

Congress of the United States
Washington, DC 20510

October 7, 2015

Dear World-Wide Web Consortium:

For years, privacy advocates, Internet companies, government regulators, along with members of Congress, have worked to establish a “Do Not Track” standard to give consumers rightful control of their personal information online. In 2010, the Federal Trade Commission (FTC) called for a browser-based “Do Not Track” mechanism that would allow consumers to “choose whether to allow the collection and use of data regarding their online . . . browsing activities.” The FTC identified five central features of Do Not Track: it should be universal, usable, persistent, enforceable, and cover data collection—not just data use.

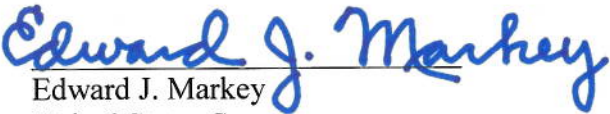
Since then, a working group established by the World-Wide Web Consortium (W3C) has endeavored to develop this standard. Unfortunately, the group’s composition no longer reflects the broad range of interests and perspectives needed to develop a strong privacy standard – and concerns over the current draft proposal underscore these issues. The “Do Not Track” standard should empower consumers to stop unwanted collection and use of their personal data. At the same time, the standard should not permit certain companies to evade important consumer protections and engage in anti-competitive practices.

The proposed “Do Not Track” standard applies differently to “first parties,” companies that directly face consumers, than to “third parties,” those that facilitate the advertisements displayed online. Under the standard, first parties are free to continue tracking online activity even if a user activates the “Do Not Track” signal and can share that information among its many affiliates. Third parties, on the other hand, must respect user preference and stop tracking. In effect, this distinction gives certain companies, including those that operate as both first and third party businesses, an exemption from what could serve as an important consumer protection and an unfair advantage over companies that better honor consumer rights and expectations.

We believe that both first and third parties should be held to high standards that respect privacy and promote competition online. We also believe that any final standard should direct browsers to default to “Do Not Track” to provide consumers with adequate control over their personal information. We call on the W3C to reexamine its proposal to ensure online companies fulfill user expectations while at the same time encouraging, not limiting, the competitive online marketplace.

Thank you for your attention to this important matter.

Sincerely,


Edward J. Markey
United States Senator


Joe Barton
Member of Congress


Al Franken
United States Senator