

Views on Google's proposal to block third party cookies on its Chrome web browser

First, Google may obtain an unfair advantage if it blocks third-party cookies but continues to use first-party cookies. In its PS proposals, Google has put forward its intention to phase out the use of third-party cookies ("TPCs") but has not clarified whether it intends to block the use of first-party cookies ("FPCs") in a third-party context. If Google blocks TPCs but not FPCs, it will have an unfair competitive advantage, as Google does not rely on TPCs in the same way as other ad tech providers to track users across the Internet. Instead, Google can "drop" an FPC on a user's browser when a user visits one of Google's user-facing services (e.g., Google Maps, YouTube). Google can then read the FPC that it previously dropped on the user's browser when that same user visits another, non-Google website that uses Google Analytics for its analytical services or some other Google service. Given the very extensive use of Google Analytics by websites, Google can track users almost everywhere across the Internet using FPCs. Therefore, there is a risk that Google might use this data, in conjunction with the data from its own user-facing services, to provide personalized advertising, while preventing other ad tech providers from doing so once the PS technology comes out.

Second, Google's proposed alternatives to TPCs also have the potential of providing Google with an unfair advantage by giving it control of all data used across the digital advertising ecosystem to target ads and monitor ad performance. For example, under its FLoC proposal, Google proposes to define "flocks" of users with common interests as a replacement for individual identifiers and to run other ad tech providers' logic modules to compare ads on different properties. Google, however, has not provided any information regarding how it will generate "flocks," resulting in a lack of transparency regarding attribution. Moreover, its current proposal would require other ad tech providers to share their proprietary logic modules (i.e., trade secrets) with Google, their largest competitor. Similarly, Google has not been transparent about the implementation of its FLEDGE audience targeting solution, which would result in ad bid and targeting decisions happening at the browser level. In particular, Google has not explained or formalized the implementation of the trusted server element of the proposal.