

Meeting: TCF Governance Board

Date and Time: Tuesday 17 MAY 2022 at 14:00 (CEST)

Venue: Conference call

Present: Thomas Peruzzi (Virtual Minds) (Chair)

Jaakko Kuivalainen (Sanoma)	Benoit Oberlé (Sirdata)
Jochem Schlosser (Adform)	Ben Humphry (Huawei)
Romain Gauthier (Didomi)	Markus Ruhl (Publicis Groupe)
Robert Blanck (Axel Springer)	Karsten Rieke (Criteo)
Alwin Viereck (United Internet Media)	

Apologies:

Colin O'Malley (Integral Ad Science)	Christian Potthoff (RTL-SmartClip)
Stevan Randjelovic (Group M)	Christer Ljones (Schibsted Marketing Services)

Board Observer:

Christie Dennehy-Neil (IAB UK)	Conor Murray (EGTA)
Dorine Van Mullen (IAB NL)	Jason Raqueno (IAB Tech Lab)
Katharina Rieke (BVDW)	
Petri Kokkonen (IAB Finland)	
Luc Vignon (IAB France)	

In attendance:

Townsend Feehan (CEO, IAB Europe, Managing Organisation)
Thomas Mendrina (Chair, TCF Steering Group)
Ninon Vagner (Director Privacy & Compliance, IAB Europe, Managing Organisation)

Anne Goodman – Secretariat (IAB Europe)

The Chair opened the meeting noting that this was the last meeting of the current board. The Chair welcomed Katharina Rieke representing BVDW *Note:* this was also Dorine Van Mullen's first meeting representing IAB NL

Steering Group (SG) update (PAPER 2 11-05-22) for noting – Chair of SG

Thomas Mendrina presented the update from the SG and its working groups (WGs) on recent TCF developments that the SG oversaw. The update circulated to the Board prior to the meeting focused on the work of the Policy WG and the FSWG. The SG Chair highlighted that both WGs were extremely agile and dynamic in their approach and this was reflected in the depth of work reported.

It was noted that SG had also played an active role in the APD Action Plan as the ultimate approver of the plan, but that this detail would be reported in the MO report,

not by the SG, to reduce overlap with the MO report. It was also noted that all members of the Board, as members of the SG, were fully across the APD Action Plan.

There were no questions from the Board or the Observers.

Managing Organisation (MO) update (PAPER 3 17-05-22) for noting –Ninon Vagner, Director Privacy and Compliance of the MO, presented the update from the MO. The update had been circulated to the Board prior to the meeting.

The MO drew the Board's attention to IAB Europe's withdrawal of the request for suspension of execution of the Belgium DPA (APD) decision on IAB Europe and TCF. This followed confirmation by the APD that it would not take a decision on the validation of the action plan that the MO had submitted before September 1. The MO noted that the September 1 was the earliest date of validation of the Action Plan by the APD and validation could be any time post that date.

The MO drew the Boards attention to the appeal on the merits before the Market Court (the Court of Appeal of Brussels) is not affected by the withdrawal of the request for suspension and is proceeding. The oral hearing on the merits is scheduled for June 29. It was noted that the Market Court may refer questions of interpretation of EU law to the Court of Justice of the European Union (CJEU), which could extend the appeal process into 2023 or even beyond.

The Board asked if there would be a dialogue with the APD before September 1 on the action plan that was submitted to the APD on April 1. The MO confirmed that there would be a dialogue but the form of the dialogue would most likely be email. The MO confirmed that IAB Europe was still awaiting confirmation of a point of contact at the APD who would lead this dialogue. The MO also noted that the absence of any interaction up to now on the contents of the action plan may reflect an APD decision not to prioritise work on it while the appeal is still pending, which would seem natural given the other pressures on the Authority.

The Board suggested to the MO that there was a risk that the APD could reject the Action Plan. The MO was emphatic that a likely outcome is validation of the plan conditional on its being modified, including in ways that may be more constraining for the industry.

The Board also asked if the IAB Europe could itself request a referral to the CJEU. The MO confirmed that only the Market Court could make this application although IAB Europe could suggest that the Market Court consider this course of action.

The MO asked the Board to consider the possibility that the Market Court makes a referral to the CJEU, delaying a final ruling by 12 or even 18 months and the implication of this delay. The MO encouraged the Board to reflect on this. The Board did not comment.

In addition to the timeline in relation to the APD and Market Court the MO also described the Action Plan execution process and gave an overview of the core workstreams that formulated the action plan.

In relation to the core workstreams the Board asked about the workstream “technical & organisational monitoring measures” specifically the process by which the compliance questionnaire highlighted would be reviewed by the MO, the MO confirmed it would review this manually. The MO confirmed that certain aspects of the registration would also be checked, such as purpose declarations, and these checks would be automated.

APD Ruling – Implementation of the Action Plan and the role of the Governance Board in this process

This item was tabled as an open discussion for the Board to consider and give some thought to its role in the process going forwards.

The Board felt a key role would be oversight that the implementation of the action plan was “going in the right direction”. In addition, this oversight would help build legitimacy around the action plan and give support to the SG.

Compliance and Enforcement

The Board agreed that it should be supportive of the MO in making changes that included a higher degree of enforcement that would drive greater levels of compliance. The Board noted the enforcement process should always have a clear route to outcomes that were fair and neutral.

Action: the MO suggested that it would give an overview at the next meeting of the enforcement process, including the differentiated process described in the action plan.

Stakeholder engagement

This item was tabled as an open discussion for the Board to canvas their thoughts.

TCF Governance Board Elections

The secretariat confirmed that all members of the Board were eligible for re-election for a second 2-year term and that the elections would take place post the election of the SG Chair, which was currently in process, and the re-affirmation of the SG members voting buckets that would take place post the SG Chair elections.

AOB

There was no other business proposed by the Board members.

Next meeting

The next meeting of the Board will be Q3 2022 and in line with the current cadence this will be the first two weeks in September. The Board proposed that this meeting could coincide with DMExco and in which case a face-to-face meeting could be considered, as this will be the first meeting of the new Board.

Close

The Chair thanked the board members for attending and their invaluable contribution over the last 2 years

The meeting closed at 15:15 CEST