

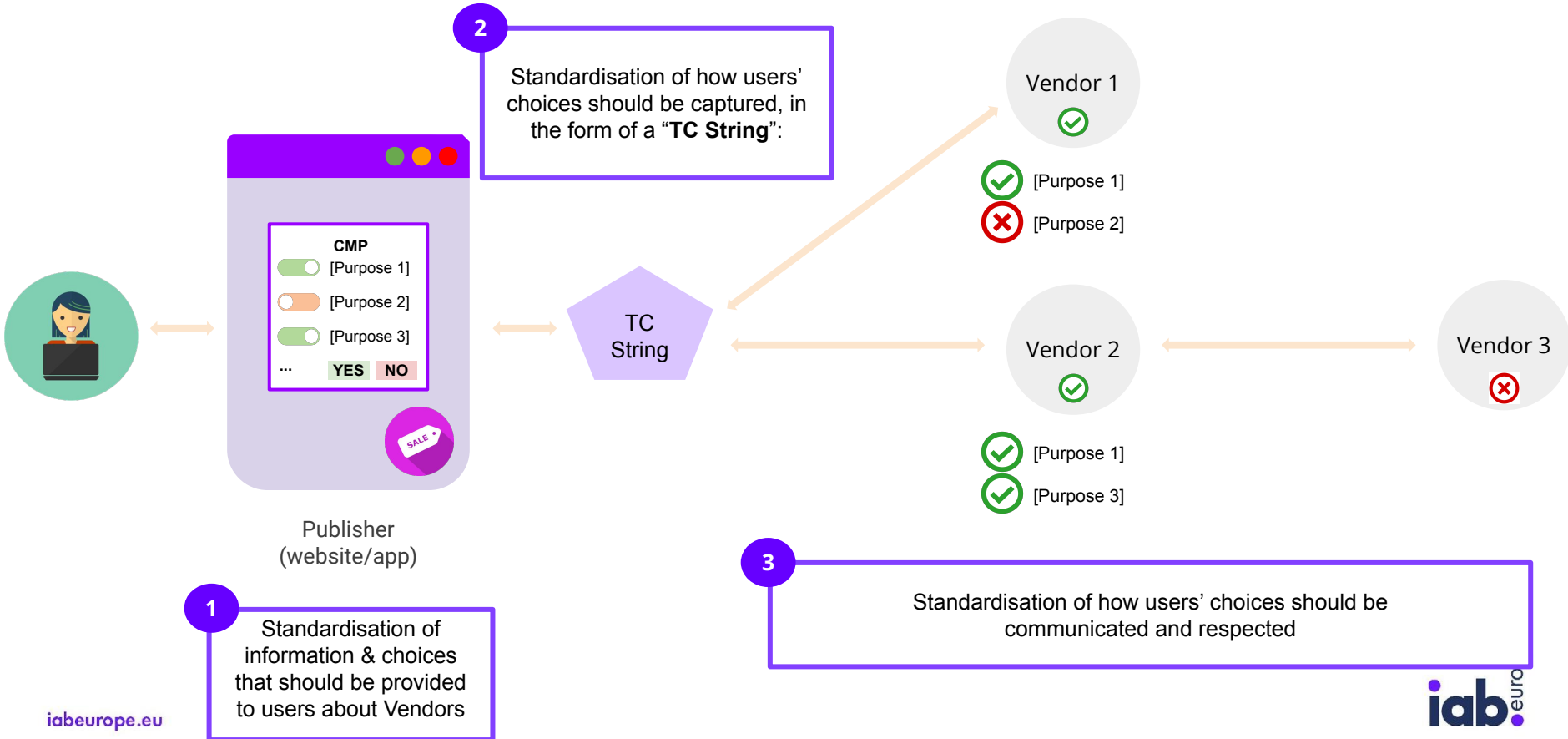
A decorative graphic on the left side of the slide. It features a large purple circle at the bottom left, a smaller dark blue circle at the top right, and a large white circle with horizontal purple stripes that overlaps the other two.

# TRANSPARENCY & CONSENT FRAMEWORK (TCF) update

February 2023

[icbeurope.eu](https://icbeurope.eu)

# TCF reminder



# Belgian DPA decision against IAB Europe and the TCF

## Findings

1. The TC String is personal data
2. IAB Europe is a (joint) data controller for the processing of TC Strings
3. IAB Europe is also (joint) data controller for subsequent processing under the TCF purposes

## Conclusions

1. IAB Europe has no legal basis for the processing of TC String
2. IAB Europe has no valid legal basis for subsequent processing under the TCF purposes because the TCF requirements are too minimal

## Orders of the decision

1. Submit an action plan to remedy the issues
2. Execute the action plan within 6-months following validation by the Belgian DPA

# Appeal & action plan interplay

## March 22 - Appeal before the Belgian Market Court

IAB Europe submitted an appeal against the APD ruling to the Belgian Market Court

## April 22 - action plan submission

IAB Europe submitted an action plan as required, proposing a set of corrective measures to address the orders of the APD ruling

*APD committed to wait until after September before moving forward with the validation of the action plan, date by which the Market Court was expected to have issued a final ruling on the appeal*

## September 22 - Belgian Market Court Interim ruling

- (i) confirmed the APD decision was insufficiently substantiated and (ii) referred two questions to the CJEU:
  - 1) whether TC Strings should be considered personal data
  - 2) whether IAB Europe should be considered a data controller

## October 22 - start of CJEU procedure

## January 23 - action plan validation

APD formally validated all points of the action plan and triggered the 6-months period for implementation

## 11 July 23 - end of action plan implementation (?)

## End of 23/ 24 - end of appeal procedure

Belgian Market Court will resume its deliberations on the merits after the final judgment from the CJEU

## Current work on the action plan implementation

- Measures proposed in the action plan have therefore been chosen in part due to the aggressive 6-month timeline
- Primarily focused at improving transparency and fairness toward end-users by standardising new requirements for CMP UIs and new restrictions over the use of Legitimate Interest as a legal basis for profiling
- Expand the existing TCF Compliance programmes following the same principles applicable to monitoring bodies in the context of GDPR Codes of Conduct

See [FAQs](#) & [subscribe to TCF updates](#) if you are not registered.

## Request for interim measures due to legal uncertainty

IAB Europe introduced a new appeal with a request for interim measures against the implementation of the action plan

- 1) The Belgian DPA is preempting answers from the CJEU : any iterations to the TCF should be aligned with the interpretation that will be given by the European Court
- 2) The Belgian DPA has not engaged in any dialogue with IAB Europe to guide the implementation of the plan : iterations to the TCF should be right from the outset for both end-users and industry players



## Q&A