

Keynote Address by Commissioner Julie Brill
United States Federal Trade Commission

IAPP's Second Annual Conference:
"The FTC and Consumer Privacy Protection"
Washington, DC

Still, it is fair to ask: Why — when cyberspace is a cacophony of some consumers sharing every detail of their buying behavior — does the FTC call for new industry practices, stricter rules, and maybe even new laws to protect the privacy of consumer information?

The answer is simple: Because we at the FTC believe that individuals' privacy — which includes their identity, their shopping decisions, their browsing habits, how they choose to present themselves to the world — is of great value. Our belief in the value of privacy is deeply rooted. Supreme Court Justice Louis Brandeis wrote that our founding fathers “sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations” — and did so by conferring on us “the right to be let alone — the most comprehensive of rights and the right most valued by civilized men.”¹

Of course, if Justice Brandeis were with us today, he would see the activities of Gail Grenon, Jennifer Hernandez, Harry Brelsford, and countless other Americans as consistent with the principles of privacy. Gail, Jennifer and Harry recount their shopping adventures online because they choose to make public what they have a right to keep private.

This brings me to another bedrock principle in American society that we seek to promote at the FTC. In America, we do not allow people to take things of value from others without their permission. At the FTC, one of our primary missions is to translate that principle into the marketplace; we make sure consumers have the information they need in order to never give up more than they intended or get back less than they were promised. This principle, the right to make informed choices about when to give up something of value — be it money or privacy —

Throughout the years, the Commission has worked to preserve consumers' control over their private data, even as technology races ahead, and the marketplace constantly develops new ways to collect, aggregate and use that data. In the 1990s, we relied primarily on a "notice and choice" model, counting on businesses to give consumers clear choices about how their data is used, and counting on consumers to read and understand privacy policies before making those choices.

The theory seems sound on its face, but it has proven unworkable. It is unreasonable to

Do Not Track

The Commission's most talked-about recommendation is the creation of a "Do Not Track" mechanism that would allow consumers some meaningful control over how their online

Data Collection and Information Brokers

But there is one other aspect of the report I want to highlight in particular. To provide greater transparency, we recommend that consumers be allowed reasonable access to the information collected about them by companies. As you know, the report calls for that access to be proportional to both the sensitivity of the data and how it is to be used. This is particularly important with respect to information brokers — entities that never engage consumers directly and are often invisible to them. Yet these companies control details about consumers that can

proposal, furthers that goal. And while I still hope industry will rise to the challenge of protecting their customers' privacy, this issue has become too important — to the FTC's central mission and to consumers across the country — for us to continue to wait. If industry does not move in a meaningful way on this issue, I will not hesitate to call on Congress to provide consumers with meaningful notice and choice about how their information is used, and to give the FTC the enforcement tools it needs to make sure those choices are respected.

Thank you.