

Commissioner Julie Bill
Maurer School of Law: Indiana University, Bloomington
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Good evening. It is a pleasure to be here. I want to thank Fred Cate for inviting me today. I had the chance to spend some time with Fred today—Professor Cate, as he's known around here—and his senior seminar students in the Villard Scholars Program. It was really a joy to spend time with them and hear some of their innovative ideas.

I won't tell you how many years it has been since I was in law school—but being here at IU brings back many memories of my law school days. Some good, and some, well, not so good. Like those first few days in class as a 1L when I held my breath every time a professor was about to call on a student, praying it wouldn't be me. I promise—I won't be calling on anyone this evening—unless you raise your hand with a question at the end.

What I thought I would do this evening is introduce you to the Federal Trade Commission, talk about my role at the agency and how I ended up there, and then spend some time talking to you about one of the agency's—and my—top priorities—consumer privacy.

The Federal Trade Commission is run by five Commissioners. We are a bipartisan agency—no more than three Commissioners can come from any one political party. And we are an independent agency: once nominated by the President and confirmed by the Senate, we essentially cannot be removed by the Administration.

The Federal Trade Commission's mandate is to protect consumers, making sure they are not cheated or misled in the marketplace; to protect competition, making sure that the marketplace is offering up a wide range of goods and services at the fairest price.

This mission requires the FTC to tackle some very complex issues. On the competition side, we protect competition in fast-moving high-tech and health care industries by focusing on anti-competitive practices, and we litigate complex merger cases.

On the consumer protection side, in addition to privacy, we focus on credit reporting, advertising substantiation, negative option billing, debt collection and telemarketing. In fact, we run the Nation's Do Not Call list, which allows consumers to opt-out of annoying telemarketing calls, and which Dave Barry has called the most popular government program since the Elvis stamp.

I was appointed to serve as one of the Commissioners running the FTC in 2010. Prior to my confirmation by the Senate, I worked at the state level for over twenty years—first in the Vermont Attorney General's office as an Assistant Attorney General and then as the Senior Deputy Attorney General in North Carolina.

As a state enforcer I worked with consumers, businesses, and state agencies in an up close, hands-on way, whether it was working to get refunds to consumers who had been

victimized by various scams or deceptive practices, closely examining consumer privacy issues, or providing practical antitrust a

his famous and influential dissent arguing that “against the government,” Americans have “the right to be let alone.”²

The Internet Revolution makes snapshot photography and tap technology look like child’s play. As Brandeis did in his day, we the FTC are examining today’s technologies, how consumers are using these technologies, and they are impacting consumer privacy.

And one of the most significant developments today is the vast amounts of information about consumers that is being amassed. Whether through social media, online activities, or geolocation technology, information about consumers is being collected, culled, dissected and cataloged. The catchy term to capture this phenomenon is “Big Data.”

For example, based on her shopping habits, Target developed a methodology to ascertain whether a woman was likely to be pregnant—as well as her possible due date. This enabled the store to provide coupons for products tailored to a pregnant woman. At the same time that we’re reading articles about Target’s pregnancy prediction score,³ we’re also reading articles about massive data breaches, at Sony involving millions of PlayStation users; ubiquitous collection of information about smartphone users’ location throughout the day; and “leakage” of information like contact lists through apps.

At the Federal Trade Commission, it is our job to keep pace with the privacy issues that consumers face—and the technologies of today. Through our policy initiatives and enforcement actions, our goal is to protect consumers, but at the same time allow them to benefit from the incredible power of the Internet and the mobile space.

We have brought law enforcement cases against companies that failed to protect the vast amount of personal information they held about consumers, including sensitive financial information. We have also brought law enforcement actions against companies that disclosed personal data that consumers expected to be private. We took action against Twitter when it made some private tweets public.

And the FTC has entered into settlements with both Facebook and Google relating to their privacy practices. The FTC’s complaint against Facebook alleges a number of deceptive and unfair practices in violation of the FTC Act. These include changes made by Facebook in 2009 so that information users had designated private became public. We also called Facebook out for promises it made but did not keep. It told users it wouldn’t share information with advertisers, and then it did, and the company agreed to take down photos and videos of users who had deleted their accounts, and then it did not.

² *Olmstead v United States*, 277 U.S. 438, 478 (1928).

³ Charles Duhigg, *How Companies Learn Your Secrets*, N.Y. Times, Feb 19, 2012, available at <http://www.nytimes.com/2012/02/19/magazine/shopping-habits.html?pagewanted=all>

⁴ *In the Matter of Facebook, Inc., a corporation* FTC File No. 0923184 (2011).

The proposed FTC settlement with Facebook requires the company to obtain affirmative express consent before sharing users' information a way that exceeds their privacy settings, and it must block access to information that users delete.

We also require Facebook to implement a comprehensive privacy program that an independent auditor will monitor for 20 years.

The FTC's settlement with Google arose from the roll out of Google's first social media product, Google Buzz.⁵ We believed that Google did not give Gmail users good ways to stay out of or leave Buzz, in violation of Google's privacy policies.

We also charged that the company did not adequately disclose to users that the identity of individuals who users most fre

recommendations that the agency is calling for the development of Do Not Track mechanisms. These mechanisms would enable consumers to make choices about whether their online activities across various websites can be collected and used to market to them or for other purposes.

The third principle in the FTC report setting forth the preliminary framework is greater transparency. Companies should provide consumers with more information about what is being done with their personal information.

In issuing the 2010 report setting forth the preliminary privacy framework, the FTC called on all stakeholders, including industry and the consumer advocacy community to provide the agency with input on the many issues we explored in the report. Having spent many months analyzing the input that the agency received, we will release our final report, containing the final framework, very soon.

The FTC has not been alone in re-examining the framework that shapes the approach to privacy. The U.S. Department of Commerce has been engaged in an initiative to develop a framework that would set forth company obligations and consumer rights with regard to personal

trying to figure out what to do with his life. At party his parents ~~thru~~ one of his parents' friends gives him some advice. "Plastics" – "There's a great future in plastics. Think about it. Will you think about it?"

So I say to all you future law graduates and ~~the~~ lawyers and others: "Privacy – There's a great future in privacy. Think about it."

Thank you.