

Case Studies Reveal The Benefits of Personal Information Flows

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Project Objectives

- 1. Illustrate (via corporate case studies) the ways personal information is used to deliver products, services, and value to consumers**
- 2. Determine the impact of Opt-in rules on company operations**
- 3. Illuminate the “cost of privacy”:
What is at risk if Opt-in rules interrupt data flows? (mostly qualitative, but will try to quantify where possible)**

Project Plan

- **Co-authored with Prof. Fred Cate (Indiana University Law School)**
- **Introductory chapter frames the legal issues**
 - **Evolution of concept and practice that consumers exercise control over use of information about them**
 - **Assignment of initial property rights to use personal info: opt-out vs. opt-in**
- **Empirical evidence regarding Opt-in trials and response rates**
- **Corporate case studies of the role of personal information (4 or 5 cases), and the impact of Opt-in restrictions**
- **Concluding chapter**

Corporate Subjects

- **MBNA** (article forthcoming, *Duke Law Journal*)
 - Role of personal information in extending credit and other retail financial services
 - Targeted marketing frees lenders from brick and mortar constraints => lowers entry barriers, boosts competition
- **Travelocity**
 - Online service provider: “database-driven travel marketing and transaction company”
 - It customizes travel offerings based on personal information and click-stream data from customer browsing sessions
 - Delivers *personalized travel service* to 30 million members faster and at far lower cost than is possible in the physical shopping environment

Corporate Subjects (continued)

- **National retailer**
 - **Large retailer with complex organizational structure: Affiliates, non-affiliated branded licensees, branded service providers, etc.**
 - **Customer Relationship Management (CRM) strategies require “whole-house” view of customer.**
 - **Limits on data sharing across units of large companies kill CRM.**

Corporate Subjects (continued)

- **Acxiom**
 - **Aggregator and supplier of third-party information**
 - **95% of U.S. households**
 - **13 million U.S. businesses**
 - **70 million properties throughout U.S.**
 - **Uses info to help clients**
 - **Accurately identify consumers and customers**
 - **Conduct targeted marketing**
 - **Implement CRM**
 - **Prevent fraud, ID theft and other losses**
 - **Protect public safety**

Evaluating the Opt-In Constraint

- **Analyze Three Opt-in Scenarios (least to most-restrictive)**
 - **Opt-in for 3rd party sharing**
=> reduction in info available from external sources
 - **Opt-in for Affiliate Sharing**
=> limits on movement of personal information across affiliates
 - **Blanket Opt-in (a.k.a., permission-based marketing)**
=> restrictions on use for purposes other than that for which information was collected

Modeling the Differential Impact of Opt-in vs. Opt-Out Mechanisms for Giving Consumers Choice

- **Information flows: pipeline analogy**
 - **Opt-out: Default = Information can flow;
Action stops flow**
 - **Opt-in: Default = No flow;
Action starts flow**
- **Empirical evidence highlights the problem of non-response => Non-response has a much greater impact on information flows in an Opt-in world**
- **For analytical tractability, cases assume Opt-in shuts off the flow of information**
- **Compare operations with and without the blocked info fields**

Some Emerging Lessons from the Case Studies

- **Many companies derive no revenue from the sale of personal information about their customers => Impact of Opt-in is from restricted ability to get information from external sources, or use the information they already possess.**

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 - **Consumers get more choices, better service, lower prices**

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- **Info flows and service delivery: Exchange of personal data across business units is essential for CRM.**

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 - **Consumers get more choices, better service, lower prices**
- **Info flows and service delivery: Exchange of personal data across business units is essential for CRM.**
- **Positive externalities derive from information collected for commercial purposes. Explicit exemptions for data sharing to fight crime and prevent fraud likely will not preserve these side benefits.**

Emerging Lessons from the Case Studies (continued)

- **Unintended consequences of limits on data sharing
abound.**

Emerging Lessons from the Case Studies (continued)

- Unintended consequences of limits on data sharing abound.
- Consumers can already exercise control over personal data usage in several ways:
 - Required Opt-out choices under FCRA, GLBA
 - Do Not Call lists mandated by state and local governments
 - Company-sponsored Do Not Promote lists
 - Offer of choices regarding how to contact
 - => Protection is there for the asking, but requires that the customer's perceived "harm" or "cost" from the particular data usage is sufficient to make it worthwhile for the customer to respond to the Opt-out invitation.

Final Thoughts

- **The value of personally identifiable information can't be legislated away.**
 - **Restrictive opt-in rules (and related privacy laws) create incentives for marketers to devise other ways to get the information, or proxies that are less accurate and may well be more intrusive**
- **Artificial legal limits on use of personal information will reverse many of the productivity gains achieved through advances in information technology over the past decade.**
 - => Consequently, restrictive privacy laws create distortions in markets and resource usage**