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Feedback

AIM Position on the Digital Omnibus Proposal

March 2026

EXECUTIVE SUMMARY

AIM calls for:

- A proportionate, risk-based application of new Article 88a on storing and accessing personal data in terminal equipment, recognising distinctions between low-risk first-party uses and cross-site tracking.
- Careful calibration of Article 88b on automated and machine-readable consent signals to ensure technical feasibility, legal certainty and competition neutrality.
- Avoidance of default browser-level configurations that could unintentionally disrupt legitimate digital engagement, personalised services and trusted brand-consumer relationships.
- Recognition of the distinct role of first-party data in enabling trusted brand–consumer relationships and delivering tailored digital experiences expected by consumers.
- Clear guidance, workable standards and sufficient transition periods before obligations under Articles 88a and 88b become binding.

1. Introduction

AIM welcomes the European Commission's initiative to simplify elements of the digital regulatory framework in the via its Digital Omnibus

AIM – the European Brands Association – represents over 2,500 manufacturers of branded consumer goods operating across the EU. Our members include both small and medium-sized enterprises and large multinational companies producing a wide range of trusted products – from food and beverages to personal care and home care, to apparel, toys and other consumer goods. Built on decades of innovation, quality and responsible business practices, these brands are central to daily life for consumers across Europe.

The fast-moving consumer goods industry is the third-largest manufacturing sector in Europe and a key contributor to growth and jobs. The industry remains a strong supporter of the Single Market, moving €276 billion of consumer goods within the EU every year. In addition, €174.8 billion of FMCG products are exported outside the EU (the remaining 39% of FMCG trade)—demonstrating Europe's global reach and the trust placed in European products. [1]

Within this wider sector, AIM's members represent the branded goods industry, which drives innovation, investment and consumer trust across the Single Market.

Digital engagement plays an increasingly important role in how brands inform, serve and build relationships with consumers. Clear, coherent and proportionate rules governing consent and terminal equipment are therefore essential to support consumer trust, innovation and competitiveness across the Single Market. Increasingly, AI-enabled tools are being explored and deployed across supply chains, product development, forecasting, customer interaction and operational processes. In this context, clear, consistent and predictable rules are essential to ensure that companies can innovate responsibly and invest with confidence.

2. Article 88a – Consent Requirement and Lawful Exceptions

Article 88a introduces a clear rule that storing or accessing personal data in terminal equipment requires consent, while providing defined exceptions where such storage or access is lawful without consent.

AIM supports the clarification that certain activities do not require consent, including where storage or access is necessary for transmission of communication, provision of a service explicitly requested by the user, first-party audience measurement for the controller's own use, and security purposes.

[1] See AIM's Consumer Goods Industry Barometer 2024 for more information.

The explicit recognition of first-party audience measurement carried out solely for the controller's own use is particularly important. It provides needed legal clarity for legitimate analytics that do not involve cross-site tracking or third-party data sharing.

However, implementation of the consent requirement must reflect a genuinely risk-based approach. First-party data collected by brands in the context of direct interactions with consumers plays an essential role in enabling trusted digital services. When a consumer visits a brand's website or digital service, the use of first-party cookies and similar technologies allows the brand to provide core functionalities, improve services, measure performance and deliver more relevant and tailored experiences.

These first-party uses differ fundamentally from cross-site tracking by third parties across unrelated services. They form part of a direct and transparent relationship between brands and consumers and are typically limited in scope to that specific interaction. Regulatory implementation should therefore preserve a proportionate and risk-based approach that recognises the distinct nature of first-party data.

A rigid interpretation that does not adequately distinguish between different risk levels could unintentionally restrict legitimate digital practices that enhance user experience and service quality without delivering proportionate privacy gains.

3. Article 88a – Safeguards on Consent Requests

Article 88a also introduces safeguards intended to address consent fatigue, including:

- The requirement that refusal must be possible through a single-click or equivalent means.
- The prohibition on repeated consent requests for the same purpose for at least six months where consent has been declined.

AIM recognises the concern about repeated consent prompts and supports measures that improve user experience and reduce unnecessary friction.

At the same time, practical implementation must avoid creating operational rigidity. Digital services evolve frequently, and purposes may be refined or adapted over time. Clear guidance will be needed to define what constitutes the "same purpose" and how the six-month rule should apply in dynamic online environments.

4. Article 88b – Automated and Machine-Readable Indications

Article 88b requires controllers to enable consent and objection through automated and machine-readable means and to respect those signals once standards are developed. It also requires non-SME browser providers to provide the technical means to transmit such signals.

The objective of enabling more seamless and less intrusive consent mechanisms is understandable. However, this new architecture raises several structural considerations.

First, requiring controllers to respect automated signals while obliging major browser providers to transmit them may shift significant influence over consent architecture to browser-level actors. In markets where a small number of providers dominate browser distribution, this raises important questions regarding neutrality, competition and market structure, as consent architecture could effectively be shaped by a limited number of private actors.
While browser-level consent mechanisms are often presented as a simpler way for users to manage privacy preferences, they may reduce the precision, transparency and accountability of consent. Browser-level signals are typically generic and binary, making it difficult to reflect the diversity of processing purposes across digital services or to adapt preferences as services evolve over time. At the same time, responsibility for lawful processing remains with the data controller, while the design and interpretation of automated signals may be determined by browser providers that are not themselves accountable for the underlying data processing. This may create compliance risks and reduce transparency for users regarding who processes their data and for what purpose.

Second, the technical feasibility of purpose-based granularity remains uncertain. Distinguishing between different processing purposes—such as targeted advertising, personalisation and analytics—through automated signals may

prove complex. Without clear and workable standards, implementation risks fragmentation and legal uncertainty across the Single Market.

Third, the question of default settings is critical. If browser-level mechanisms default to refusal for all but strictly necessary storage or access, this could have significant implications for the digital ecosystem. Such a configuration would affect the ability of trusted brands to communicate effectively with consumers, provide personalised and relevant experiences, and understand how their online services are used and improved.

It could also disrupt the use of first-party data within direct brand–consumer relationships. First-party data enables brands to improve digital services, understand how their platforms are used and provide personalised interactions that consumers increasingly expect. Consumers may choose to share data with trusted brands in exchange for more relevant services and improved experiences. Any future consent architecture should therefore preserve this trusted value exchange while ensuring strong privacy safeguards and meaningful user choice.

5. Standards, Presumption of Compliance and Transition

Article 88b foresees that harmonised standards will define how automated signals are interpreted and that conformity with such standards will create a presumption of compliance.
AIM supports harmonisation at EU level to prevent fragmentation across Member States. However, standards must be:

- Technologically neutral.
- Interoperable across different digital environments.
- Thoroughly tested before binding application.

Clear guidance will also be necessary to explain how automated signals interact with other GDPR legal bases and existing consent management systems.

Given the structural importance of consent mechanisms, sufficient transition periods are essential to allow technical adaptation and consistent implementation across the Single Market.

6. Conclusion

AIM supports the objective of simplifying and modernising the framework governing processing of personal data on and from terminal equipment

However, implementation of Articles 88a and 88b must remain proportionate, technically workable and competition-neutral. It should safeguard privacy while enabling trusted brands to continue providing secure, personalised and high-quality digital experiences across the European Single Market.

About AIM

AIM (Association des Industries de Marque) is the European Brands Association, which represents manufacturers of branded consumer goods in Europe on key issues that affect their ability to design, distribute and market their brands.

AIM comprises 2500 businesses ranging from SMEs to multinationals, directly or indirectly through its corporate and national association members. Our members are united in their purpose to build strong, evocative brands, placing the consumer at the heart of everything they do.

AIM's mission is to create for brands an environment of fair and vigorous competition, fostering innovation and guaranteeing maximum value to consumers now and for generations to come. Building sustainable and trusted brands drives the investment, creativity and innovation needed to meet and exceed consumer expectations.

AIM's corporate members

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AIM's national association members

Austria Markenartikelverband • Belgilux BABM • Czech Republic CSZV • Denmark MLDK • Finland FFDIF • ESVEP – Greek Association of Branded Products Manufacturers • France ILEC • Germany Markenverband • Ireland Food & Drink Federation • Italy Centromarca • Netherlands FNLI • Norway DLF • Portugal Centromarca • Spain Promarca • Slovakia SZZV • Sweden DLF • Switzerland Promarca • United Kingdom British Brands Group

EU Transparency register ID no.: 1074382679-01