

I (do not) consent to behavioural advertising

By Evangelia Mesaikou

During the last years, the online advertising industry has developed new techniques in order to maximize its benefits by providing more targeted advertisements to internet users according to their interests. By placing cookies or other tracking devices into the users' computer, advertisers create a profile for each user based on the websites visited and the searches made and then provide tailor made advertisements. This is called behavioural advertising and it raises some important data protection issues.

Since tracking devices are installed in the terminal equipment of the internet user (data subject), and sites access this information in order to process data and build up a profile for the individual, the data protection legislation is applicable (Directive 95/46/EC and Directive 2002/58/EC). Under these legislations, the advertising network providers and the publishers of the advertisements have specific obligations and the data subjects should be granted with specific rights.

The most significant problem is that most internet users are not aware that third parties, and not only the sites they visit, install tracking devices to their computers and can trace their activities and compile profiles for them. In other words, they are not informed who has access to which data and for how long in order to consent or not to this processing. However, the informed and freely given consent of the data subject should be a prerequisite for the data processing in order for behavioural advertising to be lawful. In this paper, this problem is further analyzed and possible solutions are examined, such as the feasibility of opt-in mechanisms, do not track lists and the use of a warning icon.