

18th Annual
BCLT Privacy Lecture

Wednesday, Nov 19
Booth Auditorium | 3:30 PM



Lior Jacob Strahilevitz
Sidley Austin Professor of Law
University of Chicago Law School



BLANKET OPT-OUTS

Guest Lecture



Lior Jacob Strahilevitz

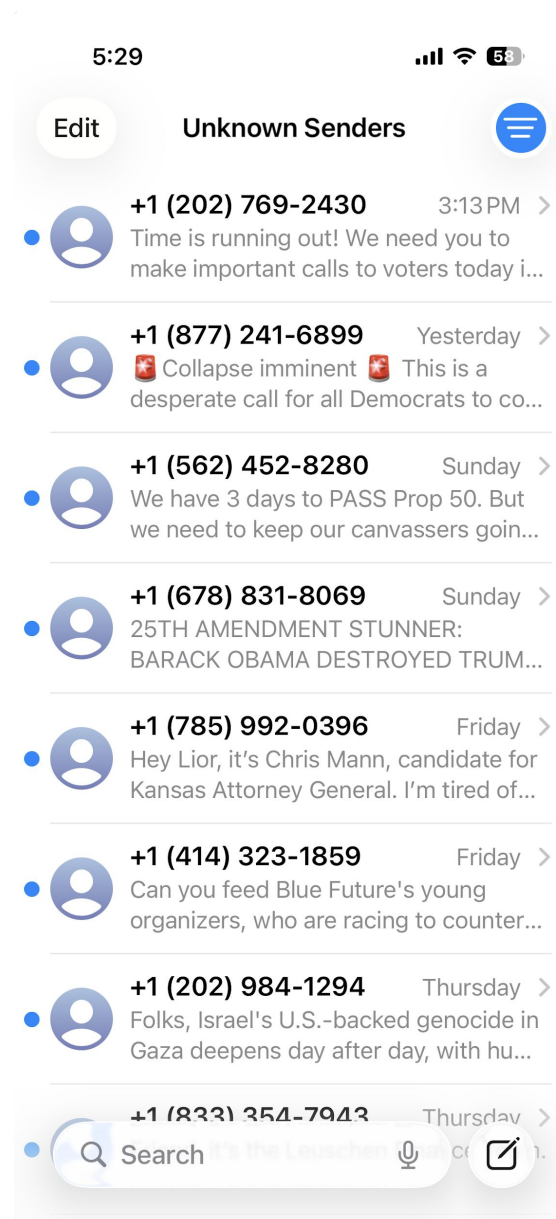
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Blanket Opt-Outs

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An Origin Story: Annoyance ↓ Scholarship



One Firm is Responsible for the Vast Majority of These Political Spam Text

Moccano

The Mothership Vortex: An Investigation Into the Firm at the Heart of the Democratic Spam Machine

How a single consulting firm extracted \$282 million from a network of spam PACs while delivering just \$11 million to actual campaigns.



897

195

324

Share

The digital deluge is a familiar annoyance for anyone on a Democratic fundraising list. It's a relentless cacophony of bizarre texts and emails, each one more urgent than the last, promising that your immediate \$15 donation is the only thing standing between democracy and the abyss.

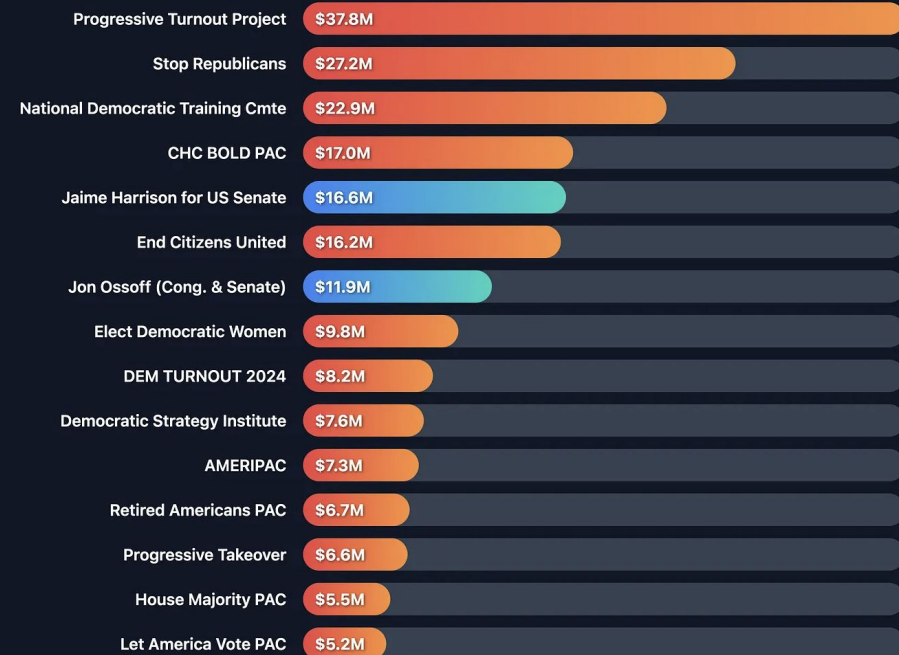
The main rationale offered for this fundraising frenzy is that it's a necessary evil—that the tactics, while unpleasant, are brutally effective at raising the money needed to win. But an analysis of the official FEC filings tells a very different story. The fundraising model is not a brutally effective tool for the party; it is a financial vortex that consumes the vast majority of every dollar it raises.

We all have that one obscure skill we've inadvertently maxed out. Mine happens to be navigating the labyrinth of campaign finance data. So, after documenting the spam tactics in [a previous article](#), I told myself I'd just take a quick look to see who was behind them and where the money was going.

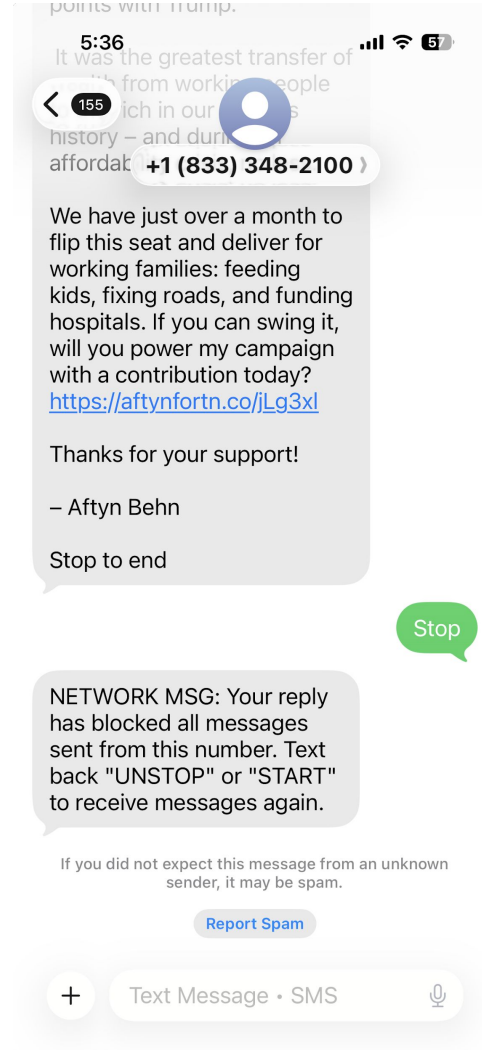
That "quick look" immediately pulled me in. The illusion of a sprawling grassroots movement, with its dozens of different PAC names, quickly gave way to a much simpler and more alarming reality. It only required pulling on a single thread—tracing who a few of the most aggressive PACs were paying—to watch their entire manufactured world unravel. What emerged was not a diverse network of activists, but a concentrated ecosystem built to serve the firm at its center: **Mothership Strategies**.

Mothership's Financial Nexus

The firm's revenue is heavily concentrated. Core network PACs (in red) make up the vast majority of its payments.



... but There's Still No One You Can Contact to Make All the Texts Go Away



Research Question: Why Do We See Blanket Opt-Outs in Some Contexts But Not Others?



... and It Turns out that the Literature on Blanket Opt-Outs Is Piecemeal, Not Holistic

A few papers look at blanket opt-outs in particular contexts:

- Bolin (2006) (spam emails)
- Solove and Hoofnagle (2006) (do not share personal info)
- Beales & Muris (2008) (Do Not Call) (one of many papers on subject)
- McGeeveran (2009) (behavioral advertising)
- Jennings (2012) (Do Not Track)
- Nielsen and Lev-Aretz (2025) (GPC)

Working Hypotheses

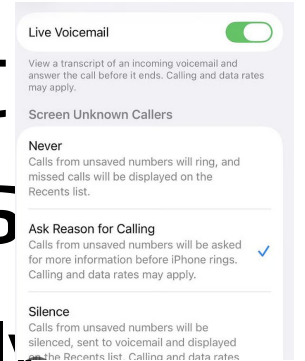
- In many cases the absence of a procedural blanket opt-out right renders a substantive privacy protection meaningless
- Presence or absence of blanket opt-outs seems driven by transaction costs and administrative costs, contextual integrity, comparative institutional competence, and whether an opt-out is priced or unpriced in the transaction

Blanket Opt-Out Success Stories



- Do Not Call Registry
- Blanket opt-out created by FTC in 2003
- Telemarketers had to access a federal database of numbers that had opted out of receiving calls and remove those numbers from their call lists, unless business had established relationship with customer or received explicit consent
- Within 6 months of launch 57 million Americans opted out
- By 2024 there were 253 million active registrations (versus 69 million residential landlines)
 - Most telemarketing to cell phones is already illegal, but FTC lets people add their cell numbers to registry
- Do Not Call largely killed off an industry that employed 4 million Americans and resulted in \$275 billion in annual sales in 2001, but that nonetheless likely failed cost-benefit analysis
- Popular approval for the registry in 2004 public opinion polling: 83% support

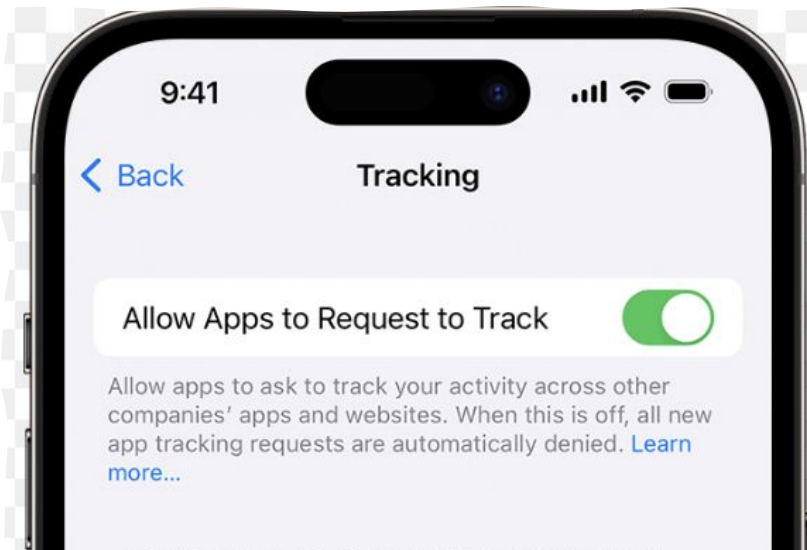
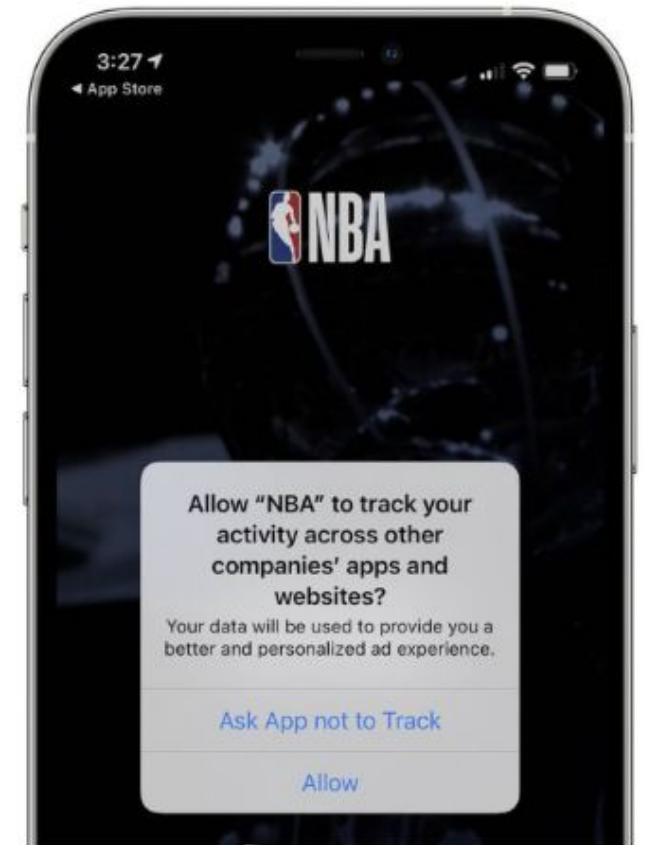
While Successful, Do Not Call Did Not Eliminate All Telemarketing Problems



- Still some complaints to FTC - roughly 2 million per year, mostly involving overseas callers using VOIP, who do not comply and who the FTC has a difficult time deterring
- Private supplements to Do Not Call have arisen, such as Apple's Block Unknown Callers feature and its new Ask Reason for Calling intermediate option
- Hypothesis: If the Do Not Call registry had never been launched, Apple (and probably Google and Verizon) would have created similar protections eventually
- But there is a larger false positives problem for Apple's solution; missed non-commercial calls are a greater risk

A Second Success Story

- iOS App Tracking Transparency (ATT), starting in iOS 14.5
- 60 to 95% of users opt out of tracking (Kollnig et al. 2022)
- Percentage of US traffic that is tracked declines from 73% to 18% (Kraft et al. 2024)
- Advertising revenues decline 20% (Kraft et al. 2024)
- Apple creates a device-level blanket opt-out
- Per Kraft in US 42% of users exercise blanket opt-out
- In 18 other countries on average 46% of users do so



Some Failed Blanket Opt-Out Efforts

- Do Not Spam / Do Not Email Registry
- Congress authorized FTC to create such a registry to deal with spam as part of 2003 CAN-SPAM Act
- At the time 83% of Americans said they would sign up for a Do Not Email list
- But the FTC in 2004 elected not to create such a registry, fearing that overseas spammers could not be deterred and would use the list to obtain valid email addresses
- FTC said Do Not Email Registry could work with a universal authentication standard. But never implemented despite success with SPF, DMARC, and DKIM standards

Do Not Track (DNT) and AdChoices

- Industry self-regulation efforts for Internet tracking and behavioral advertising, prodded by Obama Administration
- Industry had little incentive to help people exercise opt-out rights
- Industry refused to honor DNT requests from users whose browsers enabled DNT by default (Internet Explorer & Firefox)
- AdChoices is a joke, utilization rate is 0.25 percent (Johnson et al. 2020)




Marginally Successful Cases with Low Utilization Rates

- 15 U.S.C. § 1681b(c) requires credit reporting agencies to let Americans opt out of pre-approved credit card and insurance mailings
- Absent this provision, obtaining pre-screened customer lists would otherwise violate Fair Credit Reporting Act
- 80% of Americans say this opt-out provision is a good idea, but utilization is low, just 5 to 6% of consumers has opted out as of 2004, when Federal Reserve studied this question
- Per CFPB in 2022, 10% of credit card applications were from pre-screened solicitations (16% among prime and superprime customers)

[OptOutPrescreen.com](https://www.optoutprescreen.com)

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[OptOutPrescreen.com](https://www.optoutprescreen.com)

is the official Consumer Credit Reporting Industry website to accept and process requests from consumers to Opt-In or Opt-Out of firm offers of credit or insurance.

[EQUIFAX](#) [experian](#) [innovis](#) [TransUnion](#)

Marginally Successful Cases with Low Utilization Rates

- 1967 Pandering Advertisements Statute let postal customers opt out of receiving mailings from particular senders
- There were too many people sending sexually explicit mailings for concerned customers to keep up
- So Congress enacted Sexually Oriented Advertisements Statute, which created a blanket opt-out managed by US Postal Service (via Form 1500)
- Few statistics, but roughly 460,000 prohibitory order requests made after 1967 statute enacted
- Sexually explicit mailings seem to have been killed off by the Internet, with the federal statute playing less of a role

UNITED STATES POSTAL SERVICE Application for Listing and/or Prohibitory Order

Information About You (Use the name and address by which you customarily receive mail)
Printed Name _____ Address (Number, street, apt. or ste. no., p.o. box no., city, state, ZIP+4®) _____

Application for Prohibitory Order (Submit the mailpiece with your application)

1. The attached mailpiece, from the mailer identified below, offers for sale matter that I believe to be erotically arousing or sexually provocative and therefore is a pandering advertisement. Under the provisions of 39 USC 3008, I request that a Prohibitory Order be issued against the mailer and the mailer's agents or assigns.
Please check only one as appropriate:

a. I am the addressee of the attached mailpiece, and, if I have listed below an eligible child or children, I request that such child or children (as well as I, myself) be protected by the Prohibitory Order.

b. I am the parent of _____, the minor addressee of the attached mailpiece, acting for such addressee to obtain a Prohibitory Order to protect just him or her. If a child or children of mine is/are listed below, it is just in connection with the application under 39 USC 3010 that I am making by initialing box 2.

c. I am the person entitled to receive mail to _____, the deceased addressee of the attached mailpiece. Please issue the Prohibitory Order on behalf of the deceased addressee.

If you initialed box 1, you **MUST**:
▪ Attach the entire, opened mailpiece, and
▪ Provide the following mailer information.

Mailer's Name _____
Mailer's Address (Number, street, apt. or ste. no., p.o. box no.) _____
Mailer's City, State, and ZIP+4 _____

Application for Listing (Mailpiece is not required for this option at this time)

2. I do not wish to have **sexually oriented advertisements** mailed to me or my children under 19 years old who are listed below. Please add me/us to the list you maintain, under 39 USC 3010, of persons not wishing to receive such advertisements.

Information About Your Children (Age 18 and Under)

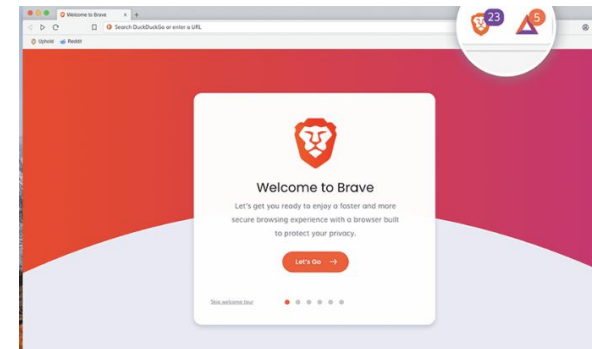
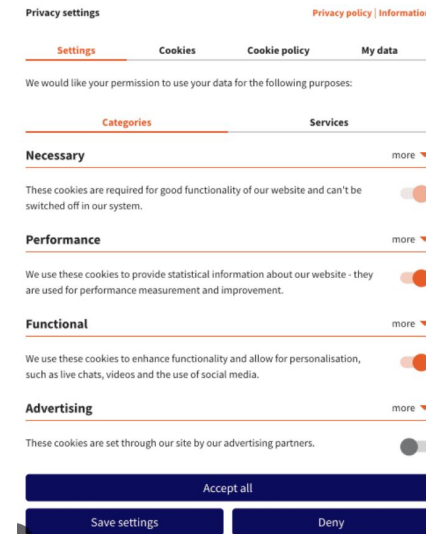
| Children's Names | | | Date of Birth | | |
|------------------|-------|----------------|---------------|-----|------|
| Last | First | Middle Initial | Month | Day | Year |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Authorization
Signature of Adult Completing Form _____ Date _____

PS Form 1500, July 2005 (Page 2 of 5) PSN 7530-03-000-7374 Processing Center

Marginally Successful Cases with Low Utilization Rates

- Cookie Consent interfaces are classic case of repetitive decision-making where a blanket opt-out would be beneficial
- Brave Browser automatically rejects all cookie consent requests; the user never sees them
- But Brave has a 1.5% market share globally, with fewer than 85 million monthly users



Recent Blanket Opt-Outs, the Jury is Still Out

- Global Privacy Control (GPC)
 - Browser-based specification that allows users to inform websites they should not sell or share a user's personal information to third parties
 - Websites are not required to honor GPC signals in most states, though California is the leading exception via CCPA
 - Surveys indicate 60% of users polled want a blanket opt-out via GPC, 29% want to opt out from "most websites," 6% want to opt out from "just a few websites" and 4% don't want to enable GPC (Zimmeck et al. (2023)
 - In July 2023, roughly 26% of websites subject to CCPA respected GPC opt-outs (Tran et al. 2024). This number will climb soon.



Recent Blanket Opt-Outs, the Jury is Still Out

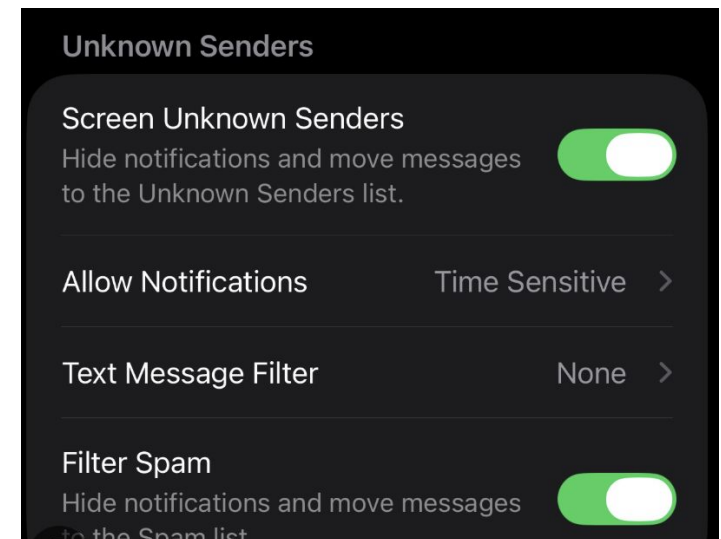
- Apple iOS Silence Unknown Callers and Screen Unknown Senders Features
- Some false positive problems with each
- Silence Unknown Callers mirrors 2007 Skype move with VOIP calls
- Political pressure

Apple expected to roll out texting update that would hit GOP hardest ahead of midterms, fundraisers say

'MAGA won't be stopped, and MAGA will always find a way,' says Sean Dollman, founding partner of American Made Media Company

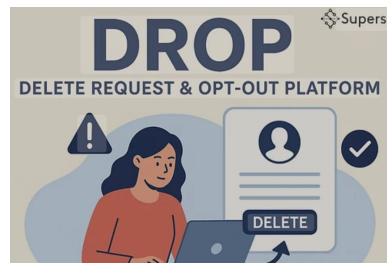
By Emma Colton · Fox News

Published August 27, 2025 8:50am EDT



Recent Blanket Opt-Outs, the Jury is Still Out

- California Delete Act creates a Delete Request and Opt-Out Platform (DROP) registry – directs CPPA to create a blanket opt-out mechanism to enable the deletion of any personal information about an individual consumer held by any data broker doing business in California
- Close cousin to Do Not Call registry; data brokers must consult DROP registry every 45 days and purge requested information
- There were 527 different data brokers registered in California as of 2024 (Greisz 2025)



What Factors Influence Appropriateness of Blanket Opt-Outs?

- **Transaction Costs and Administrative Costs**
 - How many market participants are there?
 - What are the costs of black-listing and white-listing to deal with false positive and false negatives?
 - Costs of authenticating individuals exercising blanket rights
 - Costs of awareness campaigns – several blanket opt-outs are popular but obscure
- **Contextual Integrity**
 - Blanket opt-outs and opt-ins make sense where individual preferences are not especially context-dependent
 - Data concerning online privacy often shows preferences aren't very granular
- **Comparative Institutional Competence**
 - State capacity and trans-border activities may endanger viability of an otherwise attractive blanket opt-out regime (e.g., Do Not Email list, VOIP and Do Not Call registry)
 - Public choice theory (Republican fundraisers lobbying Apple to turn Block Unknown Senders off by default, power of digital advertising interests in blocking Do Not Track)
- **Are these Terms Priced?**
 - Firms will have differing willingness to accommodate opt-outs or charge different prices for them, and that complicates the ability of consumers to make well-informed blanket decisions

Towards a Typology of Blanket Opt-Out Implementation

Table 1: Summarizing the Features of Blanket Opt-Out Implementations

| | Public? | Success? | Awareness? | Competition | Prohibiting Contact or Use? | Govt. Inst. Competence | False Positives/Negatives | Penalties for Violations |
|-------------------------|------------------|----------|------------|-------------|-----------------------------|------------------------|---------------------------|--|
| No Solicitors | Yes | Yes | High | High | Contact | High | Few | Mix of state criminal and property law |
| Do Not Call | Yes | Yes | High | High | Contact | High | Few | FTC Enforcement |
| iOS Ad Tracking | No | Yes | High | High | Use | Low | Few | Contractual |
| Do Not Spam | Yes – proposed | No | Low | High | Contact | Low | Many | Hard to enforce overseas |
| Do Not Track | No | No | Low | High | Use | Low | Few | FTC Enforcement? |
| Form 1500 | Yes | Mixed | Low | High | Contact | High | Few | Criminal |
| GPC | Yes - California | Too soon | Low | High | Use | Moderate | Few | State administrative fines |
| Silence Unknown Callers | No | Too soon | Low | High | Contact | Moderate | Many | N/A |
| DROP | Yes | Too soon | Low | High | Use | Moderate | Few | State administrative fines |
| Silence Unknown Texts | No | Too soon | Low | High | Contact | Moderate | Many | N/A |



Beyond Privacy: Other Contexts Where Blanket Rights May Make Sense

- Look for settings where individuals repeatedly and redundantly encounter a particular choice, there is little reason to expect context sensitivity, the creation of a centralized mechanism for communicating individual preferences is doable & terms are typically unpriced
 - Promising cases: Electronic delivery across platforms, Class action participation, Medical research participation
 - More complicated cases: Arbitration, AI training on copyrighted works
- Next step: empirical testing on preference granularity, white-listing and black-listing

Two Final Observations Before the Handoff to Jennifer and Lindsey

- Private sector opt-outs seem to be where a lot of the recent action is. Private sector may have better resources to develop user-friendly interfaces, publicize options, and punish violators
- Some key critiques of notice-and-choice as a privacy preservation strategy are less applicable in a world where blanket opt-outs are readily available. The problem is that too often consumers are confronting notice-and-notice-and-notice-and-choice-and-choice-and-choice . Information overload often stems from a redundancy problem, which in turn is exacerbated when we overestimate context-specific differences in contextual integrity frameworks. This problem may be especially acute in Europe

Commentator Panel & Discussion



Paul Schwartz

Jefferson E. Peyser Professor of Law
Co-Director, Berkeley Center for
Law & Technology



Lindsey Tonsager

Partner, Covington & Burling



Jennifer Urban

Professor, UC Berkeley School of Law,
BCLT Co-Director, and Chair of the
California Privacy Protection Agency

RECEPTION

UPSTAIRS - ROOM 295 | 5-6:30 PM