

April 14, 2010

Via electronic filing: <u>https://public.commentworks.com/ftc/privacyroundtable2</u>

Hon. Donald S. Clark Federal Trade Commission Office of the Secretary, Room H-135 (Annex P) 600 Pennsylvania Avenue, NW Washington, DC 20580

#### Re: IAB's Comments - Privacy Roundtables - Comments, Project No. P095416

Dear Secretary Clark:

The Interactive Advertising Bureau ("IAB") provides these comments in response to the Federal Trade Commission's ("Commission" or "FTC") request for comment in conjunction with a series of roundtable discussions on evolving consumer privacy issues. As the Commission reflects on the current status of online privacy, it should consider the tremendous value created by online advertising for both consumers and the economy, and the impact self-regulation and education has collectively had on consumer privacy. As the Commission has previously recognized, industry self-regulation is the preferred approach for addressing the intersection of privacy and online advertising practices.<sup>1</sup>

Founded in 1996 and headquartered in New York City, the IAB (www.iab.net) represents over 375 leading companies that actively engage in and support the sale of interactive advertising, including leading search engines and online publishers. Collectively, our members are responsible for selling over 86% of online advertising in the United States. The IAB educates policymakers, consumers, marketers, agencies, media companies and the wider business community about the value of interactive advertising. Working with its member companies, the IAB evaluates and recommends standards and practices and fields critical research on interactive advertising. The IAB is committed to promoting best practices in interactive advertising, and is one of the leading trade associations that released cross-industry self-regulatory privacy principles for online behavioral advertising in July 2009.<sup>2</sup>

IAB believes that the appropriate approach to address consumer online privacy is through industry self-regulation and education. Existing and emerging robust self-regulatory principles

<sup>&</sup>lt;sup>1</sup> See FTC Staff Report: Self-Regulatory Principles for Online Behavioral Advertising (Feb. 2009), *available at* <u>http://www2.ftc.gov/os/2009/02/P085400behavadreport.pdf</u>.

<sup>&</sup>lt;sup>2</sup> Press Release: Key Trade Groups Release Comprehensive Privacy Principles for Use and Collection of Behavioral Data in Online Advertising, July 2, 2009, available at

http://www.iab.net/about the iab/recent press releases/press release archive/press release/pr-070209.

address privacy concerns while ensuring that the Internet can thrive, thereby benefiting consumers and the U.S. economy.

#### I. Online advertising generates a significant consumer and economic benefit

For almost two decades, online advertising has been an economic driver that has fueled Internet growth and delivered innovative tools and services used by consumers and business to connect, communicate, and contribute to the continued evolution of the Internet. This advertising based model continues to drive Internet growth and deliver consumer benefit. According to a recent study entitled *Economic Value of Advertising-Supported Internet Ecosystem* conducted for IAB by Harvard Business School Professors John Deighton and John Quelch, e-commerce and online advertising contribute \$300 billion each year to the U.S. economy and employ 3.1 million Americans.<sup>3</sup>

The revenue generated by online advertising supports the creation and entry of new businesses, communication channels (*e.g.*, micro-blogging sites and social networks), and free or low-cost services and products (*e.g.*, email, photo sharing sites, weather, news, and entertainment media). Online advertising enables consumers to compare prices, learn about products, and find out about new and local opportunities. Additionally, the Internet empowers small businesses, enabling them to flourish and compete where costs would otherwise hinder their entry into the market. Consumers value the tremendous benefit that they gain from such ad-supported services and products and from the diversity of online companies. Thus, the Commission should avoid unintentionally stifling this positive contribution to the economy and consumer benefit.

Perhaps most importantly, the record demonstrates that consumers are increasingly embracing and participating in Internet activities. A quick analysis of the most recent indicators reveal that online retail sales during the 2009 holiday season increased 5 percent from 2008, according to a report by the research firm comScore, with consumers spending \$27 billion more than the previous year. Consumers were more satisfied than ever with their e-commerce experiences, according to ForeSee Results' E-Retail Satisfaction Index, giving their online shopping adventures a score of 79 out of 100, the highest rating since the survey began in 2001. Perhaps most informative, research demonstrates that consumers are generally not reluctant to participate online due to advertising and marketing practices. According to a 2009 survey by the National Retail Association, of those consumers who were reluctant to shop online, just 0.1% cited concerns over privacy and the same miniscule percentage (0.1%) cited concerns about retailers tracking online activity.

#### II. Self-regulation addresses concerns with online advertising

Self-regulation continues to be the appropriate approach for addressing the interplay of online privacy and online advertising practices. This approach has successfully demonstrated its ability to address consumer concerns while ensuring that the marketplace is not stifled or smothered by overreaching and rigid regulation. Unlike formal regulations, which can become

<sup>&</sup>lt;sup>3</sup> Deighton & Quelch, *Economic Value of Advertising Supported Internet Ecosystem*, at 4, 12 (June 10, 2009), *available at* http://www.iab.net/media/file/Economic-Value-Report.pdf.

quickly outdated in the face of evolving technologies, self-regulation provides industry with a nimble way of responding to new challenges presented by the evolving Internet ecosystem.

The Commission has long recognized that self-regulation is the preferred approach for online behavioral advertising. In the February 2009 Staff Report, the Commission stated, "Staff supported self-regulation because it provides the necessary flexibility to address evolving online business models."<sup>4</sup> We agree. To that end, IAB was centrally involved with the development of the *Self-Regulatory Principles for Online Behavioral Advertising* ("Principles"), which was released in July 2009 in conjunction with the American Association of Advertising Agencies, Association of National Advertisers, Direct Marketing Association, and Council of Better Business Bureaus ("Coalition").<sup>5</sup>

The Principles were designed to apply broadly to the diverse set of actors that work interdependently to deliver relevant advertising intended to enrich the consumer online experience. In all, the Coalition delivered seven principles to foster consumer friendly standards that are to be applied throughout the ecosystem. The Principles call for consumer education, the provision of new choice mechanisms, data security, heightened protection for certain sensitive data, consent for certain material changes to online behavioral advertising data collection and use policies, and strong enforcement mechanisms.<sup>6</sup> In addition, the Principles require enhanced notice outside of the privacy policy so that consumers could be made aware of the companies they interact with while using the Internet. Together, these principles will increase consumers' trust and confidence in how information is gathered from them online and how it is used to deliver advertisements based on their interests.

This cross-industry self-regulatory initiative represents an unprecedented, collaborative effort by the entire marketing-media ecosystem. The Coalition started this effort in April 2008 by convening a task force to evaluate existing self-regulatory efforts. In October 2008, the task force began drafting principles together with eight industry association and 25 companies. In January 2009, the Coalition publicly announced its efforts, and in April 2009, the Coalition began socializing the principles within industry.<sup>7</sup> In July 2009, the Coalition released the *Self-Regulatory Principles for Online Behavioral Advertising*.<sup>8</sup> In the following month, the Coalition turned to enforcement, operational implementation, and educational planning. As part of the operational implementations, IAB initiated an effort to develop technical specifications for

<sup>5</sup> American Association of Advertising Agencies, Association of National Advertisers, Direct Marketing Association, Interactive Advertising Bureau, and Council of Better Business Bureaus, *Self-Regulatory Principles for Online Behavioral Advertising* (July 2009), *available at* http://www.iab.net/media/file/ven-principles-07-01-09.pdf.

http://www.iab.net/about\_the\_iab/recent\_press\_releases/press\_release\_archive/press\_release/pr-011309.

<sup>&</sup>lt;sup>4</sup> FTC Staff Report, *Self-Regulatory Principles for Online Behavioral Advertising*, at 11(Feb. 2009), available at <u>http://www.ftc.gov/os/2009/02/P085400behavadreport.pdf</u>.

<sup>&</sup>lt;sup>6</sup> The Principles apply heightened protection for children's data by applying the protective measures set forth in the Children's Online Privacy Protection Act. Similarly, this Principle requires consent for the collection of financial account numbers, Social Security numbers, pharmaceutical prescriptions, or medical records about a specific individual for online behavioral advertising purposes.

<sup>&</sup>lt;sup>7</sup> Press Release: Key Advertising Groups to Develop Privacy Guidelines for Online Behavioral Advertising Data Use and Collection, January 13, 2009, available at

<sup>&</sup>lt;sup>8</sup> Press Release: Key Trade Groups Release Comprehensive Privacy Principles for Use and Collection of Behavioral Data in Online Advertising, July 2, 2009, available at

http://www.iab.net/about the iab/recent press releases/press release archive/press release/pr-070209

implementing notice through a link in or around an advertisement. In April 2010, IAB, along with the Network Advertising Initiative, released the CLEAR (Control Links for Education and Advertising Responsibly) Ad Notice Technical Specifications, a set of common technical standards enabling enhanced notice in online ads.<sup>9</sup> These technical specifications will allow advertisers and ad networks to begin offering a clickable icon in or near online ads that directs users to additional information about online behavioral advertising and choices about such ads. In addition, as described in more detail in section III, IAB launched a consumer education campaign.<sup>10</sup>

In January 2010, the Coalition announced its intention to select wording and a link/icon that participating companies will use when engaged in online behavioral advertising to indicate their adherence to the Principles and as the link that provides consumers with easily accessible disclosures about data collection and use practices associated with online behavioral advertising. This wording and link/icon will appear on Web pages where data is collected either in or around advertisements or on the Web page itself, and is required in all instances when and where online behavioral advertising occurs.

The Coalition continues to work to implement the Principles. One key implementation area involves developing accountability programs. IAB understands that strong independent enforcement is key to any self-regulatory program. This is why IAB has allocated considerable funding to the Council of Better Business Bureaus ("CBBB") to develop a robust compliance and monitoring system for the entire industry. The CBBB is a leader in building enforcement programs around difficult advertising policy issues and has successfully partnered with the FTC in the past on issues such as food and beverage advertising and online marketing to children.

The Commission should continue to support this industry-wide self-regulatory effort and should maintain the dialogue that industry has undertaken with the FTC. This effort has already delivered an unprecedented comprehensive self-regulatory framework for online behavioral advertising, continues to provide effective educational resources, and has shown tremendous promise and likelihood to achieve its objective – delivering consumer friendly standards for online behavioral advertising across the Internet. This effort should proceed and have the opportunity to succeed.

#### III. Consumer and business education is critical to protecting consumers online

IAB believes that consumer education is vital to demystifying online advertising practices and informing consumers of the availability of choice and tools to control one's online experience. For this reason, IAB has taken a leading role in providing consumer education. In December 2009, IAB commenced its "Privacy Matters" initiative to deliver information about online advertising. In the coming months, IAB will expand its campaign jointly with the

<sup>&</sup>lt;sup>9</sup> Press Release: *IAB and NAI Release Technical Specifications for Enhanced Notice to Consumers for Online Behavioral Advertising: Critical Step in Interactive Industry's Ongoing Self-Regulatory Efforts*, April 14, 2010, available at http://www.iab.net/about\_the\_iab/recent\_press\_release/press\_release/press\_release/press\_release/pr-041410.

<sup>&</sup>lt;sup>10</sup> Press Release: *IAB Launches "Privacy Matters," Its First-Ever Consumer Education Campaign*, December 3, 2009, available at <u>http://www.iab.net/about\_the\_iab/recent\_press\_release/press\_release\_archive/press\_release/press\_</u>

Coalition and the participating business community. The second phase of the educational campaign will provide both consumers and businesses with information concerning the Principles.

#### A. Phase One: Consumer Education

In December 2009, IAB launched "Privacy Matters," an education campaign designed to educate consumers about how they can manage their online experience and to help consumers better understand and appreciate how Internet advertising supports the Internet. As part of this unparalleled effort, IAB, through the participation of its online publisher members, has committed to deliver more than 500 million online public service announcements ("PSA"), providing details about online advertising and tools that consumers can use to manage their online privacy.

The "Privacy Matters" campaign was designed to capture the attention of consumers and engage them in an interactive educational experience.<sup>11</sup> As a consumer scrolls over a PSA, the PSA transforms to reveal a roll down window that provides very detailed information, in plain English, about online advertising. Consumer can link from the PSA to the "Privacy Matters" web site (<u>http://www.iab.net/privacymatters/</u>) to learn more about the workings and history of online advertising, "interest group targeting," "geo-tracking," "demographic targeting," and "behavioral advertising." These five separate educational modules provide information about advertising practices and make resources available to consumers about the availability of choice, online security, and tips on how to safely surf the web.

Through February 2010, IAB and its partners have delivered more than 353 million impressions. The results thus far have been excellent. Ten percent of all delivered impressions are being "moused-over" by consumers and the average amount of time that consumers spend on the PSA once they roll over it is 28 seconds. The time spent viewing a PSA is equivalent to about twice the exposure time of the most common, 15-second, TV commercial. Perhaps most encouraging, the click-through-rate ("CTR") for this campaign is out performing the standard 0.03% - 0.06% CTR range for public service campaigns. These numbers demonstrate that consumers are taking the time to read the information and interact with the educational resources. In all, the "Privacy Matters" campaign is effectively engaging consumers.

#### B. Phase Two: Principles

The IAB understands that education is an essential component to the success of the industry developed self-regulatory principles for online behavioral advertising. For this reason, IAB along with the other Coalition members have committed to a second educational phase intended to educate consumers and businesses about the Principles. This multifaceted campaign will include the launch of an industry Web site that will include educational resources, the delivery of PSAs, and community outreach by the participating trade associations.

<sup>&</sup>lt;sup>11</sup> The attachment includes examples of PSAs from the "Privacy Matters" campaign.

This campaign will educate the online community about the nature and operation of the new self-regulatory program. We will educate the community on the purpose and functionality of the selected icon/link used to provide notice of online behavioral advertising practices. For consumers, the campaign will describe the availability of this enhanced notice in all instances when and where online behavioral advertising occurs. Consumer will be made aware of the types of information collected and used for advertising purposes and will be informed of the availability of new choice mechanisms and how to exercise such choice. The campaign will also provide educational materials and resources to the business community that will explain the scope and purpose of the Principles. In addition, the trade associations will work with their members to explain how businesses can come into compliance with the industry principles.

\* \* \*

We thank you for the opportunity to submit these comments, and look forward to working closely with the Commission on these important issues. Please do not hesitate to contact me with questions at 202-253-1466.

Sincerely,

Michael Zaneis Vice President, Public Policy

cc: Stuart Ingis, Venable LLP Michael Signorelli, Venable LLP

# Attachment: IAB Privacy Matters Screenshots

# **NBC Universal**

### 300x250





#### 160x600

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| 2:00 PM ET   | San Jose State at Louisiana Tech  | 200777 360.com                        | GAMEPLAN |        | Tickets | WE COME ON                                 |
| :00 PM ET    | New Mexico State at No. 6 Boise State   | 200777 360.com                        | GAMEPLAN |        | Tickets | WE COME OVE                                |
| 3:30 PM ET   | Arizona at No. 18 USC   | abc                                   |          |        | Tickets | AND  |
| 4:00 PM ET   | No. 1 Florida vs. No. 2 Alabama*  | CBS                                   |          |        | Tickets |  |
| 5:30 PM ET   | No. 19 California at Washington   |                                       |          |        | Tickets |  |
| 7:00 PM ET   | Florida Atlantic at Florida International   | 200777 360.com                        | GAMEPLAN |        | Tickets |  |
| 8:00 PM ET   | No. 3 Texas vs. No. 22 Nebraska*  | abc                                   |          |        | Tickets |  |
| 8:00 PM ET   | No. 10 Georgia Tech vs. Clemson*  | ESPTT 360.com                         |          |        | Tickets | 901  |
| 3:00 PM ET   | South Florida at Connecticut  | <b>езетте</b><br><b>Езетт</b> 360.сон |          |        | Tickets | SOME STUFF                                 |
| 11:30 PM ET  | Wisconsin at Hawaii   | 237772<br>23777360.com                |          |        | Tickets |  |

### 728x90



# **NY Times**

## 300x250 and 728x90



# Verizon

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## 728x90



## Verizon

## 300x250

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| Verizon User ID:  | Not Registered? Verizon   | Important Announcements   |
| Verizon Password:<br>Forgot user ID or password?  | Sign In<br>Customers with High Speed<br>Internet or FIOS Service can<br>register now for access.<br>Not yet a customer?<br>Learn More   | Stocks: Quick Quote<br>Sponsored by <i>Scottrade</i> Enter Company or Symbol GO |
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## Wall Street Journal

### 300x250



## YouTube

#### 300x250





# **Microsoft**

### 160x600

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### ABC ROS 728x90



### ABC ROS 300x250



Example for Visualization Purposes



### ABC ROS 160x600





ABC

### ABC News ROS 300x250

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| DEWS Health   | Hot Topics:<br>Tiger Woods + Jesper Parnevik + Grammy Nods   |  | <ul> <li>Newsletters + ABC + ESPN</li> </ul> |
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| More Health: Injured Giving Birth, Skater Blogs Way to Olympics Watch Live President Obarna, Vice I   | OnCall+ Mind & Mood Center OnCall+ Men's President Biden Open Jobs Sumn  |  | i Center                                     |
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| Home > Health   |  | Watch Video  |  |
| NIH Opens Federal Funding for 13 Embryonic Stem Cell By Lavren Cox ABC News Medical Unit Dec. 2, 2009 Share this story with friends Digg submet B Facebook C Twitter C Reddit   | al SRSS ∰ Print Font Size ∧ A A  | WATCH Woman<br>Loses 100<br>Pounds in 10<br>Months           | a WATCH: Pet<br>Health Insurance             |
| The National Institutes of Health announced it will make 13 available for federally funded research, and will consider a cell lines to a national registry on Friday.   | new embryonic stem cell lines will be<br>dding 20 more new embryonic stem<br>r eight years, scientists using federal<br>ints had to vie for access to just 21<br>oroved lines, or colonies of stem cells<br>tved from a human embryo. The Bush<br>ministration imposed a moratorium on<br>lerally-funded research on new<br>bryonic stem cell lines created after<br>gust 9, 2001. | SORRY:<br>O O O O O O O O O O O O O O O O O O O              | FOR<br>DNE                                   |
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Example for Visualization Purposes

### ABC News ROS 160x600



ABC

## Soapnet ROS 300x250





CBS

### Chow Leaderboard



## MP3.com 300x250



## Gamefaqs Skyscraper



