

Working Draft: This is our effort to compile the previous discussions and proposed text with regard to market research within the Tracking Protection Group. We apologize for any missed text or viewpoints or for including any issues unrelated to market research.

Market Research / Audience Measurement

Consensus Action Summary

1. The group agrees to make the description of the audience measurement permitted use narrower and more precise. This includes normative and non-normative text. It also requires further investigation of the activities included in audience measurement and the concerns of privacy advocates. We agree to try to find audience measurement language that can substitute for the DAA's market research exception, in order to better align the DAA multisite principles with the DNT specification. We agree to assess both the merits and scope of this possible permitted use.

Kathy Joe Proposal March 27, 2013:

Normative:

Information may be collected, retained and used by a third party for audience measurement research where the information is used to calibrate or otherwise support data collected from opted-in panels, which in part contains information collected across sites and over time from user agents. A third party eligible for an audience measurement research permitted use **MUST** adhere to the following restrictions. The data collected by the third party:

- Must be pseudonymised before statistical analysis begins, and
- Must not be shared with any other party unless the data are de-identified prior to sharing, and
- Must be deleted or de-identified as early as possible after the purpose of collection is met and in no case shall such retention, prior to de-identification, exceed 53 weeks and
- Must not be used for any other independent purpose.
- In addition, the third party must be subject to an independent certification process under the oversight of a generally-accepted market research industry organization that maintains a web platform providing user information about audience measurement research. This web platform lists the parties eligible to collect information under DNT standards and the audience measurement research permitted use and it provides users with an opportunity to exclude their data contribution.

Non-normative: collection and use for audience measurement research

Audience measurement research creates statistical measures of the reach in relation to the total online population, and frequency of exposure of the content to the online audience, including paid components of web pages.

Audience measurement research for DNT purposes originates with opt-in panel output that is calibrated by counting actual hits on tagged content on websites. The panel output is re-adjusted using data collected from a broader online audience in order to ensure data produced from the panel accurately represents the whole online audience.

This online data is collected on a first party and third party basis. This collection tracks the content accessed by a device rather than involving the collection of a user's browser history. The ultimate production of audience measurement statistics requires measurement of devices, not individuals. The collected data is retained for a given period for purposes of sample quality control, and auditing. During this retention period contractual measures must be in place to limit access to, and protect the data, as well as restrict the data from other uses. This retention period is set by auditing bodies, after which the data must be de-identified.

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The purposes of audience measurement research must be limited to:

- Facilitating online media valuation, planning and buying via accurate and reliable audience measurement.
- Optimizing content and placement on an individual site.

The term “audience measurement research” does not include sales, promotional, or marketing activities directed at a specific computer or device. Audience measurement data must be reported as aggregated information such that no recipient is able to build commercial profiles about particular individuals or devices.

Proposed definition: Pseudonymisation is the process of disguising identities by attaching a coded reference to a record to allow the data to be associated with a particular device or individual without identifying them. In audience measurement, the data collected is tied to devices, not individuals.

Kathy Joe Response to Jeff Chester’s Questions

1. Can you define the parameters of the market research exemption sought? Are we discussing longitudinal, shorter-term, or on-going campaign assessment?

Answer: We measure campaigns and the length of a campaign can vary from weeks to months – it is up to the client to decide. The campaign length is not tied to the data retention period during which there might be a need to re-run the data in case of duplicates or errors.

2. Can it be categorically said that none of the information collected and analyzed during will be used to target any user, inc. their device?

Answer: The information is not used for one on one targeting or to shape or personalize an individual user’s experience. When companies commission research, the learnings are applied to a broader population. Publishers do not receive the browsing histories of individual visitors, or any raw data about individual visitors. They receive aggregated statistical data reports that describe general trends and characteristics. Industry codes including ESOMAR’s and the DAA’s underline the distinction between research and marketing. Market research is a one-way data stream. There is no return path to an individual user for any non-research purpose.

3. Is the proposal enabling outside First and Third Party data, even that which is connected to DNT:1, to be gathered, analyzed and further incorporated into an opt-in panel? Can examples be provided, using several diverse generic client examples (laundry soap A, sneaker B, credit card C, etc) of the process using the data? Specifically, it is key to understand exactly what is meant that data will be used to "calibrate or otherwise support data" from panels.

Answer: Audience measurement research does not enable unrelated first parties or third parties such as advertisers, media owners or e-commerce sites to directly join individual information collected under a permitted use with information they may hold about an individual user. Data from the permitted use is for calibrating the panel data to ensure it is more representative. The aggregated data can indicate broad characteristics (eg age-band and general area), and preferences for **broad** category preferences (likes skateboarding and donuts) but it cannot enrich the panel data, which is much more detailed and out of scope as it has consent.

4. Can a third party authorized to engage in audience measurement research use the data in any

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other way prior to the "statistical analysis" that requires pseudonymization?

Answer: it can be used for other permitted uses such as debugging or security and fraud prevention.

5. The 53 week outside deadline for de-identification. Please explain why a year is necessary for all such retention. While perhaps seasonal campaigns require a slightly longer retention period, analysis and market planning today is accomplished much faster today (for example, I just got my notice that the online data is ready to plan for next Xmas season based on what just happened last year). What retention time would be best practice with data needed for shorter campaign cycles?

Answer: Research audience measurement information is independently audited providing media buyers and advertisers with a third party validation of traffic to their sites to provide confidence in the numbers.

The data used by financial auditing bodies is based on metrics originating from this research - just as with print, one looks at annual circulation figures and the position of the ad to fix the rate. Core audience measurement metrics are unique visits, site visits and page views, number of visitors to a given website in a given period, and a general indication of geography.

Similar to print, the data is audited by bodies like ABC in the UK, MRC in the US, AGMA in Germany or OJD in France and Spain. They do this according to online audience measurement standards developed by technical specialists in joint industry bodies that represent each of the stakeholders with common definitions of what is being measured. They require that the data is retained because web traffic can be seasonal, eg holidays or impacted by the news or a fad. Sometimes data can be non intuitive and needs to be re-run to check if it is correct. Validation is important to provide confidence in the figures otherwise smaller websites (eg of small and medium enterprises) cannot compete in the media marketplace. Metrics are year on year.

Measurements of content are associated with a randomly selected series of numbers that compose an ID within a cookie set on a browser. This cookie ID, by its nature, is pseudonymous, and it is impossible for audience measurement companies to ascertain the true identity of the user of a browser using only this cookie ID. The low sensitivity of the data and the impossibility of connecting it to a user's true identity would appear to be inline with guidance from Article 29 Working Party. The German Tele-Media Act gives a clear view on this and permits the usage of a cookie for market research (TMG Art 15.3_ based on implicit consent.

The ID is not given to clients of audience measurement research, and is unavailable to employees of audience measurement companies with the exception of statisticians and engineers who may need to re-run data in cases of report error, disruption of continuity of business, etc. Any use outside of these purposes would be a violation of the company's privacy policy and subject the employee to sanctions.

Such data is not permitted to be rendered personal information in the possession of any agent, service provider or third party. The data that a client does receive consists of learnings in aggregate about consumption of content. Clients may analyze the data on their own and use their analyses to modify their offerings.

6. I don't understand the distinction being offered that measurement of a users device is not the

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same as an individuals. Online panels collect/analyze a broad array of data/user content behaviors, increasingly used in real-time. The results can be used to refine ongoing campaigns. If a user has a DNT:1, is the proposal saying, for example, that Nielsen can still tag them and have their data fed into the measurement for campaign regimes?

Answer: If a panel member has given explicit consent to be tracked for research purposes, but has turned on DNT:1, our view is that the research firm has obtained out-of-band consent for research tracking. A panel member that enables DNT:1 is effectively saying, "I have given permission for Nielsen to track me strictly for research, but I don't want other parties to track my browsing in order to serve targeted ads to me."

When panel members are exposed to content that a research firm is measuring, the output is de-identified aggregated, statistical data about the demographic profiles of individuals that viewed an ad or saw content on a website. This is because the panel research firm collects demographic profile data from its panel members when they register and join the panel.

When all other Internet users (not members of the research firm's panel) are exposed to content that is being measured, the research firm does not know their names, email addresses, age, gender, education, household composition or other demographic data. The research firm has an idea of their location based on their device's truncated IP address. This information may be used as a weighting factor in the calibration of panel data so that the panel output is adjusted and weighted to reflect the online population.

7. Please explain what data can be derived from the "sample quality control" and "auditing" process. Can it be used for any additional or supplemental targeting? Are there any other possible uses beside these two?

Answer: The key metrics for audience measurement research are unique visits, site visits, and page views in a given period. The panel data, joined with broader web data for calibration, may build a media planning currency or provide insight to media planners that a segment of panelists (and by extrapolation, web users) defined as cooking enthusiasts, for example, have high percentage of overlap with sports site visitation. Thus, a media planner who wishes to reach cooking enthusiasts may rely on reports generated using data from audience research measurement to buy media on cooking related sites as well as sports sites.

Thereafter, audience measurement research would inform whether, as planned, media was delivered to websites having those audiences. As implied, these categories are broad and define online audiences similar to how measurement using panel demographic segments helps planning for traditional media. Sample quality control and auditing do not produce a separate stream of data that is distinct from original processing. Any re-run of the data is intended to verify that it was processed correctly. Audience measurement does not facilitate direct return path commercial products such as behavioral targeting or re-targeting.

8. Please provide further context and parameters for the market research purposes. Can we have specifics on what is meant by "facilitating online media valuation, planning and buying and reliable audience measurement." Can we have examples in each of the categories, inc. how it is used commonly in the marketplace, esp. given the changing nature of real-time campaigns.

Answer: As mentioned above, we are at a stage in overall media planning where marketers tend

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to spend only if they can get reliable accountability for their marketing dollars. Research and measurement have historically informed that critical process of understanding. Audience measurement research is built on panels. The panels are formed on the basis of demographic (name, region, age, etc) attributes along with interest and attitudinal inputs given by panelists. The online activities of panelists inform the segments that are used to measure whether an advertiser's intended audience can be reached by advertising on certain sites.

At a fundamental level, audience measurement research confirms that certain demographic groups (example, males 25 to 34) can be reached by advertising on certain sites. Intuition suggests that sports sites may have a high proportion of that segment but audience measurement research is able to confirm that with statistically reliable data. The same panelists known by age or gender within the panel may be defined as sports enthusiasts by the advertiser client, agency or other) who receives the audience measurement research report. In that case, audience measurement research is able to help the client understand how it should build its media planning in order to reach sports enthusiasts. As earlier submitted, audience measurement research is based on opt-in panels and the broader web data is used to calibrate or weight the panel audience so that certain confidence levels are reached.

9. The phrase "optimizing content and placement on an individual site" sounds like real-time targeting. Please also place this purpose in context through explanation on how exactly such data will be used; examples appreciated.

Answer: Optimization is a term that can have different meanings depending on industry and context. Optimization as used in behavioral targeting is not a practice that falls within audience measurement research. "Real-time" can also have different meanings depending on setting. For purposes of audience measurement research, data can be aggregated theoretically at any point in time or 'real time', and the resulting reports may then be analyzed by clients. To be clear though, this is not in any way akin to behavioral targeting or re-targeting based on 'real-time' data.

Audience measurement does not facilitate one-to-one retargeting. In addition to basic media planning, aggregated reports from panel data may allow clients to do things like 1) modify the background color of their site if the report suggests that a content page with a blue background is getting more visits than a content page with a red background 2) create more sports content if a client's analysis of report reveals that sports content on a general interest site are consumed more frequently than other categories 3) offer free shipping on all their products if their analysis of report shows that there is more traffic to product offerings with free shipping rather than paid shipping. 4) set advertising rates that are higher on more heavily trafficked portions of their site, allowing the site to maximize its profitability.

No panel can accurately or completely represent all the traffic, including international, to a website. The internet is a much more fragmented and global medium than traditional media and growth and usage worldwide are much more dynamic.

For instance, many sites are too small to generate a statistically robust audience from a panel. It may be impossible to build a sample size large enough to fully represent internet traffic or visitation activities with more than 33 billion web pages available. Audience measurement research help advertisers better plan their media campaigns and the panel foundation with broader data for calibration ensures that larger sites are not overstated and smaller ones ignored

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in online traffic numbers

Kathy Joe Proposal March 19, 2013:

New text Issue 25: Aggregated data: collection and use for audience measurement research

Normative:

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A third party eligible for an audience measurement research permitted use **MUST** adhere to the following restrictions. The data collected by the third party:

- Must be pseudonymised, and
- Must not be shared with any other party unless the data are de-identified prior to sharing, and
- Must be deleted or de-identified as early as possible after the purpose of collection is met and in no case shall such retention, prior to de-identification, exceed 53 weeks and
- Must not be used for any other independent purpose.
- In addition, the third party must be subject to an independent certification process under the oversight of a generally-accepted market research industry organization that maintains a web platform providing user information about audience measurement research. This web platform lists the parties eligible to collect information under DNT standards and the audience measurement research permitted use and it provides users with an opportunity to exclude their data contribution.

Non-normative: collection and use for audience measurement research

Audience measurement research creates statistical measures of the reach in relation to the total online population, and frequency of exposure of the content to the online audience, including paid components of web pages.

Audience measurement research for DNT purposes originates with opt-in panel output that is calibrated by counting actual hits on tagged content on websites. The panel output is re-adjusted using data collected from a broader online audience in order to ensure data produced from the panel accurately represents the whole online audience.

This online data is collected on a first party and third party basis. This collection tracks the content rather than involving the collection of a user's browser history.

The collected data is retained for a given period for purposes of sample quality control, and auditing. During this retention period contractual measures must be in place to limit access to, and protect the data, as well as restrict the data from other uses. This retention period is set by auditing bodies, after which the data must be de-identified.

The purposes of audience measurement research must be limited to:

- Facilitating online media valuation, planning and buying via accurate and reliable audience measurement.

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- Optimizing content and placement on an individual site.

Audience measurement data must be reported as aggregated information such that no recipient is able to build commercial profiles about particular individuals or devices.

Kathy Joe Proposal March 6, 2013:

Information may be collected to create statistical measures of the reach in relation to the total population, and frequency of exposure of the content to the online audience, including paid components of web pages. One such method is through using a panel of users who have affirmatively agreed to have their media consumption and web surfing behavior measured across sites.

The panel output is calibrated by counting actual hits on tagged content and re-adjusting the results in order to ensure data produced from the panel accurately represents the whole audience. The counts must be pseudonomised. Counts are retained for sample, quality control, and auditing purposes during which time contractual measures must be in place to limit access to, and protect the data from other uses. A 53 week retention period is necessary so that month over month reports for a one year period may be re-run for quality checking purposes, after which the data must be de-identified. The counted data is largely collected on a first party basis, but to ensure complete representation, some will be third party placement. This collection tracks the content rather than involving the collection of a user's browser history.

The purposes must be limited to:

- facilitating online media valuation, planning and buying via accurate and reliable audience measurement.
- optimizing content and placement on an individual site.
- Audience measurement data must be reported as aggregated information such that no recipient is able to build commercial profiles about particular individuals or devices.

Issues:

- ISSUE-25: Possible exception for research purposes
 - <http://www.w3.org/2011/tracking-protection/track/issues/25>
- ISSUE-34: Possible exemption for aggregate analytics (Closed)
 - <http://www.w3.org/2011/tracking-protection/track/issues/34>
- ISSUE-74: Are surveys out of scope? (Closed)
 - <http://www.w3.org/2011/tracking-protection/track/issues/74>

Ed Felton Questions about Kathy Joe Proposal:

Kathy, thanks for providing this language.

Echoing Rob, I would find it useful to have a clearer understanding of how your proposal would change what is allowed under the standard. The existing or likely safe harbors for consent, first-

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party practices, and unlinkable data would apply regardless of whether there is a special permitted use for research. To what extent does your proposal change the normative requirements of the standard relating to collection, retention and use of data?

The text as provided seems to mix normative requirements with non-normative descriptions of the current practices of some companies. But I am not always clear on where the boundary lies. For example, I take the 53-week retention as a description of current practices, rather than a requirement that data must be kept for at least 53 weeks. On the other hand, the discussion of de-identification later in the same sentence is probably meant as normative. It would be nice to separate the text into normative and non-normative sections.

Finally, if we are going to have a research exemption, I don't see why it should be limited to commercial research. Non-commercial research should be allowed as well, such as independent research on privacy practices and the effects of DNT, as long as the same normative requirements are met.

Kathy Joe Response to Ed Felton Questions:

The proposal for audience measurement research falls outside the 'consent, first-party practices, and unlinkable' categories because it involves collecting and retaining pseudonomised data for a limited period for limited purposes (ie quality checks) with contractual measures in place to restrict access to, and protect the data from other uses.

The 53-week retention period is a normative maximum.

'Audience measurement data must be reported as aggregated information' is also normative.

As to your final point, ESOMAR is a worldwide association gathering market, social and opinion researchers including academics and non-commercial researchers all of whom sign up to the same self regulatory code. At the European level, we would not make a distinction between commercial and non-commercial research since public body, academic and university researchers play a role in commercial research and vice versa.

Kathy Joe Proposal Oct. 4, 2012:

<http://lists.w3.org/Archives/Public/public-tracking/2012Oct/0089.html>

Aggregated data

6.1.1.1 Short Term Collection and Use for market research

Note

Information may be collected and used for market research and research analytics, so long as the information is only retained for the time necessary to complete the research study. This is providing that the raw information is not transmitted to a third party, the information is not used to build a commercial profile about individual users or alter any individual's user experience, and there is no return path to an individual.

A key method for ensuring privacy while collecting and processing large amounts of data is removing any link to a device identifier. Raw data for market research may contain for example an IP address or a marker for a cookie, which may be temporarily retained for sample and quality

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control as well as auditing purposes. No individual can be identified in the subsequent aggregated statistical report.

Tracking Compliance and Scope October 2, 2012

<http://www.w3.org/TR/tracking-compliance/>

6.1.1.8 Aggregate Reporting

6.1.1.8.1 Option 1: Aggregate Reporting

Regardless of DNT signal, information may be collected, retained and used for aggregate reporting, such as market research and product improvement. Data *MAY* be collected and retained on an individual level, but the use of the data must only be aggregate reporting, and the products of the reporting *MUST* be unlinkable as defined in this document.

6.1.1.8.2 Option 2: Aggregate Reporting

Regardless of DNT signal, information may be collected, retained and used for aggregate reporting, such as market research and product improvement, if that information is collected and retained for another enumerated permitted use. Data *MAY* be collected and retained on an individual level, but the use of the data must only be aggregate reporting, and the products of the reporting *MUST* be unlinkable as defined in this document. If the operator no longer has another enumerated permitted use for which to use and retain the data, the operator *MAY NOT* use and retain the data for aggregate reporting unless the data has been rendered unlinkable as defined in this document.

6.1.1.8.3 Option 3: No Aggregate Reporting

There is no permitted use for aggregate reporting outside of the grace period described earlier.

Meeting Sept. 26, 2012:

<http://www.w3.org/2012/09/26-dnt-minutes#item03>

<aleecia> Changes from the editors' draft: Remove "Aggregate Reporting" section. Ensure that unlinkable data is prominently declared out of scope of these requirements earlier in the document. Ensure that the "Short Term" permitted use makes it clear that retaining identifiable data for the short term is allowed for creating aggregate reports.

Agenda for Sept. 5, 2012 call:

<http://lists.w3.org/Archives/Public/public-tracking/2012Sep/0000.html>

(e) Issue-25, Possible exemption for research purposes

In Seattle, this dropped from our list of permitted uses. Research can, of course, always be done with consent.

PROPOSAL: we close this issue as outdated.

Kathy Joe Proposal Feb. 13, 2012:

<http://lists.w3.org/Archives/Public/public-tracking/2012Feb/0354.html>

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As stated in our text for market research (Issue 34: see below), market research identifiable data will be held as long as the campaign runs to provide consistent data after which all identifiers will be removed after a reasonable period.

The period needs to be flexible as it depends on how long the campaign runs and necessary quality controls to check the integrity of the data as agreed with the client.

Note, under no circumstances is identifiable data provided to the client or used for profiling purposes.

Issue 34: Exemption for aggregated data

- Aggregated data is permissible for purposes such as research, industry trends, and analytics. Parties wishing to use aggregated data must take reasonable steps to ensure that data does not reveal information about individual users, user agents, or devices and it must not be possible to identify an individual with aggregated cross site data.

Description: The research client wants statistical measurements of how many users have been exposed to their campaigns in broad categories across different sites. The client will for instance place the research company's tags on their ads on one or more sites that count viewers based on cookies. Any identifiers are removed as soon as the data has been sorted into broad categories eg country.

Suggestion/Example: ExampleResearch collects data for ExampleProducts Inc. which is running an ad campaign online on various sites. It gathers cross-site data on how often a user views a relevant ad but none of their other web behaviour. The purpose is to fulfil a request by a first party (the advertiser), and the results are shared only with the first party.

The output is restricted to aggregated and unidentifiable data, will not impact a user's experience, use is only for the statistical research purpose and cannot be linked to a specific user, computer or device and cannot be used for profiling. Identifiable data will be held as long as the campaign runs to provide consistent data and then all identifiers will be removed after a reasonable period.

DAA Market Research Definition:

D. Market Research

Market Research means the analysis of: market segmentation or trends; consumer preferences and behaviors; research about consumers, products, or services; or the effectiveness of marketing or advertising. A key characteristic of market research is that the data is not re-identified to market directly back to, or otherwise re-contact a specific computer or device. Thus, the term “market research” does not include sales, promotional, or marketing activities directed at a specific computer or device.

Any contact back to a computer or device that is based on an aggregate use of data that may have been collected from such computer or device is not disqualified from being “market research” because data collected from such computer or device was included in the aggregate use.

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Art29WP definition of pseudonymisation is the process of disguising identities. The aim of such a process is to be able to collect additional data relating to the same individual without having to know his identity. This is particularly relevant in the context of research and statistics.

Aggregation: Data is displayed as totals, so no data relating to or identifying any individual is shown.

ICO Definition of pseudonymisation: De-identified data so that a coded reference or pseudonym is attached to a record to allow the data to be associated with a particular individual without the individual being identified.

German Telemedia Act (to which Albrecht amendments to the General Data Protection Regulation refer).

Section 14 Inventory data

(1) The service provider may collect and use the personal data of a recipient of a service only if it is needed for the establishment, content or amendment of a contractual relationship between the service provider and the recipient on the use of telemedia (inventory data).

(2) By order of the competent agencies, the service provider may in individual cases provide information about inventory data to the extent that this is needed for purposes of prosecution of crime, for the prevention of danger by the police authorities of the Länder, for the fulfilment of the statutory duties of the agencies of the Federation and the Länder responsible for protection of the constitution, the Federal Intelligence Service or the Military Counterintelligence, or for the enforcement of intellectual property rights.

Section 15 Data on usage

(1) The service provider may collect and use the personal data of a recipient of a service only to the extent necessary to enable and invoice the use of telemedia (data on usage). Data on usage are in particular

1. characteristics to identify the recipient of the service,
2. details of the beginning and end of the scope of the respective usage, and
3. details of the telemedia used by the recipient of the service.

(2) The service provide may collate a recipient's usage data regarding the use of different telemedia to the extent necessary for invoicing the recipient of the service.

(3) For the purposes of advertising, market research or in order to design the telemedia in a needs-based manner, the service provider may produce profiles of usage based on pseudonyms to the extent that the recipient of the service does not object to this. The service provider must refer the recipient of the service to his right of refusal pursuant to Sub-section 13 No. 1. These profiles of usage must not be collated with data on the bearer of the pseudonym.

(4) The service provider may use data on usage beyond the end of the session to the extent necessary for invoicing the recipient of the service (invoicing data). The service provider may disable the data in order to fulfil existing statutory, by-law-based or contractual retention periods.

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(5) The service provider may transmit invoicing data to other service providers or third parties to the extent necessary to ascertain the fee and to invoice the recipient of the service. If the service provider has concluded a contract with a third party on the collection of the fee, he may transmit invoicing data to a third party to the extent necessary for this purpose. Data on usage may be transferred in anonymous form for the purpose of market research by other service providers. Section 14 (2) applies mutatis mutandis.

Other References

MRC handles this in the US whilst the JICWEBs reporting standards of ABC handles this in the UK and AGMA is the German audit body. Here is

a longer list <http://www.i-jic.org/index.php?PHPSESSID=55143f172846ed39c7958cbeb837a85a>

and here is

ABC <http://www.abc.org.uk/PageFiles/50/Web%20Traffic%20Audit%20Rules%20and%20Guidance%20Notes%20version2%20March%202013%20master.pdf>