

W3C Meeting
April 11, 2012
Commissioner Brill
Opening Remarks

Good morning. It's great to be here. Thank you to Aleecia and Matthias for inviting me to spend some time with you. And thanks very much to Frank, JC, Amy and of course Brad Smith of Microsoft for hosting us here today.

As you all know, just a couple of weeks ago, we at the FTC issued our Final Privacy Report, where we laid out our final privacy framework.¹ Choice is one of the cornerstones of our report. Not just choice, but simplified choice. Choice that doesn't hinge on a privacy policy that, if printed out, would use an entire toner cartridge.

That's where you all come in—working to make Do Not Track a simple, yet elegant solution.

A solution that “bakes in” privacy protections, providing understandable and consistent choices for consumers.

The work that you all are engaged in here at the W3C meeting this week is critically important to making this vision a reality.

Since the agency's initial call in the December 2010 preliminary report for Do Not Track mechanisms and for privacy to be “baked in” to products and services, we have seen considerable industry activity. It's worthwhile reviewing briefly how far we have come with respect to Do Not Track, if for nothing else than to put the few remaining open issues – albeit important issues – into perspective.

After our initial call for industry to step up to the plate, Microsoft, Mozilla and Apple developed browsers that permit consumers to instruct members of the advertising and data collection ecosystem not to track their activities across websites. Yahoo! announced two weeks ago that it would be rolling out in the coming months a Do Not Track tool for consumers to use across its platforms.²

The challenges of providing clear, consistent and understandable choices are that much greater in the mobile space, due to the premium on available “real estate”. But even here

¹ Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers, An FTC Report (Mar. 26, 2012) available at <http://www.ftc.gov/os/2012/03/120326privacyreport.pdf>.

² Peter Sayer, *Yahoo Says It Will Implement Do-not-Track Worldwide Later This Year*, PC World, (Mar 29, 2012), http://www.pcworld.com/businesscenter/article/252832/yahoo_says_it_will_implement_donottrack_worldwide_late_r_this_year.html.

solutions are possible, and have been developed. Recently, Mozilla has also introduced a mobile browser for Android devices that enables Do Not Track.³

And the DAA has more fully developed its AboutAds program. At an event at the White House in February, the DAA committed to honor the choices about tracking that consumers make through settings on their web browsers.⁴

As some of you know, I have long supported collaboration among the advocates of the browser-based solutions and the About Ads program. This kind of collaboration is critical, so that we do not set up systems that are incompatible, or that lead to consumer confusion. So I strongly welcome the DAA's commitment to honor browser based solutions.

And there has been great progress here in the W3C as well. I am encouraged by the participation of stakeholders across industry sectors—advertisers, publishers, browser makers, analytics companies, social networks, and more. Consumer and public-interest groups also have seats in the table, as do representatives of international companies and governments. This is important. The different perspectives will only strengthen the process to develop a meaningful and lasting solution.

Back in December of 2010 when we at the Federal Trade Commission made our first call for Do Not Track, we had a vision of what a successful Do Not Track mechanism would include:

- a mechanism that would work on all sites;
- one that would be easy to use and understand for consumers;
- one that would have staying power, even if browsers are updated or cookies deleted;
- one that would be meaningful-- that is, if companies do not honor the choices consumers make through Do Not Track, they will face consequences; and
- a mechanism that allows consumers to limit how much data is gathered about them online (and not just how many targeted ads they see). That is, a mechanism that truly offers “Do Not Track”, not just a “Do Not Target”.

Thanks to the hard work of so many stakeholders, this vision can become a reality, including with regard to the collection and use of certain information about consumers. Again, as some of you know, I have long been concerned about the collection and use of consumers' data for purposes like employment and credit eligibility, health care treatment eligibility, and insurance eligibility and underwriting pricing.

The DAA has now committed to preventing these precise forms of collection and use in connection with its AboutAds program. I eagerly await full implementation of this commitment.

³ *Do Not Track Adoption in Firefox Mobile is 3x Higher than Desktop*, Mozilla Privacy Blog, (Nov. 2, 2011), <http://blog.mozilla.com/privacy/2011/11/02/do-not-track-adoption-in-firefox-mobile-is-3x-higher-than-desktop/>.

⁴ Press Release, Digital Advertising Alliance, White House, DOC and FTC Commend DAA's Self-Regulatory Program to Protect Consumer Online Privacy (Feb. 23, 2012) *available at* <http://www.aboutads.info/resource/download/DAA%20White%20House%20Event.pdf>.

DAA's commitment demonstrates that other businesses and industry groups, across the ecosystem, can embrace the concept of collection minimization as well.

I understand that you all did a great deal of good work yesterday. You have reviewed several important proposals, and the key issues remaining include the definitions of first party vs. third party, and a discussion of the permitted use exceptions.

The Commission's Final Report did address the issue of first party vs. third party to a certain extent. We have indicated that, at least as far as affiliates are concerned, "a consumer choice mechanism is necessary unless the affiliate relationship is clear to consumers. Common branding is one way of making the affiliate relationship clear to consumers."⁵

But this is a negotiation – a multi-stakeholder process – and everybody isn't going to get everything they want. At the end of the day, what we're all looking for is an outcome that the broadest set of stakeholders can live with.

There is no question that your remaining issues are the hard ones. And there is no question that they are equally important. We hope that during your discussions over the next two days you will choose to be guided by principles we lay out in the FTC's final report.

So please remember that, as you roll up your sleeves and dive into your last few remaining issues, your efforts are critically important. If you are successful, you will help secure a trusted online environment that could have meaningful and long-lasting benefits for both businesses and consumers.

Thank you.

⁵ See Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers, An FTC Report (Mar. 26, 2012) page 42.