



Cookie regulations in the Spanish context



AUTOCONTROL – SPANISH SRO

Is the independent advertising self-regulatory organisation (SRO) in Spain, established in 1995 as a not-for-profit association. It is comprised of advertisers, advertising agencies, media and professional associations and its goal is to work for responsible advertising: truthful, legal, honest and loyal.



Approximately
70% of
advertising
investment in
Spain.

515

Anunciantes

57

Agencias

48

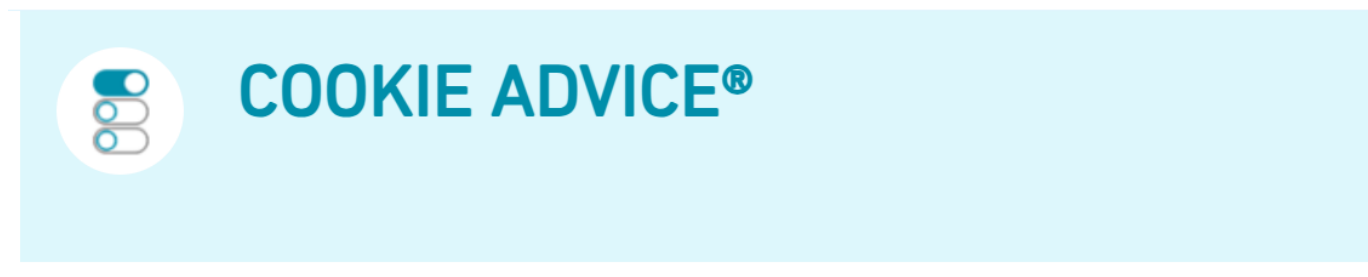
Medios de Comunicación

29

Asociaciones Sectoriales

AUTOCONTROL – DATA PROTECTION

- The data protection team is created in 2013 to work on the development of the cookie guide.
- The cookie advice service is also started.
- We have a mediation unit to resolve advertising and data protection complaints, within the framework of a Code of Conduct.



> WHAT IS IT?

Cookie Advice® is a service created by AUTOCONTROL in order to support the compliance of websites, with the regulation on “cookies and data storage and retrieval devices”.

A technical and a legal examination is made on the first and third party cookies served by the website/platform. The issued report contains:

- A classification of http cookies (based on their finality)
- The legal conclusions of the exam
- Recommendations of modifications, drafting of cookie policy to adapt the information about cookies that should be provided to users, which generally consists of an information banner of cookies at a first layer and a draft of a cookie policy at a second layer.



ALL VERSIONS OF THE COOKIE GUIDE



April 2013



November 2019



July 2020



June 2023



January 2024

DIRECTIVE - NATIONAL LAW

Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)



Law No. 34/2002 of July 11, 2002, on Information Society Services and Electronic Commerce

ART 22.2:

“Data storage and retrieval devices may be used on the terminal equipment of recipients, provided that they have given their consent after being provided with clear and complete information about their use, particularly regarding the purposes of processing”

“with the exception of those cookies that are necessary for the transmission of a communication or that are strictly necessary for the provision of a service expressly requested by a user.”

THE FIRST COOKIE GUIDE

Guía sobre el uso de las cookies



The installation of cookies should be accompanied by an informed consent of the users to such installation, so that the recipients have the opportunity to examine the information and decide whether or not to allow the installation of these devices.

EJEMPLO:

Utilizamos cookies propias y de terceros para mejorar nuestros servicios y mostrarle publicidad relacionada con sus preferencias mediante el análisis de sus hábitos de navegación. Si **continúa navegando**, consideramos que acepta su uso. Puede cambiar la configuración u obtener más información [aquí](#).

We use our own and third-party cookies to improve our services and show you personalised advertising by analysing your browsing habits. **If you continue browsing, we consider that you accept their use.** You can change the configuration or obtain more information [HERE](#).

COOKIE GUIDE UPDATES



This guide added examples where it integrated the configure and reject button in the first layer, but still allowed for the use of a reinforced ‘continue browsing’.

Ejemplo número 2

Utilizamos cookies propias y de terceros para fines analíticos y para mostrarte publicidad personalizada en base a un perfil elaborado a partir de tus hábitos de navegación (por ejemplo, páginas visitadas). Clica [AQUÍ](#) para más información. Puedes aceptar todas las cookies pulsando el botón “Aceptar” o configurarlas o rechazar su uso clicando [AQUÍ](#).

ACEPTAR

Ejemplo número 3

COOKIES

Utilizamos cookies propias y de terceros para analizar nuestros servicios y mostrarte publicidad relacionada con tus preferencias, en base a un perfil elaborado a partir de tus hábitos de navegación (por ejemplo, páginas visitadas). Si continúas navegando, consideraremos que aceptas su uso. Puedes configurar o rechazar la utilización de cookies u obtener más información [AQUÍ](#).

“We use our own and third-party cookies to analyse our services and show you advertising related to your preferences, on the basis of a profile based on your browsing habits (e.g. pages visited).for example, pages visited). If **you continue browsing, we will consider that you accept their use**. You can configure or reject the use of cookies or obtain more information more information HERE.”

COOKIE GUIDE UPDATES



This guide removes the possibility to consider continuing to browse and retains the option to include in the CMP the option to 'accept' and 'configure'.

Ejemplo número 3 COOKIES

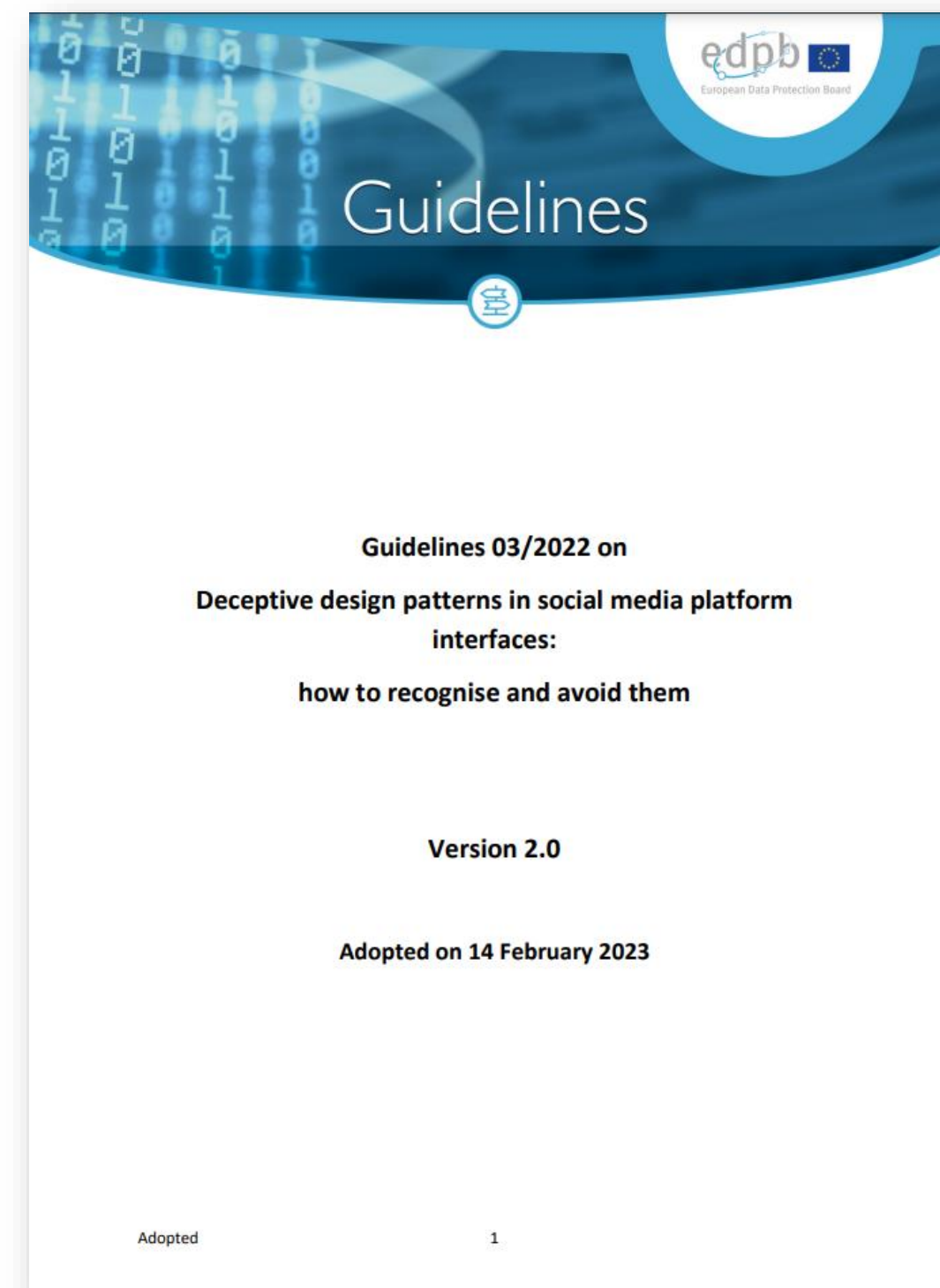
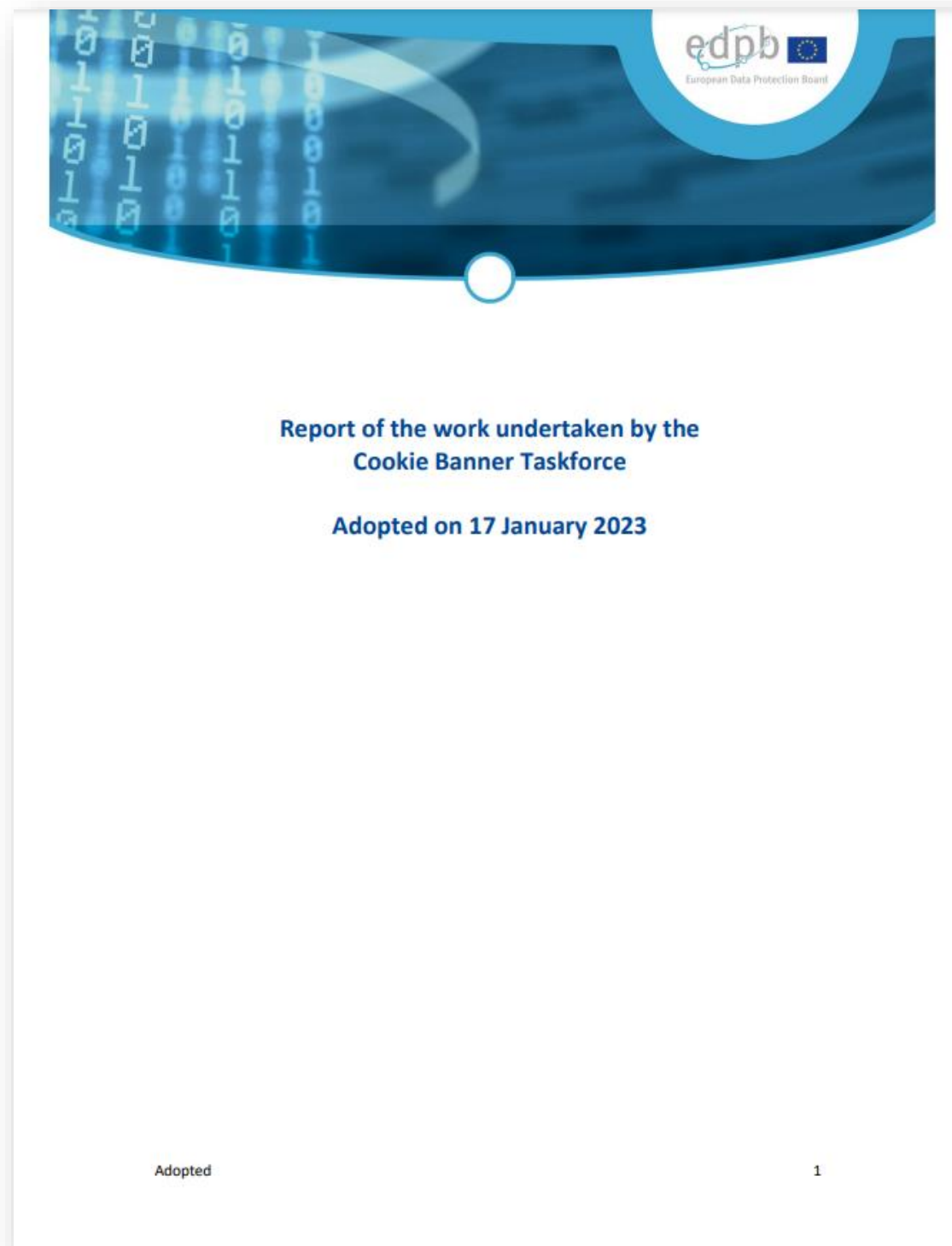
Utilizamos cookies propias y de terceros para fines analíticos y para mostrarte publicidad personalizada en base a un perfil elaborado a partir de tus hábitos de navegación (por ejemplo, páginas visitadas). Clica [AQUÍ](#) para más información. Puedes aceptar todas las cookies pulsando el botón “Aceptar” o configurarlas o rechazar su uso pulsando el botón “Configurar”.

CONFIGURAR

ACEPTAR

“We use own and third party cookies for analytical purposes and to show you personalised advertising based on a profile based on your browsing habits (e.g.browsing habits (e.g. pages visited),pages visited). Click [HERE](#) for more information. You can accept all cookies by accept all cookies by clicking the ‘Accept’ button or configure them or refuse their use by clicking the ‘Configure’ button..”

REPORT OF THE WORK UNDERTAKEN BY THE COOKIE BANNER TASKFORCE AND DECEPTIVE DESIGN PATTERNS



EDBP REPORT ON COOKIES (TASK FORCE)

The report is structured around the 8 most frequent error detected in the banners analysed:

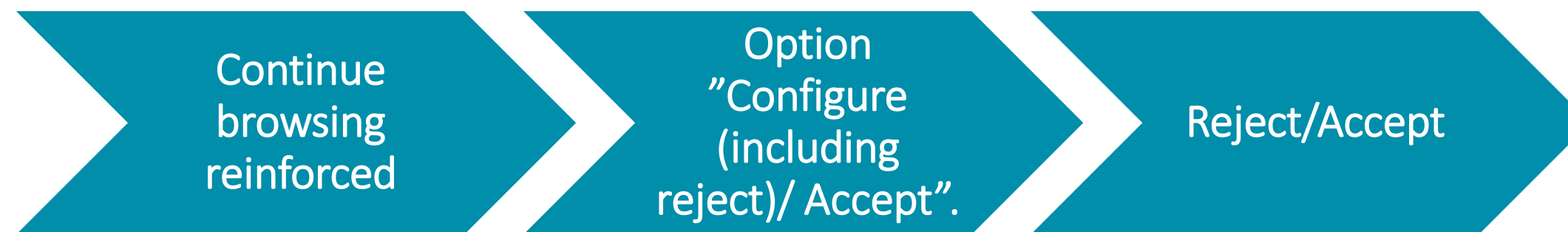
- Practice A: no reject button on first layer.
- Practice B: pre ticket boxes
- Practice C : misleading link design.
- Practice D and E : Misleading colours and contrast on buttons.
- Practice H: use of legitimate interest.
- Practice I: improper classification of essential cookies.
- Practice K: no possibility to withdraw consent.

EDBP REPORT ON COOKIES (TASK FORCE)

- The **design** of the cookie notice **must not give the user the impression that they must necessarily give their consent** to access the website, **nor should they be forced to give their consent**. Notices where the only alternative to consent would be:
 - A link with wording such as "reject" or "continue without accepting" in the text of the notice, unless there is sufficient visual support to draw the user's attention to this alternative.
 - A link with wording such as "reject" or "continue without accepting" outside the notice requesting consent, unless there is sufficient visual support to draw the user's attention to this alternative.
- While no standard can be imposed in relation to button **colour and contrast**, buttons **cannot be "grossly misleading"**. The analysis must be done on a case-by-case basis (e.g. they would be misleading if the contrast made the text on the button practically illegible).

EDBP REPORT ON COOKIES (TASK FORCE)

- Most authorities consider that the cookie notice should include an option to reject cookies directly. The Spanish DPA (AEPD) has gone through three stages:



- The default checkboxes in the configuration panel do not allow valid consent to be obtained. The criterion had already been consolidated, but again the EDPB report reinforces this idea, as it is a recurrent non-compliance.

COOKIE GUIDE UPDATES



This guidance already states that ‘reject all cookies’ has to be provided under similar conditions as ‘accept all cookies’ in the first layer.

EJEMPLO 1:

Uso de cookies

Utilizamos cookies propias y de terceros para analizar el uso del sitio web y mostrarte publicidad relacionada con tus preferencias sobre la base de un perfil elaborado a partir de tus hábitos de navegación (por ejemplo, páginas visitadas).

[Política de cookies.](#)

RECHAZAR
COOKIES

CONFIGURAR

ACEPTAR
COOKIES

“We use own and third party cookies to analyse the use of the website and to show you advertising related to your preferences on the basis of a profile based on your browsing habits (e.g. pages visited).Cookies policy.”

REJECT COOKIES

CONFIGURE

ACCEPTCOOKIES

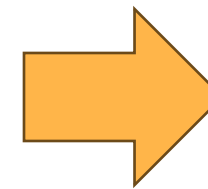
COOKIE GUIDE UPDATES

Ejemplo número 2

Utilizamos cookies propias y de terceros para fines analíticos y para mostrarte publicidad personalizada en base a un perfil elaborado a partir de tus hábitos de navegación (por ejemplo, páginas visitadas). Clica [AQUÍ](#) para más información. Puedes aceptar todas las cookies pulsando el botón “Aceptar” o configurarlas o rechazar su uso clicando [AQUÍ](#).

ACEPTAR

November 2019



Ejemplo número 2

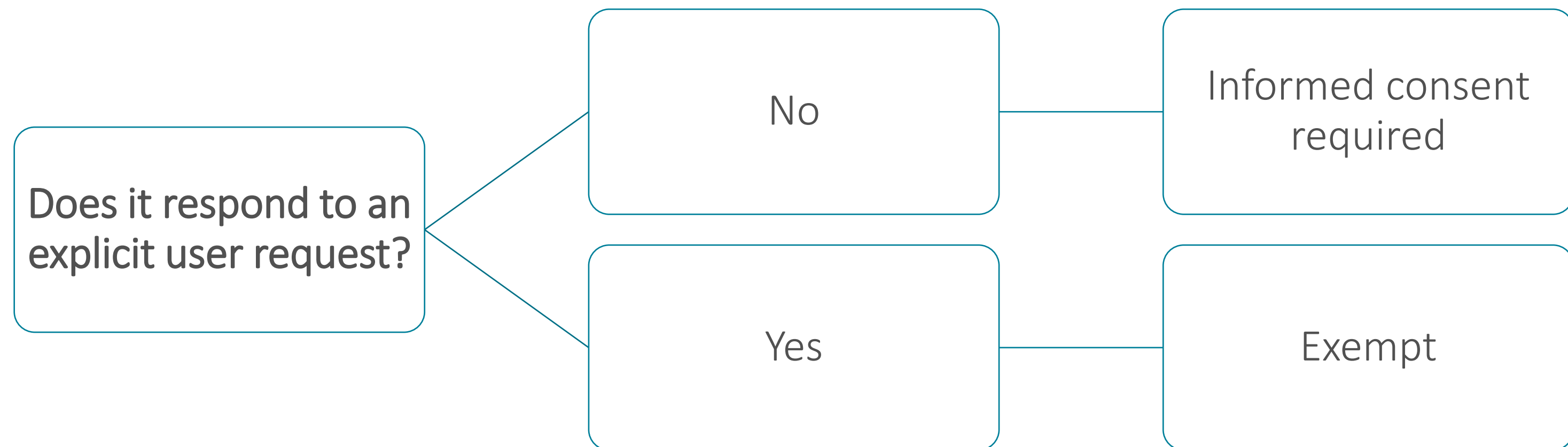
Utilizamos cookies propias y de terceros para fines analíticos y para mostrarte publicidad personalizada en base a un perfil elaborado a partir de tus hábitos de navegación (por ejemplo, páginas visitadas). Clica [AQUÍ](#) para más información. Puedes aceptar todas las cookies pulsando el botón “Aceptar” o [CONFIGURARLAS O RECHAZAR SU USO CLICANDO AQUÍ](#).

ACEPTAR

June 2022

PREFERENCE OR PERSONALISATION COOKIES

In the new version of the Guide, the criterion is simplified and allows personalisation cookies, at the user's request, to be exempted.



COOKIE WALLS

- The Guide maintains the same provisions in relation to cookie walls and the possibility of denying access to the service if cookies are rejected:
 - Cookie walls are not valid in any case where the refusal of cookies prevents the exercise of legally recognised rights of the user.
 - However, these mechanisms may be valid if, in a transparent manner, an equivalent alternative access to the service is offered that does not imply the acceptance of cookies.
- As a new feature, it is specified that the alternative does not necessarily have to be free of charge.

COOKIE GUIDE UPDATES



Guía Uso de cookies para herramientas de medición de audiencia

v. enero de 2024

Página: 1 de 5

- It does not replace the Guidance on the use of cookies, but is complementary.
- The document states that a publisher generally requires the use of traffic or performance statistics which are often essential for the provision of a service and that the technical solution to collect the information is usually done through cookies or similar technologies.
- They will only be exempted under certain conditions.

COOKIE GUIDE UPDATES



Guía Uso de cookies para herramientas de medición de audiencia

v. enero de 2024

Página: 1 de 5

CONDITIONS

- That they are limited exclusively to what is necessary for the provision of the service, so they must have a purpose limited to the exclusive measurement of the site's audience.
- They are carried out on behalf of the publisher only and are for the purpose of producing anonymous statistical data.
- That they are not collated with other processing operations or shared with third parties.
- Do not allow tracking on different websites.

THANK YOU

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Síguenos

