

# mPulse – Compliance With Global Data Protection Laws



Intelligent Security Starts at the Edge

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## What is mPulse?

Akamai mPulse enables real-time performance monitoring and analysis of websites and online applications to help improve overall digital experience for your end users.

## How does the mPulse service work?

The mPulse JavaScript snippet is inserted in the HTML of your websites to gather comprehensive data for measuring online performance. After configuration, the mPulse snippet collects mPulse beacons – invisible network requests that contain performance data and other page-load characteristics – within seconds.

Graphs and visual reports that show the real-time performance of your websites are available in the mPulse dashboard within a few minutes. Historical performance from data collected more than 24 hours ago is also displayed visually when available. Real-time data collection is supported with a cookie that stores session data for 30 minutes and technical data for seven days.

You choose the types of data collected by the mPulse beacon:

- Performance timers such as bandwidth and page load times
- Business metrics including bounce rates, conversions, and order totals
- End-user metrics like IP address, location (up to the city level), device type, carrier speed, and application usage

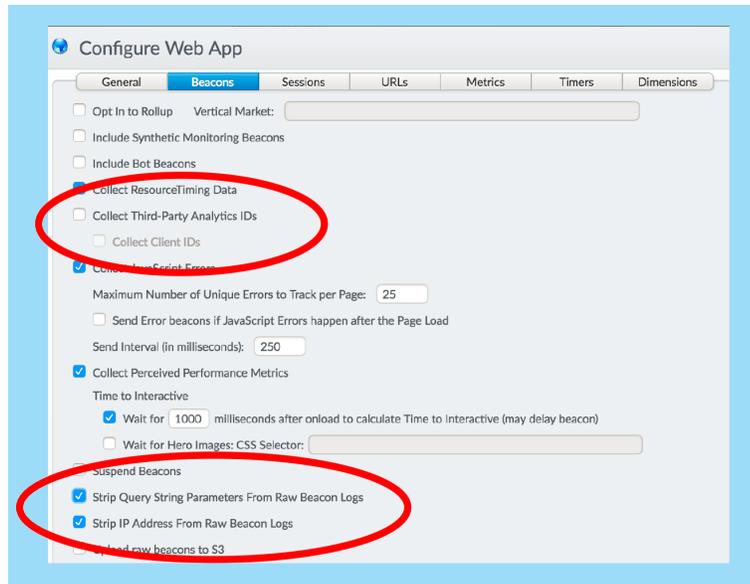
In addition, end-user IP addresses are processed on Akamai edge servers to perform geolocation and mapping services when delivering and securing your websites.

## Is mPulse compliant with data protection laws?

The Akamai mPulse service complies with all applicable data protection laws across the globe, including the EU General Data Protection Regulation (GDPR) and ePrivacy Directive, California Consumer Privacy Act (CCPA), Australian Privacy Principles (APP), Singapore Personal Data Protection Act (PDPA), Argentina Personal Data Protection Law (PDPL), and Japan's Act on the Protection of Personal Information (APPI). Akamai is committed to maintaining compliance with applicable data protection laws by applying a variety of safeguards.

## Privacy by default

The mPulse service is configured in a privacy-friendly manner. The mPulse snippet and mPulse beacon are defined in data protection terms as cookie technology. The mPulse cookie technology is, by default, limited to collecting only personal data that is absolutely necessary. Third-party analytics IDs are not collected. After geolocation and mapping services have been performed, query string parameters – which may consist of personal data, depending on URL setup – are stripped, and the end-user IP address that is collected when the content hits the Akamai server is immediately discarded.



If you want to use third-party analytics, query string parameters, and/or end-user IP addresses for website performance purposes, you can change the default configuration and instruct Akamai to collect and transfer such data to the mPulse dashboard. Even with these configurations, the data transferred from the edge server to the mPulse dashboard does not include any personal data.

## Data processing agreement

The mPulse cookie technology is categorized as a first-party cookie. When the cookie technology is placed by Akamai for the purpose of providing mPulse services as directed by you (the website owner), it is considered first party. Cookie technology that is placed by an entity for its own purposes independent of the instructions of a website owner is considered a third-party cookie.

The mPulse cookie technology collects website performance data from end users, such as IP addresses, that Akamai processes when performing the mPulse services. You determine the means and purposes of the processing activities for mPulse, and Akamai follows your instructions.

In legal terms, this means, you, our customers, act as a data controller (GDPR), business (CCPA), organization (APP and PDPA), information handler retaining personal information (APPI), or the owner of a database (PDPL). Akamai in turn acts as a data processor (GDPR), service provider (CCPA), third party (APP), another organization (PDPA), or the user of a database (PDPL).

Akamai offers a data processing agreement to customers to ensure the processing activities related to the provisioning of mPulse services comply with all applicable data protection laws:

## Transparency

To help you comply with transparency obligations under applicable data protection laws, Akamai provides a statement describing the processing activities performed in the course of provisioning mPulse services. You can use this language in your privacy statement, cookie policies, or any other disclosure about the usage of personal data.

mPulse processing activities are described in Akamai's privacy statement, available at <https://www.akamai.com/us/en/multimedia/documents/akamai/akamai-privacy-statement.pdf>

## Cookie consent management

In most countries, the cookie technology used for mPulse requires certain consent management activities by the website owner. Depending on applicable laws and data collection parameters, you can implement an opt-in, opt-out, or no-choice setup to enable end users to control mPulse cookie data collection:

The **opt-in setup** allows mPulse cookie technology only in cases where an end user consented to the placement.

The **opt-out setup** enables the mPulse cookie technology to collect performance data by default until an end user opts out.

The **no-choice setup** doesn't offer cookie consent management to end users.

Akamai even offers a fourth option: **no data collection without opt-in setup**. With this option, the mPulse cookie technology is placed on your website, but does not collect any data until end-user consent is provided. This setup enables the cookie technology to collect website performance data very quickly, while honoring an opt-in setup, allowing fast data collection when consent is not required.

## EU ePrivacy cookie compliance

Since the mPulse cookie is placed by Akamai acting as the data processor, it is considered a first-party cookie. When the privacy-by-default configuration is implemented by you, the mPulse cookie technology does not collect personal data. It doesn't identify end users, track them beyond your websites, or use the data collected to create end-user profiles.

In most EU countries, the mPulse cookie technology falls under the strictly necessary exemption under ePrivacy laws and does not require end-user consent. If you choose to offer opt-out mechanisms, have a data processing agreement in place with Akamai, and are informing end users about the processing activities of the mPulse cookie technology, you will comply with the laws in most EU countries.

This is the position in the [updated guidance by the DSK](#), the German data protection authority committee<sup>1</sup>, as well as in the updated [cookie guidelines by the CNIL](#), the French data protection authority.<sup>2</sup> The [updated cookie guide by the AEPD](#), Spain's data protection authority, still accepts implied consent for cookie technology usage, for example, by the continued use of the website.<sup>3</sup> In these cases, the *opt-out setup* can be selected.

The [updated guidance by the ICO](#), the UK data protection authority, requires that end users consent to website performance analytics cookies. But the ICO also states that it is unlikely that priority for any formal action would be given to cookies where there is a low level of intrusiveness and risk of harm to individuals, citing first-party analytics cookies as an example of a low risk.<sup>4</sup> With this guidance, *no data collection without opt-in setup* further reduces the level of intrusiveness and potential risk of harm to end users while honoring the ICO acknowledgement that a first-party web performance cookie not collecting personal data causes very low, if any, harm to individuals.

## CCPA and non-specific cookie compliance

The [CCPA](#) that went into effect in California on January 1, 2020, considers cookies and similar technologies as personal information, requiring website owners to provide a transparent notice on the cookie usage.<sup>5</sup> Where the mPulse cookie technology is configured in accordance with privacy by default, a data processing agreement is in place, cookie technology usage information is provided to end users, and no data is shared with third parties, the *no-choice setup* can be selected. In countries where data protection laws do not specifically cover cookies – Australia, Singapore, Japan, Argentina,<sup>6</sup> and Brazil<sup>7</sup> – this same approach applies.

## Summary

The compliance of mPulse services with applicable data protection laws depends on the choices and activities of Akamai customers. When your organization uses the mPulse service, you determine the means and purposes of the data it collects and usage of cookie technology – and Akamai follows these instructions.

As a service provider, Akamai offers various configurations for mPulse to assist you in compliance with applicable data protection laws, in particular with transparency and consent management obligations. Akamai also offers a data processing agreement. To comply with our own obligations under applicable data protection laws, Akamai designed mPulse with privacy in mind, adhering to the privacy by default principle.

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<sup>1</sup> Available online at: [https://www.datenschutzkonferenz-online.de/media/oh/20190405\\_oh\\_tmng.pdf](https://www.datenschutzkonferenz-online.de/media/oh/20190405_oh_tmng.pdf) and [https://www.lda.bayern.de/media/pm/pm2019\\_14.pdf](https://www.lda.bayern.de/media/pm/pm2019_14.pdf)

<sup>2</sup> Available online at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000038783337>

<sup>3</sup> Available online at: [https://www.aepd.es/sites/default/files/2019-12/guia-cookies-en\\_0.pdf](https://www.aepd.es/sites/default/files/2019-12/guia-cookies-en_0.pdf)

<sup>4</sup> Available online at: <https://ico.org.uk/for-organisations/guide-to-pecr/guidance-on-the-use-of-cookies-and-similar-technologies/how-do-we-comply-with-the-cookie-rules/> at the very bottom.

<sup>5</sup> Available online at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=CIV&division=3.&title=1.81.5.&part=4.&chapter=&article=](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.81.5.&part=4.&chapter=&article=)

<sup>6</sup> Available online at: [https://www.argentina.gob.ar/sites/default/files/mensaje\\_nde\\_g\\_147-2018\\_datos\\_personales.pdf](https://www.argentina.gob.ar/sites/default/files/mensaje_nde_g_147-2018_datos_personales.pdf)

<sup>7</sup> LGPD text has been translated into English by Macedo Advogados, and is available online at:

[https://iapp.org/media/pdf/resource\\_center/Brazilian\\_General\\_Data\\_Protection\\_Law.pdf](https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf)

For more information about data privacy, visit the Akamai Privacy Trust Center available at: [www.akamai.com/compliance/privacy](http://www.akamai.com/compliance/privacy).



Akamai secures and delivers digital experiences for the world's largest companies. Akamai's intelligent edge platform surrounds everything, from the enterprise to the cloud, so customers and their businesses can be fast, smart, and secure. Top brands globally rely on Akamai to help them realize competitive advantage through agile solutions that extend the power of their multi-cloud architectures. Akamai keeps decisions, apps, and experiences closer to users than anyone – and attacks and threats far away. Akamai's portfolio of edge security, web and mobile performance, enterprise access, and video delivery solutions is supported by unmatched customer service, analytics, and 24/7/365 monitoring. To learn why the world's top brands trust Akamai, visit [www.akamai.com](http://www.akamai.com), [blogs.akamai.com](http://blogs.akamai.com), or @Akamai on Twitter. You can find our global contact information at [www.akamai.com/locations](http://www.akamai.com/locations). Published 03/20.