# Into the fray on consent or pay

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**By SAM CLARK**

**with ELLEN O'REGAN and ANTOANETA ROUSSI**

**TODAY'S TOP LINE — NO SUCH THING AS A FREE LUNCH:** European data protection authorities shouldn't make online media companies — which are increasingly using the so-called consent-or-pay model — give their services away for free, the head of influential ad tech lobby IAB told Cyber Insights.

**Welcome to Cyber Insights,** POLITICO's cybersecurity and data protection newsletter, giving you the daily lowdown on hacks, leaks and cybersecurity policy chatter in Europe.

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## DATA PROTECTION

**FREE SERVICE WITHOUT TARGETED ADS A 'DEAD END':** The CEO of ad tech lobby group IAB Europe says that European Union regulators should focus on enforcing the data protection laws they already have and that new "improvisations" on consent like offering the option of a free service with nonpersonalized ads are a "dead end."

**Effective enforcement is key:** Speaking to Cyber Insights at IAB's "Advertizing Horizons" event Tuesday, Townsend Feehan said that the key challenge for companies trying to "do the right thing and comply with the law" around personalized online advertising is "the complexity and ongoing challenge of effective enforcement."

**EU laws 'demanding and prescriptive'**: She spoke to us following her opening remarks at the conference, where she told the crowd that personalized digital advertising "gives users choice about what they pay for with money and what they pay for with a willingness to receive advertising, knowing that when making choices they can rely on the EU's demanding and prescriptive privacy and data protection laws."

**'Disparities' between DPAs:** Feehan told Cyber Insights that there are "manifest disparities" between national data protection authorities who enforce the EU's General Data Protection Regulation, both in terms of resourcing and how they interpret "critical aspects" of the law around user rights and consent.

**More resources, knowledge and engagement:** Feehan welcomed cross-border GDPR enforcement rules that are currently being developed, but said that national authorities still need to be "better resourced, more self-confident, more technically knowledgeable and confident in engaging with companies."

"People would have confidence when they go online, companies would feel rewarded

for compliant behavior and a degree of the trust issue would be addressed because there wouldn't be so much surface area for critics of the industry who may have a different agendas to say the whole barrel is rotten — because the whole barrel is not," she said.

**'Dead end' additions to consent:** She criticized "improvisations" on the current legal framework for users to consent to advertising practices, like the suggestion of offering a free nonpersonalized alternative.

**EDPB's idea:** The European Data Protection Board has previously said that large online platforms shouldn't be able to force users to choose between paying for a service or consenting to targeted advertising and that a third option should be offered where users can access a service for free with advertising that uses less (or no) personal data. This is a concept that Meta got on board with last year (albeit with mandatory ad breaks for free users who do not consent to personalized advertising).

"Improvisations like, 'in order for consent for personalization to be valid maybe we need a free nonpersonalized alternative in addition to paying,' this kind of improvisation that finds no basis in the letter of the law, I think is a dead end," said Feehan.

**In numbers:** Chief economist for IAB, Daniel Knapp, shared his analysis this morning on the value of the online advertising sector to Europe (drawing partly on figures from Deloitte and IMS Markets).

**€59 billion:** The annual revenue generated by media through digital ads in the EU.

**3.3 million:** The number of jobs supported by digital advertising in the EU.

**12.8 percent:** The share of the bloc's gross domestic product that is impacted by the digital advertising sector.

**DFA coming down the line:** Publishers and advertisers are concerned that the upcoming Digital Fairness Act, which aims to strengthen online consumer protections, might mean a fresh round of scrutiny for how this lucrative digital advertising sector deals with personal data.

**A 'catastrophe' for digital media:** Siv Juvik Tveitnes, the boss of Nordic media house Schibsted, told our Morning Tech colleagues that restrictions on targeted advertising could be a "catastrophe for digital media."

**Hold your horses:** Consumer Protection Commissioner Michael McGrath previously told us that the DFA isn't coming any time soon and that it could be 2026 before "we have a fully-fledged proposal."

## CYBERCRIME

**PARLIAMENT HEARS UN CONVENTION WOES:** The European Parliament held a shadow meeting on the United Nations Convention against Cybercrime on Tuesday, after the controversial text was adopted at the U.N. General Assembly, which was seen as a major diplomatic win for Russia.

The shadow meeting, headed by German liberal lawmaker Moritz Körner, is meant to guide whether EU member countries now sign and ratify the treaty. "That is still up for discussion," Körner told Cyber Insights, adding that Parliament has to give consent for countries to do so.

**According to the draft agenda,** seen by Cyber Insights, the meeting participants discussed the benefits, risks and "realistic outcomes" of the Convention against Cybercrime. They then had an exchange of views with Dan Rotenburg, who heads cybercrime at DG HOME, and Nick Ashton-Hart from the Cybersecurity Tech Accord.

**Wide range of assaults:** Civil society previously said that EU support for the adoption of the Russia-led Convention against Cybercrime would erode democracy, human rights and the rule of law, endangering a wide range of communities and jeopardizing the

and the rule of law, endangering a wide range of communities and jeopardizing the safety and privacy of internet users globally.

## LEGISLATION

**eIDAS TECHNICALITIES CONTINUE:** The European Commission is attempting "blatant overreach" through a draft version of technical rules to complement the EU's eIDAS legislation on digital identity, an NGO has claimed.

**'Identity matching':** A proposed implementing act — a piece of secondary EU legislation — put forward by the Commission on so-called identity matching would allow private companies to access centralized databases, NGO epicenter.works argued.

**Political agreement:** The Commission's proposal contradicts the wording of the main eIDAS legislation, epicenter.works argued. The group added that, during negotiations, the Parliament specifically ensured that the broad wording put forward by the Commission in the implementing act did not make it into the main eIDAS law and so should not be included in these later technical rules.

**K-why-C:** epicenter.works praised the Commission's decision to make the wallet system more transparent — something it had previously called for. However, it said that the proposal now doesn't clearly distinguish between when a wallet is used for know-your-customer purposes and other uses.

## ENCRYPTION

**CSAM'S LOUDEST VOICE (SORT OF) PRAISES POLISH PROPOSAL:** Former member of the European Parliament Patrick Breyer — for a long time the loudest and most persistent voice in the pro-privacy, anti-surveillance camp — has called Poland's new proposal for an EU law to combat child sexual abuse material online "half good."

**Reminder:** Poland's proposal removes so-called detection orders — keeping them as a choice rather than an obligation — for messaging platforms to scan their services for child sexual abuse material.

**So far, so good:** "The new proposal is a breakthrough and a major leap forward when it comes to saving our fundamental right to respect the confidentiality of our digital correspondence," Breyer said. "It would protect secure encryption and thus keep our smartphones safe."

**Not so fast:** Three fundamental problems remain, Breyer argued: 1. Even voluntary scanning amounts to mass surveillance; 2. A minimum age to download some apps would be easy to circumvent and would "disempower teens;" 3. People would need to prove who they are to set up anonymous email or messaging accounts, which risks making them not actually anonymous.

**Going Dark:** A long series of recommendations made by the Commission's secretive Going Dark group on law enforcement's access to data was presented to cyber attachés at the Council of the EU's working group Monday. Some privacy campaigners argue that the group and its recommendations are being used as another route to breaking encryption.

## ELSEWHERE ON THE WEB

Commission President Ursula von der Leyen gave a very gloomy speech at the EU Ambassadors Conference.

Kazakhstan to audit foreign ministry after suspected Russia-linked cyberattack. The Record