




OFFICE OF  
INSPECTOR GENERAL

FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

April 20, 2001

MEMORANDUM

TO: Robert Pitofsky  
Chairman

FROM:   
Frederick J. Zirkel  
Inspector General

SUBJECT: Transmittal of Letter Regarding the Use of "Cookies" by the FTC

Pursuant to the Treasury and General Government Appropriations Act, General Provisions, Section 646, (Public Law No. 106-554) Inspectors General of each department or agency are required to submit a report to Congress that discusses pertinent agency activities relating to the collection of "personally-identifiable information" from the visiting public on agency Web sites. Internet sites have the capability to capture data without the direct knowledge of the visitor through the use of "cookies." A cookie is a small text file that a website can place on a visitor's hard drive in order to collect information about his/her activities on the site. The cookie transmits this information back to the Web site's computer.

The OIG found no evidence to indicate that the FTC is collecting personally-identifiable information through the use of cookies to track use patterns and other select user information, nor has the agency entered into agreements with third parties to obtain such information. However, the OIG did find links from FTC Web pages to external sites that do utilize cookies. Due to the seamless transition from the FTC website to other content relevant sites, visitors may not be aware that they have left a cookie-free site for one that employs such data collection tools. Consequently, the OIG recommended that some additional disclosure language be placed on the agency's disclaimer page to warn visitors that external sites reached through FTC-provided hyperlinks may collect personally-identifiable information about them. Management has agreed to add language alerting visitors to this likely possibility.

I am available to answer any questions you may have regarding our findings.

c: Commissioners  
Bureau Directors  
Executive Director  
Chief Information Officer  
General Counsel  
Legislative Counsel



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FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

April 20, 2001

The Honorable Ben Nighthorse Campbell  
Chairman  
Subcommittee on Treasury and General Government  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

This letter report is submitted pursuant to the Treasury and General Government Appropriations Act, General Provisions, Section 646, (Public Law No. 106-554) which requires Inspectors General of each department or agency to submit a report to Congress that discloses pertinent agency activities relating to these provisions:

- (1) The collection or review of singular data, or the creation of aggregate lists that include personally identifiable information about individuals who access any Internet site of the department or agency; and
- (2) Entering into agreements with third parties, including other government agencies to collect, review, or obtain aggregate lists or singular data containing personally identifiable information relating to any individual's access or viewing habits for governmental and non-governmental internet sites.

The findings of the Federal Trade Commission's Office of Inspector General (OIG) follow.

Provision (1) Findings

The OIG found that the FTC only collects singular data over its Internet site from consumers who knowingly leave personally identifiable information in order to assist the agency with its law enforcement mission. The nature of the information collected depends on what the visitor does when s/he visits the web page. The FTC collects no personally identifiable information if a consumer visits the FTC web site to browse, to read or to download information like consumer brochures or press releases. In such instances, the web server will collect and store only the following visitor information: (i) the name of the domain and host from which the Internet is accessed (for example, aol.com or princeton.edu); or the Internet protocol (IP) address of the host computer; (ii) the date and time the FTC web site is accessed; and (iii) the Internet address of the website from which the consumer linked directly to the FTC website. The agency

uses this information to measure the number of visitors to the different sections of the website and to help the FTC make its site more useful. Generally, this information is deleted after one year.

However, if a consumer chooses to identify himself by sending the agency an email or by using one of the agency's secure online forms (e.g., consumer complaint forms, or the FTC's FOIA Request Form), the FTC will use the personally-identifiable information voluntarily provided by the consumer to further its consumer protection and competition activities.<sup>1</sup> It may enter the consumer's information into its database to make it available to FTC staff attorneys and investigators involved in law enforcement.

The agency may also share this personally identifiable information with a variety of other law enforcement agencies. Further, if a consumer contacts the FTC to report a possible law violation, the FTC may share some consumer information with certain private entities to help resolve the consumer's complaint. In addition, when a consumer submits a complaint, the system alerts him that he may be contacted by the FTC or any of the agencies or private entities to whom the complaint has been referred.

The OIG found no evidence to indicate that the FTC is collecting personally identifiable information through the use of "cookies" to track use patterns and other select user information.<sup>2</sup> According to the Associate Chief Information Officer (CIO) and the FTC webmaster, the FTC does not use cookies on its site. With the assistance of a Systems Audit and Consulting Group located in Washington, D.C., the OIG tested hundreds of web pages maintained by the FTC. Based on the results of this sample test, we have concluded that agency policy (to not use cookies) has been implemented. A summary of the scope, methodology and conclusions drawn from its survey are attached to this letter.

FTC management informed the OIG of a January, 2001 episode where a new application installed by the FTC *tried* to send a cookie. Unknown to FTC information technology staff, this *Oracle* application contained a default code to send cookies. When the server attempted to send the cookie, it alerted agency technical staff. FTC staff immediately disabled the cookie then reviewed a number of computers known to have contacted this server and found no evidence of a cookie on these hard drives.

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<sup>1</sup> The FTC collects this information under the authority of the Federal Trade Commission Act and other laws it enforces or administers.

<sup>2</sup> Internet sites have the capability to capture data without the direct knowledge of the visitor through the use of "cookies." A cookie is a small text file that a website can place on a visitor's hard drive in order, for example, to collect information about his/her activities on the site or, in the case of retailing, to make it possible for him/her to use an online "shopping cart" to keep track of items the consumer wishes to purchase. The cookie transmits this information back to the Web site's computer which, generally speaking, is the only computer that can read it.

## Provision (2) Findings

According to the Associate CIO and the FTC Webmaster, the agency has not entered into any agreements with third parties, including government agencies, to collect, review or obtain aggregate lists or singular data containing personally identifiable information that consumers do not voluntarily provide. However, numerous public and private organizations contribute data to the FTC's consumer complaint database. Based on discussions with the database administrator, all data entered must be in a format compatible with the format developed by the FTC. There is no use or place for data collected through the use of cookies on this form. Consequently, all information of a personal nature collected by the FTC is voluntarily provided by the consumer.

The OIG determined that the FTC web site contains links to external sites that utilize persistent and session cookies.<sup>3</sup> Four such links include websites maintained by the National Association of Attorneys General (persistent & session), the American Bar Association (persistent & session), FirstGov<sup>4</sup> (session) and the Better Business Bureau (session). Due to the seamless transition from the FTC website to these and other sites, and given the similar nature of the subject matter, visitors may not be aware that they have left the FTC domain. Consequently, the OIG feels a disclosure is necessary to warn visitors that some external sites reached through an FTC-provided hyperlink may collect personally identifiable information about them.

Currently, the FTC maintains a web page entitled "Links to Other Sites." Visitors to the page can link directly to other governmental and non governmental web sites that are relevant to the FTC's mission and objectives. In addition, throughout the FTC web site are various other links that connect the visitor to sites that are directly related to the subject matter they are viewing. The disclaimer on the "Links to Other Sites" page states the following:

*This page contains hyperlinks to World Wide Web sites that are created and maintained by other organizations. We have included these links because we think that visitors to our site may find them of interest. Keep in mind that the Federal Trade Commission does not necessarily endorse the views expressed on these Web sites. Also, we do not guarantee the accuracy or completeness of any information presented on these sites.*

To address the OIG concerns regarding the possible use of cookies at websites accessed through direct link from the FTC website, management has agreed to include the following language at the end of the disclaimer:

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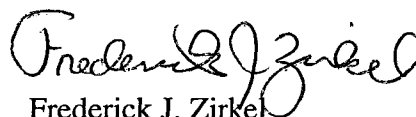
<sup>3</sup> "Persistent" cookies track information over time and across web sites and remain stored on visitor computers until the specified expiration date. "Session" cookies are used only during a single browsing session and do not collect information in ways that raise privacy concerns.

<sup>4</sup> FirstGov is a public-private partnership, led by a cross agency board and administered by the Office of FirstGov in the General Service Administration's Office of Governmentwide Policy.

*Furthermore, visitors should be aware that other sites which are linked to the FTC web site may utilize persistent cookies which track visitor viewing habits.*

I hope this information is useful to you. Please contact me should additional questions arise regarding the use of personally identifiable information at the Federal Trade Commission. I can be reached on (202) 326-2800.

Sincerely,

A handwritten signature in black ink, appearing to read "Frederick J. Zirkel". The signature is written in a cursive style with a large, looping initial "F".

Frederick J. Zirkel  
Inspector General

Attachment

# **SACTEAM**

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## MEMORANDUM

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**TO:** INSPECTOR GENERAL, FEDERAL TRADE COMMISSION  
**FROM:** URBACH, KAHN & WERLIN LLP, SYSTEM AUDIT AND CONSULTING GROUP  
(SACTEAM)  
**SUBJECT:** FTC WEB SITE COOKIE REVIEW  
**DATE:** MARCH 20, 2001

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### OBJECTIVE, SCOPE, AND METHODOLOGY

A cookie is a piece of data that is stored on a local computer by a web site visited using a web browser. The data that is stored is then sent back to the web site every time that site is visited. The data can contain information such as a user name and password for that site, items purchased on a shopping site, or any other information the web site desires. Hence, the concern over potential collection of personal information and corresponding tracking that could occur.

Personal privacy concerns prompted legislation passed by Congress on December 21, 2000 that requires the Offices of Inspector General to report to Congress on any collection of personally identifiable information or "cookies" on Internet sites. Additionally, OMB guidance issued on June 2, 1999, provided that agencies could only use cookies or other automatic means of collecting information if they gave clear notice of these activities. OMB guidance further states that the presumption should be that cookies will not be used within Federal Web sites. Currently, the Federal Trade Commission asserts in its privacy policy that its Web site does not use cookies.

Due to the aforementioned legislation, a review was conducted on March 20<sup>th</sup>, 2001 to determine if the FTC Web site is using session or persistent cookies. To establish whether cookies are used, the following procedures were applied:

- The local machine's browser cache and cookie files were cleared,
- a commercial shareware application named "Cookie Pal" was used to identify cookies,
- FTC controlled Web sites, <http://www.ftc.gov> and <http://www.consumer.gov>, were entered in the browser,
- A sample of FTC Web pages were tested based on significance,
- A sample of links to Web pages outside of FTC control were also tested based on significance, and
- if a cookie was identified, the Web site address was noted and the cookie examined.

"Cookie Pal", a shareware cookie management application, was used to identify any cookies presented during the examination of FTC Web sites. Cookie Pal is a program that runs in the background while a user browses the Internet. If a Web server attempts to pass a cookie to the

system, the monitor sends an alert. Cookie Pal allows the user to specify not only whether he/she wants to accept or reject that cookie but also whether he/she wants any cookies from that server in the future. Cookie Pal's tabbed dialog box reveals all cookies currently stored via either Microsoft's Internet Explorer or Netscape's Navigator browser software. From there, the user can delete cookies, find the ones that have been downloaded in a current session, and build filters for accepting or rejecting cookies from particular sites.

## RESULTS

The FTC has approximately 20,000 Web pages containing a vast amount of information. During the FTC Web site examination, 250 Web pages, or 1.25%, were tested for both session and persistent cookie use. Of the FTC Web pages tested<sup>1</sup>, *none* appeared to use either session or persistent cookies. During the examination, various links outside of the FTC Web site were also tested. Of the non-FTC Web sites tested, six used either session cookies or persistent cookies.

Specifically, both [www.naag.org](http://www.naag.org), and [www.abanet.org](http://www.abanet.org) use persistent cookies. The FTC Web site contains links to both of the Web sites. Persistent cookies specify expiration dates, remain stored on the client's computer until the expiration date, and can be used to track users' browsing behavior by identifying their Internet address whenever they return to a site. One of the two sites identified above sets cookies that expire 12/30/10.

The remaining non-FTC Web sites identified as using session cookies include: [www.abanet.org](http://www.abanet.org), [www.courtyard.com](http://www.courtyard.com), [www.firstgov.gov](http://www.firstgov.gov), [www.astanet.com](http://www.astanet.com), [www.bbb.org](http://www.bbb.org), and [www.naag.org](http://www.naag.org).<sup>2</sup> Session cookies are short-lived, since they are only used during the browsing session and expire when the user quits the browser.

FTC's Web site privacy policy located at <http://www.ftc.gov/ftc/privacty.htm> states the following: "This website links to documents located on websites maintained by various federal agencies or other organizations. Once you access an individual document that links you to another website, you are subject to the privacy policy of the website containing that document." The message is intended to warn FTC Web site users that FTC privacy polices do not apply outside of FTC controlled servers and that outside sites may use cookies.

We conclude that FTC appears to be in compliance with the cookie legislation and applicable OMB guidance.

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<sup>1</sup> See Attachment 1.