

COMMENTS OF

**DATRAN MEDIA LLC**

TO THE  
UNITED STATES DEPARTMENT OF COMMERCE  
REQUEST FOR COMMENTS ON

**INFORMATION PRIVACY AND INNOVATION  
IN THE INTERNET ECONOMY**

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Datran Media LLC (“Datran”) appreciates the opportunity to provide these comments regarding the Department of Commerce Notice of Inquiry dated April 23, 2010 (“NOI”) on information privacy and innovation in the Internet economy.<sup>1</sup> As a leading digital marketing technology company, we are pleased to offer our company’s unique perspectives.

## **I. ABOUT DATRAN MEDIA**

Datran uses innovative technology to provide digital advertising solutions, audience measurement and analytics, email marketing services, and to otherwise help online companies to market their products and services in the digital space. (This, in turn, allows consumers to receive free online content.) More than 1,000 top consumer brands have relied on Datran to deliver campaigns to achieve their customer branding, acquisition, and retention goals. Moreover, as explained in these comments, Datran will soon be introducing a service that will empower consumers by enabling them to exercise clear and meaningful choices regarding their advertising preferences, including to opt out or opt in to tailored advertising, at the brand level or more broadly from advertising networks.

A bedrock principle followed at Datran is that of “Privacy by Design.” Privacy is built into all of our products and services. Datran, of course, complies with all privacy laws and legal obligations. But beyond that, Datran is deeply committed to protecting consumer privacy. To that end, our company is an active member of many self-regulatory organizations including the Better Business Bureau, the Interactive Advertising Bureau (IAB), the Direct Marketing Association, the International Association of Privacy Professionals, the Online Trust Alliance (OTA), the Email Sender and Provider Coalition (ESPC), and others. As addressed below, we are adopting, embracing, and helping to develop best practices for our industry.

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<sup>1</sup> *Information Privacy and Innovation in the Internet Economy*, Notice of Inquiry, 75 Fed. Reg. 21,226 (Apr. 3, 2010).

## II. INTRODUCTION

Because Datran’s business focuses on online marketing and related activities, our comments are limited to the ongoing debate over privacy and online behavioral advertising. That debate has focused primarily on whether the current self-regulatory model as endorsed by the Federal Trade Commission (“FTC”) and implemented by various industry organizations is working or whether new legislation is needed. The FTC, legislators, and even some privacy advocates recognize that any regulatory model governing consumer online advertising and privacy, whether industry self-regulation, new legislation, or ad hoc enforcement by the FTC under its Section 5 authority, must take into account the vital role that advertising dollars play in supporting the widely available, free, and quality content that makes the Internet valuable to consumers.<sup>2</sup>

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<sup>2</sup> See, e.g., FTC STAFF REPORT: SELF-REGULATORY PRINCIPLES FOR ONLINE BEHAVIORAL ADVERTISING 6 (2009), available at <http://ftc.gov/os/2009/02/P085400behavadreport.pdf> (describing online behavioral advertising’s potential benefits to consumers and businesses, including “delivering more relevant ads to consumers, subsidizing free online content, and allowing businesses to market more precisely and spend their advertising dollars more effectively”); Jon Eggerton, *Leibowitz: FTC Not Interested in Regulating Behavioral Ads if Industry Can Do Job*, *Broadcasting & Cable* (May 12, 2010), [http://broadcastingcable.com/article/452590-Leibowitz\\_FTC\\_Not\\_Interested\\_in\\_Regulating\\_Behavioral\\_Ads\\_If\\_Industry\\_Can\\_Do\\_Job.php](http://broadcastingcable.com/article/452590-Leibowitz_FTC_Not_Interested_in_Regulating_Behavioral_Ads_If_Industry_Can_Do_Job.php) (quoting FTC Chairman Jon Leibowitz as stating that behavioral advertising is “good for the Internet, where online advertising helps support the free content everyone enjoys and expects”); Boucher, *Stearns Release Discussion Draft of Privacy Legislation* (May 4, 2010), <http://boucher.house.gov/index.php?view=article&id=1957> (quoting Representative Rick Boucher (D–VA), who stated: “Online advertising supports much of the commercial content, applications and services that are available on the Internet today without charge . . . .”); CTR. FOR DEMOCRACY & TECH., *ONLINE BEHAVIORAL ADVERTISING: INDUSTRY’S CURRENT SELF-REGULATORY FRAMEWORK IS NECESSARY, BUT STILL INSUFFICIENT ON ITS OWN TO PROTECT CONSUMERS* 3 (2009), available at <http://cdt.org/files/pdfs/CDT%20Online%20Behavioral%20Advertising%20Report.pdf> (“The Center for Democracy & Technology (CDT) recognizes that advertising is an important engine of Internet growth. Consumers clearly benefit from a rich diversity of content, services and applications that are provided without charge and are supported by advertising revenue.”); see

Some privacy advocates and consumer groups, however, argue that the current self-regulatory model has failed. Datran disagrees with this assessment. Datran believes that if consumers are provided with appropriate tools to choose how their personal information is used online and to control the types of advertising targeted to them in a manner that does not disrupt the online advertising ecosystem and its subsidization of free content, then any need for far-reaching legislation or regulation is negated. Industry groups have been developing such tools,<sup>3</sup> but other marketplace solutions are also developing, including a tool that will soon be available from Datran.

Specifically, as we explain in Part III below, Datran is proud to be developing a first-of-its-kind privacy-enhancing technology that will allow consumers to customize the targeted advertisements they receive, even down to the advertiser or the type of product or service offered. This technology, developed in accordance with self-regulatory principles, is a prime example of how self-regulation is transforming the online marketing industry to incorporate transparency and choice into every advertisement offered to consumers. Recent research demonstrates that Datran's privacy-enhancing technology tools will be welcomed by consumers.

In addition, Datran is concerned that calls for legislation and regulation may result in a regime that unduly restricts advertising and commerce.<sup>4</sup> However, as explained in Part IV below,

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*also infra* Part IV.C (describing recent study that indicated that only 10% of Internet users would prefer to pay for a majority of the information and services they access online in exchange for no online advertising).

<sup>3</sup> See, e.g., IAB & NETWORK ADVERTISING INITIATIVE, CLEAR AD NOTICE: TECHNICAL SPECIFICATIONS FOR THE IMPLEMENTATION OF THE INTERACTIVE ADVERTISING SELF-REGULATORY PRINCIPLES FOR ONLINE BEHAVIORAL ADVERTISING (Apr. 2010), *available at* [http://iab.net/media/file/CLEAR\\_Ad\\_Notice\\_Final\\_20100408.pdf](http://iab.net/media/file/CLEAR_Ad_Notice_Final_20100408.pdf).

<sup>4</sup> For example, there have been numerous critiques of proposals like the draft legislation Representatives Rick Boucher (D–VA) and Cliff Stearns (R–FL) circulated in April, *see* Boucher, Stearns Release Discussion Draft of Privacy Legislation (May 4, 2010),

Datran does not oppose limited, smart legislation or regulation that provides a level playing field and regulatory certainty, provided it does not unduly burden online marketing. Moreover, any legislation or formal regulation should not interfere with the development of consumer-friendly privacy-enhancing technologies. In addition to these comments, Datran fully supports the comments being submitted by the OTA.

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<http://boucher.house.gov/index.php?view=article&id=1957>, and Datran agrees with the criticisms addressed by groups such as OTA. *See, e.g.*, Letter from Craig Spiezle, Executive Dir., OTA, to The Hon. Rick Boucher & The Hon. Cliff Stearns, Chairman & Ranking Member, Comm. on Energy & Commerce, Subcomm. on Commc'ns, Tech. & the Internet, U.S. House of Representatives (June 4, 2010), *available at* [https://otalliance.org/docs/OTA\\_Privacy%20Bill\\_finalx.pdf](https://otalliance.org/docs/OTA_Privacy%20Bill_finalx.pdf).

### **III. DATRAN'S PREFERENCECENTRAL WILL GREATLY ENHANCE CONSUMER TRUST IN INTERNET COMMERCE BY PROVIDING CONSUMERS WITH EXTENSIVE CONTROL**

As the Department acknowledged in the NOI, companies are developing privacy-enhancing technologies to create enhanced notification to consumers about privacy policies and to manage the information they are sharing.<sup>5</sup> The Department's Internet Policy Task Force is seeking input on these technologies and their potential to enhance consumer trust in Internet commerce.<sup>6</sup> Datran is currently developing a first-of-its-kind privacy-enhancing technology that will revolutionize online behavioral advertising and enhance consumer trust in Internet commerce by incorporating transparency and choice into every advertisement offered to consumers. Empirical research demonstrates that consumers are willing to adopt this technology when introduced, and that doing so will increase their trust in online behavioral advertising.

Datran's new tool, PreferenceCentral,<sup>7</sup> will accomplish this goal by respecting consumer choice and providing consumers with access to profile data where they can exercise clear and meaningful control. Offered as a free service to consumers, PreferenceCentral will be accessible whenever a consumer clicks an icon accompanying a tailored advertisement served by a participating ad network or advertiser. Consumers will then see an intuitive interface that enables consumers to learn about, control, and improve the quality and relevance of advertising they receive. Consumers will be able to customize their advertising preferences by advertiser, publisher,<sup>8</sup> and ad network,<sup>9</sup> even down to the specific types of products and services for which

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<sup>5</sup> NOI at 21,230.

<sup>6</sup> *Id.* at 21,230-31.

<sup>7</sup> <http://preferencecentral.com>. Datran is developing PreferenceCentral.com through its subsidiary, UnsubCentral.

<sup>8</sup> The publisher is the website where an ad appears.

they wish to receive or decline to receive ads. PreferenceCentral will also allow consumers to easily and intuitively opt out of targeted advertising altogether. These preferences will be persistent – upheld whenever consumers access a website served by participating networks regardless of the browser or device they are using in subsequent sessions. Consumers will also be able to access their preferences and make changes at any time through participating marketers’ preference centers. By enabling consumers to grant permissions to specific merchants across various media channels and networks, PreferenceCentral is the first and only product that delivers a control solution that is consumer-centric.

For marketers, including individual brands, the consumer-reported preferences will make offline and online marketing more efficient and effective by reducing wasted ad impressions and increasing the likelihood of generating a favorable response from marketing campaigns.

PreferenceCentral offers marketers, including individual brands, a turn-key, easy-to-deploy preference center solution to help manage consumer choices, whether they be opt-in or opt-out. Therefore, PreferenceCentral will create value for both consumers and advertisers, ensuring consumers are not targeted against their wishes while still supporting the basis for free content on the Internet.

#### **A. How PreferenceCentral Will Work**

The following is a description of how PreferenceCentral will work along with some visual samples of PreferenceCentral interfaces. Each ad served by participating networks will be accompanied by a link comprised of an explanatory phrase along with the “Power I”<sup>10</sup> icon to

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<sup>9</sup> An ad network is a company that matches ads and advertisers with numerous, unrelated publishers that will display the ads, and that facilitates the display of the ads on the publishers’ websites.

<sup>10</sup> See Stephanie Clifford, *A Little ‘I’ to Teach About Online Privacy*, N.Y. TIMES, Jan. 26, 2010, at B3, available at <http://nytimes.com/2010/01/27/business/media/27adco.html>.

alert users to the existence of the behavioral ad. For example, the following ad for a jewelry brand could appear on a newspaper's website:



When a user clicks on the link, a box will be displayed on the screen that lists the advertiser, the publisher, the ad network, and the reason the consumer was delivered the ad. Users will be able to opt in or out of targeted ads of this kind or from that particular website by clicking on a “thumbs up” or “thumbs down” icon as shown here:

**PREFERENCECENTRAL**

**Advertiser**  
**FANCY GEM JEWELERS**  
 Are you interested in products and services from Fancy Gem Jewelers.  YES  NO

**Publisher site**  
**TODAYSNEWS.COM**  
 Would you prefer to see similar ads in the **Dating and Relationship** category on the Today's News site?  YES  NO

**Delivered By**  
**AD NETWORK1**

**Customized By**  
**AD NETWORK1**

*Participating marketer of PreferenceCentral compliance tool*

**Q: Why did I get this ad?**  
**A:** We believe this ad is relevant to your web interest in this Advertiser and/or Category. Were we right or wrong? **Click on the thumbs above** to customize your interest-based advertising preferences and we will try to tailor future ads to your preferred advertiser and/or category choices.  
[Learn more about interest-based advertising.](#)

If they are not already logged in, they will be taken to the marketer's preference center powered by PreferenceCentral. Users can set up PreferenceCentral accounts through any a number of login services including Google, Yahoo, OpenID, and MSN by clicking on the corresponding icons. This screen will look like the following:

**You are almost done.**

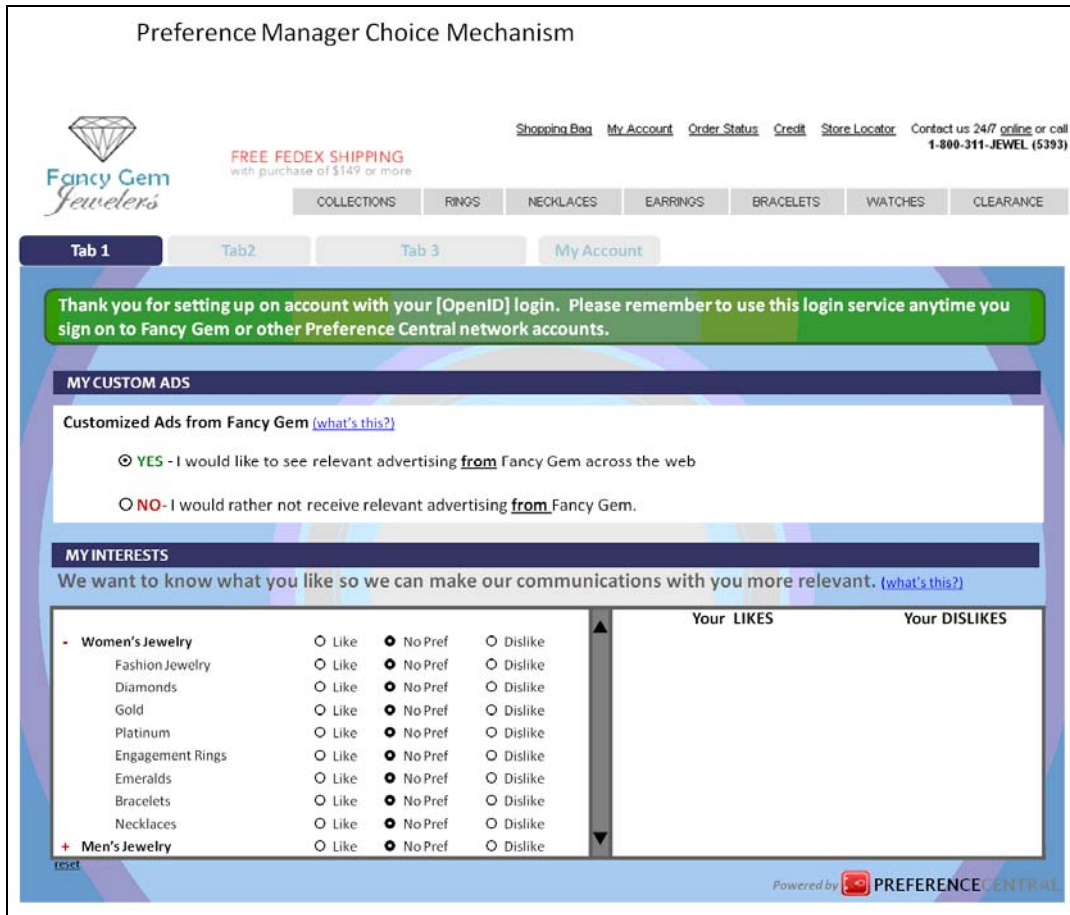
In order to store your preference, click on any of the available services below to simply login or set up a Fancy Gem account. *It takes less than 10 seconds.*

**What does this mean for me?**

- If you like Fancy Gem, you can opt in to receive relevant advertising regarding Fancy Gem products, updates, and/or promotions across the web.
- If Fancy Gem is not relevant to you, you can turn off the setting to stop receiving Fancy Gem interest-based ads anytime you are on the web or by following this link to limit the setting to your current browser only.
- You will only have to **store this setting once** in your account to apply it to your web browsing experience.
- You can **change your settings anytime** you like. You are in complete control.

[Learn more about interest-based advertising.](#)

Once the login is authenticated via the provided login service, users will be taken to the main page of the user's PreferenceCentral account, which will look like the following:



From this interface, users can save within their PreferenceCentral account their preferences regarding whether they wish to receive customized ads from a particular publisher, from a particular advertiser, or even about particular products and services. In this example, where the user has indicated a desire to express preferences about an *advertiser*, users can further customize the specific products and services associated with their tailored advertising (in this case diamonds, gold, platinum, etc). When the user wants to customize ads on a specific *publisher site*, the range of possible advertisements is broader so the categories displayed are more generic, as shown below:

**MY INTERESTS**

We want to know what you like so we can make our communications with you more relevant. [\(what's this?\)](#)

	Like	No Pref	Dislike
+ <b>Apparel and Shoes - Men's</b>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
- <b>Apparel and Shoes - Women's</b>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Accessories	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Contemporary	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Evening Wear	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sports Wear	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
+ <b>Automobiles</b>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
+ <b>Beauty</b>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
+ <b>Health</b>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
+ <b>Home and Garden</b>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Your LIKES	Your DISLIKES
Apparel and Shoes – Women's	<b>Home and Garden</b>
Contemporary	
<b>Health</b>	

There will be additional options to further allow consumers to manage their direct communications with the given brand. Among some of the features will be the ability for consumers to opt in to newsletters, updates, and other subscriptions via specified channels like email, mobile devices, and direct mail.

**MY COMMUNICATION CHANNELS**

YES  NO  HTML  Text [Edit](#)

YES  NO  HTML  Text [Edit](#)

ACTIVATE  NO [\(activate here\)](#) [Edit](#)

**NEWSLETTERS AND SUBSCRIPTIONS**

Sign up for free newsletters, updates, and subscriptions:

Email	Mobile	Direct Mail	Description	Frequency
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Newsletter: Weddings blah blah blah blah blah	Daily <a href="#">sample</a>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Newsletter: Latest Trends blah blah blah	Weekly <a href="#">sample</a>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Press Releases</b>	<a href="#">sample</a>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Product Updates</b>	<a href="#">sample</a>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Special Offers</b>	<a href="#">sample</a>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Third Party News and Offers</b>	<a href="#">sample</a>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Webinars</b>	<a href="#">sample</a>

[select all](#) [unselect all](#)

Users will also be able to log into their PreferenceCentral account(s) at any time to change or update these preferences.

These and other options available through PreferenceCentral will ensure that advertising is tailored to users' interests and that the serving ad network will exclude advertisements for unwanted products and services. By notifying users more clearly that an advertisement is served based on a behavioral profile and granting users more control over the ads they are served, privacy-enhancing technologies like PreferenceCentral will help demystify online behavioral advertising and greatly enhance consumer trust with participating brands, and eventually with the industry and Internet commerce in general.

**B. Empirical Research Demonstrates That Consumers Are Willing to Adopt PreferenceCentral, and That Doing So Will Increase Trust in Targeted Advertising**

In the NOI, the Department asked whether consumers have readily accepted or used privacy-enhancing technologies when made available, and whether current available privacy-enhancing technologies have increased user trust.<sup>11</sup> While PreferenceCentral has not yet been released, empirical consumer research demonstrates that consumers are willing to adopt PreferenceCentral for its privacy-enhancing capabilities, and that doing so will increase those consumers' trust in customized advertising.

Just last month, Datran, with support from Survey Sampling International, surveyed 1,050 randomly selected Internet users to answer questions designed in part to gauge the potential adoption and effectiveness of PreferenceCentral.<sup>12</sup> The survey provided some context to consumers about the trade-offs involved with online behavioral advertising. The survey also revealed important information about consumers' willingness to receive customized ads when they could exercise control over the customization.

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<sup>11</sup> NOI at 21,231.

<sup>12</sup> While the formal survey results have not yet been released, we are pleased to provide preliminary results with relevant slides that we are attaching as an Appendix.

For example, when consumers were informed that online ads are commonly tailored for specific consumers based on their online behavior, 70% of those surveyed indicated an interest in using PreferenceCentral, with a third of all respondents indicating that they were either “extremely” or “very” interested.<sup>13</sup> Of those that indicated an interest, 59% indicated that they were driven by the promise of control – that they would have the power to control which ads they wanted to receive or eliminate, or that they would have control over how their information would be used by advertisers.<sup>14</sup> The responses also indicated that PreferenceCentral would markedly diminish consumers’ concerns about behavioral advertising, as 41% of respondents stated that they would be “more comfortable” about the use of targeted ads due to the availability of PreferenceCentral.<sup>15</sup>

This study presents important information about the prospects for consumer adoption of PreferenceCentral and its potential to enhance transparency and consumer choice regarding online behavioral advertising. The survey results indicate that self-regulatory efforts to encourage the development of privacy-enhancing technologies such as PreferenceCentral are succeeding. After implementation of PreferenceCentral, Datran intends to conduct further consumer surveys and research to examine the actual operational impact PreferenceCentral and similar tools have for consumers. It is important that any consumer survey attempting to accurately capture consumer sentiment be conducted in a manner that promotes consumer awareness of the trade-offs between customized advertising (and with it, free and high-quality content) and generic advertising (usually entailing lower-quality content or even an imposed fee

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<sup>13</sup> See Appendix at A-6.

<sup>14</sup> See Appendix at A-7. Interestingly, the respondents’ primary aversion to tailored advertising was not an invasion of privacy (only 10% of respondents indicated that this was their primary concern), but instead was an aversion to advertisements in general (61%). See Appendix at A-5.

<sup>15</sup> See Appendix at A-8.

for content access).<sup>16</sup> Datran is confident that PreferenceCentral and other privacy-enhancing technologies borne of self-regulatory efforts will demonstrably enhance consumers' trust in online advertising and enable the Internet to flourish for consumers.

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<sup>16</sup> Cf. Joseph Turow et al., *Americans Reject Tailored Advertising and Three Activities that Enable It* (Sept. 29, 2009), available at <http://ssrn.com/abstract=1478214> (describing a study stating that a majority of Americans did not want tailored advertising, but failing to consider the trade-off between receiving tailored advertising and receiving free content versus not receiving tailored advertising and having to pay for content). Although not addressed in Datran's most recent study, consumers should also be aware when surveyed that online behavioral advertising does not necessarily mean greater amounts of advertising.

#### **IV. DATRAN SUPPORTS APPROPRIATE FEDERAL LEGISLATION OR FORMAL REGULATION TO PROTECT CONSUMERS AND SET EXPECTATIONS**

Unlike some in our industry, Datran is not opposed to narrowly tailored federal legislation or formal regulation that extends certain fundamental privacy protections to consumers, including legal requirements that foster transparent practices and that empower consumers with the choice of how companies can collect and use their personal information. Appropriate legislation would reduce regulatory uncertainty, providing a level playing field for businesses involved in online behavioral advertising, allowing firms like Datran to plan their business operations around established modes of conduct, as well as offering consumers a fundamental level of protection from advertising abuse. It is important though that legislation or regulation not unduly restrict commerce because consumers' welfare could potentially be negatively affected due to a loss in advertising revenue. Furthermore, certain proposals that purport to protect consumers can be counterproductive especially if they hinder mechanisms and products that are in place to allow consumers to control their advertising experience.

##### **A. Smart Legislation and Regulation Can Provide a Level Playing Field**

Datran welcomes appropriate legislation or formal regulation that would level the playing field for the many companies such as Datran and others that already abide by self-regulatory principles and that operate in a manner respectful of consumer privacy. Some companies in the online marketing arena may gain a competitive advantage by not following, or even intentionally disregarding, transparency and choice. In the current self-regulatory environment, these actors can simply choose to ignore the existing regimes in an effort to maximize profit. Datran supports legislative or formal regulatory efforts in this area to curtail these questionable practices, to better inform consumers of how their personal information is collected and shared for

marketing purposes, and to provide a baseline set of standards that all members of the online advertising ecosystem must follow to ensure that these goals are met.

**B. Appropriate Regulation and Legislation Can Reduce Regulatory Uncertainty**

The lack of appropriate legislation or formal regulation makes business planning difficult for companies like Datran. Legislation or formal regulation would also help create certainty about Datran's compliance obligations as it continues to be a leading innovator in the online marketplace. Through laws designed to prevent unfair or deceptive trade practices, online privacy currently is regulated on an *ad hoc* basis by the federal government and the states. In addition, there are regular calls and proposals for additional legislation and regulation, which make it difficult to predict the path of regulation. The piecemeal approach to the regulation of privacy means that companies like Datran must constantly monitor for legislative and regulatory developments in different jurisdictions. It also means that in designing its services to be consistent with the latest legal and industry standards, it is difficult to design and implement innovative marketing tools that have the potential of unpredictably being declared out of bounds. Therefore, Datran welcomes federal legislation or formal regulation that would preempt state law, which would allow companies to focus on a single, comprehensive, and fair legislative or regulatory regime.

**C. Federal Legislation or Formal Regulation Should Not Harm Commerce by Unduly Burdening Online Marketing**

Online advertising supports much of the commercial content, applications, and services that are available on the Internet today without charge.<sup>17</sup> Datran is proud to help support free content by contributing to this online advertising ecosystem, and staunchly supports allowing

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<sup>17</sup> See *supra* note 2.

consumers to make informed choices regarding whether to share their information for advertising purposes.

Any prospective federal privacy legislation or regulation must consider its effect on the viability of online marketers that subsidize free content on the Internet. If legislation or regulation unduly burdens online marketers, websites may soon have to resort to charging fees to consumers to access their websites. In addition, since targeted online advertisements result in 2.68 times more revenue than non-targeted advertisements,<sup>18</sup> any legislation or regulation that affects the profitability of targeted advertisements, or their ability to link profile information to a user or computer, will cause a corresponding precipitous drop in the revenues earned by websites, increasing the likelihood that more websites will need to charge consumers for access. This is a scenario overwhelmingly rejected by consumers. Datran's recent consumer research indicates that when given a choice between content subsidized by advertising and ad-free content with a charged fee, only 10% of Internet users would prefer the latter.<sup>19</sup> A large number of consumers would seemingly be ill-affected if ad revenue could not supply them with the abundant and free content they have grown accustomed to accessing.

Legislation and regulation must take into account these benefits and weigh them against the potential harm to consumers. When companies engage in online advertising consistent with current, robust self-regulatory principles with transparency and choice for consumers, particularly opt-out choice where non-personally identifiable information is used in online advertising, consumers benefit.

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<sup>18</sup> Press Release, Network Advertising Initiative, Study Finds Behaviorally-Targeted Ads More than Twice as Valuable, Twice as Effective as Non-Targeted Online Ads (Mar. 24, 2010), *available at* [http://networkadvertising.org/pdfs/NAI\\_Beales\\_Release.pdf](http://networkadvertising.org/pdfs/NAI_Beales_Release.pdf).

<sup>19</sup> See Appendix at A-9.

## **V. CONCLUSION**

Datran appreciates this opportunity to submit its comments. Through privacy-enhancing technologies like PreferenceCentral designed to comply with self-regulatory principles in the online advertising industry, Datran and others are giving consumers greater control over the advertisements they receive, which will ultimately lead to increased consumer trust in Internet commerce. Moreover, the country is at a historical moment in the development of the Internet, and the Department, through its report on information privacy and innovation in the Internet economy, can help spur online commerce by recommending that the Administration support limited, narrowly tailored legislation or formal regulation that would establish a level playing field and certainty about compliance without unduly burdening commerce. As long as the online marketplace is transparent about how it uses consumer information, and consumers are afforded control over this information, it is important to have the ability to share information with others in the online advertising ecosystem to ensure that advertising can support the availability of free, robust content for consumers.



## *Appendix*

# ***Consumer Perspectives on Online Audience Measurement & Advertising Relevance – 2010***

***PreferenceCentral Benchmark Research Study,  
with support from Survey Sampling International***

# Research Plan

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## Concept Statement

**PreferenceCentral** is a free service that provides consumers with complete control of what targeted advertising they receive online and complete visibility into what information advertisers use to target the advertisements. More specifically, **PreferenceCentral** provides consumers:

- **Complete Control:** Consumers will now be able to select what online advertising they will get – Selecting the categories, brands, or advertisers in which they are interested AND those from which they do not want to receive advertisements;
- **Complete Transparency:** Consumers will now know what information is being used by specific advertisers to target advertising to them AND have that specific advertiser stop use of that information for targeting. This will happen through a notification in every targeted ad that links to an account where a consumer can exercise control;
- **Monitoring & Enforcement:** PreferenceCentral will also monitor online advertising to assure that consumers' preferences and industry best practices are being used by advertisers.

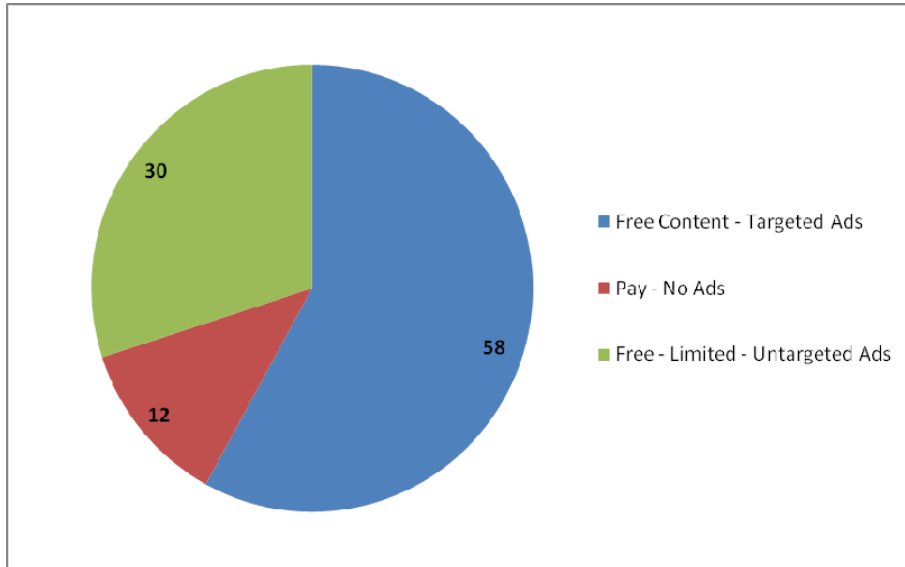
## Research Plan – Sampling Frame

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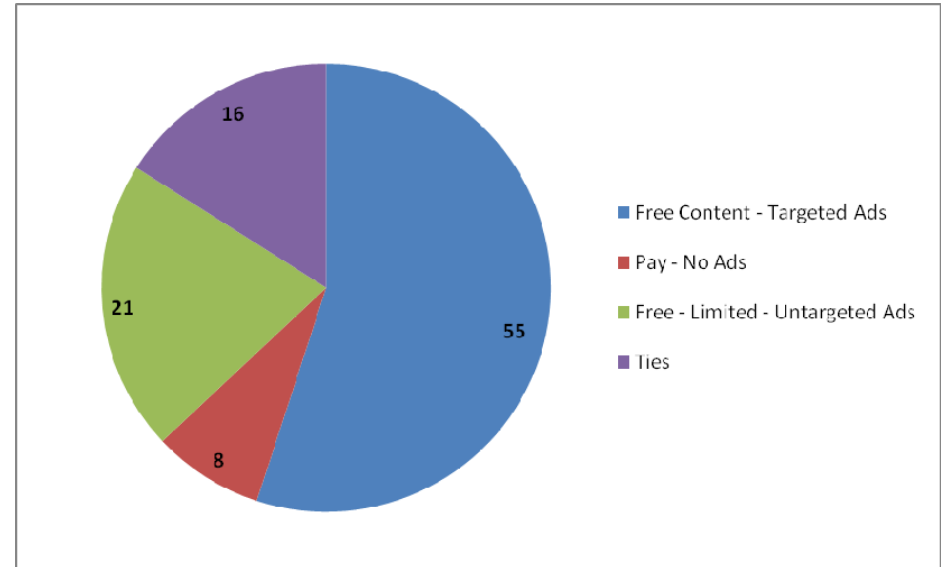
- Online questionnaires completed by 1,050 Internet Users 18 to 64 years of age
- Survey Sampling International (SSI) selected Internet Users using their Dynamix Platform:
  - Randomly selecting 50% panel & 50% online “real-time” recruited
  - Screened for age and gender to assure proportionally-representative sample
  - Sampling across days-of-week and day-parts to minimize DOW-TOD biases
  - Fieldwork started May 21 and was completed May 28
  - Completion rate of 85%
  - Average duration: 10 minutes
- Error estimates at 95%-confidence level are +/- 3% (with P = .5)

# Current-State – Trade-Off Favors “Free Content with Targeted Ads”

- In trade-off, a majority of consumers (55%) prefer free content-targeted ads



**Average Allocation**



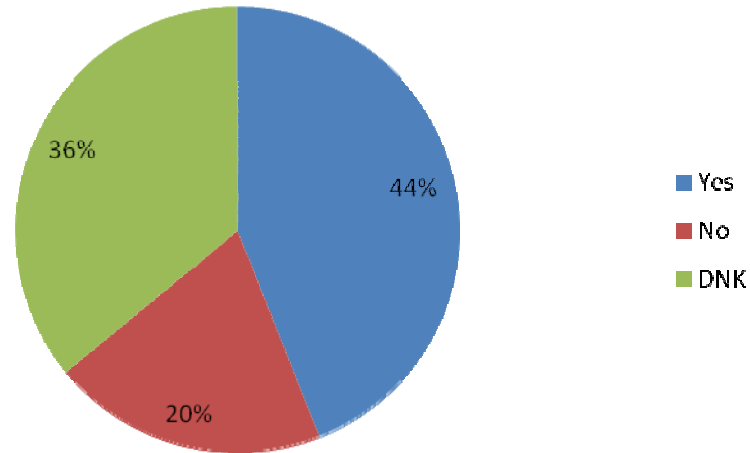
**% Internet Users**

Q: What proportion of your time would you prefer to spend among each of the options below?  
Base total = 1050 (Error estimate = +/- 3% at 95% CL )

# Desire for Websites Visited to Show Tailored Ads

- With this wording, now a minority of consumers express a desire for tailored ads
  - This corroborates the result obtained in the recent Annenberg study (2010)
- However, the primary reasons reflect a dislike for online ads, not a concern for privacy

**Q: Would you want the websites you visit to show you ads that are tailored to your interests?**



## Key Reasons

- Not Interested in Ads
- Hate Ads
- Ads Annoying
- Interrupt
- Invasion of Privacy
- Don't Pay Attention
- If Need a Product
- Waste of Time

## Not Interested

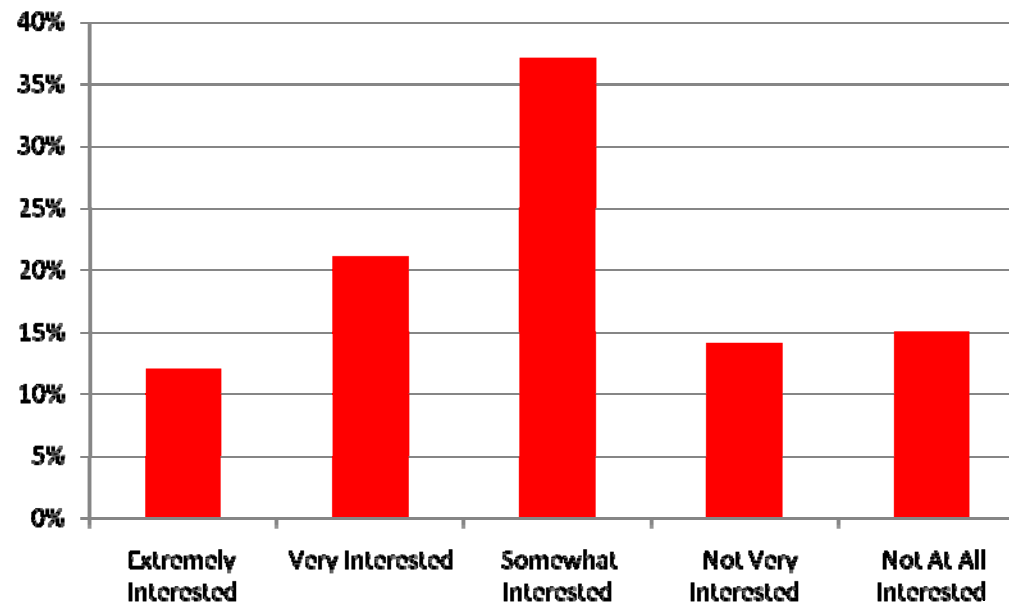
- 16%
- 16
- 13
- 10
- 10
- 7
- 7
- 6

Base total = 1050 (Error estimate = +/- 3% at 95% CL)

# Interest in Using PreferenceCentral

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- **70%** of internet users are interested in using PreferenceCentral
  - A third are either extremely or very interested



Q: Based on this description of PreferenceCentral, how interested would you be in using this free service?

*Base Total = 1050 (Error estimate = +/- 3% at 95% CL )*

# Reasons for Interest in PreferenceCentral

- Interested consumers are primarily driven by the promise of control
  - First in terms of the ads seen and not seen
  - Secondarily in their information
- Those not interested do not feel a need and/or just ignore ads
  - A few cite concerns that PreferenceCentral may itself present a threat to their privacy and safety – A recognized “seal of approval” will facilitate consumer acceptance

<u>Key Reasons</u>	<u>Interested</u>	<u>Not Interested</u>
- Control of What I See	34%	
- Interesting Idea	15	
- Wanted Ads/Eliminate Unwanted Ads	14	
- Control Over Information/Protection	11	
- Free	10	
- Don't Need		29%
- Don't Like Ads/Ignore Ads		26
- Invasion of Privacy		5
- Not Sure Safe/Trustworthy		3
- Seems Like a Lot of Work		4

Q: Why are you “interested/not interested” in PreferenceCentral?

Base total = 1050 (Error estimate = +/- 3% at 95% CL )

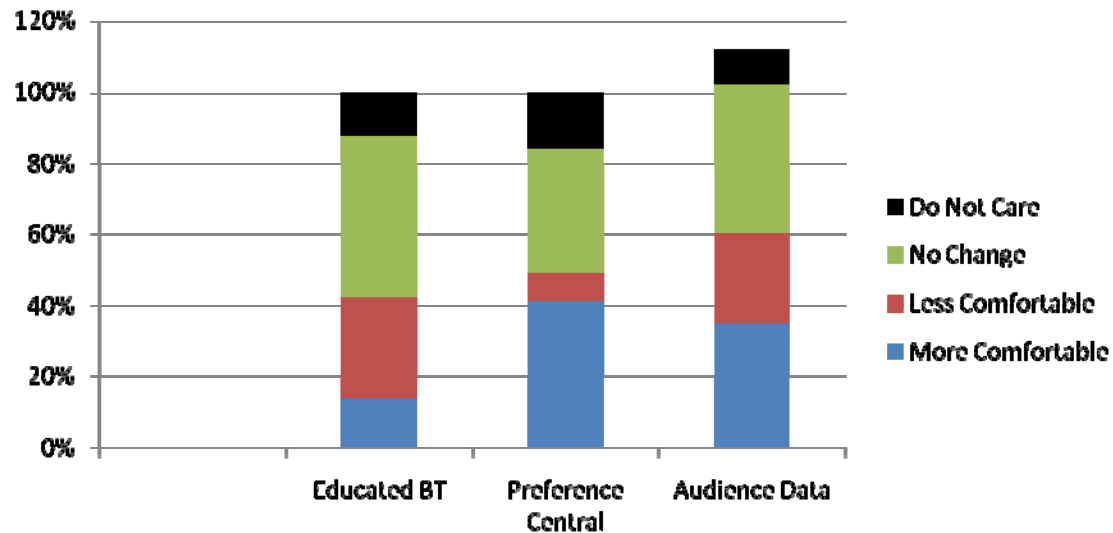
A-7



# PreferenceCentral Provides Assurance Over Behavioral Targeting

- Availability of PreferenceCentral diminishes consumers' concerns about behavioral targeting – There is a pronounced shift towards more comfortable

*Q: Does the availability of PreferenceCentral change your attitude towards the use of behavioral information to target relevant online ads?*



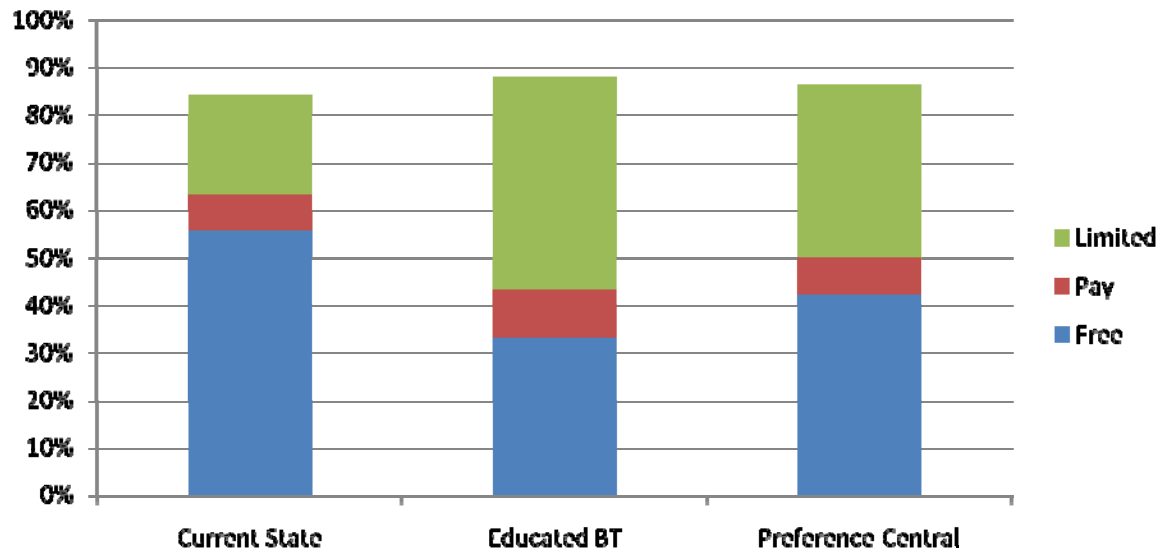
	More Comfortable	Less Comfortable	No Change	Do Not Know
Educated BT	13.5%	28.6%	45.1%	12.6%
Preference Central	40.9%	7.9%	34.8%	16.2%
Audience Data	34.8%	25.5%	41.4%	9.8%

Base Total = 1050 (Error estimate = +/- 3% at 95% CL)

# Content-Ad Trade-Off – Preference for “Free Content with Tailored Ads”

- PreferenceCentral generates interest and for some restores their “free-tailored” preference
- A steady minority of consumers state a preference for paying for ad-free content

*Q: What proportion of your time would you prefer to spend among each of the options below?*



	Free	Pay	Limited
Current State	55.4%	7.5%	21.2%
Educated BT	32.8%	10%	44.7%
Preference Central	42%	7.9%	36.3%

Base Total = 1050 – Classification based on highest-point allocation