October 2, 2012

Digital Advertising Alliance
1120 Sixth Ave
Suite 1300
NYC, NY 10036

Jeff Jaffe, Chief Executive Officer
Tim Berners-Lee, Director
W3C/MIT
32 Vassar Street
Room 32-G515
Cambridge, MA02139USA

Dear Messrs. Jaffe and Berners-Lee:

The Digital Advertising Alliance ("DAA") is writing to express strong opposition to the current posturing of the W3C's effort to establish a "do-not-track" standard. On September 21, 2012, the Tracking Protection Working Group ("TPWG") released the agenda for its October 2012 meeting in Amsterdam. This agenda states, "we will now accept that many issues cannot be resolved in a way that does not raise any objections."[1] Despite this recognized lack of consensus among stakeholders, the TPWG states that the goal of this meeting is to come to a decision on a standard through the following non-consensus process: "we will put more focus on creating viable alternative texts as input for our decision procedure where the chairs call for objections and then analyse the resulting input to come to a conclusion that raises least objections."[2] This is not an appropriate process or means for moving forward on decisions that could affect the future of an entire online ecosystem. A non-consensus decision by the TPWG, an organization of unelected individuals who do not represent the interests of all stakeholders, should not be substituted for the consensus judgment of the participants given the impact such a decision could have on consumers, commerce, national and global economies, jobs, and the overall health of the Internet ecosystem. Moreover, we are concerned that this "path of least resistance" approach will have a disproportionate impact on certain stakeholders who are not adequately represented in the TPWG.

The TPWG should not try to redefine established industry practice and consumer expectations in an area where widespread consensus already exists. The DAA has developed a comprehensive standard governing web-viewing data practices. These robust policy guidelines for the responsible collection and use of web viewing data have been committed to by industry and implemented via a global framework across the digital marketing ecosystem (*see* www.youradchoices.com). This standard was deliberated through a four-year process involving stakeholder input from industry, privacy interest groups, and U.S. regulators and policymakers and, at a White House privacy event in February 2012, was recognized as "an example of the value of industry leadership as a critical part of privacy protection going forward."[3] The W3C's effort to revisit and redefine this standard is counterproductive because a standard currently exists. An alternative standard will create confusion for consumers and businesses. Moreover,

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[1] W3C Agenda: Tracking Protection WG Meeting 2012 3-5 October, available at http://www.w3.org/2011/tracking-protection/agenda-2012-10-03-F2F-Amsterdam.html.

[2] *Id.*

[3] Speech by Danny Weitzner, *We Can't Wait: Obama Administration Calls for A Consumer Privacy Bill of Rights for the Digital Age* (February 23, 2012), *available at* http://www.whitehouse.gov/blog/2012/02/23/we-can-t-waitobama-administration-calls-consumer-privacy-bill-rights-digital-age (last visited March 16, 2012).

some of the standards being contemplated by the TPWG would create a result that would be harmful to consumers by creating a false choice that does not accurately reflect the impact that would result under the proposed choice mechanisms before the W3C.

To my knowledge, W3C is a technology standards organization that has traditionally focused on developing consensus around specifications and guidelines for web technologies. The W3C's recent foray into setting public policy standards is outside the expertise of the W3C. The W3C has been designed to build consensus around complex technology issues, not complex public policy matters. For this reason, it is not surprising that W3C has been unable to achieve consensus in this forum. Policymakers, regulators, advocates, and industry representatives have grappled with these types of policy issues for decades and continue to deliberate on these matters. Nevertheless, the W3C appears poised not only to make a non-consensus policy decision in this area, but also to move forward to other policy matters involving privacy. To this end, the W3C has scheduled a meeting in November 2012 with a stated purpose of applying its yet-to-be-defined or settled "do-not-track" standard to other marketing practices including "…email marketing, mobile application development and online social networking."[4]

There has been no open dialogue or call to move forward on these other matters of policy. Neither has there been an open discussion on applying "do not track" standards to other practices. The public interest is not served by this expansion of the W3C's efforts, especially because the method by which the W3C is seeking to achieve results is not through consensus and gives all stakeholders equal standing in the process regardless of whether or not certain groups play a disproportionately large role in the Internet ecosystem. This flawed approach will result in an outcome that will significantly undermine the Internet and existing consumer benefits.

The TPWG should remain true to the W3C's mission of developing consensus around specifications for web technologies and should not seek to expand its scope into public policy issues that would be better addressed in other policy forums that have the experience and qualifications to evaluate these issues. The DAA strongly believes that the W3C should not undertake further forays into privacy policy issues. We ask that the W3C leave these areas to the established industry and policy bodies that have already been successfully addressing them.

Sincerely,

/s/

Lou Mastria
Managing Director, DAA

cc: Aleecia M. McDonald, Co-Chair of the TWPG
       Matthias Schunter, Co-Chair of the TPWG

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[4] W3C Workshop: Do Not Track and Beyond 26-27 November 2012, available at http://www.w3.org/2012/dnt-ws/.