

Privacy and Discrimination in Digital Marketing

Luxury Roundtable

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Discussion Points

- Applicable Laws
- Consumer Privacy
 - Third-Party Cookies
 - Data Sharing Between U.S. and E.U.
- Artificial Intelligence
- Discrimination in Digital Marketing
 - Diversity, Equity, and Inclusion
 - Discrimination and Artificial Intelligence
- Advertising Guidelines

Major Laws

United States

- California Consumer Privacy Act
- California Privacy Rights Act
- Children's Online Privacy Protection Rule
- Consumer Review Fairness Act
- Competition and Transparency in Digital Advertising Act (pending)
- Consumer Review Fairness Act

European Union

- Digital Services Act
- EU AI Act
- General Data Protection Regulation

Third-Party Cookies

- What is and is not prohibited?



U.S.-E.U. Data Sharing

- The General Data Protection Regulation applies to the collection of personal data from data subjects in the European Union and the United Kingdom.
- Residents of the European Economic Area have special rights over their data.



Advertising Guidelines

- The Federal Trade Commission prohibits unfair and deceptive trade practices.
- Like traditional advertisements, digital ads must:
 - be truthful and not misleading;
 - have evidence to substantiate the claims made prior to disseminating the ad;
 - not be unfair; and
 - clearly and conspicuously contain all disclosures that are required to prevent the ad from being misleading.

Advertising Guidelines: Disclosures

- .com Disclosure Guidelines – Consider:
 - Where is the disclosure placed?
 - How prominent is the disclosure?
 - Do the other ad elements distract attention from the disclosure?
 - Is the ad so long that the disclosure must be repeated?
 - Is the disclosure unavoidable?
 - Can consumers enter your site in a way that causes them to miss the disclosure?

Advertising Guidelines: Taking Extra Precautions

- Building and optimizing websites
- Targeted ads
- Social media marketing
- Encouraging, collecting, and using user-generated content or reviews
- Native advertising
- Influencer marketing

Discrimination and DEI

- Discrimination can be inadvertent when it is as a result of disparate impact. In other words, facially neutral policies may result in prohibited discrimination.
- Scrutinize policies, advertising, AI and other machine learning to ensure no discrimination.

Thank You

And questions

