



Federal Trade Commission

Exploring Privacy A Roundtable Series Berkeley, CA

Remarks of David Vladeck,¹ Director FTC Bureau of Consumer Protection, January 28, 2010

It is great to be here in California. John F. Kennedy famously said that Washington DC is a city of Southern efficiency and Northern charm. I have a much more positive outlook on Washington myself, but nevertheless, I think our moving these proceedings from the Beltway to Berkeley will give us a unique perspective. Indeed, having this event in the nerve center of Internet technology and business will ensure that we hear from people that are grappling daily with technology and privacy issues.

Before I begin, let me start with a few thank yous. I want to thank Deirdre Mulligan, Chris Hoofnagle, David Grady, Louise Lee, and the Berkeley Center for Law and Technology for co-hosting this event with us and Berkeley Law School for providing the venue. I also want to thank Danny Weitzner from the Commerce Department, for joining us. I look forward to his remarks and to working with him and his colleagues as we continue to examine privacy issues. And finally, I'd like to thank our incredibly accomplished group of panelists. We are grateful to

¹ The views expressed here are my own and do not necessarily represent the views of the Federal Trade Commission or any Commissioner.

you for sharing your expertise with us. If the December roundtable is any guide we can expect a very robust discussion.

I. December Roundtable

Before I preview today's agenda, I'd like to give you an overview of what happened at our December roundtable. Although we unearthed a lot of useful and interesting information on a variety of topics, let me highlight three key lessons from the December roundtable.

First, we learned that consumers have little understanding of commercial information-collection practices. They do not really understand what data is collected about them, how the data is used and shared, and whether and how they can exercise control over their data. For example, we heard that consumers are largely unaware of practices in the data broker industry – particularly the extent and nature of personal information that is regularly collected and sold. In the online world, we heard that the practice of behavioral advertising may not be clear to consumers. Indeed, one panelist summed up the extent of consumer confusion – he noted a survey showing that when consumers see the phrase “privacy policy” on a company's website, they think the company does not share their information with anyone else. We must find a way to improve consumer understanding.

A second and related point is that, although traditional, lengthy privacy notices are not effective, there continues to be an important role for privacy disclosures. Industry is coming up with interesting innovations in this area. Some panelists discussed the development of a universal icon that would alert consumers that behavioral advertising is taking place. Other panelists discussed new models of consumer disclosure, like those offered by Google and Yahoo, where consumers can see which categories of advertising they receive and opt out of receiving advertising in specified categories. At the same time, panelists expressed concern

about the extent to which consumers were aware of these options, as well as the extent to which consumers could easily navigate multiple, different company systems designed to offer transparency and control.

Third, we learned that consumers **do** care about privacy. Several panelists discussed surveys showing that consumers are uncomfortable with the practice of behavioral targeting. Beyond surveys, we know that consumers take affirmative steps to protect their privacy, particularly when surfing online. In fact, one panelist mentioned that Ad Block Plus – a pop-up blocker – was the most downloaded add-on for Firefox. And just this week, I noticed that the number one emailed article from the New York Times website was an article about how consumers can change their privacy settings on Facebook. The fact that this was the number one emailed article shows that people are very interested in practices that impact their privacy.

II. Today's Roundtable

Today's roundtable, which is organized around the themes of technology and privacy, will build on what we learned in December. I've always said that as policymakers, we should encourage innovation and technology for the benefit of consumers. Microsoft CEO Steve Balmer summed up the vast benefits of information technology succinctly: "It empowers people to do what they want to do. It lets people be creative. It lets people be productive. It lets people learn things they didn't think they could learn before, and so in a sense it is all about potential." As we all know, however, technology raises public policy challenges as well. To quote another public figure, author Alice Kahn has aptly stated, "for a list of all the ways technology has failed to improve the quality of life, please press three." The point is that, of course, technology improves our lives; in the context of today's discussions, it can enhance our privacy. But it raises some challenges to privacy as well.

Our opening panel will delve into this very issue – how can technology enhance consumer privacy and how might it challenge or circumvent consumer privacy? Here we will undoubtedly explore the consumer privacy arms race – for every tool developed to give consumers control over collection or tracking, it seems like a countermeasure is quickly developed to neutralize the consumer’s choice.

Our next three panels will examine these questions in three specific contexts: social networking, cloud computing, and the mobile environment.

First, social networking. As the online equivalent of the water cooler, social networking has revolutionized the way we interact with people. Who needs a Hallmark “thinking of you” card when I can “poke” someone online? Why should I send an annual holiday card to my friends and family when I can update them on my life in real time? On the one hand, these sites are a boon for consumers, enabling us to reconnect with high school friends, look up old flames, or cement relationships with potential business partners. On the other hand, of course, it means that others can scrutinize the minutia of our lives – future employers, current bosses, or even worse, our parents, who might try to “friend” us. As the amount of personal information shared through these services grows, and the number of third-party applications with access to such information grows, it is important that consumers understand how their data is being shared. Our expert panelists will focus on these issues and explore the extent to which transparency and meaningful control exist for consumers when they use these services.

Similarly, cloud computing offers significant consumer benefits – storage in the cloud may be cheaper and may reduce the need for businesses and consumers to purchase, operate, and maintain software and hardware themselves. At the same time, storing data on remote computers raises privacy and security concerns. For example, the ability of cloud computing

services to collect and centrally store increasing amounts of consumer data, combined with the ease with which such centrally stored data may be shared with others, create a risk that larger amounts of data may be used in ways not originally intended or understood by consumers. Our esteemed panelists are sure to shine some “sunlight” on the practice of “cloud” computing.

Third, increasingly ubiquitous mobile devices have brought tremendous new benefits for consumers. They are so versatile that some people may forget that they can actually be used to make calls. But we need to examine privacy considerations here as well. For example, how is location-based information collected, shared, and used? How do companies obtain informed consent for such practices on a PDA with a small screen? Our panelists will help us analyze these issues in detail.

Our concluding panel will highlight ways in which companies are building privacy into their products or services at the outset and ways that policymakers can encourage more such efforts. Ideally, privacy protections would be baked in, rather than half-baked.

IV. Conclusion

Before we begin the first panel, let me make one final comment. In addition to hosting these roundtables, we also intend to maintain an active law enforcement presence to protect consumers from unfair and deceptive privacy practices. For example, we are currently examining practices that undermine the effectiveness of tools consumers can use to opt out of behavioral advertising, and we hope to announce law enforcement actions in this area this year.

With that, it’s time to let our expert panelists take the floor. Thanks very much for coming, and I look forward to hearing from you all.