

Privacy and the Construction of On-line Identity

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Executive Summary

Currently, the average person's concern with privacy stems from the fact that organizations can buy, sell and exchange their personal information without their knowledge or consent. This is largely due to the fact that an individual leaves behind an electronic trace which can be used to obtain their absolute identity each time they engage in an ATM, credit card or point of sale (POS) transaction. As the Internet becomes commercialized, the private sector is finding innovative ways to use this new medium to obtain individuals' absolute identities. Thus, the individual is not only losing control over the distribution and use of their personal information in the physical world but in the virtual world also. It is therefore the purpose of this paper to devise an identity system which will give the individual the ability to determine who has access to their personal information and to control the level of information any organization can obtain about them. This paper suggests that this can be accomplished on the Internet through a system of pseudo identities.

I. Introduction

Since the advent of databanks in the second half of the twentieth century, there has been a significant increase in the private sector's desire for and uses of individuals' personal information. This has occurred simultaneously with an increase in the size of both public and private sector organizations, a widening of the gap between institutions and the people they serve, and the development of improved information processing technologies. As a result of these changes in corporate practices, people no longer identify with the companies which serve them and are increasingly distrustful of commercial uses of their personal information. Thus, as the changes wrought by the Information Age infiltrate into the marketplace, the issue of privacy is quickly becoming one of American consumers and citizens' greatest concerns.¹

Currently, the average person's concern with privacy stems from the fact that most of the transactions in which they engage on a daily basis can be used to provide companies with detailed information about their identity. It is difficult for a person to function in the modern age without revealing their identity because the present global information system is predicated on absolute identifiers such as ATM, credit card or point of sale transactions. As the new medium of the Internet becomes increasingly commercialized, many of the same transactions conducted in the physical world will be conducted on-line. Since what constitutes identity on the Internet has not yet been determined, it is possible to break with absolute identities and institute a system which would satisfy the information needs of corporations and the privacy demands of citizens. Yet, what should this new system be?

Many Americans believe that in order to preserve the citizen's right to privacy in the Information Age the structure of the system threatening privacy must be changed. They would therefore suggest that laws be created which restrict

¹ Laura Loro. "Downside for public is privacy issue." Advertising Age. 2 October 1995: 32. (In a 1994 Louis Harris & Associates poll 84% of those surveyed said that they were either very or somewhat concerned about threats to personal privacy.)

corporate use and collection of individuals' personal information. Some would suggest that the solution lies in the implementation of technologies such as encryption and anonymous remailers. Others would propose that our privacy could be protected by replacing the current absolute identity system with a pseudo identity model. Yet what must be recognized is that each of these solutions was designed to address a specific aspect of the privacy problem. Thus, if only one of these solutions is used to resolve the current threat to personal information privacy the result will be an ad hoc policy which addresses specific issues but fails to solve the problem in its entirety. Legislation, encryption and anonymous remailers must therefore be employed in conjunction with the reform of current identity models in order to create an effective privacy policy.

The purpose of this paper is therefore to tackle one component of the larger privacy solution: the modification of absolute identity systems. This will be done by de-constructing the societal values and economic forces which have shaped the current identity system. Using this framework it will then be possible to determine which characteristics of the current identity system pose the greatest threat to the individual's privacy and which aspects of this model should be preserved in order to satisfy the private sector's information desires.

This will be done by comparing and contrasting the current marketing practices of companies on the Internet to corporate uses of Caller ID, a telecommunications technology which will be used as a proxy for absolute identifying systems. Using this framework it will be possible to discuss the privacy needs of individuals and to evaluate the components of an effective policy for on-line identity. Yet, before these issues can be assessed it is important that we establish a working definition of identity. It will then be possible in the second section of this paper to examine the philosophical dimensions of a person's right to the privacy of their personal information. The third section will discuss the transformation of advertising in the twentieth century and survey current marketing theories. The

fourth section will review the technologies of Caller ID and the Internet and the ways in which they are being used to structure corporate interaction with customers. The fifth section of this paper will explain the reasons why private organizations need personal information and will evaluate the threat current marketing practices pose to the individual's right to privacy. The sixth section of this paper will explore different policy options for the construction of on-line identity and assess their ability to meet both the information needs of marketers and the privacy interests of the individual. It should be noted here that this paper is based on an examination of the practices of the United States public and private sectors and does not take into account the political systems or cultural values of foreign countries.

A. Identity Defined

It is difficult to define what constitutes identity in the modern world because it is constantly being adapted to fit the many different circumstances in which it is used. For the purposes of this paper we will be discussing identity's role in the marketplace. In this context, identity can be thought of as "marketing identity" which is a composition of all of the personal information about each individual which is useful to a company trying to sell them a product. Marketing identity is therefore comprised of a person's name, address, purchase history, financial status and any other information which can be gained through an individual's daily transactions. The value of personal information to marketing campaigns has led to the intensification of its collection. Consequently, every individual's personal information has become a commodity which is bought, sold and exchanged by private firms who store it in computer databases and use it for marketing purposes.

All of the identity systems which will be discussed in this paper are comprised of marketing identities. For example, absolute identity systems, which identify a person as an individual for a unique purpose, allow a company to use transaction

generated data to collect and link together all of the information which constitutes an individual's marketing identity. Another identity system is universal identity which allows every organization to use the same type of absolute identifier to obtain an individual's marketing identity. Pseudo identities allow an individual to regain control over inter-organizational transfers of their marketing identity by having a different identifier for each organization they deal with. Anonymous identity systems allow an individual to participate in a transaction without revealing their marketing identity. Thus, for the purposes of this paper marketing identity can be thought of as the personal information which a company wants about an individual and absolute, universal, and pseudo identity systems can be thought of as the packages in which this information comes.

II. A Philosophical Discussion of the Importance of Personal Information Privacy

One of the most influential and renowned examinations of the legal concept of privacy is Dean Prosser's article "Privacy [A legal analysis]." In his article Prosser outlines what he considers to be the four torts of privacy. His analysis of the torts of privacy has had a profound impact on the development of the legal right to privacy in America. This is evidenced by the fact that most privacy cases today are still argued on the basis of his conception of the torts of privacy which read as follows:

1. Intrusion upon the plaintiff's seclusion or solitude, or into his private affairs.
2. Public disclosure of embarrassing private facts about the plaintiff.
3. Publicity which places the plaintiff in a false light in the public eye.
4. Appropriation, for the defendant's advantage, of the plaintiff's name or likeness.²

² William L. Prosser. "Privacy [a legal analysis]." Philosophical Dimensions of Privacy: An Anthology, ed. Ferdinand Schoeman. (Cambridge: Cambridge University Press, 1984) 107.

Given the importance of Prosser's analysis of the legal right to privacy one may find it surprising that his theories will not be used in this paper's discussion of the topic. The absence of an analysis of Prosser's theories is due to the fact that his torts deal with the privacy of one's thoughts, actions, affairs, name and likeness. These torts therefore work best in defending the rights of famous people who feel that their privacy has been invaded by the paparazzi, media or advertisers. Yet, Prosser's four torts do not address the topic of this paper which is the individual's right to the privacy of their personal information. Therefore, the following analysis of personal information privacy will be based on Edward Bloustein and Charles Fried's legal and philosophical discussions of privacy. The examination of these writers' different theories will be used to construct a working definition of personal information privacy. It should be noted that the following analysis of these writers' theories will not be based on their entire argument but only on those points which are relevant to our discussion.

In Edward Bloustein's article "Privacy as an aspect of human dignity - An Answer to Dean Prosser" he sets forth the idea that the invasion of privacy inflicts injury upon a person's liberty and dignity. His argument is developed around his criticism of Prosser's belief that the interest which the four torts of privacy are meant to preserve is that of emotional tranquility. For, Bloustein concedes that the gist of the wrong in the four tort cases outlined by Prosser, and in all cases involving an invasion of privacy, is not the intentional infliction of mental distress but rather the threat posed to human dignity. Although Bloustein's argument is based on privacy as it relates to the invasions involved in Prosser's four torts, his ideas about the relationship between privacy and human dignity will be used here to make the argument that private sector collection and use of our personal information is an affront to our dignity.

In discussing the tort of name or likeness, Bloustein argues that every person has the right to prevent the commercial exploitation of their personality, not

because of its commercial worth, "but because it would be demeaning to human dignity to fail to enforce such a right."³ He goes on to explain that the unauthorized use of a person's name or likeness is an affront to human dignity because it is a wrongful exercise of domination over another person. Although Bloustein bases this line of reasoning on the tort of name and likeness, one can use it to discuss the wrong done when a private firm uses an individual's personal information without their knowledge for marketing or commercial purposes. In this case, the human rights of liberty and dignity are injured because a corporation is exerting its power over an individual by taking their personal information and using it to meet the needs of the organization. This view of the injury caused by an invasion of one's privacy is inter-linked with the concepts put forth by Charles Fried in his article "Privacy [A moral analysis]."

Part of Fried's argument is that privacy is control over knowledge about one's self. He argues that "privacy is not simply an absence of information about us in the minds of others, rather it is the control we have over information about ourselves."⁴ This definition of privacy ties in with Bloustein's view of an invasion of privacy as a threat to human dignity. For, both of these concepts work together to provide a context through which to discuss the injury inflicted on an individual when their personal information is used by an organization without their consent. This paper will therefore be based on the assumption that the current debate over the privacy of an individual's personal information stems from people's innate fear of a loss of control over their lives. For example, if an organization were to collect, store and distribute information about your tax records, finances, marital status, hobbies, legal entanglements and buying habits without your knowledge, then you would most likely feel angry and helpless. These feelings would arise from the recognition that

³ Edward J. Bloustein. "Privacy as an aspect of human dignity - An Answer to Dean Prosser." Philosophical Dimensions of Privacy: An Anthology, ed. Ferdinand Schoeman. (Cambridge: Cambridge University Press, 1984) 177.

⁴ Charles Fried. "Privacy [a moral analysis]." Philosophical Dimensions of Privacy: An Anthology, ed. Ferdinand Schoeman. (Cambridge: Cambridge University Press, 1984) 209.

you are no longer a sovereign person. You have lost your freedom because you do not have control over the personal information which constitutes your individuality as a person and thus, your identity.

Fried goes on to argue in his article that privacy is not simply control over knowledge about ourselves but it is also control over the quality of the information obtained by others. This concept relates to his argument that privacy of information is a necessary tool for the development of social relations such as love, friendship and trust. For, Fried claims that these relations between people are only possible if individuals enjoy and accord to each other a certain measure of privacy. Thus, the amount of private information two people share about themselves serves as a measure of the level of intimacy they have achieved in their relationship. This concept can be visualized by imagining that each human being's identity is composed of several levels of personal information. The first layer of this individual's identity contains information about the day they were born, their middle name, their marital status or their ethnic heritage. One could assume that two people who share this type of information with each other are not at a loving or trusting level of their relationship. The next layer may include information about a person's finances, their legal entanglements or their view of controversial issues. There would be several more layers before you reached the core of a person's identity where their most intimate and private information was kept. Only a trusted lover or friend would have access to this type of information.

The idea that there are different layers of personal information which can only be accessed depending on the level of intimacy between two people is important for our view of the privacy of personal information. For, this concept comes into play when we begin to consider why we often feel violated when a company finds out certain types of information about us. For example, if a company were to gain access to your medical files without your knowledge and find out that you have a drug problem you would most likely feel violated. This is because the fact that you have a

drug problem is personal information which you would not disclose to your friends or family members until you had reached a certain level of intimacy in your relationship. Thus, if a corporation gained access to this type of private information and used it to make certain decisions about how to treat you or market products to you, you would probably feel violated for two reasons: 1) A company with which you do not have an intimate relationship with has gained access to personal information about you which you usually do not share with people unless they have proven to you that they care about you and can be trusted. 2) Your dignity is injured because a personal problem in your life has been reduced to a commodity which can be bought and sold by organizations and used to predict your buying habits.

From this examination of Bloustein and Fried's views of privacy we can conclude that the invasion of one's personal privacy threatens three inter-linked concepts: 1) human dignity 2) control of information 3) access to intimate information. The right to personal information privacy can therefore be defined as the right to control who has access to one's personal information, to control the uses of one's personal information and to control the level of personal information any individual or organization can obtain.

III. A Historical Analysis of Twentieth Century Marketing Techniques

Before the Industrial Revolution, the development of chain stores and the creation of mass media, merchants and craftsmen built their businesses on one to one interaction with customers. For example, the local grocer knew all of his customers' full names, the type of vegetables they bought each week, how many children they had and where they lived. He knew all of this information because he lived in the same community as his customers and saw them on a daily basis. His business was built on his relationships with his customers and what he knew and remembered about each of them. His memory and involvement in the community made it possible

for him to develop services or product offerings which met the needs of each of his customers.⁵ The pre-twentieth century marketplace in which this grocer functioned was largely need based and offered consumers very little product variety. There was usually only one general store, bar, barber shop and bank in town so customers had little choice in the prices they paid or the quality of products they bought. Thus, the nineteenth century marketplace was locally based and relied on what will be referred to throughout this paper as relationship marketing.

At the beginning of the twentieth century the American marketplace underwent a transformation as the Industrial Revolution ushered in the age of mass consumption, new communications mediums such as radio and television, and a wants-based society. The small, locally owned stores of the nineteenth century were replaced by corporations who used communication mediums to advertise their products to national audiences rather than just local consumers. Chain stores and nationally owned businesses found that television and radio not only allowed them to reach millions of people at one time but more importantly provided them with a cost effective way of doing it. Thus, the era of mass production, mass media and mass marketing was launched.

The objective of mass marketing is to sell a single product to as many consumers as possible. To achieve this goal companies use advertising, sales promotions and publicity to make their product appear "unique" to the largest number of consumers possible. They then publicize this uniqueness with one-way mass-media messages that are interesting, informative and persuasive.⁶ The marketing technique of mass consumerism is not based on a personal relationship with a customer or knowledge of them as an individual. Instead it relies on market analysis, demographics and consumer statistics to determine who the target audience is and what will cause the largest number of people in this group to buy a specific product.

⁵ Don Peppers and Martha Rogers, The One to One Future. (New York: Doubleday, 1993) 21.

⁶ Peppers and Rogers 15.

The development of direct marketing in recent years has offered companies a strategy through which to meet the demands of the present niche dominated marketplace. It has also provided consumers with an alternative to the impersonality of mass marketing campaigns. The theory of direct marketing is to advertise a product only to those consumers who fit into the specific demographic description of the company's most frequent and profitable customers. Thus, a company can cut costs and see a higher profit return on advertising campaigns by marketing their products to a very specific and narrow segment of the population rather than every consumer in America.

To carry out a direct marketing campaign a company needs to know who its customers are. A good example of what is meant by the term "knowing your customers" is found in a statement made by a Ralston Purina dog food marketer who stated, "I don't care about what color eyes people have. Just make sure they have dogs."⁷ Thus, a direct marketer only wants information about customers which is relevant to the company's goal of selling products. He does not need to know individuals as people but simply as consumers. To do this he must begin to gather demographic, psychographic and geodemographic data on people. As he builds up the size of his company's database he will begin to see patterns in the information he has collected which can be used to design mail and telemarketing campaigns for specific segments of society. By using direct marketing techniques in this manner companies can increase their market share and profits.

Due to technological progress, mass consumer and direct marketing campaigns have become cost efficient and highly successful in the last half of the twentieth century. For example, the development of computer databases in the 1960's made it possible for companies to inexpensively collect, exchange and store vast amounts of information about millions of consumers. Consequently, computer databases have virtually transformed the field of marketing by making it possible for a company to

⁷ Seth Godin, E-Marketing: Reaping Profits on the Information Superhighway. (New York: The Berkeley Publishing Group, 1995) 34.

keep track of the purchases of several million individual customers for less than it would have cost them to keep a paper record of a single customer's transactions in 1950.⁸ Thus, the advent of inexpensive and easily accessible computer databanks has led many companies to find it increasingly profitable and useful to collect and store information about any aspect of their customers' lives which could influence their buying habits.

The intensification of corporations' collection and use of people's personal information during the past thirty years has concerned many consumer advocates who claim that marketing techniques made possible by databanks pose a threat to the individual's right to the privacy of their personal information. These advocates are becoming increasingly concerned with corporate uses of techniques such as "computer profiling" (organizes consumer files according to an individual's activities or characteristics) and "computer matching" (compares information from two different databases on the same individual).⁹ The effectiveness of these techniques in determining a company's target audience has made it not only profitable but essential for companies to collect or purchase vast amounts of information on the individuals who buy their products. Consequently, the vital role of computerized databases in the modern corporate structure has caused information to transcend its traditional role as a resource and to become a commodity.

In the United States there are currently about five billion privately owned records that describe each citizens' finances, interests and demographics. Information bureaus such as TRW, Equifax and Trans Union possess the largest and most detailed databases on American consumers. Their 450 million records on 160 million individuals include birth dates, family makeup, current and previous addresses, telephone numbers, Social Security numbers, employment and salary

⁸ Peppers and Rogers 14.

⁹ James Rule. "Data Wars: Privacy Protection in Federal Policy." New Directions in Telecommunications Policy, ed. Paula Newberg. (London: Duke University Press, 1989) 25.

histories, credit transactions, mortgage rates and legal entanglements.¹⁰ This information is compiled into databases and sold to corporations who use it to facilitate marketing decisions and to find potential customers. Aside from information bureaus, many organizations own and operate private databases. Many have built systems such as point of sale terminals (POS) which collect and process customer information at the time a transaction is made and then transfer this information into a company's database. Other organizations use systems which create an electronic trace of an individual's transaction each time they use an ATM, make a purchase at a store which uses automatic scanners or use a credit card.

Citicorp Point-of-Sale Information Services President, Jerry Salzgeber, claims that this aggressive collection of personal information by private corporations is a result of new technologies. For, he claims that the inventions of the twentieth century are making it possible for companies to abandon mass marketing campaigns and focus on marketing to the individual by learning their preferences and giving them exactly what they want.¹¹ Although Salzgeber is correct in assuming that the increase in the collection of consumer's personal information is largely due to changes in technology, his assumption about what those changes are is misleading.

Marketing experts such as Salzgeber are currently claiming that one of the changes occurring in the marketplace is that one to one technologies such as the telephone and Internet are replacing mass mediums such as television, radio and newspapers. Yet, this statement provides too simplistic an assessment of the changes occurring in the Information Age. For, it should be noted that mass marketing instruments are still heavily used by the advertising industry and do not appear to be disappearing anytime soon. Thus, the transformation which the marketplace is currently undergoing is not a replacement of older marketing technologies with new systems but an expansion of the tools available to marketers. In other words,

¹⁰ Peter Eder. "Privacy On Parade - Your Secrets For Sale." The Futurist (July -August 1994) 41.

¹¹ Robert Ellis Smith. Our Vanishing Privacy. Port Townsend: Loompanics Unlimited, 1993) 52.

mass consumer technologies and marketing techniques will never disappear but will instead become just a few of the many options available to companies trying to sell their products in the modern global marketplace.

One of the newest "options" arising in marketing is a strategy developed by Don Peppers and Martha Rogers in their book The One To One Future. It is based on building consumer communities, establishing customer relationships and using interactive media to communicate with customers. Just as the technologies of television and radio led to the advent of mass consumerism, the development of the Internet and sophisticated telecommunications systems is leading to the creation of a new advertising technique called one to one (1:1) marketing. Unlike mass marketing and direct marketing, which focus on selling a single product to as many customers as possible, 1:1 marketing encourages companies to try to sell a single customer as many products as possible. It also advises companies to develop long term relationships with their customers, to be able to differentiate between the interests and lifestyles of each of their customers and to customize products and services to fit their needs. The 1:1 marketing system is based on the following main concepts:

Customer share rather than market share: Computer power has made it possible to obtain detailed analyses of an organization's customers.

Consequently, mass marketing has evolved into niche marketing with companies fighting to define smaller and smaller segments of the consumer market. To be successful in this new marketplace companies can not focus on market share, which is the percentage of all sales made in one market by one company. They must instead concentrate on how much of any individual customer's business they have acquired. The difference between these two concepts is that market share is based on how many of the same product a company can sell to as many interchangeably identical customers as possible. In contrast, customer share is premised on the idea of "identifying a single

customer, addressing a larger number of this customer's needs, and trying to sell this single, solitary, individual customer as much product as possible."¹²

Two way interaction with customers: Direct marketing and mass marketing use one way channels of communication which allow companies to send information to the customer but fail to allow the customer to talk back. In the 1:1 future companies will use present technologies such as the Internet and telephone to interact with their customers and find out exactly what they want and how they feel about the products they buy. Companies will use this information to customize their products or services to fit the needs of individual customers.

Know each of your customers rather than who your average customer is:

Most companies today know who their average customer is. For example, Bath & Body Works knows that its customers are middle class women in their early twenties who are concerned about the environment and are against animal testing. Bath & Body Works has probably used extensive research and conducted surveys to find out why, *on the average*, a customer buys their product or why particular *types* of customers are more likely to buy their product. Thus, Bath & Body Works knows who their target audience is and why the majority of them buy their products. But they do not know who their individual customers are or the specific reasons why each of them buys their products. For example, they do not know that Susan Smith is a single accountant who buys the twelve ounce freesia shower gel once a month because she likes the smell. They only know that the average customer who buys the freesia shower gel is female, in their early twenties, makes between forty and sixty thousand dollars a year and fits into demographic segment

¹² Peppers and Rogers 35.

three - Single Female with Career. In order to receive a greater customer share it is important for companies like Bath & Body Works to not just know who their *average* customer is but to know who each of their *individual* customers are and why they buy the products they do.* (This is a fictitious example)

Build relationships with customers: The personalization and customization which was lost with the advent of mass production, mass media and mass commercialization is once again becoming an essential component of the marketplace. This is due to the fact that companies have to work harder to meet the needs of the consumer and to earn their business because there is a greater diversity of products, goods and services in today's marketplace. According to marketing expert, Seth Godin in his book eMarketing: Reaping Profits on the Information Superhighway, the diversification of products has led to consumer choice and thus, the decline of the "megabrand."¹³ Companies therefore have the opportunity to use this diversification to their benefit by gaining loyal customers through excellent service and personalized relationships.

Technologies such as computer databases, the Internet and telecommunications systems are making it possible for companies to implement these key aspects of 1:1 marketing into their advertising operations. This marketing system is returning us to the pre-twentieth century age of relationship marketing. Marketers can now assume the role of the small proprietor of the past by doing business with individuals one at a time.¹⁴ The only difference is that corporate interaction with customers is no longer occurring naturally but is being structured through the strategic use of modern technologies.

¹³ Godin 12.

¹⁴ Peppers and Rogers 22.

IV. The Return of the Corner Grocer: Technology's Attempt to Recreate the Past

In the past, the corner grocer used to know everything about his customers and their buying habits. He would interact with them on a daily basis and customize his product offerings to fit their needs. With the advent of mass consumerism this important customer/company relationship disappeared and people began to deal with the faceless corporation rather than the corner grocer. But now the faceless corporation is recognizing the value of customer relationships and is using technology to make itself into a computerized clone of the corner grocer. Thus, companies are using databanks, the Internet and Caller ID to simulate the interactivity, customer knowledge and strength of customer relations which dominated the local marketplaces of the past.

A. CALLER ID

The private sector's access to and use of the information generated by Caller ID and other Telephone Transaction Generated Information (TTGI) systems, such as Automatic Number Identification (ANI), has sparked an important debate over telephone customers' rights to privacy and control over their personal information.¹⁵ Caller ID and ANI services have been made possible in recent years through advances in network signaling technology. Caller ID is a service offered to both residential and corporate customers which works by revealing a caller's phone number to the person or business they call. Once the phone number appears on the special screen where it is displayed, it can be captured and saved for future use. ANI, which is the long distance equivalent of Caller ID, is employed mainly by 800- and 900- services who use it for billing, routing and the collection of customer data. It

¹⁵ United States, Department of Commerce, "Inquiry on Privacy Issues Relating to Private Sector Use of Telecommunication Related Personal Information." Federal Register Vol 59 (Washington: GPO, 1994) 6843-6850.

should be noted that since the policy argument was played out more fully in the Caller ID debate this service will be discussed rather than ANI.

The debate over Caller ID in the past has centered around the question of whether this service augments or invades privacy. This debate has focused on residential uses of this service rather than corporate uses because 800 and 900 numbers use ANI rather than Caller ID. The telephone companies' advertising campaigns for Caller ID have therefore stressed the safety aspects of the service by highlighting its ability to provide residential customers with protection from crank callers, annoying telemarketing calls, obscene phone calls, and calls from stalkers or harassing ex-spouses. For those individuals who pay the extra thirty cents to remain unlisted in the phone book the telephone companies have provided them with two options to protect the privacy of their phone number from anyone with Caller ID. These two options have been labeled "Selective Blocking" (Minimum Privacy Protection) and "Complete Blocking" (Maximum Privacy Protection).¹⁶ If a person chooses Selective Blocking, technically known as per call blocking, their phone number is revealed to anyone they call who has Caller ID unless they press *67 before dialing the number. Complete blocking, which is technically known as per line blocking, allows a person to prevent their phone number from being transmitted to the person or business they are calling.

Telephone companies are currently using Caller ID to enhance their service offering to both their residential customers and their corporate customers. One service which Southwestern Bell has recently introduced is Caller Intellidata which is designed to assist private firms in accessing important demographic information about their customers. This service works by providing businesses with monthly reports on their calling customers which are based on Southwestern Bell's network records and demographic codes supplied by Equifax Inc.¹⁷ The monthly reports

¹⁶ Information packet provided by Pacific Bell on the Caller ID service.

¹⁷ Jerri Stroud. "Privacy at Issue in Bell's Service - Marketing System Tells On Callers." St. Louis Post Dispatch. 5 November 1995: E5.

include information such as the caller's name, the date and time of their call, their telephone number, their street address and whether they are a business or residence. It also provides subscribing companies with a statistical profile of their customers as a group based upon information collected by Equifax and census reports on the income, lifestyle, education and neighborhood of individual customers. Using this information, Southwestern Bell lists a company's customers and assigns each of them a specific demographic code designed by National Decision Systems which is based on average income, family status, census data and consumer surveys. Thus, a company which subscribes to Caller Intellidata receives a monthly report with information about each of its calling customers which might look something like this :

Name: Susan Smith

Address: 212 Mill Hills

Sausalito, California 92345-1235

Phone number: (412) 547-0984 (Residence)

Times Called: Feb 9, 8:05 am

Demographic Code: 02 - Suburbs and Station Wagons

Along with this information a business would also receive a statistical profile of its customers as a group which would include demographic information obtained from Equifax. Thus, a company would have information about all of its customers' incomes, lifestyles, educations and neighborhoods. Missouri Public Counsel Martha Hogerty has publicly argued against Southwestern Bell's Caller Intellidata service because she believes that "consumers should not be forced to become statistics in a marketing study merely by placing a telephone call."¹⁸ Other opponents of the Caller Intellidata service have also pointed out that the identification of phone

¹⁸ Stroud, Jerri. "Business Call: Phone Id Service On Hold." St. Louis Post-Dispatch. 5 October 1995: A1, A6.

numbers and the linking of demographic information to that number in advance of picking up the receiver could result in discriminatory practices.¹⁹ This issue is discussed in greater detail in Section V. - "Identity's Role in the Modern Marketplace."

The legal problem with Southwestern Bell's service is that it violates a central provision of the 1973 Code of Fair Information Practices which states that "Personal information gathered for one purpose ought not be used for another purpose, without the express consent of the individual."²⁰ Thus, Caller Intellidata collects information for billing purposes and then recycles it into marketing information which can be sold for a profit without the individual's consent. In this sense, Caller Intellidata unfairly transfers the right to control the disclosure of personal information from the individual (the telephone subscriber) to the institution (the telephone company). It is for this reason and other privacy concerns that the Missouri Public Utilities Commission fought against the introduction of Caller Intellidata into their state. Consequently, Southwestern Bell has put the expansion of this service into Missouri and other states on hold. It is currently being offered though in Houston and Austin, Texas and Wichita and Topeka, Kansas.²¹

Like the telephone companies, commercial organizations are also using Caller ID to increase their profits and gather information about their customers. For, Caller ID provides companies with the opportunity to link an incoming number to a customer's file and thereby begin to create a dossier of the calling party which can be used in direct marketing campaigns or sold to other companies for a profit.²² Large organizations can use reverse directories and third party information in order to begin collecting personal information about a customer. Then each time this

¹⁹ Ross, Charles. "Staff of PUC backs callers' right to block display of number." San Diego Union Tribune. 5 June 1991: C2.

²⁰ Smith 56.

²¹ Stroud A6.

²² Marc Rotenberg. Statement before the Subcommittee on Telecommunications and Finance. H.R. 1304 and H.R. 1305. (April 24, 1991) 43, 44.

customer calls in the future the operator will have their file, which includes their name, address and buying history, on their computer monitor before they even pick up the phone.²³

The private sector's collection of consumer phone numbers through Caller ID poses significant privacy concerns. One such concern is that people are increasingly losing control over their personal information in exchange for goods and services without their knowledge or consent. For example, Touch Tone Access a company in Parsippany, New Jersey uses Caller ID to gather information about the individuals who call its 800 number. Currently, Touch Tone Access has successfully used "Reverse Directory Appending" to find the household addresses of 60 percent of the phone numbers it receives through Caller ID. It then links a caller's phone number, name, and address to demographic data and sells this information to a company for 20 cents a name.²⁴ According to privacy advocate Robert Ellis Smith, companies such as Touch Tone Access should not be able to market telephone numbers obtained through Caller ID for the following two reasons: 1) The customer is unaware of this capability and expects that their phone number will be kept confidential. 2) The telephone number that the customer provided for one purpose (billing and ordering) is now being used for a secondary purpose (outside marketing) without the consent of the individual.²⁵

Caller ID is not only being used to enhance the service offerings of telephone companies and private businesses but is also being used as a tool for 1:1 marketing. For, Caller ID has been used to enhance database marketing, to improve customer satisfaction and to customize customer/operator conversations. By using Caller ID for these purposes a company can succeed in achieving some of the goals of 1:1 marketing: 1) Customization 2) Know each customer 3) Build relationships. The ways in which companies are using Caller ID to accomplish each of these 1:1

²³ Rotenberg 43.

²⁴ Smith 39.

²⁵ Smith 42.

marketing principles will now be addressed.

When a person calls a private organization with Caller ID their phone number appears on a display unit. This number can then be used to automatically retrieve the customer's file and display it on the operator's computer terminal. With this information an operator knows what the preferences of a customer are, how long they have been a customer and what their income level is before they even pick up the phone. The operator can then modify their discussion with the customer and their sales pitch to fit the needs and interests of the calling party.

An example of how Caller ID can be used to customize a company's interaction with a customer can be found in a personal experience of mine. I recently called a catalog company and complained about a piece of merchandise I had purchased. The operator noted my complaint in my file but made no effort to amend the problem. At the time I did not realize that the operator was looking at my file while she was speaking to me and could see that I was not a frequent customer, that most of my purchases were small and that I was a young college student. When I called the company back a couple days later another operator was exceptionally kind to me. As I found out through our conversation, the change in attitude was due to the fact that the last operator I had spoken to had noted in my file that I had complained about a particular product and had threatened "to stop purchasing items" from their company. The new operator had read these comments and probably realized that by taking an interest in my concerns she could turn me into a loyal customer. This example is useful because it brings to light the ways in which companies are using Caller ID to customize their interaction with consumers. By knowing who their customer is and what they want before they even pick up the phone, operators can ask the right questions, tailor their responses and structure the conversation so that the customer hangs up with a positive feeling about the company.²⁶

Caller ID enables companies to *appear* to know each of their customers

²⁶ For an in-depth analysis of conversation structure refer to: Harvey Sacks. Lectures On Conversation, Volume I (Cambridge: Blackwell Publishers, 1992).

personally. A good example of a company which is successfully using Caller ID for this purpose is Domino's, a national pizza chain which has installed the technology in all 700 of its corporately owned stores and in 1,000 of its 4,000 franchise stores.²⁷ By linking a customer's phone number to a file of their previous purchases, a Domino's operator can determine what type of pizza a customer usually orders, where they live and how to get there before even picking up the phone. This technology has improved Domino's business by cutting the average time for a phone order in half, by helping to increase productivity and by reducing instances of fraud. But most importantly Caller ID has allowed Domino's and other companies to provide their customers with personalized service.²⁸

Some may argue that because Domino's and other companies know exactly who their customer is and what they are most likely to want before they say it, customers will view use of Caller ID as an invasion of privacy and feel threatened. This assumption is one reason why many companies who use Caller ID to automatically pull up a customer's file allow the customer to introduce themselves rather than answering the phone "Hello Mrs. Smith." It should be noted that this new form of corporate "telephone manners" brings to light an important dichotomy in people's attitudes towards this new technology. On the one hand they quickly become offended when an operator supersedes their cultural expectations of telephone conversation patterns by addressing them as "Mrs. Smith" before they have even introduced themselves. They also cry for privacy rights when they find out that information about them is being recorded in the company's database. Yet, at the same time they appreciate the fast service, convenience, and personal interaction they receive from companies with Caller ID. This just exemplifies the fine line companies walk between invasion of privacy and good service.

²⁷ Rodney J. Moore. "Hold the Phone." Marketing Tools. January/February 1996.
http://www.marketingtools.com/mt_current/mt423.htm

²⁸ [http://www.bell-atl.com/Bell Atlantic/succstor/pizza.html](http://www.bell-atl.com/Bell%20Atlantic/succstor/pizza.html)

B. INTERNET*

The Internet is a unique medium because unlike radio, television or print it combines text, sound and image to create an entertaining and interactive form of communication. Only three years ago, there was virtually no commercial presence on the Internet. But due to the uniqueness of this medium and its 30 million users in more than 200 countries, companies are now flocking to the Internet in order to put up web sites and establish a presence on-line. The corporate rush to get on-line has led to a 13% monthly growth in the commercial sector of the Internet and an increase in on-line advertising from virtually nothing at the beginning of 1994 to \$12.4 million in the final quarter of 1995.²⁹ The growth of business on the Internet is also reflected in the fact that the commercial sector has captured 65% of all Internet domain names.³⁰

Many futurists have claimed that the advent of the Internet means the end of older advertising mediums such as newspapers, magazines, television and radio. Yet, the Vice President of Disney's on-line unit, Art Holland claims that the Internet is and will continue to be an alternative to, rather than a replacement for, these mediums. He argues that

*"In the foreseeable future, it (the Internet) is merely a complement, a very rich and compelling complement. I think it will become a real advertising tool but not to the exclusion of other advertising tools. It doesn't displace television; it doesn't displace print. It complements it."*³¹

* The web pages discussed in this section are constantly evolving and are described here as they appeared in January, February and March of 1996.

²⁹ "Other News Column." Los Angeles Times. 11 December 1995: D3.

³⁰ "Retailing on the Internet: Seeking Truth Beyond The Hype." Chainstore Age. September 1995: 35.

³¹ David Barboza. "The frontier in movie promotion is - you guessed it - the Internet. But will it help the box office?" The New York Times. 22 August 1995: D6.

This view of the future course of on-line advertising is highly realistic. For, it points to the fact that the Internet will simply provide corporations with another medium through which to advertise their product rather than replacing older mediums. For, the Internet provides companies with the opportunity to effectively use certain 1:1 marketing techniques which had been difficult to develop in television, radio and magazine advertising campaigns. This idea will be examined in the following discussion by surveying specific web sites and their on-line advertising techniques.

1. Interaction

One of the goals of 1:1 marketing is to design marketing campaigns which allow for interaction between the customer and the company. One way in which companies are achieving this is by embedding ads in interactive games which can be played on the Internet. The idea behind this marketing technique is to build good will for the company and publicize company products by allowing potential customers to have a good time playing the kinds of games they usually have to buy on CD-ROMS. For example, MCI Communications Corporation is a company which is using interactive games to enhance the public's view of their company and to foster customer loyalty. They accomplished this last fall by adapting their latest television advertisement, which revolves around a fictitious publishing house called Gramercy Press, to the Internet.³² Visitors to the MCI site can now click on objects in the virtual Gramercy Press office to discover details about an unfolding takeover battle in which characters are using a new line of MCI business tools to defend the company. On-line games such as Gramercy Press provide companies with a subtle way of getting their message across to the customer without making it obvious that the entire purpose of the game is to convince the player to buy the company's

³² <http://www.mci.com/gramercy/intro.html>

product.

Other companies, such as Budweiser and Interactive Imaginations Inc., have developed interactive games which require users to answer trivia questions about their product. For example, the Budweiser home page features a game called the "Bud Quiz" which is a test on the beer brewing process and "Bud facts". If users pass the "Bud Quiz" they become an honorary "Budman."³³ This game subtly causes the user to learn about Budweiser while participating in an engaging activity. In contrast, Interactive Imaginations Inc. writes brain teasers and trivia questions and then hides the clues on sponsors' Web sites so that users have to go to the sponsor's home page to find the clues.³⁴

Some companies are currently testing a system created by a division of Database Marketing Company called "Coupons On-line" to get consumers to interact with their homepages. Thomas J. Lipton Company, Lever Brothers Company and Chesebrough-Pond's Inc. are all signed up to use this new service. To use the on-line coupon system, consumers first download free software to be used off-line. Then once a week they go back on-line and gather coupons, downloading them to the software which saves, organizes and files them for up to a month. Shoppers can then print out the coupons they want whenever they need them. Coupons On-line is currently predicting that at the outset this coupon service will be available to at least 10 million households.³⁵

Another way in which companies are using the 1:1 marketing strategy of interactivity on the Internet is by providing customers with the option of emailing their questions or comments about products directly to the company. This strategy has been used on the homepages of companies' such as Snapple and Pepsi. This

³³ <http://www.budweiser.com>

³⁴ Joan E. Rigdon. "Advertisers Give Surfers Games to Play." The Wall Street Journal. 18 October 1995: B1, B8.

³⁵ Kim Campbell. "With all the roads leading to Internet, coupons follow." The Christian Science Monitor. 30 November 1995: 8.

system seems to be helpful and useful to customers. For example, customers can write email to Snapple asking which stores in their town carry a specific ice-tea flavor and receive a prompt response to their question. Games and email messages are excellent examples of how companies on the Internet are beginning to use the 1:1 marketing technique of interactivity to meet their customers' needs and interests.

2. Customization

The one to one marketing technique is predicated on the idea that companies must strive for customer share rather than market share. This can be accomplished by building relationships with consumers through customization and personalized service. Currently, companies on the Internet are putting these marketing concepts into practice by developing web pages which are customized to fit the needs and interests of the user.

A company which is using customization to aim sales pitches to a narrower segment of the population is Hotwired, the on-line publication that is the cyberspace sibling of Wired magazine. Hotwired has created a feature named smart messaging which makes it possible for marketers to customize advertisements according to the domain of a user's email address. Thus, people see a different version of the same advertising depending on whether they view it from a computer on a college campus, in a business office or in a foreign country.³⁶

Another company which is creatively using this new medium to provide its customers with a heightened level of customization is Toyota Motor Sales, USA.³⁷ The company is currently testing a new technology developed by Novo Media Group, a media publisher which specializes in advertising-supported, interactive programming. Novo has designed a set of observation and tracking tools which make

³⁶Stuart Elliott, "How to Focus A Sales Pitch In Cyberspace," New York Times. 4 March 1996: C1, C7.

³⁷ <http://www.toyota.com>

it possible for advertisers to identify and observe individual visitors to their web sites. This technology works by assigning a user a unique ID the first time they visit the site. A user's activity on the site is then tracked and information about their visit is stored in a database under their unique user ID. This information can then be used to determine what the user's interests are and which promotional advertisements should be sent to them. For example, Toyota could find out that Bob Smith goes to the Forerunner section every time he visits their web site and that he usually visits a competitor's web site after he leaves Toyota's. Using this information Toyota could begin to send Bob Smith personalized email messages which would encourage him to buy the Forerunner and would explain why Toyota's cars were better than the competitor's. While on-line tracking systems help companies to market their products more effectively, they also provide marketers with feedback about how well a site is performing and how it can be modified to meet a customer's needs.³⁸

3. Deepening The Customer/Company Relationship And Strengthening Brand Loyalty

In order to capture a share of the customer, companies must develop and deepen relationships with consumers. This is often achieved in commercial Internet sites through applications such as chat lines, email and on-line postings which make it possible for visitors to an organization's homepage to interact with one another and with imaginary members of the company. For example, in the Ragu homepage a user can listen to Mama speak Italian, sit around the "dinner table" and hear other "guests" tell family stories, or swap recipes from Mama's kitchen.³⁹ The "family" atmosphere on the Ragu homepage helps to deepen the relationship between the customer and the company while strengthening brand loyalty.

³⁸ Bradley Johnson, "Oh what a Web site, Toyota," Advertising Age, 16 October 1995: 22.

³⁹ <http://www.ragu.com>

Zima, a malt liquor, also has an innovative homepage whose activities help to foster community building among Zima customers.⁴⁰ Once a user logs on to Zima's homepage they find that they can go few places in this site without becoming a member of Tribe Z. They can only become a member of this exclusive club by answering a questionnaire which asks for their name, address and the number of Zima's they drink per week. Once a user becomes a member of Tribe Z they can enter the clubhouse and interact with other Zima drinkers. Zima allows the members of Tribe Z to vote on such things as the club logo in order to foster a community atmosphere on the site.⁴¹ Another company which also tries to recreate a sense of community on the Internet is Snapple who has a place on its site called the "Water cooler." The Water cooler is a place where all the single "Snapple Lovers" go to post or respond to the personal ads placed on the Snapple homepage by other single visitors to the site.⁴²

What all of these web sites do so well is to center people's on-line social interactions and entertainment around their company's name or product. At the same time these web sites also deepen a customer's loyalty to and relationship with a particular company by taking on a friendly persona (such as Ragu's endearing "Mama") and giving people the impression that they are becoming a "member" or active participant in a company. All of these things help a company strengthen its relationship with each individual consumer and increase its customer share.

V. Identity's Role in the Modern Marketplace

One to one marketing relies on companies interacting with their customers and providing them with customized service and product offerings. As was exemplified in the last section, companies are doing this by using new technologies

⁴⁰ <http://www.zima.com>

⁴¹ Catherine Romano, "The New Gold Rush?" Management Review November 1995: 20.

⁴² <http://www.snapple.com>

such as Caller ID and the Internet to recreate the company/customer relationships which had dominated the marketplace of the nineteenth century. But in order to create and maintain these relationships companies need much more than interactive technologies. They also need to know the identity of their customers so that they can market a product to fit the interests of each individual customer rather than those of the mass consumer audience. Due to the fact that identity has come to constitute such a crucial component of Internet and telephone marketing campaigns it is important to discuss absolute identities and their function in the modern marketplace. It will then be useful to consider what the information desires of private corporations are and how they are using the information they gather from Caller ID and Internet technologies. Finally, it will be determined whether the private sector's use of absolute identities and new technologies is truly offering customers a more interactive future or simply leading to the further deterioration of consumer rights and economic equality.

Modern systems such as credit cards, Automatic Teller Machines (ATM) and Point of Sale Terminals (POS) are designed to provide companies with the absolute identity of the individual who is using these systems. These technologies supply companies with transaction generated information which can be used to open floodgates of information about an individual. This concept can be explained by using Caller ID as an example of an absolute identifying technology. For, when a person places a telephone call to a company with Caller ID their phone number appears on the screen. The company can then use this string of numbers to find out exactly who the caller is. An organization would do this by first looking up the phone number on the screen in a reverse directory and finding out the caller's name. They would then be able to buy information from other companies with large databases about this specific caller's credit card transactions, geographic location, marital status and finances. Thus, any time an absolute identifier such as a credit card number, social security number or name is used in a transaction a company can

use this information to "mine" government and corporate databanks and thereby obtain vast amounts of personal information about an individual.

The private sector's practice of "data mining" has come to concern many consumers who feel that inter-organizational exchanges of their personal information have left them helpless to control who has access to their intimate information. This problem is aggravated by the fact that absolute identities make it possible for companies to collect information from a person for one reason, such as medical records, and sell it to a firm who will use it for another reason, such as marketing cholesterol pills to people who have high blood pressure.

It is clear that private organizations are obtaining personal information about individuals through electronic transactions and telephone calls yet, until just recently it had been very difficult for them to generate this type of information from a user's on-line activity. Therefore, many companies have adapted real world data collection techniques to their web sites. For example, the Ragu web site offers the user the opportunity to provide the company with information about themselves as they visit different places on the site. In Mama's kitchen they can receive coupons through the mail if they give Mama their home address and answer a few of her questions. And when a visitor clicks on Mama's tour of Italy they receive the chance to fill out a survey which will enter them in a drawing for a trip to Italy.

The use of drawings and coupons to gain access to customer information is useful but limited in its scope. This is because it only provides a company with information which is relevant to the customer at that very moment rather than a record of information about a customer which is updated each time they log on to a site. Zima and Pepsi⁴³ are two companies which have discovered a way to use their web sites to gain access to this type of updated customer information. They have accomplished this by adapting to their web sites the concept of "club membership" which was first put forth in the physical world by companies such as the office

⁴³ <http://www.pepsi.com>

supply store Staples.⁴⁴ For example, in order to gain access to any of the more intriguing spots on the Zima or Pepsi homepages you must first become a member. This is accomplished by completing a detailed questionnaire which includes your name, home address, age, interests and the amount of Zima or Pepsi you drink each week. After filling out this information you become an official club member and must use a password to access the rest of the site. By having the visitors to their site sign up to become club members with secret passwords, companies such as Zima and Pepsi could collect an on-going stream of information about their visitors and update it each time they log on.

There are some serious social and philosophical issues surrounding the level of personal information which the private sector can obtain through a phone number captured on a Caller ID screen or an on-line survey. It is therefore useful at this point in the paper to address these issues and to try and find a solution to the problems they present. This will be done by first discussing why private firms need the information they collect about individuals. It will then be possible to examine the social and philosophical dimensions of the debate over the use of technologies and personal information in the modern marketplace.

A. The Private Sector's Information Needs and Desires

Among the objectives of one to one marketing are strengthening customer relationships and increasing customization and interaction. But how can companies accomplish these goals when they must serve millions of customers and can not take the time to get to know each of them personally? One way they are successfully accomplishing this is by using data mining to obtain personal information about the preferences, interests and needs of each individual customer. With this information private firms can make assumptions about what each customer wants and then

⁴⁴ Peppers and Rogers 48, 49.

customize their services and interaction to fit the desires of individual consumers. In this sense, private firms' collection of personal information is beneficial to consumers because it provides them with advertising which is tailored to their interests, service which is fast and efficient, and strong company/customer relationships.

Not only do companies need personal information about individuals in order to better serve their customers but they also need it for business purposes. According to encryption expert David Chaum, business and government organizations sometimes do have legitimate reasons for needing to see statements that other organizations have issued about individuals.⁴⁵ For, companies need information about individuals' finances, employment histories, and legal entanglements in order to avoid fraud. This is true for companies such as Domino's pizza who has found that Caller ID is useful in preventing credit card fraud and crank calls.⁴⁶

Other companies have found that knowing who their customer is and what they want has allowed them to target their marketing campaigns to specific segments of the audience and thereby improve the response rate to their advertisements and cut costs. When companies collect and process personal information derived from technologies such as Caller ID and on-line user tracking systems, they help to reduce their risks of credit card fraud and failed advertising campaigns.⁴⁷ This leads to higher profit returns for corporations and lower costs for consumers.

As the Internet develops into a commercial medium, marketing agencies are struggling to find ways to measure the success of their customers' home pages and to determine how much to charge for advertising space on specific web sites. This problem is being solved by innovative companies such as Internet Profiles Corporation (I/Pro) who has developed an audience tracking system for the Internet.

⁴⁵ David Chaum. "Numbers Can Be a Better Form of Cash Than Paper." Centre for Mathematics and Computer Science, The Netherlands, 175.

⁴⁶ <http://www.bell-atl.com/Bell Atlantic/sucostr/pizza.html>

⁴⁷ Howard Schlossberg. "Biz users can get data fast - and lots of it." Marketing News, 37.

The company currently has two measuring systems on the market called I/Count and I/Audit. I/Count enables Web site owners to monitor usage such as the total number of visits, the geographic location of users and the organizational origin of visitors. Businesses who subscribe to the I/Audit service receive monthly or quarterly reports which include detailed information about the Web's audience. I/Pro will eventually be able to provide private organizations with demographic information about customers by requiring users to fill out a profile card in order to receive certain benefits.⁴⁸

Audience tracking systems such as those being offered by I/Pro will most likely replace hit rate measuring systems in the future. This is because hit measuring systems count the number of times a site has been visited but do not count individual people. Thus, someone could visit the same web site twice and the hit measurement system would report that two different people had visited the site when really only one person had. The hit rate measuring system will most likely become obsolete in the future as marketers begin to base the cost of advertising on a site on the exact number and type of people who frequent that homepage.

As companies begin to advertise on the Internet they are using systems such as I/Count and I/Audit to accurately measure the number and type of people who visit their sites. This is why Nielsen and I/Pro have recently formed an alliance to measure the Internet's activity. The two companies will furnish private organizations with general information, such as how many times an individual clicks onto their site while at work, what company that person works for, and where that company is located. According to Mr. Poler, the creator of I/Pro, businesses will be able to use this type of information and the I/Count and I/Audit services to "figure out where their messages should go on the Internet and how much they should pay."⁴⁹

⁴⁸ Mitch Betts, "Who's there?" Computerworld v. 29 25 September 1995: 162

⁴⁹ Kevin Goldman, "Nielsen, I/Pro Form Joint Venture to Measure the Internet's Activity," The Wall Street Journal 6 September 1995: B2

B. A Discussion of the Possible Social Consequences of Information Technologies

Although the collection of personal information can be used to improve customer service and lessen business risks, the technologies designed to provide the private sector with this information could potentially be misused. For example, corporations could easily use Caller ID to discriminate against people living in low income areas.⁵⁰ The potential for this abuse can be found in the following fictitious scenario:

*"A woman named Valerie Beaty is a successful real-estate broker. She has made a bundle selling homes in exclusive Scottsdale and Paradise Valley neighborhoods. One day, Valerie receives a call on her Caller ID machine. Looking at her guide of telephone prefixes, she finds that the number is in an area of south Phoenix which is populated primarily by African-Americans and Hispanics. She decides that she does not want to show the home to minorities and does not answer the phone."*⁵¹

This scenario makes clear the possibility of businesses using Caller ID in the future to redline certain racial or low-income neighborhoods. An additional system which makes this threat even more relevant is called "Large Screen Caller Identifier." This system includes an option known as "call reject" which makes it possible for a company to program up to 100 phone numbers that will not be accepted but will receive a polite digital message instead.⁵² It is easy to imagine a company programming a series of phone numbers from a specific part of town into this system and having them automatically rejected. Although none of these discriminatory practices have been put into use by private firms as of yet, something needs to be done to prevent this type of large scale redlining soon because the

⁵⁰ Oscar Gandy, The Panoptic Sort. (Boulder: Westview Press Inc., 1993) 218.

⁵¹ Kathleen Ingley and Mark Shaffer, "Scenarios pitch benefits, pitfalls of new technology," Arizona Sun 11 February 1993: A2.

⁵² Skymall 1995 mail order catalog: 15. 1-800-362-5500.

technology needed to make it a reality is already available.

Another social problem which could result from corporate uses of both Caller ID and the Internet in the near future is the development of a society made up of the information rich and the information poor. The group of people who would come to constitute the information poor would be those individuals who are the most aware of and concerned about their privacy rights. For example, if someone blocked their phone number by dialing *67 before calling a company with a Caller ID service called "Block Buster," then their call would automatically be rejected.⁵³ Unfortunately, an Internet user could potentially find themselves in a situation similar to that of the telephone customer. For example, if someone logged onto the Zima or Pepsi site and decided that they did not want to fill out the membership survey and provide the company with all of their demographic information, then they would not be able to access the majority of the information on the site. One can imagine how serious of an issue this could become if people could not access information from a bookstore or non-profit agency's web site unless they completed a survey and provided the organization with their personal information. As policies are developed to deal with Caller ID and Internet technologies it will be important for individuals to fight against such discriminatory practices so that the possibility of an information poor society does not become a reality.

One question which must be asked in this discussion of the benefits and costs of corporate uses of technologies is "Does the Internet truly offer us a more interactive future?" The answer to this question is "yes" and "no." It is true that the opportunity to send email to a company, play games and join on-line communities does provide customers with a channel through which to interact with a company and its products on-line. There are two problems with this form of on-line interactivity though. First, on-line forms of interactivity have been modeled upon the interactive marketing techniques of the physical world. They therefore do not

⁵³ Skymall 15.

provide users with a higher level of interactivity than they already have in the real world. For example, customers can interact with private organizations in the physical world through the telephone, drawings and contests, and consumer "clubs." Thus, most companies fail to offer their customers a higher level of interactivity on the Internet than they already offer them in the physical world.

C. Invasion of the Right to Privacy

The advent of one to one marketing has led private firms to attempt to customize their advertising and product offerings to fit the needs of the individual customer. As discussed earlier in this paper, this practice requires corporations to gain vast amounts of personal information about each of their customers so that they can provide them with tailored service. Many customers enjoy the convenience, efficiency and one to one interaction they receive from companies who practice these marketing techniques. Yet, it is important to ask "What is the price we are paying to receive these benefits?"

Bloustein would probably answer this question by claiming that the price we are paying is our right to privacy. For he would argue that with customization also comes a restriction of our individual liberty. This is because we no longer have control over the type of personal information which is collected about us or how it is interpreted. For example, what if a private firm established a user tracking system on their web site and began to collect information on a man named Carl Rand. After a month the firm would see that Mr. Rand often visited their gardening section. They would therefore begin to customize web pages to fit his interests so that every time he logged on he only saw information and ads about gardening. One could imagine how frustrating it would be for Mr. Rand to have a company determine what he does and does not see based on his activity on-line for one month. This could be especially frustrating if Mr. Rand had only been checking out information on gardening for

his wife and was really interested in horse racing himself. Thus, Bloustein would point out that customization hinders the individual's ability to make choices for them self and restricts the flow of information they receive. It is therefore an infringement on an individual's liberty as well as an affront to their human dignity and thus, a threat to their right to privacy.

Another dimension of the privacy debate is revealed when we consider what Fried might say about corporate uses of new technologies and personal information. He would argue that the capturing of individuals' phone numbers on Caller ID systems and the collection of user information through on-line surveys and club membership questionnaires are not invasions of the right to privacy. This is due to his belief that the right to privacy encompasses the right to control one's information about themselves. He would therefore point out that when an individual makes a phone call they have the option to either block their phone number or reveal it. Similarly, when an individual logs on to a web site and finds that they must fill out a survey or a club membership form in order to see the rest of the site they have the right to decide whether to disclose their personal information or not. Thus, in both the case of Caller ID and on-line surveys an individual controls their information because they are the one making the decision to either disclose it or keep it to themselves.

So does this mean that Fried would argue that none of the private sector's current marketing practices pose a threat to the individual's right to privacy? No, for Fried would view the injury to privacy as not being the collection of voluntary information but instead the use of this information for purposes unknown to the individual. For example, Fried would consider it an invasion of privacy for companies such as Southwestern Bell to use customer phone numbers, revealed through Caller ID, in order to gain greater amounts of personal information about people. He would especially find the collection and manipulation of this information into Caller Intellidata a threat. Caller Intellidata is a service Southwestern Bell had

planned to offer its corporate customers this year which would have provided companies with detailed information about every customer who called them. Fried would contend that services such as Caller Intellidata are invasions to the right to privacy because they take away the individual's ability to control the distribution and uses of their personal information.

Finally, Fried would argue that on-line user tracking systems pose a serious threat to the individual's right to privacy because they take away a person's ability to control the level of information a company knows about them. For example, when a company such as Toyota tracks an individual's activity on their site for an extended period of time they are able to learn enough information about this user to know exactly what they like, want and need. This is scary for two reasons: 1) It proves to us that we are not unique individuals because through a very small amount of information about us a company can determine exactly what type of person we are and which demographic segment we fit into. 2) As Fried would argue, it shows that we can not control the level of information a company gains about us because user tracking systems allow an organization to observe the route we choose on a web site, the pages we spend the most time on and the information we consistently seek.

VI. Policy Options

The technologies and transaction systems of the physical world are designed to retrieve individuals' absolute identities. As the private sector makes the transition to the Internet, it is structuring on-line identities upon the identification system of the physical world. Yet as shown in this paper, absolute identities pose a serious threat to the individual's right to privacy because they allow organizations to buy, sell and collect peoples' personal information without their knowledge. It is therefore important to design a new identification system for the Internet which will protect the privacy of individuals' marketing identities. This section of the paper will

address this issue by examining universal, anonymous, and pseudo identity systems in order to determine which model will most successfully protect the privacy of individual's on-line marketing identities.

As proven in this paper, the private sector's use of the Internet and Caller ID poses a threat to the individual's right to privacy as defined by Bloustein and Fried. For, organizations are using individuals' phone numbers and on-line activity to gain access to their marketing identities. Once an organization obtains this information it often sells it to other companies for a profit or uses it in direct marketing campaigns without the individual's knowledge or consent. Thus, consumers no longer have control over how their personal information is used or who has access to it. It is therefore the purpose of this section to devise an identity system which will return control of personal information to the individual. The following is a list of criteria which an identity system must have in order to successfully protect the privacy of an individual's on-line marketing identity:

1. An on-line identity system should give the individual control over the distribution and use of their personal information.
2. The system should make it possible for a person to control the level of intimate information an organization can connect directly to them.
3. This system should make it possible for the private sector to continue to collect information for marketing, customization, and fraud prevention purposes.
4. The system should make it difficult, if not impossible, for private organizations to track an individual's on-line interests and activities and then link this information directly to them.

Using this criteria it is now possible to evaluate universal, anonymous and pseudo identity systems to determine which one will most successfully preserve on-line privacy. These three identity systems have been chosen for consideration because they represent the extremes of the debate. At one extreme of the identity debate are universal systems which provide every person with the same type of unique identifier, such as a social security number. This system poses a greater threat to personal information privacy than absolute identity models currently do because it makes it possible for all private organizations to match their files with other organizations' computerized files. This would create a single database on individuals which could be accessed by anyone who had an individual's universal identity. The opposite extreme of this debate is anonymous systems which would make it possible for individuals to completely conceal their identity. This model would provide individuals with complete privacy but would make it difficult for companies to trace fraudulent activity or to gain marketing information. In the middle of these two extremes are pseudo identity systems which allow an individual to regain control over inter-organizational transfers of their personal information by having a different identifier for each organization they deal with.

The current absolute identity system is halfway between the universal model of identity and the pseudo model. For, absolute identities are similar to universal identities in that they make it possible for companies to exchange an individual's personal information without their permission. Yet, they are also like pseudo identifiers because unless two organizations use the same absolute identifier to identify an individual they can not exchange information about that person. The fact that our current identity system contains characteristics of both of these identity systems is a positive fact. For it means that the transition to whichever identity option is chosen will not be catastrophic but smooth and gradual.

A. Universal Identity

Universal identities are all purpose absolute identifiers which are used to identify a person as an individual. This system can be more clearly defined by contrasting it to absolute identifiers. The difference between these two models is made clear in the following example:

Company A has obtained the buying history of their customer Bob Smith by linking the numbers on his credit card to the purchases he made with that card. Company B has collected financial information about Bob Smith by connecting his ATM card number to his ATM withdrawals. Both of these companies have collected absolute identifiers (the credit card number and ATM card number) and used them to access personal information about their customer. Company A decides that it would like to sell the information it has about Bob Smith to Company B. There is a problem though. Since Company A and Company B used different absolute identifiers to identify Bob Smith, they do not know if they both have information on the same Bob Smith or two different Bob Smiths. This problem could have been eliminated if both companies had used a universal identifier such as a social security number to identify Bob Smith. A universal identifier allows every company to have the same type of absolute identifier for each individual. Thus, Bob Smith in California would be known by the universal identifier 567-890-1234 and Bob Smith in Utah would be known as 345-56-7890.

In a world with universal identifiers, every private organization would be able to use an absolute identifier such as a driver's license to obtain information about an individual from numerous databanks. This company would be able to use this identifier to obtain information about an individual's credit cards, the names,

addresses, phone numbers and SSNs of their neighbors at various times, the kind of cars they have loans on, the upscale department stores they shop at, the time of day they married their spouse, their tax returns and so on. Thus, under a universal identifying system it would not matter if two people had the same name because they would each have a unique identifier which would be common to every organization they came into contact with.

While the universal identification system would fulfill the information desires of private organizations it would fail to provide individuals with the ability to control the collection of their personal information, to control the level of information obtained about them and to use the Internet anonymously. This system therefore should not be used to replace absolute identities.

B. Anonymous Identity

Under the anonymous identity system individuals are able to participate in a transaction without being known. The key characteristic of an anonymous transaction is that the specific identity of one or more of the parties to the transaction cannot be extracted from the data itself. Information generated from an individual's participation in an anonymous transaction can therefore not be used to link together other data about that person.⁵⁴

Two types of absolute identity systems are currently being used on the Internet. The first is a program called the anonymizer which allows people to surf the Internet without being tracked by private organizations. It does this by acting as a middleman between you and the documents you want to retrieve. For example, when you want to retrieve a document whose URL is <http://xxx.com/> you prefix that URL with the name of the anonymizer's server.⁵⁵ This server will retrieve the

⁵⁴ Roger Clarke, "The Scope of Transaction Anonymity and Pseudonymity," The Fifth Conference on Computers, Freedom and Privacy, San Francisco, 28-31 March 1995.

⁵⁵ <http://anonymizer.cs.cmu.edu>

document from xxx.com without revealing your identity and then send the document back to you. In doing this the anonymizer protects your privacy by: 1) Forgetting about your host name right away so your identity is not included in the anonymizer's logs. 2) Stripping out all references to your email address, computer type, and previous pages visited before forwarding your request.

The second type of anonymous identity systems currently being employed on the Internet are anonymous remailers. These programs work by deleting all of the identifying information about incoming emails and substituting it for either a pre-defined header identifying the remailer as the sender or a tag such as "nobody@nowhere."⁵⁶ Remailers therefore allow an individual to send email messages whose origin can not be traced. Thus, by using easily automated cryptographic precautions and routing your email message through a series of remailers, you can ensure that your email messages will obtain the following forms of privacy: 1) none of the remailer operators will be able to read the text of your message 2) neither the recipient nor any remailer operators will be able to identify you as the sender of the text without the cooperation of every prior remailer's operator. Anonymous remailers therefore allow individuals to use the Internet to communicate with private organizations about their products without disclosing their email address. Individuals can therefore send questions or comments to companies without having to worry that they will soon find advertisements from these organizations in their email box.

According to Professor Trotter Hardy, a specialist in intellectual property law, there are problems with absolute identity systems on the Internet. For, he claims that "Anonymity is power and I think it will be abused on the Net."⁵⁷ This argument is important to consider because it highlights the fact that anonymity is a system in which accountability does not exist. Consequently, this model presents the private

⁵⁶ Michael Froomkin, "Flood Control on the Information Ocean: Living With Anonymity, Digital Cash, and Distributed Databases" : 9.

⁵⁷ Peter Lewis, "Computer Jokes and threats Ignite Debate on Anonymity." The New York Times, 31 December 1995: C1

sector with a problem because it makes it nearly impossible to trace a fraudulent transaction made by an individual through systems such as anonymous remailers or the anonymizer. Under the anonymous identity model it would also be impossible for companies to track individuals' on-line activity because programs such as the anonymizer erase all of the information a person generates while on the Internet. Private organizations would therefore lose information which they are currently using to provide Internet users with benefits such as customized web pages and fast, efficient service. Businesses would also lose important marketing data which they use to advertise products more effectively and thereby cut costs.

Anonymous remailers allow you to interact with a company and send them email without having to worry that they will obtain your email address and begin infiltrating your account with advertisements and direct marketing promotions. Yet, this system still does not give you direct control over who has your personal information, what type of information they have or how they use it. Anonymous identity systems therefore do not give the individual direct control over the distribution of their information but simply allow them to hide the origins of this information. Thus, due the anonymous identity model's inability to provide the individual with control over their personal information and to meet the information desires of the private sector it should not be used to protect the privacy of individuals' personal information on the Internet. Yet, anonymous identity systems should not be ruled out as solutions to other on-line privacy issues. For anonymity could be used to solve social problems on the Internet such as the need for anonymous communication on BBSs and chatlines so that users can discuss politically charged issues or embarrassing personal problems without fear of retribution.

C. Pseudo Identity

Under a pseudo identity system every individual would be known to each organization by a different type of pseudonym. Individuals would therefore retain the exclusive ability to link together all of their pseudonyms and allow information from different organization's to be connected. Pseudo identities therefore allow an individual to control inter-organizational transfers of their personal information and to determine what information each organization should have access to. This concept is made explicit in David Chaum's article "Numbers Can Be a Better Form of Cash Than Paper," in which he states that under a pseudo identity system "you retain complete control over your personal information, just as if all the computerized records that organizations maintain on you today were stored only in your card computer."⁵⁸

In determining whether or not this model would meet the criteria outlined in the beginning of this section it is useful to examine a pseudo identity system which is currently being used on the Internet. This system is a feature called "cookies" which can be found on Netscape's Navigator, as well as other World Wide Web browsers. Cookies turns disconnected web hits into "sessions" and thereby allows a web site to recognize a user when they return after an extended interval and to store profile information about this user by way of a file called "cookies.txt" on Windows machines and "Magic Cookie" on Macintoshes. Due to the manner in which the connections are made on the Internet, cookies will not tell a web site your name or address - only that someone using your computer had visited a specific site before. An organization can then use the information stored in cookies about a computer's activity on their site to begin to customize their homepage to fit the interests of that

⁵⁸ Chaum 175. (For additional information on the technical theories behind pseudo identities and how this system could be put into practice refer to David Chaum's paper "Showing credentials Without Identification - Signatures Transferred Between Unconditionally Unlinkable Pseudonyms.")

computer's user. It is important to note at this point what the capabilities of cookies are:

- 1) It can track a particular computer through a site.
- 2) It can automatically recognize that a user has returned to a site at a later time or date. This can be done by storing an ID number on cookies and using it to connect one hit to another.
- 3) It has the ability to store user profile information in the client software.⁵⁹

Cookies works as a pseudo identifier in that each site can only retrieve information about a user's activity on their site. This is because none of the information in a cookie is sent to a server unless it was put there by the same server. This allows the individual to control the level of personal information a corporation has about them because an organization can not access any data about a person unless that information is directly given to them by the user through a survey, transaction or on-line activity. One can also control whether or not an organization gets any information about them at all. For, although Netscape can track an individual's travels in any one session, it will not be able to make correlations between sessions if a person continuously deletes or prevents creation of the cookie file.⁶⁰

Another pseudo identity characteristic of cookies is that it allows an organization to connect together information about the path an individual took through their web site, the time they spent there and their repeat visits to the site without telling them who the person using their site is. This is because cookies can only tell a server that the same computer is returning to a specific site but it can not

⁵⁹ This is an application that works on your behalf to extract a service from a server somewhere on the network. For more information refer to Edward Krol's The Whole Internet - User's Guide & Catalog, Sebastapoi: O'Reilly & Associates, Inc, 1994.

⁶⁰ gordon@sneaky.lerctr.org <David Burditt>

tell who the person using that computer is. Thus, by using cookies companies can get information about the most popular sections of their site and customize the site to meet the interests of each individual user without knowing exactly who that user is. Therefore, cookies makes it possible for the individual to retain control of their information, to not have information about their on-line activity linked directly to them and to control the type of information an organization can obtain. Most importantly though it succeeds in providing the individual with these privacy rights while still allowing private organizations to obtain information they need for marketing, fraud and customization purposes.

Although very few web sites are currently using the cookies feature, an industry wide forum is on the verge of standardizing the technology. Fortunately, the transition to an on-line pseudo identity system such as cookies should not be difficult because over 90% of the world currently uses either Netscape or Microsoft Internet, both of which have the cookies mechanism built into their software.⁶¹ Due to the fact that this system is already in use on the Internet and is successfully providing individuals with control over their personal information, it is the conclusion of this paper that the system of pseudo identities should be used as the standard for the construction of on-line marketing identities.⁶²

VII. Conclusion

Privacy has been defined as the individual's right to "determine for themselves when, how and to what extent information about them is communicated to others."⁶³ As this paper has shown, marketers' uses of new technologies are unfortunately taking away the individual's ability to do just this. Although pseudo

⁶¹ <http://www.illuminatus.com/cookie>

⁶² LeeGomes, "Leading Web Browsers May Violate privacy of Users' Computers' Activities," San Jose Mercury News, 13 February 1996

⁶³ Alan Westin, Privacy and Freedom (New York: H. Wolff, 1967) 7.

identity systems will help return control of personal information to the individual, there are still some important issues surrounding on-line privacy which need to be resolved. For example, should a pseudo identity system on the Internet be completely untraceable or should it provide people with the option of revealing their personal information for a profit or other incentives? How will a company verify an individual's credentials if they use an untraceable pseudo identifier and can not check the validity of the information with another organization? Is it realistic to assume that individuals will want the hassle of having to memorize a different identifier for each organization they come into contact with? Is there any legal precedence in America which supports the concept of pseudo identities? and Will other countries be willing to accept pseudo identities as the identity standard for the global medium of the Internet? Unfortunately, all of these questions are beyond the scope of this paper. But it is important that people take them into consideration and strive to find suitable answers to them.

The implementation of the pseudo identity system suggested in this paper would not eliminate all of the problems surrounding the private sector's threat to the individual's right to on-line privacy. For, there are some very important issues such as redlining and the development of an information poor society which the system of pseudo identities fails to provide a solution to. These problems will need to be solved in the future through the implementation of legislation which sets limits on the ways in which private organizations can use the technologies of the Information Age.

As the Internet moves towards commercialization it is becoming increasingly important to address the privacy issues surrounding on-line marketing and data collection. These issues have already been dealt with in the physical world and have largely been unsuccessfully solved. Currently, Americans have little protection against corporate infringements on their personal information. It is therefore important that we heed the lessons of the past and recognize the dangers of the

future while there is still time to change the path we are following. Hopefully, through further research into current marketing and data collection trends we will be able to find a way to protect the individual's fading right to privacy in the Information Age and beyond.