

**Keynote Address by Commissioner Edith Ramirez
Federal Trade Commission**

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possible to piece together bits of data from disparate sources

that all that is needed to uniquely identify one individual is 33 “bits” of information.⁴ In fact, some researchers say that you can zero in on a person with only their birthdate, zip code, and gender.⁵ Developments like these have transformed what it means to be anonymous.

This new reality leads to the first key recommendation of the report—“Privacy by Design.” Privacy by design means that companies should build privacy protections into their everyday business practices and products. Good data practices are also an essential element of privacy by design. For example, companies should collect only the data they need for a specific business purpose; they should retain that data only as long as necessary to fulfill that purpose; and they should then safely dispose of data that is no longer being used. Privacy by design is not a new idea,⁶ but it is one that needs to be deployed on a systematic basis.

The report also recommends giving consumers choice over data practices in a simple and clear way. Privacy policies today impose too heavy a burden on consumers to locate, read, and understand documents that even many of us lawyers would find confusing. This needs to change. Information should be presented in pl

The third recommendation is transparency. Companies should do a much better job of bringing their data practices out into the open. One way to do that is through just-in-time notices. We do not, however, propose scrapping comprehensive privacy policies altogether. Such policies should exist in addition to shorter, just-in-time notices. But they should be clearer and standardized, so privacy policies of different companies can be compared at a glance.

Like many others, I would also like to see companies compete more on privacy.⁷ The FTC is charged with promoting both competition and consumer protection, and spurring competition on privacy is an idea that holds particular appeal to an FTC commissioner. One factor contributing to the lack of competition on privacy is the invisible nature of most information collection and sharing. If consumers do not know how companies are using their information, then they cannot consider privacy when choosing among competing firms.

Clear and standardized privacy notices that can be compared at a glance should enhance consumers' ability to compare privacy practices across companies and could stimulate competition on privacy. And with standardized privacy notices, perhaps one day Consumer Reports or other groups will rate companies on their practices, giving businesses further incentive to compete on privacy.

Do Not Track

I also want to spend a few minutes discussing Do Not Track, which is one way to give consumers more choice in connection with online behavioral advertising.

Let me begin with a brief description of how online behavioral advertising works: When a consumer visits a website, an online advertising network installs a tracking file. The file —

⁷ See, e.g., Commissioner Pamela Jones Harbour, Concurring Statement Regarding Staff Report, "Self-Regulatory Principles for Online Behavioral Advertising," at 7-8 (Feb. 2009), *available at* <http://ftc.gov/speeches/harbour.shtm>.

trust in the Internet is seriously eroded. It is therefore, ultimately, in websites' and advertisers' own interest to provide greater transparency about their privacy practices and to give consumers greater control over what data about them is collected and how it is used. Do Not Track, which is supported by four FTC Commissioners, is one way to give consumers an easy, universal way to control the monitoring of their online activities and ensure their trust remains intact.

Opponents have raised several main objections. First, some argue that creating a list or registry of consumers who do not want to be tracked would create privacy problems of its own. Unlike Do Not Call, Do Not Track would not involve a list or registry of consumers. The FTC is also not calling for a centralized database run by the government. Rather, one way a Do Not

consumers use these features, perhaps because the choices are not uniform, clear, or widely-understood.

Third, some claim that Do Not Track would undermine the availability of free online content and services. I am keenly aware that advertising helps support a great deal of Internet content, and that targeted ads command a premium. I also recognize that online behavioral advertising results in personalized ads that many consumers value and prefer.

I nonetheless believe this concern about Do Not Track is overstated. Recent research sponsored by an industry coalition, the Digital Advertising Alliance, shows that consumers feel more positively towards brands that give them greater transparency and control, including the ability to opt-out.¹³ Further, this industry coalition has acknowledged that consumer choice about online advertising is essential to building the trust necessary for the marketplace to grow.¹⁴

I also believe that Do Not Track should not be all or nothing. In my view, consumers should be able to make more precise choices about the information that is collected and the kind of targeted ads they are shown. For example, some consumers may be comfortable receiving ads based on their interest in yoga or hiking, but may not be comfortable with companies collecting or using demographic data about them. A

While I do not believe Do Not Track poses a serious threat to industry, if industry members or others believe that Do Not Track is not the answer, then I am eager to hear what they believe would address the growing threats to consumer privacy. There is frenzied competition to meet advertisers' demand for more and more data about consumer behavior and interests.