



October 27, 2009

Via Email

Federal Trade Commission
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Re: FTC Privacy Roundtable

The Electronic Privacy Information Center (“EPIC”), is requesting to participate as a panelist in the FTC’s first “Exploring Privacy” roundtable scheduled for December 7, 2009.

EPIC is a public interest research center based in Washington, D.C. that focuses on emerging privacy and civil liberties issues. In 1995, EPIC first brought the Commission’s attention to new business practices that impact consumer privacy.¹ Since that time, EPIC has filed numerous petitions to the Commission and provided many recommendations. For example, EPIC focused on the privacy risks of online advertising in 2001 with a complaint filed with the agency regarding Microsoft Passport. The Commission subsequently required Microsoft to implement a comprehensive information security program for Passport and similar services. EPIC also filed a complaint with the FTC regarding the marketing of amateur spyware, which resulted in the issuance of a permanent injunction barring sales of CyberSpy’s “stalker spyware,” over-the-counter surveillance technology sold for individuals to spy on other individuals.

EPIC will bring 15 years of experience to the roundtable discussions informed by our research and activities relating to social networking privacy, deep packet inspection, behavioral advertising, and cloud computing. Online marketing practices are becoming more intrusive and more difficult for consumers to manage, and industry self-regulation has failed to safeguard consumer privacy in this context. Further, there are growing challenges related to mergers that further consolidate the companies that offer marketing and advertising services based on online activity. There is a real risk that in the next few years, one company will exercise dominance over essential Internet services advertising market. EPIC recommends the following to the Federal Trade Commission, as it explores new Internet Consumer Protection strategies:

¹ Letter from EPIC Executive Director Marc Rotenberg to FTC Commissioner Christine Varney, (Dec. 14, 1995), available at http://epic.org/privacy/internet/ftc/ftc_letter.html

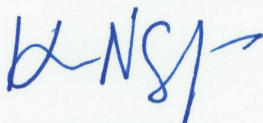
- Treat Fair Information Practices, as set out in the OECD Privacy Guidelines, as a fundamental requirement for companies collecting personal data;
- Issue research papers on emerging privacy issues, similar to the papers produced by the Article 29 Working Group of the European Union;
- Focus more attention on the major Internet firms that are shaping business practices in the online environment; too much of the FTC's privacy work focuses on activities that are inconsequential for most Internet users;
- Conduct substantive workshops on emerging privacy topics, such as Cloud Computing, with the expectation that there will be clear outcomes, including recommendations to Congress for new legislation, if appropriate;
- Enforce Safe Harbor obligations against U.S. firms that fail to comply with their privacy obligations; and
- Investigate the extent to which security breaches contribute to identity theft.

EPIC looks forward to participating in the December 7, 2009 meeting. Should you require additional information, please contact Lillie Coney at 202-483-1140 x 111.

Sincerely,



Lillie Coney
EPIC Associate Director



Kimberly Nguyen
EPIC Consumer Privacy Fellow