

# Privacy on the Internet

BY KEON S. CHI

As more consumers rely on the Internet to do business ranging from banking to e-commerce, they are forced to deal with new and thorny issues. According to a recent survey by the Federal Trade Commission, eight out of 10 of the most popular commercial Web sites in the United States have not implemented fair practices when collecting personal information from or about consumers online. As a result, consumer privacy has become one of the most controversial Internet-related problems. Buzzwords such as “spyware,” “cookies,” “spam” and “firewalls” are all related to online privacy.

In essence, the question is how to balance the rights of consumers with those of business. Another related question is who should regulate businesses to ensure Internet privacy. Advocates of Internet-privacy rights might want to consider three options: self-regulation by businesses, federal regulation and state regulation.

**Self-regulation.** One option is to allow businesses to regulate themselves. Last fall, leaders of high-tech companies and state legislators in Texas met to hear a panel of experts debate digital-privacy regulation by businesses. The panel was sponsored by the Online Privacy Alliance, a trade association that has become the voice of the Internet industry on the issue of consumer privacy. Other groups in favor of self-regulation include the Network Advertising Initiative, a consortium of Internet-advertising companies; the Electronic Retailing Association, a group of hundreds of retailers that sell directly to consumers via the Internet; and the Responsible Electronic Communication Alliance, which includes the online-advertising company DoubleClick.

These groups promote the voluntary adoption and implementation of a privacy policy that encourages notice and disclosure, ensures data security and assures data accuracy and access. They also argue that under self-regulation by businesses, consumers will be allowed to opt out of the collection of anonymous data on the Internet and given a chance to determine whether they want to allow anonymously collected data to be merged with personally identifying information. A group of direct marketing companies has proposed a set of standards and measures similar to the seals of approval from Good Housekeeping or Underwriters Laboratories.

**Federal regulation.** A second option is to enact legislation by Congress to ensure privacy protection for Internet consumers. In a May 2000 report, the Federal

Trade Commission supported this option. “Self-regulation has not adequately protected consumer online privacy,” the FTC report said. “Legislation is now needed to supplement self-regulatory efforts.” FTC’s support of congressional intervention is based on the need to establish “basic standards of practice of the collection of information online.”

The FTC report said that such legislation would require commercial Web sites to “comply with the four widely accepted fair information practices: notice, choice, access and security.” In fact, several bills that deal with privacy issues in e-commerce, financial institutions and medical records are pending in Congress. One major concern with federal regulation is that it preempts action by the states. Critics of an expanded FTC role contend that limiting states’ ability to protect the privacy interests of their citizens is an example of unwanted federal intervention.

**State regulation.** A third option is to allow states to come up with their own regulations or interstate agreements to en-

sure online privacy for Internet consumers. Recently, the attorney general in Minnesota sued a financial institution, alleging that it disclosed the names, telephone numbers, social security numbers and account balances of 1 million of its customers without their consent. Last fall, Florida Gov. Jeb Bush appointed a task force to study Internet privacy and formulate a new policy to protect consumer rights. The task force was to make a final report to the governor and the Legislature by February 2001.

Another approach to state regulation is to enact model legislation by a national organization of state officials. Some have proposed that The National Conference of Commissioners on Uniform State Laws, a private organization of legal experts, draft a model state law. Others have recommended that the National Association of Attorneys General draft such a law.

Perhaps a more appropriate national organization to develop a new law to ensure online privacy for consumers might be The Council of State Governments. Since 1941, CSG has been known for its *Suggested State Legislation* series and its multistate solutions to policy problems. Based on Internet privacy legislation passed by one or more states and on recommendations from business representatives, CSG might be able to develop an enforceable model law that could be adopted by other states.



*Policy-makers have three options for regulating online business practices.*

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