



Comments of the World Privacy Forum et al

Regarding

Department of Commerce, National Telecommunications and Information Administration Multistakeholder Process To Develop Consumer Data Privacy Codes of Conduct, RIN 0660–XA27

Via email to privacyrfc2012@ntia.doc.gov

National Telecommunications and Information Administration,
U.S. Department of Commerce,
1401 Constitution Avenue NW.,
Room 4725, Washington, DC 20230

April 2, 2012

The World Privacy Forum is pleased to submit on behalf of the World Privacy Forum, the American Civil Liberties Union, Center for Digital Democracy, Consumer Action, Consumer Federation of America, Consumers' Union, Consumer Watchdog, Electronic Frontier Foundation, National Consumers' League, Privacy Rights Clearinghouse, and US PIRG Civil Society Multi-Stakeholder Principles.

These ten principles were created in a consensus process. In December of last year, the World Privacy Forum held a meeting that included national privacy, consumer, and civil liberties organizations. The purpose was to develop a set of baseline principles to address the Department's Multi-Stakeholder process. Over the course of the December 2011 meeting and subsequent meetings, the principles were drafted and refined and were published February 23, 2012.

Civil society groups believe that protecting the online privacy of consumers is crucial to ensuring the availability, utility, and vitality of the Internet. For any approach to privacy to be meaningful, it must reflect fair information practices, including mechanisms to assure accountability. The US Department of Commerce is proposing a multi-stakeholder process for developing better applications of privacy principles. For the multi-stakeholder process to succeed, it must be representative of all stakeholders and must operate under procedures that are fair, transparent, and credible.

We believe the following baseline principles will provide the multi-stakeholder process the legitimacy it needs to succeed.

Principles:

1. No multi-stakeholder process can succeed unless consumer representation is robust and reasonably balanced. Only consumer representatives can determine who speaks for consumers.
2. To the greatest extent practicable, the multi-stakeholder process should occur in the open with public sessions and public documents. All substantial decisions must be made in open sessions.
3. Any stakeholder may submit proposals and those proposals must be addressed and resolved within the consensus process.
4. Participants, but not necessarily observers, must specifically identify their employer and/or the group, industry, or organization whose interest they represent.
5. There must be a fair opportunity for public engagement at all levels of the stakeholder process. Stakeholders must be allowed to communicate with members of their communities about the multi-stakeholder process in any way that the stakeholders see fit, including use of electronic processes such as web sites, social media, and other methods.
6. The formal publication of any consensus document or decision must include dissenting views and statements.
7. Decisions must be based on a fair and broad consensus among stakeholders rather than a majority vote by participants. The process should seek to resolve issues through open discussion, balance, mutual respect for different interests, and consensus.
8. A multi-stakeholder process needs to be fully informed by stakeholders from civil society. As such, in person meetings may only be scheduled if adequate resources are made available to facilitate in person participation by civil society. Otherwise, meetings may only be conducted electronically to facilitate equal participation by all stakeholders. Meeting locations must be chosen with robust input from civil society stakeholders.
9. All stakeholders must receive a copy of a draft document at least ten days prior to consideration or presentation of the document at any level of the stakeholder process.
10. At the end of 12 months or at any other time, civil society participants may decide to reevaluate the multi-stakeholder process and make recommendations for changes in rules, procedures, or process.

Signatories:

World Privacy Forum

American Civil Liberties Union

Center for Digital Democracy

Consumer Action

Consumer Federation of America

Consumers' Union

Consumer Watchdog

Electronic Frontier Foundation

National Consumers' League

Privacy Rights Clearinghouse

US PIRG

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Civil Society MultiStakeholder Principles history:

December 2011: WPF meeting with civil society

February 23, 2012: Civil Society Principles for Multi-Stakeholder Process released

April 2, 2012: Civil Society Principles for Multi-Stakeholder Process filed with Department of Commerce.