
CNIL's decisions on cookies settings

Intellectual Property, Media and IT Legal Flash

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On December 31, 2021, CNIL (*Commission Nationale de l'Informatique et des Libertés*) fined Facebook €60 million and Google €150 million for violating rules on cookie settings



General notes

On December 31, 2021, the French data protection supervisory authority, *Commission Nationale de l'Informatique et des Libertés* (CNIL), fined Facebook €60 million and Google €150 million for violating rules on cookie settings.

CNIL's decisions follow its updated guidelines on cookies, and the sanctions levied on Google (€50 million) and Amazon (€35 million) in 2019 relating to the processing of users' data in the context of the services they provide, which also examined cookies.

However, CNIL's new decisions go substantially further, concluding, e.g., that Google and Facebook **are breaching the law because, although they offer a button allowing the immediate acceptance of cookies, there is no solution (button or otherwise) that allows the user to reject the placement of cookies in a similar way to how they accept the cookies: it requires several clicks to reject all cookies, instead of one, which is all that is required to accept them.**

On the facebook.com website, **the button for rejecting cookies is placed at the bottom of the second window and is written in a way that may mislead the user.** CNIL also considered that the methods for collecting consent proposed to users, and the lack of clarity of the information provided to them, violate data protection rules in France, including the General Data Protection Regulation (GDPR).

Regarding the google.fr and youtube.com websites, CNIL considered that, **by making the mechanism to reject cookies more complex, e.g., requiring several steps for this purpose, they discourage users from rejecting cookies, limiting their freedom to make a free decision on the processing of their personal data.**

CNIL also points out that **having a button that allows users to personalize cookies is not the same as having a button that allows users to reject them: there is an option to accept all cookies, so there should be an option to reject all cookies.**

CNIL's justification for the high amount of the fines is based on the scope of the processing, the number of people involved, and the considerable profits the companies made from advertising revenue indirectly generated from the data collected through cookies.

You can see the full text of CNIL's deliberation on Facebook [here](#) and on Google [here](#).



Final provisions

Given the importance of these matters, to ensure cookies are used according to the GDPR and, in Portugal, the Electronic Communications Privacy Act, and given CNIL's importance and influence at a European level, we draw your attention to the need to review the cookies used on websites, and their configuration, as well as the cookie policies.

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