



August 8, 2008

The Honorable John Dingell
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Barton
Ranking Member
House Energy and Commerce Committee
2322-A Rayburn House Office Building
Washington, DC 20515

The Honorable Edward Markey
Chairman, Subcommittee on Telecommunications and the Internet
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Cliff Stearns
Ranking Member, Subcommittee on Telecommunications and the Internet
House Energy and Commerce Committee
2322-A Rayburn House Office Building
Washington, DC 20515

VIA HAND DELIVERY AND EMAIL

Dear Chairman Dingell, Ranking Member Barton, Chairman Markey, and Ranking Member Stearns:

Thank you for your letter of inquiry dated August 1st, in which you ask a series of important questions about the online advertising practices of a number of companies. We appreciate your continuing interest in protecting consumer privacy, and we welcome your efforts to learn more about the privacy protections that Google offers its users and the practices of the internet industry generally.

As a threshold matter, given your Committee's recent focus on deep-packet inspection in connection with advertising, we feel it important to state clearly and for the record that Google does not deliver advertising based on deep-packet inspection. We understand that many of the questions that you have posed to us and a number of other companies stem from concerns about that particular model for online advertising, but we believe that the vast majority of online advertisers – like Google – is not engaged in these practices.

Letter to Messrs. Dingell, Barton, Markey, and Stearns

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In our quickly evolving business environment, ensuring that we earn and keep our users' trust is an essential constant for building the best possible products. With every Google product, we work hard to earn and keep that trust with a long-standing commitment to protect the privacy of our users' personal information. The bedrock of our privacy practices are three design fundamentals: providing transparency, choice, and security.

Another constant that we have found in our business is that innovation is a critical part of protecting privacy. To best innovate in privacy, we take the feedback of privacy advocates, government experts, our users, and other stakeholders. For example, we have participated actively in the Federal Trade Commission's efforts to develop privacy principles relating to online privacy and behavioral advertising. Our hope is that the FTC's privacy principles – once finalized and written to ensure that they can be realized by industry and will provide consumers with appropriate levels of transparency, choice, and security – will be adopted widely by the online advertising industry and will serve as a model for industry self-regulation in jurisdictions beyond the United States.

Google also supports the adoption of a comprehensive federal privacy law that would accomplish several goals such as building consumer trust and protections; creating a uniform framework for privacy, which would create consistent levels of privacy from one jurisdiction to another; and putting penalties in place to punish and dissuade bad actors.

We continue to welcome the opportunity to work together with you and other interested lawmakers on efforts to enact a uniform federal privacy law, as well as your support of industry efforts to establish robust self-regulatory mechanisms for protecting consumers' privacy. In addition, we believe that there are other aspects of individual privacy such as strengthening procedural safeguards for government access to personal information online that very much merit the attention of those who want to bring stronger protections to individual Americans.

We have attached the questions that you submitted to us in your letter of August 1st, which appear in bold and italics and in each case is followed by our answer to the question. We believe that our answers are best understood in the context of broader industry practices, as are many issues relating to online advertising. Concerns about online advertising and its privacy implications cannot be solved by one company alone or by focusing solely on advertising practices. Moreover, both technologies and best practices for protecting privacy are changing rapidly, and this dynamism should be taken into account by policy makers as you examine this space.

Should you have any follow up questions or comments, please contact Pablo Chavez, Senior Policy Counsel for Google, at 202.346.1237 or at pablochavez@google.com.

Sincerely,



Alan Davidson

Director, Public Policy and Government Affairs

Google Inc.

attachment

ATTACHMENT

GOOGLE RESPONSES TO QUESTIONS FROM THE HOUSE ENERGY & COMMERCE COMMITTEE

Has your company at any time tailored, or facilitated the tailoring of, Internet advertising based on consumers' Internet search, surfing, or other use?

Like thousands of other internet companies, Google provides advertising based on consumers' activities online. We strive to do this in a way that provides value to our users and protects their privacy. Google offers three main advertising products, all of which are contextual in nature: AdWords, AdSense for Search, and AdSense for Content.

AdWords is an advertiser-facing product that allows us to provide ads on Google.com in response to search queries entered by our users, as well as to provide ads on AdSense for Content and AdSense for Search. AdSense for Search is a publisher-facing product that allows us to provide ads in response to search queries entered by users of our partners' search engines, including AOL and Ask.com. AdSense for Content is a publisher-facing product that allows us to provide ads to visitors of the Google content network – third-party partner sites for which we provide advertising. AdSense for Content ads are provided largely based on the content of the page that is being viewed by a user. The vast majority of the revenue that Google generates comes from these three products.

AdWords offers advertisers the ability to create text ads in an efficient and effective manner, which is one of the many reasons why hundreds of thousands of small businesses advertise with us. We also provide the capability to deliver display ads – ads that incorporate graphics in addition to text – and other types of ads through AdSense for Content, and we plan to enhance our ad serving and reporting capabilities with our recent acquisition of DoubleClick, a display ad serving technology company.

Please describe the nature and extent of any such practice and if such practice had any limitations with respect to health, financial, or other sensitive personal data, and how such limitations were developed and implemented.

As noted above, our core advertising business is providing contextual ads to our users. That is, we provide relevant advertising based on what an internet user is searching for as well as relevant ads based on a page that a user is viewing. So, for example, if a user searches for “asthma,” we will provide search results responsive to the search query, as well as paid advertising that is relevant to the search query, including information about asthma medication, symptoms, and treatment. In a similar way, if a user is viewing a web page published by one of our third-party publisher partners on the Google content network that addresses the subject of asthma, then we may provide an ad that relates to the treatment of the condition.

In addition, in the coming months we will enable industry standard functionality – available today via DoubleClick and many other ad serving technologies – on the Google content network. Among other things, we will enable advertisers to limit the number of times a user sees an ad through frequency capping. Users will have a better experience on Google content network sites because they will no longer see the same ad over and over again. In addition, we will provide reach and frequency reporting, which will provide insight into the number of people who have seen an ad campaign, and how many times, on average, people are seeing these ads. More details about these enhanced capabilities are available at googleblog.blogspot.com/2008/08/new-enhancements-on-google-content.html.

We are enabling this functionality by implementing a DoubleClick ad serving cookie across the Google content network. Using the DoubleClick cookie means that DoubleClick advertisers and publishers will not have to make any changes on their websites as we continue our integration efforts and offer additional enhancements. It also means that with one click, users can opt out of a single cookie for both DoubleClick ad serving and the Google content network. If a user has already opted out of the DoubleClick cookie, that opt-out will also automatically apply across the Google content network.

Though it is not the focus of our business today, we also believe that behavioral advertising can be done in ways that are responsible and protective of consumer privacy and the security of consumers' information. To ensure the continuation and proliferation of responsible behavioral targeting practices, we are supportive of efforts to establish strong self-regulatory principles for online advertising that involves the collection of user data for the purpose of creating behavioral and demographic profiles. For example, we believe that the Federal Trade Commission's (FTC) efforts to address this type of advertising through self-regulatory principles are appropriate and helpful. Likewise, we support the Network Advertising Initiative's (NAI) recently-announced draft Self-Regulatory Code of Conduct for Online Behavioral Advertising, which includes limitation on the use of sensitive information to create profiles of individuals for purposes of third-party advertising.

For both the FTC's draft principles and the NAI's draft code of conduct, we believe that the focus on data collected across multiple web domains owned or operated by different entities to categorize likely consumer interest segments for use in online advertising is appropriate. We also believe that a strong and easy-to-find mechanism to permit consumers to opt out of this type of data collection is a goal that all companies should aspire to achieve. Finally, we believe that special attention should be given to rules around the creation of profiles based on sensitive information such as health status.

In what communities, if any, has your company engaged in such practice, how were those communities chosen, and during what time periods was such practice used in each? If such practice was effectively implemented nationwide, please say so.

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection. Our advertising products do, however, make the ads of hundreds of thousands of small businesses and other companies available to internet users throughout the U.S. and around the world.

How many consumers have been subject to such practice in each affected community, or nationwide?

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection. We do, however, provide relevant advertising to hundreds of millions of people around the world.

Has your company conducted a legal analysis of the applicability of consumer privacy laws to such practice? If so, please explain what that analysis concluded.

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection.

Our privacy practices are governed by our privacy policy, which is available to the public on our home page and at www.google.com/privacypolicy.html. The policy is enforced by the FTC under section 5 of the Federal Trade Commission Act, and by many state Attorneys General under their consumer protection statutes. Google's policies and practices are designed to ensure compliance with applicable law.

How did your company notify consumers of such practice? Please provide a copy of the notification. If your company did not specifically or directly notify affected consumers, please explain why this was not done.

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection.

One of our bedrock privacy principles is transparency, by which we mean that we are upfront with our users about what information we collect and how we use it so that they can make informed choices about their personal information. So, for example, the Google Privacy Center (available at our homepage located at www.google.com and at www.google.com/privacy.html) provides Google's privacy policy, which underpins our practices and offers additional information about specific products.

We have also been an industry leader in finding new ways to educate our users about privacy. For example, we have a Google Privacy Channel on YouTube, which is located at www.youtube.com/googleprivacy. The channel offers users privacy videos that explain our privacy policies in simple, plain English. And we provide additional transparency to our users about our privacy policies and practices through our official Google blog, which is located at googleblog.blogspot.com, and through our public policy blog, which is located at googlepublicpolicy.blogspot.com.

Please explain whether your company asked consumers to “opt in” to the use of such practice or allowed consumers who objected to “opt out.” If your company allowed consumers who objected to opt out, how did it notify consumers of their opportunity to opt out? If your company did not specifically or directly notify affected consumers of the opportunity to opt out, please explain why this was not done.

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection.

Some of our products can be used without registration; the user does not need to log in or authenticate to access and use the product. Our search engine – Google.com – is a good example of this type of unauthenticated use. Any user can visit the Google web site from any computer and use our search engine without providing us with any personally identifiable information (PII). For these services,

Google retains very few types of data: standard server log information that includes the uniform resource locator, the Internet Protocol (IP) address associated with the computer or proxy server from which the request originated, the time and date of the request, the operating system that runs on the computer, and the type of browser that runs on the computer. We also may collect a unique cookie ID generated for the computer from which the request originated.

In addition, as noted above, advertising on Google.com is contextual in nature. It is not based on the web surfing history of an individual user or upon the demographic profile of a user. Advertising on Google.com also only involves first-party advertising. That is, there is no third-party involved in the serving of any ad on our search engine. Finally, as noted above, we do not collect additional user information to provide advertising on Google.com.

In sum, advertising on Google.com is contextual, requires no PII, is not provided by a third-party, and does not collect any information in addition to the basic information collected to provide search results. In addition, we take further steps to prevent the identification of a user by further anonymizing unauthenticated search logs that users provide to us after 18 months. Specifically, we obfuscate both the last octet of the IP address and the full unique cookie ID, which, in some cases, can be used in association with other information to identify an individual. Further discussion of our anonymization efforts can also read the March 2007 announcement of the policy on our blog located at googleblog.blogspot.com/2007/03/taking-steps-to-further-improve-our.html.

We also provide advertising through our AdSense for Search and AdSense for Content products, and we serve third-party ads through DoubleClick. We give users the ability to opt out of data collection from a DoubleClick advertising cookie that we serve in connection with advertising through AdSense for Content and DoubleClick ad serving.

More specifically, users are able to opt-out of the use of the DoubleClick ad serving cookie in several ways. First, users can opt out by visiting the DoubleClick opt-out page located at www.doubleclick.com/privacy. Second, Google's ads privacy microsite has an above-the-fold opt out button located at www.google.com/privacy_ads.html. Finally, users can opt out of the DoubleClick cookie's data collection through the NAI's opt out page located at www.networkadvertising.org/managing/opt_out.asp.

How many consumers opted out of being subject to such practice?

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection.

There are many ways that users can opt out of ads provided by Google and from providing data to Google in connection with viewing an ad provided by Google. For example, with respect to ads provided through DoubleClick or AdSense for Content, users can opt out of data collected by the DoubleClick cookie by visiting the DoubleClick opt out page located at www.doubleclick.com/privacy, Google's ads privacy microsite at www.google.com/privacy_ads.html, or the NAI's opt out page located at www.networkadvertising.org/managing/opt_out.asp.

Did your company conduct a legal analysis of the adequacy of any opt-out notice and mechanism employed to allow consumers to effectuate this choice? If so, please explain what that analysis concluded.

We understand this question to be focused primarily on the implementation of deep-packet inspection advertising practices by a small number of U.S. ISPs in partnership with a privately-held online advertising company. Google does not deliver advertising based on deep-packet inspection.

Google's policies and practices are designed to ensure compliance with applicable laws, which are vigorously enforced at both the state and federal levels.

What is the status of consumer data collected as a result of such practice? Has it been destroyed or is it routinely destroyed?

Google anonymizes its logs data after 18 months. This means that we anonymize IP addresses and cookie IDs associated with searches conducted by unauthenticated users after 18 months. It also means that we anonymize the IP address and the cookie ID collected in association with the DoubleClick cookie after 18 months. Specifically, we obfuscate both last octet of the IP address and the full unique cookie ID, which, in some cases, can be used in association with other information to identify an individual. Further discussion of our anonymization efforts can also read the March 2007 announcement of the policy on our blog located at googleblog.blogspot.com/2007/03/taking-steps-to-further-improve-our.html.

Is it possible for your company to correlate data regarding consumer Internet use across a variety of services or applications you offer to tailor Internet advertising? Do you do so? If not, please indicate what steps you take to make sure such correlation does not happen. If you do engage in such correlation, please provide answers to all the preceding questions with reference to such correlation. If your previous answers already do so, it is sufficient to simply cross-reference those answers.

Google does not correlate data regarding use across our products to offer advertising. For example, when we serve a contextual ad to a user of Gmail, our email service, that ad is based only on the text of the page that a user is viewing, and it is not based on any information from any other product such as Google Calendar or Google Search. If we were to correlate data regarding use across our products to offer advertising, we know that we would have to do so in a way that protects the privacy and security of our users, an endeavor to which we are deeply committed.

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