



August 7, 2008

The Honorable John Dingell
Chairman
House Energy and Commerce Committee
2122 Rayburn House Office Building
Washington, DC 20001

The Honorable Joe Barton
The Honorable Ed Markey
The Honorable Cliff Stearns

Dear Chairman Dingell, Ranking Member Barton, Subcommittee Chairman Markey and Subcommittee Ranking Member Stearns:

We appreciate your interest in the data practices involved in the various and diverse business models represented in the online advertising industry. Yahoo! Inc. is a leading global Internet brand and one of the most trafficked Internet destinations worldwide. While we are engaged in online advertising in many of the same ways as others in the industry to whom you have written, as a destination site we are unique, as is our relationship with users.

Yahoo! is focused on powering its communities of users, advertisers, publishers, and developers by creating indispensable experiences built on trust and transparency. We respond to your queries below, but preface our answers with our perspective on the value we create with our online advertising model. We believe these points are essential to a full understanding of the context in which you consider online advertising issues.

From the day Jerry Yang and David Filo founded Yahoo! as a searchable directory of popular websites, Yahoo! has been focused on cutting through the clutter and bringing consumers content that best matches their interests. This compelling principle has guided us over the past few years during which there has been a rapid transformation in the types of products and services consumers are demanding on the Internet. Consumers have and continue to respond strongly to Internet products and services that are customized to their interests.¹

Yahoo! also incorporates this customization in the advertising we offer. We want our users to receive ads that are relevant to them – ads they value. Ads valued by our users are inherently valuable to our advertisers as well, thus enabling a vibrant ecosystem that allows Yahoo! to develop and offer more content and services to our users for free due to advertising. We fully embrace this model and its manifold benefits to our users.

However, at Yahoo! we measure our success *equally* on the loyalty of our users and our ability to implement advanced technology to achieve the most relevant and customized online experience in the industry. Our customized advertising is always matched by our core

¹ This is demonstrated by the strong popularity of our customized products such as MyYahoo!, Yahoo! Finance, Yahoo! News, Yahoo! Music, and so on.



commitment to the relationship of trust we have built with our consumers. That commitment includes transparent and comprehensive policies about how we use information to enhance their online experience. It also includes industry leadership in the development of self-regulatory models, education, and meaningful user protections as we carry out our business.

Through our relationship of trust, we respond to the needs of our consumers, combining their desires for ever more relevant services with their interest in protecting their personal information. For instance:

- Yahoo! does not share personally identifiable information with advertisers or publishers without consent from users;
- Yahoo! gives consumers choice, allowing them to opt-out of targeted advertising served by Yahoo!;
- Yahoo! participated in the efforts to create an updated Network Advertising Initiative (NAI) self-regulatory code of conduct, and Yahoo! will not create advertising segments designed to target children under 13; and
- Yahoo! has undertaken a significant education campaign to help users understand how Yahoo! customizes their advertising to match their interests.²

The advertising model has made Internet content and services available to millions of people in the United States and around the world³ – for free. The business model of relying on advertising revenue to fund websites has meant that vast amounts of information on the Internet has been fully accessible to people of all ages and income levels. The trend over the past few years, exemplified by recent steps by AOL, the New York Times⁴ and the Wall Street Journal websites, has been to tear down economic barriers to content – possible only because the primary source of revenue for most content providers' online operations is an advertising, rather than a subscription, model.

The benefits do not end with a rich diversity of content. Consumers also experience enhancements as they receive customized content, services and advertising that save them time and money. For instance, many have become used to websites storing our information while giving us easy “one-click” access from anywhere an Internet connection can be established. Many users frequently use recommendations for new products and services they trust – some from advertising sources. And the exponential growth of social networking sites⁵ demonstrates a

² Yahoo! has shown an average of 185 million public service announcements per month since May, when the education campaign was launched <http://work.jidg.net/psa/rec.html>. In addition, the educational page <http://info.yahoo.com/relevantads/> is available from the footer on the sign-in page.

³ There are 189 million Internet users in the US alone, according to comScore Media Metrix data for June, 2008: <http://www.comscore.com/press/data.asp>.

⁴ The New York Times' article on its transition to an ad-based model notes that “projections for growth [of our] paid subscriber base were low, compared to the growth of online advertising.” See <http://www.nytimes.com/2007/09/18/business/media/18times.html>

⁵ According to web analytics firm Compete, the number of Facebook users doubled between March of 2007 and March of 2008. MySpace and Facebook have a combined audience of nearly 100 million.

clear interest in customizing the online experience. Everyday information such as weather, local news, mail alerts, stock alerts, and offers for products or services they are interested in is provided through customization techniques. Most of these technologies have been the result of investments by companies funded by their online advertising revenues.

Advertising directly supports the creation of Yahoo!'s industry leading services. Yahoo! maintains the #1 or #2 site in 21 categories including finance, sports, news, personalized home page, mail, shopping, travel, etc.⁶ Many of these products are multi-award winners and are updated with new features and functions regularly. Other services to our users such as anti-spyware software, unlimited mail storage and generous photo and video storage are also provided for free because of the advertising model.

Advertising also supports a diversity of voices on the Internet. Bloggers or families who want to occasionally post content are generally subsidized by the advertising business model through free or reduced-cost hosting, and also through the ability to have text, graphical and even video ads appear on the site. This ability to make money while sharing views increases the number of viewpoints that can be taken in public debates⁷, and surely enriches our public conversation as a nation and as a global society.

Yet another benefit is the rise of small businesses that have been able to gain a foothold on the Internet with very low barriers to entry. These small businesses are able to make a profit in part because new tools are available to carry advertising on their sites, giving them another source of revenue. And the type of advertising is relevant here. These small businesses can sell advertising on a wider range of topics when the advertising can be tailored to user interests, even if the site is primarily about a different topic.

Given the wide range of benefits to society to consumers, bloggers, small businesses, and even advertisers who can more efficiently find the right audience for their messages and offers, it is important to give due weight to these benefits when exploring the appropriate framework for discussions of online advertising issues.

Yahoo! is also announcing that we will offer consumers even greater choice by allowing consumers to decline customized advertising⁸ on Yahoo.com. This is in addition to our existing opt-out when Yahoo! serves customized advertising on third party networks.

As one of the leaders in the online advertising market, Yahoo! strongly believes that consumers are responding to the customization of online content and as the relevancy continues to evolve, they will continue to realize the benefits of relevant advertising that saves time and money.

⁶ comScore World Metrix, June 2008

⁷ The number of blogs doubles roughly every six months. Technorati, a blog aggregator, tracks more than 70 million blogs and adds 120,000 blogs to its index each day: <http://technorati.com/weblog/blogosphere/>.

⁸ At Yahoo! we refer to advertising based on consumer interests such pages visited, searches, ads click on as "customized advertising". Others in the industry refer to this as "behavioral advertising". In this document, we use customized advertising to refer to this practice.

However, we understand that there are some users who prefer not to receive customized advertising so we want to offer them transparency and choice about the options that are available to them.

We continue to offer this transparency and choice because Yahoo! believes the trust of our users is our greatest asset. Almost everything we provide is free and there are no barriers to users who want to leave Yahoo!, so we strive to create the most trusted, compelling online experience and give consumers access to the products and information they want.

With that context, we offer the following responses to the questions you posed on August 1, 2008.

1. *Has your company at any time tailored, or facilitated the tailoring of, Internet advertising based on consumers' Internet search, surfing, or other use?*

Yes. Yahoo! participates in a number of businesses related to Internet advertising and each business facilitates the customization of advertising to some degree. Yahoo! operates both display and sponsored search advertising platforms that serve advertising on the Yahoo! owned and operated network of websites and across other publisher sites. These advertising platforms include Yahoo! Search Marketing for sponsored text advertising, the Yahoo! Ad Network and Blue Lithium for display advertising, Right Media for the advertising exchange platform, and Maven Networks for the emerging video advertising market.

2. *Please describe the nature and extent of any such practice and if such practice had any limitations with respect to health, financial, or other sensitive personal data, and how such limitations were developed and implemented.*

Yahoo! provides customized advertising to our users on an ongoing basis as described above. While we understand there is concern about sensitive categories, most of our customization is related to commercially relevant categories for large audiences. Most interest categories are based on very popular topics such as travel, autos, or entertainment.

We are proactive in limiting sensitive areas. First, as an ad network, Yahoo! does not customize advertising based on certain sensitive interest categories such as adult categories and sexual health, to name just two. Yahoo! and Blue Lithium are NAI members, actively working with the NAI and others to draft voluntary self-regulations and recently pledged to not create advertising segments designed to target children under 13.

Second, from time to time advertisers may express an interest in customizing advertising on the Yahoo! Ad Network based on new, potentially sensitive categories. In response, an internal group called the Ad Council will make decisions regarding these categories based on our interest in serving our users, maintaining user trust, and working with our advertisers.

3. *In what communities, if any, has your company engaged in such practice, how were those communities chosen, and during what time periods was such practice used in each? If such practice was effectively implemented nationwide, please say so.*

This question appears to be directed to a model involving tests of contextual or behavioral ad targeting occurring in the Internet Service Provider industry. The Yahoo! model differs in important respects, including the efforts of Internet users to come to our website and the websites of partners we work with in order to seek out information or free content and services. In exchange for these services, ads are shown or delivered by Yahoo!. In this context, dividing our services by community is not particularly relevant because Yahoo! provides customized advertising to our users on an ongoing and nationwide basis.

4. *How many consumers have been subject to such practice in each affected community, or nationwide?*

Again, this question appears to be directed to a model involving tests of contextual or behavioral ad targeting to certain communities occurring in the Internet Service Provider industry. Advertisers have varying marketing plans, and not all advertising conducted by Yahoo! is customized. However, all Yahoo! users may receive advertising based on their past use of Yahoo! products and services.

5. *Has your company conducted a legal analysis of the applicability of consumer privacy laws to such practice? If so, please explain what that analysis concluded.*

Yahoo! regularly assesses the application of laws and regulations to our business practices to ensure we operate within the applicable law. Indeed, our company has worked for more than a decade with policymakers and regulators to establish that the industry's self-regulatory efforts have served consumers' interests in protecting privacy. Yahoo! has taken a leadership role in those self-regulatory efforts and has sought to influence industry standards and establish best practices through participation by its various business units in the NAI and the Interactive Advertising Bureau (IAB). Yahoo! has also experimented with new privacy enhancing tools and technologies beyond what is required by law, in the interest of maintaining and growing our users' trust.⁹

⁹ Yahoo! has partnered with eBay to provide "AdChoice" where a user can click an "about this ad" or "what is this" link to get to an informational page on online advertising. That page also allows the user to opt-out of both eBay and Yahoo! behavioral targeting. Yahoo! also launched a Public Service Announcement in May 2008. (see the answer to question 6 for details). Further, Yahoo! was one of the very first companies to create a privacy policy in 1998, and has been proud of our heritage of privacy policy innovation, including instituting a layered "Privacy Center" model in 2002. While there is one governing privacy policy, a user can easily get more information about the privacy practices of the specific Yahoo! properties he or she uses most (e.g. Yahoo! Search, Yahoo! Finance or Yahoo! Personals.) With over 90 properties on our site, this is an important improvement in navigation for our users.

6. *How did your company notify consumers of such practice? Please provide a copy of the notification. If your company did not specifically or directly notify affected consumers, please explain why this was not done.*

Yahoo! has a long history of providing clear notice to our users via our Privacy Policy and is always exploring additional avenues for enhanced notice.

Yahoo! has had a privacy policy for over 10 years. The Yahoo! Privacy Policy is linked from nearly every page of the Yahoo! owned and operated network on Yahoo.com and has been linked from the Yahoo.com home page since March 1998. In addition, users who create an account with Yahoo! have also been presented with a prominent link to the Privacy Policy during the registration process since 1998.

Each of Yahoo!'s advertising businesses maintains a privacy policy. These are found on the home page of each of these businesses' web sites and are also listed within the Yahoo! Privacy Center. A listing of these businesses, along with all of Yahoo!'s acquired and affiliated companies, can be found on this page:
<http://info.yahoo.com/privacy/us/yahoo/acquiredcompanies/>.

Yahoo! and Blue Lithium's respective ad networks participate in the NAI. In compliance with NAI principles and as members, both Yahoo! and Blue Lithium contractually require publishing partners who display advertising from our networks to provide disclosure of such practices and links where users can exercise an opt-out of receiving customized advertising. These disclosures are typically made from publishers' privacy policies. The NAI site alone is linked to from approximately 20,000 locations on the Web.

In addition to our privacy policies, Yahoo! launched a Public Service Announcement campaign in May 2008. We are on track to show an average of 185 million ads per month to our users designed to help them understand how online ads are served <http://work.jidg.net/psa/lrec.html>. The ad leads a user who clicks to a more comprehensive page which includes frequently asked questions and answers in this area <http://info.yahoo.com/relevantads/>. This information page is also available through a link at the footer of the page when a user signs in to a Yahoo! service. The footer includes this language "Relevant advertising creates a better web experience. See how".

Yahoo! is also experimenting with "contextual ad notice" with certain partners. In this model, a link is imbedded in a frame around the advertisement. That link (named differing things such as "about this ad" or "what is this") takes a user to an information page about customized advertising as well, and allows them to opt-out of such advertisements going forward.

7. *Please explain whether your company asked consumers to “opt in” to the use of such practice or allowed consumers who objected to “opt out.” If your company allowed consumers who objected to opt out, how did it notify consumers of their opportunity to opt out? If your company did not specifically or directly notify affected consumers of the opportunity to opt out, please explain why this was not done.*

Yahoo! has a long history of offering choice to its consumers. This is available through the first “special topic” link on the front page of our privacy policy <http://info.yahoo.com/privacy/us/yahoo/> as well as through the “cookie” module <http://info.yahoo.com/privacy/us/yahoo/cookies/> and on the Network Advertising Initiative website <http://www.networkadvertising.org/>.

Today, Yahoo.com is announcing the expansion of that choice to customized advertising on its owned and operated network of sites, offering consumers the choice to decline the advertising customization features of its services.

As one of the leaders in the online advertising market, Yahoo! strongly believes that consumers are responding to the customization of online content and as the relevancy continues to evolve, they will continue to realize the benefits of relevant advertising that saves time and money. However, we understand that there are some users who prefer not to receive customized advertising so we want to offer them a choice.

Yahoo! has been working on finalizing the implementation of an expanded opt-out mechanism in our privacy policy for the end of August of this year. Because we recognize the Committee’s interest in the choices available to consumers we have moved up our announcement to be able to share this information with you and the other Members of the Committee.

We also continue to explore ways to create greater transparency and control for users. For instance, when we serve advertising for partners like eBay or the consortium of nearly 800 newspapers, users can choose to opt-out of receiving customized ads from either a link on the ad or the partner site. We believe this is particularly important since it is not always obvious to all users that ads are served by different entities among web sites. By offering an opt-out in these innovative ways, we hope to offer users greater transparency and choice.

In addition to the Yahoo! opt-out, Blue Lithium and Right Media each also maintain their own opt-out mechanisms. The Blue Lithium opt-out is available here: <http://www.bluelithium.com/optout.html> and the Right Media opt-out is available here: http://content.yieldmanager.edgesuite.net/opt_out.html. As members of NAI, Yahoo! and Blue Lithium each have opt-out links available from the NAI opt-out page found here: http://networkadvertising.org/managing/opt_out.asp which is linked to from over 20,000 publisher sites.

Additionally, users have direct control over their Internet experience through their web browser settings. Users can delete their cookies or adjust their privacy setting in their browser today. Yahoo! helps users understand this under the special category "cookies" in our privacy policy <http://info.yahoo.com/privacy/us/yahoo/cookies/>.

8. *How many consumers opted out of being subject to such practice?*

For the month of July (the last month for which we have data) approximately 75,000 users visited the opt-out page of the Yahoo! Privacy Center.

While Yahoo! maintains a prominent opt-out within our Privacy Center (http://info.yahoo.com/privacy/us/yahoo/opt_out/targeting/details.html), we are not able to estimate how many users are currently opted out of receiving customized advertising based on this page view data. The current Yahoo! opt-out is cookie-based meaning that the preference resides in a cookie in the user's browser. We "see" the cookie only in the process of determining whether and which ad to show the user when they visit a site where we display ads. In addition to the Yahoo! opt-out, Blue Lithium and Right Media each also maintain their own opt-outs as previously mentioned. They are not included in the above totals nor are page views or opt-outs that are effectuated from the NAI site relating to Yahoo! and Blue Lithium.

9. *Did your company conduct a legal analysis of the adequacy of any opt-out notice and mechanism employed to allow consumers to effectuate this choice? If so, please explain what that analysis concluded.*

As mentioned above, Yahoo! regularly assesses the application of laws and regulations to our business practices to ensure we operate within the applicable law.

10. *What is the status of consumer data collected as a result of such practice? Has it been destroyed or is it routinely destroyed?*

Yahoo! collects activity data for a number of reasons such as to enable us to detect and continue to defend against fraudulent activity, provide a secure environment for users, fulfill our obligations to financial processing (tracking, audits, account adjustments, etc.), fulfill legal requests for information from law enforcement, and improve our services to users, advertisers, and publishers. As such, Yahoo! data retention varies by product and platform to their respective needs.

For instance, log data is collected and used to inform broad interest categorization scores for customized advertising purposes within days after collection and is no longer accessed for this purpose from that point forward.

For Yahoo! Search specifically, Yahoo! has implemented its search data retention policy, under which search logs are destroyed or anonymized after 13 months from the moment when the data was collected, except where: (i) users request to keep the information for a longer period or (ii) where Yahoo! is required to retain the information to comply with

legal obligations (for example, for tax purposes or in connection with ongoing litigation). Yahoo! has taken the additional step of overlaying a filter to remove personally identifiable information such as non-popular proper names, credit card numbers or social security numbers from search data that is retained.

11. *Is it possible for your company to correlate data regarding consumer Internet use across a variety of services or applications you offer to tailor Internet advertising? Do you do so? If not, please indicate what steps you take to make sure such correlation does not happen. If you do engage in such correlation, please provide answers to all the preceding questions with reference to such correlation. If your previous answers already do so, it is sufficient to simply cross-reference those answers.*

The Yahoo! owned and operated network of websites has long operated on a principle of universal registration. Creating a single Yahoo! account from any of our products and services and starting points will grant a user seamless access to virtually any other Yahoo! service. Because of this universal access principle, Yahoo! is able to unite information about a single registered user across our services such as Yahoo! Mail, Yahoo! Sports, Yahoo! News, etc. to customize their overall experience on our site. Even if a user has not registered with us they can store settings that will allow us to customize services across our network of websites. For example, if a user enters a zip code on Yahoo! Weather we will enable the user to access that same zip code for local movies and maps without having to re-enter the same information.

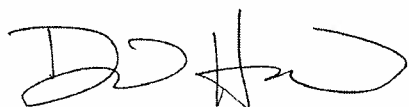
Yahoo! also owns and operates a variety of businesses. Consistent with the privacy policies of each of these businesses, we may share information between our affiliated companies and product offerings. These practices are done in accordance with our policies and with user notice.

For companies that Yahoo! has acquired that have existing privacy policies, Yahoo! abides by the policies in place for the users of such services. Yahoo! does not retrospectively combine personally identifiable data about users collected under different privacy policies unless expressly permitted or with user consent. Data collected prospectively under new privacy policies may be combined only if the new privacy policies permit it and users have been given prior notice of the change. These are self-regulatory principles of notice and choice that Yahoo! has strongly supported.

Our answers to questions 1-10 reflect this activity.

Again, thank you for the opportunity to engage the committee on these important issues related to the provision of online advertising that results in so many benefits to Internet users.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hantman". The signature is fluid and cursive, with the first name "D." and the last name "Hantman" clearly distinguishable.

David Hantman
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