

“Wrap Up on Privacy and Location Based Services”

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Federal Communications Commission:
“Helping Consumers Harness the Potential
of Location Based Services”

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Overview

- Outside DC: “The sense of excitement and wonder” about LBS
- But, privacy risks
- When to publish or withhold “presence” (Griffin)
 - Notice/transparency
 - Choice and meaningful choice
- Getting to some new best practices
 - What will be obvious five years from now, and how can we get there sooner?

“Sense of Excitement & Wonder”

- Tim S.: today consumers get real advantages from publishing their location
- Coupons: from the Sunday grocery store circular to a basic tool of my law students’ lives – maybe you can pay your monthly phone bill with these discounts
- More gifts: from flowers on Mother’s Day to BuyYourFriendDrink
- Serendipity:
 - You find your old friend
 - You don’t miss seeing your old friend – fewer trains pass in the night
- Game dynamic – life is more fun
- Carriers – a platform to make your device better
- Many other advantages
 - Fraud prevention, public safety (CPR)
 - Dense mobile ecosystem, innovation, and economic growth

Privacy Risks

- Privacy experts spot risks associated with location information
 - One-time shift to a world where we carry location tracking devices
- Government sees all:
 - Surveillance of civil society
 - Location relevant to proving a large fraction of criminal cases
 - Supreme Court case next term on GPS tracking & Leahy bill
- Marketers see all:
 - Current debates about targeted marketing & price discrimination
 - Blaze: “Mobile aps are currently typically written by service providers, which want to collect as much user data as they can”
- Others see all:
 - Burglars know I’m not home, stalkers can find my kid, and teenagers might not want parents to track them
- Which of these risks are realistic in practice?

Publish or Withhold “Presence”

- Familiar principles of notice & choice at center of policy discussion
- Notice: some background
 - Future of Privacy Forum: 22 of 30 top paid apps no privacy policy
 - Brookman/CDT: most top apps gather geolocation
 - Similar history for web sites around 1997 of no policies
- Notice: good practices
 - Panelists agree should have good privacy policies for geolocation
 - Limited real estate on mobile devices
 - Usability on small screen
 - Just in time notice
 - Build “smarts” into notices, to comply with user preferences
 - Hard to be consistent across apps/devices/OS
 - Evolve toward standard notices – financial privacy example

Choice about “Presence”

- Broad acceptance of opt-in to collect geolocation information for apps
 - The basic choice – consumer chooses the app/device or doesn't
 - Some services have multiple opt-ins, stricter than in many other sectors
- Some issues of “meaningful choice”
 - Active choice vs. passive collection
 - “Glimpse” vs. a service turned on once and then continues
 - Gather data only for a defined purpose vs. a bundled service (you use the service, we collect and perhaps sell all that data)

Moving Toward New Best Practices

- Rapid change and innovation (8000x increase in ATT mobile data traffic in 3 years)
- Optimism from some recent rounds of innovation:
 - 1990s web privacy policies: 12% to 88% in three years
 - Software downloads – uninstall as standard feature
 - EULAs – can save and print now
 - Spam, but CAN-SPAM and easy to opt out now from legitimate companies

Moving Toward Best Practices

- A problem: limited compliance staff in the garage
 - Over time, big fraction of Internet traffic in major players with privacy compliance; pattern may repeat for mobile apps
 - Long tail exists of smaller players
 - But privacy risks highest in big databases, where compliance staff does exist
 - Trustmarks can help with smaller players
- Length of time to retain data
 - Search engines and “every search you ever made”
 - Now, major search engines anonymize after a number of months
 - Location information and “every place you have ever been”
 - Many of the services (coupons, location of your friend) are for today’s location
 - Privacy risks reduced a lot if limit time that location is kept in identifiable form

Concluding Thoughts

- Two things to watch
 - A risk that consumers can't turn on/off for location information that is widely shared
 - The eco-system must learn to work together to treat location data as sensitive
- Lots of reason for optimism
 - Sense of wonder, excitement, and growth
 - Consumers will learn to manage how to publish or withhold “presence” – Boyd research on how they do that already on social networks
 - Emerging major players will develop privacy practices
 - Government can play a role for now in increasing transparency and encouraging best practices