

Internet Governance Forum – Egypt

Online Advertising and The Future of Privacy

Balancing Business Imperatives and Consumer Rights

Final Report - Workshop 263

Moderator: Katitza Rodriguez, EPIC International Privacy Program (EPIC)

Speakers: Marc Rotenberg, Executive Director, Electronic Privacy Information Center (EPIC)
Pamela Harbour, Commissioner, US Federal Trade Commission (FTC)
Ellen Blackler, Executive Director Public Policy, AT&T Services, Inc. (USA)
Graciela Selaimen, Núcleo de Pesquisas, Estudos e Formação da Rits (NUPEF/RITS) (Brazil)

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IGF Audiocast <http://www.un.org/webcast/igf/ondemand.asp?mediaID=ws091116-luxor-am1>

Workshop Description

A powerful global system of online data collection for targeted interactive marketing has become one of the principal features of the Internet. Throughout much of the world, individual user information is now routinely collected for profiling, tracking and targeting purposes, which has raised growing concern over personal privacy and consumer welfare. Sophisticated digital marketing technologies, including the use of neuroscience for the creation of online advertising, has also generated public debate, especially related to public health. While advertising plays a critically important role in the Internet and Web 2.0, the majority of users are not well informed about the potential impact personal data collection will have on their daily lives. There are, however, other online advertising models beyond behavioral targeting that may allow companies to reach Internet users without the same risks to privacy. And a regulatory structure that protects user privacy will actually instill consumer confidence in the online economy, benefitting businesses and buyers alike. Online advertising is a global industry, and its impact on Internet users and privacy is profound, affecting developing and more economically advantaged countries.

This workshop is a follow-up to the event held during the IGF 2008. It will start by summarizing the major developments on this topic around the world during 2009. It will discuss some of the online advertising and behavioral targeting models applied in search engines, online video, online games, and Web 2.0, and will discuss how personal data is being collected and how it is used. Balancing freedom of speech, privacy, online marketing and consumer protection, various alternatives will be explored, including a discussion of international policy frameworks that have been proposed to regulate privacy and online advertising.

Conference Report

Consumer privacy is under siege both, online and offline

Commissioner Pamela Harbour opened the panel by setting the scene on online privacy. She explained that the explosion of free, online content and services that collect, integrate and disseminate consumers' personal information (webmail, blogs, mobile applications, social networks sites) are increasingly becoming part of one's personal digital life. "While these technologies potentially offer valuable benefits, not all consumers are fully aware of the privacy implications of the services."

As consumers pay for free content and free services by disclosing their personal information, their data is increasingly being used to generate targeting advertising that subsidizes their activities, she stressed. Already, it is possible to assemble a digital dossier that captures individual interests and habits runs them through a predictable model and then, determine what that person will likely do in the future. "Consumer privacy is under siege both, online and offline. Behavioral advertising represents one aspect of the multifaceted privacy conundrum surrounding data collection and use."

Tipping Point

"I am troubled by the asymmetry between consumer perceptions and business realities." "Once your data is shared, it can't be deleted." (Commissioner Harbour)

Consumers do not know how their information is used and collected, and based on these premises, it is impossible for them to knowingly consent to either disclosure or use of personal information. She called this the "*Tipping Point*," a point where consumers become sufficiently concerned about the collection and use of their personal information. While consumers want to exercise greater control over such use, their attempts to exercise control become futile at some point because so much of their digital life has already been exposed over the Internet.

Notice and Choice are insufficient on the current market

She mentioned that the attempts by the industry to provide "*Notice and Choice*" to consumers are insufficient on the current market. "Disclosures about information collection, use and control are not meaningful if they are very deep in opaque privacy policies that only lawyers can understand." It is troubling that businesses "have failed to effectively communicate with consumers despite evidence that consumers are greatly concerned about their privacy." A recent academic report from the University of Pennsylvania concluded that 66% of American adults reject tailored ads.

Concentration of Power

When the US Federal Trade Commission approved the Google Double-Click Merger in December 2007, Commissioner Harbour wrote a dissenting statement that, among other things, highlighted the relation between competition and privacy. In particular, the issues raised by data collection and use provides the right opportunity for companies to develop pro-privacy consumer tools that may help companies distinguish themselves from their competitors. Firms that offer these controls may be vulnerable to criticism from advertisers who depend on constant influx of personal data in order to make products and services to work as intended. In

the long term, Commissioner Harbour believes that consumers who are increasingly able to click away to the next competitor will embrace innovative responses.

In her dissent in the Google-Double-Click merger, she discussed John Battelle's "Database of Intentions" concept that is the aggregate results of every search ever entered, every result listed, and every path taken to the results. According to Battelle, a few select companies share control over that database. "My key concern in Google-Double-Click is that the merger entity will move closer to dominating the database of intentions." The network effects generated by combining the two companies may have long-term negative consequence for consumers.

During the European Union and US review of the Google-DoubleClick merger, Google indicated that they would not engage in behavioral advertising. However, in March 2009 Google reversed course. Furthermore, Google purchased Ad Mob to offer advertising in the mobile market. She mentioned that the US market is leading companies to find new sources of revenue and such sources are driven by larger amounts of data and the connection between them.

She concluded by mentioning that companies must engage in more serious enquiries over privacy and competition issues that affect consumers, particularly as they move to cloud computing, smart grids and mobile services.

The new advertising environment has become increasingly consolidated

Marc Rotenberg provided a general background on the significant changes that have taken place in the advertising world with respect to new media. He mentioned that in traditional advertising, there was virtually no collection of personal identifiable information while in the new interactive environment; it is now possible to track and record the interests of consumers across the Internet. This has led to a dramatic transformation that has changed the relationship that previously existed between publishers, advertisers, and consumers of information.

He mentioned that the new advertising environment has become increasingly consolidated, and there are small numbers of companies that are collecting vast amount of information about the activities of Internet users. Mr. Rotenberg stressed, "on the absence of regulation, the market efficiencies make it possible for the dominant firms to gather more information, and more difficult for competitors to get access to the same information." They find their selves reliant upon the large ad serving companies to get access to information about customers that might be interested in their products.

He offered two possible solutions to resolve such concerns:

The first solution is the creation of a regulatory model under which certain restrictions could be enforced. He provided as an example the use of cookies which are key elements in order to link independent commercial transactions. He commented that the current EU legal initiative to give users control over their cookies might prevent and stop companies from tracking personal behavior on the Internet. The second solution consists of an approach that relies more on technology: creates systems that do not rely on the collection of personal identifiable information.

He concluded his presentation by recognizing that online advertising has a role to play in the Internet, as it has played with another media. Mr. Rotenberg made a call to recognize the significant transformation that has taken place in the collection and use of personal data in the

online environment. He recommended that policymakers and businesses consider at ways to allow new business practices and privacy to co-exist.

There is an urgent need to work on an Ecosystem wide industry solution

Ellen Blackler gave a brief perspective of her company and underlined the importance of relying on a multimodal relationship with customers since many of them have now an interest in the way their personal information is collected and used on the Internet. She proposed the creation of a new solution that would protect consumer privacy and find viable ways to engage customers based on their needs and concerns.

She mentioned that many privacy policies of Internet companies are not adequate for the digital environment, and she also emphasized the importance of offering customers control over their own personal information.

Ms Blackler commented on the importance of the role of the FTC to recognize the need to protect consumers from online targeting advertisers. She added that many of those companies do not actually have a direct way to interact or offer a trustworthy customer relationship in the online environment. She noted how difficult it is for customers to get familiar with all the privacy policies of Internet companies.

She mentioned that there is the urgent need to work on an “*Ecosystem wide industry solution*” in order to offer protection to the privacy of users on a coordinated basis, and to find ways to label ads and educate consumers on why they are targeted on the Internet. She also expressed that there is a need to educate publishers about so they can choose the kind of advertising that publishers really want.

Opaque Privacy Practices: “We do not know when and how we are being observed, we do not what is going to be done with all the feedback we provide”

Graciela Selaimen focused her presentation on the philosophical and theoretical approach of targeted advertising. She referred to the work of Dallas Smythe, in an article published in 1977 - “*The blindspot of western Marxism.*” She selected two of the questions presented by said author in order to reflect on the phenomena of online behavioral target advertising.

Ms. Selaimen noted that databases could serve as instruments of knowledge, where the object of representation (e.g. the consumer) becomes observable, measurable, quantified, and in short, known. She referred to current techniques such as “*neuromarketing*”, which study people’s behavior using the patterns revealed in electroencephalograms, eye-tracking equipment and intelligent video.

She also mentioned that users are constantly feeding companies their personal information and preferences. Amazon, for example, is a company that plays a critical role today in maintaining systems of online productivity. Ms. Selaimen said that one of the major problems that exists in this dynamic is its opacity, in other words, “we do not know when and how we are being observed, we do not what is going to be done with all the feedback we provide”

She also observed that the configuration of personal identity is no longer in our own hands. Electronic profiles of individuals can be combined, dissected, bought and sold, and otherwise manipulated without the knowledge or consent of the individual subject. She mentioned that computerized databases are actually identity-producing engines.

Ms. Selaimen concluded by sharing some concerns in relation to online advertising practices that are impacting subjectivity and violating human rights. One of them is the possibility that in a world that commodifies everything, privacy itself will become a commodity in the near future. The other is directly linked to defending our need to be human, not a commodity. She underlined the importance of human rights in contemporary information and surveillance societies.

After the presentations, the moderator allowed interaction with the audience where the panelists offered views regarding Google's ongoing projects to enhance consumer privacy in their online services. Other questions were related to the current challenges to offer consumers more control over their own personal information and data, as well as international and national frameworks and government enforcement to protect the privacy of citizens; and the regulatory challenges that remain to be faced in areas like virtual worlds.

Conclusions

Commissioner Harbour stressed that companies must engage in more serious enquiries over privacy and competition issues that affect consumers, particularly as they move to cloud computing, smart grids and mobile services.

Mr. Rotenberg made a call to recognize the significant transformation that has taken place in the collection and use of personal data in the online environment. He recommended that policymakers and businesses consider how new business practices and privacy can co-exist.

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