

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

DEREK GUBALA, individually and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	Case No. 15-cv-1078
	)	
v.	)	Hon. J.P. Stadtmueller
	)	
TIME WARNER CABLE, INC., a Delaware	)	
corporation,	)	
	)	
Defendant.	)	

**SECOND AMENDED CLASS ACTION COMPLAINT**

Plaintiff Derek Gubala (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his counsel, Siprut PC, brings this Amended Class Action Complaint against Defendant Time Warner Cable, Inc. (“TWC”). Plaintiff, on his own behalf and on behalf of a class of similarly situated individuals, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys:

**I. NATURE OF THE ACTION**

1. Cable and satellite television are a staple in American households, viewed by many to be as ordinary and essential as gas and electric service. As a rapidly expanding provider of cable services throughout the nation, Defendant TWC uses its position to collect personal information—such as names, addresses, social security numbers, and credit card numbers—from tens of millions of consumers across the country.

2. After consumers terminate their service with TWC, this information is no longer needed to provide service or collect payment. However, TWC continues to maintain personally

identifiable information on all of its previous customers indefinitely. This conduct violates the Cable Communications Policy Act, 47 U.S.C. § 551 *et seq.* (“CCPA”), which requires cable operators to destroy personally identifiable information when it is no longer required for the purpose for which it was collected.

3. Accordingly, Plaintiff seeks only injunctive relief, on his own behalf and on behalf of the other members of the below-defined Class, against TWC for violations of the CCPA, 47 U.S.C. § 551(e).

## **II. JURISDICTION AND VENUE**

### ***Subject Matter Jurisdiction***

4. This Court has subject matter jurisdiction over this action, pursuant to 28 U.S.C. § 1331, because it arises under the laws of the United States.

### ***Personal Jurisdiction***

5. This Court has personal jurisdiction over Defendant TWC, pursuant to the Wisconsin long-arm statute, Wis. Stat. § 801.05(1)(d), because TWC transacts business in Wisconsin by entering into contracts with customers, resellers of its services, equipment suppliers, and other cable companies. Because TWC maintains a presence in this State, this Court has personal jurisdiction over TWC.

### ***Venue***

6. Venue is proper in this District, pursuant to 28 U.S.C. § 1391(b)(1), because TWC resides in this District. As a corporation, TWC’s residency is based on it being subject to personal jurisdiction in this District. This District has general personal jurisdiction over TWC because TWC maintains continuous and systematic contacts in this District through its contracts,

as stated above. Venue is further proper in this District, pursuant to § 1391(b)(2), because TWC provided the services giving rise to the claim in this District.

### **III. PARTIES**

#### ***Plaintiff***

7. Plaintiff is a natural person currently domiciled in Bolingbrook, Illinois.

8. At all times relevant to this Complaint, Plaintiff was a resident of Oak Creek, Wisconsin and received services from TWC at his Wisconsin residence.

#### ***Defendant***

9. TWC is a corporation organized in and existing under the laws of the State of Delaware with its principal place of business located at 60 Columbus Circle in New York City, New York.

### **IV. FACTUAL BACKGROUND**

#### ***The Cable Communications Policy Act***

10. On October 30, 1984, Congress passed the CCPA in order to promote competition among providers of cable services and establish a national policy concerning cable communications and their operators. An important objective of Congress in establishing such a policy was to protect cable subscribers' sensitive personal information from misuse and improper disclosure. To that end, Congress made sure that the Act incorporated privacy guidelines jointly established several years earlier by the 34 nations comprising the Organization for Economic Cooperation and Development.

11. When the CCPA was under debate, legislative leaders noted that both common-sense privacy concerns and the constitutional rights of citizens were at stake:

Cable systems, particularly those with a 'two-way' capability, have an enormous capacity to collect and store personally identifiable

information about each cable subscriber. Subscriber records from interactive systems can reveal details about bank transactions, shopping habits, political contributions, viewing habits and other significant personal decisions. It is [therefore] important that national cable legislation establish a policy to protect the privacy of cable subscribers. A national policy is needed because, while some franchise agreements restrict the cable operator's use of such information, privacy issues raise a number of federal concerns, including protection of the subscribers' first, fourth, and fifth amendment rights. At the same time, such a policy must also recognize and unnecessarily or unreasonably impede those flows of information necessary to provide the service to the subscribers.

H.R. Rep. 98-934 at 4666-67 (1984).

12. These observations, now nearly 30 years old, are just as relevant today. Subscribers continue to disclose some of their most sensitive identifying information to their cable operator as a condition to entering into a contract for service. Now—far more than ever before—TWC and other cable operators are equipped to rapidly collect and indefinitely retain large volumes of this valuable data in their electronic records.

13. There are numerous serious and troubling privacy issues implicated by TWC's practice of retaining and misusing their former customers' personal information, including the risk of identity theft and conversion of personal financial accounts.

14. Accordingly, the CCPA affords consumers significant protection with respect to the collection, maintenance, and disclosure of personally identifiable information ("PII") provided by the subscriber to the cable operator.

15. Specifically, the CCPA requires cable operators to provide annual notice setting forth the "nature of personally identifiable information collected"; "the nature, purpose, and frequency of any disclosure" of that information; the "period during which such information will be maintained"; "the times and place at which the subscriber may have access to such

information”; and the limitations imposed on the cable operator by this provision of the CCPA. 47 U.S.C. § 551(a)(1).

16. In addition, the CCPA governs the way that cable operators are to destroy the PII of former subscribers. The CCPA requires that cable operators must destroy the PII of former subscribers “if the information is no longer necessary for the purpose for which it was collected” and there are no outstanding requests or orders for such information. 47 U.S.C. § 551(e).

17. Under the CCPA, “personally identifiable information” is not specifically defined. However, the courts have concluded that it broadly encompasses “specific information about the subscriber, or a list of names and addresses on which the subscriber is included.” *See, e.g., Scofield v. Telecable of Overland Park, Inc.*, 973 F.2d 874, 876, n.2 (10th Cir. 1992).

#### ***Defendant TWC’s Collection of Consumers’ PII***

18. Defendant TWC has been in existence since 1989, when it was formed through the merger of Time, Inc.’s cable division and Warner Cable. TWC has continued to grow rapidly, offering a range of services that includes cable television, DVR services, and digital phone subscriptions. TWC serves more than 20 million cable customers, nearly 9 million high-speed Internet customers, and more than 4 million voice customers. In 2012, the company earned nearly \$21.4 billion in gross revenues and had a profit of approximately \$2.2 billion.<sup>1</sup>

19. TWC requires that subscribers provide PII to TWC in order to receive cable service, including social security numbers and/or driver’s license numbers, date of birth, street addresses, phone numbers, and credit card numbers, credit information, and account information.

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<sup>1</sup> *See Company Overview, Our History*, <http://www.timewarnercable.com/en/about-us/company-overview.html> (providing Time Warner’s company history) (last visited Oct. 13, 2015), attached hereto as Exhibit A.

20. Once TWC obtains that information, it maintains a digital record system with every subscriber's personal information, adding to each consumer's file as they acquire more information.

21. TWC's online Privacy Policy provides, in pertinent part, as follows:

We maintain personally identifiable information about subscribers for as long as it is necessary for business purposes. This period of time may last as long as you are a subscriber and, if necessary, for additional time so that we can comply with tax, accounting and other legal requirements. When information is no longer needed for these purposes, it is our policy to destroy or anonymize it.<sup>2</sup>

***Defendant TWC's Unlawful Retention of Consumers' PII***

22. At all relevant times, TWC's uniform policy and practice has been to retain customer PII indefinitely, long after customers' accounts have been terminated.

23. While TWC's Privacy Policy claims that consumer information is destroyed after it is no longer needed for business, tax, accounting, or legal purposes, in practice, TWC simply retains consumers' PII indefinitely. Moreover, "anonymizing" the data does not constitute compliance with the CCPA.

24. Defendant TWC's indefinite retention of PII is prohibited by the CCPA, which requires cable operators to "destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected." 47 U.S.C. § 551(e).

***Consumers Place a High Value on Their PII***

25. At a Federal Trade Commission ("FTC") public workshop in 2001, then-Commissioner Orson Swindle described the value of a consumer's personal information as follows:

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<sup>2</sup> Time Warner Cable, Privacy Notice, ¶4 [http://help.twcable.com/html/twc\\_privacy\\_notice.html](http://help.twcable.com/html/twc_privacy_notice.html) (last visited Oct. 13, 2015), attached hereto as Exhibit B.

The use of third party information from public records, information aggregators and even competitors for marketing has become a major facilitator of our retail economy. Even [Federal Reserve] Chairman [Alan] Greenspan suggested here some time ago that it's something on the order of the life blood, the free flow of information.

Transcript of Public Workshop: The Information Marketplace: Merging and Exchange Consumer Data (8:2-8) (Mar. 13, 2001), *available at* [https://www.ftc.gov/sites/default/files/documents/public\\_events/information-marketplace-merging-and-exchanging-consumer-data/transcript.pdf](https://www.ftc.gov/sites/default/files/documents/public_events/information-marketplace-merging-and-exchanging-consumer-data/transcript.pdf).

26. Though Commissioner's Swindle's remarks are more than a decade old, they are even more relevant today, as consumers' personal data functions as a "new form of currency" that supports a \$26 billion per year online advertising industry in the United States.<sup>3</sup>

27. The FTC has also recognized that consumer data is a new—and valuable—form of currency. In a recent FTC roundtable presentation, another former Commissioner, Pamela Jones Harbour, underscored this point by observing:

Most consumers cannot begin to comprehend the types and amount of information collected by businesses, or why their information may be commercially valuable. Data is currency. The larger the data set, the greater potential for analysis—and profit.

*Statement of FTC Commissioner Pamela Jones Harbour* (Remarks Before FTC Exploring Privacy Roundtable), <http://www.ftc.gov/speeches/harbour/091207privacyroundtable.pdf> (last visited May 28, 2015).

28. Recognizing the high value that consumers place on their PII, many companies now offer consumers an opportunity to sell this information to advertisers and other third parties.

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<sup>3</sup> See Julia Angwin, *Web's Hot New Commodity: Privacy*, *The Wall Street Journal* (Feb. 28, 2011), <http://online.wsj.com/article/SB10001424052748703529004576160764037920274.html> (last visited Oct. 13, 2015), attached hereto as Exhibit C.

The idea is to give consumers more power and control over the type of information that they share—and who ultimately receives that information. And by making the transaction transparent, consumers will make a profit from the surrender of their PII.<sup>4</sup> This business has created a new market for the sale and purchase of this valuable data.<sup>5</sup>

29. In fact, consumers not only place a high value on their PII, but also place a high value on the *privacy* of this data. Thus, the question is not *whether* consumers value such privacy; the question is “*how much* [consumers] value” that privacy.<sup>6</sup>

30. Researchers have already begun to shed light on how much consumers value their data privacy—and the amount is considerable. Indeed, studies confirm that “when [retailers’] privacy information is made more salient and accessible, some consumers are willing to pay a premium to purchase from privacy protective websites.”<sup>7</sup>

31. Consumers thus value their personal data highly, and place an economic value on the privacy of that data. In fact, when consumers were surveyed as to how much they valued their personal data in terms of its protection against improper access and unauthorized secondary use—two concerns at issue here—they valued the restriction of improper access to their data at between \$11.33 and \$16.58 per website, and prohibiting secondary use to between \$7.98 and \$11.68 per website.<sup>8</sup>

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<sup>4</sup> See Steve Lohr, *You Want My Personal Data? Reward Me for It*, The New York Times (July 17, 2010), <http://www.nytimes.com/2010/07/18/business/18unboxed.html> (last visited Oct. 13, 2015), attached hereto as Exhibit D.

<sup>5</sup> See Angwin, *supra*, note 4.

<sup>6</sup> Hann et al., *The Value of Online Information Privacy: An Empirical Investigation* (Mar. 2003) at 2, available at <http://www.comp.nus.edu.sg/~ipng/research/privacy.pdf> (emphasis added) (last visited Aug. 31, 2015).

<sup>7</sup> Tsai, Cranor, Acquisti, and Egelman, *The Effect of Online Privacy Information on Purchasing Behavior*, 22(2) *Information Systems Research* 254, 254 (June 2011).

<sup>8</sup> *Id.*

32. Given these facts, any company that transacts business with a consumer and then retains that consumer's PII in contravention of statutorily guaranteed privacy protections has thus deprived that consumer of the full value of the consumer's transaction with the company.

***Facts Pertaining to Plaintiff***

33. On or about December 27, 2004, Plaintiff signed up for Defendant TWC's cable services. In order to activate his service, TWC required Plaintiff to provide TWC with various forms of PII, including his date of birth, address, home and work telephone numbers, social security number, and credit card information.

34. On or about September 28, 2006, Plaintiff canceled his service with Defendant TWC.

35. On or about December 4, 2014, Plaintiff contacted Defendant TWC and confirmed that all of the PII that he originally submitted back in 2004 remains in TWC's billing records.

36. TWC currently retains the PII of Plaintiff and other members of the Class for whom services have been terminated.

**V. CLASS ACTION ALLEGATIONS**

37. Plaintiff brings this action, as set forth below, on behalf of himself and as a class action, pursuant to the provisions of Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure on behalf of a class defined as:

All persons in the United States who signed up for cable service with Time Warner Cable, Inc., and whose personally identifiable information was retained by Time Warner Cable, Inc. after the termination of services (the "Nationwide Class").

Excluded from the Nationwide Class are: TWC and its subsidiaries and affiliates; all persons who make a timely election to be excluded from the Class; governmental entities; and the judge to whom this case is assigned and any immediate family members thereof.

38. Certification of the Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

39. **Numerosity – Federal Rule of Civil Procedure 23(a)(1).** The members of the class are so numerous that individual joinder of all Class members is impracticable. On information and belief, there are thousands of consumers who have been affected by TWC's wrongful conduct. The precise number of the Class members and their addresses is presently unknown to Plaintiff, but may be ascertained from TWC's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

40. **Commonality – Federal Rule of Civil Procedure 23(a)(2).** This action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, without limitation:

- a. Whether Defendant TWC must destroy customers' PII after termination of services;
- b. Whether Defendant TWC has retained its customers' PII after the termination of services;
- c. Whether Defendant TWC's conduct as alleged herein violates the CCPA and the Illinois Cable Act; and

d. Whether Plaintiff and other Class members are entitled to injunctive relief.

41. **Typicality – Federal Rule of Civil Procedure 23(a)(3).** Plaintiff’s claims are typical of the other Class members’ claims because, among other things, all Class members were comparably injured through the uniform misconduct described above.

42. **Adequacy of Representation – Federal Rule of Civil Procedure 23(a)(4).** Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the other Class members he seeks to represent; he has retained counsel competent and experienced in complex class action litigation; and Plaintiff intends to prosecute this action vigorously. The Class members’ interests will be fairly and adequately protected by Plaintiff and his counsel.

43. **Injunctive Relief – Federal Rule of Civil Procedure 23(b)(2).** Defendant TWC has acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive relief, as described below, with respect to Class members as a whole.

## **VI. CLAIM ALLEGED**

### **COUNT I**

#### **Failure to Destroy Personally Identifiable Information Violation of § 551(e) of the Cable Communications Policy Act (On Behalf of the Nationwide Class)**

44. Defendant TWC is a “cable operator” as defined by the CCPA because TWC provides “cable services,” which is “the one-way transmission to subscribers of [ ] video programming, or [ ] other programming service; [and] subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.” 47 U.S.C. § 522(5) & (6).

45. The CCPA mandates, among other things, that a cable operator “destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected.” 47 U.S.C. § 551(e).

46. After Plaintiff’s and the Class members’ accounts were terminated, Defendant TWC continued to maintain Plaintiff’s and the Class members’ PII, even though such information was no longer necessary to maintain for the purpose for which it was collected.

47. The foregoing conduct violates 47 U.S.C. § 551(e).

48. Plaintiff and the Class have suffered injuries as a result of TWC’s violation of 47 U.S.C. § 551. TWC’s failure to destroy their PII, as required 47 U.S.C. § 551, constitutes injury in the form of a direct invasion of their federally protected privacy rights.

49. Moreover, since Plaintiff and the Class purchased cable services from TWC, and TWC was obligated to comply with the CCPA, TWC’s failure to destroy their PII deprived them of the full value of the services that they bargained and paid for. Because Plaintiff and the Class ascribe monetary value to their ability to control their PII, Plaintiff and the Class have sustained, and continue to sustain, injuries as a direct and proximate result of TWC’s violation of 47 U.S.C. § 551.

50. The CCPA provides a private right of action to consumers who have been aggrieved by a violation of 47 U.S.C. § 551. Specifically, any person aggrieved by any act of a cable operator violating 47 U.S.C. § 551 may recover any “lawful remedy available to a cable subscriber.” 47 U.S.C. § 551(f)(3).

51. Plaintiff, on behalf of himself and the Class, therefore seeks only injunctive to the full extent permitted by the CCPA.

## VII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the other members of the Class proposed in this Complaint, respectfully requests that the Court enter an Order:

- A. Declaring that this action may be maintained as a class action, and certifying the Class as requested herein;
- B. Enjoining TWC from the unlawful practices and statutory violations asserted herein; and
- C. Granting such other and further relief as may be just and proper.

Dated: November 20, 2015

Respectfully submitted,

By: /s/ Joseph J. Siprut

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4819-4161-6169, v. 1



# EXHIBIT A

Document title: Company Overview

Capture URL: <http://www.timewarnercable.com/en/our-company/company-overview.html>

Captured site IP: 71.74.42.231

Page loaded at (UTC): Monday, Aug 31 2015, 16:27:19

Capture timestamp (UTC): Monday, Aug 31 2015, 16:27:56

Capture tool: v2.5.14

Page Vault server IP: 52.6.209.201

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Operating system: Microsoft Windows NT 6.2.9200.0 (6.2.9200.0)

PDF length: 4

Portal URL: <https://portal.page-vault.com/#/snapshot/11269>

User: siprut-user2



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## Company Overview

[About Us >](#)

### Our History

In the late 1940s, entrepreneurs using simple antennas and Army-surplus coaxial cable created the country's first cable television systems and revolutionized the way Americans watched TV. More than 70 years later, Time Warner Cable (TWC), the second largest cable provider, owns and manages advanced, well-clustered cable systems throughout the United States. Time Warner Cable offers cutting edge digital technology, a rich range of home entertainment and information choices for the whole family to enjoy, and superior service that demonstrates customer satisfaction is our number one priority.

Let's explore some of the milestones that bring us to today...

#### Key Milestones

Time Warner Cable has a long history of leadership within our industry and has led the way in technical innovation through the use of fiber optics to improve and expand our cable products and services.

- 1968: American Television and Communications (ATC) is founded, planting the roots of today's TWC.
- 1973: Time Inc. acquires 9% of ATC (and, five years later, agreed to acquire 100% of the company); Warner Communications forms Warner Cable.
- 1989: Merger of Time Inc. and Warner Cable announced, later to become Time Warner Inc.
- 1992: ATC and Warner Cable become Time Warner Cable; NY1 News is launched in New York City.
- 1996: RoadRunner®, the first cable-delivered high speed Internet service, is launched.
- 1999: Digital cable and Video On Demand launched.
- 2003: Digital phone service launched.

### Making Connections

Explore our story, from the birth of the cable industry to recent advancements. Visit our dedicated website offering an in-depth look at our history of innovation.

[Visit the website](#)



- 1996: RoadRunner®, the first cable-delivered high speed Internet service, is launched.
- 1999: Digital cable and Video On Demand launched.
- 2003: Digital phone service launched.
- 2005: Triple Play offering is rolled out.
- 2006: TWC gains additional systems and employees with Adelphia acquisition.
- 2007: TWC becomes a public company.
- 2009: TWC separates from Time Warner Inc.
- 2011: TWC acquires NewWave Communications cable systems and business services subsidiary NaviSite to enable "cloud" services.
- 2012: TWC acquires Insight Communications.
- 2013: After 41 years in the cable industry, TWC Chairman and CEO Glenn Britt announces he will retire from the company at the end of the year. The Time Warner Cable Board of Directors elects Robert D. Marcus, the company's President and Chief Operating Officer, to succeed Mr. Britt as Chairman and CEO, effective January 1, 2014.
- 2013: TWC acquires DukeNet Communications.

## Our Reach

- Time Warner Cable Inc. (NYSE: TWC) is among the largest providers of video, high-speed data and voice services in the United States, connecting 15 million customers to entertainment, information and each other. Time Warner Cable Business Class offers data, video and voice services to businesses of all sizes, cell tower backhaul services to wireless carriers and enterprise-class, cloud-enabled hosting, managed applications and services. Time Warner Cable Media, the advertising arm of Time Warner Cable, offers national, regional and local companies innovative advertising solutions. More information about the services of Time Warner Cable is available at [www.twc.com](http://www.twc.com), [www.twcbc.com](http://www.twcbc.com) and [www.twcmedia.com](http://www.twcmedia.com).
- Time Warner Cable serves customers in the following 29 states: Alabama, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia and Wisconsin. Go to [TWC Stores](#).
- Time Warner Cable employs more than 50,000 people across the U.S.
- Time Warner Cable owns and provides customers with exclusive, local, all-news TV channels in New York, North Carolina and Texas that give viewers content targeted to their community interests and concerns.
- In the mid-1990s, Time Warner Cable became the first cable company to be honored with an Emmy® Award by winning the Engineering Award for Outstanding Achievement in Technological Development. This recognized our pioneering work in using fiber optics to transmit broadband signals, a development that helped enable the convergence of the cable television, computer and telephone industries. Since then, we have earned eight more Technology and Engineering Emmys: Best Use of On Demand Technology Over Private Networks for Start Over® (2005-2006); Development, Productization and Commercialization of Interactive Video on Demand Two-Way Infrastructure and Signaling (2006-2007); Full-Service Network (2011); Pioneering the Development of Multi-Room DVR (2011-2012); Development and Commercialization of Cable Interconnects for Local Video Ad Insertion (ADI INK 2011-2012); Pioneering Work in Implementation and Deployment of Network DVR (2012-2013).



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pioneering work in being the first to launch a national broadband signal, a development that helped shape the convergence of the cable television, computer and telephone industries. Since then, we have earned eight more Technology and Engineering Emmys: Best Use of On Demand Technology Over Private Networks for Start Over® (2005-2006); Development, Productization and Commercialization of Interactive Video on Demand Two-Way Infrastructure and Signaling (2006-2007); Full-Service Network (2011); Pioneering the Development of Multi-Room DVR (2011-2012); Development and Commercialization of Cable Interconnects for Local Video Ad Insertion (ADLINK, 2011-2012); Pioneering Work in Implementation and Deployment of Network DVR (2012-2013); Pioneering Development of Video on Demand (VOD) Dynamic Advertising Insertion (2012-2013) and Pioneering Delivery of Pay-TV Linear Video to Consumer Owned and Managed Devices over an IP Connection (2013-2014).

## Our Customers\*

15.5 million customer relationships

10.8 million residential video subscribers

12.2 million residential high-speed data subscribers

5.9 million residential voice subscribers

## Stock Symbol

NYSE: TWC

\*as of June 30, 2015



### Product

Packages

TV

Internet

Phone

IntelligentHome

### Services

Pay Your Bill Online

Ways to Pay Your Bill

Moving?

My Account Login

TWC Apps

Check Email

On Demand

### Support

Browse Support

Program Your Remote

Channel Lineup

Closed Captioning

Welcome to TWC

TV Parental Control

Internet Safety

Accessibility

### Contact Us

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### Other Sites

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TWC Conversations

TWC Media

Community Solutions

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## Our Customers\*

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### Services

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[Ways to Pay Your Bill](#)

[Moving?](#)

[My Account Login](#)

[TWC Apps](#)

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[On Demand](#)

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### Other Sites

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[TWC Media](#)

[Community Solutions](#)

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# **EXHIBIT B**

Document title: Time Warner Cable Subscriber Privacy Notice  
Capture URL: [http://help.twcable.com/twc\\_privacy\\_notice.html](http://help.twcable.com/twc_privacy_notice.html)  
Captured site IP: 165.237.54.35  
Page loaded at (UTC): Monday, Aug 31 2015, 16:32:07  
Capture timestamp (UTC): Monday, Aug 31 2015, 16:33:09  
Capture tool: v2.5.14  
Page Vault server IP: 52.6.209.201  
Browser engine: Microsoft Internet Explorer (Trident) v11.0.9600.17963  
Operating system: Microsoft Windows NT 6.2.9200.0 (6.2.9200.0)  
PDF length: 9  
Portal URL: <https://portal.page-vault.com/#/snapshot/11270>  
User: siprut-user2



# Subscriber Privacy Notice

Find

Find: maintain

Match whole word only  Match case

Highlight all matches

Previous Next

## Time Warner Cable Subscriber Privacy Notice

### What This Privacy Notice Covers

This Notice describes our practices with respect to your "personally identifiable information" and certain other information. Personally identifiable information is information that identifies you and that you have furnished to us or that we have collected in connection with your receipt of our services. Personally identifiable information does not include aggregate or anonymous data or any individual bits of data that do not identify you. This Notice applies to all of our residential and commercial subscription services, including video, voice, telecommunications, data and security (collectively and individually, "Time Warner Cable Services"), whether provided individually or as part of a bundle of services.

This Notice also discusses your Customer Proprietary Network Information ("CPNI"). This is information about you that we obtain solely in connection with your receipt of our Home Phone, Business Class Phone or commercial telecommunications services ("Phone Services"). CPNI consists of the information contained in your Phone Services bill and any other information about the quantity, technical configuration, type, destination, location and amount of your use of Phone Services. If you are a Phone Services customer, we have a duty under federal law to protect the confidentiality of your CPNI and you have the right to have the confidentiality of your CPNI so protected.

This Notice does not cover information that we may collect from our Internet portals and websites, each of which contains its own privacy notice, or any applications, web services or tools that you download or access from these portals and websites. You should also be aware that some of the content, applications and advertisements provided on these portals and websites may be provided by third parties even where the items appear to be hosted

## 1. Collection and Use of Personally Identifiable Information and CPNI

have the confidentiality of your CPNI so protected.

This Notice does not cover information that we may collect from our Internet portals and websites, each of which contains its own privacy notice, or any applications, web services or tools that you download or access from these portals and websites. You should also be aware that some of the content, applications and advertisements provided on these portals and websites may be provided by third parties even where the items appear to be hosted by Time Warner Cable's Broadband Internet Service. When you access these third parties' online content or services, your personally identifiable information may be transmitted to them. The policies described in this Notice do not apply to these third parties, which may have their own privacy policies.

This Notice does not cover third party on-line services that you may purchase with our data services (e.g., the services of EarthLink and other on-line providers ("OLPs")). These OLPs may have their own privacy policies.

Our website always contains the most current version of this Notice. See <http://help.twcable.com/policies.html>. We also provide you with a copy of our Notice upon initiation of service and annually thereafter. You may also obtain a copy of the current Notice by contacting your local TWC office or requesting one through [TWC.Privacy@twcable.com](mailto:TWC.Privacy@twcable.com).

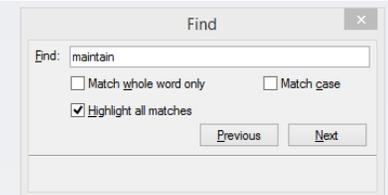
We may modify this Notice at any time. If we do, we will update it on this web site. If you continue to accept our services after a change, then you are deemed to have accepted the change.

Six areas are covered by this Notice:

- the nature of personally identifiable information and CPNI collected about you and the way such information is used;
- the nature, frequency, and purpose of any disclosure that may be made of such information;
- disclosure of such information to governmental entities and through legal process;
- the period of time during which such information will be maintained;
- the times and place you may have access to the information collected; and
- your rights under the Communications Act.

### A. Personally Identifiable Information

Under the Communications Act of 1934, as amended (the "Communications Act"), we may collect personally identifiable information (described below) over a cable system without your consent if it is necessary to provide our services to you or to prevent unauthorized access to services or subscriber data and we may collect other information that you consent to our collecting and that we will use as you direct. Below is a description of the information that we may collect, using the system or otherwise, about our users in order to



## Identifiable Information and CPNI

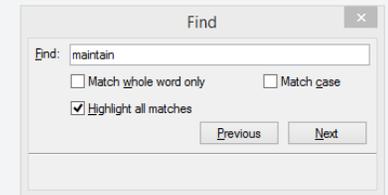
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Personally identifiable information: In order to provide any of our services to you, we may need to collect data about you, including your name; home, e-mail and work addresses; home, cellular and work telephone numbers; social security number; driver's license number; credit, credit card, debit card and bank information; billing and payment information; records of damage and security deposits; records of maintenance and repairs; the number of converters, cable modems or other cable equipment installed in your home or place of business (collectively, "TWC Equipment"); the number of television sets, telephones, computers and other equipment of yours that are connected to TWC Equipment or that receive the Time Warner Cable Services (collectively, "Customer Equipment"); the location and configuration of Customer Equipment; the service options you have chosen; the programs, features and services you have utilized; identifying information associated with the TWC Equipment (e.g., a serial number and/or MAC address of each converter box installed); performance history associated with the TWC Equipment; whether you rent or own your home or place of business (as this may impact installation issues); subscriber correspondence; records of violations and alleged violations of our terms of service; customer research and satisfaction data; and information from third parties that is commercially available, such as age, income and other demographic information.

We may remotely check the TWC Equipment and the Customer Equipment for purposes that include diagnostics and network security and **maintain** records of the results.

Other information: Our system, in delivering video services, may automatically log information concerning the use and performance of your TWC Equipment, including programming choices requested, the date and time of these choices, and information, services and products ordered from us or our advertisers. This data may be used for purposes that include allowing us to deliver desired information, products and services to you. For example, if you request on demand programming, we will need to collect information about your equipment along with the particular title ordered so that the right content is delivered to the right converter box. If the video ordered has a charge, we will then need to personally identify this information by associating it with your billing account so that we bill the correct customer.

Another example of information that we collect while delivering digital video services is data necessary to provide switched digital services. Many of our systems use switched



content is delivered to the right converter box. If the video ordered has a charge, we will then need to personally identify this information by associating it with your billing account so that we bill the correct customer.

Another example of information that we collect while delivering digital video services is data necessary to provide switched digital services. Many of our systems use switched digital technology so we can deliver additional channels and services. To do so, we need to collect your tuning choices along with information about your equipment to ensure that desired channels are delivered to you when you request them. While this information is temporarily associated with your equipment in order to provide these services, it will not be once the equipment identification is no longer needed for operations, troubleshooting and billing purposes. This anonymous information may be preserved and used as described in the next paragraph. We do not disclose to others for their marketing or advertising purposes any personally identifiable information that may be derived from this collection.

Finally, in delivering a video service, we also track information about your use of TWC Equipment in a non-personally identifiable manner and we may combine this information with other non-personally identifiable information. This aggregate or anonymous information may be used for research and to determine which programming and commercials are being watched, which may assist us in determining the networks that should be delivered via switched digital, in paying our providers for video on demand programming, in informing us, advertisers and programmers how many impressions were received and generally making programming and advertising more relevant to our customers. None of this data will be used to personally identify you.

If you use a web-based email service, we do not collect any information regarding the emails that you send and receive. If you use email provided by Time Warner Cable or your OLP, our system may automatically collect and log email header information. We have access to personally identifiable information about you and your data account, including the name and address associated with a given IP address or, possibly, one or more e-mail accounts. We may also have information about how often and how long you use our service, including the amount of bandwidth used; technical information about your computer system, its software and modem; and your geographical location. We do not disclose to others for their marketing or advertising purposes any personally identifiable information that may be derived from this collection. Your OLP may have its own privacy policies.

Our system, in delivering and routing Home or Business Class Phone service calls, may automatically log information concerning telephone numbers you call, telephone numbers from which you receive calls, the duration of such calls, the service features and functions you use, the frequency of such use and other CPNI for the uses described below.

The data that we collect from you, as described above, may be used, depending on the nature of the data, for various purposes such as the following: to make sure you receive the services you have requested; to make sure you are being billed properly for the

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automatically log information concerning telephone numbers you call, telephone numbers from which you receive calls, the duration of such calls, the service features and functions you use, the frequency of such use and other CPNI for the uses described below.

The data that we collect from you, as described above, may be used, depending on the nature of the data, for various purposes such as the following: to make sure you receive the services you have requested; to make sure you are being billed properly for the services you receive; to send you pertinent information about our services; to **maintain** or improve the quality of the TWC Equipment and the Time Warner Cable Services; to answer questions from subscribers (e.g., for troubleshooting); to ensure compliance with relevant law and contractual provisions; to market Time Warner Cable Services and other products that you may be interested in; and for tax and accounting purposes.

#### B. Customer Proprietary Network Information ( "CPNI " )

We may, from time to time, use the CPNI generated in furnishing Phone Services to you to provide you with information about, and to market to you, communications-related products or services that are within the same category of service to which you already subscribe. For instance, we may use the CPNI generated in furnishing Home Phone telephone service to you to provide you with information about, and to market to you, other telephone service offerings.

We may, from time to time, use the CPNI generated in furnishing Phone services to you to provide you with information about, and to market to you, communications-related products or services that are outside of the category of service to which you already subscribe. For instance, we may use the CPNI generated in our furnishing Home Phone service to you to provide you with information about, and to market to you, data services. You have the right to restrict our use of your CPNI for such purposes. If you wish to do so, please notify us in writing at our main local office, which will be noted in your cable bill, by calling 611 from your Home Phone, or by selecting "**opt-out**" from the electronic version of this Time Warner Cable Subscriber Privacy Policy, which is available online at [http://help.twcable.com/twc\\_privacy\\_notice.html](http://help.twcable.com/twc_privacy_notice.html). Please include your name, account number, telephone number and address on any written request. If you do not notify us within 30 days of this notification that you wish to restrict our use of your CPNI, we will assume that you approve of our use of CPNI for this purpose.

We will not use your CPNI to offer products or services to you without your permission that the FCC classifies as non-communications related (including video services) or that are offered by other companies or by joint ventures in which we participate. You may, for example, be asked during a telephone call with one of our customer service representatives for your permission to use your CPNI for the purpose of providing you with an offer. If you provide your permission orally, electronically or in writing, we will use or disclose the CPNI only for the duration of that telephone call in order to offer you additional services.

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## 2. Disclosure of Personally Identifiable Information and CPNI

offered by other companies or by joint ventures in which we participate. You may, for example, be asked during a telephone call with one of our customer service representatives for your permission to use your CPNI for the purpose of providing you with an offer. If you provide your permission orally, electronically or in writing, we will use or disclose the CPNI only for the duration of that telephone call in order to offer you additional services.

Please note that if you opt out or otherwise deny or restrict our use of your CPNI, it will not affect our provision to you of any Time Warner Cable Services. Any permission or denial of permission to use your CPNI remains valid until such time as your Phone Services are discontinued or we receive your notice withdrawing permission.

Under the Communications Act, we may only disclose personally identifiable information covered by the Act without your prior written or electronic consent if: (1) it is necessary to render, or conduct a legitimate business related to, the services that are provided to you; (2) such disclosure is required by law; or (3) for mailing lists, subject to the conditions described below. We may also disclose personally identifiable information and CPNI when you consent to the disclosure. Below is a description of our disclosure practices.

In the course of providing Time Warner Cable Services to you, we may disclose your personally identifiable information to our employees, related legal entities, agents, vendors acting under our direction, including repair and installation subcontractors, sales representatives, accountants, billing and collection services, and consumer and market research firms, credit reporting agencies and authorized representatives of governmental bodies. We may also disclose such information to advertisers and vendors for purposes of carrying out transactions you request. Upon reasonable request, personally identifiable information may be disclosed to persons or entities with an equity interest in our related legal entities when they have a legal right to inspect our books and records. Also, if we enter into a merger, acquisition or sale of all or a portion of our assets, your personally identifiable information may be transferred as part of the transaction.

In addition, if you receive our data service, information, including IP addresses, may be disclosed to third parties in the course of providing the service to you. Recipients of such information may include, in addition to those persons listed above, entities that provide content and/or services to us or your OLP.

Unless you object, the Communications Act also permits us to disclose limited personally identifiable information to others, such as advertisers and direct mail companies, for non-cable-related purposes, such as direct marketing. Under the Communications Act, these disclosures are limited to the following "mailing list information": your name, address and, except in California, the particular non-phone services to which you subscribe (e.g., HBO or other premium channels, or tiers of service). In addition, we may add to this mailing list information commercially-available information about you that is obtained from third

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identifiable information to others, such as advertisers and direct mail companies, for non-cable-related purposes, such as direct marketing. Under the Communications Act, these disclosures are limited to the following "mailing list information": your name, address and, except in California, the particular non-phone services to which you subscribe (e.g., HBO or other premium channels, or tiers of service). In addition, we may add to this mailing list information commercially-available information about you that is obtained from third parties, such as your age, income, and other demographic or marketing information. Mailing list information does not include the extent of your viewing or use of a particular service, including the extent of your use of Time Warner Cable Internet or your OLP service, the nature of any transaction you make over the cable system, or any information that constitutes CPNI. We may disclose or sell such mailing list information from time to time. If you wish to be removed from our mailing list, please notify us in writing at our main local office, which will be noted on your cable bill, or by sending an e-mail to [TWC.Privacy@TWCable.com](mailto:TWC.Privacy@TWCable.com). Please include your name and address on any such request.

In addition, we may disclose, in connection with the provision of services to you and pursuant to the consent you granted in your Subscription Agreement, the personally identifiable information described in Section 1 in order to fulfill transactions that you request, to personalize your online experience, as required by law (including as described in Section 3 of this Notice), and as otherwise necessary in the ordinary course of business. The frequency of such disclosures varies according to business needs.

If you are a Phone Services customer, we must disclose certain of your personally identifiable information and CPNI to 911 services and to you or your designee upon your express authorization. We will also disclose limited personal information to telephone companies so that your calls can be properly routed. When you dial a toll-free number, the party you are calling may identify your telephone number using a telephone network technology called Automatic Number Identification (ANI). FCC rules prohibit parties that receive calls on toll-free numbers from distributing these telephone numbers.

Your name, address and/or phone number are provided to those you call in connection with Caller ID functions. You may dial \*67 to prevent display of your Caller ID. Dialing \*82 resumes its display.

We will provide your name, phone number and address to directories and 411 services. If you subscribe to our Private Listing service, we will take reasonable precautions to ensure that your information is not provided, but we cannot guaranty that errors will not occur. If you would like more information on the Private Listing service, please contact your local Time Warner Cable office.

Federal law also requires us to disclose personally identifiable information to a governmental entity or other third parties pursuant to certain legal process. Generally, this process requires a court order and, if the order is sought by a governmental entity, you are

### 3. Disclosure of Information to Governmental Entities and Other Legal

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3. Disclosure of Information to Governmental Entities and Other Legal Process

you would like more information on the Private Listing service, please contact your local Time Warner Cable office.

Federal law also requires us to disclose personally identifiable information to a governmental entity or other third parties pursuant to certain legal process. Generally, this process requires a court order and, if the order is sought by a governmental entity, you are afforded the opportunity to contest in court any claims made in support of the court order sought, and the governmental entity must offer clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case. However, there are exceptions to this general rule in areas including the Electronic Communications Privacy Act, which allows personally identifiable information to be obtained in some circumstances by governmental entities through a subpoena, warrant or court order; welfare laws, which allow state welfare agencies to obtain by administrative subpoena the names and addresses of individuals who owe or are owed welfare support; child pornography statutes, which impose an affirmative duty on us to disclose certain information upon knowledge; and counterintelligence laws, which require us to provide information based on National Security Letters. At times, laws like these or specific court orders may require that we not disclose to you the existence of demands for your personally identifiable information. We will honor these laws and orders. We will comply with legal process when we believe in our discretion that we are required to do so. We will also disclose any information in our possession to protect our rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril.

4. Time Period That We Retain Personally Identifiable Information

We maintain personally identifiable information about subscribers for as long as it is necessary for business purposes. This period of time may last as long as you are a subscriber and, if necessary, for additional time so that we can comply with tax, accounting and other legal requirements. When information is no longer needed for these purposes, it is our policy to destroy or anonymize it.

5. Access to Records

Under the Communications Act, you have the right to inspect our records that contain personally identifiable information about you and to correct any errors in such information. If you wish to inspect these records, please notify us in writing and an appointment at our local business office will be arranged during our regular business hours.

6. Your Rights Under the Communications Act

We are providing this Notice to you in accordance with the Communications Act. The Communications Act provides you with a cause of action for damages, attorneys' fees and costs in federal District Court should you believe that any of the Communications Act's limitations on the collection, disclosure, and retention of personally identifiable information have been violated by us. Your Subscription Agreement contains your agreement that, to the extent permitted by law, any such claims will be decided in arbitration and attorneys'

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If you have any questions about this Privacy Notice, please contact us at [TWC.privacy@twcable.com](mailto:TWC.privacy@twcable.com).

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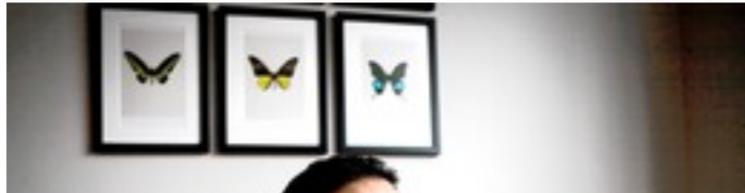
## Web's Hot New Commodity: Privacy

By JULIA ANGWIN and EMILY STEEL

Updated Feb. 28, 2011 12:01 a.m. ET

As the surreptitious tracking of Internet users becomes more aggressive and widespread, tiny start-ups and technology giants alike are pushing a new product: privacy.

Companies including Microsoft Corp., McAfee Inc.—and even some online-tracking companies themselves—are rolling out new ways to protect users from having their movements monitored online. Some are going further and starting to pay people a commission every time their personal details are used by marketing companies.



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Giles Sequeira now sells personal details about himself to advertisers. GARETH PHILLIPS FOR THE WALL STREET JOURNAL

"Data is a new form of currency," says Shane Green, chief executive of a Washington start-up, **Personal Inc.**, which has raised \$7.6 million for a business that aims to help people profit from providing their personal information to advertisers.

The Wall Street Journal's year-long What They Know investigation into online tracking has exposed a fast-growing network of hundreds of companies that collect highly personal details about Internet users—their online activities, political views, health worries, shopping habits, financial situations and even, in some cases, their real names—to feed the \$26 billion U.S. online-advertising industry.

In the first nine months of last year, spending on Internet advertising rose nearly 14%, while the overall ad industry only grew about 6%, according to data from PriceWaterhouseCoopers LLP and WPP PLC's Kantar Media.

Testing the new privacy marketplace are people like Giles Sequeira, a London real-estate

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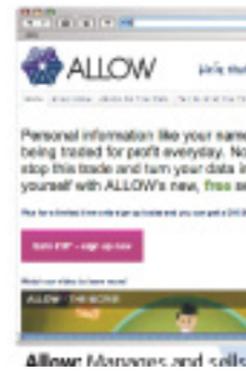
Testing the new privacy marketplace are people like Ones Sequera, a London real estate developer who recently began selling his own personal data. "I'm not paranoid about privacy," he says. But as he learned more, he says, he became concerned about how his data was getting used.

GRAPHIC

Companies are introducing free and paid products that help people manage the way companies track their online activities. Some services pay people when their personal details are used.

# The Nascent Privacy Marketplace

Companies are introducing free and paid products that help people manage Some services pay people when their personal details are used. Selected of



People "have no idea where it is going to end up," he says.

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- 1. Malaysians Rally Against Prime Minister Najib Razak
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- 4. Jon Hilsenrath: Three Takeaways from the Fed Meeting
- 5. Bangkok Bombing Suspect Arrested





So in December, Mr. Sequeira became one of the first customers of London start-up **Allow Ltd.**, which offers to sell people's personal information on their behalf, and give them 70% of the sale. Mr. Sequeira has already received one payment of £5.56 (\$8.95) for letting Allow tell a credit-card company he is shopping for new plastic.

"I wouldn't give my car to a stranger" for free, Mr. Sequeira says, "So why do I do that with my personal data?"

As people are becoming more aware of the value of their data, some are seeking to protect it, and sometimes sell it. In January at the World Economic Forum in Davos, Switzerland, executives and academics gathered to discuss how to turn personal data into an "asset class" by giving people the right to manage and sell it on their own behalf.

"We are trying to shift the focus from purely privacy to what we call property rights," says Michele Luzi, a director at consulting firm Bain & Co. who led the Davos discussion.

Allow, the company that paid Mr. Sequeira, is just one of nearly a dozen start-ups hoping to profit from the nascent privacy market. Several promise to pay people a commission on the sale of their data. Others offer free products to block online tracking, in the hopes of later selling users other services—such as disposable phone numbers or email addresses that make personal tracking tougher. Still others sell paid services, such as removing people's names from marketing databases.

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"Entrepreneurs smell opportunity," says Satya Patel, venture capitalist at Battery Ventures, which led a group of investors that poured \$8 million in June into a start-up called **Safesite**, which helps people to monitor





Launches Privacy Start-up

**SafetyWeb**, which helps parents monitor their children's activities on social-networking sites and is rolling out a new privacy-

protection service for adults, **myID.com**.

For the lightly regulated tracking industry, a big test of the new privacy marketplace is whether it will quiet the growing chorus of critics calling for tougher government oversight. Lawmakers this month introduced two separate privacy bills in Congress, and in December the Obama administration called for an online-privacy "bill of rights." The Federal Trade Commission is pushing for a do-not-track system inspired by the do-not-call registry that blocks phone calls from telemarketers.

The industry is hustling on several fronts to respond to regulatory concerns. Last week, Microsoft endorsed a do-not-track system. Microsoft also plans to add a powerful anti-tracking tool to the next version of its Web-browsing software, Internet Explorer 9. That's a reversal: Microsoft's earlier decision to remove a similar privacy feature from Explorer was the subject of a Journal article [last year](#).

WHAT THEY KNOW

- [Your Apps Are Watching You](#)
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- [Profiling Technology Mounts a Comeback](#)
- [Insurers Test Data Profiles to Identify Risky Clients](#)
- [A Web Pioneer Profiles Users by Name](#)
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The online-ad industry itself is also rolling out new privacy services in hopes of heading off regulation. Most let users opt out of seeing targeted ads, though they generally don't prevent tracking.

The privacy market has been tested before, during the dot-com boom around 2000, a time when online tracking was just being born. A flurry of online-privacy-related start-ups





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sprang up but only a few survived due to limited consumer appetite.

As recently as 2008, privacy was so hard to sell that entrepreneur Rob Shavell says he avoided even using the word when he pitched investors on his start-up, **Abine Inc.**, which blocks online tracking. Today, he says, Abine uses the word "privacy" again, and has received more than 30 unsolicited approaches from investors in the past six months.

In June, another company, TRUSTe, raised \$12 million from venture capitalists to expand its privacy services. At the same time, Reputation.com Inc. raised \$15 million and tripled its investments in new privacy initiatives including a service that removes people's names from online databases and a tool to let people encrypt their Facebook posts.

"It's just night and day out there," says Abine's Mr. Shavell.

Online advertising companies—many of which use online tracking to target ads—are also jumping into the privacy-protection business. AOL, one of largest online trackers, recently ramped up promotion of privacy services that it sells.

And in December, enCircle Media, an ad agency that works with tracking companies,





And in December, enCircle Media, an ad agency that works with tracking companies, invested in the creation of a privacy start-up, **IntelliProtect**. Last month IntelliProtect launched a \$8.95-a-month privacy service that will, among other things, prevent people from seeing some online ads based on tracking data.

In its marketing material, IntelliProtect doesn't disclose its affiliation with the ad company, enCircle Media, that invested in it. When contacted by the Journal, IntelliProtect said it would never give or sell customer data to other entities, including its parent companies.

A cofounder of Allow, Justin Basini, also traces his roots to the ad industry. Mr. Basini came up with the idea for his new business when working as head of brand marketing for Capital One Europe. He says he was amazed at the "huge amounts" of data the credit-card companies had amassed about individuals.

But the data didn't produce great results, he says. The response rate to Capital One's targeted mailings was 1-in-100, he says—vastly better than untargeted mailings, but still "massively inefficient." Mr. Basini says. "So I thought, 'Why not try to incentivize the customer to become part of the process?'"

People feel targeted ads online are "spooky," he says, because people aren't aware of how much personal data is being traded. His proposed solution: Ask people permission before showing them ads targeted at their personal interests, and base the ads only on information people agree to provide.

In 2009, Mr. Basini left Capital One and teamed up with cofounder Howard Huntley, a technologist. He raised £440,000 (\$708,400) from family, friends and a few investors, and launched Allow in December. The company has attracted 4,000 customers, he says.





Mr. Basini says his strategy is to first make individuals' data scarce, so it can become more valuable when he sells it later. To do that, Allow removes its customers from the top 12 marketing databases in the U.K., which Mr. Basini says account for 90% of the market. Allow also lists its customers in the official U.K. registries for people who don't want to receive telemarketing or postal solicitations.

Currently, Allow operates only in the U.K., which (unlike the U.S.) has a law that requires companies to honor individuals' requests to be removed from marketing databases.

JOURNAL COMMUNITY »

Then, Mr. Basini asks his customers to create a profile that can contain their name, address, employment, number of kids, hobbies and shopping intent—in other words, lists of things they're thinking about buying. Customers can choose to grant certain marketers permission to send them offers, in return for a 70% cut of the price marketers pay to reach them. Allow

says it has finalized a deal with one marketer and has five more deals it hopes to close soon.

You should not be able to sell your privacy. Its a dumb idea and someone is going to end up suing. Internet privacy shouldn't be a question and you shouldn't have to give up any information you didn't want to.

—Josh Harmon

Mr. Basini says Allow tries to prevent people from "gaming" the system by watching for people who state an intention to buy lots of things, but don't follow through.

Because Allow's data comes from people who have explicitly stated their interest in being contacted about specific products, it can





command a higher price than data gathered by stealthier online-tracking technologies. For instance, online-tracking companies routinely sell pieces of information about people's Web-browsing habits for less than a penny per person. By comparison, Allow says it sells access to Mr. Sequeira for £5 to £10 per marketer.

Mr. Sequeira, the London real-estate executive, says that after he filled out an "intention" to get a new credit card, he received a £15.56 credit in his Allow account: a £10 signing fee plus a £5.56 payment from the sale of his data to a credit-card marketer. So far, he says, he hasn't received a card offer from the company.

"I don't think it's going to make a life-changing amount of money," says Mr. Sequeira. But, he says he enjoyed the little windfall enough that he is now letting Allow offer his data to other advertisers. "I can see this becoming somewhat addictive."

Write to Julia Angwin at [julia.angwin@wsj.com](mailto:julia.angwin@wsj.com) and Emily Steel at [emily.steel@wsj.com](mailto:emily.steel@wsj.com)

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"More than half of the internet's top websites use [Flash Cookies] to track users" - "they usually can not be deleted using your web browser." Wikipedia on "Flash Cookies"

Google "Flash Cookies" and the first hit should be Adobe's website. You HAVE TO VISIT this website to clean flash cookies that are tracking you from your machine.

Windows users should consider the freeware CCCleaner.

I know this is just a small slice of the "privacy issue," but there is nothing like deleting 1,000 tracking items on your computer to get you into the privacy discussion.

Mar 18, 2011



William Kempke

It's interesting that the WSJ On-Line is creating tracking information on it's customers. While I am reading about tracking and privacy on the WSJ On-Line, I am being tracked. Oh good...

[http://online.wsj.com/public/page/privacy\\_policy.html?mod=WSJ\\_footer](http://online.wsj.com/public/page/privacy_policy.html?mod=WSJ_footer)

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## You Want My Personal Data? Reward Me for It

By STEVE LOHR JULY 17, 2010



Ian Wilkes, left, and Ginsu Yoon are the founders of Bynamite, which is testing software that monitors what ad networks and Web sites collect and assume to know about a user. Jim Wilson/The New York Times

Ian Wilkes, left, and Ginsu Yoon are the founders of Bynamite, which is testing software that monitors what ad networks and Web sites collect and assume to know about a user. Jim Wilson/The New York Times

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LIFE, as they say, imitates art. And the way things work commercially today across much of the Web recalls that chapter in "The Adventures of Tom Sawyer" where Tom cajoles his guileless friends into whitewashing Aunt Polly's fence. They supply the labor, but he gets the reward.

On the Internet, users supply the raw material that helps generate billions of dollars a year in online advertising revenue. Search requests, individual profiles on social networks, Web browsing habits, posted pictures and many Internet messages are all mined to serve up targeted online ads.

All of this personal information turns out to be extremely valuable, collectively. So why should Google, Yahoo, Facebook and other ad businesses get all the rewards?

That is the question that animates [Bynamite](#), a start-up company based in San Francisco. "There should be an economic opportunity on the consumer side," said Ginsu Yoon, a co-founder of the company. "Nearly all the investment and technology is on the advertising side."

Bynamite, to be sure, is another entry in the emerging market for online privacy products. The business interest in such products, of course, is being fed by worries about how much personal information marketers collect. Also playing a part are recent outcries after Facebook changed its privacy practices and Google introduced a social networking tool, Buzz, that initially shared information widely without users' permission. [Venture capital](#) has been pouring into Web-based monitoring and privacy protection products like ReputationDefender and Abine, as well as services that help parents protect children's privacy online, like [SafetyWeb and SocialShield](#).

Bynamite brings a somewhat different perspective to the privacy market. "Our view is that it's not about privacy protection but about giving users control over this valuable resource — their information," Mr. Yoon said.



Done

Bynamite brings a somewhat different perspective to the privacy market. “Our view is that it’s not about privacy protection but about giving users control over this valuable resource — their information,” Mr. Yoon said.

Both the protection and the value approaches to the privacy market could well pay off, says Randy Komisar, a partner at Kleiner Perkins Caufield & Byers, the venture capital firm. “What’s intriguing about Bynamite,” he said, “is its emphasis on privacy as revolving around choice and ownership of data, and ultimately a notion of an exchange of value.” (Kleiner Perkins is an investor in ReputationDefender but not in Bynamite.)

Although Bynamite is a tiny start-up, it points toward larger issues about privacy transactions and pricing of personal data. “In reality, we constantly make transactions involving our personal information,” said Alessandro Acquisti, an associate professor of information technology and public policy at Carnegie Mellon University.

Every search on Google, Mr. Acquisti notes, is implicitly such a transaction, involving a person “selling” personal information and “buying” search results. But people do not think about, or are unaware of, the notion that typed search requests help determine the ads that Google displays and what its ad network knows about them.

Bynamite, Mr. Acquisti said, is “simply trying to make these kinds of transactions explicit, more transparent to the user.”

Last week, Bynamite introduced an early, or beta, version of its software, a downloadable plug-in for browsers. That software and its Web service monitor what ad networks and e-commerce sites collect and assume to know about a user. A user’s interests are then assembled on a Web page, grouped by categories like “news and current events,” “general health,” “travel,” “technology” and “shopping.” The categories are weighted by how often you visit different categories of sites or make purchases at some online merchants.

The information tracked by Bynamite is steadily updated, and, at least for me last week, a small pop-up alert at the bottom of my computer screen

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The information tracked by Bynamite is steadily updated, and, at least for me last week, a small pop-up alert at the bottom of my computer screen appeared every day, informing me of new information about me from ad networks. Mr. Yoon calls the product's early version mainly a "mirror," showing users how the commercial Internet sees them.

Users can change that mirror to represent their interests more accurately. For example, I don't own a car, but my "automotive" folder soon had several entries, saying I was interested in Mercedes-Benz and other brands, presumably because middle-age men who visit the Web sites I do are typically attractive targets for car ads. I deleted the auto interests, suggesting to advertisers that I'm not necessarily a good prospect. Still, I saw a few car ads on sites I later visited.

Bynamite is by no means anti-advertising. It does not block ads. Its Web site recommends free tools, like Adblock and NoScript, for people who want ads blocked.

In essence, the company has a libertarian, free-market ethos. If consumers have more power and control, it says, personal information should flow more efficiently to the benefit of both consumers and advertisers, who will be able to more accurately aim their ads.

Like most start-ups, Bynamite faces long odds. To succeed, it must be easy to use, and users must trust it as a reliable middleman handling their data. It has no business model yet, though it could offer product recommendations, based on interests, and collect fees on resulting sales from merchants. It hasn't ruled out accepting ads itself. To start, its free plug-in software works only on Mozilla and Chrome browsers.

IF Bynamite gains momentum, Mr. Yoon predicts that individuals will be able to use their portfolios of interests as virtual currency. He calls the idea a "consumer's preference wallet."

Mr. Yoon and his co-founder, Ian Wilkes, are former business and engineering managers at Second Life, the online community where trading

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a consumer's preference wallet.

Mr. Yoon and his co-founder, Ian Wilkes, are former business and engineering managers at Second Life, the online community where trading virtual currency for digital goods is common.

In a few years, Mr. Yoon says, a person's profile of interests could be the basis for micropayments or discounts. A media company, for example, might charge a monthly subscription fee of \$10 for news or entertainment programming, but offer it for \$8 to those who exchanged their preference wallets.

The discount, in theory, would be justified because advertisers would pay more to market to people whose interests they knew precisely and thus were more likely to buy.

"I may be wrong about the product and our company," Mr. Yoon said. "But I'm absolutely convinced that the direction is right, giving people a way to identify and use this store of value that is their personal information."

A version of this article appears in print on July 18, 2010, on page BU3 of the New York edition with the headline: You Want My Personal Data? Reward Me for It. [Order Reprints](#) | [Today's Paper](#) | [Subscribe](#)

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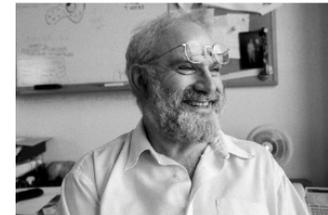
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