

# Ad Tech in 2025—Cookies, 3rd Party Cookie Alternatives and Beyond

## *Overview of Changes & Impact on Advertising*

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**For Privacy + Security Forum (Fall 2024) Attendees Only**

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# Agenda

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1. Introductions
2. Digital Advertising Background (U.S. focus)
3. Industry Bodies and/or Self-Regulation
4. Recent Major Developments in the Ad Industry
5. Alternatives to 3rd Party Cookies
6. Takeaways for In-House Counsel and Privacy Teams





# **Digital Advertising in the U.S. – The Basics and How We Got Here**



# Digital Advertising 101



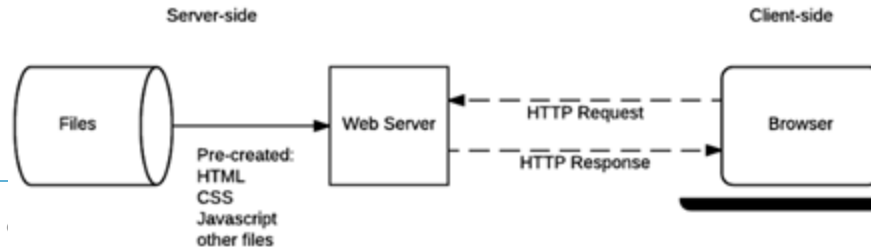
- The Internet is “**free**”, right? Well...
  - But if we use services at no cost as consumers, then who pays for them?
- **Publishers**: The entity that owns, controls or operates a website or mobile app through which end users interact online.\*
  - *Examples*: news sites, mobile app games, messaging apps, etc.
- **Advertisers/Brands**: The entity that has a product or service that it wants to present to end users as they interact with publishers in the digital world.
  - *Examples*: car makers, CPG, retailers, restaurants, travel, B2B tech, etc.

# Digital Advertising 101 – Site Code

- \* Usually while integrating “third party” outside content at their direction
  - E.g., fonts, images, analytics, social media, tags/pixels, videos and advertisements



```
<html lang="es">
<head>
  <title>My perfect website</title>
  <meta charset="utf-8" />
  <link href="preconnect" href="://www.mysite.com" />
  <link href="preconnect" href="://www.mysite.com" />
  <meta name="viewport" content="width=device-width, initial-scale=1" />
</head>
<body>
  <script>
    var mytag = mytag || {};
    mytag.cmd = mytag.cmd || [];
    (function() {
      var gads = document.createElement('script');
      gads.async = true;
      gads.type = 'text/javascript';
      var useSSL = 'https:' == document.location.protocol;
      gads.src = (useSSL ? 'https:' : 'http:') + '//www.googletagmanager.com/gtag/js?id=UA-12345678-1';
      var node = document.getElementsByTagName('script')[0];
      node.parentNode.insertBefore(gads, node);
    })();
    mytag.cmd.push(function() {
      // homepageLibraryConfiguration = mytag.siteMapping();
      addSite(101, 101, 101);
      addSite(102, 102, 102);
      addSite(103, 103, 103);
    });
  </script>
  <script>
    mytag.defineSite(101, 102, 103, 104, 105, 106, 107, 108, 109, 110);
  </script>
</body>
</html>
```



# Digital Advertising 101 – Cookies

- Understanding of 1<sup>st</sup> and 3<sup>rd</sup> party cookies
- Web browsers accept and store cookies on behalf of domains, and share them with the domains that set the cookies
- E.g., to “**store state**” ....remember preferences, shopping carts, fraud, video loading, analytics, to allow personalization, and tracking for profiling/targeted advertising



# Digital Advertising 101 – Mobile

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- Mobile web (cookie) vs. mobile in-app (device ID or other identifiers)
- Banner ads, video ads, interstitial mobile ads, native app-based ads... may vary based on smart phone, tablet, IoT-connected devices
- Precise geo-targeting possible, based on WiFi, Bluetooth/BLE, cell tower triangulation, GPS, etc.

# Digital Advertising 101



- Interest-based advertising (IBA) is a means of serving more tailored ads to a common device or browser, per interests **inferred** from the end user's intent signals and activity.
- Personalized. If online content will be paid for through advertising (just as it is done scattershot on TV or in magazines), then make it **user-relevant**.
- How? Programmatically, such as via **real-time bidding**. (Ordered chaos...)



# Digital Ads 101 – Identifiers & Segments

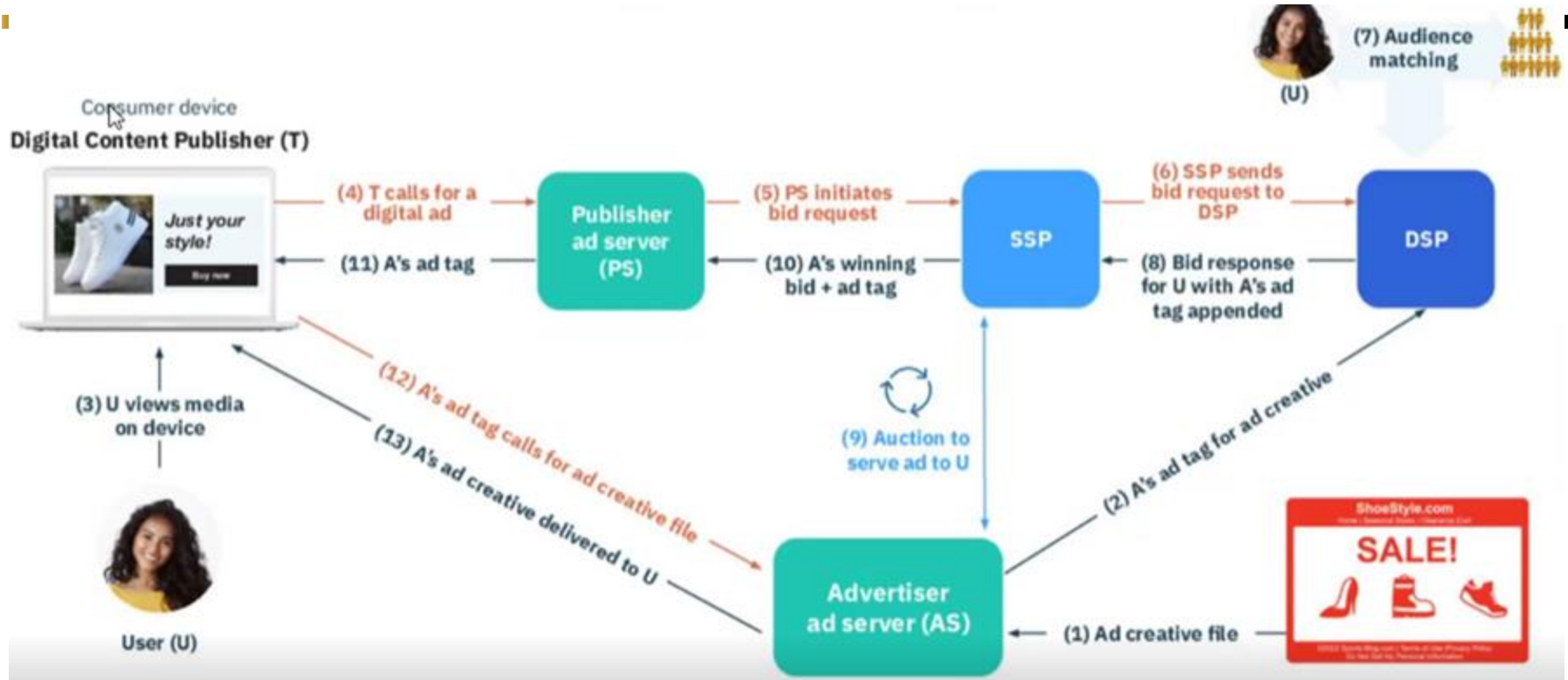
- For desktop/mobile web browsers: User goes to a webpage and a small text file—a “cookie” is placed on the device (e.g., user8675309).
  - For mobile apps, temporary **mobile ad/device IDs** are used...e.g. IDFA, GAID
- Cookie/ad ID stores certain non-PII characteristics re: what user clicked on, pages visited, and other engagement/intent signals deemed to be “interests.”
  - **Also tremendously helped by invisible pixels and JS “tags,”** as vehicles to send requests and receive info back to 1<sup>st</sup> and 3<sup>rd</sup> P servers.
- A user’s interests are added to an audience segment (from verticals to very granular)...so the user ID is associated w/certain matched categories...which can then be targeted in a brand’s multi-segment ad campaign.

# Digital Ads 101 – Mechanics (IBA + RTB)

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- Collection. Publisher uses cookies and similar technologies on site/in-app to collect info re: user's device, user, and their visit/interactions.
- Auction. User's info goes into a **"bid request"** for advertisers (+tech partners) to bid on a publisher's inventory (+partners) via ad exchange
- Inferred Accuracy. The more detailed/enriched the bid request's info, the more valuable it is due to higher likelihood of accurate targeting.

# Personal Data Flows in Digital Ad Serving







# **Industry Bodies and Self-Regulation**

# The U.S. Self-Regulatory Approach + Bodies

- Background on the self-regulatory approach to targeted advertising in the U.S.
- Major participants (industry bodies, member organizations, enforcers, etc.)
- Approaches and thought leadership in response to changing U.S. laws and regulations
- Updates

# The FTC's Director Of Consumer Protection On What Self-Reg Orgs Can Do To Avoid 'Fading Into Irrelevance'



Sam Levin, Director, FTC Bureau of Consumer Protection  
([AdExchanger Interview](#), Sept. 23, 2024)

*"Companies need help navigating a complicated landscape right now where you have the FTC stepping up its work, but also different regimes in different states."*

***"Self-regulatory organizations have a huge opportunity to help guide companies to comply and stay on the right side of regulator s. I would hope they embrace that opportunity, because I think they'll find that enforcers want to work with them."*** [emphasis added]

*"... vigorous enforcement can be good for self-regulatory organizations, because it gives them teeth when they issue warnings to companies."*

***"If self-regulatory organizations defend the status quo, however, they risk fading into irrelevance. But if they adapt and play a constructive role in helping companies comply with the law, they can provide real value to their members and to the public."*** [emphasis added]

# Process - Development of a new NAI Framework

- In late 2023, the NAI staff developed a preliminary draft Framework in consultation with its Board of Directors.
- In 2024, the member-driven NAI Framework Task Force under the Legal, Regulatory, and Data Governance Working Group continued to develop and work toward finalizing the new Framework.
- On October 3, the NAI circulated a proposed final Framework to its membership and started a 30-day members-only comment period. **The comment period concludes on October 31.**
- The NAI intends to finalize the draft Framework document by November 15, 2024 and make it effective for the NAI membership in early 2025.
- Once effective, the new NAI Framework will replace and supersede the 2020 NAI Code of Conduct.





# What is the new NAI Framework?

**The NAI Framework is a new model of self-regulation that will replace and supercede the 2020 Code of Conduct, and includes:**

- Flexible, *high-level* principles that all NAI members are required to comply with.
  - Principles are flexible enough to align with existing and anticipated legal requirements without conflicts, inconsistencies, or additional prescriptive requirements.
  - ***The Framework is NOT intended to be a “51st state law” dictated by the NAI.***
- Voluntary tools, guidance, and best practices to facilitate compliance with existing legal requirements and complement the Principles.
  - Existing (e.g., Dark Patterns, Opt-In Consent, etc.) and future products (to be developed in NAI working groups) will present pathways to demonstrate compliance with the Principles and legal requirements.
  - This approach will better align NAI member company compliance efforts with a changing legal landscape.

# About the IAB

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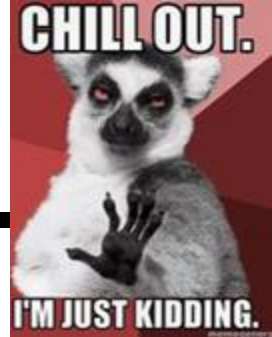
The Interactive Advertising Bureau's (IAB's) membership comprises more than 700 leading media companies, brands, agencies, and the technology firms responsible for selling, delivering, and optimizing digital ad marketing campaigns.

The trade group fields critical research on interactive advertising, while also educating brands, agencies, and the wider business community on the importance of digital marketing. In affiliation with the IAB Tech Lab, IAB develops technical standards and solutions. IAB is committed to professional development and elevating the knowledge, skills, expertise, and diversity of the workforce across the industry.



# **Major Developments in 2024 Affecting 2025**

# Major Ad Industry Developments in 2024



- Google Chrome 3PC deprecation – change of plans
  - CMA and Privacy Sandbox
  - The path ahead and “elevated user choice” – ??
- State privacy laws and regulators
  - GPC/opt-out preference signals currently required in CA/CO and must start being honored in 2025 in CT, TX, MT, NH, NJ, MN, et al.
- FTC blog post re: hashing and data that can be used to identify or target a user not being rightfully called “anonymous”
- NY AG guidance on tracking technologies—in the absence of a comprehensive state privacy law(!)...deception/UDAP enforcement powers



# **Alternatives to 3rd Party Cookies**

# RESET...With Crisis Comes Opportunity



- **Although These Changes Are Very Disruptive, Hope Is Not Lost!**

- Spoiler alert: **1<sup>st</sup> party data will be huge**, and if a company knows a lot about its customers already, this can provide firm footing for future initiatives
- Everybody is in the same boat...companies of all sizes are being thrust into the cookie-less world, with no consensus solution, and this means an opportunity for **creativity**
- Recall that, under current privacy laws, a lot can be done if a customer is **notified** of something and/or **agrees** to it (whether on an opt-in or opt-out basis, depending)
  - So...customer engagement and trust are more important than ever—and your customers have already trusted you with some of their data—and they want you to offer them the ability to agree to other cool things and insights with their data. You have to explain to them essentially the “5 Ws and H,” and be OK with it if they prefer not to.



# What Other Possibilities Are Out There?

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- **Solutions Are Still Taking Shape, But The Key Areas Include:**

- First- (and zero-)party data—in many ways, the new coin of the realm
- Contextual advertising—AI/ML have supercharged opportunities for ad placements
- Universal identifiers—creation of deterministic, omnichannel IDs via phone & email
- Data clean rooms—matching large platform data with 1<sup>st</sup> party data in strictly controlled environments
- Identity graphs—combining 1<sup>st</sup> party data with licensed identity graphs
- New ad forms and platforms (e.g., airline seat TVs, banking purchase data, etc.)
- Retail media networks
- Other avenues...the IAB Tech Lab's Seller-Defined Audiences, PETs like k-anonymity, private marketplaces, cohort targeting, generative AI, and more.

# Spotlight: Topics API

- **Chrome-Based Cookieless Interest-Based Advertising Solution**
  - A new form of IBA using **taxonomic** categories of interest calculated and stored on the device that are assigned to a browser based on recent user activity.





# Proprietary Platforms + CRM-Targeting

- **Social Media Walled Gardens of User Data + CRM**
  - No doubt SM platforms will remain attractive given their user-friendly ad ops controls and the vast data available to target those platforms' users
  - Customer relationship management systems also provide advertising opportunities in the form of “custom audiences” and “lookalike audiences,” in potentially a privacy-compliant manner, depending on the Terms and applicable markets/laws involved
    - E.g., “seed lists” of customer emails and/or phone numbers that are uploaded to the SM platform, but hashed/de-ID'd prior to storage, and that are then used to find matches to either target to those users on the platform, or to find prospects sharing similar traits.



# Server-Side Conversion APIs

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- **Cookieless, Server-to-Server Solutions**
  - More and more platforms with major advertising components have begun to make available their own forms of conversion APIs to connect website servers to the platform's servers.
  - These tools are mechanisms for sending offline & online conversion events based on a user's action on a site—which can then be used on the SM platform to optimize ad targeting, create custom/lookalike audiences, and increase measurement.
  - Not necessarily totally privacy-protective (e.g., user control), but cookieless.
  - Examples include TikTok's Events API and Facebook/SnapChat/LinkedIn's CAPI

# Takeaways

- **Take Comfort—It’s a Time for Exciting Iteration, Not Despair:**
  - There is no single solution here, think of the noted options as different arrows in the company’s advertising quiver...the likely **“answer” will be a combination** of them
  - Think of ways to further engage with customers and to provide them with great content, UX or visualization...and plan your potential requests for data uses around that, while simultaneously increasing your paid and organic search reach
  - Study (or talk to) competitors and tangential industries, how are similarly situated companies adapting? (no two companies will do so exactly the same)
  - Protect your brand, advertise in safe (non-ad fraud) places, and be flexible in focusing ad dollars...it will take time and buildout (Privacy Sandbox), but you’ll find the right mix