

EU Cookie Laws Could Cause Unwary Firms to Get Their Fingers Burnt

Cookies are a key component of web technology, but anyone using them must beware new EU rules on consent

by John Naughton, *The Observer*, December 17, 2011

Feeling bored and listless? Well, try this. In Firefox, open "preferences", click on the "[privacy](#) tab" and then click on the link that says "remove individual cookies". Up will pop a dialogue box labelled "cookies", which tells you that "the following cookies are stored in your computer". If you're an intensive user of the web, it will be a very long, scrolling list. On my laptop, for example, Amazon has deposited 29 cookies, YouTube nine and Google a whopping 53. For instructions for how to inspect cookies in other browsers, see the [NetLingo](#) site.



Cookies are small text files, typically of letters and numbers, downloaded on to a computer when its user accesses a website. The first thing to say about them is that they do not make for bedside reading. For example, one of my Amazon cookies begins with the phrase "%20s_dl%3D1%7C131818459" and goes on like that for four and a half lines. To Amazon's web server, however, this gibberish is riveting stuff because it provides useful information about how I use the site. Maybe it reveal details of my browsing history. Or provides information about what I bought recently. The point is that I can't tell how the cookie crumbles: that's something that only Amazon knows.

The idea that websites secretly deposit files on your computer – without your consent – will strike some people as creepy, and indeed in some ways it is. But it does have some positive benefits. For example, it makes the web more useable by enabling sites to bypass a lot of procedural stuff that would slow things up. Thus a cookie is what enables a site to recognise returning visitors so that they don't have to log in every time they show up. And in some cases cookies are essential – for example in online retail sites, as shoppers accumulate items in a shopping basket on their way to a virtual checkout.

So cookies are an important, and in some cases vital, component of web technology. But like any technology, they can be – and increasingly are – [abused](#). For example, advertisers and websites use cookies to build detailed profiles of users and their browsing habits. Some time ago I went to the website of a leading British retail chain looking for information about digital cameras, and for ages afterwards ads

from that chain kept popping up on other – unrelated – sites that I visited. This was almost certainly accomplished using cookies.

This kind of "tracking" behaviour eventually attracted the baleful attention of the EU, which since 2003 has required anyone using cookies to provide clear information about them. In May this year these rules were dramatically tightened: now, anyone depositing cookies is required not just to provide clear information about them but also to obtain consent from users to store a cookie on their device. The only exceptions are cases where cookies are essential for the provision of a service (as in an online shopping basket). So since May, anyone setting a cookie without obtaining the explicit consent of the user is technically breaking the law.

Needless to say, this intrusion of EU red tape into Britons' ancient right to do as they damn well please generated much heated commentary. The jackbooted thugs of Brussels were, we were told, going to "kill the [internet](#)". But the law is the law and, alarmed by the lack of preparedness of British industry, the government negotiated a year-long "lead-in period" to give businesses time to adapt to the new reality.

We're now midway through that period, and the [information commissioner](#) – the guy who will have to enforce the new rules – has just issued a [half-term report](#) on how things are going. His verdict, he writes, "can be summed up by the schoolteacher's favourite clichés: 'could do better' and 'must try harder'. A report that listed the URLs of sites that were perfectly compliant from day one would be very short indeed. This is not a surprise to anyone who recognises that redeveloping and redesigning is no easy task."

That's putting it mildly. A random survey of some prominent websites by this columnist suggests that their owners haven't yet appreciated what the new rules require. Mostly they bury information about cookies in a link labelled "privacy policy" in small type at the bottom of their home pages. The link explains that the company deposits cookies before going on to say that if the user declines said cookies, the company "cannot guarantee that your experience with the site will be as quick or responsive as if you do receive cookies". If this is what British companies regard as seeking the informed consent of users, then they have a nasty shock coming. And the information commissioner is going to be busy from next June onwards.

As seen here - <http://www.guardian.co.uk/technology/2011/dec/18/new-cookie-laws-john-naughton?newsfeed=true>