# IAPP Europe **Data Protection Congress 2025**

Training 17-18 November

Workshops 18 November

**Conference 19-20 November**

**BRUSSELS**

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# CONSENT OVERLOAD: THE EU MULTI-LAYER REGULATIONS OF PROFILING ACTIVITIES

# WELCOME AND INTRODUCTIONS

**Dale Sunderland**, Data Protection Commissioner, Ireland

**Nathalie Laneret**, VP Government Affairs and Public Policy, Criteo

**Etienne Drouard**, Partner, Hogan Lovells, CIPP/E

# INTRODUCING OUR TOPIC

# How many consents? How many regulators?

- Member States interpret “consent” differently, creating inconsistent enforcement, even between jurisdictions and regulators in charge of GDPR, ePrivacy, consumer protection, competition, AI, etc.
- ePrivacy regulators now extend consent far beyond cookies — to pixels, hashed emails, and IP addresses
- Businesses face uncertainty between national rules and EU-level GDPR obligations
- Will profiling activities require a 2D, or even a 3D, vision: GDPR, ePrivacy, the AI Act, the DMA, the further Digital Fairness Act, or both the Omnibus simplification and AI drafts?

# ePrivacy vs. GDPR

- GDPR sets a general framework for lawful processing, but ePrivacy imposes technology-focused consent rules
- Profiling often falls under both regimes, leading to conflicting legal bases, as well as overlapping jurisdictional competencies
- The EDPB and national authorities diverge on when legitimate interest still applies after cookie recording, to profiling activities or AI training
- One-stop-shop is not applied to ePrivacy while regulators are still getting their powers from the GDPR
- Result: overlapping requirements and competition between regulators, creating growing compliance fatigue

# How to stay compliant amid overload?

- Map profiling and tracking tools under both ePrivacy and GDPR perspectives
- Use clear, layered consent notices and avoid unnecessary data collection
- Centralize records of consent and withdrawal across all platforms: consent at device level? at user level?
- Prepare for fragmented enforcement: anticipate local guidance and adapt practices accordingly
- Paying a fine does not provide clarification: should businesses initiate litigations at each proceedings level?

# PANEL DISCUSSION

**Dale Sunderland**, Data Protection Commissioner, Ireland

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# How Did Things Go? (We Really Want To Know)

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