

"Exploring Privacy" with the FTC

January 29, 2010

At the second in a series of "[Exploring Privacy](#) [1]" roundtables held by the Federal Trade Commission, academics, privacy advocates and companies pushed hard for the FTC to take up the reigns of regulating abuses of consumer trust and violations of consumer privacy on the Web.

Here are four key points gleaned from today's FTC Privacy roundtable sessions:

1. **Baseline privacy legislation is needed** – EFF's Kevin Bankston pointed out that current privacy laws are incredibly outdated and decrepit. Location information and other emerging types of sensitive, personal data need to be afforded baseline privacy protections. Legislation clearly defining consumers' right to privacy is essential to overcoming the inertia holding back regulation. CDT promoted this perspective in our [initial set of comments](#) [2] to the FTC for this roundtable series.
2. **Move away from the harm standard** – Invasions of privacy cannot just be evaluated with respect to economic, or financial, harm – they need to be evaluated with respect to dignity harm, a point David Vladeck, head of the FTC's Bureau of Consumer Protection, has promoted.
3. **Making companies responsible is making companies liable** – As Paul Schwartz of UC Berkeley pointed out, through investigation, prosecution and standards-making, the heat needs to be turned up on those violating user privacy and abusing user trust. And as recent FTC enforcement cases have shown, for these new standards to be taken seriously, they need to be rigorously enforced. FTC Commissioner Harbour also stated her support for Privacy by Design, a concept, supported by CDT, which mandates that companies integrate privacy into the development process of new technologies.
4. **FTC Must Use Exercise its Enforcement Power:** Lee Tien of the EFF asserted that, "standards won't matter if we don't have a genuine commitment of resources and political will to enforce those standards." CDT [agrees](#) [3] and believes now is the time for the FTC to move beyond its current notice, choice and security regime to play a larger role to ensure that consumer interests are fully protected here; now is the time for the Commission to apply a full set of Fair Information Practice principles (FIPs) in pursuit of privacy protection.

Both Commissioner Harbour of the FTC and Professor Schwartz of UC Berkeley acknowledged that it is difficult to define the privacy expectations of the online community when technology evolves so quickly. Hence, the importance of developing baseline privacy standards and clear best practices that will remain relevant even as technologies change.

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