

A decorative banner with an orange-to-yellow gradient background. It features a globe on the right, a series of envelope icons in the center, and a binary code sequence at the bottom.

## Should E-mail Marketers Worry About a Do-Not-Track List?

By Rick Buck, *Director of Privacy and ISP Relations*


Just as many digital marketers are discovering the potential uses of Web behavioral data to create more relevant advertising and e-mail programs, privacy advocates and some consumers are becoming more wary of how data is handled in the Internet age. While it seems unlikely that the government will step in and create legislation around this issue in the near future, marketers should take steps to ensure any consumer data they collect is handled appropriately.

Recently, several consumer protection groups met with the Federal Trade Commission to propose a Do-Not-Track list, which would allow consumers to opt-out of online tracking in the same way the national Do-Not-Call list allows consumers to opt out of unwanted telemarketing.

Surveys of consumers have shown that most people don't worry too much about online privacy. For example, JupiterResearch found that only 17% of the online population is concerned about adware. However, advocates say that is because most consumers have no idea that their movements can be tracked across hundreds of different Web sites using cookies, in turn creating a "persona" marketers can use to target advertising.

### **Why is this coming to the forefront now?**

Privacy advocates are alarmed at the increase in online tracking. Furthermore, recent announcements from some consumer database companies indicate that they may soon seek to combine offline information such as home ownership or marital status that may include Personally Identifiable Information, or PII, with online behavioral data such as search history or online purchase information, generally considered to be anonymous non-PII. This merged information would be used to classify consumers into categories that online advertisers could then use to target individuals when visiting a Web site. Currently, the prevailing practice of most online behavioral advertising companies is to collect only less-sensitive non-PII, consistent with the practices of the current members of the Network Advertising Initiative (NAI), a self-regulatory body for online preference marketing.

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Privacy advocates contend that although there are systems currently in place which allow consumers to opt-out of Web behavioral tracking, they are generally poorly publicized, buried deep in legalese, or described in language that is too technical for most people to fully understand. As a result, they want the FTC to implement a Do-Not-Track List that would force companies using behavioral tracking to register with the FTC, so that consumers will know exactly which companies to block based on the advertiser's IP address. Advocates also want browser developers, such as Microsoft, to include a function that utilizes the Do-Not-Track list as a means to block domains, and want consumers to have access to their own profiles and be able to select what information they want used for targeting purposes.

**Is there a need for protections such as these at the national level?**

Groups like the NAI say no, and point to the fact that most companies maintain a policy of not collecting PII, simply due to the difficulties surrounding how the sensitive information would need to be handled and protected. It's generally not worth the effort. In addition, many in the industry contend that these demands for Do-Not-Track methods are technologically impractical, and not analogous to the Do-Not-Call list, since unscrupulous advertisers can very easily set up a new IP address and circumvent the efforts of consumers to limit tracking, leaving consumers and legitimate marketers vulnerable.

**How do consumers feel?**

Some Internet users realize that opting out of all behavior-based tracking would set the consumer experience back to the dark ages in Internet terms, with consumers getting ads and e-mails that they have no interest in at all. There is an awareness that the Internet remains free for the same reasons network television programming is; because it is a way for advertisers to reach an audience. Faced with the choice of paying for advertising-free Web site access or browsing at no charge in exchange for allowing a cookie to track browsing history, most consumers would choose the latter. A new study by Deloitte reveals that three-quarters of respondents between the ages of 13 and 41 said they would be willing to see online ads in exchange for free content. Among those aged 13 – 24, 72% said they'd click on more ads if they were more relevant, and 67% of those aged 25 – 41 said the same.

**Should e-mail marketers be worried that new regulations could curtail their efforts to use behavioral tracking?**

In a word, no. For legitimate marketers, e-mail marketing is already a permission-based medium. Customers want companies to use the information they have about a consumer to send messages that will interest them. That includes sending product recommendations based on browsing history or reminders about items left in online shopping carts.

However, there are policies marketers should implement now that can ensure a successful relationship with consumers no matter what legislation could be developed in the future.

1. Marketers need to spell out in more detail exactly what data they collect from Web site visitors and what they do with that data. Some consumers may opt-out, but your list will be stronger and your results better when you are setting realistic expectations and sticking to them.
2. At every point where customer data is collected, your privacy policy should be available for review and the privacy policy should clearly state how information is collected, used and shared.
3. In addition, instructions for opting in or out of e-mail marketing and Web behavioral tracking should be prominent, easy to follow, and written in everyday language the average person understands.

In the end, it comes down to that magic concept: relevance. Marketers should only ask their customers for very specific actionable data and utilize it in ways that are meaningful and valuable to the consumer. If marketers are transparent about why consumers should share personal data and make a commitment to use that information in a responsible way, consumers will respond with increased loyalty, leading to long-term profitable relationships — a winning situation all around!