

# Shopping online, privacy, data protection and third-party tracking

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In the wake of yet another e-commerce data breach in which the names and email addresses of millions of online shoppers and credit card users have been accessed illegally, researchers in the US suggest that privacy discussions, and ultimately legislation must urgently focus on the expanding roles of third-parties handling pervasive online customer profiles.

Nancy King of the College of Business, at Oregon State University, in Corvallis, explains in the latest issue of the *International Journal of Private Law* that marketers have long created market segments in an effort to create more relevant advertising and efficiently spend advertising dollars. What has changed in recent years is that in the online world of e-commerce, tracking technologies allow advertisers to construct personal profiles and use them to individually target [consumers](#) much more effectively than ever before. As such, network advertising associations, the owners of consumer databases and data mining services and advertising exchanges are now playing a more and more important role in the online [behavioral advertising](#) industry. This [paradigm shift](#) in how we, as consumers, are marketed to should become high on the agenda in discussions of privacy in the European Union, the USA and elsewhere as legislation to cope with e-commerce is drafted.

Consumers do, to some extent, benefit from third parties generating a personal profile in that they are more likely to receive only targeted advertising that might be of genuine interest. Conversely, most consumers, given the choice, would prefer that their personal

preferences for coffee brand, credit card and textured tissue paper were not made available to the whole marketing industry. Promoted "tweets" on Twitter, contextual AdSense advertising by [Google](#), targeted [Facebook](#) advertisements generated using the data within your profile, and much more are already reality for internet users. King states that: "Online behavioral advertising 'offers the highest return on investment for dollars spent on e-advertising – a value that is only diminished by the controversial nature of the tracking technology' that is used to produce the high returns."

In short, such profile-driven advertising exploits the consumer's interests and purchases in one area to sell them goods and services from another. Most consumers would prefer that not to happen. "There are significant data protection and other consumer privacy implications associated with participation by third-party businesses in the behavioral advertising industry," says King. There are technological tools to respond to this issue, such as ad-blocking software and anti-tracking tools for the web browser. Unfortunately, most consumers are unaware of the existence or need for these tools.

"As the behavioral advertising industry grows and consumers are increasingly being tracked, profiled and targeted for direct marketing communications by the industry, concerns about consumers' privacy and data protection have increased. It is short-sighted to limit privacy discussions to analysis of the primary participants in the industry, the advertisers and publishers, given the significant involvement of advertising network associations and other third-party businesses that support the industry," King says. "A key concern is data-sharing among these third-parties and the unlikelihood that consumers are aware of how their data is used by third-parties with which they do not directly interact, essentially a failure of transparency," she concludes.

**More information:** "Why privacy discussions about pervasive online

customer profiling should focus on the expanding roles of third-parties"  
in *Int. J. Private Law*, 2011, 4, 193-229

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