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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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August 1, 2008

DENNIS B. FITZGIBBONS, CHIEF OF STAFF
GREGG A. ROTHSCHILD, DEPUTY CHIEF OF STAFF
AND CHIEF COUNSEL

Mr. Randy Falco
Chairman and Chief Executive Officer
AOL LLC
770 Broadway
New York, NY 10003

Dear Mr. Falco:

We are writing with respect to the growing trend of companies tailoring Internet advertising based upon consumers' Internet search, surfing, or other use.

As you may know, questions have been raised regarding the applicability of privacy protections contained in the Communications Act of 1934, the Cable Act of 1984, the Electronic Communications Privacy Act, and other statutes to such practices, and whether legislation is needed to ensure that the same protections apply regardless of the particular technologies or companies involved. We are interested in the nature and extent to which you engage in such practices, and the impact it could have on consumer privacy.

In order for us to better understand how companies may be engaged in efforts to target Internet advertising, the impact of such efforts on consumers, and broader public policy implications, we respectfully request that you provide specific answers to each of the following questions:

1. Has your company at any time tailored, or facilitated the tailoring of, Internet advertising based on consumers' Internet search, surfing, or other use?
2. Please describe the nature and extent of any such practice and if such practice had any limitations with respect to health, financial, or other sensitive personal data, and how such limitations were developed and implemented.
3. In what communities, if any, has your company engaged in such practice, how were those communities chosen, and during what time periods was such practice used in each? If such practice was effectively implemented nationwide, please say so.

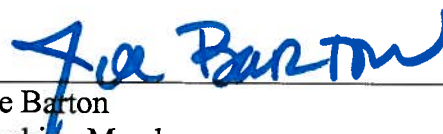
4. How many consumers have been subject to such practice in each affected community, or nationwide?
5. Has your company conducted a legal analysis of the applicability of consumer privacy laws to such practice? If so, please explain what that analysis concluded.
6. How did your company notify consumers of such practice? Please provide a copy of the notification. If your company did not specifically or directly notify affected consumers, please explain why this was not done.
7. Please explain whether your company asked consumers to "opt in" to the use of such practice or allowed consumers who objected to "opt out." If your company allowed consumers who objected to opt out, how did it notify consumers of their opportunity to opt out? If your company did not specifically or directly notify affected consumers of the opportunity to opt out, please explain why this was not done.
8. How many consumers opted out of being subject to such practice?
9. Did your company conduct a legal analysis of the adequacy of any opt-out notice and mechanism employed to allow consumers to effectuate this choice? If so, please explain what that analysis concluded.
10. What is the status of consumer data collected as a result of such practice? Has it been destroyed or is it routinely destroyed?
11. Is it possible for your company to correlate data regarding consumer Internet use across a variety of services or applications you offer to tailor Internet advertising? Do you do so? If not, please indicate what steps you take to make sure such correlation does not happen. If you do engage in such correlation, please provide answers to all the preceding questions with reference to such correlation. If your previous answers already do so, it is sufficient to simply cross-reference those answers.

Thank you in advance for your attention to this matter. We respectfully request a response by Friday, August 8, 2008.

Sincerely,

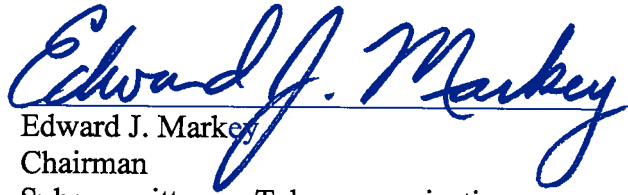


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Chairman



Joe Barton
Ranking Member

Mr. Randy Falco
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Edward J. Markey
Chairman
Subcommittee on Telecommunications
and the Internet



Cliff Stearns
Ranking Member
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and the Internet