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San Jose Mercury News

# HOT BUTTON: ONLINE PRIVACY

## Prying eyes

Give consumers a choice on the use of 'cookies' and personal information in Internet commerce

BY BARBARA LAWLER

As the busiest shopping season of the year nears, e-tailers are getting ready for millions of consumers who will opt for the convenience and savings of point-and-click shopping. In this process, e-tailers not only will sell their products, but they also will collect valuable information about people who buy or browse online.

Ninety-eight percent of the top 100 Web sites collected at least one type of personal identifying information, according to a study by the Online Privacy Alliance for the Federal Trade Commission. For some online businesses, this information becomes a highly valuable company asset for marketing or even to be sold.

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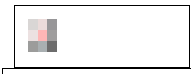
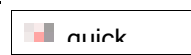
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This trend does not sit well with many consumers. Polls say 92 percent of Net users express discomfort with sites that share their personal information with other sites. Many customers thank companies like Hewlett-Packard for not selling information to third parties, while others say that they don't want to hear from businesses unless they give the business permission in advance.

While online privacy concerns have been widely reported, the solutions have been less obvious and slower to surface. Many businesses have devised effective and responsible policies to regulate their online privacy practices. Unfortunately, not every business is taking the high road, and it takes only a few well-publicized breaches of trust to tarnish the entire industry's efforts and undermine consumer confidence.

Those calling for privacy legislation at the state and federal levels often express frustration with business for pushing self regulation. They are both right and wrong.

They are right that industry should support some regulation. But they are wrong to assume that the more restrictive and specific the privacy legislation, the better it will be for consumers.

Companies that have opposed legislation or technology solutions that provide greater consumer privacy protections need to face the reality that their online business depends on consumer trust in online commerce.

Seventy-one percent of people said it is absolutely essential that companies ask for consumers' permission before using personal information for any purpose other than the one originally given, a recent Harris survey found. Fifty-seven percent said they would not shop online because they feared their personal information would be abused.

The good news is that, increasingly, high-tech companies are

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realizing that some regulation would serve both consumers' and businesses' interests. In the past most companies opposed any privacy legislation. Now most have agreed to develop an industry consensus on legislation that will provide greater online privacy protection for consumers.

An example of legislation the high-tech industry should support is a bill introduced this year by Sens. John McCain, R-Ariz., and John Kerry, D-Mass., that should be reintroduced and passed next year. It would require clear, conspicuous and easily understood disclosure of privacy policies -- the key to effective online privacy protection. This mandatory disclosure, combined with existing truth-in-advertising laws, would enable consumers to hold companies legally accountable for fulfilling the commitment of their privacy policy.

The legislation also calls for examination and a report to Congress by the National Academy of Sciences on a series of complex but important issues that must be resolved, including the exploration of these questions:

- What are the benefits and risks inherent in the use of personal information for consumer empowerment and continued growth of the electronic marketplace?
- What differences exist between the collection of information online and offline? They should also explore the related question of how we could better harmonize the two.
- What are the benefits and risks of providing various levels of consumer access to business databases?
- And what should be done to protect the security of personal information collected online?

These questions must be answered to effectively protect consumers' privacy without hampering the growth of electronic commerce. At the same time, the importance of getting the answers right should put some brakes on a rush to judgment in regulating the Internet.

Which leads to why people are wrong when they argue that more restrictive, specific and detailed privacy legislation is better for consumers than legislation that ventures more slowly and

carefully into regulating privacy on the Net. When it comes to privacy, one size does not fit all.

EBiz Daily surveyed 800 e-shoppers and found that 42 percent were willing to share personal information to receive a benefit, such as a \$100 gift certificate, even with the condition that their personal information would be sold. In other cases, some people would choose to have ``cookies," the electronic identifier that enables businesses to track a visitor within and between sites, in exchange for the convenience of not having to re-enter information to place an order from different pages within the same site. Others refuse to be tracked with cookies regardless of the convenience it may offer.

Instead of federal government or 50 different state governments dictating whether and how businesses can use cookies or the conditions under which personal information can be gathered, consumers should be empowered with the choice and ability to control the use of their information.

Whether online or offline, consumers' information belongs to them, and they have the right to know what is being done with it and to choose how they want their information used.

In addition to leaving the choice to consumers, there is another reason to show restraint in regulating online privacy. Technology is coming to consumers' and business' rescue.

Next year Netscape and Microsoft browsers will include technology standards known as P3P (Platform for Privacy Preferences) that will allow consumers to set their privacy preferences. When they visit a Web site that is P3P enabled, the P3P technology automatically ascertains the Web site's privacy policy and alerts the user if there are discrepancies between that policy and the consumer's preferences. The consumer can then choose whether or not he or she will continue to shop or surf at that Web site.

While businesses should support legislation that sets acceptable standards of disclosure and promotes consumer choice and protection, governments and privacy advocates should not be too prescriptive in their privacy solutions.

As HP's CEO Carly Fiorina observed, ``Empowerment of the

individual should be the guiding principle -- we need to build the trust of the individual. We need to build the confidence of the consumer. Because while we may have the technology to give consumers magical powers today, without their trust in this technology, the magic will never become real -- or grow enough to become pervasive."

*Barbara Lawler is the customer privacy manager for Hewlett-Packard Co.*

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