



AN INTRODUCTION TO REVISED COOKIE LEGISLATION

May 2012

http://www

A large, blue-outlined mouse cursor arrow is positioned in the lower right area of the page, pointing towards the 'http://www' text. The background of the lower half of the page features a blue gradient with a wavy, liquid-like effect at the bottom.

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Mmmm...Cookies...

You may have noticed a lot of talk about cookies recently and whilst you are hoping they are packed full of chocolate chips and have just the right consistency, chances are, it's new privacy legislation that people are talking about!

We've put together this quick guide and gathered some links to other useful online resources so that you can make some informed choices on how it will affect affiliate marketing and more importantly your website.

Hopefully this brief guide will help to explain more about what these changes mean for you and what you need to do to work towards complying with the new regulations.

What you may not know is that this legislation is actually almost one year old! The new Cookie legislation became Law on May 26th 2011. However, following a year to get you prepared, the new legislation will become actively enforced from May 26th 2012.

First question... so what IS a cookie?

As stated above... unfortunately we're not talking about the biscuits here!

Instead we are talking about a piece of technology. A cookie is, essentially, a small file of letters and numbers downloaded on to your computer when you access certain websites. Cookies allow a website to 'recognise' a user's computer. Cookies themselves do not require personal information to be useful and, in most cases, do not personally identify internet users. Cookies are used in a variety of ways. This can be to remember what items you have placed in your shopping basket, through to helping with behavioural advertising to identify users who share a particular interest so that they can be served more relevant adverts.

What does the revised law mean?

The Cookie Law means that websites will need to get consent from customers to store or retrieve any information on a computer or any other web connected device, such as a smartphone or tablet.

With most websites using cookies and similar technologies, if your business has a website, you will need to look at making changes to it in order to adhere to the law.

EVERY website uses cookies in some way and what you need to do is get your house in order and start making progress towards full compliance.

Why is this law coming into effect?

The law has been made to protect consumers' online privacy by educating them about how their information and behaviour is collected and used by websites. It aims to give consumers control over their own online privacy. In our opinion, one of the biggest challenges to that is the lack of general awareness of how the internet operates in the general public. Working in the industry we have a blinkered view of the level of understanding of the average internet user. The vast majority will NOT know what a cookie is or how these cookies enhance and impact their online experiences.

Types of Cookies

No more biscuit jokes... instead, some tech stuff. Cookies can be very generally classified as either session or persistent cookies. This essentially means that they can either expire at the end of a browser session (from when a user opens the browser window to when they exit the browser) or they can be stored for longer with a variable period of time set by the site which 'drops' the cookie. The new regulations do not really differentiate and the regulations apply to both types of cookies.

Are there any exceptions to the law?

The basis of the law exists around the 'right to refuse' a cookie... and there are exceptions

to the requirement to provide information about cookies and obtain consent where the use of the cookie is one of the below:

For the sole purpose of carrying out the transmission of a communication over an electronic communications network

Where such storage or access is 'strictly necessary' for the provision of an information society service requested by the subscriber or user. For example, it is the same for intranet sites purely targeted at your employees.

The term 'strictly necessary' means that such storage of or access to information should be 'essential', rather than 'reasonably necessary', for this exemption to apply. However, it will also be restricted to what is essential to provide the service requested by the user, rather than what might be essential for any other uses the service provider might wish to make of that data.

It should be noted, that where the use of a cookie type device is deemed 'important' rather than 'strictly necessary', those collecting the information are still obliged to provide information about the device to the potential user and obtain consent.

Responsibility for providing the information and obtaining consent

The Regulations do not define exactly and clearly who should be responsible for providing the information and obtaining the consent. However, you are responsible for complying with these regulations if you operate an online service or website and it requires any use of a cookie type device for your purposes only.

However, once a person has used such a device to store or access data on a device, that person will not be required to provide the information described and obtain consent on subsequent occasions, as long as they met these requirements initially. While the regulations do not require the relevant information to be provided on each occasion, they do not prevent this.

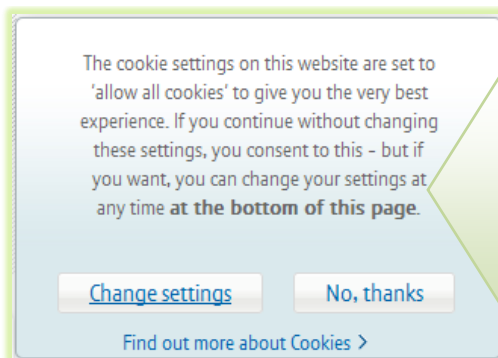
So, what do you need to do to inform consumers?

Basically, if you are using cookies on your website you will most likely need to make some changes. You **MUST** inform your customers, but how you do this can be in a variety of ways. We recommend that for the time-being you follow some or all of the following:

- Tell visitors to your website that the cookies are there
- Explain the purpose of these cookies
- Get the customer's consent to store a cookie on their device

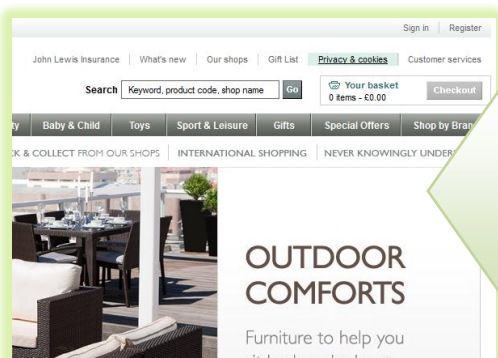
The Regulations are not entirely rigid about the information that you need to provide consumers with, but the text should be sufficiently full and intelligible to allow individuals to clearly understand the potential consequences of allowing storage and access to the information collected by the device should they wish to do so.

Some examples that are in the public domain:



BT.com – An 'implied consent' model.

Upon your first visit to the site you are offered the chance to change the cookie settings, but if you do not act upon it they 'assume' that you are giving consent.



John Lewis

JohnLewis.com – Full breakdown and information of all cookies used on the site. This information is displayed in a very prominent area of the site, easy to find and fully visible



ico.

ICO.gov.uk – the 'whiter than white' route. Full tick box approval needed. It's their law and they need to follow it, but realistically can you see this tick box culture coming into effect on every website in the UK?

Need more information? Please do your own research, by no means is this document legal advice and we strongly recommend that you consult with some or all of the following useful sites to find out more:

[ICO](#)

[Cookie Collective](#)

[DMA](#)

[All About Cookies](#)

[ICC](#)

What is AffiliateFuture

AffiliateFuture is the most authoritative and innovative affiliate marketing network. We have experience working with clients ranging from blue-chip brands to dotcom retailers and demonstrate particular strength in the travel sector through our award winning technologies. **AffiliateFuture** has been established for more than ten years and has offices in London, New York and Madrid.

Managing national and international affiliate marketing programmes, our network brings merchants and affiliates together for high performance results. **AffiliateFuture** has more than 300,000 affiliates across multiple verticals. We strive to get the best out of affiliate marketing through first class service, continual improvement and transparency.

Understanding the most effective way of representing brands on affiliate sites is a critical factor in the success of **AffiliateFuture**.

Contact AffiliateFuture

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