

Do Not Track: An Outcomes Analysis

Author: Andrew Sudbury (andrew@getabine.com) and Rob Shavell (rob@getabine.com) co-founders, Abine, Inc.

Abstract

First, the bar the industry collectively sets for the percentage of consumers who understand how they're tracked online can and needs to be far higher. Second, because today's operators have free reign to track consumers clandestinely by default, the advertising and publishing industry should bear costs to significantly raise the bar – the percentage of consumers who understand online tracking (for example, the percentage who can answer simple questions about how they're being tracked). Third, this goal can be accomplished quickly by introducing incentives to pair advertising / publishing industry players and consumer protection / privacy providers together to jointly develop and test solutions that measurably increase transparency and awareness.

Abine's Position on Do Not Track

Abine, Inc. The Online Privacy Company, is a leading provider of online privacy solutions for consumers. Among our offerings actively being used in the market today is a suite of consumer tools designed to mitigate online tracking by allowing users to opt out of ad networks, delete cookies, enable IP masking proxies, create single-use phone numbers and email addresses, and block Javascript, pixel images and referrers.

Technology that tracks online activity has become more advanced and invasive, and, in response, Abine has had to keep pace through constant readjustment of our tactics. This experience of advocating for online privacy in a constantly shifting landscape has made us wary of simple one-size-fits-all solutions. Rushing to implement "Do Not Track" via technology or policy or both could result in knee-jerk behavior where consumers hear an appealing phrase they don't adequately understand (and equate to not getting telephone calls) and to then blindly insist they never be tracked online.

We believe it is important for *all* parties involved in online tracking to focus on outcomes, rather than on specific technologies and that the first outcomes data should illustrate / increase the level of understanding consumers online have of how they're being tracked. Increasing understanding first, and then measuring metrics generated by consumer solutions which balance privacy and personalization differently, is a good way for a consumer-friendly yet reasonable set of choices to emerge.

Our strong view is that firstly, the bar for consumer understanding of online tracking needs to be far higher. Secondly, because today's operators have free reign to track consumers clandestinely by default (a.k.a. opt-out) that the advertising and publishing industry should bear the costs of significantly raising the percentage of consumer understanding of online tracking (for example, the percentage who can answer simple

questions about how they're being tracked). Thirdly, that goal can be accomplished quickly by introducing incentives to pair advertising and publishing industry players and consumer protection / privacy providers together to jointly develop and test solutions that increase awareness levels.

Do consumers understand Tracking and Do Not Track?

No. As we put this paper together, we did a flash survey of 250 respondents with a sample set of consumer tracking awareness questions. Here are the results:

In response to: "Are you tracked when you surf and visit web sites?"

- 47%** (82 Votes) Sites I visit know my internet connection (IP address) and track that.
- 20%** (35 Votes) Sites I visit track me and send my information to a network of other companies and advertisers.
- 18%** (31 Votes) Sites I visit know my specific computer and have information about other sites I visited also.
- 14%** (25 Votes) Sites I visit can only track me until I turn off my computer.

However anecdotal, this data is in-line with our experience rolling out and supporting different interfaces designed to make Web tracking more transparent to hundreds of thousands of online users. Consumers are unaware of the extent of the different ways they're being tracked.

The simple goal should be for a high degree of awareness, combined with a low amount of frustration / friction in return for the knowledge. Downstream, additional outcomes to measure would include those that show users are making more informed and nuanced choices than "on or off" (for example, evidence showing they are making their own decisions more frequently on a case-by-case basis) or those that show users are trusting third parties to do so on their behalf (think Microsoft's TPL's or in domain further afield, the Lifelock service).

While it's nothing new to suggest users need to understand information in order to make informed choices, we believe some much higher percentage than today (10%? 25%?, 50%,?) should have a base level of awareness, as determined by qualitative surveys. A lot of this responsibility should rest with industry operators.

Industry operators should pay (some) costs related to Do Not Track

It seems premature for lawmakers or consumer advocates to demand the advertising / publishing industry bear unknown levels of compliance costs for a deceptively simple Do Not Track header / preference expression by implementing different technology workarounds across thousands of already-implemented and operational systems. This is leaving aside economic arguments concerning loss of value from targeting which are empirically unconvincing, but out of scope.

Industry should have to bear the costs of communicating tracking transparently to users of its products and services, no matter where a publisher, ad network, or data analyzer sits

in increasingly complex value chain. We see far too many arguments from insiders that pass the buck to others and rely on IP address logs = anonymity. These are mostly invalid and trite to say the least. The industry owes to the consumer this significant—but obtainable—level of transparency to facilitate awareness in exchange for being able to operate by default as opt-out, e.g. in its current unobtrusive manner.

Furthermore, industry should not be able to define what transparency means (e.g. a logo on advertisements) just like cigarette manufacturers don't decide the size and language of the warning labels they must display. An operational definition of transparency is most likely to be devised in one of two ways: either an impartial party should decide what is a reasonable standard or parties with competing agendas with an incentive to collaborate.

We observe there to be scant evidence that self-regulatory approaches deliver meaningful results. Neither a privacy policy's legalese, nor certifications by third parties with trust seals, nor in-ad icons proposed by the self-regulated, would meet our proposed simple survey-based results threshold for effective communication – whether that is: 10%, 25%, or 50% of consumers being able to state with any accuracy how they are being tracked and if they are ok with that, e.g. “tracking awareness”.

We believe transparency should be measured by overall user awareness metrics and that improving tracking awareness may come down to providing promotional “shelf space,” which may represent a price too high for browser vendors, publishers, and advertisers to pay without additional motivating factors. For example, Microsoft, perhaps the best of the browser privacy promoters today, announced Tracking Protection Lists for IE9 (TPL) a privacy feature nested inside a menu choice called “Safe” – Microsoft could have provided a way for users to see the available list of vendors providing IE9 tracking protection choices. They did not.

Getting consumer-friendly and measurable solutions to market

Once a basic level of consumer awareness is reached, any subsequent choice should be respected and enforced (and tracking customers with the intent of respecting these choices about further tracking should be encouraged). Consumer exposure, choice, and the persistence of that choice across sites and advertisers is likely the most complex terrain for participants to navigate. Dangers include overly simplistic on/off settings, obtrusive pay-walls, and fatiguing over-communication.

Though it's possible to create a system that's ultimately unnecessary in the marketplace, the value of future privacy solutions can be ensured by paying close attention to a basic set of outcomes metrics and by creating incentives for the continued development of solutions through a collaboration of the different players in the privacy marketplace, many of whom would not naturally partner to create these kinds of experiments without solid economic reasons to do so.

We'd suggest that the advertising industry and publishers pay the price of advertising solution alternatives to tracking to their users, and that these alternatives be provided by an innovative marketplace of companies and organizations, rather than by advertisers and first-party publishers alone or by a regulatory body

Aware consumers should bear costs as well, of course. It's reasonable to ask those consumers who wish not to be tracked to pay for privacy-by-default, rather than push those costs to industry by default (Do Not Track). After all, by default, consumers are accessing mostly free services they find valuable. Furthermore, if industry violates the wishes of a consumer paying for increased online privacy, there is then monetary harm which can help to establish concrete damages.

Summary

Instead of threatening regulation or infighting unnecessarily, the parties involved in reforming online tracking should work together to enable a healthy market system that is responsive to consumer outcome metrics. It seems ironic in an industry full of measurement and tracking, the discussion on curtailing these includes so little relevant data. Such data could be obtained and improved easily today, especially by pairing currently-available solutions in the privacy market with existing publishers and advertisers. With the right focus, a set of viable Do Not Track metrics based on responses to existing technologies via experiments with distribution partners could make measurable strides which benefit consumers everywhere.