Microsoft Internet Explorer 8 InPrivate Browsing May Affect Online Activities

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New features included on Microsoft's Internet Explorer 8 could substantially impact both the business models and the current practices of third-party ad servers, behavioral marketers, web traffic analytics services, and content providers who rely on either third-party content and/or advertising reviews to support their online offerings.

Recently, Microsoft announced on its Internet Explorer Blog that Internet Explorer 8, for which Beta 2 was released on August 27, 2008, included a new suite of features designed to limit the information stored or shared when users browse the Internet. Collectively referred to as InPrivate and described in greater detail in *Trustworthy Browsing — Guidance for Third Party Content Providers* (rev. August 21, 2008), a whitepaper distributed by Microsoft to select web publishers and content providers, these new features include:

- *Delete Browsing History* — which will allow users to delete their browsing history while preserving cookies and temporary Internet files from web sites saved in their Favorites list;

- *InPrivate Browsing* — which will allow users to restrict the information Internet Explorer automatically records about their browsing

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habits and prevent the placement of new persistent cookies on their computers;

- *InPrivate Blocking* — which will allow users to block third-party content on web pages that they visit; and

- *InPrivate Subscriptions* — which will allow any person or organization to create and publish lists of third-party content providers to be blocked or allowed when InPrivate Blocking is active.

If these new features are successfully implemented as they are presently described in Microsoft's documents, they may have a significant impact on a number of common Internet business practices, including online behavioral marketing and web traffic analytics.

DELETING BROWSER HISTORY

As with previous versions of Internet Explorer, users will be able to delete browsing history files if they desire by choosing the appropriate options in the main menu. In the past, these options deleted all browsing history files indiscriminately — erasing cookies and temporary Internet files from frequently visited and trusted web sites along with any unwanted data. Internet Explorer 8 will offer the option to preserve cookies and temporary Internet files from web sites saved in a user's Favorites list. Consistent with prior versions of Internet Explorer, this will not be an automatically recurring process. Users will have to deliberately initiate Delete Browsing History each time that they wish to clear the data concerning browsing habits collected by Internet Explorer.

InPRIVATE BROWSING

Microsoft has stated that users will have to affirmatively initiate an InPrivate Browsing session; otherwise Internet Explorer 8 will browse normally. InPrivate Browsing will allow users to suppress the collection and storage of information about their browsing behavior. For example, form data, passwords, search queries, web addresses, and browsing history will not be stored during an InPrivate browsing session. All new cook-

ies will be converted into session cookies, which will be deleted when the browser is closed. Nonetheless, all preexisting cookies may be read normally. New temporary Internet files will be deleted when the browser is closed.

InPRIVATE BLOCKING

When a user starts an InPrivate Browsing session, Internet Explorer 8 will also apply InPrivate Blocking, which will impede the loading of third-party content on the web sites the user visits. Specifically, when a user navigates to any web page in normal browsing mode, InPrivate will identify and track all content originating from a domain other than the domain selected by the user. When in InPrivate mode, InPrivate Blocking will exclude content from any third party that has been found on more than 10 web sites visited by the user that were identified when the user was browsing normally. Notably, if users engage InPrivate Browsing, the browser does not store information on third-party content. Thus, InPrivate Blocking will only block third parties that have been identified during normal browsing sessions.

If a user wishes to exercise more granular control over the third-party content that is blocked or allowed, he/she may choose to "Manually Block" specific third-party content providers. In this instance, Internet Explorer will provide direct links to each third-party content provider (XYZ) at a designated URL formatted as: www.XYZ.com/tracking/3rdParty.html. Microsoft encourages all third-party content providers to post identification and contact information as well as disclosures of their information practices at the designated URL so that users may make informed decisions.

InPRIVATE SUBSCRIPTIONS

Alternatively, users may take advantage of InPrivate Subscriptions to streamline the process of determining which content to allow or block. These subscriptions will be simple RSS feeds composed of "block" and "allow" designations for specific third-party content providers. Subscription lists may be created and promoted by any organization;

Microsoft has announced that it will not endorse any given list. Third-party accreditation organizations may create InPrivate subscriptions for general consumer use, while businesses and government agencies may create InPrivate subscriptions to regulate the content downloaded onto their networks by employees. At present, an "allow" listing in any sub-scription will override a "block" listing in any other list to which a user may subscribe.

Microsoft suggests two alternatives for web publishers concerned about the restriction of third-party content. First, web publishers may host the content of their partners on their domain. Second, web publishers may alias partner servers to subdomains of the publisher. For example, web publisher ABC may use DNS to alias the servers of third-party content provider XYZ as the subdomain XYZ.ABC.com. Although these solu-tions may be serviceable for web application providers and some traffic analytics services, they likely provide little comfort for providers who chain content such as third-party advertising networks, because only the initial aliased source will be treated as first-party content. Any content generated by subsequent calls to advertising servers (e.g., advertisements) may still be blocked as third-party content.

Accordingly, it appears that third-party advertising networks would be best served to seek approval on any popular InPrivate Subscription lists that emerge after the release of Internet Explorer 8. Since InPrivate will allow any entity to create subscription lists, industry organizations may consider creating and promoting their own subscription lists of approved third-party content providers. However, in light of recently heightened scrutiny by the Federal Trade Commission and Congress, behavioral mar-keters should exercise caution and ensure that any such effort is assidu-ously clear and above board.

CONCLUSION

Given Microsoft's presence in Internet browsing — it is estimated that 50 to 70 percent of all Internet users presently use a version of Internet Explorer — it is reasonable to expect that successful implemen-tation and widespread use of InPrivate could substantially impact both the

business models and the current practices of third-party ad servers, behavioral marketers, web traffic analytics services, and content providers who rely on either third-party content and/or advertising reviews to support their online offerings. Interested parties should examine Internet Explorer 8 Beta 2 and evaluate the implications of the InPrivate functions for their business.