

INTERNATIONAL  
**Herald Tribune**

## Internet privacy protections disappear with a judge's order

**The Associated Press**

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**NEW YORK:** Credit card companies know what you have bought. Phone companies know whom you've called. Electronic toll services know where you've gone. Internet search companies know what you've sought.

It might be reassuring, then, that companies have largely pledged to safeguard these repositories of data about you.

But a recent federal court ruling ordering the disclosure of YouTube viewership records underscores the reality that even the most benevolent company can only do so much to guard your digital life: All their protections can vanish with one stroke of a judge's pen.

"Companies have a tremendous amount of very sensitive data on their customers, and while a company itself may treat that responsibly ... if the court orders it be turned over, there's not a lot that the company that holds the data can do," said Jennifer Urban, a law professor at the University of Southern California.

In the past, court orders and subpoenas have generally been targeted at records on specific individuals. With YouTube, it's far more sweeping, covering all users regardless of whether they have anything to do with the copyright infringement that Viacom Inc., in a \$1 billion lawsuit, accuses Google Inc.'s popular video-sharing site of enabling.

It is a scenario privacy activists have long warned about.

"What we're seeing is (that) the theoretical is becoming real world," said Lauren Weinstein, a veteran computer scientist. "The more data you've got, the more data that's going to be there as an attractive kind of treasure chest (for) outside parties."

U.S. District Judge Louis L. Stanton dismissed privacy arguments as speculative.

Earlier this month, Stanton authorized full access to the YouTube logs which few users even realize exist after Viacom and other copyright holders argued that they needed the data to prove that their copyright-protected videos for such programs as Comedy Central's "The Daily Show with Jon Stewart" are more heavily watched than amateur clips.

"This decision makes it absolutely clear that everywhere we go online, we leave tracks, and every piece of information we access online leaves some sort of record," Urban said. "As consumers, we should all be aware of the fact that this sensitive information is being collected about us."

Mark Rasch, a former Justice Department official who is now with FTI Consulting Inc., said the ruling could open the floodgates for additional disclosures.

Though lawyers have known to seek such data for years, Rasch said, judges initially hesitant about authorizing their release may look to Stanton's ruling for affirmation, even though U.S. District Court rulings do not officially set precedence.

The YouTube database includes information on when each video gets played. Attached to each entry is each viewer's unique login ID and the Internet Protocol, or IP, address for that viewer's computer identifiers that, while seemingly anonymous, can often be traced to specific individuals, or at least their employers or hometowns.

Elsewhere, search engines such as Google and Yahoo Inc. keep more than a year of records on your search requests, from which one can learn of your diseases, fetishes and innermost thoughts.

E-mail services are another source of personal records, as are electronic health repositories and Web-based word processing, spreadsheets and calendars.

One can reassemble your whereabouts based on where you've used credit cards, made cell phone calls or paid tolls or subway fares electronically. One can track your spending habits through loyalty cards that many retail chains offer in exchange for discounts.

Though companies do have legitimate reasons for keeping data they can help improve services or protect parties in billing disputes, for instance there is disagreement on how long a company truly needs the information.

The shorter the retention, the less tempting it is for lawyers to turn to the keepers of data in lawsuits, privacy activists say.

With some exceptions in banking, health care and other regulated industries, requests are routinely granted.

Service providers regularly comply with subpoenas seeking the identities of users who write negatively about specific companies, at most warning them first so they can challenge the disclosure themselves. The music and movie industries also have been aggressive about tracking individual users suspected of illegally downloading their works.

Law enforcement authorities also turn to the records to help solve crimes.

The U.S. Justice Department had previously subpoenaed the major search engines for lists of search requests made by their users as part of a case involving online pornography. Yahoo, Microsoft Corp.'s MSN and Time Warner Inc.'s AOL all complied with parts of the legal demand, but Google fought it and ultimately got the requirement narrowed.

In the YouTube case, Viacom largely got the data it wanted.

Google has said it would work with Viacom on trying to ensure anonymity, and Viacom has pledged not to use the data to identify individual users to sue. The YouTube logs will also likely be subject to a confidentiality order.

But privacy advocates warn that there's no guarantee that future litigants will be as restrained or that data released to lawyers won't inadvertently become public through their inclusion as an attachment in a court filing, for instance.

And retailers, government agencies and others are regularly announcing that personal information, stored without adequate safeguards, is being stolen by hackers or lost with laptops or portable storage drives.

"You just never know," said Steve Jones, an Internet expert at the University of Illinois at Chicago. "There are some circumstances under which what seems to be private information is going to be shared with a third party, and the court says it's OK to do that."

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