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Councils

DMA Councils'
Advocacy
Webinar Update –
Privacy
Legislation



Washington's Increasing Focus on Privacy Issues

Legislative Proposals

- Privacy
- Data Security / Breach Notification

Regulatory Inquiries

- Federal Trade Commission (FTC)
- Federal Communications Commission (FCC)
- Department of Commerce

Self-Regulation for Online Behavioral Advertising

Q&A





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Connected**

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The screenshot shows the DMAAction.org website. A red callout box highlights the 'Legislative Action Center' section. The website header includes the DMA logo, navigation links (What's New, Contact Us, Logout, MyDMA, Home), and social media icons. The main navigation bar contains links for Membership, Advocacy, Events and Education, News, Corporate Responsibility, DMA Bookstore, and About DMA. A search bar is also present.

Legislative Action Center

Home | Take Action | Federal & State Legislation | Return to DMA Main | About DMA Advocacy

In The Spotlight

Learn more about DMA's fight against postal rate hikes and take action to support the Affordable Mail Alliance!

Read about other important DMA efforts:

- DMA's Fight Against FTC Expansion
- DMA Files Suit Against Colorado Anti-Marketing Law
- DMA Responds to Release of Draft Privacy Bill
- DMA Comments on FCC Robocall Rule Highlight Unintended Consequences
- Summary of House Subcommittee Hearing on Online Privacy

Latest News

- Obama antitrust enforcement looking like more of the same (Washington Post) Sep 8, 2010
- A housing market out of sync (Washington Post) Sep 5, 2010
- Home buyers, sellers out of sync (Washington Post) Sep 4, 2010

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Take Action: Direct Connect to Congress

Become a DMA Government Affairs Member

Key Issues

- Fighting Postal Rate Increases
- Keeping FTC Expansion Out of Financial Reform
- Self Regulation: Online Behavioral

Voter Resources

- Early / Absentee Voting Information
- My Candidates
- My Elected Officials

Federal & State Legislation

- H.R. 4173: Restoring American Financial Stability Act of 2010
- S. 3217: Restoring American Financial Stability Act of 2010

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MARKETING NEWS

- 09/08/2010 Email Experience Council and Epsilon Release Q2 2010 North America Email Trend Results: Steady Open Rates
- 09/07/2010 DMA Releases Quarterly Business Review (QBR) for Q2 2010
- 09/07/2010 DMA Releases Quarterly Business Review (QBR) for Q2 2010
- 09/02/2010

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- Get Inside the Boss' Head....
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- Stay Ahead of the Policy Curve...

Washington's Increasing Focus on Privacy

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Who are the “key players” on privacy legislation and regulation?

- House of Representatives
- Senate
- Federal Trade Commission (FTC)
- Federal Communications Commission (FCC)
- Department of Commerce

What could legislation and/or regulation impact?

- Collection of data
- Use of data for marketing purposes
- Sharing of data with third parties
- Innovation in the marketplace



March

- FTC “Exploring Privacy” Workshop
- National Broadband Plan outlines FCC role on privacy regulation

April

- Senate Facebook inquiry
- Commerce NOI: “Privacy and Innovation in the Internet Economy.”

July

- Senate Commerce hearing to examine “Consumer Online Privacy.”
- House Judiciary hearing on “Online Privacy, Social Networking, and Crime Victimization.”

August

- House inquiry into online data collection practices of 15 companies.



Legislative Proposals

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Legislative Proposals: Boucher-Stearns

About the proposal:

- Reps. Rick Boucher (D-VA) and Cliff Stearns (R-FL) circulated a “discussion draft” of proposed legislation in early May.
- Requires “notice to and consent of an individual prior to the collection and disclosure of certain personal information relating to that individual.”
- Opt-out for first parties.
- Opt-in for third party transfers.
- Potentially sweeping impacts for every marketing channel.

DMA Position:

- Self-regulation is the best approach.
- Opt-in for data transfer is disruptive, discriminates against offline marketers.
- Opt-out for first parties is disruptive.
- “Covered information” and “Sensitive Information” are too broad.
- Consent for materials changes in policies is an unnecessary burden.
- Requirements for privacy notices are too proscriptive.
- Delivering privacy notices before data collection is impractical / impossible.
- Requirements should apply to collecting entity, not recipients.
- Data retention provisions are not workable.

About the bill:

- Rep. Bobby Rush (D-IL) introduced H.R. 5777 in mid-July.
- Broadly restricts collection and transfer of data online and offline.
- Opt-out for first parties.
- Opt-in for third party transfers.
- Establishes a safe harbor for entities complying with approved self-regulatory programs:
 - Allows opt-out for third party transfers.
 - Release from access requirements.
 - Release from liability in privacy lawsuits.

DMA Position:

- First party opt-out with third party opt-in is a non-starter.
- Recognition of the important role of self-regulation is an improvement over the Boucher-Stearns proposal, but concerns remain.
- No self-regulatory “carrot” for first parties: safe harbor doesn’t apply to data collection.
- Scope of the opt-out is still too broad.
- FTC would have authority to undertake 9 new rulemakings.

About the proposal:

- Sen. Mark Pryor (D-AR) is drafting a bill that would give the FTC authority to establish a Do-Not-Track Registry similar to the National Do-Not-Call Registry.

DMA Position:

- Self-regulation is the best approach, and industry coordination is well under way in this area.
- Such a registry would:
 - Severely limit the use of behavioral advertising.
 - Restrict the ability of marketers to send relevant ads to consumers on-line.
 - Reduce the efficacy and value of Internet advertising.
 - Undermine the advertising financial support for free content on the Web.

Legislative Proposals: Data Security / Breach

“Personal Data Privacy and Security Act ” (S. 1490)

- Sen. Patrick Leahy (D-VT)
- National breach notification standard.
- Data security requirements for businesses and federal agencies.
- Data broker provisions.

“Data Breach Notification Act ” (S. 139)

- Sen. Dianne Feinstein (D-CA)
- National breach notification standard.

“Data Security Act” (S. 3579)

- Sens. Carper (D-DE) and Bennett (R-UT)
- Data security requirements for financial institutions and federal agencies.
- National breach notification standard.

DMA Position:

- Support creation of a national breach notification standard.
- Legislation that addresses identity theft should not adversely affect the flow of information vital to our economy.

...Majority Leader Reid wants all proposals to be reconciled in a new bill.

Regulatory Inquiries

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Regulatory Inquiries

Federal Trade Commission (FTC)

- “Exploring Privacy” Workshops
- Review of COPPA Rule

Federal Communications Commission (FCC)

- National Broadband Plan outlines FCC role on privacy regulation
- Inquiry: “Empowering Parents and Protecting Children in an Evolving Media Landscape”

Department of Commerce

- Inquiry: “Information Privacy and Innovation in the Internet Economy”
- Symposium: “A Dialogue on Privacy and Innovation”

Industry Self-Regulation

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What is Online Behavioral Advertising (OBA) Anyway?

- OBA is the collection of information about online activities and Web-viewing behaviors, over time and across non-affiliate websites, to deliver tailored ads.

DMA Answers FTC's Call for Industry Self-Regulation

- July 2009: Industry-wide collaboration culminates with release of "Self-Regulatory Principles for Online Behavioral Advertising"
- October 2009: DMA Board approves updated "Guidelines for Ethical Business Practice" specifically addressing the use of OBA (Article #38).

What Does This Mean for Your Business Practices?

- Compliance with DMA Guidelines and Industry Principles

Next Steps:

- Implementation
- Enforcement



Q&A

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Thank You!

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