

**Summary of Presentation by the Center for Democracy and Technology (CDT)**  
GLB Interagency Meeting on the ANPR on Privacy Notices  
January 29, 2004  
Federal Trade Commission Conference Center

Participants:

Ari Schwartz, Associate Director, CDT  
Paula Bruening, Staff Counsel, CDT  
Robert Gellman, Privacy Consultant  
Susan Grant, National Consumers League

Comments:

The CDT has been working on notices for some time, including holding a colloquium last year. The CDT supports P3P technology and the role it could play in making notices easier for consumers to interpret. P3P is a technology that enables computers to automatically read online privacy policies and match the policy statements to consumers' privacy preferences. The CDT provided a statement encouraging the development and deployment of short notices. The key themes are – that notices must be easily comparable; the consumer interest must be represented in all phases of the development of the notices; and the design and content of the short notices must be based on independent, balanced research, to enhance readability, comprehension, and comparability.

The CDT stated that notices are impaired by their length and language, and they do not serve consumers. They have a strong interest in participating in the notices' effort and think it is very important. They expressed concern about not being invited to participate in Marty Abrams' Center for Information Policy Leadership project, and, as a result, believe that the project's research lacked transparency. The CDT has a working group to help develop a notice that is based on the Center's "First Principles for Short Notices" document.

Mr. Gellman discussed his model short notice, which has not been adopted by the CDT. He stressed that notices are important even if consumers do not read them because they make a company understand its practices and educate its employees. Mr. Gellman criticized the terms firms use to describe their practices such as "share," "we will contact you," "family of companies," and "joint marketing." He believes consumers do not really know what happens with their information and often think they are required to give firms their information when they are not. This lack of information is supported by Professor Joseph Turow's survey, which found that when consumers see a privacy notice they assume their personal information is not shared with others.

The presenters agreed that consumers do not have much knowledge about what is done with their information and acknowledge that the notice, even a long notice, cannot fill in all the gaps. They believe, however, that the short notice would help consumers better understand the practices, but it should not replace the long form. Mr. Gellman

urged the Agencies not to use the percentage of consumers who read notices as the measure of their effectiveness. The notices are also read by reporters and interest groups that can monitor businesses' privacy policies.

Mr. Gellman urged the Agencies to view the short notices in context. First, he noted, the long and short notices need the same language so that consumers can go back and forth between them. He believes that firms must be liable for the statements made in the short notice, just as they are for the long notice. Mr. Schwartz added that some industry groups have taken the view that they are only liable for the statements made in the long-form notice. Mr. Gellman said that the elements that are most important will vary depending on whether the notice is online or written. He does not think the standard disclosures that apply to all firms need to be on the short form so long as they were on the long form and available upon request. In his view, what consumers want most is to know whether they will get junk mail. He thinks the notices should be very specific about information sharing practices.

Mr. Schwartz said that the short notices should allow for comparisons and yes/no boxes to help consumers differentiate between companies. The notices can then educate consumers about the different practices. Ms. Grant added that the notices cannot use technical language and should reflect consumers' interests. The National Consumers League does a great deal of consumer education and strives to use plain language. In her view, notices should relay essential information and educate consumers – helping them understand the impact of how their information is used.

