

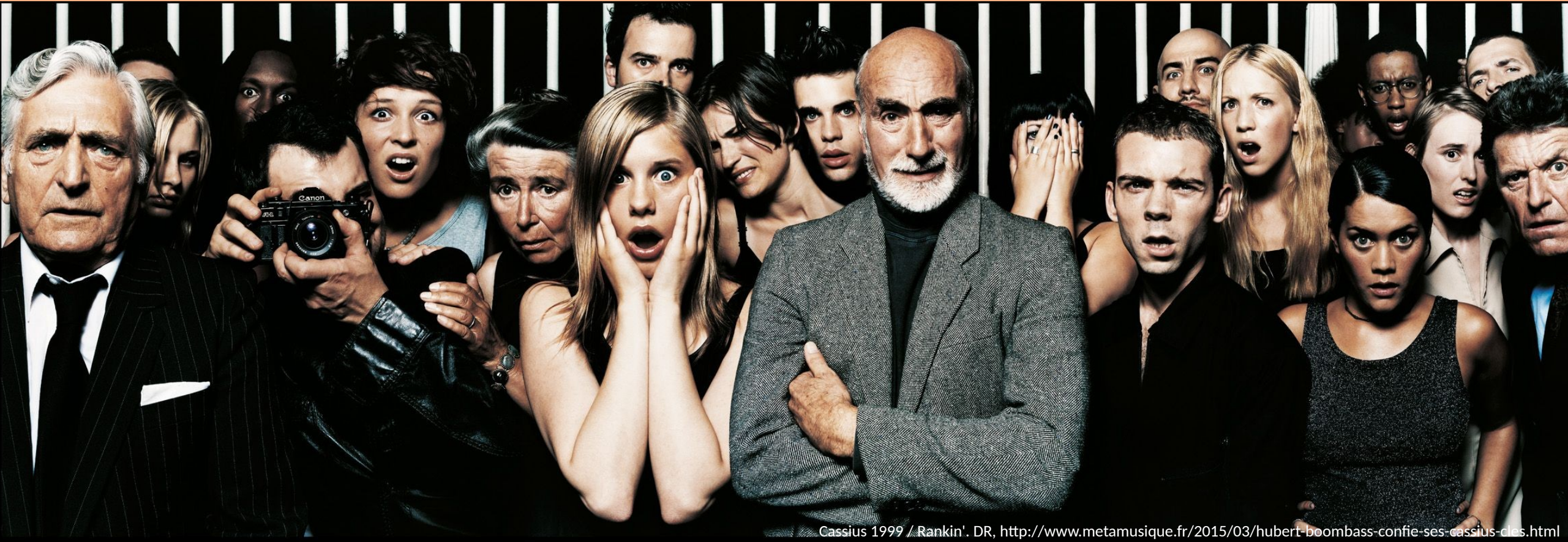
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Remarks on the Relevance of Privacy Expectations for Default Opt-out Settings

IEEE Symposium on Privacy Expectations

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We have a problem with ...



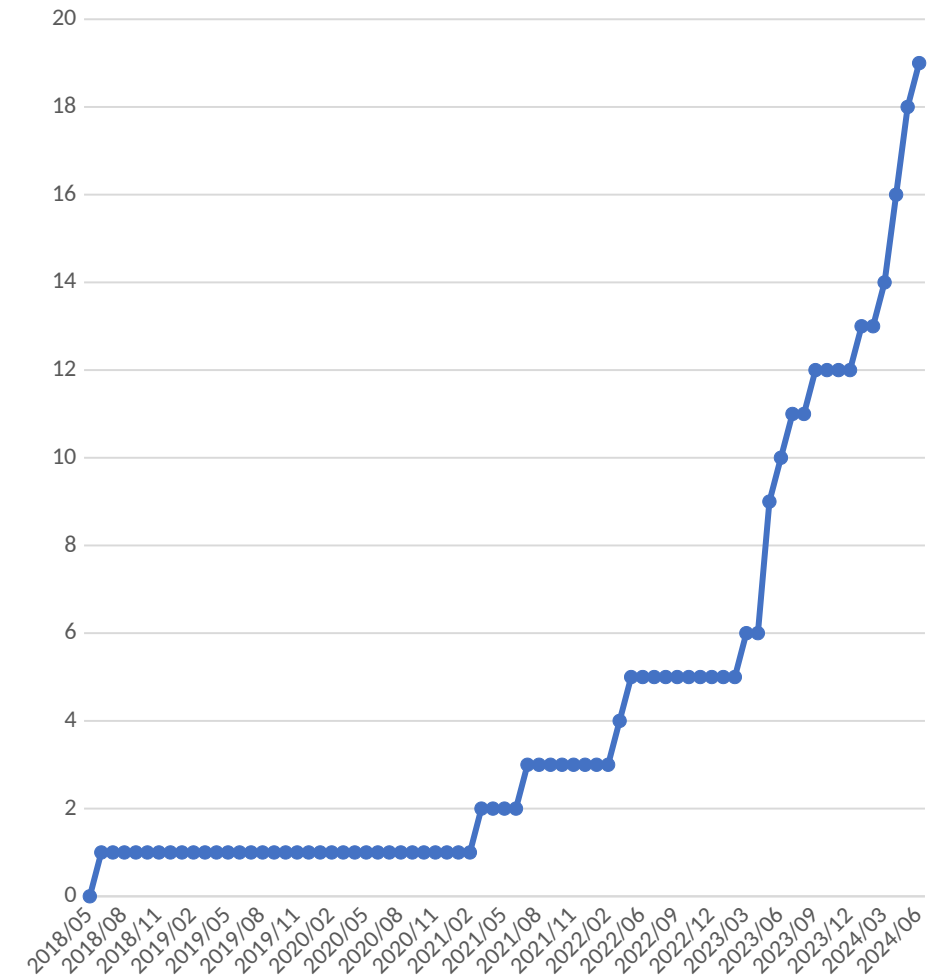
Cassius 1999 / Rankin'. DR, <http://www.metamusique.fr/2015/03/hubert-boombass-confie-ses-cassius-dcs.html>

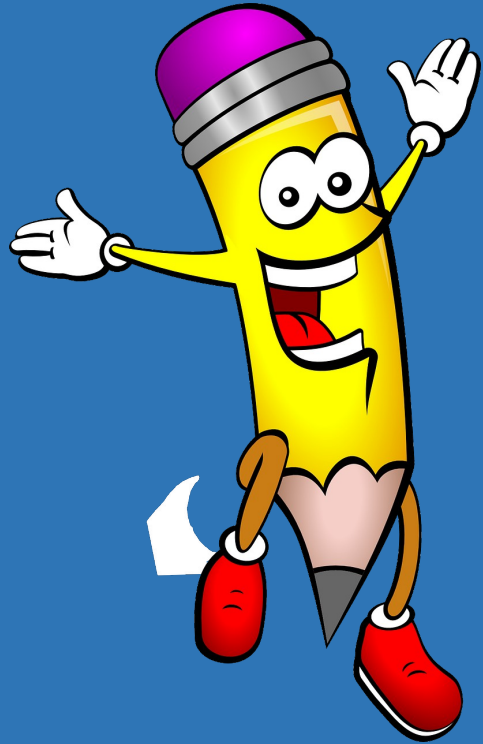
... privacy expectations!

The Challenge

- The US privacy landscape changes: new state laws
- Laws introduce Universal Opt-Out Mechanisms (UOOMs)
- **What is the default setting?**

Signing of US State Privacy Laws Timeline



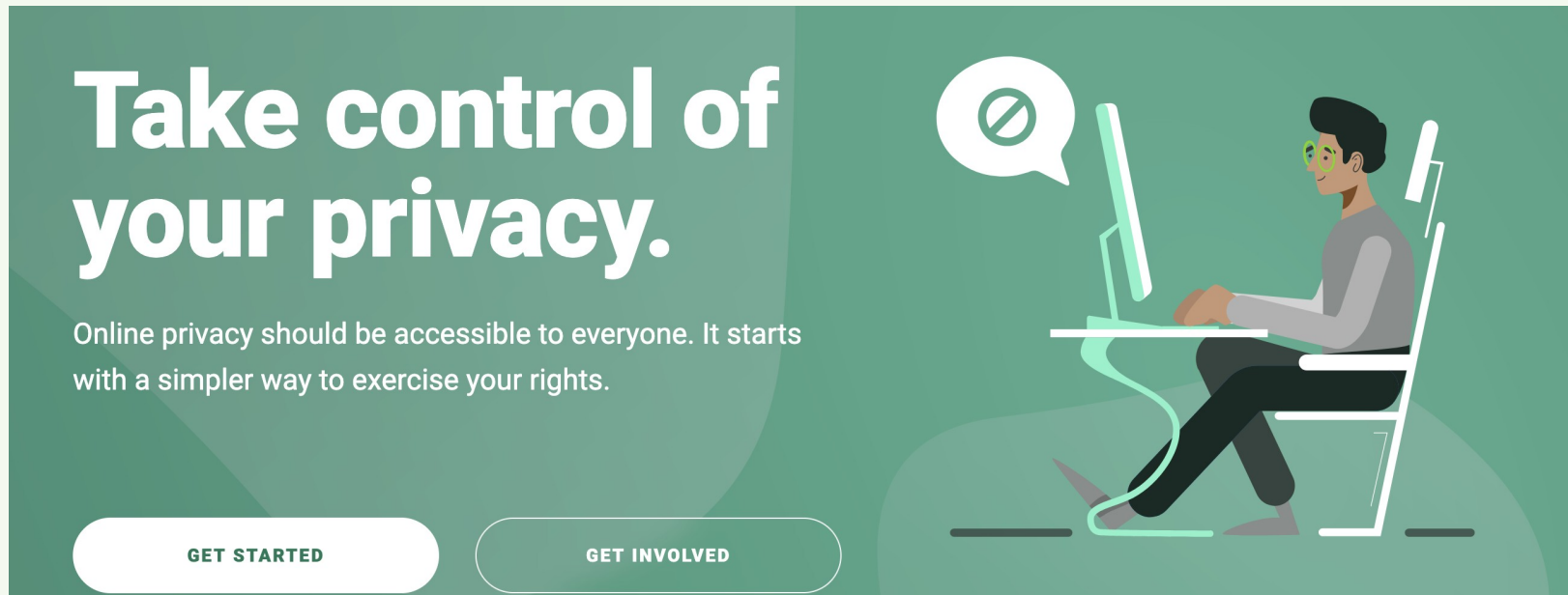


My Main Point

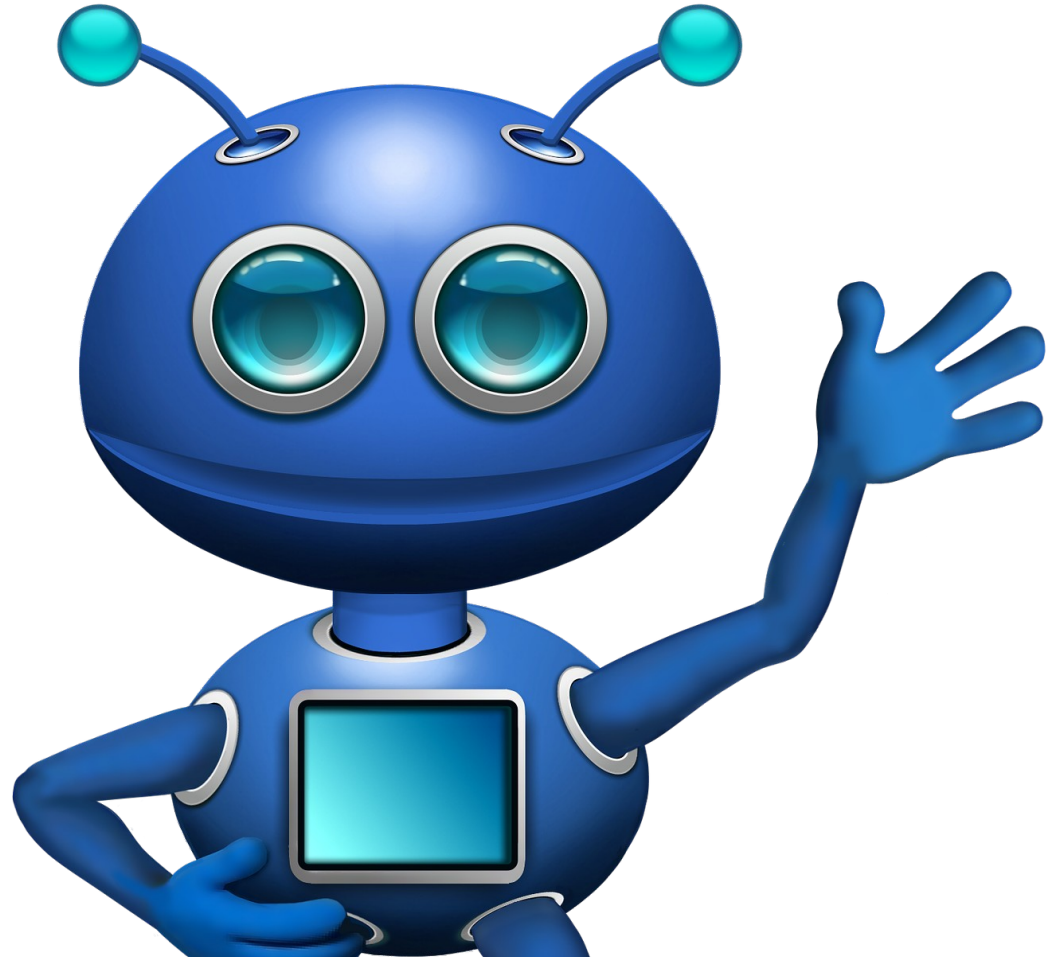
An opt-out choice can be expressed by selecting a privacy-branded product -> opt-out settings should be on by default in those to meet privacy expectations

Example: Global Privacy Control (GPC)

- GPC is a UOOM that signals users opt-out right to every website they visit or app they use
- It is like a little robot that automatically clicks the “Do Not Sell or Share” button



[https://globalprivacycontrol.org/.](https://globalprivacycontrol.org/)



Opt Out for All
Sites or Some

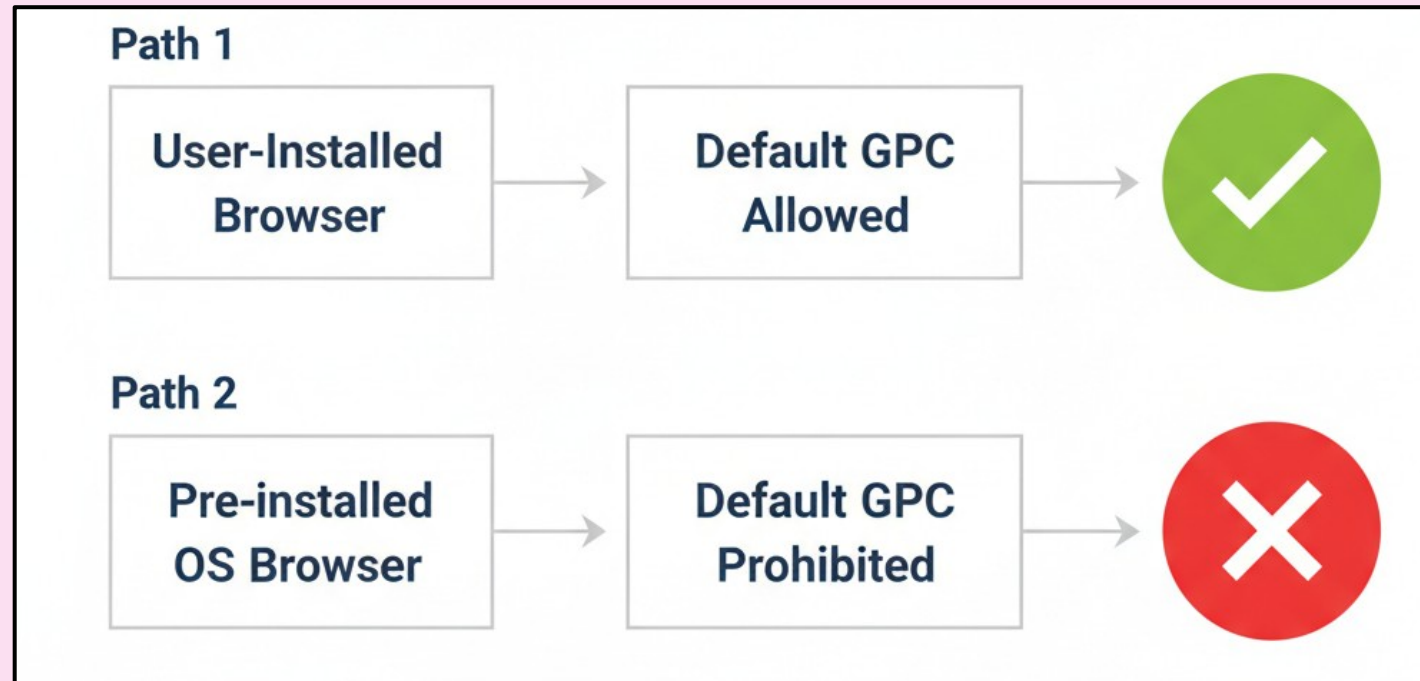
For Web, Mobile
Apps, ...

The “Default” Roadblock



Some state laws, e.g., Colorado, prohibit UOOMs from being enabled **by default** in pre-installed software (e.g., a browser that comes with an OS)

- The intent is to ensure a **“consumer’s affirmative, freely given, and unambiguous choice”**
- But this means the exact same browser could have different default privacy settings depending on how it was installed
- It also puts different vendors on unequal footing



Why No Defaults? The Ghost of “Do Not Track”

- This rule originates from Do Not Track (DNT) ~15 years ago
- Microsoft enabled DNT by default in Internet Explorer 10
- Industry groups argued this wasn't a “deliberate choice” by the user and therefore the signal could be ignored



Tracking Preference Expression (DNT)

[W3C Working Group Note 17 January 2019](#)

This version:

<https://www.w3.org/TR/2019/NOTE-tracking-dnt-20190117/>

Latest published version:

<https://www.w3.org/TR/tracking-dnt/>

Latest editor's draft:

<https://w3c.github.io/dnt/drafts/tracking-dnt.html>

Previous version:

<https://www.w3.org/TR/2017/CR-tracking-dnt-20171019/>

<https://www.w3.org/TR/tracking-dnt/>

What Constitutes a “Deliberate Choice”

- Is a “choice” just a toggle in a settings menu?
- A choice can be expressed by **selecting a product, service, etc. based on its advertised privacy features**
- As noted during the DNT debates, “the act of selecting that user agent is itself a choice that expresses the user's preference for privacy” [1]



[1] Aleecia M. McDonald, Today's call: summary on user agent compliance, <https://lists.w3.org/Archives/Public/public-tracking/2012Jun/0110.html>.



Privacy. That's Apple.

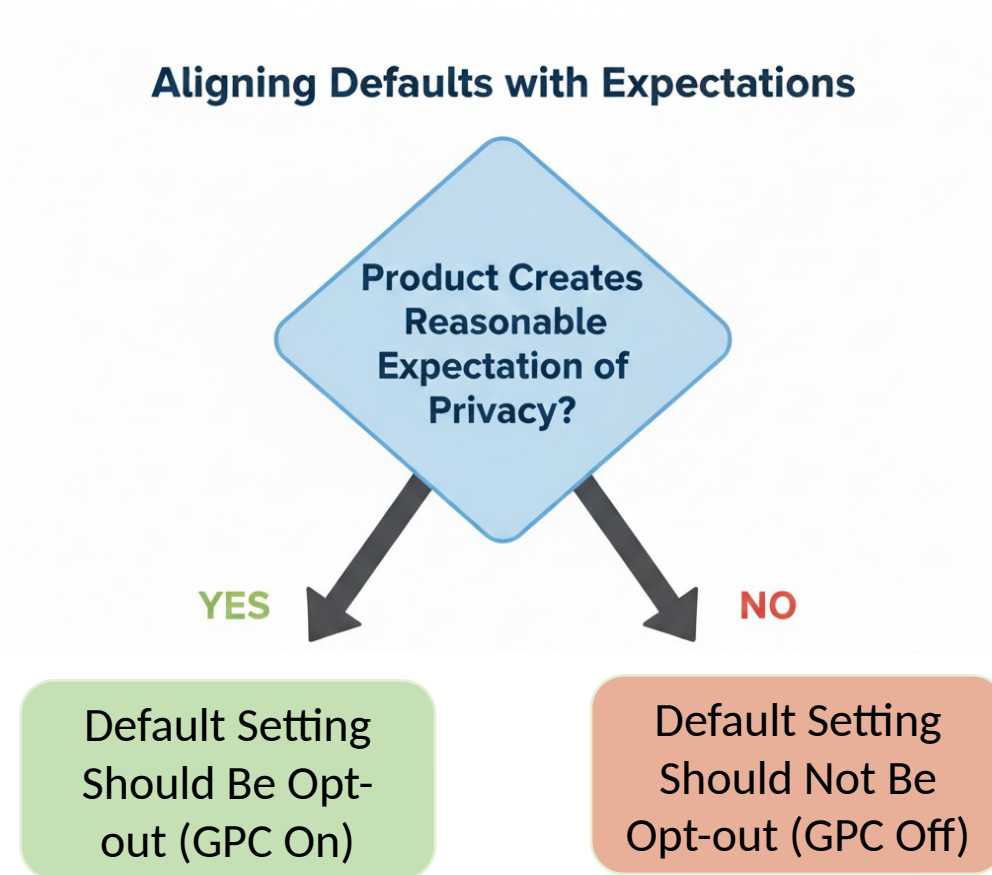
- Companies like Apple have made privacy essential to their marketing and brand identity
- Through ads and public statements, they create a specific and reasonable expectation that they will protect privacy by default

This Isn't Just Marketing, It's Legally Relevant

- Consumer expectations have legal weight. The FTC uses its authority under Section 5 of the FTC Act to police **unfair and deceptive practices**
- The test for deception is whether a consumer's expectation is **reasonable in light of the claims made**

Defaults Should Materialize Expectations

- **Align Defaults with Expectations:**
Marketing products as privacy-friendly, yet shipping them with tracking enabled could be a deceptive act
- The default should depend on the **promise**, not the software's installation method



A Call for Empirical Research

- We need to better understand consumers' privacy expectations
- We need empirical studies asking questions like: “After seeing an ad for a ‘private’ phone, would you expect a tool like GPC to be enabled out of the box?”



Conclusion: From “Affirmative, Freely Given, and Unambiguous Choice” to “Reasonable Expectation”

- The old choice model from the DNT era is too narrow for today’s privacy marketing
- Consumer choice is also expressed through purchasing decisions based on companies’ broad privacy promises
- Aligning default settings with reasonable privacy expectations is legally sound, honors consumer choice, and creates a more user-friendly privacy experience

Thank You!

Questions?

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<https://privacytechlab.org/>

<https://globalprivacycontrol.org/>



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