



Responses to Questions on Notice
Senate Environment and Communications Committee – online privacy hearing
29 October 2010

- 1. Question: You say in this that the global principles do not apply to a website's collection of viewing behaviour solely for its own uses. Can you tell me why they should not apply?**

Answer:

There are good and growing levels of awareness amongst Internet Users around a website's collection of viewing behaviour solely for its own uses including an awareness that cookies enhance the on line experience for the user while they are on the site.

Many companies have for many years had statements about the use of cookies and the collection of de-identified information on browsing behaviour for their websites.

There is also a good and growing levels of awareness that cookies enable a more tailored experience on a website including the ability to 'recognise' a browser provides automatic sign on.

AANA notes that the use of cookies to allow a website to collect viewing behaviour on a website was met with concern from some sectors of the community. However with adoption of the technology consumers have come to understand cookies and how they can manage them if they have concerns.

By contrast Third Party Online behavioural Advertising is a relatively new initiative and as such deserves additional considerations. The Global Principles are industry's response to this need and seek to improve consumer awareness through a number of different initiatives, similar to what was done for cookies a decade ago.

- 2. Question: Then you say the consumer principle calls for mechanisms that will enable users of websites at which data is collected for online behavioural advertising purposes to choose whether data is collected and used or transferred. I am not sure if you were here when I was asking Google, but could you, in the context of this consumer control principle, give me a view on whether an opt-in approach could be used as opposed to an opt-out approach, and what your view is on the relative merits of opt-in versus opt-out?**

Answer:

An opt in approach would require a web user's consent every time a cookie was collected. The requirement for all cookies to be opt-in would have a significant and detrimental impact on line activities, not just on line advertising. The flow on impact for the digital economy would be crippling. Further, there would be detrimental impacts for consumer choice and usability of the internet. For example, shopping baskets which are a now common feature of the on line experience, and which rely on cookies, would no longer operate.

- 3. Question: Could you also give the committee your views on the legislation in New York that holds advertisers accountable for purchasing information from websites when they know they are breaching privacy obligations?**

Answer:

The Privacy Act 1988 provides strong and significant protection to Australian individuals. It is effective in safeguarding individual's personal information and preventing unlawful disclosure.

These privacy protections provide more protection to consumers than the current position in the United States. As such AANA does not consider that further legislative restrictions, such as the New York act are necessary. Further legislative restrictions will place an undue regulatory burden on industry when there is no evidence of a failure.

As the Committee is aware, the AANA is working with a cross industry groups on guidelines for on line behavioural advertising which will provide further protections for consumers.