

Behavioral Targeting and the Online Assault on Personal Privacy

Online marketers have deployed an elaborate system of digital surveillance on consumers that tracks, compiles, and analyzes our movements across the Internet, from log-on to sign-off. Consumers' online activities and experiences are monitored, with data about our "behaviors" used to compile "profiles" controlled by marketers and third parties. While the rationale for behavioral advertising is that it helps generate more targeted—and supposedly more relevant—ads, it's really a form of uninvited digital intrusion into our lives. Think of all the products, services and information you seek online—such as inquiring about mortgages and credit cards or health remedies. With behavioral targeting, marketers and others stealthily collect and analyze details about your life—all of which is made available to others so they can target you with interactive advertising.

Listed below are some of the many ways that BT compromises consumer privacy:

- Marketers are able to track and monitor a wide spectrum of online consumer behavior, including pages visited and content viewed as well as user interactions with online video and social networking sites. Such data can then be combined with both demographic data (including age, gender and ZIP code) derived from site registration and Web surveys, and offline consumer databases to build detailed dossiers on individual consumers. FetchBack, for example, which bills itself as "The Retargeting Company," promises clients that it is "able to deliver your message to visitors after they have left your site as they surf the Web. Your ads will appear to them as they surf their favorite internet sites—everything from popular news sites, social networking sites, to various blogs and informational sites. These are not pop-ups; these are advertisements that customers would normally see as they visit these webpages; only instead of a random ad being displayed, a targeted ad specifically for them will be shown. Think of it as following a customer out the front door of your store and asking if they saw the sale rack on the back wall. You appear to them again in the right place—at the right time. You will stay top of mind and customers will come back to your site and purchase."¹
- Sophisticated neuromarketing techniques, predictive algorithms, and other forms of artificial intelligence now permit marketers to *anticipate* our needs and interests—and to stimulate desire among especially vulnerable users (including children)—crossing the border that separates engagement from entrapment. Enpocket, a mobile marketer recently acquired by Nokia, provides a sobering example of the use of behavioral targeting in the mobile arena, with a proprietary "Personalization Engine... that scores mobile users based on their past behavior. It enables us to predict which products and

services a customer might purchase next. That way, we can provide the right message, advertisement or promotion to the right person at the right time."² Behavioral Targeting is just one of a range of interrelated ad products designed to produce favorable behaviors through data collection and targeting. Data collection/behavioral targeting issues are deeply connected to the range of marketing applications on various platforms designed to influence consumer decision-making and also foster further data collection. The use of neuromarketing; immersive, rich-media multimedia; viral targeting via social networks; and location-based targeting for mobile networks are all part of this "media and marketing ecosystem" (a term marketers have used). Behavioral targeting cannot be seen in isolation. But it has become a kind of shorthand for all of digital marketing.

- Just as all manner of information about consumers is collected online (including personally identifiable and other sensitive data), so are all kinds of goods and services (including questionable health and financial products) targeted to specific users. AOL's Avenue A online ad network has brought BT to the pharmaceutical industry, for example, touting its ability to target some 32 million allergy sufferers online, many of them seeking relief from their symptoms. Bankrate.com, similarly, which bills itself as "the Web's leading aggregator of financial rate information," sells access to its audience with a variety of online marketing products, including contextual advertising and behavioral targeting.³ As Bankrate explains in its online media kit, "Behavioral targeting allows marketers to reach users that have been identified on the Bankrate Network of sites as consumers of specific in-market content and to deliver timely messaging to these same consumers when they leave the Bankrate Network." Bankrate's ad clients who use the BT product can "follow users with your message as they visit other sites."⁴
- The mobile revolution has brought the Web with us wherever we go, and digital marketers, now armed with intimate knowledge of our current location and past transactions, are shadowing us every step of the way. Acuity Mobile, for example, boasts that its new Embedded Mobile Advertising Platform can track users to within 3-5 feet, close enough to "identify a consumer's proximity to a specific retail store rack or display."⁵ Mobile software developer Bango, similarly, "monitors millions of visitors across many leading sites every moment of the day." Because all cell phones are equipped with a unique Mobile Identification Number, moreover, marketers now know precisely *who* is going *where* in the mobile Web. Thus Bango allocates mobile users "a unique persistent Bango user ID," which provides a level of accuracy and tracking capabilities "not available on the PC Web."⁶

Clearly, as our online involvement expands through new social, rich-media, and mobile communications applications, so does the reach of interactive marketing, the goal of which is to collect and analyze as much information about consumers as possible. According to a 2008 *New York Times* report on behavioral targeting, five

U.S. companies alone—Yahoo, Google, Microsoft, AOL and MySpace—record at least 336 billion data "events" each month.⁷ The personalized targeting that results from this vast stockpile of digital data has become a veritable goldmine, and it's a real threat to our privacy.

If privacy rights are to be preserved in the digital era, behavioral targeting and other invasive advertising techniques will have to be offered strictly on an "opt-in" basis. Consumers, in other words, should be clearly empowered to decide affirmatively what data can be collected in any given marketing campaign, and the uses to which that data can be put. Federal laws are required to ensure that individual consumers and citizens—not the advertising industry—can effectively control their own information in the Internet era.

¹ FetchBack, "Retargeting Defined," <http://www.fetchback.com/retargeting.html> (viewed 17 Mar. 2009).

² <http://advertising.nokia.com/solutions/enpocket%20platform/advanced-profiling-and-targeting> (viewed 1 July 2008).

³ "Ad Products," Bankrate.com, <http://www.bankrate.com/mediakit/ad-products.asp> (viewed 16 Oct. 2007).

⁴ "Ad Products: Behavioral Targeting," Bankrate.com, <http://www.bankrate.com/mediakit/ad-behavioral.asp>; "Ad Products: Behavioral Targeting—How Does It Work?" Bankrate.com, <http://www.bankrate.com/mediakit/ad-behavioral-how.asp> (both viewed 16 Oct. 2007).

⁵ "Acuity Mobile Partners with AlphaTrek to Provide Advanced Location Targeting for Mobile Marketing Clients; Expands Patent Portfolio," press release, 22 Apr. 2008, <http://www.acuitymobile.com/docs/Press04222008.php> (viewed 17 Mar. 2009).

⁶ Bango, "Bango Analytics. A Getting Started Guide," 2008.

⁷ Louise Story, "To Aim Ads, Web Is Keeping Closer Eye on You," *New York Times*, 10 Mar. 2008.