

What is the feasibility of standardizing the format and terminology for describing data practices across industries, particularly given ongoing changes in technology?

At the heart of the current privacy debate is how companies communicate their data practices to consumers. Not surprising to any student of this debate is how the spotlight put on behavioral targeting has forced most companies to acknowledge that the traditional privacy policy has fueled consumer confusion. In fact, Epsilon recently held an ISP and Privacy Forum in San Francisco, California at which Lydia Parnes (of Wilson, Sonsini, Goodrich, and Rosati) and Fran Meier (of TRUSTe) both agreed that, because of the need to better educate consumers about data practices, the modern privacy policy was “dead.”

[Do we want to mention Brill’s comment also]?

Given the need to evolve privacy practices towards a more consumer-friendly approach, Epsilon strongly supports a standardization of the information “approach.” Epsilon agrees generally with Privacy pundits that today’s privacy policy, written in “legalize,” is a far too complicated document to be understood by the vast majority of consumers. Moreover, the company-by-company approach to delivering information about consumer data practices leaves the typical consumer confused and, worse, ignorant about how companies handle data.

As such, Epsilon encourages the Federal Trade Commission to develop a standard privacy policy that establishes the “approach” or form a company must take when informing consumers about data practices. While no universal “vocabulary” will suffice in today’s world of quickly evolving marketing practices, the Commission can establish a common-sense approach to a layered privacy policy that gives top-line, basic information to consumers up front, while allowing more sophisticated users to gain access to further detailed information. Specifically, Epsilon would suggest a

privacy policy that answers the following questions outright:

- What types of data does the company collect;
- What does the company use the data for;
- Does the company share consumer data with third parties;
- Does the company augment consumer data with information from third-party sources; and
- How can a consumer access their information and correct any inaccuracies.

Ultimately, Epsilon would support a legally-mandated approach directing how a company discloses data practices to consumers. We cannot help but think that, while the process and practices may change, a thoughtfully developed privacy-disclosure framework will have a long-lasting impact on both consumer trust and confidence.

How can individual businesses, industry associations, consumer groups, and government do a better job of informing consumers about privacy?

While Epsilon certainly believes that the vast majority of the education around data usage will take place at the site level, we fully support a concerted education program around the uses of consumer data. As such, Epsilon supports a bifurcated educational program that educates consumers on two very specific fronts—the ways in which a consumer can obtain information on the uses of their data and the benefits a consumer derives from the uses of their data.

No shortage of dialogue has been dedicated to how companies need to educate consumers about data usage. The industry has been embracing site-level icons that allow consumers to see how they were targeted with ads, which companies are using their

information, and how, if they desire, a consumer can opt out of having their data used. Epsilon applauds the industry initiative to provide consumers with access to this type of information, but we believe that the overwhelming majority of consumers do not know how to access these tools nor do consumers understand what functions these tools provide.

Therefore, Epsilon believes that companies first need to make a concerted push to educate consumers on the various tools that are available and what information can be derived from these tools. More specifically, the marketing industry needs to engage in an educational program that helps consumers identify the icons or marks that provide access to information on data usage, where consumers can expect to see these marks, what information the consumers can expect to find associated with these marks/icons, and, ultimately, how a consumer can use these marks. In short, the industry introduced a new “product” to consumers, and, like any other consumer-facing initiative, this requires the marketing industry to “market” the uses of this new product in a way that allows the average consumer to understand what it is and how to make meaningful use of it.

Companies also need to educate consumers on the benefits consumers derive from marketers use of their data. While the privacy community has understandably focused on the need to educate consumers around the uses of their data, the lack of emphasis on educating consumers about the benefits they derive from the use of their data is shocking, and, more importantly, may leave consumers making decisions without a complete understanding of the “cost” of that decision. Ultimately, Epsilon believes that, in order for consumers to make a meaningful decision about how their data is used, the entire industry must educate consumers about how the use of their data has contributed to the growth of the Internet and that the use of consumer data allows for many benefits, including the following:

- Free access to content that would, otherwise, cost consumers significant money;
- Innovation and access to new software and solutions funded by the use of consumer data for marketing; and
- Avoidance of out-of-pocket costs associated with frequently used solutions (e.g. social media, email and basic online services)