GETTING AHEAD OF THE CONSENT GAME

Unveiling the Advertising Industry's GDPR Consent Mechanism

Townsend Feehan, CEO at IAB Europe
Wilfried Schobeiri, CTO at MediaMath

EDAA Summit
London, 28 November 2017

Overview

- Entering into application of the GDPR in May 2018 will require significant change for data processing based on consent.

- IAB Europe's "GDPR Implementation Group" has been working on interpreting GDPR consent rules since January 2017 and published its analysis on www.iabeurope.eu.

- As the group realized that some of the legal challenges require technical responses, it has also been developing a technical standard and mechanism to meet GDPR obligations.

Why does consent matter?

- Under GDPR, consent is only one of six "legal grounds" for processing personal data, and therefore not always needed.

- But GDPR also changes the definition of consent applicable to the ePrivacy Directive, better known as the "Cookie Directive".

- As a result, much of the data collection that the advertising industry engages in will require GDPR consent moving forward.

ePrivacy Directive

- Storing information, or accessing information on a user device requires consent.
- Unless "strictly" technically necessary for provision of the service requested by a user, e.g. shopping cart cookies.

ePrivacy rules before GDPR

ePrivacy
Consent
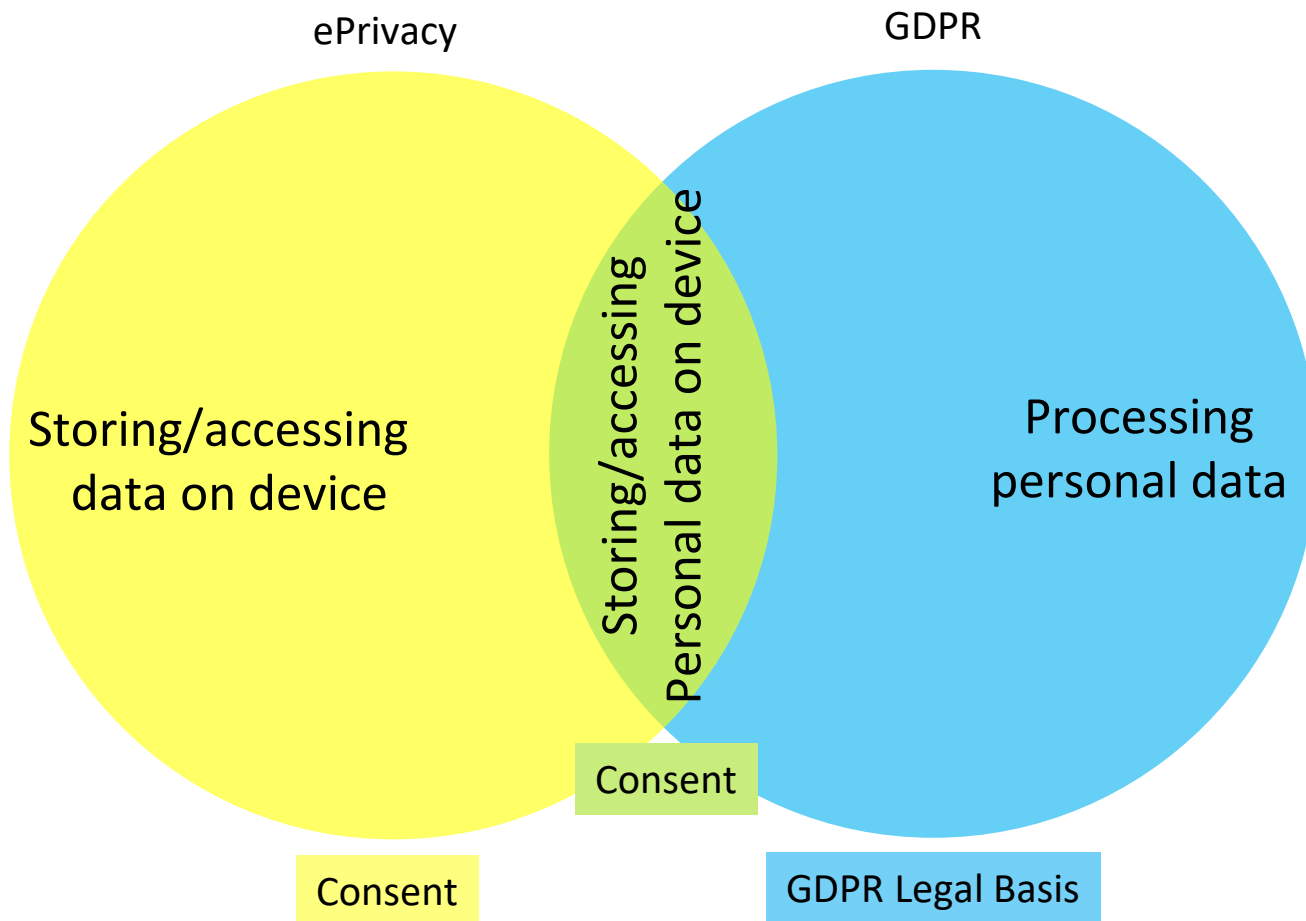Requirement

GET CONSENT AS DEFINED BY →

Data Protection Act

Bundesdatenschutzgesetz

Wet bescherming
persoonsgegevens

ePrivacy rules after GDPR

ePrivacy
Consent
Requirement

GET CONSENT AS DEFINED BY

GDPR

Hierarchy ePrivacy and GDPR

iab. europe

ePrivacy

GDPR

Storing/accessing data on device

Storing/accessing Personal data on device

Processing personal data

Consent

Consent

GDPR Legal Basis

- Collection of data over the internet generally requires **Consent** because of ePrivacy.

- Processing of personal data requires a **GDPR Legal Basis** e.g. consent, or legitimate interest.

- Where both apply at the same time the more specific **Consent** rules of the ePrivacy framework prevails.

What is GDPR consent?

- Freely given, specific, informed and unambiguous indication of agreement, by a statement or <u>by a clear affirmative action</u>.
- Robust information disclosure requirements, including but not limited to identity of controllers and the purposes of processing.
- Obligation for controllers to be able to "demonstrate" consent, e.g. through a record.
- Revocable as easily as it was to give consent in the first place.

Choices can be service-specific...
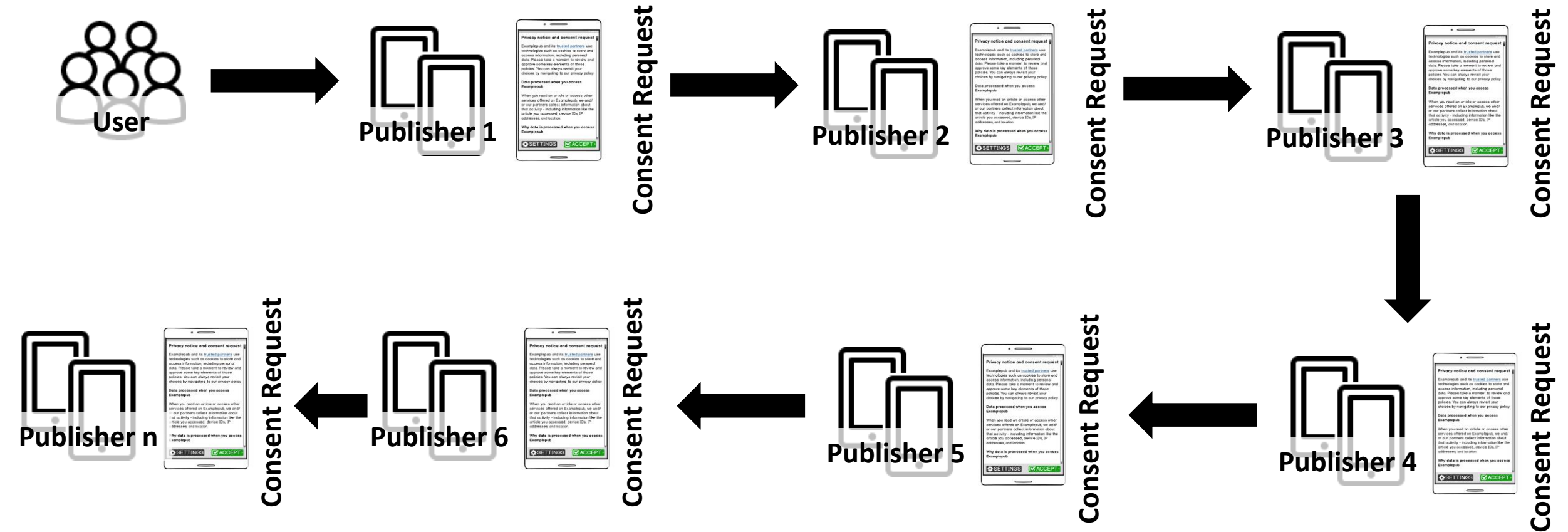
… or global
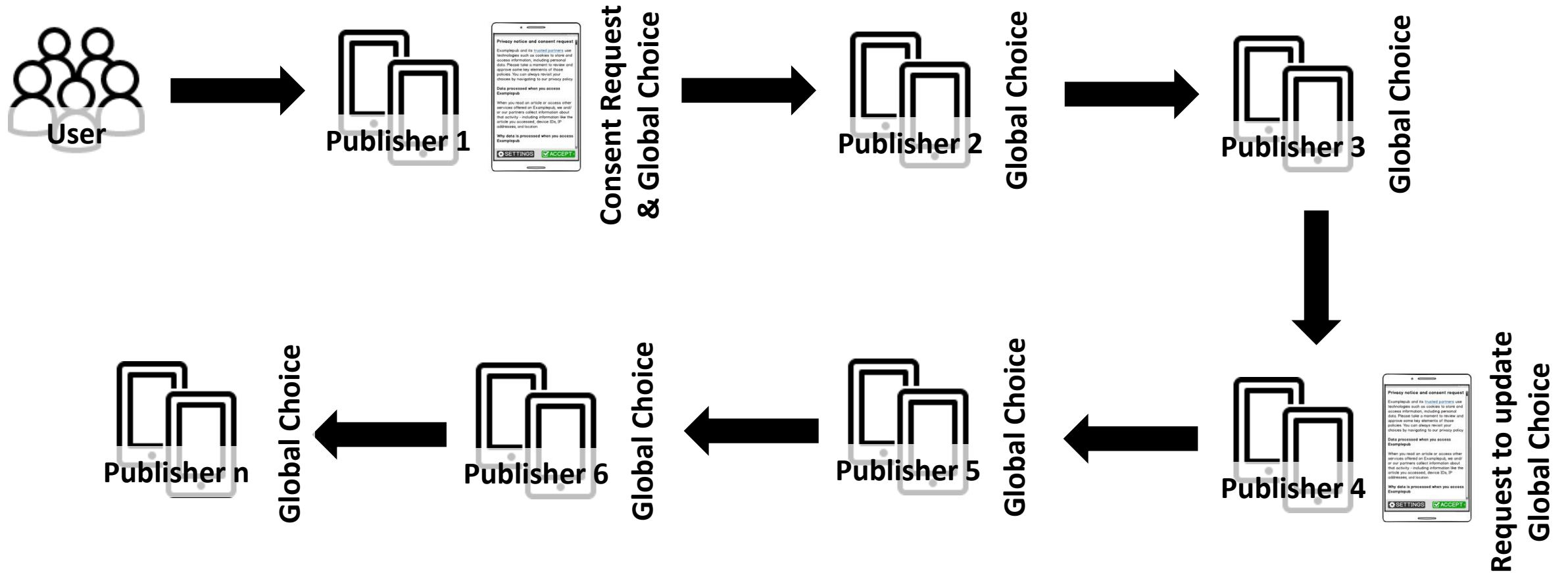
Old consent mechanism inadequate

- Processing data with GDPR consent will require stronger cooperation between and accountability by all advertising ecosystem players.

- First parties must disclose more information about their own and their third party advertising partners' processing activities.

- Third parties must ensure that first parties have up-to-date information for such disclosures.

- First and third parties must not collect or process information on the basis of consent before a user's affirmative consent can be proven.

- When obtaining consent, first parties must ensure that it is obtained affirmatively and let third parties know of a user's consent choices.

What is needed?

Common standards!

- Industry needs common standards; fragmentation will lead to inefficiencies.

- Effective and efficient industry governance.

- Policies and principles around use of the new technical standards to ensure mutual trust and reassurance.

How do we do it?

- New technology standards facilitating and enabling
  - publishers to obtain consent on behalf of their partners;
  - dynamic disclosures with transparency around partners and purposes;
  - communication of consent status between publisher and ecosystem;
  - transparency and choice for consumers, to easily see and modify consent status (including revocation);
    - audit trail proving consent status.
  - For desktop and mobile.
  - Before 25 May 2018.

Technical Context

Boxes represent example vendors
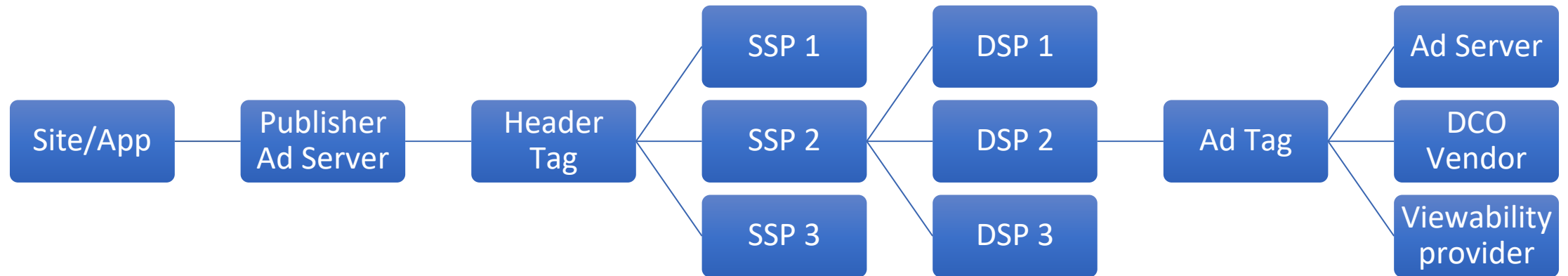
Solution Overview

1. An industry-wide approved vendor list
2. A standardized mechanism for requesting, storing, and optionally sharing consent
   - A standardized data structure for transmitting consent state via Daisy Chain

All wrapped in an open source specification, complete with reference implementations.

Industry Vendor List

- A centralized, dynamic list of vendors, their purposes, their privacy policy URL, et al

- Versioned to allow for audit trail

- Publishers will use the vendor list as basis for disclosure and consent requests

- Both vendors and publishers will need to adhere to principles and minimum standards – to be determined in the policy track

ID	Company	Privacy Policy	Purposes	...
1	SSP1	ssp1.de/privacy	1, 2, 3	...
2	ANW2	anw2.be/privacy	2, 3	...
3	ANA5	ana5.fi/privacy	4	...
...	...	...	...	...

ID	Purpose	Description	...	...
1	Purpose 1	domain.eu/purpose/1	...	...
2	Purpose 2	domain.eu/purpose/2	...	...
3	Purpose 3	domain.eu/purpose/3	...	...
4	Purpose 4	domain.eu/purpose/4	...	...
...	...	...	...	...

Requesting Consent

- A JavaScript library/API which enables publishers to customize the experience of asking for consent
  - Abstracts the complexities of consent checking and storage
  - Implements standardized disclosure language
  - Ensures the vendor list and disclosure language stays updated to latest version
  - Integrates with consent identification mechanism
  - Makes the consent data available for downstream usage via daisy chain

- Open Source examples of user interfaces which implement/leverage the API
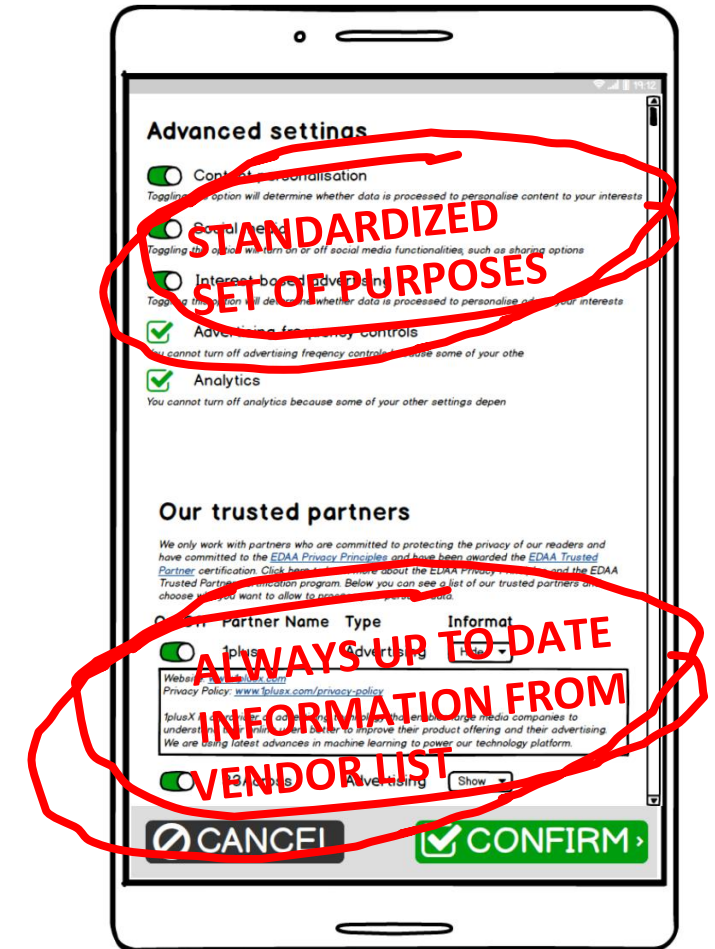
Storing Consent

- Consent storage requires two mechanisms: a user identification method and persistence method.

- Identification required for global consent to be made possible via multiple mechanisms, to be determined via vendors implementing. API will standardize interaction, not implementation.

- Multiple storage options possible: cookie, mobile app SDK, login alliances, centralized registries, etc.

- First phase to combine cookie-based identification and cookie-based storage / mobile app SDK and AAID/IDFA/vendor ID.

- Over time, the industry could migrate to more resilient storage methods.

Transmitting Consent

- Consent value to be binary: "consent (1)" or "no consent (0)".
- Consent will be transmitted via a Daisy Chain: every upstream member will append a consent payload to all downstream requests.
- Consent data structure supports per-purpose (small payload), per-company (moderate payload) or per-company + per-purpose (large payload).
  - Policy requirements and payload size will determine implementation.
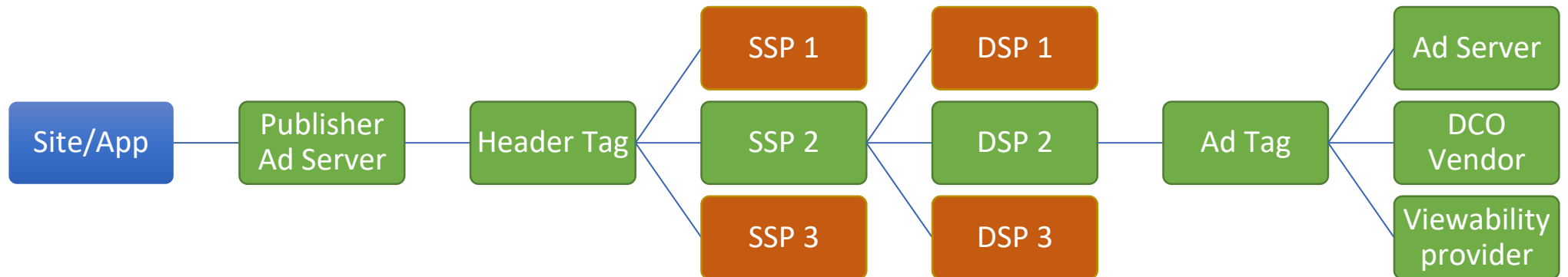- Consent values to be compressed into as small of a data structure possible.

Combined, they enable..

- Transparency into the supply chain for both consumers and publishers.

- An auditable consent trail that gives all supply chain members confidence by providing a more efficient disclosure mechanism, enabling companies to "know" rather than "assume" their consent status with a user.

- A better user experience than if every publisher were to try to solve the challenge on their own.

- Keeping the supply chain that publishers rely on for ad-revenue in tact.

Implementation Targets

NB: Dates subject to confirmation.

- Publication of technical specifications – December 2017
- Define policy standard for central vendor list – February 2018
- Define policy standard for consent UX – February 2018
- OpenRTB Extension specification – February 2018
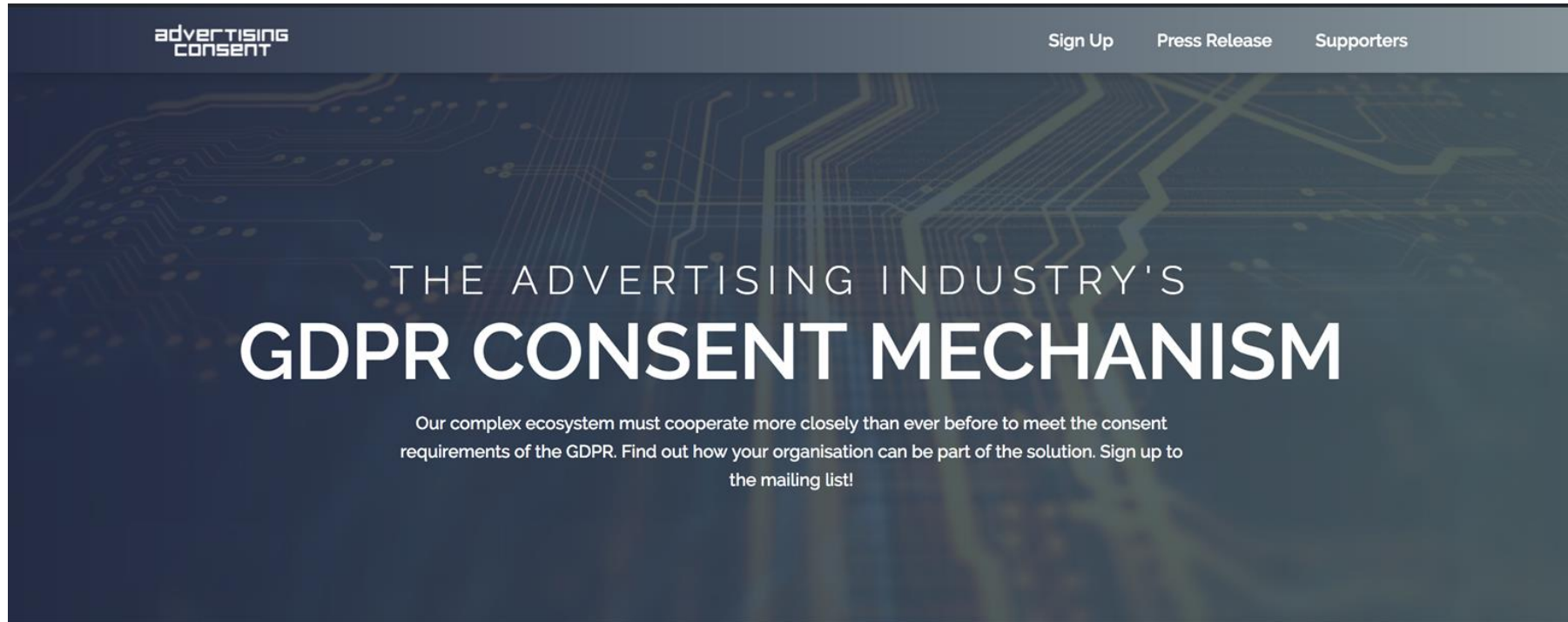- Reference implementation – February 2018

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In anticipation of coming consent requirements in the European market, companies from across the digital media, advertising and analytics ecosystems have been collaborating on a technical approach for storing consumer consent status and sharing this status where appropriate with partners. Our collaboration has produced a framework that the undersigned companies intend to integrate and support in the marketplace in 2018.

Stay informed

www.advertisingconsent.eu