

EUROPEAN PARLIAMENT

2004



2009

Committee on Civil Liberties, Justice and Home Affairs

PROGRAMME

Seminar

Data protection on the Internet (Google-DoubleClick and other case studies)

Monday 21 January 2008, 15:00 – 18:30

Brussels

Room PHS 3C50

FOREWORD

1. *The Internet reaches now billions of people around the world and serves as a virtual marketplace for products, information, and ideas. The second generation of the Internet – sometimes referred to as “Web 2.0” – will make possible greater interaction and connectedness among millions of Web users so that Internet became also the virtual common space for networks of millions of people sharing information of all kinds.*

2. *Due to the global dimension of this potential audience, Internet has also become an increasingly attractive forum for advertisers who can target their campaigns more precisely and effectively than advertising in other media. Online advertising is now a 27 billion dollars market projected to double over four years and the willingness to control part of this market has fuelled numerous mergers between E-companies last but not least the one between Google and DoubleClick (¹). The reason of this extraordinary market growth is explained by the fact that many of the online services, information, and entertainment are offered for free to the consumers as far as they accept the advertising (whether targeted or not) and accept to be more or less tracked in their behaviour. The growing revenues derived from sales of advertising space notably via the search engines of Google, Microsoft and Yahoo, is now a strong pushing factor not only for offering more and more free services and increase the diversity and breadth of free information available to the Internet users but on the other side made a normal rule to track their online conduct so that the advertisements could be more focused on the potential consumer of different products and services.*

3. *The result has been the creation of a “behavioral marketing” founded on computerized data collection, on targeted advertising which are creeping into nearly every aspect of the social and commercial transactions – searching, browsing, networking, emailing, and telephoning. (²) This new situation raise some critical issues about the sufficiency of companies’ disclosures, the depth of consumers’ understanding and control of their personal information, and the security and confidentiality of the massive collection of sensitive personal data. Moreover, behavioural marketing directed at vulnerable individuals, such as young people and teens, clearly warrants heightened privacy protection.*

4. *These data privacy concerns have been recently raised:*
- *in the US by the Congress(³) who organised several hearings on this subject and by the Federal Trade Commission during the examination of the Google-DoubleClick Merger case (⁴). Therefore the FTC on its December 20th Opinion stated that “... Not only does the FTC lack legal authority to require conditions to this merger that do not relate to antitrust, regulating the privacy requirements of just one company could itself pose a serious detriment to competition in this vast and rapidly evolving industry”. and considered that as a matter of principle “... regulating the privacy requirements of just one company could itself pose a serious detriment to competition in this vast and rapidly evolving industry...”. The way suggested to overcome these concerns has been (as it has been the case for other occasions like the “Safe Harbour” case) to develop some Self-Regulatory Principles by the industry concerned.*

- *in Europe by the National Data Protection Authorities meeting in the art. 29 Working Party. In a October 23rd letter sent to EC Commissioner Kroes (who is currently inquiring on the Google-DoubleClick Merger case) the Chairman of the WP reminded that the processing of personal data in the EU is subject to national data protection laws and such data processing activities in the EU shall remain subject to EU data protection principles and to scrutiny by*

national Data Protection Authorities of the Member States concerned according to Directives 95/46/EC and 2002/58/EC.

5. *The aim of the LIBE Seminar is then to examine, with the contributions of the main institutional actors, Industry and consumer representatives, how better protect the freedom of expression and the pluralism on Internet by protecting at the same time the personal data of the Internet users. This debate seem therefore very timely in a period when the EU institutions re-proclaimed the Charter of fundamental rights and started the works on the revision of Directive 2002/58/EC on Data and consumer protection in the telecommunication domain.*

Due to complexity and the number of the issues at stake it is suggested that:

- all the people organisation participating to the Seminar should send their contributions and comments in writing before the Seminar (deadline 12h00 of Friday January 18th). These contributions will be published on the hearing home page¹ so that everybody could during the debate make reference to the written contribution and focus only on the essential points of their message,*
- instead of formal speeches followed by debates the works should be shaped as three "round tables" giving to the representatives of the institutions, the industry and the consumers the possibility to raise their points or comment the ones raised in the written and oral contributions.*

¹ <http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=LIBE>

Programme

OPENING REMARKS (15H00-15H10)

Welcome by the LIBE Chairman followed by the following three Round Tables.

PANEL I (15H10 - 15H45)

FIRST ROUND TABLE: THE NOTION OF "PERSONAL DATA" IN THE INTERNET FRAMEWORK

The article 29 Working Party has for instance recently considered the IP address as a "personal" data and this could have important consequences on the ways how collection and storing of data are concerned...

Intervention notably by

- a) the EDPS Peter Hustinx who will present the scope of the existing present privacy framework and the notion of personal data in the internet
- b) the FTC Commissioner Pamela Harbour who will present the state of the debate in the US on this issue
- c) the BEUC and EPIC representatives
- d) the Federation of European Direct & Interactive Marketing (FEDMA)
- e) the Interactive Advertising Bureau Europe (IAB Europe)
- f) Google, Yahoo and Microsoft representatives

PANEL II (15H45 - 17H45)

SECOND ROUND TABLE: HOW THE INDUSTRY CAN MINIMISE THE THREAT FOR THE PROTECTION OF DATA WHEN DELIVERING SERVICES ON INTERNET (NOTABLY VIA SEARCH ENGINES)

Search engines contribute to the convenience and usability of the Internet. They are without any doubt a critical and determinant element of the development also of the European Information Society But search engines should not be considered alone as they are usually provided back to back to other online service such as email services, social networks, etc. which assist the end-user in the management of his/her digital social life. In this perspective it is of the outmost importance to ascertain the specific problems raised by the search engines, the type and number of data retained, the interaction with the consumer, the ways how the consent for the use of data is obtained, and the specific data retention policies. At the same time it has to be taken in account the industry needs and consumer concerns linked to the online advertising and to the behavioural targeting

Intervention by:

- a) the Industry representatives :
Mr. Peter Fleischer, Global Privacy Council, Google,
representatives of Microsoft (*to be confirmed*)

- representatives Yahoo (*to be confirmed*)
Mr. Dave Morgan, Head of AOL's global ad strategy; Founder, Tacoda Inc.)
Mr. J. Trevor Hughes, Executive Director of Privacy association
- b) the consumer representatives BEUC and EPIC
 - c) Mrs Sjoera Nas, Dutch DPA who is working on the Article 29 Working Party future guidelines on this subject
 - d) the FTC Commissioner Pamela Harbour who will present the possible content of the US Self-Regulatory Principles

PANEL III
(17H45 - 18H25)

THIRD ROUND TABLE: HOW THE EU LEGISLATION CAN BE STRENGTHENED, AS WELL AS THE SECURITY OF NETWORKS, THE INTERNATIONAL COOPERATION AND THE GROWTH OF THE MARKET OF INTERNET SERVICES

Intervention by

- EC representative (presentation of the proposed amendments of Directive 2002/58/EC)
 - the FTC Commissioner Harbour who can present the experience and the strategy of the US in this domain
 - a ENISA representative (European Agency for the security of networks)
- followed by the interventions of the EU/US Industries and consumer representatives.

CONCLUDING REMARKS
(18H25 - 18H30)

Participants:

At Institutional level

- The European Commission Representatives of DG Competition, INFSO, JLS
- The European Data Protection Supervisor: Mr. Peter Hustinx (confirmed)
- The Article 29 Working Party President: Mr. Peter Schaar (confirmed)
- the Dutch data protection authority: Ms. Sjoera Nas (confirmed)
- the ENISA Agency
- the US FTC Representatives

At Industry level

- **Google, Yahoo and Microsoft representatives**
- **IAB Europe** ⁽⁵⁾
- **Network Advertising Initiative** ⁽⁶⁾
- **AOL/Tacoda** ⁽⁷⁾

At Consumers level

- **BEUC and EPIC representatives**

ANNEX

PRACTICAL GUIDELINES FOR THE DEBATE

Presentations will be limited to 5-10 minutes (see programme for details).

During the discussion, so as to make it possible for the highest possible number of parliamentarians to intervene, speaking time will be limited to 2 minutes per contribution or question.

The floor will be given to Members in the order in which requests are received.

Speakers wishing to supplement their speeches may do so in writing by submitting documents (preferably in English or French) in advance to the secretariat (email: ip-libe@europarl.europa.eu). These documents will be circulated during the meeting.

IMPORTANT NOTICE FOR THOSE WISHING TO ATTEND THE HEARING

This seminar is open to the public. However, for security reasons, participants who do not have a European Parliament access badge must obtain a pass in advance. Those wishing to obtain such a pass should contact the seminar secretariat (ip-libe@europarl.europa.eu) **before 17 January 2008**. It is essential to provide us with your **full name, address and date of birth**. Without this information, the Security Service will not provide entry passes.

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¹ 13 April 2007 – Google acquires Doubleclick, a provider of publisher-side and advertiser-side display ad serving technology, for \$3.1b;
30 April 2007 – Yahoo acquires Right Media, owner of the leading online advertising exchange Direct Media Exchange, for \$680m;
16 May 2007 – AOL agrees to acquire ADTECH AG, a provider of publisher-side and advertiser-side display ad serving technology;
17 May 2007 – WPP Group acquires 24/7 Real Media for \$649m;
18 May 2007 – Microsoft acquires aQuantive, a leading firm for digital marketing, for \$6bn;
22 May 2007 – Axel Springer (a major German online publisher and seller of online and offline ad space) and PubliGroupe (a major seller of print advertising) acquire ZANOX.de, a leading affiliate network, for EUR214.9m;
24 July 2007 – AOL acquires TACODA, a company providing a behavioral targeting advertising network (undisclosed amount)
27 July 2007 - Microsoft acquires AdECN, an ad-exchange company (undisclosed amount)
4 September 2007 – Yahoo acquires BlueLithium, a company providing analytics and behavioral targeting technologies, for \$300m
7 November 2007 – AOL acquires internet-advertising technology company Quigo.

² For instance search terms entered into the search engine alone may reveal a plethora of personal information such as an individual's medical issues, associations, religious beliefs, political preferences, sexual orientation, and investments monitored.

³ **"Senate Judiciary Committee Hearing on Google-DoubleClick Merger. An Examination of the Google-DoubleClick Merger and the Online Advertising Industry: What Are the Risks for Competition and Privacy"**. It was held on September 27th by the subcommittee on "Antitrust, Competition Policy and Consumer Rights". <http://judiciary.senate.gov/hearing.cfm?id=2955>

⁴ See the FTC Opinion at: <http://ftc.gov/os/caselist/0710170/071220statement.pdf> as well as the concurring Opinion of Commissioner Leibowitz and <http://ftc.gov/os/caselist/0710170/071220leib.pdf> and the Mrs. Harbour Dissenting Opinion at <http://ftc.gov/os/caselist/0710170/071220harbour.pdf>

⁵ The organisation represents the internet marketing industry. It has created a dedicated website, www.allaboutcookies.org, as a resource for internet users, website owners and marketers that explains what the cookies technology is all about www.iabeurope.ws

⁶ www.networkadvertising.org The organisation has developed a set of self-regulatory principles with the full review and support of the Federal Trade Commission (FTC). Amongst other things, they require NAI member companies to post a notice to consumers about the use of 3rd party cookies, and provide an opt-out mechanism for the targeted ad programs they provide.

⁷ AOL has recently bought Tacoda, www.tacoda.com, a behavioral targeting firm