

FAQ

adform

TCF 2.2

# The Transparency and Consent Framework

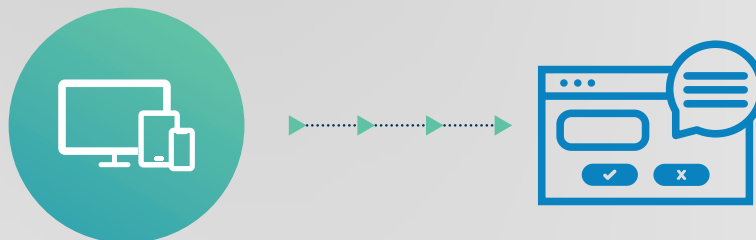
# adform

Since the General Data Protection Regulation came into effect in 2018, the advertising industry has made a multilateral effort to ensure online users' privacy and consent preferences are respected. The Transparency and Consent Framework (TCF) was a collaborative effort orchestrated by the IAB in May 2018 to ensure key industry stakeholders in the digital advertising industry could act upon their legal obligations.

As the GDPR and E-Privacy directive continue to get interpreted by regulatory bodies and applied in case law, the TCF has undergone a number of iterations to ensure it remains up to date.

The latest version, TCF 2.2, was released in response to a finding by the Belgian Data Protection Authority (ADP) which determined that the TCF was still processing personally identifiable data.

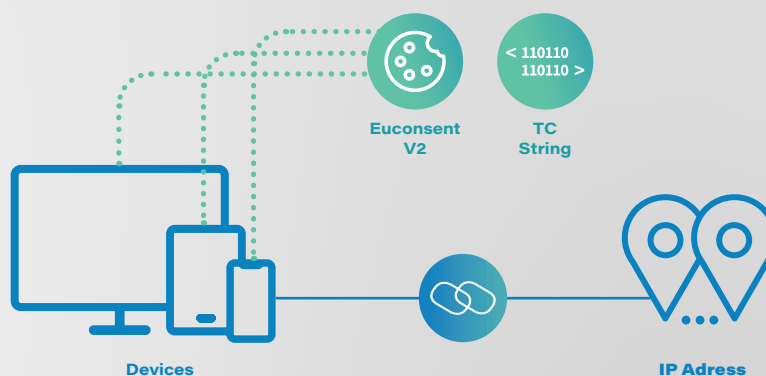
## Ok, To Start With, What Is the TCF And How Does It Work?



The transparency and consent framework was created for first party (publishers, media, and brands) and third-party (vendors) stakeholders to meet their legal requirements around the processing of personal information. Fundamentally, it is about giving users more control and understanding over the data that is collected about them and how it is used.

So, whenever you visit a website, the TCF - usually in the form of a pop-up known as the ‘consent management platform (CMP),’ will make sure you are informed about what data is being collected about you, why it’s being collected, and who will have access to it. It also gives you the opportunity to give your consent or permission for the data to be collected.

## Sounds Good, Why Did the Belgian Data Protection Authority Have an Issue With It?



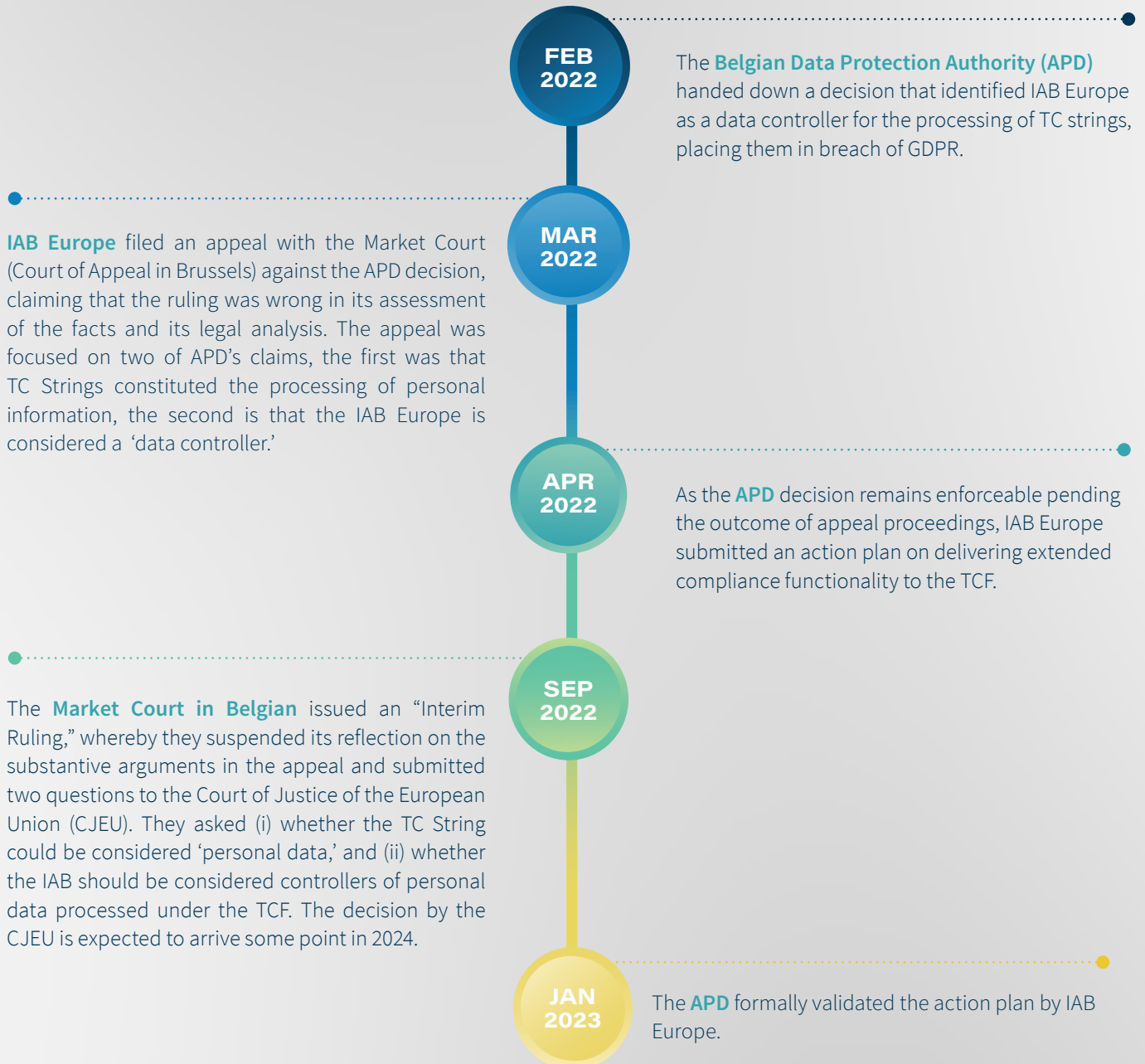
The main issue is around the ‘TC String.’ This is a coded record of a user’s consent preferences which is shared with third-party vendors. The TCF also places a cookie (euconsent-v2) on the user’s device. When combined, the TC string and the euconsent-v2 cookie can be linked to the IP address of the user, which according to the ADP makes the user identifiable.

In February 2022, the Belgian Data Protection Authority determined that ‘IAB Europe failed to establish a legal basis for the processing of the TC String, and the legal grounds offered by the TCF for the subsequent processing by Adtech vendors are inadequate.’

The ADP also pointed out that ‘the information provided to users through the CMP interface is too generic and vague to allow users to understand the nature and scope of the processing, especially given the complexity of the TCF. Therefore, it is difficult for users to maintain control over their personal data.’

## What's Happened Since Then?

Legally things are a bit confusing, but we'll try to cover the big moves.



## What Does This Mean for the Future of Privacy?

Whatever the legal outcome of IAB's appeal, TCF 2.2 launched in May 2023 and will seek to directly address the issues raised by the APD's ruling. Businesses under the TCF must transition to TCF 2.2 requirements by 20 November 2023.

## So, What Changes Does TCF 2.2 bring?

### 1. The Removal of Legitimate Interest for purposes 3, 4, 5 and 6

Previously, 'legitimate interest' was used as a justification to carry out processing operations for purpose 3 (create a personalized ads profile), 4 (select personalized ads), 5 (create a personalized content profile), and 6 (select personalized content).

Under TCF 2.2, 'consent is the only acceptable legal basis to carry out these purposes.

**WHY?** *Data Protection Authorities and the European Data Protection Board have expressed concerns over reliance on legitimate interests for purposes that involve profiling and personalization of ads and content.*

### 2. Improvements to existing user-facing standard texts

The user-facing disclosures will no longer be in 'legalese' and will be more easily understandable for end-users. This will include new names for the various TCF 'purposes,' the removal of legal text in favor of more user-friendly descriptions, and the option for users to see illustrations to make things clearer for them.

**WHY?** *The existing "legal texts" (which describe the data processing purposes covered by the TCF) have been criticized for being complicated and making it hard for end-users to fully understand the purposes pursued by Vendors.*

### 3. Standardization of new information about Vendors

When different vendors register to be part of TCF 2.2, they will now have to provide additional information about their data processing operations. This information can, in turn, be disclosed by CMPs to end-users. This information includes the categories of data, how long the data will be held by the vendors, and the types of legitimate interests used to justify the data collection.

**WHY?** *The Belgian Data Protection Authority said in its decision that users were not always provided with the categories of data likely to be collected or already processed by Vendors. Nor were they provided data retention periods – a requirement reflected in other guidelines from other Data Protection authorities (e.g.*

*the CNPD in Luxembourg). The Belgian Data Protection Authority also said in its decision that users were not informed adequately enough about legitimate interest.*

### 4. New first layer requirement: number of Vendors

The new TCF Policies will include a new requirement to disclose the total number of Vendors that are seeking consent or pursue data processing purposes on the basis of their legitimate interests. The TCF Policies will also strongly encourage publishers to select a subset of Vendors for which they establish transparency and consent.

**WHY?** *The Belgian Data Protection Authority said in its decision that users did not have any reasonable expectation as to the number of Vendors likely to process their data, which is sometimes high. The CNIL in France also recommends disclosing the number of Vendors on the first layer of the CMP UI.*

### 5. Improved policies on withdrawal of consent

The new TCF Policies will further specify the requirements around withdrawal of consent.

A user must be able to resurface the CMP UI from an easily accessible link or call to action, such as a floating icon or a footer link available on each webpage of the Publisher's website, or from the top-level settings of the Publisher's app (as to allow them to withdraw their consent as easily as it was to give it).

If the initial consent request presented to users (e.g. the cookie banner) contains a global consent call to action (i.e. such as "Consent to all", whereby the user can consent to all purposes and vendors), an equivalent global consent withdrawal call must be provided when they re-access the CMP UI (i.e. such as "Withdraw consent to all", whereby the user can withdraw consent to all purposes and vendors).

**WHY?** *The Belgian Data Protection Authority said in its decision that users were not always able to withdraw consent as easily as to give consent.*

## Ok, That Sounds Clear, What Do I Need To Do Now?

Depending on your type of business, there are several steps you'll need to take to make sure you're ready for TCF 2.2.



### 1. Vendors

Vendors will need to make sure they have the technical capabilities to retrieve the TCF string in real-time. They will also need to review their TCF registration to include the additional information required around data processing.



### 2. Consent Management Platforms

Consent management platforms will need to be able to ingest the new version of the Global Vendor List which will contain more information. They also need to ensure they create disclosures in more user-friendly language in the CMP UIs.



### 3. Publishers

Make sure that visitors to your website can easily resurface the CMP (e.g. from the bottom of each webpage)

Review and reduce the list of Vendors for which they establish transparency & consent

## What Should I Do If I'm an Advertiser?



If you are an advertiser, make sure your ad tech partner is aware of TCF 2.2 and implementing the correct changes. Otherwise, sit back, relax, and enjoy the flight. Adform was built with privacy-by-design and is dedicated to remaining abreast of the latest legislative developments around user consent and data processing.

If you'd like more information on TCF and user privacy, reach out to your local Adform representative: <https://site.adform.com/contact-us/>