**CONSUMER PRIVACY IN THE DIGITAL MARKETPLACE: FEDERAL INITIATIVES**

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**“Sectoral” Privacy Laws**


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**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.

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**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

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**FTC Fair Information Practice Principles**

- Notice
- Choice
- Access
- Security
Data Security Cases

- FTC settles case against Twitter June 2010
- Earlier cases held unreasonable data security measures is “unfair trade practice”

FTC Privacy Policy Cases

- 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 Privacy Policies

- Facebook has changed its privacy policies in ways that frustrate some users
- Consumer Online Privacy groups have urged the FTC to sue Facebook

Google – the next 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
<table>
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<tr>
<th>Opt-Out v. Opt-In</th>
<th>H.R. 5777, Consumer Privacy Bill</th>
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<tr>
<td>Many websites already allow consumers to opt out of information sharing or “manage their preferences”</td>
<td>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.</td>
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<td>But consumer has to take initiative to reset privacy settings for each website they deal with</td>
<td>Requires consumer access to their own information, ability to correct inaccuracies, and establishment of data security safeguards.</td>
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<td>Another way is “opt-in” where default would be information is not shared unless consumer expressly consents</td>
<td>Entities that participate in self-regulatory programs approved by the FTC would be exempt.</td>
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