

Summary of Presentation by Mark Hochhauser
(appearing via conference call)
GLB Interagency Meeting on the ANPR on Privacy Notices
January 29, 2004
Federal Trade Commission

Participant:

Mark Hochhauser is a readability consultant from Minnesota.

Comments:

Mr. Hochhauser has analyzed a number of GLB financial privacy notices and medical privacy notices under the Health Insurance Portability and Accountability Act (HIPAA). He described readability standards generally and stated that a readability standard at the junior high level is generally recommended. For financial privacy notices, however, Mr. Hochhauser believes that a 12th grade reading level was probably more attainable. Readability factors include shorter, simpler sentences, for example, using 14 words per sentence and 149 syllables for every 100 words. Even if a notice meets a threshold reading level, or readability score, this does not necessarily indicate that everyone will understand a particular notice. Format and font sizes also have an impact on consumer comprehension. Also, research has not shown that simpler language alone has demonstrably improved comprehension. Information overload may be an issue.

Mr. Hochhauser recommended consumer testing of notices by using representative groups of consumers from around the country to review several different notice formats. Internet and telephone surveys are unreliable because consumers will typically tell surveyors what they think the surveyor wants to hear. Mr. Hochhauser proposed using qualitative testing which can include one-on-one testing or focus groups, as well as quantitative testing, where readability testing can play a role. He added it was important to get consumers involved in the writing and editing of proposed notices. He cautioned that readability alone does not equal comprehension. One way to measure comprehension is to have consumers paraphrase what they have read.

Mr. Hochhauser articulated some general principles companies (and agencies) should consider in drafting privacy notices:

- 1) Use plain language techniques. Sentence length should be limited (e.g., 12-14 words per line) and jagged margins and white space should be used.
- 2) Layered approach may be helpful (e.g., HIPAA notice model).
- 3) Treat privacy notices as a product financial institutions are trying to sell.
- 4) Consumer testing is essential. Consumers should be involved in the writing process. To date financial institutions have overemphasized legal compliance.

Consumer education: Improvements to a privacy notice will not be enough to get consumers to read the new notices, given consumers' prior bad experiences. Improvements must be coupled with a consumer education campaign (e.g., television, news articles and other media). It will take a long time to change consumer behavior (as evidenced by the public service campaigns on seatbelts and smoking) and quick payoffs on privacy notice improvements are unlikely.

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