

We have reviewed the Interagency Proposal for Model Privacy Form under the Gramm-Leach-Bliley Act and wish to provide comments. PayPal is a financial institution that exists solely online. Our customers make their transactions and interact with us primarily over the internet. Given our business model and our experiences with online consumers, PayPal has concerns about the proposed form in terms of both format and content.

The proposal requested comments on whether the Agencies should develop an electronic version of the model form that would be designed for the Web. We believe that a web based version is absolutely necessary. The proposed method of electronic display, a linked PDF file which is essentially an electronic photo of the paper based form, is cumbersome for consumers since opening a PDF file typically takes longer than loading an equivalent HTML page. If the goal is for consumers to actually read the document, it needs to be easy and quick for them to access. Installing the Adobe Acrobat Reader software, configuring it to interact with the browser correctly, and then maintaining the proper version of the Reader can often be time-consuming and difficult. An HTML page will load much faster and requires no additional software besides the browser to view the document.

Also, we are concerned about maintaining a consistent consumer experience on our website. The other account documentation and consumer notices on the PayPal website (and we suspect on many other institutions' websites) are HTML based. Having the privacy notice appear in a different format would seem odd to the consumer. Given the proliferation of spoof websites, consumers may become concerned when there are parts of the website that appear different in terms of "look and feel" from the rest of the website. The format requirements for the electronic version should be flexible enough so that things like the font and color can be customized to match the rest of the institution's website.

We also have concerns about the content of the form, particularly with the rigid language that creates a "one size fits all" description of how institutions collect, use and share data. Institutions do not all collect the same set of data. For example, a lending institution would likely collect far more information on a customer than a company that handles payment processing for online transactions such as PayPal. We recognize that the language in the proposed form is meant to be examples and uses the words "This information can include...", however this subtlety will likely be missed by consumers. We would be confusing consumers by stating or implying that we collect information which we clearly do not. Consumers should be able to use these forms to distinguish and compare the privacy practices of institutions and choose where they want to make financial transactions. The proposed form effectively puts all institutions on the same level, from a collection and use perspective (we recognize that sharing practices can be distinguished). Consumers may feel more secure about an institution's privacy practices if the institution collects less information about them. The "What?" section of the form should be flexible enough to allow institutions to explain what personal information they actually collect.

From a sharing perspective, we appreciate that the proposed form allows for additional opt-outs. While this allows for compliance with state laws and the FACTA opt-outs as well as internal marketing restrictions, we would stress that it needs to be flexible enough to accommodate any future legal changes in this area.

Also, cookies and other online data collection/sharing mechanisms are not addressed in this proposed form. These are typically mentioned in online privacy policies. Institutions will now be forced to create separate consumer notices to address these issues which may add to consumer confusion.

Finally, we question whether the Agencies have consulted with consumer privacy interest groups such as TRUSTe and BBB Online for input on this proposed form. These groups offer certifications of online privacy policies that meet certain criteria. We hope that financial institutions will still be able to get these endorsements even if they use the proposed form since these endorsements serve as a standard for consumers concerned about online privacy.