

As I mentioned in my previous post, there is a strong effort to regulate the use of information on the web in the name of “privacy.” The basic tradeoff that drives the web is that firms use information for advertising and other purposes, and in return consumers get lots of things free. Google alone offers about 40 free services, including the original search engine, gmail, maps, and the increasingly popular android operating system for mobile devices. Facebook is another set of free services. There are hundreds of others, all ultimately funded by advertising and the use of information. Any effort to regulate information is going to change the terms at which these services are offered.

To justify regulation, two conditions must be met. First there must be some market failure. Second, there must be at least an expectation that the benefits of the proposed regulation will outweigh the costs. In a market economy, we generally put the burden of proof on those proposing regulation, since the default assumption is that markets provide net benefits. Proponents of regulating the use of information on the internet have met neither of these burdens.

One main justification for regulation is that people do not want to be tracked. I discussed this issue in my previous post. Let me just add that, while people express a desire not to be tracked, in practice they seem quite willing to trade information for other services. The other issue is identity theft — the possibility that information will be misused for illegitimate purposes. Tom Lenard and I have written extensively about this [issue](#). The bottom line, however, is that consumers are not liable for much if any of the costs of identity theft, and since firms must bear these costs there is no obvious market failure.

With respect to the second issue, there has been virtually [no effort](#) to undertake any cost benefit analysis of the proposed regulations. However, if there were such an analysis, it is unlikely that regulations would be cost justified since the benefits of the free stuff are huge and the costs are small at best. While it is conceivable that some tweaking would pass a cost-benefit test, it is very unlikely that any regulation which could get through the political process and then be administered by an agency such as the FTC would in fact pass this test. Moreover, the proposed regulations, such as a “do not track” list or shifting from opt out to opt in are well beyond “tweaking” and might fundamentally change the terms of the tradeoff.

The bottom line is this: Privacy advocates act as if privacy is free. But increased privacy means reduced use of information, and no one has shown that altering the terms of this tradeoff would be beneficial to consumers.

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