

# Purposes in IAB Europe's TCF: which legal basis and how are they used by advertisers?

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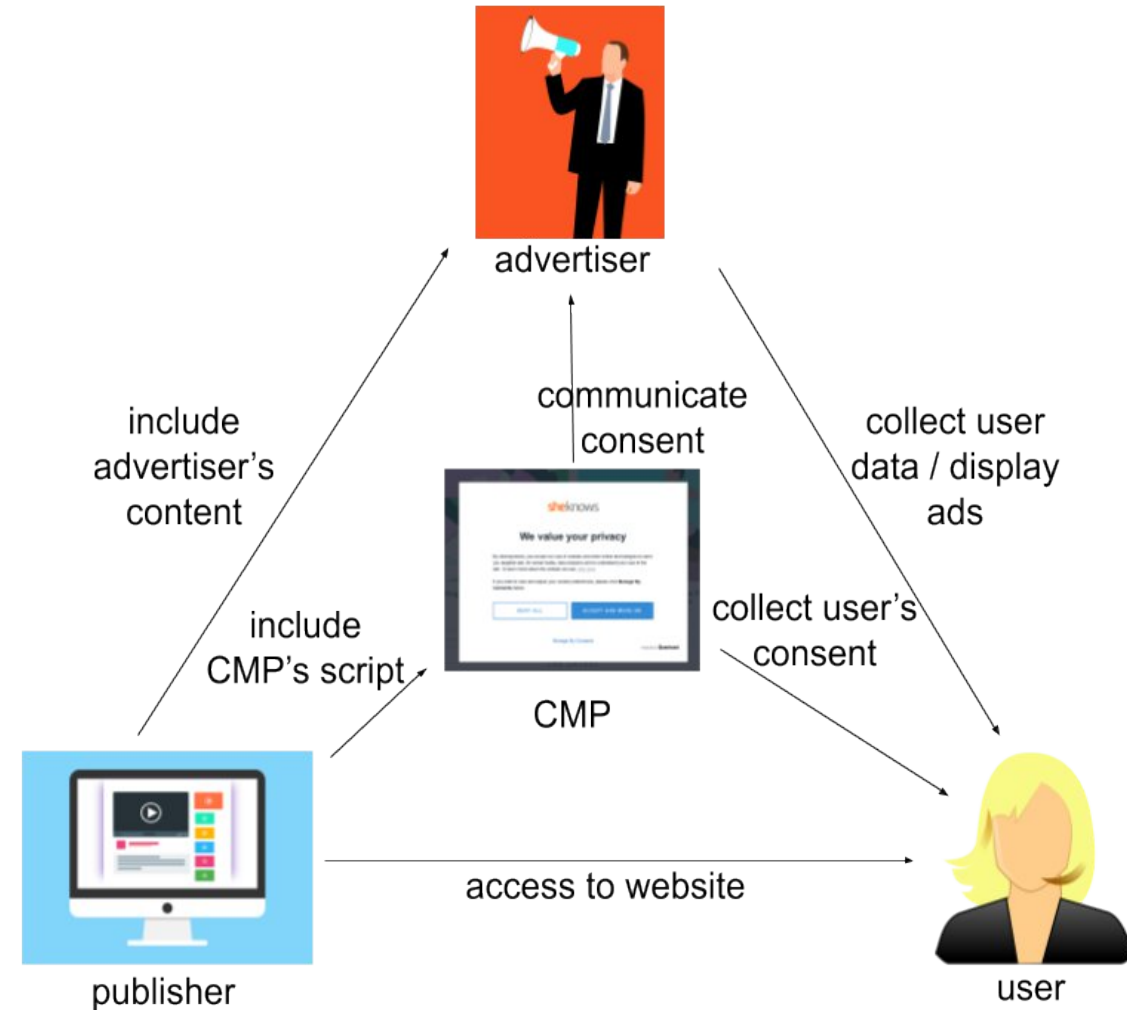
\*Co-first authors listed in alphabetical order



# IAB Europe Transparency & Consent Framework

## IAB Europe's TCF

- introduces new actors called CMPs that collect user's consent for websites
- used in 6.5% of top 22k EU websites<sup>[1]</sup>
- v 1.1 (April 2018), v 2.0 (adopted August 2020)



[1] Do Cookie Banners Respect my Choice?: Measuring Legal Compliance of Banners from IAB Europe's Transparency and Consent Framework. C. Matte, N. Bielova, C. Santos, IEEE S&P 2020



# IAB Europe Transparency & Consent Framework (2)

- **Purposes:** 5 in version 1, 12 in version 2
- Are purposes **specific** and **explicit**?
- What is their **legal basis**?
- How do **advertisers** use them: under **consent** or **legitimate interest**?



# How to define purposes?

## 📌 Principle of Purpose Specification (art. 5(1)(b) GDPR, WP203)



precisely and clearly defined

**Specific**



unambiguous; doubtless in their meaning or intent; not hidden

**Explicit**



conform to a legal basis, e.g. consent for using cookies and similar technologies

**Legitimate**



# Are purposes **specific**<sup>📍</sup> and **explicit**<sup>👁️</sup>?



## **Purpose 10 (v2) “Develop and improve products”**

- **Not specific**, vague, not detailed enough to determine type of processing
- Not possible to derive legal basis
- Facilitates non-specific, hypothetical processing of personal data

*"Your data can be used to improve existing systems and software, and to develop new products."*



## **Purpose 3 (v1) “Ad selection, delivery, reporting”**

- **Not explicit**
- Multipurpose = advertising + profiling
- Description refers to profiling (user’s interests and his reactions towards ads and the combination of the user’s)

*"The collection of information, and combination with previously collected information, to select and deliver advertisements for you, and to measure the delivery and effectiveness of such advertisements."*



# Which is their legal basis?

(a) Purposes (TCF v1.1)



Purpose number	Purpose name	Allowable Lawful Bases	Requires Consent
1	Information storage and access	-	(✓)
2	Personalisation	-	?
3	Ad selection, delivery, reporting	-	✓
4	Content selection, delivery, reporting	-	(✓)
5	Measurement	-	✓

*"A profile can be built about you and your interests to show you personalised ads that are relevant to you"*

(b) Purposes (TCF v2.0)

1	Store and/or access information on a device	Consent	(✓)
2	Select basic ads	Consent, LI	✓
3	Create a personalised ads profile	Consent, LI	✓
4	Select personalised ads	Consent, LI	✓
5	Create a personalised content profile	Consent, LI	(✓)
6	Select personalised content	Consent, LI	(✓)
7	Measure ad performance	Consent, LI	✓
8	Measure content performance	Consent, LI	✓
9	Apply market research to generate audience insights	Consent, LI	✓
10	Develop and improve products	Consent, LI	?

(c) Special purposes (TCF v2.0)

1	Ensure security, prevent fraud, and debug	LI	(X)
2	Technically deliver ads or content	LI	?

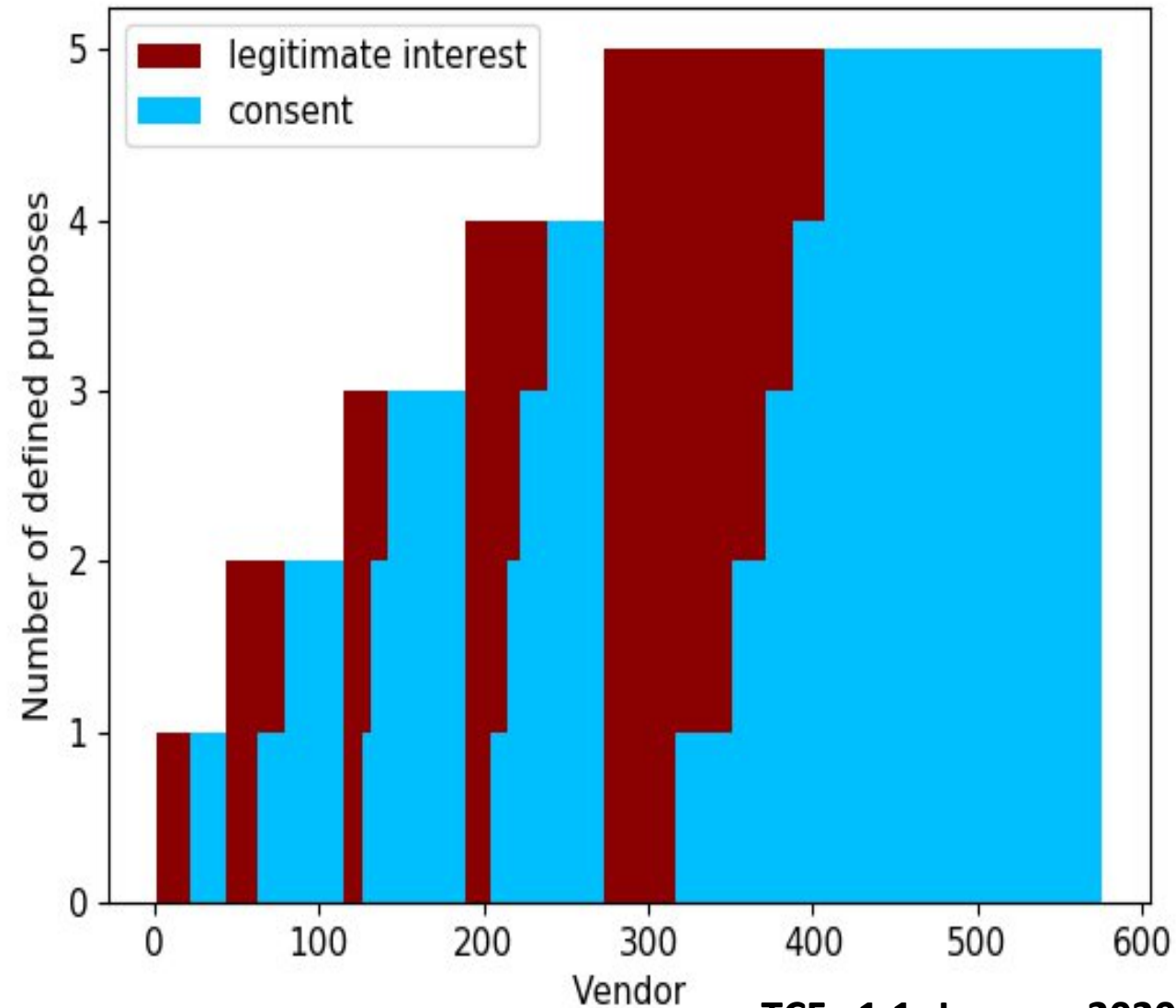



**Explicit consent is required when targeted ads, based on profiling, have "significant effects" on users**  
(Article 22 (1) and (2) c) GDPR)





# Use of purposes by advertisers

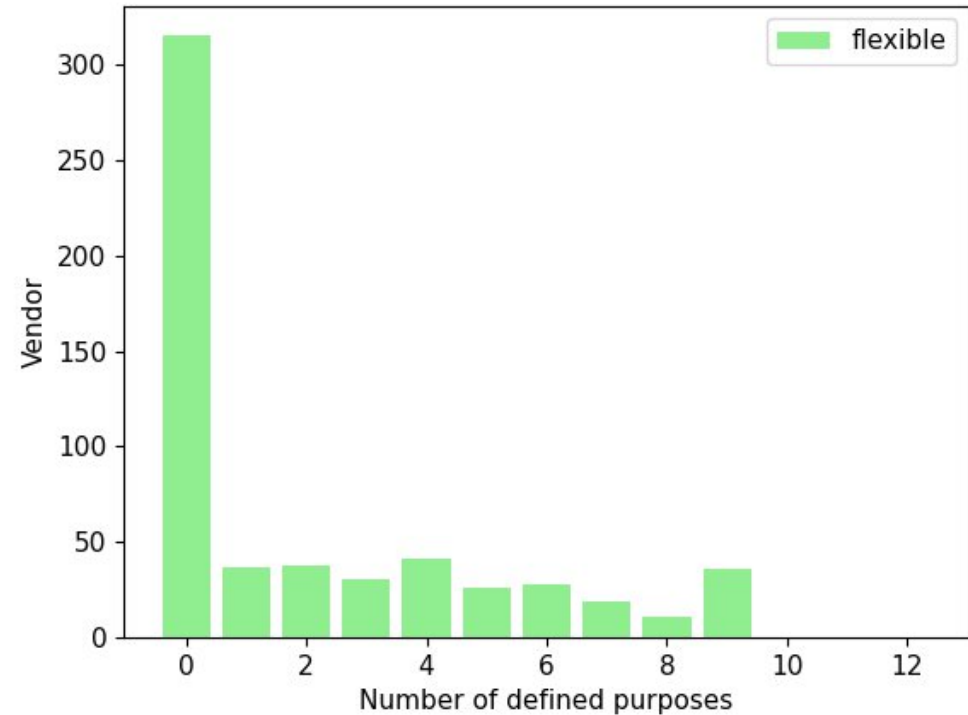
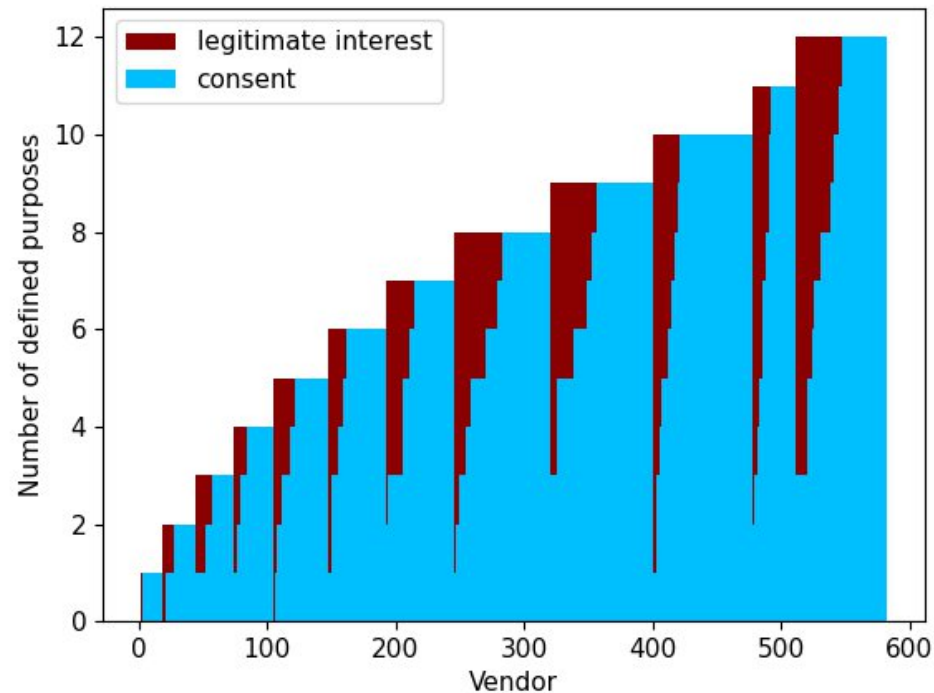


- **46%** advertisers (267) operate on **legitimate interests** for at least one purpose
- **19%** (111) operate on legitimate interests for **all** purposes 



# Update: TCF version 2.0, \*October 2020\*!

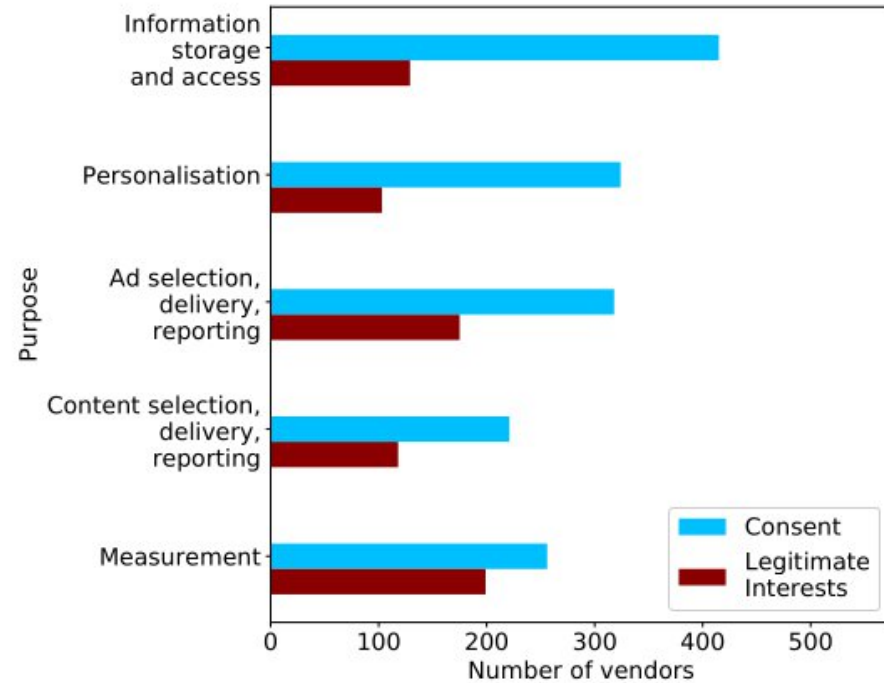
- "Flexible" purposes: legal basis decision delegated to the publisher
- 46% of advertisers use this mechanism



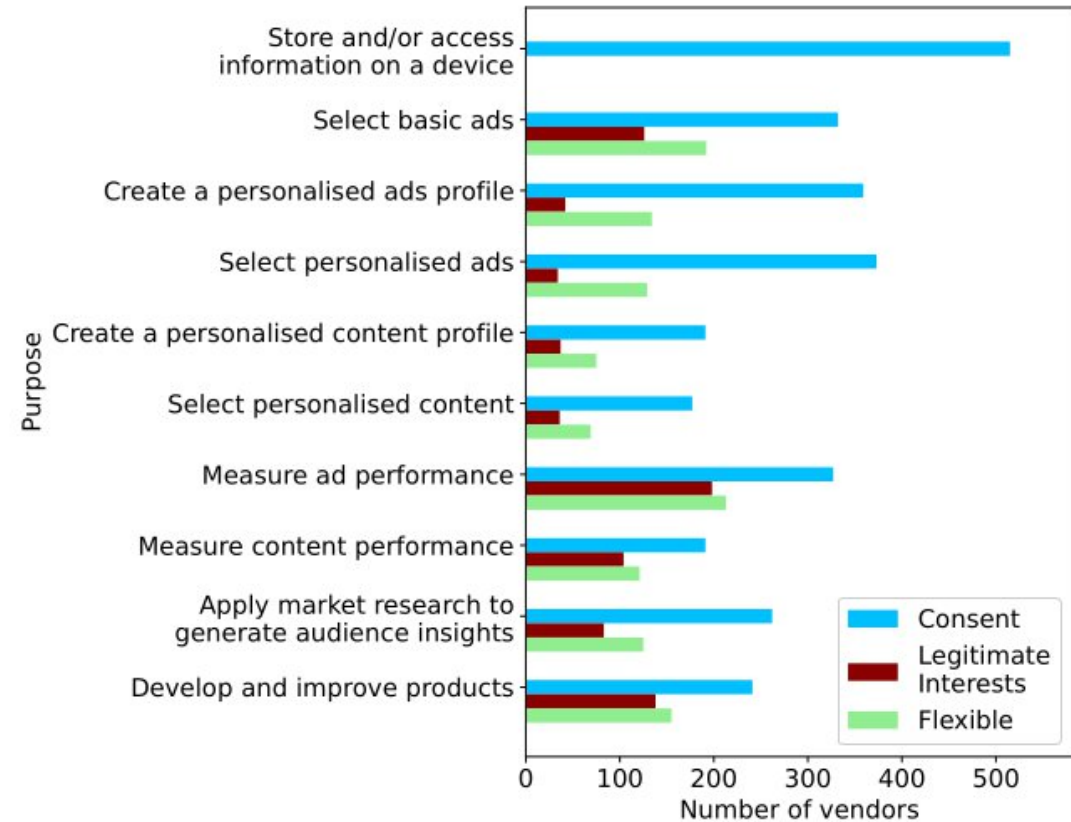




# Purposes and features declared by advertisers



(a) TCF v1.1 (version 183, January 2020)



(b) TCF v2.0 (version 58, October 2020)

- More advertisers rely on consent for purpose 1 than for other purposes
- 22% (129) advertisers rely on legitimate interests for purpose 1 and 35% (199) for purpose 5... even though we saw earlier that they require consent!



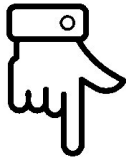
# Main takeaways

## Key results

- v1.1: 2 purposes are not explicit and 3 are not specific
- v2.0: 4 purposes are not specific
- majority of purposes require consent, e.g. "*measurement*"
- 199 — out of 575 advertisers (35%) — declare it anyway with legitimate interest

## Call for action

- EDPB, DPAs should pre-define and standardize purposes and relate those to their legal basis — to minimize legal uncertainty
- Enforcement procedures, as the French (2018) and Belgian DPAs (2020)




Read more information in the **paper!** ("features" and "special purposes"...)

<https://hal.inria.fr/hal-02566891/document>

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# Thank you!


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