

BEFORE THE
SENATE COMMERCE, SCIENCE, & TRANSPORTATION COMMITTEE

HEARING ON
“THE STATE OF ONLINE CONSUMER PRIVACY”

MARCH 16, 2011

TESTIMONY OF
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GROUPM INTERACTION

I. Introduction

Chairman Rockefeller, Ranking Member Hutchison, and Members of the Committee, good morning and thank you for the opportunity to speak at this important hearing.

My name is John Montgomery and I am the Chief Operating Officer for the North American operations of GroupM Interaction (“GroupM”). Headquartered in New York City, GroupM is the world’s leading full-service media investment management operation, employing over 17,000 employees in 81 countries. GroupM is the parent company of WPP’s market-leading media communications agencies, including Maxus, MEC, Mindshare and Mediacom. Our clients are major global companies with brands that are household names. In the simplest terms, we advise clients on how to use advertising and where to place advertisements most effectively. Our business is built on the belief that both consumers and companies benefit when advertising provides timely and relevant information to those consumers who are most likely to be interested. While this philosophy is not new or unique to the Internet, online advertising has given us new tools to help our clients.

We at GroupM strongly believe in protecting consumer privacy. It is not only the right thing to do, but it is also good for business. We want to build consumer trust in the online experience, and therefore we believe that consumers should be able to choose whether and how their data is collected or used for online behavioral advertising. Our clients also want to provide these choices to maintain the confidence of their customers. Global companies work hard every day to protect their brands, and they recognize that their customers may have different preferences about online advertising.

My testimony today will describe how we have worked successfully with other industry leaders to give consumers these choices, and to create easy, uniform, and effective tools for them to exercise their choices. Our contributions illustrate the industry-wide collaboration and support behind this self-regulatory effort, which are truly impressive given our highly competitive marketplace.

II. Online Advertising Benefits Consumers and the Economy

I begin my remarks where I believe the Committee's examination should begin – with a review of the tremendous benefits provided by online advertising, especially behavioral advertising.

It is impossible to overstate the economic importance of the Internet today. Even in difficult times, e-commerce has continued to grow, thrive, and employ millions of Americans. The Internet is now the focus and a symbol of the United States' famed innovation, ingenuity, inventiveness, and entrepreneurial spirit, as well as the venture funding that follows. The Internet has already revolutionized our lives, and it continues to evolve in extraordinary and exciting ways. And as the Department of Commerce recently concluded, thus far the United States' approach to Internet policy has enabled the digital economy to flourish.¹

Advertising helps to fuel the Internet economic engine. Revenues from online advertising support and facilitate e-commerce and subsidize the cost of content and services that consumers value, such as online newspapers, blogs, social networking sites,

¹ Department of Commerce Internet Policy Task Force, *Commercial Data Privacy and Innovation in the Internet Economy: A Dynamic Policy Framework* at 1 (December 2010) (hereinafter "Commerce Policy Framework"), available at <http://www.commerce.gov/sites/default/files/documents/2010/december/iptf-privacy-green-paper.pdf>.

email, and phone services. Because of advertising support, consumers can access a wealth of online resources for free or at a low cost. These resources have transformed our daily lives. Imagine parents who discover their child is sick at two o'clock in the morning. They can go online to look up basic medical information or find directions to the nearest doctor's office or emergency room. The Internet is now so established that we tend to take these resources for granted, but in fact they are largely supported by advertising.

Online advertising is equally vital to established businesses and new start-up companies. A study commissioned by the Interactive Advertising Bureau estimated that some three million Americans are employed due to the advertising-supported Internet.² Online advertising also fosters competition by making it easier for emerging businesses to reach potential customers. In turn, these entrepreneurs spur existing market leaders to continue innovating.

Behavioral advertising is an essential form of online advertising. As the Committee knows, behavioral advertising, also called interest-based advertising, is delivered based on consumer preferences or interests as inferred from data about online activities. Consumers are likely to find behavioral advertisements more relevant than random messages, and advertisers are more likely to attract consumers that are interested in their products and services. For example, if a browser's activity suggests that the user has a new baby, we can show offers for baby products rather than retirement homes or sports cars. Websites also benefit because behavioral advertising garners better

² Hamilton Consultants, Inc. with Professors John Deighton and John Quelch, *Economic Value of the Advertising-Supported Internet Ecosystem*, at 4 (June 10, 2009), available at <http://www.iab.net/media/file/Economic-Value-Report.pdf>.

responses, allowing websites to earn more revenue – and support more content and services – for fewer advertisements.

At the same time, we recognize and respect that some consumers may prefer not to receive behavioral advertising. I am excited to share with the Committee the work we have done to make sure that consumers have both transparency and control to exercise their preferences in regard to online behavioral advertising.

III. Industry Self-Regulatory Principles Follow the Federal Trade Commission Roadmap

In February 2009, after an extended deliberative process, the Federal Trade Commission published a Staff Report that called upon industry to “redouble its efforts” to create self-regulation of online behavioral advertising.³ The report set out a roadmap of several key elements that should be included in self-regulation, such as transparency, consumer control, and data security. The Commission also made clear that consumer tools to exercise choice should be easy to use, effective, uniform, and ubiquitous.

In the two years since the Commission’s Staff Report, GroupM is pleased to have participated in an unprecedented cross-industry effort by leading trade associations and companies to respond to the Federal Trade Commission’s endorsement of self-regulation. This effort has been spearheaded by the American Association of Advertising Agencies, the Association of National Advertisers, the Interactive Advertising Bureau, and the Direct Marketing Association, and also includes the American Advertising Federation, the Network Advertising Initiative, and other leading industry associations that represent

³ Federal Trade Commission Staff Report, *Self-Regulatory Principles for Online Behavioral Advertising* at 47 (February 2009), available at <http://www.ftc.gov/os/2009/02/P085400behavadreport.pdf>.

components of the Internet ecosystem. These associations and the companies participating in the self-regulatory effort collectively account for the vast majority of online behavioral advertising. Following the roadmap set out by the Commission, we have worked diligently to develop standards, launch innovative tools, and educate consumers to make sure they have the choices they deserve.

In July 2009, just five months after the Federal Trade Commission's guidance, our coalition announced a groundbreaking set of Self-Regulatory Principles for Online Behavioral Advertising.⁴ The Principles apply across the entire online advertising ecosystem. They address all of the key elements called for in the Federal Trade Commission's 2009 Staff Report, namely:

- Consumer education,
- Enhanced notice of data practices,
- Innovative choice mechanisms,
- Data security,
- Sensitive data protection,
- Consent for retroactive material policy changes, and
- Enforcement.

The Self-Regulatory Principles prescribe expectations for companies in each of these areas. They provide uniform definitions for key terms and include detailed Commentary to aid compliance.

⁴ American Association of Advertising Agencies, Association of National Advertisers, Direct Marketing Association, Interactive Advertising Bureau, and Council of Better Business Bureaus, *Self-Regulatory Principles for Online Behavioral Advertising* (July 2009), available at <http://www.aboutads.info/resource/download/seven-principles-07-01-09.pdf>.

GroupM believes that the Self-Regulatory Principles are comprehensive yet flexible enough to respond to the complex and rapidly evolving online advertising ecosystem. Most importantly, they are supported by all of the major industry stakeholders. We were pleased, therefore, that the Commerce Department's recent draft framework on privacy and innovation also favors voluntary and enforceable industry codes like our initiative.⁵

IV. Implementing Self-Regulation: Uniform Choice, Consumer Education, and Enforcement

Since releasing the Principles in July 2009, GroupM and other industry leaders have made significant investments in implementing the Principles across the Internet. A timeline of milestones is attached (Attachment 1). The development and launch of our Advertising Option Icon has been a key focus of this implementation phase, and I am very proud of GroupM's important contributions in this area. Advertisers who are adopting this icon for their advertisements are finding that the icon enhances a company's brand relating to its privacy stance. The icon is a win-win for consumers and businesses.

The Federal Trade Commission made clear, and we agree, that consumers should get notice of behavioral advertising practices that is uniform, ubiquitous, and "just in time" to make decisions. For uniformity, we also agreed that this notice should use a special graphic icon that would be memorable to consumers. To assist in the creation of this icon, GroupM mobilized our market-leading advertising teams to invest the same design, testing, and market research in this icon that we would use for our Fortune 500 clients. Our work was the basis for the Advertising Option Icon (Attachment 2), a simple

⁵ Commerce Policy Framework at 5, 41-44.

but attention-grabbing graphic that we hope will become as universally familiar and recognizable as the recycling logo.

To make sure this notice is ubiquitous and “just in time,” as recommended by the Federal Trade Commission, we reached the innovative solution of embedding the icon where data is collected and used for online behavioral advertising.

Let me briefly review how the Principles work from a consumer’s perspective:

- First, an advertisement covered by the Principles is identified with the Advertising Option Icon, which appears in the advertisement right where the consumer will notice it (Attachment 3). The icon launched last December and has already been served in billions of advertisements, and we expect to reach the milestone of one trillion impressions by the end of this year.
- Clicking the Advertising Option Icon brings up a brief statement about online behavioral advertising, with a link to more information and opt-out choices.
- Interested consumers can click this link to visit AboutAds.info, an industry-sponsored website that provides consumer education (Attachment 4) and, most importantly, consumer choice (Attachment 5).

AboutAds.info is a simple and effective “one stop” platform for consumers to opt out of having their information collected and used for behavioral advertising purposes. Consumers can opt out with respect to all participating companies, or they can pick and choose which companies may collect and use their data.

The Federal Trade Commission has recently referred to this type of process as a “Do Not Track” system. We believe that our program provides “uniform notice and choice.” Regardless of what terminology is used, our self-regulatory tools meet all of the

policy goals that the Commission has publicly set forth. As implementation proceeds, no matter where consumers go online, they will see one memorable icon that leads to the same familiar and easy-to-use choice mechanism.

Companies can easily implement this uniform process and become compliant with the Self-Regulatory Principles by working with “approved providers” Evidon, TRUSTe, and DoubleVerify, which offer technical solutions for compliance. GroupM is working with Evidon to advance compliance in all of our offerings and agencies. Hundreds of leading companies are already compliant or in the process of complying.

Two other major elements of our implementation effort are education and enforcement. GroupM is strongly committed to consumer education and has made significant investments in this area. Our goal is to build consumer trust by helping consumers to understand and exercise their choices.

First, we have partnered with the Interactive Advertising Bureau on the “Privacy Matters” educational campaign to inform consumers about how they can manage their online experience and to explain how advertising supports the Internet. For this campaign, we used catchy and controversial slogans like “Advertising Is Creepy” to appeal to the consumers most interested in learning more. As part of this unparalleled effort, the Interactive Advertising Bureau’s online publisher members have delivered close to 600 million online public service announcements. These announcements link to the “Privacy Matters” website (<http://www.iab.net/privacymatters/>), which features fun educational modules on advertising practices and safe Web browsing. Through January 2011, the results of this campaign have been excellent, with a click-through-rate that is substantially out-performing the standard range for public service campaigns.

GroupM has also supported the industry coalition effort to publicize the Self-Regulatory Principles and associated tools for businesses and consumers. This multifaceted campaign, which supplements the consumer notice provided by the Advertising Option Icon, has included the launch of the AboutAds.info website, community outreach by the participating trade associations, a series of educational webinars to assist businesses with coming into compliance with the Principles, and the delivery of additional online public service announcements.

Finally, I want to emphasize that companies will be held accountable for complying with the Principles, just as the Federal Trade Commission recommended. The Principles are enforceable through programs being administered by the Direct Marketing Association and the Council of Better Business Bureaus.⁶ These organizations have longstanding, effective, and respected compliance programs that they are leveraging to cover the Principles. The Council of Better Business Bureaus has created a new program and hired additional employees to administer the Principles. All of us in the advertising industry have a strong incentive to maintain accountability in order to foster consumer trust. In addition, any company that claims to comply, but fails to do so, could face Federal Trade Commission enforcement for deceptive acts or practices.

V. The Future of Self-Regulation

As I explained, the Self-Regulatory Principles include all of the elements set out in the Federal Trade Commission's 2009 roadmap. Less than two years after the Principles were announced, and thanks to strong investment by the business community,

⁶ Direct Marketing Association Press Release, "DMA Launches Enforcement for Online Behavioral Advertising" (January 31, 2011); Council of Better Business Bureaus Press Release, "Council Steps Up Enforcement of Interest-Based Advertising," (March 7, 2011).

our implementation phase is gaining strong momentum. Every day, we are adding more members to the compliance programs, putting more Advertising Option Icons out on the Internet, and reaching more consumers with uniform notice and choice.

While our progress has been exciting, our work continues. One of the major benefits of industry self-regulation is its ability to respond quickly to changes in technology and business practices. For example, some policymakers have raised concerns that data collected for advertising purposes could be used as a basis for employment, credit, or health insurance eligibility decisions.⁷ I want to emphasize that these are hypothetical concerns that do not reflect actual business practices. Nevertheless, industry is stepping forward to address these concerns and we are expanding our guidelines to clarify and ensure that such practices are prohibited and will never occur. This type of adaptability is essential to avoid stifling innovation in the complex and dynamic Internet environment. We welcome additional input from policymakers and we are committed to examining any future concerns that may arise.

The Self-Regulatory Principles owe much to the guidance of federal policymakers, which has strengthened our independent commitment to consumer privacy and uniform choice. As we proceed in this dialogue, it is vitally important to avoid confusing or mixed messages to consumers that could inhibit them from exercising their choices through the self-regulatory tool that is already available. It is equally important to maintain incentives for the business community, which has already invested so much

⁷ Representative Jackie Speier, "Do Not Track Our Online Data," *Politico* (March 4, 2011), available at <http://www.politico.com/news/stories/0311/50614.html>; Jon Leibowitz, "FTC Chairman: 'Do Not Track' Rules Would Help Web Thrive -- Online commerce and personal privacy are not incompatible," *U.S. News* (January 3, 2011), available at <http://www.usnews.com/opinion/articles/2011/01/03/ftc-chairman-do-not-track-rules-would-help-web-thrive-jon-leibowitz>.

in self-regulation, to come into compliance with the Principles. GroupM and our partners look forward to continuing our efforts and working cooperatively with the Committee, the Federal Trade Commission, and the Department of Commerce as we move forward with implementing the Self-Regulatory Principles for Online Behavioral Advertising and discussing these important issues. We believe that this program creates the right framework that encourages both innovation and privacy, bringing the benefits of online services and privacy protection to consumers.

* * *

Thank you for inviting me to share GroupM’s perspective on “The State of Online Consumer Privacy.” I look forward to answering any questions that the Committee may have.

Attachment 1:	Timeline of Industry Effort to Develop and Implement Self-Regulatory Principles for Online Behavioral Advertising
December 2007	Federal Trade Commission staff releases proposed principles to guide the development of industry self-regulation in the area of online behavioral advertising.
April 2008	Industry leaders file comments on Federal Trade Commission’s proposals and convene task force to examine existing self-regulatory efforts.
October 2008	Industry coalition begins drafting new self-regulatory guidelines.
February 2009	Federal Trade Commission releases final Staff Report on <i>Self-Regulatory Principles for Online Behavioral Advertising</i>
July 2009	After building support among industry stakeholders, coalition releases cross-industry <i>Self-Regulatory Principles for Online Behavioral Advertising</i> (“Principles”) that correspond to the guidelines in the FTC staff report.
August 2009	Coalition turns to enforcement, operational implementation, and educational planning.
November 2009	Interactive Advertising Bureau and Network Advertising Initiative lead effort to develop technical specifications for implementing enhanced notice through a link in or around an advertisement.
December 2009	Coalition launches “Privacy Matters” education campaign, which has been designed to educate consumers about how they can manage their online experience and to help consumers better understand and appreciate how online advertising supports the Internet.
January 2010	Coalition announces intention to provide enhanced notice to consumers through a link/icon embedded in online behavioral advertisements (or, if such notice is not delivered, on the Web page where the behavioral advertisement occurs).
March 2010	Coalition commences effort to operationalize the Principles, including providing business education webinars, trademarking distinctive Advertising Option Icon, and developing an industry-wide Web site to deliver consumer education, provide information concerning parties engaged in online behavioral advertising, and offer consumer choice.

- October 2010** AboutAds.info Web site launches. Companies may register to use the Advertising Option Icon and acquire specific technical guidance for the icon’s implementation and use.
- Coalition selects the first “approved provider” to offer technical solutions for compliance with the Principles.
- November 2010** Coalition launches consumer-facing AboutAds.info Consumer Opt-Out Page, where consumers may easily opt out of some or all of the interest-based advertisements they receive.
- December 2010** Coalition selects two additional “approved provider” vendors.
- January 2011** Direct Marketing Association enforcement program goes into effect.
- February 2011** Principles and Communication Advisory Committee convenes to consider application of the Principles to mobile platforms, as well as ways to encourage international adoption of the icon and standards consistent with the Principles.
- March 2011** Council of Better Business Bureaus enforcement program goes into effect.
- Accountability program selects vendor to provide technical platform to monitor participating companies’ compliance with the Principles.

Attachment 2. Advertising Option Icon



Attachment 3. Sample Advertisement with Embedded Advertising Option Icon

Ad Choices 

FIOS® TV + FIOS INTERNET
NO HOME PHONE REQUIRED



**NO TERM CONTRACT
REQUIRED**

\$69⁹⁹ / month
for 6 mo.

\$79.99/month for months
7-12. Plus taxes and fees.

**+FREE HBO® & CINEMAX®
FOR 3 MONTHS**

THE BOUNTY HUNTER AIRING ON STARZ®



Get FIOS

Attachment 4. AboutAds.info Home Page

THE SELF-REGULATORY PROGRAM FOR ONLINE BEHAVIORAL ADVERTISING

Home About the Principles For Consumers For Participating Companies Participating Associations Contact



Advertising Option Icon

Welcome to the online home of the Self-Regulatory Program for Online Behavioral Advertising.

Building on the [Self-Regulatory Principles for Online Behavioral Advertising](#) (Principles) released in July 2009, the nation's largest media and marketing associations have come together to launch this Program, which gives consumers a better understanding of and greater control over ads that are customized based on their online behavior (also called "interest-based" advertising).

Our participating companies share a commitment to delivering consumers a robust and credible Program of notice and choice for online behavioral advertising, and to enhancing consumer confidence in the online medium.

CONSUMER CHOICE PAGE

Make choices about interest-based ads from participating companies



For Consumers

Learn about Online Behavioral Advertising: If you're an online user, you can [find out more](#) about online behavioral advertising and how it helps provide you with more relevant advertising on the websites you visit. You'll learn how online advertising supports the free content, products and services you use online; what choices you have; and how to use browser controls to enhance your privacy.

Exercise Your Choice: You can now [visit](#) the beta version of the Program's Consumer Opt Out Page, which allows users to conveniently opt-out from online behavioral ads served by some or all of our participating companies.

For Companies

Learn about the Program: You can read the [Principles](#), as well as find out more about the participating [Associations](#). To learn how your company can implement the Principles, please review the [Implementation Guides](#).

Register to Start Using the Advertising Option Icon: Companies participating in the Program may use the Advertising Option Icon as a means for providing enhanced notice of online behavioral advertising practices. If you would like to register to use the icon, please [click here](#).

For Companies Engaged in Online Behavioral Advertising

To enhance the transparency of online behavioral advertising, the Program encourages companies qualifying as third parties under the Principles to:

- **Inform consumers** about their data practices through clear, meaningful and prominent notices.
- **Display the Advertising Option Icon** so that consumers can easily find out about online behavioral advertising, learn about the data practices associated with advertisements they receive, and opt-out if they choose.
- **Register** to receive information about how to be listed on the **Consumer Opt-Out Page**, where consumers will be able to easily opt-out of receiving online behavioral advertising from some or all participating companies.

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Attachment 5. AboutAds.info Uniform Consumer Choice Page

OPT OUT FROM ONLINE BEHAVIORAL ADVERTISING

[Home](#) | [About the Principles](#) | [For Consumers](#) | [For Participating Companies](#) | [Participating Associations](#) | [Contact](#)

Welcome to the consumer opt out page for the [Self-Regulatory Program for Online Behavioral Advertising](#). Our participating companies are committed to transparency and choice.

Some of the ads you receive on Web pages are customized based on predictions about your interests generated from your visits over time and across different Web sites. This type of ad customization — sometimes called “[online behavioral](#)” or “[interest-based](#)” advertising — is enabled through your computer browser and [browser cookies](#). Such online advertising [helps support the free content, products and services you get online](#).

Using the tools on this page, you can opt out from receiving interest-based advertising from some or all of our participating companies.

- Find out which participating companies have currently enabled customized ads for your browser;
- See all the participating companies on this site and learn more about their advertising and privacy practices;
- Check whether you've already opted out from participating companies;
- Opt out of browser-enabled interest-based advertising by some or all participating companies, using [opt-out cookies](#) to store your preferences in your browser; or
- Use the “Choose All Companies” feature to opt out from all currently participating companies in [one step](#). [go](#)

[? Help with the Opt Out Page](#)
[How Interest-based Ads Work](#)
[Feedback on This Site](#)

All Participating Companies (61)
SHOW

Companies Customizing Ads For Your Browser (41)

Existing Opt Outs (0)
SHOW

These 41 participating companies have enabled interest-based ads for this web browser.

Click the company name to find out more about a participating company. To opt out from interest-based ads by one or more companies, check the box(es) in the “Select” column next to the company name(s), and then hit the “Submit your choices” button. You can also use click the “Select all shown” box to pre-check all the listed companies before you hit the “Submit” button.

[Need help?](#)

COMPANY NAME	SELECT ALL SHOWN <input type="checkbox"/>
24/7 Real Media	<input type="checkbox"/>
33Across	<input type="checkbox"/>
AdBrite, Inc.	<input type="checkbox"/>
Adconion Media Group	<input type="checkbox"/>
Adify Corporation	<input type="checkbox"/>
Aggregate Knowledge, Inc.	<input type="checkbox"/>
Akamai Technologies, Inc.	<input type="checkbox"/>
AlmondNet	<input type="checkbox"/>
AOL Advertising	<input type="checkbox"/>
AudienceScience, Inc.	<input type="checkbox"/>

Important things to remember about the choices you make on this page:

- These opt outs apply to interest-based advertising by participating companies. You will still receive other types of online advertising from participating companies, and the Web sites you visit may still collect information for other purposes.
- The opt out choices you select are stored in opt out cookies only in this browser, so you should separately set your preferences for other browsers or computers you may use. Deleting browser cookies can remove your opt out preferences, so you should visit this page periodically to review your preferences, or update to include new participating companies.

Opt out from all participating companies.

Submitting your choices for all currently participating companies stores your opt out preferences to interest-based advertising in your browser. [Learn more.](#)

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