Those proclamations are wrongheaded at best. It is still possible to protect privacy, but doing so requires that we rethink outdated understandings of the concept. One such view holds that privacy requires total secrecy: once information is revealed to others, it is no longer private. This notion of privacy is unsuited to an online world. The generation of people growing up today understands privacy in a more nuanced way. They know that personal information is routinely shared with countless others, and they also know that they leave a trail of data wherever they go.

The more subtle understanding of privacy embraced by Generation Google recognizes that a person should retain some control over personal information that becomes publicly available. This generation wants a say in how private details of their lives are disseminated.

The issue of control over personal information came to the fore in 2006, when Facebook launched a feature called News Feeds, which sent a notice to people's friends registered with the service when their profile was changed or updated. But to the great surprise of those who run Facebook, many of its users reacted with outrage. Nearly 700,000 of them complained. At first blush, the outcry over News Feeds seems baffling. Many of the users who protested had profiles completely accessible to the public. So why did they think it was a privacy violation to alert their friends to changes in their profiles?

Instead of viewing privacy as secrets hidden away in a dark closet, they considered the issue as a matter of accessibility. They figured that most people would not scrutinize their profiles carefully enough to notice minor changes and updates. They could make changes inconspicuously. But Facebook's News Feeds made information more widely noticeable. The privacy objection, then, was not about secrecy; it was about accessibility.

In 2007 Facebook again encountered another privacy outcry when it launched an advertising system with two parts, called Social Ads and Beacon. With Social Ads, whenever users wrote something positive about a product or a movie, Facebook would use their names, images and words in advertisements sent to friends in the hope that an endorsement would induce other users to purchase a product more than an advertisement might. With Beacon, Facebook made data-sharing deals with a variety of other commercial Web sites. If a person bought a movie ticket on Fandango or an item on another site, that information would pop up in that person's public profile.

Facebook rolled out these programs without adequately informing its users. People unwittingly found themselves shilling products on their friends' Web sites. And some people were shocked to see their private purchases on other Web sites suddenly displayed to the public as part of their profiles that appeared on the Facebook site.

The outcry and an ensuing online petition called for Facebook to reform its practices—a document that quickly attracted tens of thousands of signatures and that ultimately led to several changes. As witnessed in these instances, privacy does not always involve sharing of secrets. Facebook users did not want their identities used to endorse products with Social Ads. It is one thing to write about how much one enjoys a movie or CD; it is another to be used on a billboard to pitch products to others.

Changing the Law

Canada and most European countries have more stringent privacy statutes than the U.S., which has resisted enacting all-encompassing legislation. Privacy laws elsewhere recognize that revealing information to others does not extinguish one's right to privacy. Increasing accessibility of personal information, however, means that U.S. law also should begin recognizing the need to safeguard a degree of privacy in the public realm.

In some areas, U.S. law has a well-developed system of controlling information. Copyright recognizes strong rights for public information, protecting a wide range of works, from movies to software. Procuring copyright protection does not require locking a work of intellect behind closed doors. You can read a copyrighted magazine, make a duplicate for your own use and lend it to others. But you cannot do whatever you want: for instance, photocopying it from cover to cover or selling bootleg copies in the street. Copyright law tries to achieve a balance between freedom and control, even though it still must wrestle with the ongoing controversies in a digital age.

The closest U.S. privacy law comes to a legal doctrine akin to copyright is the appropriation tort, which prevents the use of someone else's name or likeness for financial benefit. Unfortunately, the law has developed in a way that is often ineffective against the type of privacy threats

TOMMY MOORMAN

STRATEGIES TO PROTECT PRIVACY

The U.S. has less stringent privacy laws than do many other countries. The desire to shield people's private lives on the Internet has prompted new thinking about how to balance openness with a need to restrict release of personal details.

Appropriation Tort
A name or likeness—Angelina Jolie's face, for example—cannot be used for financial benefit in an advertisement without consent. To deal with online abuses, this common-law tort could be expanded to protect against the posting of photographs online without consent.

Breach of Confidentiality Tort
Private information disclosed in privileged relationships—to doctors, lawyers and clergy, among others—is protected. This tort law could be strengthened to cover other relationships, such as spurned lovers, former friends or ex-spouses.

Privacy in Public
Under U.S. law, a person does not retain any privacy rights when information becomes public. In Canada and many European countries, these disclosures do not imply the loss of all such rights. The U.S. should recognize that a person does not sacrifice all privacy rights when appearing in public. —*D.J.S.*