

**Chairman Bobby L. Rush**

***Joint Hearing – Exploring the Offline and Online Collection and Use of Consumer Information***

***Subcommittees on CT&CP/Communications, Technology & the Internet***

***November 19, 2009***

Good afternoon. I am Congressman Rush, Chairman of the Subcommittee on Commerce, Trade, and Consumer Protection. It does me great honor to welcome all of you to our joint hearing, *Exploring the Offline and Online Collection and Use of Consumer Protection*.

The collection and use of personal information of customers and consumers are threads from the same knitting needle, sewn into the fabric of American commerce and competition near the start of the 20<sup>th</sup> century. Accordingly, these tools and methods predate their more powerful, precise, and predictive counterparts in the online realm by more than 100 years.

But, just because something has been around for a long time, does not mean we understand as much about it as we should. That is why I am delighted about today's hearing. It is the fourth in a series of hearings our two subcommittees have held on the subject of privacy.

At our hearings and in meetings, consumers and their advocates, industry, and leading commentators have shared with us extensively why this all matters, how entrepreneurs and businesses go about protecting consumer privacy, and why collecting personal information about individual consumers improves the chances their businesses will have to succeed. While preparing for these hearings, we have been surprised at times how little is really known about how businesses go about ensuring that individuals' privacy is protected.

Consumers are telling us they want to know more about how their information is being protected. As their Representatives and as consumers ourselves, we hear them loud and clear. They should be, and are concerned...even angered when they learn they've been placed on consumer lists identifying them as an affluent Jew or Black, a pro-choice or pro-life donor, a member of a same-sex couple relationship, or being addicted to gambling, sex or tobacco.

On my way back home to Chicago to celebrate the Thanksgiving holidays, I could take the Metro to the airport and by using a SmartCard and a frequent flyer card, records of my whereabouts, and when and to where I was commuting and flying are created. To buy my holiday turkey, I may use my grocery rewards card, which would swipe into a system of databases what is in my cart, when and where I shopped, and how much I paid, among other data points. These are just several examples of the types of consumer lists and data points that are generated and populated into databases, 365 days of every year.

But, how much do we know about the businesses that make it a business of obtaining and selling or sharing “off-line” information and customer lists with affiliated and unaffiliated businesses? How much do we know about their marketing practices and product development strategies to persuade buyers and individuals who will pay considerable amounts of money for that information? How much do we know about what these buyers and individuals do with that information, including reselling that information downstream to other buyers and bidders for that information?

I am also interested in hearing everyone's perspectives about the current legal and regulatory structure that exists to protect this information. Should the source of the information, whether it is taken "off-line" from a warranty registration card, or "on-line" from a social or health networking site be treated differently, when it reveals fundamentally the same personal information about an individual consumer? And by treating the information differently, with a heightened duty on business to protect "on-line" sources", for example, are we setting perverse incentives and conditions for regulatory arbitrage and avoidance?

My end goal is to work with the Members of this Committee to introduce privacy legislation, which protects consumers from privacy-related harms, yet doesn't stifle responsible entrepreneurs and business people from developing models and executing successful business and marketing plans that are respectful of consumer privacy.

Keeping privacy protections that belong in the back office from tumbling into crawl spaces UNDER the office will be a big part of our challenge. In whatever bill we draft, we must work to ensure that the accelerating convergence between “off-line” and “on-line” collection and use does not outpace the demands of consumers for dignity and decency in our dawning digital economy and markets.

With that, I yield back the balance of my time.