

The Impact of Privacy Protections on Online Behavioral Advertising: Industry Guidance for Agencies, Trading Desks and Advertisers

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Given the numerous recent events on Capitol Hill and in the industry relating to consumer privacy and Do-Not-Track (DNT) proposals, advertisers, agencies, and trading desks should proactively shape their data-driven digital marketing strategies to maximize results while staying on the right side of this issue in the coming months and years.

What is happening?

While concerns over online privacy have waxed and waned over the past 15 years, the practice of tracking consumers to build behavioral profiles for ad targeting is coming under renewed scrutiny with a recent FTC report and request for comments on a “Do Not Track” proposal, and two bills introduced in Congress this month and more expected shortly.

Key events leading to today’s cross roads

February 2009 – The FTC issues a report describing a self-regulatory framework for the industry to follow for online behavioral advertising (OBA). OBA is defined as the collection of data about consumer Web viewing behavior over time and across non-affiliated Web sites for the purpose of predicting user preferences or interests to deliver targeted advertising. In response, a number of industry coalitions formed the Digital Advertising Alliance to enact a self-regulatory program later in 2009.

December 2010 - The FTC testified before Congress that industry’s self-regulatory efforts have fallen short, and endorsed the idea of giving consumers a DNT option, potentially through legislation.

January 2011 – Browser makers announce that Firefox, Google Chrome, and Microsoft Internet Explorer 9 will include a DNT feature; Internet Explorer 9 also includes a feature to block 3rd party content, including advertisements.

February 2011 – Two privacy bills are introduced in the US House of Representatives. One would enforce a DNT mechanism, and the other would require opt-in consent for many advertising activities. There are likely to be additional bills, as is common in the legislative process.

What are the implication for agencies and advertisers?

Behavioral targeting and **re-marketing** both rely on tracking consumers. This is typically, although not always, done through third-party cookies, which of course also have many benign and very important uses like frequency capping, measurement, attribution and analytics. Even with largely pervasive tracking today, these techniques offer limited scale and cost effectiveness. And even absent legislation, we expect these challenges will be exacerbated as more users are made aware of the practice and opt out of behavioral targeting using new browser DNT settings.

We expect no impact to **non-OBA advertising techniques**, such as those used by DataXu which use machine learning to identify relevant audiences. **Contextual targeting** is another tactic that is not impacted, since it does not rely on tracking the user across non-affiliated sites.

Analyst Greg Sterling has observed this in a [recent blog post](#):

“However all the networks, DSPs and publishers who rely on BT, retargeting and data/audience mining of various sorts may find themselves out in the cold. Among DSPs, DataXu’s methodology will survive because it involves multivariate testing and iteration rather than demographic or behavioral targeting.”

DataXu Audience Discovery utilizes machine learning based on aggregated consumer behavior to create predictive consumer response models that do not rely on user-level tracking or targeting a specific device.

We further expect the use of cookies for **measurement, attribution, frequency capping, and analytics** will be unaffected by the proposed government actions or the industry’s self-regulatory initiatives.

Advertising Activity	Examples	Regulatory Scrutiny	Potential Impact
Behavioral Targeting Using first or third party cookies	<ul style="list-style-type: none"> • Travel intenders • Thriller movie goers • IT decision makers 	Yes	Consumer notice and opt-out will likely be required. Opt-outs will exacerbate distribution challenges.
Retargeting or Re-marketing Using advertiser-collected cookies	<ul style="list-style-type: none"> • Homepage visitors • Form fillers • Shopping cart abandoners 	Yes	Associated media prices will increase as ad dollars chase the same impressions.
Audience Buying Using third-party cookies	<ul style="list-style-type: none"> • Age / Gender • Household Income • Education 	Yes	
Contextual Targeting Using content surrounding placements	<ul style="list-style-type: none"> • Health & Fitness content • Personal Finance content • Food & Drink content 	No	Return on ad spending will increase relative to OBA tactics.
Optimization	<ul style="list-style-type: none"> • DataXu Audience Discovery 	No	Return on ad spending will increase relative to OBA tactics.
Measurement & Analytics Reporting, attribution, frequency capping, advanced analytics	<ul style="list-style-type: none"> • Ad serving measurement • Campaign reporting • DataXu Advanced Insights 	No	Performance measurement will continue to be important, however tracking performance of cookie segments, for example through a data management platform (“DMP”), might become less relevant.

Recommendations to Future-Proof Your Advertising, Agency, or Trading Desk

1. **Adopt DAA OBA Regulations** -We recommend advertisers, agencies, and trading desks adopt the industry's self-regulatory measures during 2011. Greater adoption will help stave off broad regulation, and help prepare organizations in the event that legislation is in fact passed. A phased approach to implementing the regulations will ease organizational adoption.
2. **Test & Learn about Data Driven Advertising that Avoids OBA** - Beyond meeting the obligations of compliance, we recommend organizations explore techniques like advanced optimization to maximize return on ad spending. While bringing many data-driven ROI benefits of OBA, these techniques do not require consumer notice and consent. Indeed, in tests at DataXu, this approach has produced advertiser ROAS as good as or better than behavioral targeting tactics.
3. **Reconsider "Cookie-centric" Investments** - The shift away from a cookie-oriented media buying process will additionally change the types of analytics and analysis that are important. For example, systems designed to track and report on the performance of cookie-based audience segments, like Data Management Platforms (DMPs) may become obsolete as the scale of these tactics becomes too small to be relevant to advertising budgets.