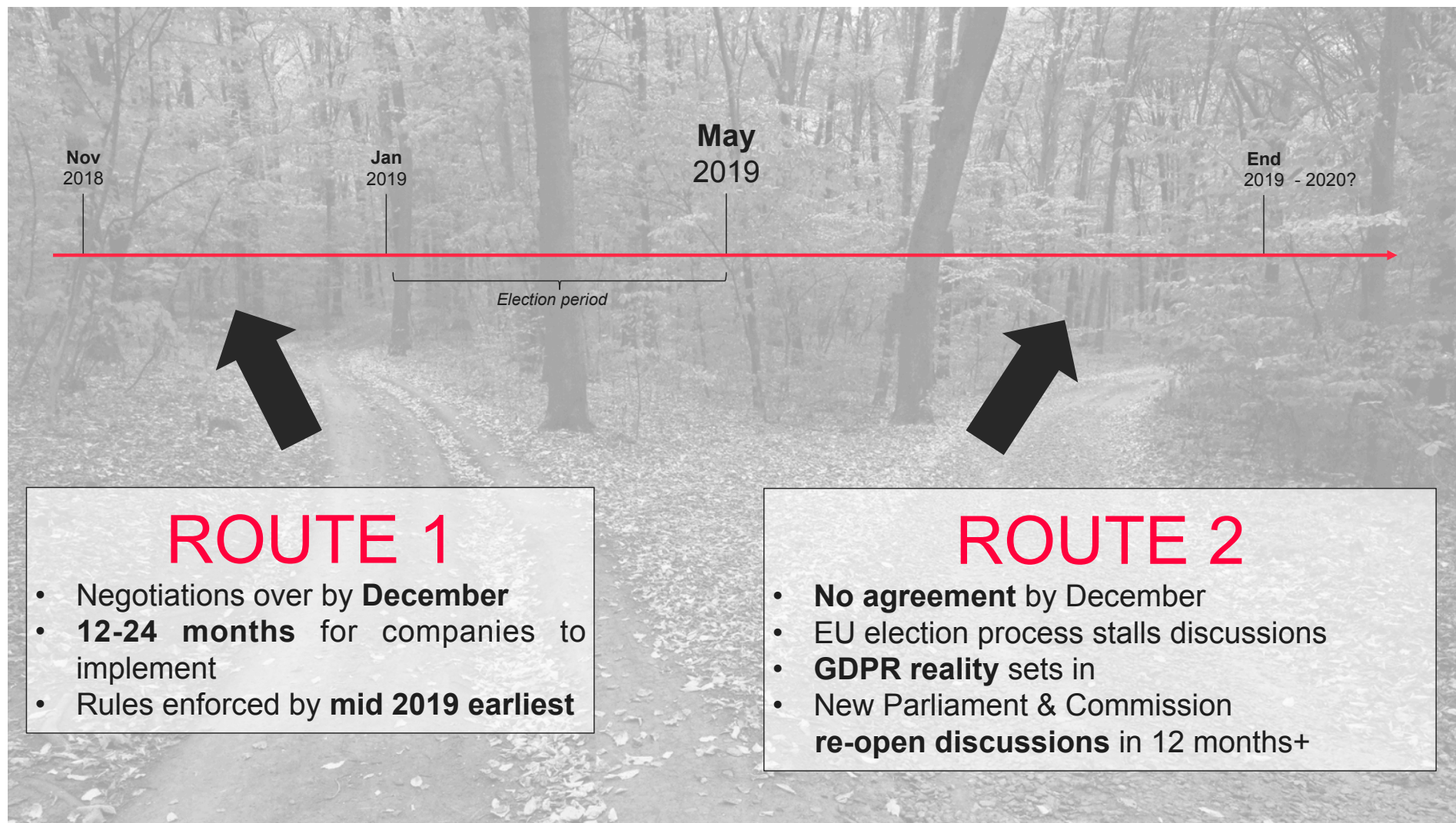
- Definition of 'direct marketing' could be extended to 'any form of advertising sent *or presented* to one or more identified or identifiable end-users'

Would mean additional rules apply to all targeted advertising:

- Only legal basis = consent
- Must inform users of 'marketing nature' of the communication
- Identify the company on whose behalf the marketing is being sent
- Unsubscribe link

WFA "Sent to"
Commission "Sent to"
Parliament "Sent or presented to"
Council "Sent to" TBC





Questions?



Get in touch: c.armitage@wfanet.org