

Testimony of George V. Pappachen
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Before the Joint Hearing of the Subcommittee on Communications, Technology & the Internet and the Subcommittee on Commerce, Trade & Consumer Protection of the Energy and Commerce Committee of the United States House of Representatives on Exploring Offline and Online Collection and Use of Consumer Information

November 19, 2009

Chairman Boucher, Chairman Rush, Ranking Members Stearns and Radanovich, and Members of the Subcommittees – thank you for this opportunity to discuss an issue that is of critical importance to the businesses that I represent. My name is George Pappachen and I'm the Chief Privacy Officer of Kantar, a division of WPP. As I have been doing in external venues and industry forums on issues of privacy and public policy, I am delighted to represent the interests of both Kantar and WPP here today.

Utilizing information to become as relevant as possible to consumers and to transform the marketplace of products and services to be responsive to consumer needs, attitudes and behaviors is at the heart of the Kantar and WPP business model. As you can appreciate, catering to consumer preferences on a continuous basis is simply not possible without the ability to collect or have access to reliable data and actionable insights.

The dialogue taking place today is important not only for the purpose of awareness and understanding of industry practices but also to grant perspective on our shared respect for consumers. Getting it right with regard to our interaction with consumers – and the points of contact that stand as proxy for their express or implied opinion – is an essential element of business success for us. Our brands and the client brands that we represent have spent decades building trust with consumers and within the marketplace; our involvement today is a continuation of that capital investment.

An overview of our business

Kantar is one of the world's largest insight, information and consultancy networks.¹ By uniting the diverse talents within specialist companies, Kantar is a pre-eminent provider of inspirational and actionable insights for the global business community. Covering 80 countries and across the whole spectrum of research and consultancy disciplines, Kantar offers our clients insights at each and every point of the consumer or customer cycle. Our services are employed by a majority of Fortune 500 companies, domestic and foreign governmental entities at all levels, and almost every kind of brand that seeks to communicate to or have a relationship with consumers.

Kantar is made up of world class businesses that conduct market research (which includes survey, opinion, and social research), media measurement (which informs

¹ See www.Kantar.com to get full listing of businesses and additional information about products and services offered. In addition to being leading provider of consumer research, Kantar is listed by Ad Age Daily News (November 17, 2009) as one of the four largest business research providers along with Thomson-Reuters, Bloomberg and Nielsen

about audiences on various platforms), and consulting and specialty services that run the spectrum from brand health to brand value to retail to healthcare to government service measurement. Kantar companies enable brands to craft their communications and gauge the effectiveness and impact of their advertising, their marketing campaigns and various other business initiatives.

WPP is the world's leading communications services group.² Through its operating companies, the Group provides a comprehensive range of advertising and marketing services including advertising; media investment management; information, insight and consultancy; public relations and public affairs; branding and identity; healthcare communications; direct, digital, promotion and relationship marketing and specialist communications.

Kantar is the information, insight and consultancy arm of WPP which houses renowned brands such as Millward Brown, TNS and Added Value. Other WPP segments include creative agencies such as Ogilvy and JWT which create advertising, media agencies such as GroupM which buy and sell advertising, and our public relations and public affairs firms, many of whom have a strong presence right here in Washington, DC.

Helping clients manage communications has certainly become more challenging in the recent past due to fragmented audiences and media convergence. Simply put, whereas consumers were confined to a limited number of channels broadcast over a handful of distinct platforms (such as television), new media has allowed a proliferation of channel choices. At the same time, distinct and separate audience platforms isolated by device and location are seeing a convergence toward an interrelated ecosystem. Staying ahead of these market shifts so that we continue to deliver best in class services to our clients, who trust us with their investment in advertising and marketing, is a high priority matter. Consistent with that is our commitment to provide consumers with brand experiences that are relevant and responsible.

Data Collection and Use for Research Purposes

As noted earlier, Kantar companies provide market research services and they use a variety of methods to accomplish this objective. Market research is the voice of the consumer, the user, the citizen or the donor. As you can surmise, market research fuels a variety of commercial and governmental services. Advertisers may be interested in pre-testing their ads before launching or they may be interested in knowing how their ads performed once aired. Others may want to know how their brand is perceived by consumers relative to its competitors in the category, or there may be interest in knowing whether consumers would consider using a new product which is an extension of an existing brand.

A good number of Kantar companies work with governmental agencies around the world. Whether in determining if post mail is reaching its recipients in a timely manner, sometimes in rural areas, or understanding if publicly funded healthcare organizations are delivering the goods, we help ensure that products and services live up to their promise. We have units that work solely on government service measurement. These businesses often have to coordinate across continents,

² Ad Age Daily News (November 17, 2009) reports that WPP Group is the world's largest advertising holding company

countries and regions to adopt a standard for measurement that provides a point of comparison across groups, but also allows for differentiation so that local experiences and nuances are not overlooked. Our companies help launch new products that evolve to a more optimized form through research-based trial and error.

Kantar has a specialty media practice with proprietary models to conduct audience measurement so we don't have to stay reliant on paper-based tracking to deliver reliable measurement about what consumers want to watch and what they'll consume or not consume. Dynamic Logic is a unit of Kantar that, among other things, measures the effectiveness of online advertising. They directly ask consumers who have seen the ads they're measuring if they were interesting or meaningful. There was a time when the marketplace thought that the only effective online ads were the ones that recorded a high number of people clicking through them. Dynamic Logic changed that thinking by demonstrating that online ads can have branding impact even if people don't click on them.³ This learning was instrumental in growing the ad supported internet by helping traditional brand advertisers, such as consumer packaged goods, view the internet as more than the domain of direct response products. We believe that our brands have played a substantial role in growing the ad supported internet that now substantially contributes to this nation's economic value⁴ and its social fabric.

To be clear, consumer data we collect for research purposes is not used for direct delivery of advertisement or for solicitation to purchase a product or service. However, the intelligence we produce presents an opportunity for our clients to improve their consumer engagement or customer relationship.⁵

Researchers use various methods of data collection. Certainly, there are parts of the world where data collection is primarily done offline – via telephone interviews, mall intercept surveys, paper diaries, etc. However, in the U.S. in particular, much of research is now conducted online. Online panels (sometimes dedicated to a single sector such as healthcare), web intercept surveys, online communities, and various other methods are routinely employed. Some methods utilize cookies or tracking technologies to discern ad exposure, understand site visitation and other metrics that may either further the goal of a study or preserve data quality. Passive tracking technology has positively impacted market research in that it allows for shorter surveys and for respondents to not have to observe total recall on all media matters.

Notwithstanding the fact that research differs from advertising and the practice of behavioral tracking, which has been an area of focus of consumer privacy discussions, several of our research companies have been pro-active in the area of

³ Dynamic Logic used the term 'beyond the click' to express the brand value of online ads and they continue to produce data that shows the impact of online media which research is regularly presented at this online site, http://www.dynamiclogic.com/na/research/btc/beyond_the_click_dec2004.html

⁴ Professors John Deighton and John Quelch of Harvard, in partnership with the IAB and Hamilton Consultants produced study, Economic Value of Ad Supported Internet in June 2009 which is available online at <http://www.iab.net/economicvalue> and study estimates that the advertising supported Internet accounts for \$300 billion of economic activity.

⁵ Kantar companies use proprietary panels in combination with real time recruitment and data collection routines to provide aggregated research results to marketers, advertisers, governmental and regulatory bodies, non-profits, and other business entities. Kantar companies do not transfer personal or identifiable information about individual panelists or respondents to their clients

privacy through various initiatives and by working with leading voices such as the Marketing Research Association (MRA) Government Relations Committee. I will later go into some specific examples of some of our initiatives.

Advertising and Data Collection

It is often said that interactive platforms permit greater customization for the user and better measurement for the content or service provider. I would agree with that from an aspirational and inherent capability perspective.

Whereas ad viewing in a traditional TV environment was evaluated either by consumer recall or through journal entries scribbled by a panelist, online ad viewing and engagement does present a new paradigm. While the promise of customization and improved measurement is real and progress is encouraging, I believe the medium is still maturing and still only on its way to fulfilling on potential.

From the attention that behavioral advertising has received, I think it's fair to say that it is viewed as an advanced form of online advertising practice. Earlier this year, the Federal Trade Commission released its staff report on online behavioral advertising⁶ and this summer, a coalition of industry trade associations which included the Interactive Advertising Bureau (IAB), 4A's, ANA DMA, BBB, and various businesses, put forward a self-regulatory framework to address the issues raised by congressional and regulatory concerns.⁷

Our companies have taken an active role in the coalition work but we haven't stopped there. We took up the challenge to produce market models to work out the implementation of the proposed self-regulatory scheme. We established a cross-WPP leadership team to work with the Future of Privacy Forum to develop and test consumer touchpoints which provide enhanced notice and greater transparency about online tracking.⁸ We have sought to collaborate with technology firms and others who would introduce real solutions for implementing the accountability function and other elements of the self regulatory framework.

While behavioral advertising is one way to build a more customized user experience, there are still many other innovations the web enables in this area. Some of them employ designs that don't necessarily require tracking behavior or activity across multiple sites. Recently, WPP joined with a major media and technology company to launch the Marketing Research Awards Program which funded, for up to \$5 million, research studies into better understanding the online environment⁹. In defining the scope of studies that would receive funding, we encouraged submissions that help us

⁶ In February 2009, FTC released FTC Staff Report titled Self-Regulatory Principles for Online Advertising which is available online at <http://www.ftc.gov/os/2009/02/P085400behavadreport.pdf>

⁷ IAB/ANA/4A's/BBBB/DMA release Comprehensive Privacy Principles for Use and Collection of Behavioral Data in Online Advertising - July 2, 2009 - which is available online at available http://www.iab.net/about_the_iab/recent_press_releases/press_release_archive/press_release/pr-070209

⁸ Mediapost article, Can WPP Demystify behavioral targeting?, Wendy Davis, May 20, 2009, which is available online at http://www.mediapost.com/publications/index.cfm?fa=Articles.showArticle&art_aid=106519

⁹ More information about the Google & WPP Marketing Research Awards Program is available online at <http://research.google.com/university/marketingresearchawards/>

better understand consumer attitudes toward data use. Here's an example question we posed to illustrate the type of projects we looked to promote - *How well do consumers understand data collection and targeting and what are measures to improve transparency?*

An MIT project that the program funded this year is titled, "Targeting Ads to Match Cognitive Styles: A Market Test,"¹⁰ which proposed a new design that does not necessarily require tracking across websites but also sought to deliver a more relevant and more customized experience for the end user – an outcome that is desirable for both consumers and brands. The web's capacity for that kind of continual innovation and optimization is unique and should be encouraged.

I cite the program we funded and the MIT study to support this position: It is our hope that the cumulative effect of these multi-faceted efforts produces a better understanding of new media and all of its attendant opportunities and obligations. This is one reason we have taken an active stance in helping move self-regulation from policy design to market-facing model.

Joining Online and Offline

Our active involvement in trade associations and in industry privacy initiatives is to possess a thorough knowledge of consumer issues in all the spheres where our businesses operate. Since online behavioral advertising has been the regulatory focus recently and it is the area where industry has been asked to introduce self-regulation, it follows that this is the area of our greater activism.

The promise of media convergence has the connotation that offline and online would not exist as two distinct worlds in the future, at least in the context of this discussion. A richer experience can result, in some cases, from a responsible joining of online data with offline data that was properly secured. In all such cases, however, the required notice and consent regimes would be expected to be followed.

In most cases of research, the most useful output does not target or identify an individual as a composite of his or her online and offline data. Rather, the objective is to do the opposite - provide insight on a broader, de-identified category of people whose information the marketer can then use along with audience data to improve their communications. A respondent or research subject would only serve as representative of a broader class of people with a matching profile.

Traditional and relevant standards such as personally identifiable information and sensitive data classification have certainly helped chart the regulatory framework for the new medium. However, it is appropriate to consider whether the requisite elements of transparency are properly resident in instances where online and offline data is merged. Consumer expectation is always a key consideration and those expectations can depend in part upon whether proper notice has been made available. And, connected to that is the ability for the consumer to consent or choose among options as to whether and how the data is used or shared.

As a matter of policy, I would hold to the principle that having a proper notice and consent regime in place is only the start – from there, it is incumbent upon the data

¹⁰ Study was designed and conducted by Professor Glen Urban, former Dean of the Sloan School of Management at the Massachusetts Institute of Technology

collector to follow through and only do as it represented it would. The speed at which data moves and the volume of data that can be amassed as a result of digital capabilities is axiomatic. Therefore, it is incumbent on industry to observe that even while we hold firm to the recognized privacy principles that have shaped our policy to date, we would need to ensure that its application to new and evolving data collection and use models does not betray the spirit of those foundational principles.

Pro-active Privacy

I am of the firm belief that pro-active privacy is possible in all the areas I've discussed and that it can be accomplished within a self-regulatory framework. I say this because I've seen it happen. In 2007, I appeared at a Federal Trade Commission workshop¹¹ and introduced a privacy-enhancing technology that one of our Kantar companies, Safecount (safecount.net),¹² had released. Safecount are experts in online data collection and advanced survey recruitment. Safecount technology identifies consumers who were exposed to a certain ad and then spawns online invitations to them to take surveys so that their answers can be matched against the answers from a group of people who have not seen the ad. The privacy-enhancing technology was Safecount's cookie viewer tool. The cookie viewer enabled the consumer to see, in real time, all the tracking data that Safecount had on them. Additionally, the cookie viewer identified the exact ad from which the Safecount cookie was set and also the place where the ad displayed. This was about promoting transparency on the web – an interested consumer would have full visibility into his or her relationship with Safecount.

As a further step, Safecount, which is in the business of recruiting people to take surveys, also introduced a survey control and choice tool, which would empower consumers to set how frequently they would like to be invited to take a Safecount survey – even not at all. If the cookie viewer was about transparency, the survey choice tool was about delivering control back to consumers so they can actually dictate the terms of engagement. I was pleased to see Google and others come forward since then with similar interfaces that empower consumers to manage the agenda.

GroupM, Ogilvy, Greenfield Consulting, Safecount, Lightspeed Research and 24/7 Real Media are all WPP units that are presently working with the Future of Privacy Forum¹³ on the Privacy Icon project. As I mentioned earlier, this project seeks to develop and launch consumer touch-points and experiences that inform of data collection or web tracking. We took the perspective of trying to do for this privacy-enabling project what would be done if we were to launch a market facing brand - and that is develop icons and messages that have potential to develop associations which can then lead to consumer engagement. This project is near conclusion, with the research results planned for release in December.

Earlier this year, a hearing was held by these two subcommittees on behavioral advertising, industry practices and consumer expectations. An annual study that helps industry gauge consumer expectations and awareness of behavioral targeting

¹¹ FTC's Behavioral Targeting', Session 6, Disclosures to Consumers, on November 2, 2007 and workshop agenda is available online at <http://www.ftc.gov/bcp/workshops/behavioral/agenda.pdf>

¹² Safecount's Cookie Viewer tool is at <http://www.safecount.net/yourdata.php> and its Survey Control tool is at <http://www.safecount.net/controlyoursurveyexperience.php>

¹³ More details about Future of Privacy Forum is located at <http://www.futureofprivacy.org/>

was cited at the session. The study – “Consumer Attitudes About Behavioral Advertising” – is a collaboration of TNS, a Kantar company, and TRUSTe. I raise this to support the proposition that industry can be pro-active in not only responding to congressional and regulatory overtures but also in keeping a close ear to consumers and their concerns.

Building trust with consumers is a primary tenet of any successful business and we are committed to contributing to a successful formula. I am encouraged by the steps that members of Congress and particularly those in these two subcommittees have taken to explore the topic of consumer data collection and use. I thank the subcommittees for allowing me the time to put forth our position and I look forward to staying engaged and active in the ongoing conversation.