

October 27, 2017

RE: "Informational Injury Workshop and P175413"

Federal Trade Commission, Office of the Secretary, Constitution Center,
400 7th Street, SW, 5th Floor, Suite 5610 (Annex A), Washington, DC 20024.

Statement filed electronically:

<https://ftcpublic.commentworks.com/ftc/informationalinjuryworkshop>

Our company, Samba TV, believes that data is the currency for an information economy, however we also believe that any individual consumer's data must be conceived and captured within a trusted relationship created with that individual consumer. The growth of digital media and connected device platforms has enabled an immense volume of data to be conceived, however we absolutely require guidance and regulation on consumer privacy because private industry has from time-to-time betrayed the trust consumers place in these platforms. While the industry standard following the FTC's settlement with Vizio is "notice and choice" for Smart TV viewership data, first-party data like location data, and data from microphone enabled IoT devices continues to flow unabated to third parties in concerning ways.

As a general observation, the advertising industry has a voracious appetite for consumer data and much of that data is unregulated. This is a real problem for consumers since they are probably not aware of the information being collected and definitely not aware of how the ad tech industry brokers, merges and exploits the data.

With respect to our TV products, Samba applies the following guiding principles and believes these could be incorporated into similar platforms with guidance coming

from the industry's self-regulatory bodies, and with conviction and support from government regulators:

- Plain language explanation of data collection practices and terms of use during the initial configuration of a digital platform;
- Opt-in consent from consumers before use of usage data for advertising;
- Explanation of how data will be used by first and third parties;
- Just-in-time consent for any transfer of sensitive data to a third-party user of that data;
- Granular opt-out choices giving consumers the opportunity to control the uses or extract themselves from individual uses;
- Easy-to-access controls to manage an individual user profile, purge data for a profile or reset identifiers associated with a profile;
- Privacy controls should not come at the expense of user experience nor should they arbitrarily penalize the user through reduced functionality of the product

We are submitting this statement with sincere desire to offer industry-insider perspective, share our concerns and volunteer our time to participate in the December 12th FTC Workshop to address the following questions:

- How do businesses evaluate the benefits, costs, and risks of collecting and using information in light of potential injuries?
- How do they make tradeoffs?
- What market and legal incentives do they face, and how do these incentives affect their decisions?
- How do consumers perceive and evaluate the benefits, costs, and risks of sharing information in light of potential injuries?

Here are some examples illustrating some of the challenges we could explore further:

- *Inmobi*: \$950k settlement for background location tracking without consent and possible ramifications under COPPA:
 - <https://www.techinasia.com/usftc-sues-inmobi>
 - <https://www.ftc.gov/system/files/documents/cases/160622inmobicmpt.pdf>
- *Amazon Alexa*: A defendant in a murder trial in Arkansas, James Bates, owned an Amazon Alexa that the State sought a warrant against Amazon to provide audio data to be used as evidence
 - <https://www.wired.com/2017/02/murder-case-tests-alexa-devotion-privacy/>
 - James Bates ultimately gave approval, and Amazon's complaint alleging 1st Amendment rights was abandoned
- *WeVibe*: An Internet-connected "adult device" collected and exposed very personal usage data including users' PII (email address)
 - <https://www.nytimes.com/2017/03/14/technology/we-vibe-vibrator-lawsuit-spying.html>
 - <http://www.detroitnews.com/story/news/nation/2017/03/14/buzz-vibrator-maker-settles-data-case/99185418/>
 - This case settled with a \$2.7M award to the plaintiffs

We appreciate your consideration of our perspective and would be happy to answer any questions you may have.

Sincerely,

Ashwin Navin
Co-Founder & CEO
Samba TV