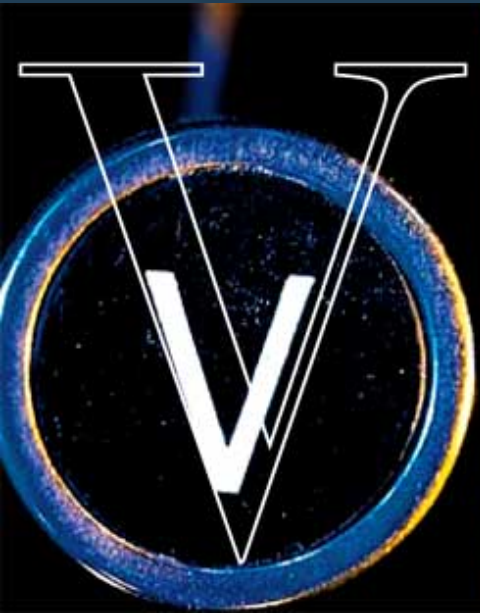


VENABLE[®]_{LLP}

The DMA--Privacy update from Washington

March 24, 2010



Outline

- Federal Trade Commission
- Self-Regulation
- Legislation—Privacy and FTC Reauthorization
- Federal Communications Commission



New Commissioners

- Julie Simone Brill, Senior Deputy Attorney General, Consumer Protection Division, North Carolina
- Edith Ramirez, Partner with CA firm. Her practice includes complex business litigation matters.



FTC Privacy Workshops

- First Roundtable Discussion
 - December 7, 2009 in Washington, DC
 - Panelists discussed consumer expectations; online behavioral advertising; benefits and risks of collecting, using, and retaining consumer data; information brokers; and existing regulatory frameworks

- Second Roundtable Discussion
 - January 28, 2010 in Berkley, CA
 - Discussion focused on benefits and risks created by technology and the privacy implications of social networking, cloud computing, and mobile marketing.

- Third Roundtable Discussion
 - March 17, 2010 in Washington, DC
 - Panelists discussed the collection and use of “sensitive” information



Cross Industry Self-Regulation of Online Behavioral Advertising

- FTC proposes draft principles (December 2007)
- AAAA, ANA, DMA, IAB Convene Task-Force (April 2008)
- FTC releases revised principles (February 2009)
- Coalition releases Self-Regulatory Principles for Online Behavioral Advertising (July 2009)
- Coalition turns to enforcement, operational implementation, and educational planning (August 2009)
- DMA adopts Guidelines at DMA '09 in San Diego
- Icon adoption – Industry education (December 2009)



Industry Releases Principles

Self-Regulatory Principles for
Online Behavioral Advertising



Leading the Marketing Community



BBB
Start With Trust



JULY 2009

DEVELOPED BY: American Association of Advertising Agencies
Association of National Advertisers
Council of Better Business Bureaus
Direct Marketing Association
Interactive Advertising Bureau

COUNSEL: Venable LLP
Stuart P. Ingis
Emilio W. Cividanes
Michael A. Signorelli



Self-Regulatory Principles of OBA

- Education
- Transparency
- Consumer Control
- Data Security
- Material Changes to Existing OBA Policies and Practices
- Sensitive Data
- Accountability



Third Party Notice

The screenshot shows a Bebo user profile for 'Dustin St Clair'. The navigation bar includes 'HOME', 'PROFILE', 'FRIENDS', 'MAIL', 'EXPLORE', and a search bar. Below the navigation, there are tabs for 'Me', 'Mini-Event', and 'Saying'. A welcome message reads: 'Welcome Dustin St Clair! Add: Photos, Video, more Views: 0, map Friends: 2, invite'. Below this is a 'Camera Shy?' placeholder. A large advertisement for Capital One is displayed, featuring the text 'Choose from 8 card designs', 'Response in 1 minute', 'Credit limit up to £2,500', and a 'Click to apply' button. A red box highlights the text 'Interest Ads' at the bottom of the ad, with a red arrow pointing to the 'Ads by Yahoo!' sidebar. The sidebar contains a 'Privacy' section with the following text: 'In serving ads does Yahoo! share personal information with Publishers? No. Yahoo! only serves ads based on information we collect in accordance with our privacy policy.' It also includes an 'Opt-Out' section: 'Can I Opt-Out? Yes, you can Opt-Out of customised ads when you are not on the Yahoo! network of properties but you will continue to see non-customised ads.' and a 'What are "Ads by Yahoo!?"' section: 'Yahoo! serves the advertising that you see on this site. Yahoo! customises the advertising we show based on information collected by Yahoo! and partner web sites using this computer. This customisation is based on information we collect and use in accordance with our privacy policy.' The sidebar also features the 'YAHOO! ADVERTISING SOLUTIONS' logo and a 'Graphical Ads' section: 'Yahoo's database-driven platform allows advertisers to target their online media campaigns to specific audiences across the Yahoo! network. As the leader in rich media advertising, Yahoo! supports a wide variety of ad technologies to maximise campaign performance.'



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A look at the U.S. struggle to defeat improvised explosive devices used by insurgents in Afghanistan and Iraq.

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Series examines Cheney's largely hidden and little-understood role in crafting policies for War on Terror, economy and the environment.

Sudan: A Country in Crisis
Interactive report examines Darfur, where conflict has left 450,000 people dead and 2.5 million displaced.

Warning Sought for Burger the Size of Your Head
Cardinal Health to cut 1,300 Jobs at Clinical Unit

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- Duncan Does the Math on Education Budget

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Notice by Web Site

Third parties who place advertisements on our Web sites may collect and use information about your visits to our Web sites and other Web sites in order to provide advertisements about goods and services of interest to you. If you would like to obtain more information about the practices of some of these third parties and to make choices about their use of your information, please [click here](#).



FTC Reauthorization

- APA Rulemaking
- Aiding and Abetting
- Civil Penalties
- Independent Litigation Authority for Civil Penalty Actions



Federal Trade Commission - Reauthorization

- Chairman Leibowitz supports strengthening the FTC's Authority.
 - “Americans are still experiencing a period of extreme financial distress, and the modest new authority given to our agency will help ensure that we have the tools necessary to fight fraud and go after those who perpetrate it. We commend the House Energy and Commerce Committee, and especially Chairman Waxman, for their visionary work on behalf of consumers.” Chairman Leibowitz commenting on the passage of HR 3126.
- Chairman's letter to the House Energy and Commerce Committee



Office of the Chairman

WASHINGTON, D.C. 20580

October 26, 2009

U. S. House of Representatives
Committee on Energy and Commerce
Washington, D.C. 20515

Dear Members of the Committee on Energy and Commerce:

As all of us are aware, American consumers are going through a period of extreme financial distress. And all of us want to ensure that federal law enforcement agencies have effective tools to help them stop unfair and deceptive abusive business practices. For that reason, I want to thank the entire Committee for its expressions of support of the FTC's work. I appreciate the changes made to H.R. 3126, the "Consumer Financial Protection Act of 2009" ("CFPA Act"), in the Financial Services Committee that preserve the FTC's effective enforcement and consumer protection jurisdiction. I commend this Committee for its further, critical efforts in this regard during its consideration of the CFPA Act. I also urge you to support expanded authority for the Federal Trade Commission in connection with your markup of the CFPA Act. New tools for the FTC are critical for the FTC to provide the strongest possible protection for consumers, and President Obama has expressed his support for the FTC to have the "resources and the state-of-the-art tools to stop unfair and deceptive practices." My Republican colleague, Tom Rosch, and my Independent colleague, Pamela Jones Harbour, agree that having all of the additional authorities discussed below will help to achieve this enhanced protection for consumers.¹

Rep. Boucher's proposed elements of privacy legislation

- **Disclosure.** Consumers should be given clear, concise information in an easy-to-locate privacy policy about
 - what information a website collects about them;
 - for what purposes that information is collected;
 - how and for how long the information is stored;
 - what happens to it when it is no longer stored; and
 - whether and under what circumstances it is given or sold to third parties.

- **Material Changes.** A website that makes material changes to its privacy policy will be required to give consumers notice of those changes.

- **Collection.** Web sites should be permitted to collect information about website visitors sufficient to build preference profiles about those visitors unless the website visitor affirmatively opts out of permitting the website to collect the information.



Rep. Boucher's proposed elements of privacy legislation (cont'd)

- **Sensitive information.** A website may only knowingly collect sensitive information, such as medical information, financial information, information about sexual preference, precise geographic location information and information about children and adolescents, with a consumer's express opt-in consent.

- **Use of information.**
 - Opt-out: As with the collection of information, if someone does not want a website he visits to use information it collects to deliver ads to him, he should opt out of that use. However, a consumer has a reasonable expectation that a website he visits will not be sharing his information with unrelated third parties.
 - Opt-in: If a website wants to provide information to an unrelated third party whose activities are not required for delivering ads by the information-collecting website to the person from whom it is collected, it should not be permitted to engage in that information-sharing unless the Internet user affirmatively opts in to that use.

- **Safe harbor.** Legislation should create a safe harbor for companies that participate in robust self-regulatory programs that have been approved by the Federal Trade Commission. A variety of models that place the power to make privacy-related decisions in the hands of consumers might qualify and allow, subject to consumer opt-out, the sharing of information among unrelated websites that participate in ad networks.

Rep. Rick Boucher (D-VA) Editorial Concerning Privacy Legislation

Behavioral ads: The need for privacy protection
 By Rep. Rick Boucher (D-Va.) - 09/24/09 06:21 PM ET

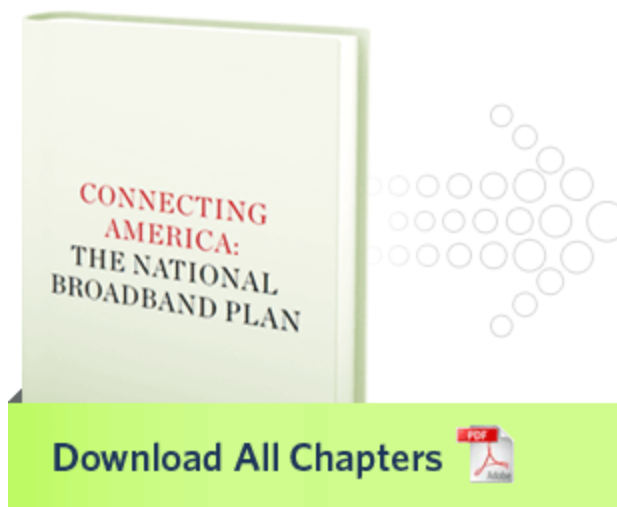
Broadband networks are a primary driver of the national economy, and it is fundamentally in the nation's interest to encourage their expanded use. One clear way Congress can promote greater use of the Internet for access to information, e-commerce and entertainment is to assure Internet users a high degree of privacy protection, including transparency about the collection, use and sharing of information about them and to give them control over that collection, use and sharing.

Industry is to be commended for its recent advancement of self-regulatory principles. However, while proactive, these entirely voluntary principles do not go far enough, and there is no guarantee that every company that collects information from the Internet-using public will abide by them.



Federal Communications—The National Broadband Plan-(March 16,2009)

- **Recommendation 4.14-- Congress, the Federal Trade Commission (FTC) and the FCC should consider clarifying the relationship between users and their online profiles.**



The National Broadband Plan

- **Recommendation 4.15—Congress should consider helping spur development of trusted “identity providers” to assist consumer in managing their data in a manner that maximizes the privacy and security of the information**



The National Broadband Plan

- **Recommendation 4.16: The FCC and FTC should jointly develop principles to require that customers provide informed consent before broadband service providers share certain types of information with third parties.**



■ THANK YOU!!

