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Overzealous Privacy Legislation Threatens to Curtail Online Growth
NetChoice iAWFUL List Identifies Top Ten Threats to Online Commerce

(Washington, D.C.) Competing proposals for online privacy legislation are creating a legislative arms race that could cripple the Internet by adding significant cost and regulatory burden. Federal online privacy efforts and an expansion of Internet taxation rank number one and two on an updated iAWFUL list that warns legislators to tread cautiously when regulating the still developing online economy.

The Internet Advocates' Watchlist for Ugly Laws (iAWFUL) tracks the ten instances of state and federal legislation that pose the greatest threat to the Internet and e-commerce. In its second update for 2010, iAWFUL identifies new legislation that has the potential to stall Internet commerce.

"This iAWFUL list sends a shot across the bow of legislators who are simply going too far," said Steve DelBianco, executive director of NetChoice. "Both state and federal lawmakers are too often willing to trade short term political benefits for long term economic development."

Efforts so far this year have helped to remove two of the worst offenders from the February 2010 iAWFUL list, including a federal bill giving the Federal Trade Commission more powers to make new rules for online activity without Congressional guidance, and a Maine law restricting online marketing to teenagers.

This iAWFUL list targets federal privacy proposals that would curtail the continued development of ad-supported content and services that consumers have come to expect from the Internet. The privacy proposals would regulate small websites that don't collect personally identifiable information. For instance, a proposal by Representatives Rick Boucher (D-VA) and Cliff Stearns (R-FL) would regulate a tiny online startup that is adding just 100 users a week, even when users provide only a nickname and password.

And where these proposals attempt to mitigate new regulatory burdens, they don't go nearly far enough. The proposals would grant the Federal Trade Commission broad powers to dictate the details of self-regulatory programs, effectively transforming the FTC into a "port authority" of the Internet. Moreover, the safe harbor "choice program" found in Representative Bobby Rush's (D-IL) legislation is no real solution for online businesses, who would be forced to conform to avoid costly lawsuits enabled by the bill's private right of action - with statutory damages of \$1,000 per violation.

An updated federal push to expand Internet taxation via the Streamlined Sales Tax (SST) jumped into the number two slot of the 2010 iAWFUL list. In their hunt for additional tax revenues, a handful of states have again asked Congress to force out-of-state businesses to be their tax collectors. H.R. 5660, sponsored by Representative Delahunt (D-MA), would take money from consumers and move it to two dozen state capitols while imposing costly new burdens on small businesses in all fifty states. This new collection burden would be a jobs-killer that cannot be justified by the grossly overestimated revenues trumpeted by advocates.

Although sales tax systems are as complex as ever, SST supporters have abandoned their original promise to exempt small businesses and compensate sellers for the burdens of collecting taxes. The proposed legislation once again shows that serious simplification of sales tax systems has become just a slogan — not a standard.

Individual legislative proposals from a broad swath of states including California, Colorado, Illinois, Maryland, New Mexico, Virginia and Oregon round out the iAWFUL list through additional tax grabs that seek to use the Internet as a novel revenue source at the cost of consumer privacy and convenience.

The iAWFUL list, created in 2009, identifies America's ten worst legislative and regulatory proposals targeted at the Internet. The iAWFUL [web site](#) urges Internet users to join the fight to fix bills that threaten the future of online commerce and communication. The list is regularly updated to reflect the most immediate dangers, based on regulatory severity and likelihood of passage.

“Policymakers should be promoting the growth of small online retailers, not creating roadblocks in their way,” said DelBianco. “Now is not the right time for the federal and state governments to champion new regulatory and tax burdens.”

The entire updated 2010 iAWFUL includes:

1. Federal Online Privacy Legislation – New to iAWFUL
2. Federal Legislation to Expand Internet Taxation
3. Consumer Purchase Tax Reporting Initiative (CO)
4. Hotel Taxes on Online Travel Companies (NY, FL)
5. Advertising Nexus Taxes (CO, IL, NM, MD, VA, VT)
6. New Taxes on Digital Downloads (OK, SC)
7. Nevada Encryption Mandate (NV)
8. California Data Breach Notification (CA)
9. Regulation of Free Trial Offers and Renewal Agreements (OR)
10. Component Nexus Laws (CA, CO, OK)

The full iAWFUL list, complete with bill descriptions, is available at www.iAWFUL.com. Twitter users can follow iAWFUL developments on the NetChoice feed (@NetChoice) and via the hashtag #iAWFUL. Expanded information is also available on the NetChoice blog at <http://blog.netchoice.org>

The iAWFUL list is a NetChoice publication and does not represent the views of individual NetChoice member companies.

NetChoice is a public policy advocacy organization that promotes Internet innovation and communication and fights threats to online commerce at state, federal and international levels. The Washington, DC-based group protects Internet commerce-driven competition and battles rules that hinder consumer choice and hurt small businesses. For more information, see www.netchoice.org.

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