Opening Remarks, Fall Technology Series: Smart TVs
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Good afternoon, and welcome to the Federal Trade Commission's workshop on Smart TVs. This is the third installment of the FTC's fall technology series, following our events on Ransomware in September and Drones in October. We thank you for joining us in person and through our webcast.

Growth of Internet-Delivered Television

Consumers are increasingly turning to the Internet, rather than traditional television services, for video entertainment. Long gone are the days of watching only the major TV networks, and even cable is fighting for its share of the pie. Today, we're also watching Netflix, Hulu, YouTube, Amazon Prime, Crackle, Vivo, ITunes, Google Play, and many others. Millennials, in particular, seem to be migrating to these newer services at a rapid pace.

Among those that watch Internet video, a full 42% of time in front of a television is spent on these streaming services.[1] And 30% of that time is spent watching ad-supported streaming services, such as Youtube.[2]

Streaming devices like Apple TV or Amazon's Fire TV deliver these Internet services directly to consumers' televisions, rather than to their computers. Manufacturers have added Internet connections to their TVs – now called Smart TVs – to allow them to display these streaming services. And, now, the innovation is happening in the other direction too, with purveyors of traditional TV services providing their subscriptions over the Internet. For

[1] Campbell Foster, TV Today: New Research from Adobe & TDG Shows Consumers Now Spend 42% of TV Time with OTT Services (Apr. 19, 2016) https://blogs.adobe.com/primetime/2016/04/tv-today-new-research-from-adobe-tdg-shows-consumers-now-spend-42-of-tv-time-with-ott-services/.
[2] *Id.*

example, Comcast's Xfinity app allows subscribers to display their traditional TV subscriptions through streaming devices like Roku.

Opportunities and Concerns

These changes provide enormous benefits to consumers. Consumers now have access to a diverse array of content from a variety of TV providers. Internet connectivity also permits fine-grained audience measurement, which can help niche video content programmers get ad dollars for programs that may not otherwise have registered as popular using more blunt measurement tools. The tracking of video content also allows services like Netflix to record where you are when you pause a video on one device, so you can start it up on another.

However, Smart TVs also test the privacy expectations that consumers developed in the era of traditional television. Many consumers have a fundamentally different relationship with their TVs than with their computers. From the moment we first went online, there was data collection and data-driven advertising. Internet use and online data collection evolved simultaneously, and consumers have come to expect some level of data collection when they use their computers.

By contrast, the television industry did not evolve with data collection as a critical component. Broadcast signals traveled to households anonymously, over the air waves. Unlike the Internet, which requires two-way communication, consumers' TV viewing information was something that remained inside of the home. So, it matters whether consumers think of their Smart TV as a <u>computer</u> or a <u>television</u>, and whether they recognize that today, it may be both.

The incredible number of choices consumers now have in their TV viewing also raises privacy issues. In the 1950s, when TVs first became prevalent in American households, consumers could only watch two or three channels. As a result, there wasn't much to learn about individual consumers from their TV viewing habits. With the arrival of cable and VCRs in the 70s and 80s, consumers had a variety of choices of what to watch on their TVs, and the choices they made became much more interesting to marketers. This information also became much more sensitive, as it could provide insight into consumers' religious beliefs, political views, and other potentially sensitive topics.

In the 1980s, Congress recognized that consumer viewing habits were sensitive and passed two laws to protect them. In 1984, Congress enacted the Cable Privacy Act. Then, in 1988, following the disclosure of Judge Robert Bork's video rental history by his local video shop to a reporter, Congress enacted the Video Privacy Protection Act. These statutes were drafted to apply to the media providers of the day – cable companies and video rental stores – and they required consumer consent before any of these entities could disclose personally identifiable video viewing information. I hope panelists today will address the implications of these laws for Smart TVs.

Role of the FTC

So what's the role of the FTC here? One role is to highlight the benefits and risks of Smart TVs, which is what we're doing here today.

Another role for the FTC is to bring law enforcement actions against manufacturers of Smart TVs that engage in unfair or deceptive practices. I don't have any big announcements today, but I can say that we've been watching this area since its infancy and we've made clear that basic consumer protection principles apply, just as they do in other sectors.

For example, back in 2001, a U.S. Senator asked us to investigate the data practices of TiVo following a public report that raised concerns about the types and amount of information that TiVo boxes were collecting.[1] In a letter to the Senator, our then-Chairman stated that the collection of customers' TV viewing information in a manner that is personally identifiable could raise serious privacy concerns.[2] The letter declined to take action, concluding that TiVo either received consent, or collected and stored information in a manner that was not personally identifiable.

More recently, in a comment to the FCC, we highlighted our potential role in preventing unfair or deceptive privacy practices in the set-top box marketplace. The FCC had proposed a rulemaking to require cable and satellite television providers to allow access to their content by third parties' set-top boxes. As part of its proposal, the FCC suggested requiring the third parties to commit to abide by the same statutory privacy requirements that applied to the cable and satellite companies. In our comment, FTC staff stated that if the set-top box companies made their commitments to the public, the FTC could enforce them under its authority to prevent deceptive practices, just as we enforce other commitments companies make to consumers.[3]

Overview of Workshop and Conclusion

Now, let me turn to today's terrific program. This afternoon, we'll explore the benefits and risks as the Internet and television continue to merge, and we've got a number

[1] Privacy group slams TiVo, USA Today (Mar. 26, 2001) http://usatoday30.usatoday.com/tech/news/2001-03-26-tivo.htm.
[2] Robert Pitofsky, Letter to the Honorable Edward J. Markey (May 11, 2001) https://www.ftc.gov/system/files/documents/public_statements/944143/010511tivoinvestigationltr.pdf.
[3] Jessica Rich, Comment of the Director of the Bureau of Consumer Protection (Apr. 22, 2016) https://www.ftc.gov/system/files/documents/advocacy_documents/comment-filed-jessica-rich-privacy-enforcement-implications-fccs-proposed-set-top-box-rulemaking/160422fccsettopltr.pdf.

of top-flight panelists to help us. We'll start with a presentation about the marketplace from Justin Brookman, Policy Director of our Office of Technology Research and Investigations. Then, our first panel will examine the current and potential benefits of advanced analytics in the Smart TV ecosystem, and efforts to provide transparency and choice. Finally, the second panel will examine consumer protection concerns and how these issues are addressed by the current regulatory landscape.

Before we turn to Justin's presentation, I want to thank the staff from the FTC's Privacy Division and Office of Technology Research and Investigations for their work in organizing today's event – in particular, Megan Cox, Kevin Moriarty, Justin Brookman, Joe Calandrino, Aaron Alva, Tina Yeung, and Ian Klein – as well as all of the speakers who are here to share their insights.

Thanks again for joining us, and enjoy the program.