

Community Group comments
regarding the
Compliance document

April 10, 2012

Issues We Have Addressed

ISSUE-8: enhance transparency and consumer awareness?

- ❖ CG concerned that user expectations may not be met, and users have less knowledge than stakeholders often envision
 - ❖ Our resolution: closed the issue for lack of anyone taking an action item; user interface is out of scope.
- ❖ In Canada, DNT silence would generally not permit tracking
- ❖ In EU, e-Privacy Directive may require prior explicit opt-in consent
 - ❖ Our resolution: DNT unsent will need to mean no tracking to comply with Canadian guidance, which is compatible to our current approach. So far, EU seems able to live with this too.

ISSUE-26: Providing data to 3rd-party widgets & consent

- ❖ Range of views within the Community Group
- ❖ Not clear users expect tracking from sites / widgets, even if interacting with them
- ❖ An unknown party should not have first-party status merely because the user knows that party differs from the main page yet interacts
 - ❖ Our resolution: merged with Issue-10. We could require clear branding for promotion to 1st party as part of the meaningful interaction test.

ISSUE-16: What does it mean to collect data? (caching, logging, storage, retention, accumulation, profile etc.)

- ❖ Related: ISSUE-92: If data collection (even very specific with IP address, user agent, referrer) is time-limited, with very limited retention, is that still tracking?
- ❖ CG: Yes, all are collection
 - ❖ Our resolution: pending review text more around what is collection v. retention. Looks like we're close to definitions.
- ❖ CG: We expect that the WG will address minimization techniques, e.g. de-identification, truncation, and... near-real-time deletion
 - ❖ Our resolution: we may address; how remains open.

ISSUE-55: What is relationship between behavioral advertising and tracking, subset, different items?

- * CG: Many industry privacy “solutions” only stop the serving of ads — but not the tracking, which is our focus. When DNT is enabled, the site must not track (with the exception of specified exceptions).
- * Our resolution: merged with issue-52 on DNT interaction with opt-out cookies.

ISSUE-36: Should DNT opt-outs distinguish between behavioral targeting and other personalization?

- ❖ CG: No.
- ❖ Our resolution: closed; we agree.

Issue-32: Sharing of data between entities via cookie syncing/identity brokering

- ❖ CG: We do not fully understand the current draft. It may also be insufficiently technology-agnostic.
 - ❖ Our resolution: postponed until we resolve the question of service providers. Internal discussion of being more generalizable / less technology-specific.

ISSUE-91: Might want prohibitions on first parties re-selling data to get around the intent of DNT

- ❖ CG: Yes.
- ❖ Our resolution: agreed.

ISSUE-39: Tracking of geographic data

- ❖ CG: Disagree with FPWD. DNT=1 should block all third-party geolocation, because users who express the no-tracking preference probably object to geolocation
- ❖ Our resolution: SPWD may be closer to acceptable. We cannot bar all geographic data when we need to know which country users are in for no DNT signal. We could bar geographic for DNT:1, but opted not to.

ISSUE-15: what special treatment for children's data?

- ❖ CG: Generally agree not to treat children's data specifically, though some internal disagreement within CG
 - ❖ Our resolution: closed. Leave this for local governments if there is to be special treatment.

Issues In *Active* Debate

First v. Third Parties (issue-10, issue-26, issue-49)

- ❖ CG sees key principle is consumer expectations, and not technical concerns such as domains or same-origin
- ❖ Support for Jonathan & Tom's approach
- ❖ Branding is relevant as a factor in consumer expectations, but not as an independent principle or test
- ❖ Distinctions between First and Third Parties are eroding
 - ❖ Our resolution: may change based on discussions this week

ISSUE-49: Third party as first party

- ❖ Critical that the third-party analytics provider silo all data collected on behalf of a first party and not make it available in any way to any entity other than that first party
- ❖ Such siloing should be enforced technically
 - ❖ Our resolution: may change based on discussions this week, but until recently was fairly close

ISSUE-5: What is the definition of tracking?

- * Dislike FPWD approach as too complex with unnecessary ambiguity
- * Propose: *Tracking is the collection of data about Internet activities of a user, computer, or device (including mobile phones and devices), over time and across a Website or Websites.*
- * Our resolution: unclear. Some strongly suggest we not define tracking at all, just list what is or is not allowed to comply with DNT. Others would like a crisp definition. Open with 187 messages discussing the issue. May help to understand what we are building first.

ISSUE-97: Re-direction, shortened URLs, click analytics...

- ❖ CG: We believe that all of these are third-party tracking
 - ❖ Our resolution: raised, more to discuss. Justin has some text written on this topic - when we open the issue, we'll resume

ISSUE-71: Does DNT also affect past collection or use of past collection of info?

- ❖ CG: Yes
 - ❖ Our resolution: open. Text from Amy & Ninja, with 26 replies.

Issue-30: offline data

- ❖ CG: We believe that DNT: 1 means no transfer of data and no use of offline data. At that point, it has become online data even if it didn't start that way.
- ❖ Our resolution: seems where we are going, but not done

ISSUE-54: Can first party provide targeting based on registration information even while sending DNT

- ❖ CG: No. As we understand the issue, this is about first parties sending data to others in the face of DNT: 1
 - ❖ Our resolution: it appears the CG did not understand the issue. Our dlist discussion went off the rails. We'll need to re-try.

ISSUE-59: Should the first party be informed about whether the user has sent a DNT header to third parties on their site?

- ❖ CG: Yes
 - ❖ Our resolution: general support, not yet resolved.

Issue-30: offline data

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- ❖ Our resolution: seems where we are going, but not done

Exemptions (Issue-22, -31, -23, -34, -73, -24, -74, -25, -28, -75)

- * CG: general approach will be to place the burden on business to explain and justify such exemptions concretely. There are certainly important business interests here, but these must be clearly specified.
- * Our resolution: discussions starting after lunch