

National Consumers League
Statement on the Georgetown Internet Privacy Policy Survey

What difference does a year make? Not nearly enough. The Georgetown Internet Privacy Survey clearly shows the futility of relying solely on voluntary measures to achieve comprehensive privacy protection. Policy makers should also take note of the fact that it is impossible to assess the effectiveness of self-regulation based merely on the basis of what web sites *say*, rather than on what companies actually *do* with the personal information they collect from consumers.

How much information is collected? According to the survey, 92.9 percent of the sites visited collected at least one type of personal identifying information and most collect several different types. More than half collect demographic information, and a similar number collect both personal identifying and demographic information which, when combined, can be used to paint detailed pictures of consumers' lives.

Yes, more web sites are saying *something* about privacy than was the case a year ago. B good news but not unexpected, considering the tremendous effort that many major businesses and trade groups have made in the last year to post privacy information on their sites and encourage others to do so. But while nearly two-thirds of the web sites surveyed have at least one type of privacy disclosure, only 9.5 percent addressed all five of the modest elements of fair information principles that the survey looked for: notice, choice, security, access, and contact information.

This *was* a surprising result, since the Federal Trade Commission stressed the importance of these principles in reporting its own survey findings last year and businesses that participated in subsequent self-regulatory efforts seemed to embrace them. Indeed, the survey graded companies' efforts fairly leniently; instead of looking for specific enforcement mechanisms, the survey gave credit to sites if they simply provided contact information for questions or complaints.

Furthermore, the survey really only shows what some web sites *say* about their privacy practices. To test what actually *happens* to consumers' information, how easily they can *access* it, and how they can *enforce* the proper use of it would require another, much more extensive project. Though the Georgetown survey is only one piece of information that the FTC will consider in formulating further recommendations concerning privacy to Congress, it must be viewed from the correct perspective in the current policy debate.

A survey released on May 19, 1999 by the National Consumers League may shed some more light on the issue of privacy. As part of the "Consumers in the 21st Century Survey" conducted for NCL by Louis Harris & Associates, people were asked about how they thought they would be using technology in the future and how concerned they are about privacy. Eighty-eight percent of consumers said they are somewhat or very concerned about privacy.

And even though a large majority, 76 percent, believe that technology will make their lives easier and more convenient, consumers are still wary of providing sensitive information online.

Seventy-three percent said they were uncomfortable providing credit card information, 73 percent were uncomfortable providing other financial information, and 70 percent were uncomfortable providing personal information in general online.

When asked if they had ever had a problem online with fraud or unauthorized the use of their personal information, seven percent of the NCL survey respondents said yes, a figure that represents six million American adults. Seven percent also reported having a problem with fraud or unauthorized use of their credit card information online, 2 percent with fraud or unauthorized use of other financial information online.

One argument that some make for why comprehensive laws to protect privacy are not necessary is that if companies don't live up to the policies they voluntarily state, they can be sued for unfair or deceptive acts or practices. But what about the one-third of companies that don't say anything about their privacy policies at all on their web sites? What about the confusion caused by the nearly total lack of uniformity in companies' stated privacy practices? And what about the fact that a company's privacy policies in the online context might be very different than how it treats consumer information collected offline?

The problem is that there are no basic rules that companies must follow, and that consumers can rely on, to protect privacy. Even the most basic right B the right to be left alone B is not guaranteed in cyberspace. It's hard to be anonymous online, even if you're not making a transaction for which information about you might be needed. And yet in the physical world we expect to be able to browse through a store, leaf through books in the library, or walk down the street looking at shop windows, or pay for something with cash, without having to give someone our names, addresses, or phone numbers, let alone social security numbers or other personal information. Indeed, we would be discomfited at the very suggestion.

And if, as many argue, we benefit when we provide that precious commodity, our personal information, in the marketplace, how do we know if it's a fair trade -- or even that a trade is occurring -- without clear disclosures about whether and how our information will be used? How can we get redress if we think it's a raw deal, or if we never agreed to make a deal, without clear means of enforcement?

Businesses that are sensitive to consumers' inherent privacy rights and voluntarily adopt policies that respect those rights should be applauded. And self-regulatory efforts *are* helpful, as the survey shows, in educating companies about fair information practices. It's also smart for businesses to protect consumers' privacy, though the Georgetown survey shows that only a small fraction of companies "get it."

Let's stop arguing about self-regulation versus regulation -- that's not the point. We know that we will never achieve 100 percent, or even 90 percent, compliance with basic fair information practices solely on a voluntary basis because not everyone will agree to do the right thing. And we know that enforcement is most effective when there are bright lines of demarcation between appropriate and illegal behavior. Let's move forward by focusing our attentions on how we can create clear privacy rules for everyone to abide by.