Consumers & Privacy
In the Coming Decade

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US Policy for Online Privacy

• FTC’s Approach
  – Self-regulation
  – Notice, Choice, Security, Access, Accountability
  – Children’s Privacy

• Assumes that with good info, we will make good choices
But is it working?

• People care about privacy
  – But many don’t read privacy policies or opt out
• They take actions to protect privacy
• Many factors frustrate individuals’ intent
• And these problems could get worse, as info collection becomes more sophisticated and silent
Consumers care about privacy.

“I am nervous about websites having information about me.”

- 2003: 70% agreed or agreed strongly
- 2005: 79% agreed or agreed strongly

Consumers see both business and government as privacy threats.

- 92% commercial marketers
- 83% government
The use of the term “privacy policy” sets consumer expectations

“When a website has a privacy policy, it means the site will not share my information with other websites or companies.”

– 2003: 57% agreed or agreed strongly
– 2005: 59% said it was true
Beyond this basic misconception, consumers hold many misunderstandings about marketplace practices online and offline.
True/False statements

• Most online merchants give me the opportunity to see the information they gather about me. (F—47% wrong)

• Most online merchants allow me the opportunity to erase information they have gathered about me. (F—50% wrong)
• A website is allowed to share information about me with affiliates without telling me the names of the affiliates. (T—49% wrong)

• When I give personal information to a bank, privacy laws say the bank has no right to share that information, even with companies the bank owns. (F—73% wrong)
• When I give money to charity, by law that charity cannot sell my name to another charity unless I give it permission. (F—72% wrong)

• It is legal for an online store to charge different people different prices at the same time of day. (T—62% wrong)

• It is legal for an offline store to charge different people different prices at the same time of day. (T—71% wrong)
Consumers also believe that many common practices shouldn’t be acceptable.

85% reject common tracking, info extraction, and sharing models used on the internet, when explained
Consumers try to protect privacy.

- 75% adopted at least one privacy protection strategy.
- Percentage who adopted at least 4 privacy-protecting tactics:
  - Privacy “unconcerned” 46%
  - Privacy “pragmatists” 65%
  - Privacy “fundamentalists” 75%
    - Westin (June 2004)
Notice helps…but bad decisions are still pervasive.

EULAs, which are generally not read, fail to impart key terms; individuals report high levels of regret in decisions based upon them.

Short notices are better, but a high percentage of individuals still regretted decisions.
Psychological and economic barriers explain bad choices.

- Notices are written for attorneys
  - Short notices are more effective, but still result in regretted choices
- Information Asymmetry
  - Enticements of “free” services are made without disclosing cost of privacy risks
  - Users need to know what cannot be done with their data
The barriers indicate a need for a helping hand.

- Bounded rationality
- Delayed consequences
- Immediate gratification
- Some assistance is needed to effectuate intent!
Severe network-wide, negative consequences loom.

Reliance on notice and consent EULA based model rather than a normative framework is undermining our ability to act and communicate decisively about spyware.

The network effect is unacceptable

- Botnets
- DDOS
And things may get worse.

- Next generation of technologies
  - Data collection becoming invisible and passive (think cookies in the physical environment)
  - Data collection may become ubiquitous (will we need mylar clothing?)
- Unless proactively addressed consumers will be unable to make choices
“Privacy Policy” means something to consumers.

We should act on that meaning.
In the next *techade*, the FTC must confront:

- Enforcing opt-in in privacy policies
- Education *and* baseline protections
- The need for usability and other experts at the table
- The need for benchmarks