
**RESEARCH REPORT: CONSUMERS FUNDAMENTALLY MISUNDERSTAND
THE ONLINE ADVERTISING MARKETPLACE -- OCT. 2007
BY JOSEPH TUROW, DEIRDRE K. MULLIGAN & CHRIS JAY HOOFNAGLE**

INTRODUCTION

Surveys of the public conducted by academic researchers at the University of Pennsylvania Annenberg School for Communication and UC-Berkeley Law's Samuelson Law, Technology & Public Policy Clinic indicate that when consumers see the term "privacy policy," they assume the website cannot engage in many practices that, in reality, are common in ecommerce. Consumers do not understand the nature and legality of information-collection techniques that form the core of online advertising business models. When these techniques and the business model of online advertising are explained to them, they reject the privacy tradeoff made for access to content.

As the Federal Trade Commission revisits privacy issues implicated by behavioral profiling and online advertising, its approach must be informed by the fact that consumers understandably assume that "privacy policies" create substantive rules limiting collection and use of data. The Commission should police the term "privacy policy" so that websites and network advertisers have protections in place consistent with reasonable consumer expectations.

**CONSUMERS THINK "PRIVACY POLICY"
MEANS PRIVACY IS PROTECTED**

Annenberg surveys conducted in both 2003 and 2005 revealed that American adults do not know that privacy policies merely tell people how the site will use their information—whether or not they will share it with affiliates and outside firms, and how. Most Americans believe, logically, that the phrase privacy policy signifies that their information will be kept private. For the 2003 survey, 57% of the nationally representative sample of 1,200 adults who were using the internet at home agreed or agreed strongly with the statement "When a web site has a privacy policy, I know that the site will not share my information with other websites or companies." In the 2005 survey, questioners asked 1,200 nationally representative adults who said they had used the internet in the past month whether that statement is true or false. 59% answered it is true.

**Most believe that the mere presence of a
privacy policy means that the website
cannot sell data.**

The 2007, California-focused, Golden Bear survey further highlights the disconnect between practices and the meanings that consumers attach to the term "privacy policy."

JOSEPH TUROW is the Robert Lewis Shayon Professor of Communication at Penn's Annenberg School for Communication. 215.898.5842 jturow@asc.upenn.edu
Deirdre K. Mulligan is Director of the Samuelson Law, Technology & Public Policy Clinic at UC-Berkeley Law. 510.642.0499 dmulligan@law.berkeley.edu
CHRIS JAY HOOFNAGLE is senior staff attorney to the Samuelson Clinic.
510.643.0213 choofnagle@law.berkeley.edu

When survey interviewers asked a series of true or false questions about practices, large numbers answered the question incorrectly or simply responded “I don’t know.” This survey focused on people who have actually purchased items on the Internet and as such, would presumably be a more informed group than those in the Annenberg studies, who were adults who use the internet for any reason. Almost 70% did have the basic knowledge that sites are allowed to keep records of their addresses and purchase histories.

The respondents’ knowledge was much worse, however, with respect to the other statements about privacy policies and marketplace rules. For instance, the Golden Bear survey found that 37% of online shoppers falsely believe that a privacy policy prohibits a website from using information to analyze individuals’ activities online—a practice essential to most online advertising efforts.

37% think privacy policies prohibit common practices in online advertising.

When interviewers asked 207 online shoppers, “If a website has a privacy policy, it means that the site cannot share information about your address and purchases with affiliated companies that are owned by the website,” 47.8% incorrectly answered true, 7.2% didn’t know, and 44.9% answered false. This means that 55%

either don’t know or falsely believe that privacy policies prohibit affiliate sharing.

When survey interviewers asked 231 Golden Bear respondents about third-party information sharing, there were similar results to the Annenberg survey: 55.4% agreed with the false statement that, “If a website has a privacy policy, it means that the site cannot sell information about your address and purchase information to other companies.” Only 35.5% correctly identified this statement as false, and 9% didn’t know.

Many think enhancement is prohibited on sites with a privacy policy.

In view of these data, we should not be surprised that consumers also do not understand “enhancement.” Enhancement is the common practice of collecting data and combining it with information from other sources; many think that privacy policies prohibit this practice. When 251 Golden Bear respondents were asked, “If a website has a privacy policy, it means that the site cannot buy information about you from other sources to analyze your online activities,” 49.4% correctly answered false, but 39.8% answered true, and 10.8% didn’t know.

CONSUMERS MISUNDERSTAND COMMON DATA COLLECTION TECHNIQUES

A 2003 Annenberg survey found that 59% of adults who use the internet at home know that websites collect information about them even if they don’t register. However, they do not understand that data flows behind their

screens invisibly connect seemingly unrelated bits about them.

85% reject a common online advertising business model when it is explained in simple terms.

The survey's interviewers asked respondents to name a site they valued and then went on to ask their reaction to what is actually a common scenario of the way sites track, extract and share information to make money from advertising. 85% of the surveyed adults who go online at home did not agree that a "valued" site should be allowed to serve clickstream advertising to them based on data from their visits to various websites that marketers collected and aggregated. When offered a choice to get content from a valued site with such a policy or pay for the site and not have it collect information, 54% of adults who go online at home said that they would rather find the information offline than exercise either option presented.

Of those 85% who did not accept the practices, one in two (52%) had earlier said they gave or would likely give a valued site their real name and email address. Yet those bits of information are what a site needs to begin creating a stream of data about them—the very flow (personally identifiable or not) that they refused to allow in response to the scenario. Moreover, 63% of the people who said they had given up these data had also agreed that the mere presence of a web site privacy policy means that it

won't share data with other firms. Bringing these two results together suggests that at least one of every three of the respondents who refused to barter their information either do not understand or do not think through the privacy outcomes of basic data-collection activities on the internet.

CONSUMERS ASSUME THAT MANY OTHER RIGHTS OPERATE IN ECOMMERCE

Misperceptions concerning collection and tracking online are just the tip of the iceberg of consumer misunderstanding of protections offered by privacy policies. Consumers falsely believe that their rights extend far beyond not being tracked, and include protections against discriminatory pricing and rights guaranteeing the ability to delete personal information. For a more in-depth discussion of consumer perceptions in the online marketplace, *see* Turow, Hoofnagle, Mulligan, Good, & Grossklags, *The Federal Trade Commission and Consumer Privacy In the Coming Decade* (forthcoming 2007 in *I/S - A Journal of Law and Policy for the Information Society*).

CONCLUSION

As the Commission revisits online advertising practices after eight years of experience with the self-regulatory Network Advertising Initiative, its policy analysis should be informed research showing that large numbers of Americans think that privacy policies create strong rules against collection and disclosure of personal data.

As we recommended to the Commission at the 2006 Techade Workshop, the term

“privacy policy” has taken on a specific marketplace meaning and connotes a particular level of protection to consumers. The Commission should police the use of the term “privacy policy” to assure that companies using the term deliver a set of protections that meet consumers’ expectations. The term “privacy policy” should not mislead consumers during marketplace transactions.

ABOUT THE SURVEYS:

The Annenberg data are from two national surveys created by Professor Turow and carried out by the firm ICR/International Communication Research of Media, Pennsylvania. For the 2003 survey, carried out from January 30 to March 21, 2003, ICR interviewed by phone a nationally representative sample of 1,200 adults who were using the internet at home. For the 2005 survey, carried out from February 8 to March 14, 2005, ICR interviewed by phone a nationally representative sample of 1,200 adults who said they used the internet in the past month. See, Joseph Turow, *Americans and Online Privacy* (Philadelphia: Annenberg Public Policy Center, 2003) and Joseph Turow, Lauren Feldman and Kimberly Meltzer, *Open to Exploitation*, (Philadelphia: Annenberg Public Policy Center, 2005). Both reports can be found at www.appcpenn.org.

The 2007 Golden Bear Omnibus Survey is a random-digit telephonic survey of 1,186 English and Spanish speaking adults in

California. It was conducted by the University of California's Survey Research Center using Computer-Assisted Telephone Interviewing (CATI) to landline and wireless phones from Apr. 30, 2007-Sept. 2, 2007. It is funded by the Survey Research Center, and these questions focusing on privacy were funded by the Samuelson Clinic.

ABOUT THE ANNENBERG CENTER

Directed by Kathleen Hall Jamieson, The Annenberg Public Policy Center of the University of Pennsylvania aims to inform discussions about a wide range of communication issues. As part of its mandate, the Center explores the public policy implications of changes in technology and communication through surveys, industry research, analyses of media content, and conferences with international experts.

ABOUT THE SAMUELSON CLINIC

The Samuelson Law, Technology & Public Policy Clinic at UC Berkeley’s School of Law is a practicum that provides an opportunity for law students and graduate students to represent clients and conduct interdisciplinary research.

Since January 2001, students participating in the Clinic have worked with leading lawyers in nonprofit organizations, government, private practice, and academia to represent clients on a broad range of legal matters including free speech, privacy copyright, and open source.

<http://www.samuelsonclinic.org/>