Meeting: TCF Governance Board

Date and Time: Tuesday 24 August 2021 at 16:00 (CET)

Venue: Conference call

Present: Thomas Peruzzi (Virtual Minds) (Chair designate)

Ben Barokas (Sourcepoint)   Benoit Oberlé (Sirdata)
Robert Blank (Media Impact Axel Springer)   Stevan Randjelovic (GroupM)
Jaakko Kuivalainen (Sanoma)   Markus Ruhl (Publicis Groupe)
Colin O'Malley (Integral Ad Science)   Karsten Rieke (Criteo)
Jochem Schlosser (Adform)

Board Observer:

Petri Kokkonen (IAB Finland)   Nina Elzer (EACA)
Luc Vignon (IAB France)   Leigh Freund (NAI)
Bart Van den Brande (IAB Belgium)   Conor Murray (EGTA)
Christian Dürschmied (BVDW)   Alex Cone (IAB Tech Lab)

In attendance:

Townsend Feehan (CEO, IAB Europe, Managing Organisation)
Thomas Mendrina (Chair, TCF Steering Group)
Filip Sedefov (Legal Director Privacy, IAB Europe, Managing Organisation)
Ninon Vagner (Privacy & Compliance Mgr, IAB Europe, Managing Organisation)

Anne Goodman – Secretariat (IAB Europe)

In the absence of an elected Chair the secretariat opened the meeting, welcoming 3 new members to the Board: Colin O'Malley, Jochem Schlosser and Karsten Rieke.

The secretariat then introduced the first item on the agenda.

Chair – consideration of the nomination for the position of Chair of the TCF Governance Board (PAPER 2_17-08-21
The secretariat introduced the one nomination for Chair presented by Thomas Peruzzi who was asked to say a few words about his nomination. There were no challenges or questioned presented by the meeting attendees.

The secretariat noted that as the meeting did not have a quorum in one of the three voting buckets, in this instance "Media Owner", the nomination for Chair could not be ratified. It was proposed by the secretariat that under the circumstances the meeting support Thomas taking up the position of Chair designate for this meeting and that his position would be ratified post the meeting by an electronic vote that all members of the board would be invited to participate. The meeting supported this.

Thomas subsequently took up the position and chaired the meeting from this point onwards.

Action: MO to set up and manage an electronic process to ratify the appointment of Thomas Peruzzi as the Chair of the TCF Governance Board

Note: Quorum, the minimum number of attendees at the TCF Governance Board meeting that must be present to validate the proceedings of that meeting, are 3 media owner, 3 Advertisers and/or their media buying agents and 3 Intermediary and technology companies

TCF Governance Framework (PAPER 3_17-08-21) for consideration
The secretariat presented a number of amendments to the TCF Governance Framework for the meeting's consideration. These were detailed in Paper 3 and included version management, clarification of the timing of the board term, clarification of board member and chair terms when a member joins within the 2-year Board term. The meeting did not question these amendments and were advised that they would now be presented to the IAB Europe Board for approval.

Presentation MO – TCF Compliance Update
Ninon Vagner, Privacy & Compliance Manager, IAB Europe, Managing Organisation
The presentation was split into 2 parts:
- Roll out of the Vendor compliance programme
- Improvement of the CMP enforcement as part of the CMP compliance programme

Roll out of the Vendor compliance programme
The presentation highlighted 4 policy checks that would be automated as part of the compliance programme. Attention was also drawn to the fact that suspension would be enacted 28 days after the suspension warning if the compliance issues noted were not resolved (this is contrast to suspension after 14 days of the issuing of a suspension warning for CMPs and was a specific request of the Framework Signals WG).

This part of the presentation raised two questions.
Question 1 raised the importance of a process for dispute resolution similar to the process in the context of CMP compliance enforcement. The MO confirmed that this was indeed the intention - vendors who contest a finding of non-compliance by the MO would have the possibility of enlisting a dispute resolution mechanism. The MO agreed to update the presentation to explicitly call out this process.
Question 2 The meeting asked if compliance process was limited to the 4 specific checks highlighted. The MO replied that these were the 4 checks that were automated in the new vendor compliance support tool. But manual checks would be enacted, and

follow up action taken, if the community reported to the MO non-compliance by vendors with other TCF Policies than those covered by the automated checks.

<u>Improvement of the CMP enforcement as part of the CMP compliance programme</u>
This included the introduction of a crawler that will automatically assess CMPs against the CMP Validator technical and policy checks. This would assist and make scalable the CMP enforcement process, which to date had been conducted manually.

This part of the presentation raised 3 questions:
Question 1 asked that this information be shared with the Steering Group (SG). The MO agreed to include this update at the next SG meeting. The MO also noted that the update to the process did not change the way that CMPs had been assessed in the past, the policy and technical checks remained the same.
Question 2 The meeting suggested that it would be helpful if the data collected on the compliance failures could be aggregated and presented to the market at some regular interval. This level of transparency could also enable the MO to detect "patterns" in compliance issues and to advise and help the market to avoid them.
Question 3 As adjunct to question 1 the meeting asked if the UI of the crawler could be presented at the next SG meeting. The MO agreed dependant on the supplier (Zulu5) confirmation that they were happy to present the details of the UI.

> **Action: MO to update SG on the automation of CMP compliance**
> **Action: MO to confer with Zulu5 on any issues they would have, or limitations they would impose, on a demo of the UI for the SG**
> **Action: MO to identify an appropriate mechanism for presenting the aggregated data on compliance failures**

<u>Steering Group update (PAPER 4_17-08-21) for noting</u> – Chair of SG Thomas Mendrina presented the update from the SG and its working groups (WG) on recent TCF developments that the SG oversaw. The update was circulated to the Board and observers prior to the meeting.

The Chair of the SG commended the attendance and active participation by the community in the SG meetings.

With reference to the update on the APD investigation, the meeting asked what level of risk this posed to the TCF. The MO advised that it was still premature to speculate about what the APD's draft ruling might contain but noted that the 11 June hearing before the Litigation Chamber focused almost exclusively on the issue of whether IAB Europe acts as a data controller in the context of the TCF. This focus could be interpreted as suggesting that the final ruling may not endorse the findings of the Inspection Service in relation to the Framework itself. If the Litigation Chamber does not find IAB Europe to be a data controller in some set of circumstances, then the case essentially collapses, since an enforcement action for breach of the GDPR can only be brought against a data controller. The TCF remains an instrument of unique value to companies attempting to comply with the law. The MO drew the meetings attention to the fact that the findings of the case could ultimately have a bearing on the operators of similar framework, the meeting concurred and sited in particular UID2 and unified ID.

With reference to the FSWG update that spoke to the recent interaction with Apple reference the Apple iOS Privacy Prompt (ATT), the meeting asked if the MO could share the communication from Apple confirming that the TCF UI should be surfaced prior to the ATT prompt. The meeting cited anecdotal evidence that this guidance was not always being adhered to in the market, though some of the evidence may pre-date the communication from Apple. The MO invited Board Members to share any concrete examples they had of apps being rejected by the App Store due to implementation of TCF. The MO would aim to share these with the FSWG in the first instance.

> **Action: Board members to provide MO (sedefov@iabeurope.eu) with examples reference the issue concerning ATT prompt that can be considered by the FSWG**
> **Action: MO to share email from Apple with Board**

Managing Organisation update (PAPER 5_17-08-21) for noting – the CEO of IAB Europe Townsend Feehan presented the update from the managing organisation. The update was circulated to the Board and observers prior to the meeting.

The MO raised a specific ask of the Board members, reference the update on the DPA working group, to reflect on how the process of information-sharing within the TCF instances on DPA policy guidance and enforcement activity could be improved. Under the current arrangement, in some key markets the MO is dependent on locally based actors (National IABs and corporate members of the SG and DPA Outreach WG) for such information, having been explicitly instructed to avoid opening any direct channel to the local authorities. Such an arrangement disserves the TCF community if there is low or no information flow from the local actors to the MO and TCF instances. The Board is invited to consider either how the current process could be improved or what different, better process could be put in place in these markets.

By way of initial reaction, some Board Members cited challenges with specific markets such as Germany where there were multiple DPAs that were not aligned and presented a complicated picture. These tended to be focused on the broader position of GDPR and the definition of problems associated with this regulation as opposed to the TCF. These Board Members considered it not worth engaging with the DPAs in question at this point.

The MO update on the development of a Canada "TCF-type" string was provided in the report as an FYI. The MO noted that they had acted as a "policy coach" for the Canadian team, helping develop TCF Canada Policies that align to the requirements of applicable Canadian law, (*note* Tech Lab was supporting on the preparation of technical specifications for the future standard). TCF Canada will be a "free-standing standard" of which IAB Canada will be the accountable face for its market and regulators. It has been proposed that there will be shared resources *(note:* this could include registration portals for the existing TCF global vendor list (GVL) and CMP list will be extended to accommodate registration by vendors and CMPs wishing to implement TCF Canada). IAB Europe, Tech Lab and IAB Canada will implement a shared governance for decisions relating to the portal that impact TCF Canada.

The meeting asked what TCF could learn from the Canada implementation. The MO emphasised the opportunity the exercise had provided to consider an over-arching technically simplified architecture that could be leveraged by existing and future standards in other jurisdictions, a reflection that Tech Lab is leading, with the MO actively contributing.

> **Action: Board members to support the MO in reaching out to national DPAs**

AOB

The Chair thanked the Board members attending today for their support for his nomination.

The Chair then asked that Board members consider putting forward a nomination for the position of Vice Chair to support the Chair going forward.

> **Action: Board Members to provide a nomination (s) to the secretariat**

Next meeting

The next meeting of the Board will be Q4 2021 and in line with the current cadence this would be in October the first month of Q4. Given the delay in the Q3 meeting the Q4 meeting will be last week of October/first week of November. A 'doodle poll' will be distributed to determine the best date.

The meeting asked if the secretariat could consider making the next meeting face-to-face and it was agreed that opportunities that would facilitate this would be investigated.

Close
The Chair thanked the Board.

The meeting closed at 18:00 CET