

**Consumer Privacy
and the
Better Business Bureau
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Electronic commerce is redefining, in some very fundamental ways, the way business does business.

In September of 1998, according to Jupiter Communications, more than 16 million people did some portion of their shopping on-line. That number was expected to double by the year 2000 and double again in the year 2002.

While we hear a lot about the average consumer buying on the Internet, right now that's a smaller part of the story. Again, as of last fall, business-to-business online sales were almost three times those of business -to-consumer sales.

Who are these online purchasers? In the early days of online commerce (and by the "early days", I mean three years ago), they consisted largely of what are called "early adopters." These were mostly men, young, well-educated, with very high incomes, often affiliated with educational institutions or government and all involved in some way with the technology industry. Today, we've really moved much more into a mass market. As of last September, the average on-line consumer was now somewhere in his or her mid-30's, with an average household income of roughly \$60,000. These consumers are now starting to reflect the typical U.S. demographics: half of them are married and most have a college degree.

What are these folks buying? Consumers or business, the biggest category is travel, leading the way with \$2 billion in sales. After that, PC hardware and software combined; groceries; and a lot of discretionary areas, like books and music and clothing and tickets. Last fall, Texas-based Dell Computers boasted about selling \$5 million worth of computer every day online!

In terms of importance, according to another recent survey, about 65% of small businesses rank e-commerce as "highly important," about 30% of

medium-sized companies rank it that way, and about 20% of large companies rank it that way.

Large companies are learning, sometimes to their sorrow, how powerful the online market is, and how quickly a competitor can reshape the playing field. Now it is true that larger companies -- particularly in the financial sector -- have led the way in e-commerce, through electronic data interchange and other forms of transaction processing, it's because they have had the resources and the economies of scale to make tremendous use of intranets and extranets.

But the Internet is the great equalizer for small businesses. In fact, I believe that e-commerce holds the most potential for small businesses. E-commerce provides an excellent opportunity for small businesses to compete head-to-head with large businesses because every company is the same size on the computer screens of the customer. As an example, three years ago, Barnes and Noble was the dominant American bookseller. In slightly more than 36 months, it found itself scrambling to catch up to online marketer Amazon.com, which -- the last time I checked -- had over two million customers and more than \$350 million in revenue -- all without the overhead of a single retail outlet.

So what is the importance of e-commerce to business? Access Media International says that the number of companies doing business on the web will double by the year 2000. How many of you are conducting some sort of e-commerce on your web site?

We've kicked around a lot of statistics so far here. Let's take a pause and do our own down and dirty straw poll in this room. Let's start from a business perspective:

I first want you to think back to 1995. How many of you worked for a company or organization that had a World Wide Web site in 1995? Let's see a show of hands.....

That's good. Now, how many of you work for a company or organization that has such a site today? Another show of hands, please . . .

Now, let's take off the business hat and get a consumer perspective. How many of you have ordered a product or service through the World Wide Web in the past year?

We'd likely get these same results at almost any BBB or Rotary meeting in America today.

The web is changing the way the world does business, and it's doing it at warp speed.

But we need to remind ourselves that technology and enthusiasm together cannot build a new marketplace. No matter what technology is capable of -- and no matter how enthusiastically consumers initially embrace electronic commerce -- folks need to be comfortable with the people and organizations behind it before they will wholeheartedly put their money into it. Before I give you my money, I want to know I can trust you. Ultimately, it all comes down to trust.

So that's what we're going to talk about for the remaining time on this program.

What are people concerned about with respect to electronic commerce? Well, according to a survey commissioned by Better Business Bureau last year, credit card security, the reliability of the business, and how personal

information is being protected are consumers' main concerns. Ultimately, these all boil down to concerns that an online transaction is "safe". If the public's perception is that it is not, the fear -- and the regulatory response to that fear -- is really going to stymie the growth of e-commerce.

The fear about security of payments on line is largely ungrounded. In fact, online credit card transactions on a secure server offer a much greater degree of security than a real world transaction. To the best of my knowledge, no documented case exists of a transaction being intercepted on the net en route to the seller. There is probably a much greater chance that some unscrupulous person will look over your shoulder at the ATM machine, or at a pay phone or go diving in the trash barrel for your credit card carbons. As one of my friends observes, "people will express great concern about inputting a credit card number on a secure web site, then go out to dinner and hand their credit card over to some 20 year old stranger who disappears into the back of the restaurant with it for 10 minutes".

The security of credit transactions on line is, in any event, not an issue for the nation's Better Business Bureaus.

However, issues of reliability and privacy certainly are, and I'd like to devote the rest of my remarks to them.

Let's talk first about "reliability".

In that context, there's that wonderful cartoon from *The New Yorker* in which two dogs are sitting at a PC; and one of the dogs turns to the other and says, "The great thing about the Internet is that nobody knows you're a dog."

That's a somewhat different way of saying something I said earlier -- that every company is the same size on the computer screens of the customer.

If you are making a "real world" purchase of a computer, you look for lots of "tell tale" signals that it's OK to deal with a company. Does it advertise extensively? If so, we think that the company must be fairly successful. Does the company have a big store? Again, the bigger and more modern the facility, the more we think that the company must be a legitimate operation. Does it have a large selection? We can eyeball that when we're in the store, and the bigger the selection, the more comfortable we feel with the operation. Does it employ knowledgeable people? Does the store seem crowded? Does it have its own service department? Is the service department busy?

Unfortunately, these clues don't exist in the "virtual" world. Online, as the cartoon says, "nobody knows you're a dog". Microsoft's web site -- and the site of some fly-by-night software pirate -- can both look so sophisticated that no one could tell from looking which was the multi-billion dollar firm, and which was the scam.

In the "real world" purchase, if something goes wrong, you take the product back to the store for assistance. With some online organizations, you can't even tell where the company is physically located.

In the "real world" purchase, if you can't get redress any other way, you can always bring an action in small claims court to recover what you paid. That becomes infinitely more difficult in the virtual world, where the company is located in another state or another country (and it assumes that the company will still be around to be sued).

Recognizing these fundamental concerns about business reliability online, the Better Business Bureau system -- the preeminent business self-regulatory organization -- established a program called "BBBOnline". BBBOnline was developed as a vehicle which would take the leadership activities that the BBB system performs for the traditional marketplace and develop these

activities to help assure an ethical marketplace in the online environment. The initial *BBBOnLine* program was built around reliability, and it was launched in May 1997.

Our current reliability program is built around a seal-protection activity, where firms who meet a series of standards can use a protected seal on their web sites that quickly identifies to the visitor that the company is a reliable business, demonstrates a commitment to truthfulness and accuracy in the advertising on that web site, a commitment to satisfying the customer, and a commitment to a third-party dispute resolution process if customer issues are not resolved. To ensure that the company is what it says it is, and does what it says it does, we do a site visit of every single company in the program. With over 2,600 participants currently in the program right now -- ranging from Procter and Gamble, Lands' End, L.L. Bean, Hewlett Packard to online cookie companies, travel agents and a host of small businesses -- we are told we are the largest seal-protection program on the Internet today. And your own Dallas BBB has been a leader in that effort, ranking 5th out of 133 U.S. cities with over 120 *BBBOnLine* participating companies, including the J. C. Penney Company. You can get more information about the *BBBOnLine* "Reliability Program" from the Dallas BBB -- or you can go to our website at www.bbbonline.org.

Our success with the *BBBOnLine* program -- coupled with serious business and governmental concerns about the area of online privacy -- led a number of key multinational companies to seek the BBB system's assistance in designing a self-regulatory program in early 1998.

Significant financial support from technology, information and marketing companies as diverse as Hewlett-Packard, Dun and Bradstreet, Procter and Gamble, AOL, AT&T, Dell Computers, MCI, Sony, Visa and J.C. Penney spoke volumes about the intention of the business community to produce a quality product that will work. Add to this financial support an unusual personal plea

to support the BBB sent to 100 corporate CEOs from Lew Platt, Chairman of one of the most respected corporations in America, Hewlett-Packard, and you get a pretty good picture of the commitment and good faith that went into this effort.

Based on these commitments from American business and on behalf of the BBB system, *BBBOnLine* made a commitment to the U.S. Department of Commerce in June, 1998 that we would develop and implement a tough, verifiable self-regulatory program for online privacy by March 31, 1999. We beat that deadline by two weeks.

Why all this concern about online privacy?

More and more people are beginning to raise questions about the personal information (we call it "individually identifiable information") they provide to business and government -- and how that information is going to be used and protected.

It's time for another in-house survey. With a show of hands, let me see how many of you have had to sign for a credit card purchase on an "electronic" signature pad?

OK, now how many of you have had your digital photo taken for some official document like a driver's license?

Folks in three states were dismayed to discover recently that their digital photos were being sold by their states to a third-party company which planned to use those photos as part of a check verification system. There didn't seem to be anything particularly wrong with the use the company planned to make of the information, but all three states (and the company) admitted that there were no prohibitions on what other uses the company might make of these digital images, including selling them to other parties.

When the story appeared in the press, the firestorm of protest from residents of the three states caused all three governors to rescind the agreements.

And if your signature is one of the things that helps establish that we are who we say we are, what is happening to the digital images of your signatures? Will these be marketed to third-parties? And for what purposes?

These are just two small examples of what is becoming a critical concern in all transactions -- but particularly of consumers who want to have a level of trust and confidence before they engage in online transactions -- since the person or organization at the other end of the transaction may be unknown and may, indeed, be outside the U.S. jurisdiction.

Privacy is such a major concern to the member states of the European Union that the EU has issued a number of privacy directives. Member nations must implement the directives by a specific date, and those directives have significant legal impact on any business entity doing business in or with a member nation.

The nation's Better Business Bureaus, major national corporations and even many members of government believe that draconian new regulations governing privacy might not only not accomplish their goals in this fast-moving environment, but may stifle the very entrepreneurial spirit that has brought the web so far so fast.

The *BBBOnLine* Privacy Program, launched two weeks ago in Washington, DC, contains these key elements. It:

- Awards an easily recognizable and affordable "seal" to businesses that post online privacy policies that meet the required "core" principles, such as disclosure, choice, and security.
- Provides a consumer-friendly dispute settlement mechanism.

- Monitors compliance through rigorous requirements for participating companies to undertake, at least annually, an assessment of their online privacy practices, and,
- Offers specific consequences for non-compliance, such as seal withdrawal, publicity and referral to government enforcement agencies.

Qualifying for the *BBBOnLine* Privacy Seal is a two-part process. First, all applicants must demonstrate that they have adopted and implemented a privacy policy which meets all program standards. Second, applicants must complete and submit (1) the Business Application, (2) the Compliance Assessment document, (3) a signed copy of the License Agreement and (4) payment for the processing and annual seal fee. Upon receipt of all these components, *BBBOnLine* will review the applicant's compliance assessment, privacy policy and website, and either award a seal, request more information, or inform the applicant of modifications needed to qualify for a seal.

The program's requirements can be summed up in a simple statement that's become a motto for the program:

"Say what you do, do what you say -- and verify". Tell people what your privacy policies are -- and what you intend to do -- with respect to individually identifiable information. Then rigidly follow your posted policies without deviation. Finally, verify that you are doing in practice what you've said you'll do. This sounds easy, but it can be very difficult in practice.

The general program requirements are that a seal participant must:

- Take appropriate steps to assure that its information management practices comply with its privacy policies and any applicable *BBBOnLine* Privacy Program requirements.

- Successfully complete the *BBBOnLine* Privacy Compliance Assessment to demonstrate that its information practices conform to program requirements.
- Agree to cooperate in applicable program verification requirements in addition to the Compliance Assessment. Verification requirements include but are not limited to information pertaining to: choice, individual access to data, transfer of information to third parties, data integrity, security, and parental notice and consent.
- Participate in the *BBBOnLine* Privacy Policy Dispute Resolution Program and to abide by decisions entered in the program.
- Inform *BBBOnLine* of all material changes to their privacy policies or practices, or of any other modification which could impact the participant's seal standing, prior to implementation.
- Disclose in its Compliance Assessment all site URL's where individually identified information is collected or provide alternative evidence that there is a link to the privacy policy on any page where individually identifiable information is collected. This disclosure must also include a description of the "specific types" of information being collected and all uses of that information.
- To have a satisfactory record with the Better Business Bureau. BBB members fulfill this requirement by virtue of their satisfactory record at the Bureau, and nonmembers are eligible as long as they do not have an unsatisfactory record at the Bureau.

The BBB standards speak to such issues as server security, policy content, transfer of third-party information, what constitutes choice and consent, what access consumers must have to data the company has collected and how companies must provide methods for consumers to correct incorrect information.

Finally, the BBB *BBBOnLine* Privacy Program provides special criteria (and a special "kid friendly" seal) to companies that collect individually identifiable

information from children under 13. The additional requirements for kids' privacy include obtaining verifiable parental consent before:

1. collecting, using, or disclosing children's information
2. allowing children to post or distribute information
3. allowing children to directly communicate with others

Other special requirements for kids' privacy include special sections for kids email, hyperlinks to other sites, and games and contests.

I'm pleased to be able to tell you that the first company to qualify for the *BBBOnLine* Privacy Seal was Texas' own Dell Computers. The first children's Privacy Seal was just awarded to Nickelodeon.

I want to thank Jay Newman, the Dallas BBB and the Rotary Club of Dallas for the opportunity to speak to you this morning.