

Subj: Online Privacy: Perspectives of Information Technology Association of America
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To: Internet Caucus Advisory Committee

Excerpt From ITAA Online Privacy Statement: Internet Regulation & Digital Opportunity

The Internet has grown dramatically as a consumer medium. In 1996 there were under 40 million users connected to the Internet globally. Projections put the number of online users at nearly 1 billion by 2005. Small and mid-sized businesses now have the ability to compete on a global scale. The Internet has changed our lives for the better—and more quickly--than any other technical advance in recent history. Now, however, a concern about the business practices of a few firms threatens to upset the democratic model on which the entire Internet is based.

With 26,000 direct and affiliate member companies, the Information Technology Association of America (ITAA) represents the builders of the Internet and e-commerce revolution. Their products and services, from software and telecommunications to consulting and complex systems, form the technical infrastructure on which all else rests. Understandably, any steps which may form barriers to the broadest possible access to this infrastructure are viewed by this community with considerable concern.

We believe that no one should be left behind in the Internet Economy. For example, our “Digital Opportunity Initiative,” is aimed at growing and diversifying the information technology workforce by attracting African-Americans, Native-Americans and Hispanic Americans into high paying and exciting information technology jobs. Moreover, we were interveners in the Federal courts supporting the Federal Communications Commission “schools and libraries” program to wire our nation’s classrooms to the Internet. ITAA is committed to avoiding a “digital divide” in which some in our society become “information have-nots.”

We are generally opposed to government restrictions on the use of information gathered from Internet customers and restrictions on Internet advertising. Such regulation could significantly undermine the ability of providers to offer free content and access by encouraging many websites to offer only subscription content and access. While sensitive to the need to safeguard individual privacy on the ‘net, we also believe that upsetting the Internet business model could have a variety of significantly negative unintended consequences.

- Internet participation could become unaffordable to many middle and low income Americans. Advertising support of websites and access providers makes the Internet more affordable than it would be with a “pay- per- view” model;
- Companies no longer attracted by the cost effective “narrow casting” capabilities of the Internet may eventually withdraw from this marketplace, shrinking the medium and its ability to deliver robust content;
- Companies and customers will lose quality and productivity benefits delivered by websites no longer able to customize Internet-based products and services;

- Quality and productivity losses sustained at the consumer level will aggregate to slow the economy as a whole.

The Internet's growth has sparked renewed attention to consumer privacy. Numerous consumer surveys and newspaper stories conclude that one of the hurdles to e-commerce is satisfying consumers' demands for privacy. A number of recent legislative initiatives have surfaced as well.

Consumer surveys also demonstrate that consumers are carefully weighing the impact on their privacy in participating in this new medium. We believe that barriers should not be constructed to the ability of Internet companies to offer consumers convenience, nor should we underestimate the capacity of consumers to make informed privacy choices. The Internet is a highly interactive medium over which consumers exercise considerable control.

A recent Gallup poll for @Plan found that 85% of the public were extremely concerned about Internet Privacy. Yet the same survey found that by a 60 to 37% margin, the American public prefers the "Internet Industry" over the "Federal Government" to protect their privacy. These numbers suggest general support for consumer empowerment and industry self-regulation, rather than government Internet regulation to address the concerns.¹

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While the Internet seems to be rewriting history on an hourly basis, reason tells us that these are still early days. Naturally, different consumers may require varying degrees of comfort level using this technology. The reluctance of some consumers to engage in Internet commerce after such a short period should not be seen as a need for regulation. Internet commerce companies have a strong incentive to address effectively consumer concerns in order to advance online commerce. Portals, Internet Service Providers, e-commerce sales sites and other Web sites are striving to earn consumer confidence.

An open and supportive legal environment has helped encourage the rapid development of the Internet. In a strikingly fast period of time, the World Wide Web has transformed competition and fueled dramatic economic growth. Our economy is on the brink of creating the largest and most vibrant marketplace of goods, services and ideas the world has ever known.

¹ http://biz.yahoo.com/pnews/000306/ct_plan_ne_2.html

Online Privacy Part 9: Could Limits on Information Collection Create A Digital Divide?

Subj: Online Privacy: Perspectives of Association of American Publishers
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To: Internet Caucus Advisory Committee

Privacy and Online Educational Programs

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The Association of American Publishers ("AAP") is aware of the threats to individual privacy that may be posed by Internet technology and the information collection and use practices of some website operators, especially when the individuals involved are children. For that reason, AAP supports the basic intent underlying legislation such as the Children's Online Privacy Protection Act ("COPPA") to prevent the exploitation of children through the unauthorized online collection of their personal information.

However, AAP and its members – which include many of the nation's leading educational publishers – are concerned that overreaching privacy protections can unduly restrict children's access to valuable online educational resources. This would be both tragic and ironic, given the growing importance of the Internet as an educational medium and the huge investments to promote technology in education that are currently being made both by government and by a variety of non-profit and commercial enterprises.

Unless issues of online education are considered at the inception of any legislative or regulatory process to develop online privacy protections, user access to a wide range of such programs may be subject to unnecessary restrictions that will stifle the growth of "distance education" and other online educational opportunities to the detriment of individual students and society as a whole.

Educational websites and online services, whether operated by nonprofit or commercial entities, or by joint ventures among them, offer a wealth of quality resources and activities that can support and enhance classroom instruction. With use of the Internet as an educational medium continuing to grow, AAP envisions extensive expansion of online educational program offerings that will not only allow children to read or download information but will also allow them to engage in a range of interactive tasks, such as review exercises, learning games, homework activities and tests. These programs may relate directly to a child's work in school, or they may be supplemental, for independent study and enrichment.

The inherent interactivity of these online educational programs will often require that participants identify themselves and provide responsive information, such as solutions to problems or answers to questions. Some online educational programs may involve recording and reporting grades and test results to teachers and school officials, as in instances where assessments and evaluations that in the past were administered using paper and pencil in a classroom are now or in the future administered online. In many instances, these responses and data may entail the disclosure of information that is personally-identifiable to the individual, and thus fall within the scope of privacy concerns, even if that information is not sold or used for advertising or selling.

Although “opt-in” requirements, such as for “verifiable parental consent” under COPPA, may be deemed necessary and appropriate to protect privacy interests in certain online contexts, the imposition of such prerequisites for participation in online educational activities can discourage children’s spontaneous participation in such programs, whether at school (during or after normal classroom hours) or in a library or at home. Clearly, such a requirement can greatly complicate even the planned use of online educational programs in schools, where the failure of even a single child to obtain parental consent could compromise or even preclude the use of an online program as a classroom or school-wide activity.

Such requirements can, as a practical matter, aggravate existing “digital divide” circumstances and entirely prevent many children from accessing online educational programs. This would be especially unfortunate in cases where the financial and technological resources needed to access such online programs are not universally available; indeed, for large portions of our nation’s population, a child’s only feasible access to computers and the Internet is in a classroom, library or other institutional environment. Unless these proliferating online educational resources are otherwise made available to children who do not have a computer and Internet access at home and/or whose parents (for whatever reason) cannot or will not respond to “opt-in” requests, a large portion of our nation’s children will be cut off from developing essential computer skills and accessing the same educational resources and opportunities that are available to their more advantaged peers.

AAP and its members recognize that privacy protection is important in the educational context, as it is elsewhere. But the legislative process that resulted in COPPA’s enactment did not afford much consideration to the potentially adverse impact that COPPA’s “opt-in” requirement could have on children’s access to online educational programs. If Congress embarks on further efforts to protect online privacy, AAP hopes that it will carefully explore the implications of its actions for online educational programs.

As the principal national trade association of the U.S. book publishing industry, AAP represents more than 260 member companies and organizations that include most of the major commercial book publishers in the United States, as well as many small and non-profit publishers, university presses and scholarly societies, who publish hardcover and paperback print books in every field. Many AAP members also operate online websites and publish computer programs, databases, and other electronic materials for use in a variety of digital formats.