



October 16, 2015

Office of the Secretary
Federal Trade Commission
Room H-113 (Annex X)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Submitted Via <https://ftcpublishcommentworks.com/ftc/crossdeviceworkshop/>

Re: Workshop on Cross-Device Tracking

Dear Secretary Clark:

The Interactive Advertising Bureau (“IAB”) provides these comments in advance of the Federal Trade Commission’s (“FTC” or “Commission”) public workshop scheduled for November 16, 2015, entitled “Cross-Device Tracking” to explore, in part, the use of device tracking and its impact on American consumers. The IAB provides these comments to help inform the Commission’s consideration of cross-device tracking.

Cross-device tracking bolsters the benefits that consumers experience from interactive advertising by providing better access to content across devices. Cross-device tracking is an evolving practice. IAB supports tech-neutral, industry self-regulation to provide consumers with transparency and control with respect to cross-device tracking. Regulation in this area would not be appropriate.

Founded in 1996 and headquartered in New York City, the IAB (www.iab.net) represents over 650 leading companies that actively engage in and support the sale of interactive advertising, including leading search engines and online publishers. Collectively, our members are responsible for selling over 86% of online advertising in the United States. The IAB educates policymakers, consumers, marketers, agencies, media companies, civil society, and the wider business community about the value of interactive advertising. Working with its member companies, the IAB evaluates and recommends standards and practices and fields critical research on interactive advertising.

The IAB is committed to the continued growth of the interactive advertising ecosystem in tandem with consumer-friendly advertising practices, and has been at the heart of the creation and maintenance of the self-regulatory systems needed to support those practices. The IAB is integral to the creation and continued operation of the Digital Advertising Alliance (“DAA”) and its cross-industry self-regulatory privacy principles which have been widely implemented across the digital advertising industry. These principles are vigorously enforced through longstanding and effective industry self-regulatory accountability programs.



I. Cross-Device Tracking Helps Drive the Internet Economic Engine

Advertising fuels the Internet economic engine, and cross-device tracking helps deliver a seamless digital experience across consumers' devices. For two decades, online advertising has fueled the growth of the Internet by delivering innovative tools and services used by consumers and businesses to connect and communicate. Revenues from online advertising support and facilitate e-commerce and subsidize the cost of content and services that consumers value and expect, such as online newspapers, blogs, social networking sites, mobile applications, email, and phone services. Because of advertising support, consumers can access a wealth of online resources at little or no cost. These advertising-supported resources have transformed our daily lives. The support provided by online advertising is substantial and growing.

Advertising and marketing uses of data are hugely beneficial to consumers individually and to the economy as a whole. In the digital advertising context, companies collect data for numerous operational purposes including ad delivery, ad reporting, site rendering, accounting, network efficiencies and optimization, and site or application customization. These operations are necessary for a seamless cross-channel, cross-device experience, and a functioning digital economy.

As a result of this advertising-based model, the Internet has been able to grow and deliver widespread consumer benefits. According to a September 2012 study entitled *Economic Value of the Advertising-Supported Internet Ecosystem* conducted for IAB by Harvard Business School Professor John Deighton, between 2007 and 2011—a period when U.S. civilian employment remained flat—the number of jobs that rely on the U.S. ad-supported internet doubled to 5.1 million. The study found that the ad-supported digital industry directly employs 2 million Americans, and indirectly employs a further 3.1 million in other sectors. Calculating against those figures, the interactive marketing industry contributed \$530 billion to the U.S. economy last year, also close to double figures from 2007 that placed it at \$300 billion. The study, designed to provide a comprehensive review of the entire Internet economy and answer questions about its size, what comprises it, and the economic and social benefits Americans derive from it, revealed key findings that analyze the economic importance, as well as the social benefits, of the Internet.

Consumers have embraced the ad-supported model of the Internet and use it to create value in all areas of life, whether through e-commerce or through free access to valuable content. They are increasingly aware that the data collected about their interactions and behavior on the web and in-application is then used to create an enhanced and tailored experience. Importantly, research demonstrates that consumers are generally not reluctant to participate online due to advertising and marketing practices. Cross-device tracking helps meet consumers' demand for content, allowing companies to customize a consumer's experience across devices and to provide the seamless transition between phone, tablet, and laptop that consumers want and are beginning to expect. This easy transitioning enables more access to information on multiple devices.



II. Cross-Device Tracking is an Evolving Practice

Cross-device tracking is still in its infancy. Practices are still evolving in this area and are not ripe for the intervening hand of the government. As a quickly evolving part of a dynamic ecosystem, cross-device tracking requires a flexible, nimble approach. Formal or informal rules or guidance from the FTC could risk stifling innovation and inhibit the potential of this promising practice. New laws or rules could impede future developments or discourage companies from continuing to compete over privacy features.

In particular, the IAB urges policymakers not to seek to develop prescriptive requirements for when or how consumer notice and control should be provided, nor seek to regulate specific technology or techniques employed for cross-device tracking. While the IAB is committed to promoting consumer transparency and control related to data practices, specific legislative or regulatory mandates in this area would thwart innovation and ultimately disadvantage consumers by reducing companies' ability to communicate effectively with their customers. For example, the explosive growth of the "Internet of Things" sector, which includes wearables that are commonly linked to other mobile devices, illustrates how quickly prescriptive notice and control requirements can become obsolete and meaningless as technology evolves at a rapid pace. Industry needs to be in a position to adapt and respond to changes in technology and consumer expectations.

III. Self-Regulation is the Appropriate Approach

The IAB believes that industry self-regulation is the preferred approach to address the policy considerations with dynamic and emerging practices such as cross-device tracking.

IAB has long supported, and continues to support, robust self-regulation as the preferred means of promoting accountability within the advertising ecosystem while ensuring the flexibility and adaptability of the industry. IAB has played and continues to play a central role in developing and administering self-regulatory programs including the Digital Advertising Alliance. The DAA has set the standard for addressing complex policy issues involving the collection and use of web viewing and application use data for advertising and other applicable uses. It is self-regulatory systems such as the DAA Principles that provide the appropriate framework for providing consumers transparency and consumer control in the dynamic advertising marketplace.

It is the very nature of self-regulation that makes it well suited for new practices like cross-device tracking. Self-regulation is nimble, and can quickly respond to a fast-changing marketplace. The Commission has recognized self-regulation's role in addressing privacy in the area of online advertising. In its February 2009 Staff Report, the Commission stated, "Staff supported self-regulation because it provides the necessary flexibility to address evolving online business models."¹

¹ FTC Staff Report, *Self-Regulatory Principles for Online Behavioral Advertising* 11 (Feb. 2009), available at <http://www.ftc.gov/os/2009/02/P085400behavadreport.pdf>.



The DAA’s Self-Regulatory Program reflects the initial 2009 recommendations by the Commission for self-regulation in the online behavioral advertising space. The DAA Program has evolved over the last seven years as new advertising technologies and practices, such as ads in mobile apps, have become more prevalent. The Commission’s original recommendations recognized the need for flexibility to accommodate new technologies while continuing to provide for privacy-protective practices, and the DAA Program takes the lead in this approach. The IAB considers the DAA Program’s focus on providing consumers with meaningful transparency and control over their ads experience to be the basis for how stakeholders in the ads ecosystem think about consumer privacy, even as we move into the cross-device era.

IAB also believes that strong, independent enforcement is the key to any self-regulatory program. With our member companies, IAB has developed extensive standards for our membership. IAB has also developed overarching privacy principles for interactive advertising, which apply to all IAB members,² as well as focused guidance for businesses in areas such as email data management³ and online lead generation.⁴ We have established a Member Code of Conduct, which builds on the DAA’s Self-Regulatory Program.⁵ All IAB members are required to adhere to this code, and compliance is monitored and enforced by the Council of Better Business Bureaus, a leader in building enforcement programs around difficult advertising policy issues.⁶

CONCLUSION

The IAB urges the FTC to avoid calling for restrictions on the free flow of data and content customization and to maintain the current and successful approach by addressing privacy questions in this space through industry self-regulation. Rather than moving toward a prescriptive model of privacy regulation, which could limit companies’ ability to innovate, the FTC should continue its dialogue with industry and support for self-regulatory frameworks. The IAB looks forward to working with the Commission on this matter.

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We thank you for the opportunity to submit these comments and look forward to working closely with the Commission on these important issues. Please do not hesitate to contact me with questions at 202-253-1466.

Sincerely,
/S/
Michael Zaneis
Executive Vice President & General Counsel

² IAB, “Privacy Principles” (adopted 2008), available at <http://www.iab.net/guidelines/508676/1464>.

³ IAB, “Email Data Management Best Practices (2008), available at http://www.iab.net/media/file/email_data_mgt_best_practices0908.pdf.

⁴ IAB, “Online Lead Generation: B2C and B2B Best Practices for U.S.-based Advertisers and Publishers” (2008), available at <http://www.iab.net/media/file/B2CandB2BBestPracticesFINALv3.pdf>.

⁵ IAB Member Code of Conduct, IAB, http://www.iab.net/public_policy/codeofconduct.

⁶ See Council of Better Business Bureaus, *Accountability Program Decisions, Dispositions, Closures, and Guidance* (2015), available at <http://www.asrcreviews.org/accountability-program-decisions/>.