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PUBLIC POLICY CENTER
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Privacy Guarantees Are “Open to Question,” Turow Tells the Federal Trade Commission

November 10, 2006 -- “Most e-commerce sites today have privacy policies, but whether these policies provide privacy protection remains an open question.” That was the message delivered to the Federal Trade Commission in Washington Tuesday by Joseph Turow, director of the Information and Society Program at the Annenberg Public Policy Center (APPC) of the University of Pennsylvania.

“Privacy,” like the term “free,” has lost its meaning in the marketplace, Turow said. As a result, consumers expect privacy that, in reality, is by no means assured.

Turow and colleagues at the Samuelson Law, Technology and Public Policy Clinic at University of California Berkeley Boalt Hall School of Law, detailed their findings on the weaknesses of privacy policies in a paper presented to federal regulators entitled “The FTC and Consumer Privacy in the Coming Decade.”

Among the findings cited in the report are the results of two APPC surveys that show Americans are deeply concerned about the privacy of their personal information. Last year, 79 percent of those surveyed said they agreed or agreed strongly with the statement that “I am nervous about websites having information about me.”

It’s been a decade since the FTC conducted hearings on the future of consumer protection. Since then, e-commerce has grown substantially. But existing self-regulation of privacy policies has left consumers vulnerable, the report concludes.

“[T]he Federal Trade Commission should police the use of the term ‘privacy policy’ to assure that companies using the term deliver a set of protections that meet consumers’ expectations, and that the term ‘privacy policy’ doesn’t mislead consumers during marketplace transactions,” the report recommended.

The report urged the FTC to adopt three policies to support information privacy:

- The Federal Trade Commission should rule...that websites using the label *privacy policy* are deceptive unless those sites promise not to share information about their users without their permission.
- Existing privacy notices “are written to satisfy lawyers,” leaving consumers behind. The notices do not help consumers make privacy choices that reflect their privacy interests. Input from other experts is required to ensure that the language is concise, accurate and understandable.
- The FTC should set clear benchmarks for its privacy initiatives – educational, regulatory and self-regulatory – and hold itself accountable in the coming decade, which the FTC has called the Tech-ade.

The current oversight of privacy policies has proven inadequate, the report concluded. “It is clear that consumers remain unable to fully effectuate their privacy in the marketplace.”

For more information contact:
Joseph Turow
Annenberg School for Communication
University of Pennsylvania
(215) 898-5842
jturow@asc.upenn.edu