



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, DC 20207

**Summary of Recall Effectiveness Meeting #2**  
**"New Tools for Recall Effectiveness"**  
**July 25, 2003**

The U.S. Consumer Product Safety Commission is holding a series of meetings addressing different aspects of Recall Effectiveness. The second meeting, "New Tools for Recall Effectiveness" was held on July 25, 2003 at the CPSC Headquarters in Bethesda, MD. The goal for these meetings is to develop concrete ideas that can be used by the CPSC to enhance future recalls. This meeting was designed specifically to solicit information about what new tools are being used today by manufacturers, retailers and others to provide information to consumers about recalls.

The morning session consisted of 10 presentations about recalls using "new tools" and highlighted the successes and problems encountered.

- JCPenney - Dianne Carpenter (via telephone) - Ms. Carpenter spoke about JCPenney's unique position of being a retail, internet and catalog company, which allows them to cross check all databases to track down customers. Privacy policy allows them to contact customers for safety recalls. They also post recalls at point-of-purchase to make sure cash customers are aware of the recalls.
- Toys 'R Us - Tom DeLuca - Mr. DeLuca spoke about a pilot study Toys 'R Us is conducting on a current recall. Toys 'R Us clerks asked for purchasers' phone numbers at time of purchase. At the time of the recall, a third party company used the phone numbers and reverse directories to get about 60% of the addresses of the purchasers. A letter with Toys 'R Us listed as the sender was sent to the purchaser with a special stamp on the outside "IMPORTANT UPDATED SAFETY INFO OPEN IMMEDIATELY" alerting the receiver that safety information was enclosed. (See Recall Effectiveness #2 PowerPoint presentations).
- Lowes - Tom Lamb - Mr. Lamb proposed that because no one player in the supply chain has all of the necessary information to execute an effective recall, there should be a "clearinghouse" established. The clearinghouse would consolidate all the pieces of the process. This still won't reach everyone (e.g., cash purchasers), but a greater percentage could be reached. (See Recall Effectiveness #2 PowerPoint presentations).
- Bath and Body Works (BBW) - Joe Romano - Mr. Romano noted that BBW owns their products which allows them to easily track them in the distribution chain. BBW knows its customers and tries to reach them with incentives, enhanced visual graphics, pre-paid mail

returns and interactive voice response 800 numbers. BBW has had the greatest positive response to enhanced visual graphics at checkout registers. (See Recall Effectiveness #2 PowerPoint presentations).

- QVC - Eric Christopher - Mr. Christopher noted that QVC is an electronic retailer, therefore, they know all of their customers. However, at best they only get about a 60% response rate to recalls. They call the customer and if the customer calls them for a new order, the operator will know they have a recalled product and inform them. They also use a call service and emails. The limitations include call blocking, customer availability, lot verification and customers willingness to cooperate. (See Recall Effectiveness #2 PowerPoint presentations).
- Radio Shack - Jolene Miller - Ms. Miller discussed a recalled product, an omni-directional antenna, that was not recalled by CPSC, but rather by the FCC because of alleged global positioning satellite interference. However, Radio Shack used CPSC guidelines to conduct the recall. The product was seasonal which made it difficult to contact customers. So, Radio Shack designed their website to display the recall notice first whenever a customer does a search for "antenna". They don't have any plans to remove the recall notice from their website because they hope to get more responses from people who are second-hand users. (See Recall Effectiveness #2 PowerPoint presentations).
- Sauder - Gary Bell - Mr. Bell talked about the old way of recalls as a "Dumb-bomb" approach of using mass-media versus a new "Smart-bomb" approach that attempts to focus communications on specific customers. For a recent recall, 60% of Sauder's customers were successfully contacted. Customer names were obtained from warranty registration cards, a customer service database, and a consolidation of miscellaneous store customer lists. Thirteen percent of repair kits that were automatically sent out came back because of the wrong address, etc.; 40% of the customers contacted Sauder and 82% of them said they saw the recall on Sauder's website. The website generated both the largest response and had the longest staying power. (See Recall Effectiveness #2 PowerPoint presentations).
- Spiegel/Eddie Bauer - Andy Yokom - Mr. Yokom stressed that different channels of sale have different responses. For catalog and internet sales, Spiegel/Eddie Bauer contacts customers using website announcements, and follow-up letters to non-responsive customers asking the customers to sign-off when they discard/return necessary parts. For retail and outlet stores, they compare databases with catalog and internet sales, take names and zip codes to a credit bureau company and receive addresses matching those names and then direct mail to those customers. Follow-up letters and incentives are used. Also, they use posters and tear away cards at check outs/other prominent places to catch the customers' attention and remind them to check for the product when they get home.
- GE - Jennifer Dailey - Ms. Dailey reported on a recall that involved a 10 - 17 year old product. For this recall GE had to find the target audience. She noted that mass marketing techniques reach full effectiveness very soon after announcement of the recall and then decline. Successive public notices do not yield significant increases in actionable response. She further noted that website recall information is a better way to reach consumers over

time. Internet users are savvy and can find information if it's clearly available. (See Recall Effectiveness #2 PowerPoint presentations).

- AOL - James Vaughn - Mr. Vaughn discussed how the internet can be used to get the message to consumers about product recalls. He discussed both passive information pages like AOL's Total Recall Center [Government Guide: Total Recall Center](#) or the ability to sign up for alerts when new recalls are issued based on product type or perhaps someday by manufacturer. The goal is to get private companies to partner with new media in the same manner they do with traditional media when they announce a recall. He noted that customers are willing to receive emails from trusted worthy sources - CPSC should build on its reputation.

### **Morning Panel Discussion**

After the formal presentations, the panelists engaged in a roundtable discussion with CPSC staff members, Robert Ochsman, Ph.D., meeting moderator; Marc Schoem, Office of Compliance; and Celestine Kiss, Recall Effectiveness Project Manager. The following issues were discussed:

Do not call registry: There was discussion on how the "do not call" registry affects companies calling customers about recalls. There was some debate about whether companies are prevented from calling customers. Clarification provided after the meeting indicates that companies are not prevented from making recall phone calls because of the "Do not call" registry. In this case, companies are not soliciting business, so they can call. (See [www.ftc.gov/os/2003/01/tsrfrn.pdf](http://www.ftc.gov/os/2003/01/tsrfrn.pdf))

Incentives: QVC said their best success in getting recalled products returned has been with offering UPS call tags - the customer just has to put the product in a box and UPS will come pick it up anytime.

### CPSC Credibility:

The following comments were made:

Positively "Brand" CPSC. Customers would be more receptive to a message from CPSC rather than from just the retailer or manufacturer.

Send recall letters with CPSC logo or return address with special "Safety Recall Notice" printed on the envelope.

Do Public Service Announcements to promote CPSC.

Teach consumers to look for CPSC's safety recall messages.

Use local legislators to help promote CPSC with their constituents.

Other suggestions:

Use email more than direct mail since this would lead to a better response.

Allow consumers to sign up for recall notices by product, by level of hazard, by frequency of notice (daily, weekly, monthly, etc.).

Get companies to stop asking for personal information, so warranty cards can actually be used for recall purposes. Instead of "opt out," there should be "opt in" - if you want to participate in marketing purposes you have to "opt in" and call a special number to provide the information, otherwise the basic information is used only for safety.

Promote "recalls" as CPSC, retailer and manufacturer working together to care for and protect consumers. Give the recall a positive spin versus a negative poor quality connotation.

**AFTERNOON SESSION**

- **Matrics Demonstration**

The afternoon session started with a demonstration by Liz Churchill of Matrics of how radio-frequency identification (RFID) chips work. She explained that the "long read" range of chips has gone from 15 to 30 feet, that manufacturers use them to track the distribution of their product all the way to the store, and that the RFID chip allows recalls to be very specific, even more than electronic product codes. The price of chips has fallen from \$1 to \$.05, in quantities of 1 billion. She noted that the challenge is to determine how we deal with all the data. Tracking allows the "owner" to determine the location of the chip and tracing allows the "owner" to determine what the product is and where it came from. As chip technology becomes more popular, customers can be given an opportunity to register with a loyalty card and then whenever they shop they can pass their cart by a special reader area and automatically register all their products; they can go through another area to disable the tag. Ms. Churchill noted that none of this is available now, but someday it will be possible.

- **Williams-Sonoma Video Presentation**

Kathleen McCarthy made a presentation in August 2001 at a CPSC public meeting about how Williams-Sonoma used credit card information to track customers who purchased a recalled grill. Ms. McCarthy was unavailable to attend this meeting, so videotape of her August 2001 presentation was shown to assist with the credit card/privacy issue/recalls discussion.

- **Privacy and New Technology Discussion**

A brainstorming discussion was held with Mark MacCarthy, VISA; William Binzel, MasterCard; Solveig Singleton, Competitive Enterprise Institute (CEI); Ed Mierzwinski, Public Interest Research Group (PIRG); Ari Schwartz, Center for Democracy & Technology (CDT); Chris Hoofnagel, Electronic Privacy Information Center (EPIC); Bob Ochsman, Moderator CPSC; Marc Schoem, CPSC Office of Compliance; Celestine Kiss, CPSC Recall Effectiveness Project Manager.

The discussion began with Mark MacCarthy, VISA, who explained the credit card process. He noted that basically there is no personal information on the card itself. Therefore the merchant banks are responsible for contacting the issuing bank and asking for help. He believes that from the customers' expectation it is okay for their bank to contact them. Consumers' personal information that is obtained by credit card companies is private and protected by the Gramm-Leach-Bliley Act of 1999, however, there is an exception for public safety. Mr. MacCarthy believes that in the case of public safety (e.g., product recalls), it would be acceptable for the consumer's issuing bank to directly contact consumers without violating their privacy.

William Binzel, MasterCard, responded by cautioning about the use of the practice described by Ms. McCarthy, Williams-Sonoma. He noted that the logistics and system problems with this process are huge. He recommended considering what this will involve when it is 30 million people being contacted. He noted that Williams-Sonoma did it for just 500 people.

Marc Schoem, CPSC, explained that it is not likely that millions of people will need to be contacted for every recall.

The discussion then went to RFID chips and Ari Schwartz, CDT, questioned the practicality of RFID for recalls. He noted that it would not be effective with "static products" - those already in the home. It is really only good with "mobile products" that are still in the distribution chain. Chris Hoofnagel, EPIC, brought up the security issue if tags are not "turned off" because tags respond to any reader. Liz Churchill, Matrics, confirmed this.

Celestine Kiss, CPSC, asked if there are levels of hazard where it would be "okay" to contact a consumer? Ed Mierzwinski, PIRG, said that he believes anything that reaches a CPSC level of concern would be the level for contact.

Solveig Singleton, CEI, said that consumer information is available and companies should be able to use it. There is no harm to consumers if companies collect the information, it is not harmful and it can enhance competition. If consumers are willing to offer it, then companies should be able to use it.

Mark MacCarthy, VISA, said that there are operational concerns if the government "forces" banks to "cooperate." However, if at the end of the day, manufacturers and retailers find this works and VISA/Bankcard holders benefit financially, the banks will find a way to make it happen. William Binzel, MasterCard, agreed fundamentally that it could work, by creating a network that doesn't exist now but would be possible in the future.

Solveig Singleton, CEI, asked how many products would be reached through this means.

Marc Schoem explained that CPSC is looking for new ways to reach consumers because right now we rely heavily on media to get the message out, and we want more direct notice.

CPSC Commissioner Mary Sheila Gall asked, "How far do the credit card companies go to contact the consumer? If I don't respond are you going to call me again, have someone else call me again?"

The general response from the panelists was that it depends on the severity of the recall and what the recalling company wants to do.

Solveig Singleton, CEI, suggested using credit reports for address tracking. Chris Hoofnagel, EPIC, suggested the National Change of Address database maintained by the U.S. Post Office.

This afternoon session was wrapped up at this point.

### **OTHER ISSUES**

Four other individuals were given an opportunity to present information they felt was pertinent to the issue.

- Bill Kneendorf - Consumer Product Safety Watch - a new direct notice company. Mr. Kneendorf noted that this company was set up solely for the purpose of notifying consumers of recalls. He further noted that consumers respond to the recalls because they are motivated to do so and they request the information so they can act. He stated that in surveys he has conducted on recalls the top responses he gets are - I want to be in control and I want the information to be accurate so I can trust it.
- Kevin Kelly - NNC Group - a recall logistics company. Mr. Kelly noted that the purpose of his company is one voice, one message, from one source and that control is important for the success of a recall. Mr. Kelly stated that consumers want to feel they have control so when they call the NNC's recall 800 numbers there is a interactive voice recording (IVR) and a memory tree which allows the caller to get the correct message targeted by their responses. Companies must be proactive.
- Bill Allen - ServiceBench - a web enabled company. Mr. Allen noted that they handle warranties, product recalls, and call centers. ServiceBench is able to track consumers because of product registration cards, service claims, call center contacts, web site registration, and registration incentives. Recalls involve various types of data in many locations, but ServiceBench is one database for all recall operations.
- Tom Kline - Whirlpool. Mr. Kline noted that Whirlpool sells 41 million products and therefore pre-planning is critical for a successful recall. They do whatever they can to track down the product - mailings, 5 phone calls, certified letter, and even 3<sup>rd</sup> party tracking systems.

After these presentations, the meeting ended.

**Public Comments**

The following comments were received from the public for inclusion in the public record:

1. Nancy Cows, Kids in Danger - attachment 1
2. Carl Blehschmidt, private citizen - attachment 2
3. Ray Messina, Morgan Stanley - attachment 3
4. Chris Jay Hoofnagle, Electronic Privacy Information Center - attachment 4

Attachment 1

July 15, 2003

Celestine Kiss  
Consumer Product Safety Commission  
Bethesda, Maryland,

Dear Ms. Kiss,

I am unable to attend next Friday's meeting. However, I would like to submit the paragraphs below as our input into "New Tools" for recall effectiveness.

Kids In Danger (KID) is a nonprofit organization dedicated to protecting children by improving children's product safety. KID was founded in 1998 by the parents of Danny Keysar. Danny was killed in a recalled portable crib. To date, 15 known children have died in portable cribs of the same design. Over half were killed before the products were recalled. Which leads me to the best 'new tool' manufacturers and CPSC can adopt -- stringent safety standards and testing prior to sale. Our children cannot be guinea pigs to find the flaws in new products. The American public expects that when they go to a store to buy a product for their infant or toddler, someone has made sure it is safe. Unfortunately, as the Playskool Travel Lite Portable Crib and so many other products show, that is not the case now. CPSC should fulfill that role -- with fewer products to recall, each recall can be more effective.

But once a product is recalled, how can we improve the abysmal retrieval rate now common with children's products? We have a few suggestions.

- Product registration cards in each new children's product would increase the likelihood that a family will hear about and take action for a recall. For recalls that involve a repair kit, the kit could be automatically mailed to each owner with a label that allows the owner to forward it to a new owner or back to the manufacturer if the whereabouts is unknown.
- Computer kiosks in children's product stores that allow parents both to check for recalls through the CPSC and register new product purchases with manufacturers.
- Mailings or emails to all licensed child care providers for products with a likely risk of serious injury or death -- the Level A product recalls.
- Real marketing of the CPSC automated recall alert system to encourage every parent, caregiver and health care provider to sign up.
- For any level A recall, a bounty should be offered that more than covers the cost of replacing the item.
- Online sellers of children's products should be encouraged to list recalls at their sites. Today, when checking on the availability of a recalled product, sites will just list that the item is 'out of stock' or simply remove the 'buy ' button, without letting consumers know the product is recalled.
- Targeted paid advertising should be required for all Level A recalls. This can be in print, TV, internet, radio or all of the above.

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These are just a few ideas. I'm sure the CPSC will hear many more in the "New Tools" meeting. It is our hope at Kids In Danger that in addition to acquiring this information, the CPSC will take the sometimes difficult step of implementing these new ideas.

Sincerely,

Nancy A. Cowles  
Executive Director

Attachment 2

# Recall Effectiveness-Getting the Message Out

7/1/2003

I am suggesting that the CPSC explore the establishment of a television cable and direct TV channel that would present recall and safety information 24-7 nationally. It would require a small production staff and a small studio for production. Funding would come from all the government agencies involved in safety and recalls and manufacturers involved in individual recalls.

I believe one of the keys to motivating consumers is repetition, repetition, and repetition. Also a place where consumers can double check on something they thought they heard about but did not get the details at the time. A dedicated Consumer Product Safety Channel, somewhat like the Weather Channel would provide current as well as historical recall information (Recall Roundup would be promoted 24-7 all year long). Programming could vary in format from a simple scrolling of recalls to short recall notices with photos. Video news releases could be played as well as special safety programming including interviews with agency heads and others.

Even Interactive TV is a possibility and product safety educational programs for children could be developed. Local programming could also be developed (Your Local Forecast).

Back in the 70's, the Department of Agriculture produced a weekly TV program on agriculture issues and product safety. I and other CPSC staff appeared regularly with information and visuals on lawnmower safety, chain saw safety, GFCI's, etc. Commissioner's Pittle, Steorts and Scanlon also appeared.

Recall effectiveness will be a tough nut to crack. CPSC has been trying for a long time and has made many improvements such as point of sale notices, more effective news release formats, TV appearances and interviews, and I believe, the most important has been the video news release. I believe that TV is the most effective medium available for recalls.

I would like to recommend that the Commission scope out the possibilities of this approach including costs and participation by other agencies. I think that there are endless possibilities.

Carl Blechschmidt  
9101 Wandering Trail Drive  
Potomac, Maryland 20854  
Home phone: 301-424-3499  
Office phone: 703-532-5273 x226

**Attachment 3**

-----Original Message-----

From: Ray Messina [mailto:Ray.Messina@morganstanley.com]  
Sent: Tuesday, July 29, 2003 5:09 PM  
To: Fuller, James E.  
Subject: Re: A request from the Consumer Product Safety Commission

I did not see your message until today, and regret that I will be out of town on Friday and will not be able to participate in the meeting.

I attended several CPSC meetings on this subject in 2001. Morgan Stanley is in the credit card business through its Discover Card operating division, Discover Financial Services. Discover has approximately a 6% market share in the credit card industry and, while it would be affected by any initiatives regarding product safety recalls, its relatively small size in the marketplace and its limited experience in issuing "private label" credit cards for retailers indicates that of any such plan must take principally focus on the larger credit card networks operated by VISA and MasterCard.

Responding to the questions you raised:

1. The information that Discover captures about retail transactions is limited to the time and date of the transaction, the dollar amount charged on the Discover Card (which is the inclusive of sales taxes), the merchant that accepted the card and the account number of the individual Discover Cardmember. Information about the product purchased with the card is not captured or retained by Discover. For example if a consumer purchases several items from Wal-Mart (e.g., gas can, garden gloves, apparel and grocery items) , and pays for them with a Discover Card, the total purchase price of the items is recorded. The customer's Discover Card statement in the subsequent billing period will show a "Wal-Mart" transaction for the total price of the items, but will not itemize the purchases.

Discover might learn about specific product purchases in the course of the billing error dispute resolution process, as when a customer withholds payment for a product because of a nondelivery claim, or a dispute with the retailer about the quality of the item. Discover's files are likely to contain limited product information in such cases (consumers who dispute bills do not generally provide serial numbers or other details about products), and this information would not be readily retrievable based on the product or the retailer that sold it.

2. Discover maintains contact information for all of its Cardmembers, information that is necessary to send billing statements and certain regulatory notices. For individuals whose accounts are inactive, or who elect to receive their bills exclusively on-line, the accuracy of this contact information may be come less reliable over time (e.g. when customers move, and do not advise Discover of a change of address). When accounts are closed at the request of a customer, or at Discover's initiative following such events as death, default or bankruptcy, the contact information is subsequently purged.

We do not request or maintain contact information for authorized users of Discover Cards, i.e., spouses, children, roommates or other persons who have

authority to make purchases with the card but are not contractually obligated to make payments. In some cases (e.g., a Cardmember with a child in a distant college) the Cardmember whose contact information we maintain may be unaware of the specific products that were purchased by an authorized user. In other cases, the cardholder or other purchaser may have given the product to a third person. This, a product recall notice to the credit card holder might not reach the individual who actually purchased or uses the product.

3. Based on the information I gathered in 2001, Discover has not been involved in using its Cardmember contact information to assist sellers of consumer products with safety recalls.

4. I am not aware of internal rules or contractual restrictions that would prevent Discover from transmitting product safety recall information to its Cardmembers, but we would need to review this in light of any specific proposal. We would also want to obtain clarification from bank regulators as to whether the privacy restrictions in Title V of the Gramm Leach Bliley Act would come into play if contact or other information about cardholders were disclosed to merchants to be used by them to effect a product safety recall (e.g. whether this would be a permissible disclosure under the "investigation in a matter related to public safety" exception in Section 502 (e) (5) of that law, or would require an amendment to our contract with Cardmembers ).

I hope this is of some use to you.

**Attachment 4**

Consumer Profiling  
 By Chris Jay Hoofnagle  
 Electronic Privacy Information Center

"The Product is you."  
 --Adbusters Media Foundation

**Introduction**

Profiling is the recording and classification of behaviors. This occurs through aggregating information from online and offline purchase data, supermarket savings cards, white pages, surveys, sweepstakes and contest entries, financial records, property records, U.S. Census records, motor vehicle data, automatic number information, credit card transactions, phone records (Customer Proprietary Network Information or "CPNI"), credit records, product warranty cards, the sale of magazine and catalog subscriptions, and public records.

Consumers are more aware of these invasions of privacy, and many are limiting the information they give to businesses, limiting the effectiveness of product recalls and other legitimate business to consumer communication. This paper gives an overview of how individuals' information is collected and sold.

Companies collect information derived from a number of resources to build comprehensive profiles on individuals in order to sell products and to sell dossiers on behavior. This is often done without notice or extending a choice to the individual to opt-out of the dossier building. These dossiers may be used by marketers for target advertising, and they may be sold to government for law enforcement purposes. Companies also "enhance" dossiers that they already own by combining or "overlaying" information from other databases. These dossiers may link individual's identities to the following attributes:

<ul style="list-style-type: none"> <li>• Social Security Number</li> <li>• Shopping preferences</li> <li>• Marital status</li> <li>• Financial situation (solvency, creditworthiness, loan amounts, credit cards)</li> <li>• Date of Birth</li> <li>• Sex</li> <li>• Age</li> <li>• Whether the individual responds to direct mail</li> </ul>	<ul style="list-style-type: none"> <li>• Household income</li> <li>• Race and ethnicity</li> <li>• Geography</li> <li>• Physical characteristics, such as height and weight</li> <li>• Household occupants</li> <li>• Telephone number</li> <li>• Utility usage (electric or gas usage, telephone usage, cable or satellite usage, Internet subscription, cellular phone usage)</li> </ul>	<ul style="list-style-type: none"> <li>• Membership in book, video, tape, and CD clubs</li> <li>• Mail order purchases</li> <li>• Product ownership (beeper, contact lenses, electronics, fitness equipment, recreational equipment)</li> <li>• Pet ownership and type</li> <li>• Interests (including gambling, arts, antiques, astrology)</li> <li>• Book preferences</li> </ul>
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<p>solicitations</p> <ul style="list-style-type: none"> <li>• Contributions to political, religious, and charitable groups</li> <li>• Congressional district</li> <li>• Size of clothes worn</li> <li>• Religion (affiliation and denomination)</li> </ul>	<ul style="list-style-type: none"> <li>• Magazine subscriptions</li> <li>• Occupation</li> <li>• Level of education</li> <li>• Whether an individual responds to "money-making opportunities"</li> </ul>	<ul style="list-style-type: none"> <li>• Music preferences</li> <li>• "Socialites"</li> <li>• Habits (smoking)</li> <li>• Arrest records</li> <li>• Lifestyle preferences</li> <li>• Hobbies (whether and what the individual collects)</li> </ul>
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These profiles are also indexed by other factors, such as wealth. For instance, American List Counsel sells an "ultra affluent database" that is overlaid with information on age, sex, and presence of children. The database includes the individuals' home phone numbers. Many of the "affluent persons" databases are mined from public record filings (Security and Exchange Commission, State Corporations Registration lists) where individuals are compelled by law to reveal their personal information.

Profiling companies have well-developed lexicons to classify individuals. Claritas, for instance, divides individuals into fifteen different groups, which are in turn categorized into various subgroups. These include:

- "Elite Suburbs" (Blue Blood Estates, Winner's Circle, Executive Suites, Pools & Patios, Kids & Cul-de-Sacs).
- "Urban Uptown" (Urban Gold Coast, Money & Brains, Young Literati, American Dreams, Bohemian Mix).
- "2nd City Society" (Second City Elite, Upward Bound, Gray Power).
- "Landed Gentry" (Country Squires, God's Country, Big Fish Small Pond, Greenbelt Families).
- "Affluentials" (Young Influentials, New Empty Nests, Boomers & Babies, Suburban Sprawl, Blue-Chip Blues)
- "Inner Suburbs" (Upstarts & Seniors, New Beginnings, Mobility Blues, Gray Collars).
- "Urban Midscale" (Urban Achievers, Big City Blend, Old Yankee Rows, Mid-City Mix, Latino America).
- "2nd City Center" (Middleburg Managers, Boomtown Singles, Starter Families, Sunset City Blues, Towns & Gowns).
- "Exurban Blues" (New Homesteaders, Middle America, Red White and Blues, Military Quarters).
- "Country Families" (Big Sky Families, New Eco-topia, River City USA, Shotguns and Pickups).
- "Urban Cores" (Single City Blues, Hispanic Mix, Inner Cities).
- "2nd City Blues" (Smalltown Downtown, Hometown Retired, Family Scramble, Southside City).
- "Working Towns" (Golden Ponds, Rural Industria, Norma Rae-ville, Mines and Mills).
- "Heartlanders" (Agri-Business, Grain Belt).

- "Rustic Living" (Blue Highways, Rustic Elders, Back Country Folks, Scrub Pine Flats, Hard Scrabble).

These profiles can be purchased at surprisingly low prices. Many companies will sell information at a cost of \$65 per million names.

Profilers prefer "compiled lists"--databases generated from white pages, directories, public records, and membership lists to "response lists." Response lists are generated from catalog sales and other methods where the consumer responds to a solicitation. Compiled lists are more lucrative for profilers because they can overlay data with lifestyle behavior and engage in telemarketing without the consumer's permission.

In the process of aggregating profiles, any number of persons may acquire the information of another. In fact, one of the largest commercial profilers, Metromail (now owned by Experian), used prisoners to enter personal information from surveys into computers. This resulted in a stalking case where a prisoner harassed a woman based on information she submitted on a survey. The woman received mail from a convicted rapist and burglar who knew everything about her--including her preferences for bath soap and magazines. In fact, Metromail maintained a voluminous amount of data on the woman. Metromail had twenty-five pages of personal data on her, including her income, and information on when she had used hemorrhoid medicine.

The woman sued (*Beverly Dennis, et al. v. Metromail, et al.*, No. 96-04451, Travis County, Texas.) and as a result of a class-action suit, Metromail may no longer use prisoners to process personal information. During litigation, Metromail claimed that they had not violated the woman's privacy, that they had no duty to inform individuals that prisoners were processing their personal data, and that the data processed was not highly intimate or embarrassing.

### Medical Profiling

No aspect of an individual's private life is too sensitive to be categorized, compiled, and sold to others. For instance, the Medical Marketing Service sells lists of persons suffering from various ailments. These lists are cross-referenced with information regarding age, educational level, family dwelling size, gender, income, lifestyle, marital status, and presence of children. The list of ailments includes:

<ul style="list-style-type: none"> <li>• Allergy - Nasal</li> <li>• Alzheimer's (Incl. Adult Caregiver)</li> <li>• Arthritis</li> <li>• Asthma</li> <li>• Athletes Foot</li> <li>• Breast Cancer</li> <li>• Bronchitis</li> <li>• Cancer</li> <li>• Celiac - Sprue</li> <li>• Chewing and</li> </ul>	<ul style="list-style-type: none"> <li>• Diabetes</li> <li>• Eczema</li> <li>• Emphysema</li> <li>• Epilepsy</li> <li>• Frequent Chapped Lips</li> <li>• Frequent Cold Sores</li> <li>• Frequent Flu</li> <li>• Fungus Infections</li> <li>• Fungus Infect – Nail/Foot</li> <li>• GERD / Acid Reflux /</li> </ul>	<ul style="list-style-type: none"> <li>• Impotence/ED</li> <li>• Incontinence- Urine</li> <li>• Insomnia</li> <li>• Irritable Bowel Syndrome</li> <li>• Menopause</li> <li>• Menstrual Cramps</li> <li>• Migraines</li> <li>• Motion Sickness</li> <li>• Multiple Sclerosis</li> <li>• Obesity</li> </ul>
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<p>Swallowing Difficulties</p> <ul style="list-style-type: none"> <li>• Chronic Back Pain</li> <li>• Clinical Depression</li> <li>• Colon Cancer</li> <li>• Constipation</li> <li>• Contact Lenses</li> <li>• Crohns Disease</li> <li>• Dandruff</li> <li>• Dentures</li> </ul>	<p>Ulcers</p> <ul style="list-style-type: none"> <li>• Gingivitis</li> <li>• Glasses</li> <li>• Glaucoma</li> <li>• Hair Loss/Baldness</li> <li>• Headaches</li> <li>• Hearing Impaired/Hearing Aid</li> <li>• Heart Attack</li> </ul>	<ul style="list-style-type: none"> <li>• Osteoporosis</li> <li>• Parkinson's Disease</li> <li>• Prostate Cancer</li> <li>• Psoriasis</li> <li>• Rheumatoid Arthritis</li> <li>• Shingles</li> <li>• Spinal Cord Injury</li> <li>• Ulcerative Colitis</li> <li>• Ulcers</li> <li>• Use Wheelchair</li> <li>• Yeast Infection</li> </ul>
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**Accuracy of the Profiles**

There are serious problems with the accuracy of profiling data. Self-reported data, such as information solicited on product warranty cards, tends to be exaggerated. Individuals tend to report higher salaries than they actually earn and indicate interests in which they may not actually participate. Other profiling information, such as data mined from public records, may be linked to the incorrect person. For instance, in April 2001, former Privacy Foundation CTO Richard Smith requested his ChoicePoint dossier and concluded that the file contained "more misinformation than correct information."

**Who is Behind Profiling?**

The profiling industry group, the Direct Marketing Association (DMA), is the primary apologist for this dossier building. The group lobbies extensively against privacy rights that would limit the ability of entities to collect and exploit individuals' data.

The group has staved off legislation by concocting self-regulatory opt-out lists for individuals who wish to limit the amount of commercial solicitations they receive. For instance, the DMA operates the Mail, Telephone, and E-Mail preference services. Individuals can submit their names and contact information to these services to avoid direct mail and other solicitations. However, the DMA charges for this service on both ends: First, the marketer must purchase the preference services for a fee in order to determine who has opted-out. Second, if an individual wishes to opt-out via the preference services, the individual must pay a \$5 fee and send their credit card number to the DMA. (These services are free for those who send their contact information to the DMA by postal mail.) And, after an individual goes through the trouble of opting-out, the DMA will remove the individual from the list automatically after 5 years.

Catalog sales companies and magazines sold profiling data for many years before the advent of online tracking and profiling. This data is often keyed to specific information about the subscriber or purchaser.

Experian is one of the prime providers of cooperative database information provided from catalog and magazine sales. These include:

- Z-24SM Catalog Database "It's a fact: Recent buying activity predicts future purchase behavior. Experian's fast growing Z-24 consortium database delivers proven buyers like no other source. Z-24 includes more than 590 leading catalog titles with over 600 million transactions from 65 million households. We add demographic and lifestyle data from the INSOURCE enhancement database along with product affinity scores to further increase selection and selectivity."
- CircBaseSM "What we read says a lot about who we are. This cooperative database features the readership activities of more than 90 million individuals covering almost 274 publications."

The Direct Media List Showcase has a searchable index of many profiling datacards from catalog and magazine purchases online. These include:

- Lists of Catholics who subscribe to Newsweek Magazine: "NEWSWEEK HAS IDENTIFIED THE CATHOLIC SUBSCRIBERS WITH INFOBASE LIFESTYLE AND DEMOGRAPHIC INFORMATION. NEWSWEEK CATHOLIC SUBSCRIBERS NOT ONLY RESPOND TO CATHOLIC APPEALS BUT TO A VARIETY OF OTHER FUNDRAISING AND NON-PROFIT ORGANIZATIONS DEDICATED TO HUMANITARIAN, CULTURAL AND HEALTH CAUSES."
- Lists of Catholics who make charitable donations: "CATHOLIC DONORS TO RELIGIOUS APPEALS NOW YOU CAN REACH CONCERNED, GIVING CATHOLIC DONORS WITH THIS BRAND NEW FILE. THESE DONORS HAVE MADE CONTRIBUTIONS TO SEVERAL DIFFERENT CATHOLIC ORGANIZATIONS, AND WILL BE VERY RESPONSIVE TO TRADITIONAL CATHOLIC APPEALS."
- Dr. Leonard's Healthcare Lifelines lists: "THE DR. LEONARD'S HEALTHCARE FILE HAS BEEN OVERLAYED WITH DATA TO IDENTIFY THE ETHNIC AND RELIGIOUS BACKGROUNDS OF THEIR CUSTOMERS. THESE MATURE BUYERS ARE RESPONSIVE MAIL ORDER BUYERS WHO PURCHASE HIGH QUALITY, ATTRACTIVELY PRICED PRODUCTS TO ENHANCE THEIR LIVES. PRODUCT LINE INCLUDES HEALTH CARE, PAIN RELIEF, PERSONAL CARE AND HOME ACCESSORIES."
- Lists of adults interested in consumer magazines: "PRIME TIME FROM HEARST MAGAZINES ARE AGE 55+ WHO SUBSCRIBE TO AT LEAST ONE OF HEARST'S 12 PUBLICATIONS. THESE ACTIVE SENIOR CITIZENS ARE INTERESTED IN READING, COOKING, CRAFTS, GARDENING, HOME DECORATING, AND TRAVEL."

Dunhill International Lists is one of the principal telemarketing and direct marketing companies. It offers lists on:

- Affluent America: "This is the most comprehensive database of millionaires, multi-millionaires and billionaires and their wealthiest neighbors available anywhere. The Dunhill Affluent America file represents the top 5% of American Families. The total count is over 100% greater than any other wealthy file and is viewed as the most complete database of it's kind. These are the "cream of the crop."

- Sub-Prime Auto Loan Applicants: "reach currently active high interest rate credit users. Many have had their loan applications (auto, home, credit card) rejected due to a poor credit history or have no credit history. These individuals are in dire need of credit. They face the challenge of everyday finances. They are looking to re-establish and rehabilitate their credit. They could not qualify for a conventional loan and therefore financed an automobile with a sub-prime auto lender."
- Opinion Molders Database: "Effective Mailing Lists to Reach "Influentials" in Media, Government, Business, Religion, Education, Medicine, Environment and more!"

### **The National Change of Address Service (NCOA) and the Locatable Address Conversion System (LACS)**

The National Change of Address Service (NCOA) is administered by the U.S. Postal Service. Groups that subscribe to the NCOA can obtain updates when a current customer makes a permanent change of address request to the Postal Service. This is the one of the primary methods by which companies obtain individuals' addresses after they move. Businesses can purchase the updates for as little as \$5 per thousand names.

One can evade the NCOA by making a "temporary" change of address order. Temporary changes of address are not reported to the NCOA service, and thus are not forwarded to businesses that are attempting to continue sending junk mail. Temporary orders give individuals the ability to forward mail to a new address for a full year.

A similar service used by profilers is the Locatable Address Conversion System (LACS). The LACS is a list of persons who live in rural areas whose addresses have been standardized as a result of development and the deployment of government services. There are over four million addresses in the LACS.

### **Student Profiling**

American Student List sells databases of children's names in grades K-12 overlaid with data on sex, age, whether they own a telephone, income, religion, and their race or ethnicity. This information is often gleaned from surveys that are administered while children are in school under the pretense of college admissions and other education-related purposes. Students and parents do not know that their personal information is being used for the secondary purpose of marketing. The data is used for hawking credit cards, catalog items, magazines, student "recognition" products, and job recruitment.

Student "recognition" products, such as "Who's Who Among American High School Students" and the "National Dean's List" have a strong marketing function. Information collected in composing both directories is used for marketing a wide variety of products wholly unrelated to education. And, although teachers and administrators are encouraged to nominate students and transfer data to the company, the reality is that a growing number of employers and colleges don't consider such recognition directories as meritorious.

In October 2002, the Federal Trade Commission (FTC) settled cases against American Student List (ASL) and the National Research Center for College and University Admissions (NRCCUA) for collecting personal information from children using deceptive practices. The FTC complaint alleged that the companies operated a scheme to cull marketing data from student through surveys administered under the pretense of college admissions and scholarship opportunities.

NRCCUA sent letters to schools asking teachers to dedicate classroom time to administering detailed surveys for college admissions and financial aid purposes. These "Post-Secondary Planning" surveys elicited detailed personal information from students, including their religious affiliation, personal interests, and social attitudes. The surveys did have a privacy notice, but the language implied that the information was for educational purposes only. NRCCUA marketed the information collected to higher education institutions, but also shared the information with ASL, which used the data for direct marketing.

In August 2002, the New York Attorney General filed suit against Student Marketing Group (SMG), a company that collected information from students for direct marketing. The company was alleged to have formed a non-profit subsidiary, Educational Research Center of America (ERCA), that sent millions of surveys to high schools to collect information for college financial aid and scholarship opportunities. ERCA, without notice to the schools or students, was also using the information for direct marketing of magazines, credit cards, and other items. In January 2003, SMG and ERCA settled the New York Attorney General's case, and a separate investigation brought by the Federal Trade Commission.

In 2001, Senators Christopher Dodd (D-CT) and Richard Shelby (R-AL) introduced Senate Bill 290, the Student Privacy Protection Act. This legislation would have required commercial profiling companies to provide notice to parents and obtain their consent before collecting information from children while they are in school. American Student List lobbied vigorously against these protections. Ultimately, compromise language was adopted that allows the continuation of commercial profiling of schoolchildren.

Student profiling does not end with grade school. Profilers collect and use information from students in higher education as well. College students are targeted for magazine subscriptions, student "recognition" programs, credit cards, insurance solicitations, long distance plans, toys, cell phone plans, mail-order food, and other products. Often, college students' personal information is obtained through the institution itself. Institutions may reveal students' contact and activities (club membership) information through student directories, joint marketing agreements, or through state open records acts that require the release of enrollment lists.

### **Supermarket "Club" or "Loyalty" Cards and Retail Surveillance**

Many supermarkets are offering membership cards that grant discounts to consumers. What often goes unmentioned is that these club cards enable the store to create detailed profiles of individuals' consumption habits. These profiles are linked to individually-identifiable information, often with the requirement at enrollment that the consumer show state-issued identification. Since many supermarkets sell more than just food (alcohol, cigarettes,

pharmaceuticals, etc), the companies can collect volumes of information about individuals' habits.

The danger in this profiling is increased by the fact that supermarkets are not limited by law in sharing the information they collect. A supermarket can sell the information to a health insurance company or to other aggregators in order to make a more complete profile on an individual.

The risks of profiling based on consumption are often derided by supermarket profilers. They may say that "no one cares if you like asparagus more than broccoli." But, that's not the issue. Individuals have different definitions of sensitive information. And the profilers aren't interested in whether you're buying one vegetable over another. They are more likely to want to know whether an individual is buying baby diapers or adult diapers (Experian offers a database of persons who are incontinent).

Supermarket profiles can be used against consumers. For instance, Von's Supermarket of California sought to introduce "loyalty card" records in a court case where a consumer had slipped and injured himself in the store. Von's wished to prove that the customer may have been alcohol impaired, and that his loyalty card would show numerous purchases of alcohol. The evidence was ultimately never introduced.

In 1997, the Drug Enforcement Administration subpoenaed data from the customer database at Smith's Foods. The DEA sought to discover whether a group of individuals were buying a suspicious amount of plastic baggies.

A January 2003 article in the Wall Street Journal confirmed that anti-card activists at Consumers Against Supermarket Privacy Invasion and Numbering (CASPIAN) have argued for years: supermarket shopping cards do not result in savings: "We found that, most likely, you are saving no money at all. In fact, if you are shopping at a store using a card, you may be spending more money than you would down the street at a grocery store that doesn't have a discount card."

### **Product Warranty Cards: A Deceptive Information Collection Practice**

Expensive items such as electronics and appliances are likely to come with "product warranty cards." Often, these warranty cards solicit information from the consumer that is wholly unrelated to the purchase (income information, number of persons in the household, ages, interests, hobbies, ailments, etc). The wording of the warranty cards as well as the lack of privacy policies suggest to the consumer that they must provide this information in order to register the product. This is not the case. Individuals do not need to provide the personal information requested on product warranty cards. One only needs to keep the receipt of purchase and the card in order to secure the warranty.

Many people do not fill out product warranty cards because they know the information provided will be used for profiling. This has resulted in difficulty in issuing product recalls for unsafe items.

## What You Can Do to Avoid profiling: Engage in Privacy Self-Defense

"I will not be pushed, filed, stamped, indexed, briefed,  
debriefed, or numbered. My life is my own."  
--The Prisoner

- Wherever possible, minimize the amount of personal data given to commercial or governmental entities. Do not release contact information where it is unnecessary. Do not give out your Social Security Number unless it is related for tax purposes, such as employment or opening a bank account.
- Read privacy policies. If you are uncomfortable with the collection, sharing, or use of information, tell the business that you're going elsewhere because of the company's privacy practices.
- Opt-out from the Credit Reporting Agencies (CRAs) pre-approved credit card offers. By calling 1-888-5OPTOUT (1-888-567-8688), you can stop most pre-approved credit card offers. However, you cannot opt-out from the sale of credit headers. Be sure to specify that you wish to be permanently removed from pre-approved credit card offers, otherwise you will be placed back on the recipient list in two years. To permanently opt-out, you will have to fill out a form that the CRA will mail to you.
- Opt-out from information sharing. Many businesses share your personal information unless you opt-out. Be sure to call your bank, insurance company, and brokerage companies and request to opt-out. You should request to opt out from information sharing under the "Gramm-Leach-Bliley" Act and under the Fair Credit Reporting Act (FCRA).
- Do not complete product warranty cards. Product warranty cards are a principal method of obtaining profiling data from consumers. If you wish to preserve your warranty, you do not need to send in the card. Simply keeping the warranty card and your receipt will suffice for warranty purposes. If you do wish to register a product in order to receive recall information, list only your contact information.
- If you complete a U.S. Postal Service Change of Address Card, be sure to specify that you are requesting a "temporary" change of address. Temporary change of addresses are not included in the National Change of Address Service, and thus won't find their way into profiling databases.
- Be wary of catalog merchants. Tell them not to sell, rent, or share information about your purchase. Approximately 90% of mail order or catalog merchants will share your personal information--often with huge "cooperative databases." Often, this data collected and shared goes beyond a consumer's address. Catalog merchants will sell information relating to items purchased and details about those items. For instance, if you purchase clothes via mail order, the company may sell your dress, shirt, or pants size to cooperative databases.
- Never purchase anything from a telemarketer-initiated call, an infomercial, or a direct mail solicitation. Individuals who respond to these forms of marketing are placed on special "responder" lists. Individuals recognized as "responders" are more likely to receive additional telemarketing and direct mail.

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