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FOR IMMEDIATE RELEASE

June 18, 2009

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**Statement by the Honorable Bobby L. Rush, Chairman
Subcommittee on Commerce, Trade and Consumer Protection
for the Joint Hearing with the
Subcommittee on Communications, Technology and the Internet
on
“Behavioral Advertising: Industry Practices and Consumer Expectations”**

June 18, 2009

WASHINGTON — “Good morning. Today, the Subcommittees on Commerce, Trade and Consumer Protection and Communications, Technology and the Internet are combining our commitment to privacy and our resources to conduct an extremely important hearing on “Behavioral Advertising: Industry Practices and Consumers’ Expectations.” I want to thank Chairman Boucher for his dedication to this important Issue.

“This is but one hearing along a continuum of legislative activity examining the domains of “on-line” and “off-line” consumer privacy and how companies handle and treat consumers’ personal information. Most recently, the Subcommittee on Commerce, Trade and Consumer Protection, which I chair, marked up H.R. 2221, the Data Accountability and Trust Act, a bi-partisan bill, which addresses the security of personal information, breaches of that security, and corrects some of the resulting harms to consumers. I am hopeful there will be more hearings.

“There are currently no federal laws specifically governing behavioral advertising nor do we have a comprehensive general privacy law. As members of congress, we have anticipated for some time that this hearing would be highly informative and very valuable in helping us answer the question

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that everyone seems to ask: is federal privacy legislation necessary, or should companies be trusted to discipline and regulate themselves?

“At this hearing, I look forward to hearing from our very distinguished panel of witnesses about this growing trend of online behavioral advertising. Market research firms have estimated that behaviorally targeted ad spending will reach \$4.4 billion by the end of 2012. That number is eye-popping as it translates into almost 25% of all the online display ad spending that is projected to be spent by year-end 2012.

“As prevalent as these ads are becoming so, too, are the “buzz words,” which are purportedly needed to flesh out the appropriate contents of fair information principles and practices.

“Words and phrases, such as “transparency,” “choice,” “notice,” “consent,” “consumer expectations,” “opt-in” and “opt-out” seemingly mean different things to different speakers depending upon an array of variables.

“Such variables may include the identity of the user, whether he or she has registered with the visited website, whether the ads are being served by first- or third-party sites, the sufficiency and conspicuousness of pre-existing privacy policies and disclosures, the robustness of user-enabled settings for managing user privacy, and the list goes on and on an on.

“All of these variables are important to consider, but they can muddle the issue of whether legislation is needed. I will be listening intently to your accounts of how up front companies have been about the types of personal information they are collecting from consumers, what they are doing with that information, and what choices and controls that consumers have over the subsequent use of that information.

“Thank you very much for coming in to present your testimony. And, let me also thank all of the subcommittee’s members, and their respective staffs, for working so diligently to prepare us for this hearing.”

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