

05/23/2013

Honorable Assembly Member Muratsuchi
California State Assembly
State Capitol Room 4117
Sacramento, CA 95814

RE: AB 370 Opposition

Dear Assembly Member Muratsuchi:

The trade associations listed below have concerns with your proposed Assembly Bill 370. While it appears the bill is intended to make it easier for consumers to have more transparency about how information is being collected and shared online, the bill in its current form is operationally unworkable.

AB 370 would require all website operators in California to disclose whether or not they comply with a browser's signal request to disable tracking, or other "similar mechanisms." This language is vague and problematic, in that:

- The bill's generic use of the term "online tracking" suggests inaccurately that there is some universally-agreed upon definition of tracking. Many website operators would be faced with uncertainty as to whether or not some basic operational functions (i.e. frequency capping) would now be required to be "disclosed" as not being "honored" by the website operator.
- The definition of "personally identifiable information" seems to be at odds with the goal of the bill. The definition is also ambiguous, and could be construed to cover such fundamental pieces of information as IP addresses.
- The bill would place an undue burden on California website operators, resulting in new compliance costs and burdens.
- AB 370 would place California website operators in the unenviable position of having to "disclose to consumers that they are not "honoring" or "complying" with browser signals to disable online tracking. To the consumer, this disclosure would convey the misleading impression that California website operators are somehow engaged in duplicitous behavior by not complying with a signal that has no clear meaning.

The goal of the bill, to give consumers more transparency and choice about how data is being collected and shared online, is a goal of the online advertising industry as well. To that end, the online advertising industry has put considerable time and effort into building a self-regulatory program to address these concerns. Consumers now have the ability to control how marketing data is being collected and used online via the Digital Advertising Alliance's (DAA) Self-Regulatory Principles for Online Behavioral Advertising.

Collectively, the trade associations listed below represent thousands of companies and professionals involved in the online advertising space, including publishers, advertising networks, brand advertisers and advertising professionals. In 2009, the associations formed the DAA to run and administer the Self-Regulatory Principles for Online Behavioral Advertising Program, a Program designed to give consumers transparency and choice about how data is being collected and used online.

The DAA gives consumers the ability to ascertain in real-time what kinds of third-parties are running on websites being visited, and gives consumers the option to “opt-out” of third-party data collection and use, including the ability to block even anonymized tracking (see aboutads.info and youradchoices.com). Since the Self-Regulatory Program’s launch in 2010, more than 23.5 million consumers have visited the DAA sites to learn about their advertising choices, and last year alone, more than a million consumers have taken action via DAA to exercise their choice about how advertisers can use their data.

Consumers can find this program via the “AdChoices icon” which to date, has been served on trillions of ads across the internet. In addition to the “AdChoices icon”, thousands of website operators, both big and small, have already included a hyper-link that is readily discoverable as it resides outside of existing privacy policy links, called “Your Ad Choices” or “Interest-Based Ads” to give consumers even more information about the Self-Regulatory Program and how to exercise choice.

We ask that you consider the above concerns before continuing to move forward with AB 370.

Respectfully,



American Advertising Federation
Association of National Advertisers
Interactive Advertising Bureau

cc: Members, Assembly Committee on Judiciary
Members, Senate Committee on Business, Professions and Economic Development
Marc LeForestier, Director, Legislative Affairs, Office of the Attorney General Kamala Harris