

## Alternative Approaches to Online Privacy

Online privacy is an issue often discussed but rarely acted upon. A majority of Americans are concerned about the collection and use of their personal data.<sup>1</sup> However, how many people actually go out of their way to protect their online presence? It can be exhausting trying to figure out ways to protect your data online: determining which companies are trustworthy, what programs, browsers, and add-ons are best, and making smart choices about the way we browse. However, the alternative is to hand our personal information to any companies that want it. You might be surprised how much they can learn about someone from just a few details, such as a pregnant woman's due date, within a small window, just from her purchase of a few items.<sup>2</sup> So we must ask ourselves, is the current model of online privacy in the U.S. the most efficient way to go about data protection, or could there be an alternative? Data collection funds our endeavors on the "free" internet. As the phrase goes, "if something is free, you are the product." But what if you could pay, and escape being the product?

As a very narrow overview, the United States uses a mostly self-regulation scheme when it comes to online privacy and tracking.<sup>3</sup> There are many sector specific laws, like HIPPA in the healthcare field, but no overarching protection for consumer data on the internet. One of the most important privacy protections in the U.S. comes from the Federal Trade Commission (FTC) Act, Section 5. The FTC has the power under Section 5 to bring action for "unfair or deceptive acts or practices."<sup>4</sup> Unfair or deceptive practices usually involve a violation of a company's privacy policy, and this is where the self-regulation comes into play, because companies write their own privacy policies. This puts a lot of power into a company's hands to create and enforce their own privacy policies. Is this the best approach, or should other factors take precedent?

One of the most compelling aspects to me is the economy of it all. Online marketing and data is an entire industry that relies on people sharing their information online. It is the reason that services like Google and Facebook are "free." So, what is the alternative? Some researchers have looked into the cost of online privacy, to see just how much a consumer would be willing to pay to ensure their data is secure. In an experiment done by Microsoft Research Cambridge, they found that while 86% of participants were in favor of protection for data sharing with third parties, only 15-16% of them would pay a half a penny per search to actually implement this protection.<sup>5</sup> In addition, a study from the Institute of Labour Economics found that, when presented with two options for buying a DVD, a majority of subjects would provide sensitive personal information, such as their monthly income, for a 1 Euro discount.<sup>6</sup> Giving people a choice between money or privacy, it seems that the average person will choose money.

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<sup>1</sup> Brooke Auxier et al., *Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information*, PEW RESEARCH CENTER (Nov. 15, 2019),

<https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confused-and-feeling-lack-of-control-over-their-personal-information/>.

<sup>2</sup> Kashmir Hill, *How Target Figured Out A Teen Girl Was Pregnant Before Her Father Did*, FORBES (Feb. 16, 2012), <https://www.forbes.com/sites/kashmirhill/2012/02/16/how-target-figured-out-a-teen-girl-was-pregnant-before-her-father-did/?sh=62ef3a5a6668>.

<sup>3</sup> DANIEL J. SOLOVE & PAUL M. SCHWARTZ, *INFORMATION PRIVACY LAW* 811 (Rachel E. Barkow, et al. eds., 7th ed. 2021).

<sup>4</sup> *Id.* at 869.

<sup>5</sup> Sören Preibusch, *The value of privacy in Web search*, MICROSOFT RESEARCH CAMBRIDGE, 12, <https://econinfosec.org/archive/weis2013/papers/PreibuschWEIS2013.pdf>.

<sup>6</sup> Alastair R. Beresford et al., *Unwillingness to Pay for Privacy: A Field Experiment*, IZA 6 (June 2010), <https://docs.iza.org/dp5017.pdf>.

So, would allowing consumers to pay for their privacy, to make up for the loss in revenue from data collection, even be a viable solution? I do not think so. The adoption rate by consumers doesn't seem to be high enough to warrant companies even implementing a program such as this. Other alternatives still exist, such as passing a comprehensive online privacy statute, but until then, consumers will just have to use their own caution when they browse online.