

# consumeraction

## Aligning privacy, permissions and profit: Improving consumers' control over data consent

### Introduction

We are at an extraordinary moment. The interests of consumers, consumer privacy regulators and companies are poised for unprecedented alignment to resolve previously thorny privacy problems. Consumers are now asking for increased control over their data and for companies to give them new and relevant benefits when businesses use their data in novel ways. Privacy regulators are refocusing on ensuring that companies are able to demonstrate that they obtained consumers' consent to collect, process, store, use and share data. Companies are incentivized to find new value from previously collected consumer data.

Consumer Action believes that by adopting commonsense principles these competing interests—privacy, permissions and profit—could be aligned. If companies, especially those with direct relationships with consumers, improve how they obtain consumer consent, they will benefit along with consumers. Consumers should also be able to control, limit or prohibit sharing of their personally identifiable information between unrelated companies and for reasons that go beyond the original purpose unless they are given an opportunity to consent to data sharing. That is why we authored this paper and wrote the Principles, below.

### Discussion of need for reforms

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For thirty-five years, consumers everywhere have grown up in the Information Age, enjoying a seemingly ever-expanding amount of digital services that make their lives more convenient, efficient, cost-effective and entertaining. As consumers became ever more savvy, many learned that the majority of these Information Age services are powered by their personal data. The attraction to and popularity among consumers for these data-powered services is clear, yet some consumers justifiably worry about losing control of their data.

Consumers rightfully expect that as data collection concerning them continues and data sharing from one company to another becomes ever more prevalent, consumer benefits should increase commensurately. Sometimes the benefits seem fleeting, inconsistent or attenuated, which drives consumers to demand and expect more control. We are all consumers. We all want more valuable

benefits to come back to us from the companies that use our data. After all, if companies benefit, so should we.

The consumer bargain that is at the core of the Information Age frays when consumers fear a loss of data control. Wise companies will recognize this and respond by doing everything they can to increase consumers' opportunities to direct the usage of their data. The companies that do so will benefit by obtaining additional permission from their customers to use their data for additional and unexpected purposes. These companies will increase their opportunities to find new, novel and serendipitous ways to use consumer data—a benefit of increased consumer trust and potential benefits.

At the same time, as consumers' expectations for data benefits and control are increasing, privacy

regulators around the world are demanding that companies obtain clear consent from their customers for advanced personal data usage. This heightened focus on the importance of consumer consent presents challenges to companies but also points the way forward for them to take steps to increase consumer trust and their opportunities for using consumer data.

Unquestionably, companies that have a direct relationship with consumers are best positioned to achieve this. The companies that directly interact with their customers can provide clear notice of data practices and could, with innovation, offer consumers enough benefit that they could obtain meaningful consent for specific uses at the point of sale or before the consumer clicks online or takes action through an app.

### **Regulators refocusing on consent instead of binary 'Opt In' or 'Opt Out' options**

Regulators are pushing companies to do more to inform customers of the company's personally identifiable information data practices. Draft statutes from various U.S. states or the European Union's General Data Protection Regulation would require companies to do far more at the point that consent is being collected. Instead of offering a simple, but sometimes unsatisfying, opt-in or opt-out option, recent proposals suggest companies must do more—significantly more—to demonstrate they have a consumer's permission to collect, process, use, share or sell data. Regulations that are likely to come into effect will create new responsibilities for companies to be able to reproduce for regulators when they obtained consent and provide mechanisms for individuals to subsequently revoke any consent granted. In short, regulators are seeking to force the evolution of consent gathering.

### **Companies positioned to provide increased consumer control**

Companies with direct consumer relationships created because they are selling products or offering services directly to the consumer, and that have a brand consumers know and trust, are best positioned to obtain clear consent from their customers. Those companies, especially when they interact with their customers online via a website or through an app, could modify their user interface (UI) to create better conditions to truly inform consumers about their consumer data practices and obtain their customers' permission to use their data for specific purposes. Those companies with indirect or no relationship to consumers will need to find ways to be less opaque, or establish a relationship with consumers in order to satisfy both consumers' and regulators' heightened expectations. We propose a sliding scale of opportunities for those companies, correlated to the relationship, if any, that the company has with the consumer, and the type of notice and consent obtained. The more notice provided and the greater consent obtained, the more opportunity the company would have to seek permission for secondary or previously unforeseen practices. In contrast, those with only indirect or no relationship with consumers and who cannot have obtained the consumer's consent would see their access to consumers' data limited further or, perhaps, foreclosed.

Moreover, when companies merge with or acquire companies that are in unrelated industries, consumers expect that they will have new opportunities to exert control over whether data given to one company can be used by the other. The creation of conglomerates should not erode consumer privacy and there should be no nasty surprises. Responsible companies should offer consumers new chances to grant consent or revoke it whenever companies are combined. Finally, privacy promises made by one company must travel with the data, not be lost in the transfer.

## **Principles aligning corporations' interests with consumers' and regulators' desire for greater control present a 'win-win-win' scenario**

Given that 50 years after the initial articulation of the Fair Information Practice Principles (FIPPs) there has been scant innovation in terms of how companies obtain consumers' consent to use or re-use their personally identifiable information, the public might wonder why things might change now. Two forces are combining that should encourage corporations to do more to advance how they collect consent.

First, companies are facing new regulatory pressures from governments and data protection authorities around the world to be able to demonstrate they have clear consent from each of their customers to use personally identifiable information.

Second, due to the advancing sciences of data analytics and new data algorithms, companies are interested in finding ways they can unlock new valuable services for consumers, glean new insights from consumer data sets and increase their profits by recycling data collected for one purpose for new purposes. Together, these two forces could align corporate interests around the idea of improving how they obtain meaningful consent from consumers in order to increase the value of the customer data they obtain. That new alignment—of pressure, possibilities and profits—could cause a sea change in corporate behavior that enhances consumers' control regarding their data and how companies use it.

## **About Consumer Action and why we drafted privacy principles**

### **Consumer Action's history of involvement in consumer privacy matters**

For more than four decades, Consumer Action, a national non-profit organization, has worked to advance consumer literacy and protect consumer rights in many areas, including credit, banking, privacy, insurance, healthcare and utilities. The organization achieves its mission through several channels, from direct consumer education to issue-focused advocacy.

Started in San Francisco in 1971 with just a few volunteers, a phone and donated space, Consumer Action was a pioneer in the consumer movement. Not only did the organization staff one of the earliest consumer hotlines and hold highly visible events like its "lemon-stration" parade of defective autos, but its British Motors picket in the early '70s established the right of aggrieved consumers to picket businesses. Early and continued successes earned Consumer Action a reputation for being responsive, innovative and effective.

The organization looks very different today, with a multilingual and multicultural staff, and offices in San Francisco, Los Angeles and Washington, D.C. With the resources and infrastructure to reach millions of consumers nationwide and to respond quickly as issues shift, Consumer Action is an effective and trusted national consumer organization that both educates and fights for consumers.

Consumer Action has taken active part for decades in the groundswell to advance consumer privacy and has drawn important attention to unknown parties obtaining consumers' information without their consent and the potential harms that may result. Consumer Action works to ensure an environment in which individuals own and have the right to control their personal information. In November 2014, Consumer Action released an Insider's Guide to Specialty Consumer Reports to highlight one aspect of the ongoing trade in consumers' data by companies that lack a relationship with the consumer who is the subject of the infor-

mation. That guide highlighted the potential benefits to consumers of collection of this information, such as to enhance some consumers' credit options and verify electronic payments. At the same time, the guide noted that unchecked third-party data collection and use "can affect your ability to achieve your financial and life goals because they influence the decisions that businesses and individuals make about you." Consumer Action encouraged consumers to know the information that is collected about them and to dispute and correct any incomplete or inaccurate information they find.

## **Why Consumer Action drafted these pro-consumer privacy principles**

Consumer Action notes both the benefits and potential harms from the collection, sharing and use of consumers' information and wanted to encourage corporations to do more to obtain meaningful consent from consumers. With this paper, we propose a set of pro-consumer privacy

principles that will allow every individual to gain the utmost benefit from their own data and to limit injurious misuses of that data. Principally, we propose to limit access to data by companies that lack a direct relationship with the consumer. The Principles encourage corporations to lead by improving their user interfaces to provide clearer notice and gain more permission, (i.e., "consent") to use, repurpose and pass along customers' data. The Principles, discussed below, suggest changes in regulations that could free companies with direct relationships with consumers to do more to obtain granular, clear, specific and meaningful consent from consumers in exchange for more opportunities to put data to work for secondary purposes. The Principles also suggest that companies with only indirect—or no—relationship with consumers would not be able to obtain advance consent unless they make themselves transparent to consumers and seek consumers' explicit approval.

## **Executive summary**

### **Consumers demanding and expecting more data control**

We have reached an extraordinary moment in history. Opportunities for consumers to benefit from the use of their data by companies that want to offer them personalized and customized services have never been greater. Yet, as consumers have become more educated about the collection, use, sharing and, sometimes, selling of their data to unknown companies they have no relationship with, they rightfully expect more options for controlling their data. Consumers everywhere want and deserve more than simple opt-in or opt-out options. Consumers want companies that want to use their data for new or unrelated products and services to evolve beyond a simple opt-in or opt-out, check-the-box model. Instead, they expect that companies that want to use their data in new and novel ways should offer opportunities for

easy-to-use, easy-to-understand, granular controls that allow for meaningful consent to be granted for specific purposes and, when necessary, revoked.

### **Regulators refocusing on meaningful consent**

Privacy regulators around the world are currently rewriting statutes and regulations to shape the next few decades of the Information Age. The European Union, for example, is finalizing its draft of its General Data Protection Regulation (GDPR). The public draft of the GDPR makes clear that consumer consent is becoming more important across Europe. As products and services grow more sophisticated, regulators are pushing for consumers' expectations concerning data control to be met and surpassed by companies. Regulators understand that, in some circumstances, a simple opt-out or opt-in does not provide consumers with

the control they desire. As a result, legislators and regulators are refocusing their thinking around a core question at the heart of all consumer privacy thought: How do consumers actually grant consent for the use of their data, and, how can responsible companies obtain that consent and subsequently be able to demonstrate they have obtained it?

## **Companies with direct consumer relationships are positioned to provide increased consumer control**

Some companies, because of their direct interactions with individuals, are in the best position to obtain clear customer consent. Not every company can easily obtain consent from consumers to collect, use, and, perhaps, share or sell their data. Companies that interact directly with their customers, either in person or online, have the opportunity to collect meaningful consent directly from their customers. That provides online companies with the opportunity to choose to give consumers better options to exercise greater control. Arguably, when a consumer intentionally visits a website, uses an app, logs in while using a search engine, or walks into a store and makes a purchase of a product or service, they also are choosing to forge at least some relationship with that company. Although these relationships may be fleeting or intended by the customer to be a singular event, they are at least intentional interactions driven by consumers. Of course, if a consumer is simply exploring a new online opportunity, browses anonymously or pays in cash, this assumption is not justified.

In contrast, there are companies with only limited or no means of directly obtaining consumers' clear consent for accessing, using, processing, purchasing or reselling consumers' data. For instance, when a company with a direct relationship to a consumer outsources additional data processing—think of an employer who uses a third-party payments or benefits provider for payroll or related services—the vendor company may have only

limited or no exposure to the individuals whose data it is accessing. Other corporations may buy consumers' data from companies that collect it but have no relationship to consumers. These companies shouldn't access and use consumers' personally identifiable information without consent.

When companies merge with or acquire companies whose core business is in an unrelated industry, there should be additional scrutiny and additional consumer protections. Consumer data acquired for one purpose should not lose its privacy protections because the company became part of a conglomerate. That's not to say that consumers cannot or should not benefit when their data, shared with an affiliated company, produces new opportunities for them to see new or better products or services. Rather, consumers should have a say and the opportunity to provide meaningful, informed consent. Companies that innovate to explain what they will do with consumer data in these situations and obtain additional consumer consent would be able to do more with that data.

## **Principles aligning consumers' interests with corporate data opportunities present a 'win-win' scenario**

If consumers are empowered to better control their personally identifiable information when companies attempt to access and use it, they can choose either to foreclose companies' use of their data or go further to provide more expansive permission to use it. If companies innovate regarding their user interfaces, consumers may be able to turn those permissions on and off and on again easily. Or, consumers might choose to allow the use or re-use of their data in some situations but not others. Innovation in this space could align consumers' interests in increasing control over their data with companies' desires to analyze, aggregate or use data for secondary, previously unforeseen purposes. If companies advance their systems for gaining consent and consumers' ability to choose more or less data collection and usage,

consumers may soon be offered better prices, more choices and higher quality for the products and services offered by companies to which they grant data permissions. Companies would wisely choose to offer those customers more and better options in exchange for being entrusted with their

data in a more extensive manner. In short, we have reached a moment when privacy, permissions and profits could be aligned to achieve a win-win for consumers and companies.

## Aligning consumers' consent and corporate behavior: What's been the problem?

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### The enduring challenge of consent

Unexpected and unpredictable secondary uses of consumers' data by a company can either surprise and delight those customers when serendipitous benefits arise from new uses of data gathered for a different purpose, or they can frustrate, annoy, embarrass, and perhaps injure individuals. Both of these can occur in the Information Age, where personally identifiable information is central to virtually every business. Our consumer privacy laws and regulations could be reconsidered to allow companies, in certain circumstances, to surprise and delight their customers, while maximizing customer control to limit unwanted or injurious secondary uses. This is especially true for unknown companies with no relationship to the individuals whose data they are using.

Why should companies do more to gather consumer consent, especially if they wish to use data collected for one purpose for unforeseen or unexpected purposes? Take two examples.

First, in the fall of 2015, an unhappy event occurred affecting customers who used the Princeton Review's test preparation services. Princeton Review was purchased by the Match Group, a conglomerate of online data services, including Match.com, a dating site. Numerous commentators asked the obvious question: Why would an online dating company buy a test prep firm, particularly one that had not been profitable, as was the case with the Princeton Review? While we may not ever have complete clarity, it seems undeniable that those seeking test prep services would not imagine

having their personal information plugged into a dating database. While we do not know what the Match Group is doing with the customer data it acquired, it is precisely this sort of unexpected, unpredictable secondary use of data that regulators, legislators and companies must contemplate. Simultaneously, those regulators, legislators and consumers also should be open to the emerging power of data analytics to find unexpected value from consumer data collected for one purpose but that could be repurposed to create new benefits for the consumers themselves. But consumer openness to any potential benefits is not a one-size-fits-all consideration, it is a highly individualized decision and requires access to the full story.

Second, as another example, we see a myriad of companies wisely pushing for their employees to join wellness programs through work. These programs can spur increased activity, better management of known health conditions, or help identify unknown health issues. These programs produce a ton of data that could help employers decrease their healthcare costs and reduce employees' insurance bills accordingly. Numerous companies, however, with no direct relationship to the employee may obtain the data from certain of these companies not subject to healthcare privacy restrictions. If the employee consents to third-party sharing, numerous health and cost benefits may result. Employers might be able to manage their workforce to accommodate individual employees' needs. If, however, the data is gathered surreptitiously or simply shared or sold to other unrelated companies, it might lead to subsequent injury to

the employee from job discrimination, increased insurance premiums or a bombardment of low-quality offerings from other companies. As the New York Times Editorial Board recently wrote, “[a]s data analysis techniques evolve, such services will be able to draw ever more sophisticated conclusions about people based on their health care use. Americans need federal protections to make sure that these conclusions don’t cost them their jobs.”

Consumer Action sees the risks and potential opportunities from data analytics and would like to see consumers have fewer (or preferably none) of the risks and more potential opportunities by increasing their control through innovations in consent.

### **Notice, choice and consent**

Since the late 1960s, when the first consumer privacy principles were articulated, it has often been the case that these principles were aspirational, at best. For example, the importance of the concepts of providing consumers clear notice of precisely what consumer data a company was collecting and what they would do with that data, and then empowering consumers to direct, limit, expand and control those practices, have been easy to articulate but hard to achieve. Most businesses have wrestled with the challenges of informing their customers about these practices given that customers have limited time and desire to read complicated terms and conditions and privacy policies. And yet, properly and clearly informing consumers is central to the notion that a consumer could grant a business a limited license to use his or her data. The default has become privacy policies that are thousands of words long, largely exist to disclaim liability for the corporation, and that few customers, if any, actually read.

### **Difficulties in demonstrating or obtaining consent**

Almost as challenging as providing clear notice of

practices has been the difficulty for companies to obtain consent from consumers to use their personally identifiable information. Most businesses default to providing simple opt-in or opt-out check boxes. Little innovation, it seems, has been introduced to improve the user interfaces at the point at which a company collects consent. Worse still, the outsourcing of certain services to third-party vendors, or the outright sale of data via data brokers who never interact with consumers, prevents consumers from even having the option to consent to many routine transactions involving their data.

### **Changes to privacy regimes around the globe increasing importance of consent**

Numerous legislators and regulators around the globe are tackling data privacy and security issues. Many are rewriting laws and regulations to mandate that all sorts of companies obtain meaningful, informed consumer consent for the collection, storage, use, sharing, sale or re-use of personally identifiable information. Here are just a few of many examples:

#### ■ *Draft European Union General Data Protection Regulation*

In the EU, the pending draft of the General Data Protection Regulation is explicit concerning the fundamental importance of consent for companies to use data. For example, Article 25 of the GDPR states that “[c]onsent should be given explicitly by any appropriate method enabling a freely given and informed indication of the data subject’s wishes, either by a statement or a clear affirmative action by the data subject... .” Furthermore, the GDPR sets forth explicit rules requiring companies to obtain new consent from customers for using data in new ways. In a pertinent part, GDPR Article 40 states that:

*[t]he processing of personal data for other purposes should only be allowed where the processing is compatible with those other purposes for which the data have been initially collected... .*

*Where the other purpose is not compatible with the initial one for which data are collected, the controllers should obtain the consent of the data subject for this other purpose...*

This pan-EU rule is sure to be the model for changes across the globe as the EU asserts its sway with trading partners who want access to EU markets and the information of its more than 550 million residents.

## ■ Canada's PIPEDA

Canada's Personal Information Protection and Electronic Documents Act (PIPEDA), the country's cross-sector privacy law, has its axis in consumer consent. Companies must obtain clear consent from consumers before sharing their personally identifiable information with others, especially other unrelated companies. PIPEDA prevents the "collection," "use," or "disclosure" of personally identifiable information without a consumer's "knowledge or consent." The exceptions to this core rule are limited and are primarily for law enforcement purposes. Canada's privacy law is the model for privacy statutes in many other countries.

## ■ California's SOPIPA

In 2014, the State of California enacted a landmark privacy statute to further control the student data of minors and prevent the sharing of that data for unexpected and unrelated commercial purposes. While the Student Online Personal Information Protection Act (SOPIPA) does not include the word "consent," California flatly prohibited the sale of student data from an education technology provider who was providing services to the student or the student's school to other companies. SOPIPA also requires that student data acquired in a merger or acquisition continue to be protected post-merger or acquisition.

## ■ Export of European Union-style privacy regimes around the globe

The trend is clear that as goes the EU and Canada on privacy rules, so goes much of the rest of the world outside the U.S. and Asia. The vast majority of the world's privacy schemes have been explicitly modeled after those in the EU and Canada. The EU has sent delegations to numerous countries in Latin America and Africa in recent years to help those countries' leaders develop their privacy rules. The model, of course, is the EU privacy regulatory system and the carrot is that once those countries enact privacy rules that are similar, the country will be deemed legally "adequate" to lawfully import the data of EU residents. This will naturally spur trade in data and data services. We should assume that any changes to increase the importance of consent will be echoed in capitals around the globe.

## ■ Creations of conglomerates of companies from unrelated industries threaten consumer data protections

Companies often buy up companies in unrelated industries. Recent examples are especially prevalent in the tech and media industries, as companies leverage opportunities in unrelated markets. Naturally, when companies merge, consumer data is a valuable part of the sale. While some acquisitions and mergers may hold the promise of enormous consumer benefits, consumers are not always given the opportunity to control how their personally identifiable information data is used in the new regime. Unless the companies reach out to their customers post-merger or acquisition, consumers' data may not be protected as it should be and companies may lose the opportunity to obtain explicit consumer consent for using the data to craft new services of value and interest to them. That would be a lose-lose situation.



## Principles for aligning permissions and profits to meet consumer expectations and desires

It is time to increase consumers' control of their data. Each consumer should be empowered to make individual decisions to grant companies they know and trust with additional authority to use that data for new and novel data-powered products and services, and to shut the door on companies with which they have only a limited, or no, relationship.

Regulators and legislators around the world must put consumers at the forefront of their thinking as they reimagine future data regulations and laws. Consumer Action would like to see companies create transparent new mechanisms and user interfaces to allow consumers to understand and grant (or withhold) consent to opportunities created by new and innovative uses of their data. We propose that the following Principles should guide and inform actions by regulators and legislators.

### **A. Follow consumers' consent**

Consumers' consent should guide corporate behavior. The more data about consumers that companies collect and retain, the stronger the requirements must be to seek consumer consent for unexpected or "off label" uses of that data. Companies that are transparent about the data they collect and why they collect it and what they intend to do with it have a better shot at obtaining broader consent while retaining customer loyalty. Outside of simply prohibiting sharing or resale of customer or user data, consent is the single, indivisible, core element of all modern consumer privacy regulations and statutes.

### **B. Empower all consumers to control their data**

We must begin to trust and empower consumers to choose what is best for them with each data transaction. Companies should innovate and compete by improving their user interfaces to increase clarity of their requests regarding consumers' data

and the permissions they seek, and to enhance consumers' understanding of these requests and their implications, if any. We recommend making user interfaces and explanatory text available in languages other than English that are spoken by many consumers in this country.

### **C. Consumers' data must be protected**

When unknown companies with no relationship to consumers access their data, consumers lose control over information about themselves and this could lead to misuses of personal data that cause real injury to consumers. Pushing companies to fairly obtain consumer consent by presenting new and compelling opportunities may lead to increased protection for consumers' data. Limiting opportunities for companies with no consumer consent may also increase consumer data protections, particularly if this is coupled with limitations on the sale of personally identifiable information by a company with a direct relationship to consumers to unknown third parties, or between other third-party companies.

### **D. Following cross-industry mergers or acquisitions, data-sharing among conglomerated companies should be prohibited without specific consumer consent**

During mergers between or acquisitions of companies in unrelated industries, companies should give consumers new opportunities to consent to or revoke consent for cross-company data sharing. Privacy promises should follow consumer data into new conglomerates and not be abandoned in the transition.

### **E. User interfaces should be revised to evolve beyond binary 'Opt-In' or 'Opt-Out' choices wherever possible**

More can be done to innovate user interfaces to help consumers gain more information and make

more meaningful choices. Regulators are pushing for replacement of simplistic opt-in and opt-out systems, but that must be done without overwhelming consumers with far too many choices so that they just tune out and click through without making informed choices.

## **F. Increase opportunities for companies with direct relationships with consumers**

Consent innovation could be spurred by rules favoring parties with direct relationships with consumers that make extra efforts to obtain clear consumer consent, particularly if it provides competitive advantage relative to companies with no direct relationships to consumers.

## **G. Decrease opportunities for companies with only limited, indirect or implied relationships with consumers**

We propose a sliding scale of opportunities for those companies that are correlated to the relationship, if any, that a company has with a consumer and the type of notice and consent obtained.

## **Benefits of aligning corporate data opportunities with consumer expectations and desires**

Many impediments prevented this alignment of consumers', privacy regulators' and companies' interests in the past. Now that the opportunity for increasing profits, comparing favorably in relation to competitors, and increased regulatory pressure make alignment possible, what benefits might consumers expect?

### **Benefits for consumers**

If fully implemented, significantly enhanced user interfaces from companies that explain why they are gathering data and what they might do with it should have numerous benefits for consumers. First, consumers would have clarity about where their data might go and which entities might access it, thereby increasing their trust in any digital transaction. Second, greater clarity coupled with

Just as companies that obtain consent can reap benefits of increasing consumer confidence and trust and gaining additional permissions, regulators should limit or foreclose data opportunities for companies, such as third-party vendors, to which other companies outsource certain services unless their contracts foreclose, as they should, further onward transfer to unknown additional companies.

## **H. Substantially increase responsibilities and/or decrease opportunities for companies with no relationship with the customers whose data they want to use**

Consumers deserve to know when a company is obtaining and using their data. To drive companies to make their practices transparent to consumers, privacy rules should limit the opportunities of companies with no relationship with consumers to access or use consumer data. And, privacy rules should have teeth, specifically private rights of action, that allow consumers to sue if such companies take it without express consent.

consumer data privacy regulatory and legal changes favoring companies with direct, first-party relationships with their customers should increase consumers' knowledge and control over their data. Consumers could expressly and entirely decline to permit their data to be shared or sold. Doing so might prevent their data from subsequently being used to negatively influence the products or services they might be offered or the prices for those services by other companies. Third, consumers could choose to grant additional "rights" to analyze or put to a secondary use the data they provide to a company they know and trust. The result could be that consumers could contract to have additional benefits or products offered to them by companies they know and trust. This could create additional, derivative value for consumers. It could

also encourage companies that want greater freedom to use data to compete to provide additional clarity as to their data practices and innovate to increase consumers' control over when and how they grant consent and how it can be revoked.

## **Benefits for companies with direct relationships to customers**

Companies that have direct consumer relationships could benefit significantly if laws and regulations provide additional freedom to innovate using consumer data relative to other companies. While

companies should always get rid of consumers' personally identifiable information they do not want or need to limit risk of data breaches or hacking events, those companies could gain the ability to increase their cycles of innovation and obtain new value from recycling consumer data. They would benefit disproportionately from these changes, while other companies that have no immediate means of connecting with individual consumers would be disadvantaged.

## **About Consumer Action**

[www.consumer-action.org](http://www.consumer-action.org)

Consumer Action is a non-profit organization that has championed the rights of underrepresented consumers nationwide since 1971. Throughout its history, the organization has dedicated its resources to promoting financial and consumer literacy and advocating for consumer rights in both the media and before lawmakers to promote economic justice for all. With the resources and infrastructure to reach millions of consumers, Consumer Action is one of the most recognized, effective and trusted consumer organizations in the nation.

**Advocacy.** Consumer Action is deeply committed to ensuring that underrepresented consumers are represented in the national media and in front of lawmakers. The organization promotes pro-consumer policy, regulation and legislation by taking positions on dozens of bills at the state and national levels and submitting comments and testimony on a host of consumer protection issues. Additionally, its diverse staff provides the media with expert commentary on key consumer issues supported by solid data and victim testimony.

**Consumer education.** To empower consumers to assert their rights in the marketplace, Consumer

Action provides a range of educational resources. The organization's extensive library of free publications offers in-depth information on many topics related to personal money management, housing, insurance and privacy, while its hotline provides non-legal advice and referrals. At its website, visitors have instant access to important consumer news, downloadable materials, an online "help desk," the Take Action advocacy database and nine topic-specific subsites. Consumer Action also publishes unbiased surveys of financial and consumer services that expose excessive prices and anti-consumer practices to help consumers make informed buying choices and elicit change from big business.

**Community outreach.** With a special focus on serving low- and moderate-income and limited-English-speaking consumers, Consumer Action maintains strong ties to a national network of nearly 7,000 community-based organizations. Outreach services include training and free mailings of financial and consumer education materials in many languages, including English, Spanish, Chinese, Korean and Vietnamese. Consumer Action's network is the largest and most diverse of its kind.

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