CONSUMER PRIVACY IN THE DIGITAL MARKETPLACE: FEDERAL INITIATIVES

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“Sectoral” Privacy Laws


2009 Survey: Americans Reject Tailored Advertising

- 68% would not allow marketers to follow them on websites, even anonymously;
- 69% feel there should be a law that gives people the right to access information that a website has complied about them;
- 92% agree that websites should delete all stored information about an individual upon the request of that person;
- 63% believe advertisers should have to delete information about their internet activity.

FTC Early Initiatives

- Websites that break their privacy promises can be liable for “deceptive trade practices”
- Merger of Double Click and Abacus Direct was challenged by FTC but challenge dropped when company backed off plans to merge online and offline databases

FTC Fair Information Practice Principles

- Notice
- Choice
- Access
- Security
FTC settles case against Twitter June 2010

Earlier cases held unreasonable data security measures is “unfair trade practice”

Sears 2009 case, FTC charged Sears with publishing misleading privacy policy that didn’t tell consumers how they were collecting and disseminating info about them

Gateway Learning case, FTC charged company with retroactively changing privacy policy without consumer consent (2004)

Facebook has changed its privacy policies in ways that frustrate some users

Consumer Online Privacy groups have urged the FTC to sue Facebook

Corporate motto is “Don’t Be Evil”

Google owns Double Click, Gmail, Checkout, YouTube, My Location Maps for Mobile

Put together with Google Search = biggest data base of personal information ever
Many websites already allow consumers to opt out of information sharing or “manage their preferences”

But consumer has to take initiative to reset privacy settings for each website they deal with

Another way is “opt-in” where default would be information is not shared unless consumer expressly consents

H.R. 5777, Consumer Privacy Bill

- Requires “opt-in” or express affirmative consent prior to disclosure of personal information to 3rd parties, for monitoring of individual’s Internet browsing activities and for any material changes in privacy practices.
- Requires consumer access to their own information, ability to correct inaccuracies, and establishment of data security safeguards.
- Entities that participate in self-regulatory programs approved by the FTC would be exempt.