

Prepared Statement of
the Federal Trade Commission on

"Self-Regulation and Privacy Online"

Before the
Subcommittee on Telecommunications,
Trade, and Consumer Protection
of the
Committee on Commerce
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When the 1998 report was released, there were indications that industry had

Business Bureau, which launched its privacy seal program for online businesses last March, currently has 42 licensees and more than 300 applications for licenses. Several other online privacy seal programs are just getting underway. Together, the online privacy seal programs currently encompass only a handful of all Web sites. It is too early to judge how effective these programs will ultimately be in serving as enforcement mechanisms to protect consumers' online privacy.

III. Conclusion

The selfregulatory initiatives discussed above, and described in greater detail in the 1999 Report, reflect industry leaders' substantial effort and commitment to fair information practices. They should be commended for these efforts. Enforcement mechanisms that go beyond selfassessment are also gradually being implemented by the seal programs. Only a small minority of commercial Web sites, however, have joined these programs to date. Similarly, although the results of the GIPPS and OPA studies show that many online companies now understand the business case for protecting consumer privacy, they also show that the implementation of fair information practices is not widespread among commercial Web sites.

Based on these facts, the Commission believes that legislation to address online privacy is not appropriate at this time. We also believe that industry faces some substantial challenges. Specifically, the present challenge is to educate those companies which still do not understand the importance of consumer privacy and to create incentives for further progress toward effective, widespread implementation.

First, industry groups must continue to encourage widespread adoption of fair information practices. Second, industry should focus its attention on the substance of web site information practices, ensuring that companies adhere to the core privacy principles discussed earlier. It may also be appropriate, at some point in the future, for the FTC to examine the online privacy seal programs and report to Congress on whether these programs provide effective privacy protections for consumers.

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tracking technologies to create targeted, user profiled advertising campaigns. The Commission will hold a public workshop on the privacy implications of electronic identifiers that enhance Web sites' ability to track consumer behavior.

In keeping with its history of fostering dialogue on online privacy issues among all stakeholders, the Commission will convene task forces of industry representatives and privacy and consumer advocates to develop strategies for the implementation of fair information practices in the online environment.

One task force will focus upon understanding the costs and benefits of implementing fair information practices online, with particular emphasis on defining the parameters of the principles of consumer access to data and adequate security.

A second task force will address how incentives can be created to encourage the development of privacy-enhancing technologies, such as the World Wide Web Consortium's Platform for Privacy Preferences (P3P).

The Commission, in partnership with the U.S. Department of Commerce, will promote private sector business education initiatives designed to encourage new online entrepreneurs engaged in commerce on the Web to adopt fair information practices.

Finally, the Commission believes it is important to continue to monitor the progress of self-regulation, to determine whether the self-regulatory programs discussed in

The Commission also has responsibility under approximately forty additional statutes governing specific industries and practices. These include, for example, the Truth in Lending Act, 15 U.S.C. §§ 1601-1605, which mandates disclosures of credit terms, and the Fair Credit Billing Act, 15 U.S.C. §§ 1666-1669, which provides for the correction of billing errors on credit accounts. The Commission also enforces over 30 rules governing specific industries and practices, e.g., the Used Car Rule, 16 C.F.R. Part 455, which requires used car dealers to disclose warranty terms via a window sticker; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; and the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices.

5. The Commission held its first public workshop on online privacy in April 1995. In a series of hearings held in October and November 1995, the Commission examined the implications of globalization and techr innovation for competition issues and consumer protection issues, including privacy concerns. At a public workshop held in June 1996, the Commission examined Web site practices in the collection, use, and transfer of consumers' personal information; regulatory efforts and technological developments to enhance consumer privacy; consumer and business education efforts; the role of government in protecting online information privacy; and special issues raised by the online collection and use of information from and about children. The Commission held a second workshop in June 1997 to explore issues raised by individual reference services, as well as issues relating to unsolicited commercial online privacy generally, and children's online privacy.

These efforts have served as a foundation for dialogue among members of the information industry and business community, government representatives, privacy and consumer advocates, and experts in interactive technology. Further, the Commission and its staff have issued reports describing various privacy concerns in the electronic marketplace. See, Individual Reference Services: A Federal Trade Commission Report to Congress (December 1997); FTC Staff Report: Public Workshop on Consumer Privacy on the Global Information Infrastructure (December 1996); FTC Staff Report: Anticipating the 21st Century: Consumer Protection Policy in the New High-Tech, Global Marketplace (May 1996).

The Commission has also brought enforcement actions under Section 5 of the Federal Trade Commission Act to address deceptive online information practices. In 1998 the Commission announced its first Internet privacy case, in which GeoCities, operator of one of the most popular sites on the World Wide Web, agreed to settle

has brought suit against modem hijacking, fraudulent marketing, and other tech schemes that take unique advantage of the Internet. The Commission pioneered the "Surf Day" concept and has searched the Net in tandem with law enforcement colleagues around the world, targeting specific problems and warning consumers and new entrepreneurs about what the law requires. The Commission has also posted "te online, i.e., fake scam sites that give consumers education just when they are about to fall victim to an Internet ruse.

6. The Report is available on the Commission's Web site <http://www.ftc.gov/reports/privacy3/index.htm>

7. 1998 Report at 41.

8. Title XIII, Omnibus Consolidated and Emergency Supplemental Appropriations Act, Pub. L. No. 105-277, 112 Stat. 2681, _____ (Oct. 21, 1998), reprinted in Cong. Rec. H112442 (Oct. 19, 1998). The Act requires, inter alia, that operators of Web sites directed to children under 13 or who knowingly collect personal information from children under 13 on the Internet: (1) provide parents notice of their information practices; (2) obtain prior, verifiable parental consent for the collection, use, and/or disclosure of personal information from children (with certain limited exceptions). (S) Tc -0.1 c0.003 0(3(a)2/e 0 ,1s6 60>>Bhildreicestd.tat0 ,1bdre

personal information collected from them may be used.⁽²³⁾

23. Although choice in this context has been traditionally thought of as either "opt in" (prior consent for use of information) or "opt out" (limitation upon further use of information), at 9, interactive media hold the promise of making this paradigm obsolete through developments in technology." - - -

24. Information about TRUSTe is taken from materials posted on TRUSTe's Web site, <http://www.truste.org>, and from public statements by TRUSTe staff. Several hundred additional companies have joined the TRUSTe program but are not yet fully licensed. ~~SEE~~ TRUSTe Testifies Before House Judiciary Committee, May 27, 1999 (press release available at http://www.truste.org/about/about_committee.html)

25. Information about BBOnline is taken from materials posted on the BBOnline Web site, located at <http://www.bbonline.com>, and from other public documents and statements by BBOnline staff.

26. CPA WebTrust, the online privacy seal program created by the American Institute of Certified Public Accountants (AICPA) and the Canadian Institute of Chartered Accountants, currently has 19 licensees (program description available at <http://www.cpawebtrust.com>). The Electronic Software Rating Board's ES