

In the Matter of)
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Protecting Consumer Privacy in an Era)
of Rapid Change)

² See NAA press release: “Newspaper Websites Reach Nearly Two-Thirds of All Internet Users In Fourth Quarter” (Jan. 25, 2011), <http://www.naa.org/PressCenter/SearchPressReleases/2011/NEWSPAPER-WEBSITES-REACH-NEARLY-TWO-THIRDS-OF-ALL-INTERNET-USERS-IN-FOURTH-QUARTER.aspx>.

their readers and advertisers on a daily basis, and value the privacy of those customers. In some cases, newspapers provide their customers with more privacy choices than those proposed by the Commission staff in the *Report*.

NAA appreciates the Commission's long-term focus on consumer privacy. The Commission has played – and should continue to play – an important role in convening stakeholders on issues relating to innovation, economic viability, and how these interests affect consumer privacy. NAA works with our members on how they might improve their privacy practices, and we believe the Commission can play an important role in identifying and promoting best practices that encourage innovation and balance privacy and economic concerns – preferably without government mandates.

At the same time, the Commission should act cautiously. Newspaper business models and technologies are changing rapidly. The Commission is well aware of the difficult economic conditions prevalent in the newspaper business today, having convened three workshops on the future of journalism in print and online, and on newspapers' efforts to respond to current challenges.³ Newspapers continue to invest time, effort, and money to find new businesses models and leverage old ones to survive and thrive in this highly competitive and evolving print and electronic media environment.

An important element of newspaper business strategies both online and offline is the effective use of information about consumers. Newspapers are exploring how best to use consumer information, both to help shape the content that is published, and to help provide the financial resources necessary to support the enormous cost of creating the type of high-quality original journalism that newspapers produce each and every day. Newspapers need legal

³ See <http://www.ftc.gov/opp/workshops/news/index.shtml>.

flexibility as they experiment with new business models and seek to improve old ones. In particular, the Commission should help ensure that advertising can continue to play an indispensable role in supporting valuable original content — often provided to consumers free or at low cost.

It is vital to the health of publishing and to innovation generally that the legal framework in which the rapidly evolving information media operate remains sufficiently flexible to allow innovation and time to ascertain what models prove successful. NAA is especially concerned about the consequences to newspapers of the *Report*'s proposal to apply the new framework to data collected and used *offline*. This extension of the proposed framework to include consumer offline data could have a dramatic impact on newspapers and warrants far more careful consideration and study than it has received to date. NAA also believes it is important that the Commission (as it appropriately has done in the *Report*) continue to distinguish between the role of first parties — such as newspaper publishers — and third parties with respect to online behavioral advertising and other activities.

II. THE PROPOSED PRIVACY FRAMEWORK SETS FORTH HELPFUL BEST PRACTICES, BUT THE FINAL REPORT SHOULD NOT ENDORSE NEW LEGISLATION OR REGULATORY REQUIREMENTS

NAA believes that the proposed framework provides a useful set of best practices (at least for online uses of consumer data). NAA generally supports the Fair Information Privacy Principles (FIPPs) and recognizes that consumers have a legitimate interest in seeing that the businesses with which they interact do not abuse their privacy. However, NAA believes that the final report should not seek to codify the framework by recommending new legislation or regulatory requirements for either online or offline uses of consumer data. Thus, NAA was pleased that following the release of the *Report*, Chairman Jon Leibowitz said that the

framework “is not a template for enforcement,” but rather the Commission is “making recommendations for best practices.”⁴

NAA recognizes that some provisions of the framework are already legally required under current Section 5 practice. These include, for example, reasonable security steps and secure disposal.⁵ The breach notification laws in effect today in more than 45 states also apply to certain categories of personal data. NAA understands that the Commission staff will continue to engage in enforcement in these areas.

However, NAA is concerned because the *Report* itself states that the framework is intended “to inform policymakers as they *develop solutions, policies, and potential laws governing privacy*, and to guide and motivate industry.” *Report* at 2 (emphasis added). NAA believes that the final report should not recommend that some aspects of the proposed framework become legal requirements – either via Section 5 enforcement or new legislative or regulatory mandates. NAA does not believe, for instance, that a business’s decision not to describe a purpose limitation or conduct a privacy impact analysis should be considered a Section 5 violation. The ramifications of the framework – particularly as a legal requirement – demand much further study, especially as applied to *offline* data and businesses, the effect on which has not been fully explored.

The proposed framework is far-reaching and would impose substantial costs on millions of offline and online businesses across the nation, affecting both their costs of operations and

⁴ Julia Angwin and Jennifer Valentino-Devries, “FTC Backs Do-Not-Track System for Web,” *Wall Street Journal* (Dec. 2, 2010), <http://online.wsj.com/article/SB10001424052748704594804575648670826747094.html>.

⁵ See, e.g., *Microsoft Corp.*, FTC File No. 012-3240 (2002); *DSW*, FTC File No. C-4157 (Mar. 14, 2006); *Nations Title Agency, Inc.*, FTC File No. C-4161 (June 20, 2006). See also cases listed at http://ftc.gov/privacy/privacyinitiatives/promises_enf.html.

their revenues. As a practical matter, the rapid changes in technologies that occur today could quickly render any rigid regulatory regime out-of-date.

III. THE APPLICATION OF THE PROPOSED PRIVACY FRAMEWORK TO THE OFFLINE CONTEXT HAS NOT BEEN FULLY EXPLORED

The scope of the proposed framework would extend to: “All commercial entities that collect or use consumer data that can be reasonably linked to a specific consumer, computer, or other device.” *Report* at 42. Taken on its face, this means that the Commission staff is proposing that the new framework apply to a broad range of records, including:

- consumer information collected online and offline;
- consumer information recorded on paper as well as electronically;
- information that is personally identifiable (PII) and that which is not (non-PII), regardless of how defined;⁶ and
- “first-party” and “third-party” uses of information, “regardless of whether such entities interact directly with consumers.”

Regardless of whether government-mandated or used in a self-regulatory or voluntary context, the framework would have a broad scope, well beyond the types of information that have typically been the primary focus of the Commission’s inquiries into behavioral advertising, consumer marketing, and related online issues.⁷ A key issue is whether it is sound policy to apply a sweeping new framework not just to online activities, but also to a vast range of *offline* practices, the economic impact on which has not been fully evaluated.

⁶ Abandoning the PII/non-PII distinction could affect a wide range of business practices that to date have treated personally identifiable and non-personally identifiable information differently. The implications of this are unclear because many privacy laws now on the books in the United States rely on the PII/non-PII distinction. These will not be repealed overnight, so businesses likely will live with the two legal categories well into the foreseeable future.

⁷ See generally *FTC Staff Report: Self-Regulatory Principles for Online Behavioral Advertising* (February 2009) & *FTC, Exploring Privacy: A Roundtable Series*, <http://www.ftc.gov/bcp/workshops/privacyroundtables>.

A. The Consequences of Applying the Proposed Framework to Offline Collection and Use of Consumer Information Require More Study

The *Report* proposes to apply the new privacy framework broadly to all types of consumer information. Given the pervasiveness of the use of data to bring together businesses and consumers within our economy, the Commission should study more thoroughly the implications of applying its proposed framework to the offline context.

The extension of the proposed framework, including the application of a broader range of the FIPPs, to offline data is not justified by either the record before the Commission or the *Report* itself. The Commission's roundtables focused almost exclusively on online activities, with some attention devoted to offline information brokers. The *Report* also primarily focuses on the online collection and use of data. *See, e.g., Report* at 1 (stating that the Commission's approach "must continue to keep pace with changes in the marketplace . . . such as social media services, cloud computing, mobile services, and increasingly powerful behavioral advertising techniques.").

The *Report* contains very little discussion of the myriad of ways that consumer information is collected, used, and flows in the offline world, which have occurred for decades and involve few if any of the listed marketplace changes. For example, newspapers often use third-party data collected offline to better target pre-printed inserts to existing subscribers on behalf of advertising customers. Newspapers also use third-party offline data to invite new subscriptions and to offer new products and services. There is nothing new or unique about these practices. Newspapers, retailers, and professional services firms have engaged in targeted marketing using postal mailing lists in precisely this manner for many years – with significant benefits flowing to consumers.

Applying the proposed framework to offline data practices should not be done without a

careful study of the benefits consumers and businesses derive from offline activities, as well as the complexities associated with many aspects of privacy offline – not merely for notice and choice, but also for the complex issues of use limitation, data retention, and access.

B. The Commission Should Not Impose Privacy Regulation on Businesses That Obtain Consumer Information From Third Parties

Several portions of the *Report* discuss information brokers and their role in American business.⁸ Although the *Report* notes that information brokers provide important benefits to consumers and businesses by improving the flow of information, it expresses concern that consumers are generally unaware of how information brokers obtain, use, and disclose personal data. *Report* at 69 & 73. To address this, the *Report* proposes to increase transparency and consumer access to records held by information brokers. *Report* at 72-74.

Like many other businesses, newspapers interact with information brokers in a variety of ways, but most commonly as customers, not vendors. In other words, many newspapers do not sell their subscriber lists to third parties, including information brokers. Rather, newspapers use information obtained *from* third parties to improve and market their products and services by understanding their customers better. NAA assumes that this falls within what the *Report* means by “data enhancement, whereby a company obtains data about its customers from other sources, both online and offline, to enrich its databases.” *Report* at A-3. This is a normal and longstanding business practice. Newspapers, like other businesses, desire to acquire a better knowledge of their customers in order to provide editorial content of interest, to design products that appeal to their customers and prospective customers, and to deliver the advertising that provides the financial support for high-quality original journalism.

⁸ This discussion addresses “offline” information brokers, although they certainly use electronic files in their businesses. Although similar in some respects to online advertising networks and exchanges, offline information brokers implicate a substantial set of different issues.

For example, newspapers might use information from the Postal Service to market the print newspaper to persons who recently moved into the community in order to deliver subscription offers.⁹ Or a newspaper might use data received from information brokers or other third parties to provide coupon offers or target other print advertising to subscribers. These are common and accepted practices that are highly valuable to consumers. To ask a newspaper to provide notice of and obtain consent for these practices would be very difficult both logistically and financially, and there is no clear policy reason for shifting notice and consent obligations to the customers of information brokers.¹⁰

IV. “PRIVACY BY DESIGN” IS A BENEFICIAL CONCEPTUAL FRAMEWORK FOR BUSINESSES

The *Report* advocates “privacy by design” based on an expanded set of Fair Information Privacy Principles (FIPPs) as a way to think about good data practices. NAA supports the use of the FIPPs on a voluntary basis. The FIPPs framework provides a useful tool by which companies can identify potential privacy issues early when designing both internal operational systems and customer-facing products and services, and act to mitigate them in the planning process. Such a proactive approach, which is consistent with the FTC’s enforcement and guidance in recent years, is more likely to result in privacy-protective best practices than relegating privacy considerations to an after-the-fact compliance task.

“Privacy by design” can encourage businesses to implement industry-wide best practices, which often influence product design. Thus, “privacy by design” can be viewed as

⁹ The Postal Service transfers “new mover” information to a private business by providing residential consumer Change of Address information to a company which in turn uses that information to sell advertising and other enclosures in the Mover’s Guide. Commenting on the recent renewal of this contract, the Postmaster General stated: “We are very pleased with the success of MoverSource and expect it to continue to provide excellent service value to our moving customers for many years to come.”

¹⁰ Under the *Report*’s framework, a business that provides the information to the information broker would be subject to its own notice obligations at the time of collection, not at a later time of transfer.

complementary to industry-led best practices initiatives. Although elements of the proposed “privacy by design” framework have already appeared in Section 5 enforcement actions, the Commission should not seek to establish all aspects of “privacy by design” by government mandate.

A. Newspapers Already Engage In Good Privacy Practices, Driven By Business Interest and Appropriate Best Practices

Many newspapers already follow appropriate industry-wide best practices. These practices, in some cases, exceed those proposed in the *Report* or required by existing federal law. For example, many newspapers request *opt-in* (not opt-out) consent for the delivery of first-party editorial or marketing content on behalf of advertisers to consumers via email. Some enable *opt-out* choice if the email marketing is related only to the newspaper itself (*e.g.*, subscription discounts). In addition, many NAA members do not share personal information about their subscribers with advertising clients or other third parties as a matter of policy.

In other contexts, newspapers work with firms that lead in privacy-protective practices. As one example, many NAA members participate with Yahoo! in the Newspaper Consortium,¹¹ which reduces data retention by anonymizing consumer log file data after 90 days.¹² Moreover, in many arrangements with advertising networks, the newspapers themselves do not receive any information about the consumers to which the networks serve ads.

B. The Commission Should Support Market Solutions and Industry Self-Regulation

Recent years have seen a number of innovations in privacy practices affecting online consumer data that were the primary focus of the draft *Report*. These developments, spurred in

¹¹ See <http://www.npconsortium.com/>.

¹² See Yahoo! Policy Blog, “2009 Year in Review” (Jan. 24, 2010) (applying 90-day anonymization policy to searches, ad views, ad clicks, page views, and page clicks), <http://www.ypolicyblog.com/policyblog/2010/01/24/2009-in-review/>.

part by statements by the Commission, are possible because today's legal regime provides the flexibility necessary to enable such efforts to grow and develop.

To address certain online privacy issues, for example, makers of Internet browsers are actively introducing new technological means of improving consumer choice.¹³ From the advertising industry perspective, self-regulatory initiatives are underway to use icons and “just-in-time” notices that will enhance transparency and consumer choice. For example, several trade associations are implementing the Self-Regulatory Program for Online Behavioral Advertising.¹⁴ Similarly, the Mobile Marketing Association is currently updating its recommended privacy principles, which will bear on location-based services and mobile applications generally.¹⁵ We welcome this effort as newspapers have taken a keen interest in the business opportunities presented by smartphones and other mobile devices.

These industry-led efforts are neither simple nor simplistic. They require a close examination of actual and anticipated business practices and a careful evaluation of the potential risks and benefits from different approaches. What works appropriately for one industry may prove undesirable in another, depending upon consumer expectations and business models. These efforts cannot succeed in the absence of a flexible legal framework.

The staff *Report* does not address how the concept of “privacy by design” would affect these existing industry best-practices initiatives. NAA believes that these industry initiatives

¹³ See, e.g., Nathan Olivarez-Giles, “Google Chrome, Mozilla Firefox announce tools to block Web tracking by advertisers,” *Los Angeles Times* (Jan. 24, 2011), <http://latimesblogs.latimes.com/technology/2011/01/google-chrome-mozilla-firefox-to-add-do-not-track-web-surfing-features.html>. Mozilla is also developing a set of privacy icons that are intended to inform consumers how long data about them will be collected. See <http://bigthink.com/ideas/6407>. Websites such as Monster.com are taking similar steps. See Katy Bachman, “Monster.com Trying to Beat Regulators to Privacy Punch,” *AdWeek* (Jan. 28, 2011), http://www.adweek.com/aw/content_display/news/digital/e3i1d853bcfb10e952d61e0ce02c9ae618.

¹⁴ See <http://www.aboutads.info/>.

¹⁵ See Scott Thurm, “Cellphone Marketers Plan Rules on Privacy,” *Wall Street Journal* (Dec. 20, 2010), <http://online.wsj.com/article/SB10001424052748703886904576032102317226410.html>.

would fit nicely into a “privacy by design” framework. There is no reason for the Commission not to encourage businesses to take privacy into account when developing products, services, and systems. However, the Commission should remain mindful of the enormous variety of business practices, business models, and corresponding consumer expectations in the economy today. As such, NAA recommends that “privacy by design” be presented as an aspiration, not as a specific mandate.

V. THE COMMISSION CORRECTLY RECOGNIZES THE IMPORTANT DISTINCTION BETWEEN FIRST-PARTY AND THIRD-PARTY MARKETING FOR PROVIDING CONSUMER CHOICE

NAA supports the “choice” privacy principle and, as noted above, many of its member newspapers voluntarily provide more choice options than those proposed in the *Report*. In an effort to simplify privacy notices and streamline certain business operations, the draft *Report* identifies a set of “commonly accepted practices” for which it believes that a consumer’s “consent” to the use of his or her personal information may be inferred once the consumer uses the product or service in question. *Report* at 53. Among these practices are:

- Product and service fulfillment;
- Internal operations;
- Fraud prevention;
- Legal compliance and public purpose; and
- First-party marketing

Report at 53-54. Although NAA does not believe that this is a comprehensive list of “commonly accepted” practices, we do agree that consent to these activities is reasonably implied once a consumer uses a particular product or service. To the extent that a distinction between certain data practices is relevant to providing choice, NAA agrees that “first-party” marketing need not

require choice. For these purposes, NAA understands “first-party” marketing to mean that consumer data is collected by a company website only to market to its own consumers.

A. First-Party Marketing By Newspapers Is Commonly Accepted and Expected

Newspapers are advertising media. No newspaper reader is surprised to find advertising from other companies in the print newspaper or on a newspaper website. This is “commonly accepted” by any definition of the term.

In the offline world, newspapers, magazines, direct mailers, television and cable networks, telephone companies (via billing inserts), sports stadiums, and many others provide advertising on behalf of third-parties constantly, and have for many years. These indisputably constitute commonly accepted offline advertising practices.

Newspapers are no less advertising-driven online. They are able to provide high-quality original journalism, often for free or at low cost, to online consumers only by being an effective channel for advertisers to reach potential buyers. Newspapers today remain a leading medium both in print and online for original content thanks to advertising.

To serve both their subscribers and advertisers, many newspapers collect personal information directly from consumers via online registration or offline means. Newspapers use this data to deliver (1) editorial content (*e.g.*, email newsletters, the printed newspaper, or any of an emerging set of “niche” publications) or (2) marketing messages on behalf of the newspaper itself (*e.g.*, subscription discounts or alerts about new specialty content). These unquestionably are “first-party” purposes that would be exempt from a choice requirement under the staff *Report*. Nevertheless, it merits mention that most newspapers provide more privacy protection than the staff *Report* would recommend insofar as they typically offer consumers choice for such communications.

Newspapers, as discussed above, may also supplement their knowledge of their subscribers with information from third parties such as information brokers. Sometimes these companies may provide information about persons who are not already in the newspaper's database but live within the relevant market. In either case, such information may be used for marketing purposes. These marketing initiatives are conducted by the newspaper and may include "house" promotions as well as advertising by other businesses. These also are a common practice and should be "commonly accepted."

NAA understands the staff's draft *Report* to regard advertising delivered by a company to its customers, when targeted on the basis of information collected by that company, to constitute "first-party" advertising. NAA further understands the *Report* to say that such marketing would be considered "first-party" even if "enhanced" by additional information obtained *from* a third party, because the company itself is not sharing data with the third party. This interpretation is fully consistent with common newspaper advertising practices, as newspapers typically do not share personally identifiable information (PIII) about their subscribers and readers with advertisers.¹⁶ This is also consistent with how many newspapers operate their websites. Many newspapers collect registration or subscription data via their websites. This data may in turn be used to send marketing messages to consumers – on behalf of their advertisers, and subject to the choices described above – by email or other means. However, the registration or subscription data typically is not shared with the advertisers or others, consistent with newspapers' offline practices as well.

¹⁶ Advertisers are keenly interested in the demographics of newspaper readers and desire to place ads in sections of a newspaper which their target market read. These "contextual" ads are a commonly-accepted practice and are critical to the newspaper industry, as the *Report* acknowledges. *Report* at 66, n.134.

The *Report* also suggests that sharing consumer data with “affiliates” for marketing purposes would be considered “first-party” and therefore exempt from providing choice only if “the affiliate relationship is clear to consumers through common branding or similar means.” *Report* at 58, A-3. NAA doubts that common branding is an exclusively correct measure, but instead believes that other means such as privacy policy disclosures would also be appropriate – which the *Report* acknowledges as important. *Report* at 54, n. 133. Newspapers that are commonly-owned by NAA member companies typically do not share a common brand name for long-standing historical and business reasons. Many newspapers have used their names for decades, if not more than a century, and those “brand” names do not change when ownership changes. Yet there are sound business reasons why commonly owned newspapers might share consumer data among themselves.

Additionally, the staff *Report* suggests (at 57, A-2) that if an offer is delivered to a consumer via a different medium than that by which the information was collected, different rules might apply. NAA believes that the medium by which the first-party marketer communicates with the consumer is irrelevant to the issue of consumer choice. Indeed, many consumers might prefer to receive subsequent marketing through a different medium – for example, a consumer who orders a product through a toll-free number might not welcome first-party telemarketing, but might prefer to receive catalogs via email or postal mail. Moreover, existing laws already protect those who might prefer not to receive telemarketing or email solicitations.

Market trends are pushing in this direction, as mass media markets are declining while niche markets are rising. In response, newspapers are developing innovative ways to put an advertiser’s message before readers. For example, a newspaper might include an advertiser’s

message in a newsletter containing significant editorial content of interest to a particular segment of consumers. This newsletter might be delivered in print, via email, via postal mail, or via a website. Each of these scenarios involves a communication by the newspaper to the consumer, using the same information. The medium or format should make no difference.

These are all examples of commonly accepted marketing practices that come within the staff's concept of "first-party" marketing. The Commission should affirm, in the final report, the staff's recommendation that a consumer's "choice" can be inferred in the case of commonly accepted practices such as these.

B. Flexibility Is Important for Third-Party Marketing

The staff draft *Report* proposes to require consumer choice for "third-party" marketing. NAA has in the past supported an *opt-out* choice approach for third-party online behavioral advertising within a self-regulatory program. NAA understands the staff's *Report* now to propose a shift away from a binary "opt-in" or "opt-out" approach to one in which consumers make choices "at a time and in a context in which the consumer is making a decision about his or her data." *Report* at 57. NAA believes this new approach offers an improved framework for thinking about how to address consumer privacy concerns. It would give companies the flexibility necessary to decide what consent format is most appropriate for them, as consumer choice is not simply a matter of a one-size-fits-all "opt-in" versus "opt-out" decision. The private sector is currently developing some important innovations in this area, and these should be allowed time to prove themselves.

The staff *Report* suggests that the difference between "first-party" and "third-party" marketing should not only be whether the first-party *shares data* with an advertiser or advertising network that is not a service company or affiliate, but also whether the first-party company or

website “*allows* a third party, other than a service provider, to collect data about consumers visiting the site.” *Report* at 55 (emphasis added). NAA believes that this formulation may provide a useful way to draw a line between the concepts of first-party and third-party marketing, at least as a general matter. It may be easier to apply to conventional Internet websites, where third-party advertising networks gather information that never actually passes through the hands of the website host.

While the *Report*’s shift in choice approach may provide helpful flexibility, challenges may arise in providing choice regarding data collection and use in the offline and mobile contexts when an opportunity for choice is to be provided “at a time and in a context in which the consumer is making a decision about his or her data” (at 57). There are greater logistical challenges in these contexts and more chances to degrade the consumer experience. NAA is working with industry groups to develop “just in time” notices that would provide website users with notice and, where appropriate, choice about receiving targeted advertising online. These “just in time” notification technologies are designed for online interactions which, despite their complexity, may be the easier to address. In contrast, the range of offline data collection and use practices, in particular, make it very difficult to develop “just in time” notifications.

C. A Government-Mandated Universal “Do Not Track” System Raises Significant Concerns

NAA is concerned about any governmental effort to mandate a universal opt-out “Do Not Track” system for third-party online behavioral advertising. The *Report*’s “Do Not Track” recommendation focuses on the use by advertising networks and other third parties of tracking technologies such as “cookies” to build profiles of users based on websites visited to deliver targeted ads.

For the advertising-supported model of online newspaper publishing to succeed, advertisers must see results. Some newspaper websites partner with third-party advertising networks that use tools that enable them to select ads for particular users based on the known or inferred interests of those users. These targeted ads can be effective and valuable to online advertisers because they may be more likely to be viewed by some users. Advertising-dependent online publishers, such as newspapers, that develop the high-quality original content that attracts users are then able to receive an additional source of revenue for providing space for such ads. This revenue benefits both the publisher and members of the public who visit newspaper websites. The publisher benefits from the added source of revenue, and readers benefit from having access to valuable high-quality original content and the opportunity to see advertising that may be more relevant to their particular interests.

Although newspapers and their readers can benefit from third-party online behavioral advertising, NAA recognizes that this practice raises privacy concerns regarding how third parties collect and use information about consumer behavior across multiple websites. NAA notes, however, that the private sector has developed a self-regulatory program that addresses tracking in a pragmatic manner. This program allows a consumer to opt out of some, all, or none of 60 participating third-party companies (<http://www.aboutads.info/choices/>). Such an approach should be encouraged by the Commission.

In addition, market forces are driving other alternatives. A number of browser companies are developing or have developed new versions of their software that enable users to exercise better control over cookies. Through combinations of icons, browser settings, and other means (*e.g.*, improved privacy policies), these efforts are empowering consumers to make their own

decisions in the contexts and manners that they deem most important. It would be difficult for a government-mandated system to offer the same degree of consumer control and flexibility.

VI. CONCLUSION

The Newspaper Association of America appreciates the opportunity to present its views on the Commission staff's draft *Report*. NAA commends the Commission for paying significant attention to consumer privacy issues and for its interest in the future of journalism. However, NAA does not believe that the final report should endorse additional regulatory mandates or new legislation. Instead, NAA encourages the Commission to support industry initiatives already underway and to play a key role in formulating privacy best practices. Even if applied in a self-regulatory or voluntary best practices context, NAA recommends that the agency devote more study to offline information practices before adopting a final version of its framework.

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