

# Privacy Issues in Electronic Commerce

## HIPAA Summit

### Washington, DC

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# Overview

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- A little about AllAdvantage.com and our industry
- The E-Commerce privacy landscape
- How E-Commerce firms approach privacy
- The results of

# Background on AllAdvantage



- AllAdvantage.com is an *Infomediary*
  - An agent for consumers...
  - creating a marketplace for their personal data "profiles"...
  - returning to consumers a share of the value created by the use of their data profiles...
  - allowing consumer control of data gathering & disposition...
  - while holding the data private, not sharing with 3<sup>rd</sup> parties...
  - delivering the right ad to the right consumer at the right time.
- *Net Worth*, John Hagel & Marc Singer (HBS Press)

# The E-Commerce Landscape



- Consumer expectations at all-time lows
  - DoubleClick
  - Intel Pentium III GUID
  - RealNetworks "Real Player" (reporting to the mother ship)
  - The Microsoft Problem *du jour* (Hotmail, Outlook, IE)
  - The Yahoo! Problem *du jour* (GeoCities, civil subpoenas)
  - The AOL Problem *du jour* (changing marketing preferences)
  - The Amazon Problem *du jour* (privacy policy, buying circles)
  - CueCat scanner

# E-Commerce Industry Response



## ■ The Talk

- Encourage disclosure of practices (privacy policies)
- Encourage private enforcement mechanisms (TRUSTe, etc.)
- Encourage FTC to hold bad actors accountable
  - Privacy Policy violation as a deceptive trade practice
- Disney, IBM, Visa, others requiring strong privacy policies

# E-Commerce Industry Response



## ■ The Walk

- Fighting disclosure requirements
- Fighting limits on data sharing
- Private enforcement entities: Wardens paid by prisoners
- Lawmakers as defenders of status quo

# Fortress Europe

- European Union Data Directive
  - Relevant to stated purpose
  - Used only for stated purpose
  - Data must be current, accurate, kept fairly
  - Deleted after purpose accomplished
  - Non-transfer to states with lesser policies
- “Safe Harbor” negotiations

# Self-Fulfilling Cycle

- Few laws + squishy guidelines = WWW
  - E.g., Email “ethics”, redefining opt-in as opt-out
- Track Record of disasters, scandals
  - Result: Little loyalty, siege mentality
- Contrast with Healthcare...
  - Long history of patient confidentiality
  - Result: Higher expectations, higher loyalty



# The View from Here



- You've got it bad
  - Strict requirements, major technical hurdles
  - Tight restrictions on entrepreneurial experimentation
  - Very high expectations to live up to
- You've got it good
  - Better defined landscape, relatively level playing field
  - To many minds, law trumps ethics
  - E-Commerce entrepreneurship demands playing it closer to the edge

# Recommendation

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Join the *Privacy Officers Association*

<http://www.privacyassociation.org>

# Resources

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- FTC Privacy Initiatives  
(<http://www.ftc.gov/privacy>)
- OECD Guidelines on Data Privacy  
(<http://www.oecd.org>)
- Electronic Privacy Information Center  
(<http://www.epic.org>)

# Contact Information

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