The Changing Regulatory Landscape for Consumer Protection in the Digital Age

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‘IDES OF MARCH’- JUST A COINCIDENCE?

DIGITAL TECHNOLOGY VS. CONSUMER PRIVACY

OR

CONSUMERS EMPOWERED TO HARNESS AND ENJOY THE BEST OF DIGITAL TECHNOLOGY
CONSUMER RIGHTS

• The Right to Safety
• The Right to Be Informed
• The Right to Choose
• The Right to Be Heard
• The Right to satisfaction of basic needs

• The Right to redress
• The Right to consumer education
• The Right to a healthy environment
(UN Guidelines on Consumer Protection)
• MANUFACTURERS/PRODUCERS
• SERVICE PROVIDERS
• EXPORTERS
• IMPORTERS
• DISTRIBUTORS
• TRADERS

• TRADE ASSOCIATIONS
• MULTI-NATIONAL FIRMS
• GEO-POLITICAL GROUPINGS
• PRESSURE GROUPS

• REGULATORS
• POLICY-MAKERS
• LAW-MAKERS
TRADITIONAL CONSUMER PROTECTION LAWS

STRUCTURED AROUND

PRINT MEDIA
AND
BASIC SCREEN MEDIA

PRIVACY/DEFAMATION/MISLEADING ADVERTISEMENTS ETC.
DIGITAL AGE CHANGED MANY THINGS
BENEFITS OF DIGITAL AGE TO CONSUMERS
### Types of Ads that US Internet Users Trust When Making a Purchase Decision, Oct 2016

<table>
<thead>
<tr>
<th>Type of Ad</th>
<th>% of Respondents</th>
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</thead>
<tbody>
<tr>
<td>Print ads (newspaper, magazines)</td>
<td>82%</td>
</tr>
<tr>
<td>TV ads</td>
<td>80%</td>
</tr>
<tr>
<td>Ads/catalogs I receive in the mail</td>
<td>76%</td>
</tr>
<tr>
<td>Radio ads</td>
<td>71%</td>
</tr>
<tr>
<td>Ads in outdoor and public places (like billboards, transit ads, posters, etc.)</td>
<td>69%</td>
</tr>
<tr>
<td>Search engine ads (Google, Yahoo, Bing, etc.)</td>
<td>61%</td>
</tr>
<tr>
<td>Video ads that appear prior to a digital video</td>
<td>47%</td>
</tr>
<tr>
<td>Sponsored posts on blogs that I read</td>
<td>43%</td>
</tr>
<tr>
<td>Ads embedded in social media (Facebook, Instagram, etc.)</td>
<td>43%</td>
</tr>
<tr>
<td>Online banner ads</td>
<td>39%</td>
</tr>
<tr>
<td>Mobile phone ads</td>
<td>39%</td>
</tr>
<tr>
<td>Ads in podcasts</td>
<td>37%</td>
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<tr>
<td>Digital pop-ups</td>
<td>25%</td>
</tr>
</tbody>
</table>

*Note: n=2,400 ages 18+*

*Source: MarketingSherpa, "Customer Satisfaction Research Study," Dec 12, 2016*
CHANGING TIMES IN PRINT MEDIA?

Mother seeks a groom for her son in India's first gay marriage advertisement

"Seeking 25-40, well-placed, animal-loving, vegetarian GROOM for my SON (36, 5'11") who works with an NGO,"
Consumer control

As new technologies and business models continue to emerge, however, we hear with increasing frequency the claim that technological innovation and big data have rendered certain fundamental tenets of privacy, particularly the idea of consumer consent, outdated and ill-suited for today’s digital world.

Companies need to practice privacy and security-by-design, consider ethical issues in using big data, and refrain from collecting and storing consumer data that they do not need.

But I believe consumer control is a fundamental building block for privacy. Preferences among consumers may vary, and even a single consumer’s preferences may vary, depending on context. The more sophisticated the tools consumers can have to express these preferences, the richer the interaction between consumers and businesses can be. I think this is a goal that is within our reach and urge companies to work toward it.
GOVERNMENTAL CONTROLS COME AT A PERSONAL COST

“Many people want the government to protect the consumer, while a much more urgent problem is to protect the consumer from the government”,

Milton Friedman
EUROPEAN UNION

The Digital Single Market Strategy adopted by the Commission on 6 May 2015 identified as one of the priorities the need to enhance consumer trust through more rapid, agile and consistent enforcement of consumer rules. The Single Market Strategy adopted by the Commission on 28 October 2015 reiterated that enforcing Union consumer protection legislation should be further strengthened by the Regulation on Consumer Protection Cooperation.

The resulting ineffective enforcement of cross-border infringements, in particular in the digital environment, enables traders to evade enforcement by relocating within the Union, giving rise to a distortion of competition for law-abiding traders operating either domestically or cross-border, and thus directly harming consumers and undermining consumer confidence in cross-border transactions and the Single Market. An increased level of harmonisation setting effective and efficient enforcement cooperation among competent public enforcement authorities is therefore necessary to detect, investigate and order the cessation of intra-Union infringements and widespread infringements.
The Right to Safety

- Institutions setting standards
- Laws providing for strict liability
- Laws prohibiting privacy invasion

The Right to Be Informed

- Regulation of advertising
- Mandatory labelling
- Collection of sensitive data and dissemination thereof

The Right to Choose

- Assurance of quality, safety and effective
- Price control
- Controls over hording
- No undue pressure

The Right to Be Heard

- Easy access
- Prompt feedback
- Effective dispute resolution mechanisms
- Data protection regulator
The right to satisfaction of basic needs

- MECHANISMS FOR NEEDS ASSESSMENT
- IMPLEMENTATION OF PRO-POOR POLICIES
- USE TECHNOLOGY IN A BENEFICIAL MANNER

The right to consumer education

- FOOD AND NUTRITION
- RIGHTS AND DUTIES
- FINANCIAL LITERACY
- EDUCATION ON THE DANGER OF DIGITAL TECHNOLOGY

The right to redress

- CONSUMER COURTS
- CLASS ACTIONS
- SPEEDY RELIEF FROM REGULATORS

The right to a healthy environment

- CONTROL OF POLLUTION
- ‘HEALTHY CITIES AND TOWNS’
- USER-FRIENDLY AND LESS HARMFUL DIGITAL TECHNOLOGY
SELECTED U.S. LAWS IN THE DIGITAL AGE

Constitutional guarantees
ADAM WALSH CHILD PROTECTION AND SAFETY ACT
CHILD PORNOGRAPHY PROTECTION ACT
CHILD INTERNET PROTECTION ACT
COMPUTER FRAUD AND ABUSE ACT
CONVENTION ON CYBER CRIME
CYBER CRIME ACT
DIGITAL MILLENNIUM COPYRIGHT ACT
ELECTRONIC COMMUNICATIONS PRIVACY ACT
FAIR AND ACCURATE CREDIT TRANSACTIONS ACT
IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT
IDENTITY THEFT ENFORCEMENT AND RESTITUTION ACT
IDENTITY THEFT PENALTY ENHANCEMENT ACT
NO ELECTRONIC THEFT ACT
PROSECUTORIAL REMEDIES AND OTHER TOOLS TO END EXPLOITATION OF CHILDREN TODAY ACT
PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT
STOP ONLINE PIRACY ACT
TRUTH IN DOMAIN NAMES
USA PATRIOT ACT
THE MISSING LINKS

LAW

+ MORALLY AND
SOCIALLY
RESPONSIBLE
INDIVIDUAL
AND CORPORATE
CITIZENS

= EDUCATED
AND DISCERNING
CONSUMERS