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New Curbs Sought on the Personal Data Industry

By STEVE LOHR MAY 27, 2014

The Federal Trade Commission on Tuesday called on Congress to protect consumers against the unchecked collection and sharing of their digital data — from websites visited to their marital status — by providing people with tools to view, suppress and fix their information.

The agency also said the little-known companies, called data brokers, that analyze and sell huge amounts of the consumer information for marketing purposes, needed to be reined in and more transparent to the public.

Companies that trade in consumer data, the agency said in a 110-page report about the industry, suffered from “a fundamental lack of transparency.”

“You may not know them, but data brokers know you,” Edith Ramirez, chairwoman of the F.T.C., said in a conference call. It is an industry, she said, that “operates largely in the dark,” yet it has remarkably detailed information that includes online and store purchases, political and religious affiliations, personal income, and socioeconomic status.

One data broker in the report, for example, had 3,000 data categories for nearly every American consumer.

Data brokers analyze information collected about consumers to make automated assumptions about them, the report said. While the conclusions may determine the products and services offered to a person, the report said, the conclusions can be mistaken.

Consumers are placed in data-driven social and demographic groups for marketing purposes with labels like “financially challenged,” “diabetes interest” and “smoker in household,” the report said.

The report explains how these software-generated groupings could affect a

person. It said a person assumed to be a “biker enthusiast” might get special offers from the local motorcycle shop. But that same person might also have to pay higher fees for life insurance because insurers infer that person engages in risky behavior.

The practices of data brokers have been described in news articles and in a few previous government reports, including one by the staff of the Senate Commerce Committee last December. But experts say the F.T.C.’s report, the conclusion of an 18-month investigation, is the most detailed and authoritative portrait to date.

“For many Americans, this is going to be eye-opening,” said David C. Vladeck, a professor of law at Georgetown University and former senior F.T.C. official. “This is a very strong call to Congress to get something done.”

The F.T.C. report adds momentum to the push in Washington to put new curbs on how information collected about people is used by companies. This month, the White House issued its own report that focused largely on how companies gather and use vast stores of data online about individuals, and how those practices could be used to discriminate against certain racial, ethnic or socioeconomic groups.

The White House report called for a renewed push to pass a Consumer Privacy Bill of Rights, which President Obama first proposed in 2012. Several of the recommendations in the F.T.C. report are similar to those in the White House privacy proposal.

In February, Senator John D. Rockefeller, Democrat of West Virginia, and Senator Edward Markey, Democrat of Massachusetts, introduced a bill that would require data brokers to disclose more information about their practices and to give consumers more control over their information collected and sold by the companies.

The data broker industry generally opposes legislation, asserting that effective self-regulation is the preferred solution in an industry that is changing quickly and growing rapidly. Peggy Hudson, senior vice president of government affairs for the Direct Marketing Association, which represents data brokers, said that the F.T.C. report, after a lengthy investigation, “still does not show there is

consumer harm.”

In the conference call with reporters, Ms. Ramirez, the F.T.C. chairwoman, said her agency’s investigation and report “did not identify any unlawful activity.”

The dangers cited by the F.T.C. are speculative, Ms. Hudson said, adding that existing laws prohibit the kind of potential discrimination that both the F.T.C. and White House big data reports described. “Self-regulation is working,” she said.

The F.T.C. began policing the data broker industry in 2010, out of concern that companies were using large new sources of digital data and clever software to sidestep the Fair Credit Reporting Act. That legislation, passed in 1970, was a response to privacy concerns raised by the surge in data collection and analysis in the mainframe era — the big data of its day.

The law permitted the collection of personal financial information by credit bureaus, but sharply limited its use. And the F.T.C. staff worried that the amount of digital data now available because of online browsing and other activities, combined with sophisticated software for spotting correlations and inferences based on the data, make it possible to get around the restrictions of the Fair Credit Reporting Act.

Privacy groups generally praised the F.T.C. report on Tuesday, but said it could have gone further in its recommendations. Jeffrey Chester, executive director of the Center for Digital Democracy, described the detailed report as “a powerful and disturbing privacy wake-up call.”

Marc Rotenberg, executive director of Electronic Privacy Information Center, said the agency’s report placed too much responsibility on individual consumers to monitor the activities of data brokers. The problem, Mr. Rotenberg said, is that data brokers — unlike websites and retailers, for example — do not deal directly with consumers.

“The consumer,” he said, “is not the customer, but the product.”

Data brokers, Mr. Rotenberg suggested, should be required to contact an individual when his or her information is about to be sold to an insurer, prospective employee or government agency, for example.

“There should be much clearer rights and stronger protections for the individual,” he said. “The F.T.C. didn’t go far enough. This was a missed opportunity.”

The nine data brokers examined in the F.T.C. report were Acxiom, CoreLogic, Datalogix, eBureau, ID Analytics, Intelius, PeekYou, Rapleaf and Recorded Future. Since the F.T.C. investigation began in December 2012, companies in the industry have taken some steps to disclose more information about their activities and the information they collect.

Acxiom, the largest data broker, set up a website, AboutTheData.com, that allows a consumer to see some of the information it has on people, as well as some of the data-generated assumptions it makes about them.

In a statement on Tuesday, Acxiom said it generally agreed with the observations in the F.T.C. report and that the industry’s current code of conduct and best practices are largely in step with the F.T.C. recommendations.

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