

Date: December 8, 1999

To: Secretary
Federal Trade Commission/Department of Commerce
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20280

From: Michael Leavitt
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Re: On-Line Profiling Project – Comment
P994809 Docket NO. 990811219-9219-01

On November 8, 1999, nCognito had the privilege to participate in the workshop on online profiling co-sponsored by the Federal Trade Commission and Department of Commerce. A description of our organization, its purpose, expertise and philosophy regarding online privacy issues are as follows:

Who is nCognito? What do we do?

Founded in 1999, by Scott Olechowski, nCognito is a leading data profiling company that:

- assists consumers in protecting their privacy online by never collecting personally identifiable information and giving them full access to, and control over their Internet history and what information is included in their personal profile.
- works with Internet advertisers, Web sites and marketers to gather non-personal information about the consumer to enhance the consumer's online experience.

Our goal is to provide marketers with information they need, while giving the user control over the anonymous information made available about them and their preferences, while on-line.

nCognito, Inc. partners with other companies on the Internet who believe in users' rights to keep their identity private. When a user visits an nCognito partner site, it means these companies will be able to better tailor content to their needs, without compromising personal information that can be sold or used in an invasive manner later.

nCognito tracks, measures, and reports the complete demographics of people on the Internet. We collect anonymous profiles, never compromising or requesting users' personal, private information (name, address, e-mail, telephone, social security number). Nor does it bump or append its data with that of other databases. In all cases, the user must choose to provide nCognito with their demographic information, and at any time can go to the nCognito site and review the demographic information on file. And, if they so choose, they can opt-out of being nCognito.

nCognito complies with TRUSTe's certification program and the Council of Better Business Bureaus' BBBO nLine Privacy Program (BBBO) and all BBBO privacy standards. nCognito has endeavored to expand its work in providing complete solutions to the privacy/information-sharing issues at hand. nCognito is breaking new ground, providing a more complete solution to privacy that benefits all players in the marketplace.

The nCognito Methodology

nCognito's business model is based on two fundamental objectives: 1) The need for a single unified database with which to plan, execute, and evaluate media activities on the Internet, 2). The need to protect the consumer from privacy violations and educate the consumer regarding the manner in which data is collected or used. As a result, nCognito has developed a methodology that never allows our Internet tracking system to be associated with personally identifiable information. We believe the consumer will respond to an open system that allows the consumer's cookie data to be accessible and where the consumer is assured there is no attempt to associate the data with off-line databases and/or their personal identities.

Scott Olechowski, President of nCognito states, "The key is to get consumers' and marketers' interests to come closer together. Understanding the needs and concerns of both sides, and creating awareness in the community about both groups is the key to delivering the best solution."

nCognito is delivering this solution. Its employees are divided into discrete teams that address each concern. Through a process of privacy education and incentives, nCognito is gathering an extensive and anonymous demographic database of Web users.

Fair Notice and Education – The Driving Issues

Cookie technology is not dangerous to the consumer. It is the use of the data associated with a given cookie that can be harmful. Consumer education is one of the most important objectives facing the data-profiling marketplace. Consumers may or may not understand what they are allowing when they

volunteer information. Indeed, transparency of use and intent are central to the fair solicitation of information from consumers on the Internet. Whenever information is collected from an individual via the Internet, they should be informed of both the current and intended uses for that data. The BBDO has put forward the precedent of honoring not just the letter of one's privacy agreement, but the spirit in which the data is supplied as a limiting agreement between the consumer and the party gathering the information. This seems a good standard that, when treated as a contract, leaves the consumer legal recourse.

Self-Regulation and the Role of Government

nCognito applauds the efforts of the FTC and the Department of Commerce to address the issue of on-line profiling and their work with the industry to devise a solution ensuring on-line privacy.

We also acknowledge the need for the industry to work together to develop criteria for self-regulation to protect user's personal information, including the most sensitive areas of medical, financial and children's privacy. The private sector is best positioned to achieve this goal, as well as to work with partners and competitors alike to establish consumer education initiatives and notification guidelines.

Next Steps

The workshop held on November 8, was an appropriate starting point, but we encourage further public forums on this subject. The industry and advocacy groups must begin to communicate with the public regarding the scope or complexities of the issues surrounding data profiling. While nCognito is trying to affect change in the marketplace through a creative business model that protects the consumer's privacy and simultaneously informs the business community, far too many consumers and businesses are unaware of the importance of privacy and the implications of data profiling.

nCognito's Commitment to the Process

nCognito is committed to working with the FTC, Department of Commerce in developing a strategy to address these concerns. We believe nCognito will contribute significantly to the discussion and is uniquely positioned to apply its methodology and expertise to developing an industry-wide strategy ensuring that all users' rights are protected and respected.