

"Consent or Pay" (CorP) models offer users a choice: access digital services by either consenting to personalized advertising or by paying a fee. The European Data Protection Board (EDPB) is currently working on draft Guidelines for these models, following its Opinion 08/2024 which raised concerns around the validity of consent in such contexts—especially when used by large online platforms.

On November 18, 2024, the EDPB hosted a stakeholder event to gather industry input. IAB Europe, along with other associations, participated and submitted written feedback to ensure the final Guidelines reflect legal precedent, economic realities, and the importance of advertising-supported models for free access to content.

IAB Europe's Key Messages

1. **Legality of CorP Recognized in Case Law**

Multiple rulings by the CJEU and national courts, as well as guidelines from Data Protection Authorities (DPAs), have confirmed that CorP models can comply with GDPR if implemented correctly. The July 2023 CJEU decision in *Meta v. Bundeskartellamt* explicitly acknowledged that offering a paid alternative can support valid consent.

2. **Consent Is Freely Given in CorP Models**

- Users are offered real choices: pay, accept advertising, or walk away.
- There's no fundamental right to free access to digital content; offering an ad-funded alternative reflects the value exchange common in digital services.
- Publishers are commercially incentivized to keep fees reasonable; high prices deter users and push them to competitors.

3. **Personalized Advertising Is Not Inherently Negative**

- Advertising funds the free and open internet.
- It supports media pluralism and innovation.
- 85% of Europeans want to decide whether to access services via ads or payment.

4. **Contextual Advertising Is Not a Viable Replacement**

- Research shows contextual ads yield 50–70% less revenue and fill far fewer ad slots.

- Many services—especially news publishers—cannot sustain operations on contextual advertising alone.
- A “free alternative without behavioral advertising” would likely lead to reduced content availability or more intrusive ads.

5. No Legal Basis to Mandate a Free Third Option

- GDPR and ePrivacy do not require companies to provide services at a loss.
- Recent EU legislation (DSA, DMA) creates obligations for designated gatekeepers only—not for the broader market.
- CorP models are business-model neutral and should remain so.

6. Market Power Should Not Be Assumed

- Any assessment of “imbalance of power” must be case-specific and handled by competition authorities—not DPAs.
- The GDPR intentionally does not distinguish obligations based on company size or business model.

7. On Equivalent Alternatives and Appropriate Fees

- “Equivalent” does not mean “identical”—variations in features and experiences are expected.
- The fee amount should be assessed for “significant economic pressure,” not market competitiveness.
- Fee levels vary depending on a publisher’s market, audience, and costs.

8. Personal Data as Legitimate Consideration

- EU law already recognizes personal data as a valid exchange for digital services (e.g., Digital Content Directive).
- Data protection rights remain intact regardless of whether a user consents to advertising.

9. Need for Holistic and Neutral Guidelines

- The EDPB should avoid creating new legal categories (e.g., “large platforms”) and stick to the GDPR’s risk-based approach.
- It should not pre-empt future, broader guidance covering the intersection of GDPR with other digital laws like the DSA or DMA.
- Special cases such as processing sensitive data or data from minors require separate treatment.

IAB Europe and supporting associations urge the EDPB to:

- Ensure CorP guidance aligns with EU legal precedent and economic realities;
- Avoid assumptions that personalized advertising undermines privacy;

- Respect business model diversity and entrepreneurial freedom;
- Provide clear, proportionate, and non-discriminatory guidance.

They emphasize that CorP models preserve user choice, support free content, and remain a legitimate, privacy-compliant approach under the GDPR.

[Read the full response.](#)

Why This Matters for IAB Canada Members

The outcome of the EDPB's guidance on Consent or Pay models will set a precedent that could influence global data protection standards, including in Canada. Many IAB Canada members operate internationally or rely on advertising models that may be impacted by future regulatory interpretations. Ensuring that valid, user-friendly consent models are preserved in Europe helps protect the sustainability of ad-funded digital services, media diversity, and cross-border business innovation—key priorities for our industry in Canada as well.

If you'd like to discuss this further, please contact us at policy@iabcanada.com.