

ISSUE-219: Limitations on use in a 3rd party context of data collected in a 1st party context

Summary

Should the use of data that has been collected in a 1st party be restricted if the same party acts in a 3rd party context?

This question addresses [ISSUE-219](#). For more information please refer to the [wiki](#) page. The results of this CfO are documented [here](#).

We determined that Option (2) received weaker substantiated objections and is therefore determined as the consensus of the group. In conclusion, ISSUE 219 is closed and the new text will be added to the specification.

Detailed Argumentation

The Options

Text Proposed by Option (1):

If a third party receives a DNT: 1 signal, then:

1. the third party MUST NOT collect, retain, share, or use data related to the network interaction as part of which it received the DNT: 1 signal outside of the permitted uses as defined within this recommendation and any explicitly-granted exceptions provided in accordance with the requirements of this recommendation;
2. the third party MUST NOT use data about previous network interactions in which it was a third party, outside of the permitted uses as defined within this recommendation and any explicitly-granted exceptions, provided in accordance with the requirements of this recommendation.

Text Proposed by Option (2): Prohibit use of data collected as any type of party

Text would replace existing text in third-party compliance section (striking ~~third~~ from the relevant clause).

New text:“ ... the third party MUST NOT use data collected in another context about the user, including when that party was a first party. “

Received Input

We received inputs from 7 individuals/organisations. One objection (Roy Fielding) indicated that both options are inadequate.

Objections against Option 1: No Change

This option received several objections. A key objection was that this enables personalized information by 3rd parties (obtaining this data from prior 1st party interactions) and that this would violate user expectations under DNT;1 (John Simpson). As Rob Sherman pointed out, unchanged text would allow personalized retargeting ads by first parties. Another objection was that the desired behavior is enabled by exceptions (UGE) and need not be the default (John Simpson). A final objection was that this substantially reduces privacy (Walter van Holst).

Assessment of Objections against Option 1

The chairs assessed these objections to be substantial. The main argument was that displaying personalized content in a 3rd party context under DNT;1 would violate user expectations of “Not Tracking”. The second important point was that first parties that are transparent and have a trusted relationship with an individual can implement the desired behavior by asking for an UGE and this lessens the need for permitting this behavior by default.

Objections against Option 2: New Text

We received several objections against option (1). Chris Pedigo pointed out that restricting the use of 1st party data in a 3rd party context would constitute a limitation on 1st parties. Rob Sherman objected and pointed out that “Prohibiting parties that people have intentionally built relationships with from providing benefits to those people based on data they have intentionally provided does not fulfill that goal.”. Both objections argue that due to the personal and direct relationship in a 1st party context, sites will provide transparency of 3rd party usage and users would consent to this use even under DNT;1. Another point raised by Facebook is that while 1st party data can be used to enrich the user experience in a 3rd party context, no additional data collection is permitted.

Assessment of the Objections against Option 2

We assessed these objections to be less substantiated. While we understand the rationale that a trusted 1st party relationship should permit 3rd party use, we believe this requirement can be satisfied using UGE. With an web-wide UGE, 1st parties can then use any of their data in any context.

Results

The task at hand was to decide which of the two objections received the weaker objections. No additional options were submitted for consideration in this CfO.

In conclusion, ISSUE 219 is closed. We determined that Option (2) received weaker substantiated objections and is therefore determined as the consensus of the group was to add the indicated new text to the compliance specification document.