

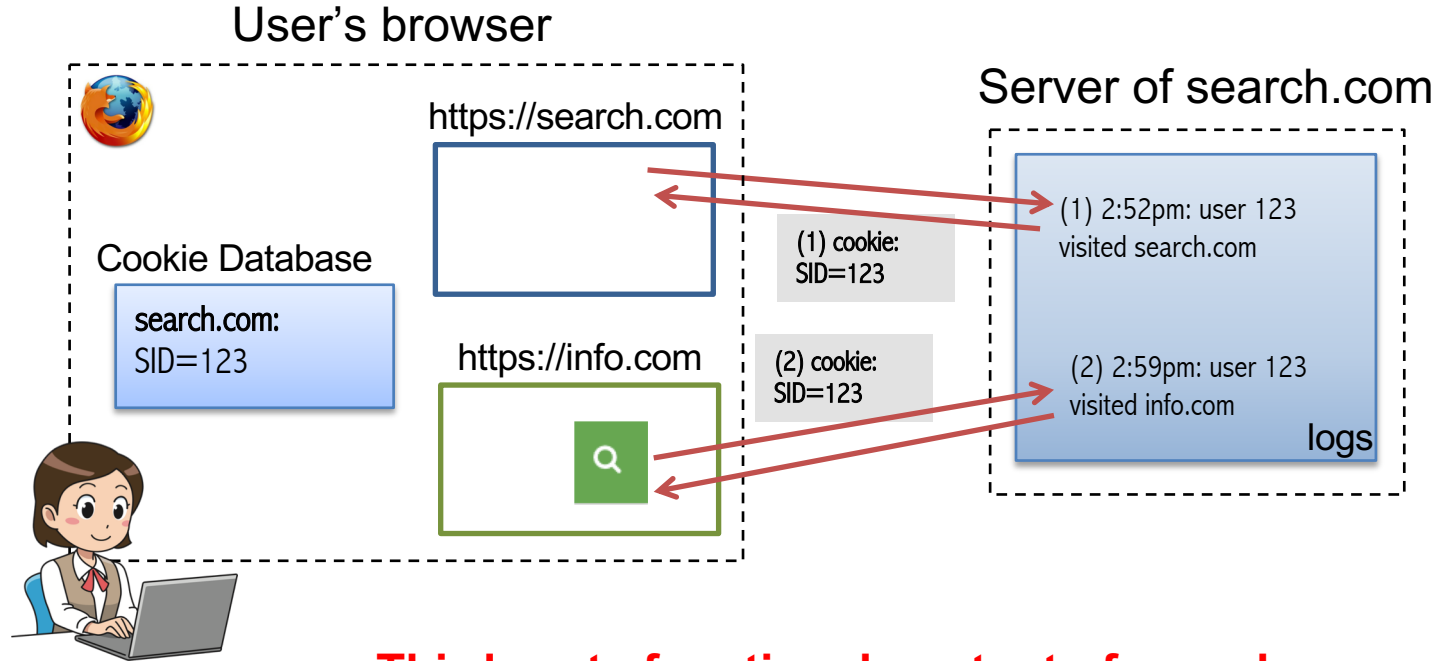
**Shared consent between publishers:
what could possibly go wrong?**



What the legal sources say?

- Consent can be shared among publishers
 - CJEU Tele 2, CJEU Deutch Telecom C543/09
- Sharing data **for the same purpose** doesn't violate protection of PD without renewal of consent
 - **=> consent can be shared among publishers**

Problem of shared consent: example



Third-party functional content of search.com includes cookies that requires consent!

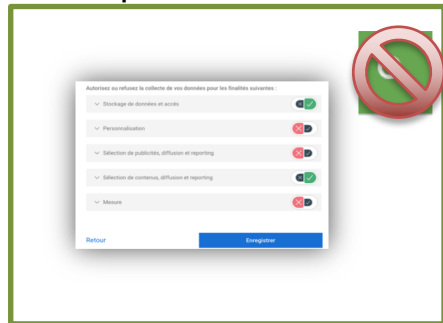
How can publisher be compliant?

OPTION 1: Publisher collects consent herself

1. Consent must be collected “before cookies are sent”
2. Functional search doesn't work until the user **allows the tracking cookies** to be used
3. Refusal of consent means search is not available
4. Functionality of the website is broken
5. Detrimental effect on the user (though publisher's intent is unknown)

=> Consent is not free, hence not valid!

<https://info.com>



How can publisher be compliant?

OPTION 2: Publisher relies on consent collected by a third party search.com

1. Publisher has to rely on the consent already collected by the third party (search.com)
2. If consent on search.com is not valid, then **publisher is jointly responsible for non-compliance!**
3. Moreover, publisher should **trust all the third parties** it includes for valid collection of consent!



=> Publisher can't safely rely only third-party consent!

Conclusions on shared consent

- Publisher can rely only on “negative consent” (refusal)
- Third parties can’t “mix” content and cookies for tracking
- **Can the Web rely on shared consent at all?**

Last but not least: storage of consent

- Predefined storage of user's ~~consent~~ choice (!) on a terminal equipment must be defined
- Shared consent (choice) is problematic!
- Best choice: terminal interface (Art 9 ePR)

Nataliia :TO UPDATE