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November 3, 2009

Federal Trade Commission
600 New Jersey Ave. NW
Washington, DC 20001

Re: Privacy Roundtables – Comment, Project No. P095416

Dear Commissioners,

It is undeniable that the sale of collection, use, and dissemination of personal information is critical to the success of a wide variety of businesses. Databases of demographic, behavioral, and “psychographic” profiles help companies identify new sales leads, new product offerings, retain customers who are likely to churn, manage risk, and importantly, identify people who are not likely to buy, thus making marketing more efficient. These practices help level the playing field among small and large businesses and can promote competition.

It is also undeniable that these practices have profound privacy and consumer protection implications. While much public attention has been focused upon information practices online, for a century similar practices have occurred offline. Ordinary brick-and-mortar businesses collect, use, and disseminate personal information for marketing, analytic, and other purposes. In some respects, consumers have more privacy rights in the online context than the offline context.

My comment focuses upon four issues in the “commercial data broker” context. First, in the B2B context, commercial data brokers embrace strong guarantees of privacy and fair information practices. These guarantees are not mirrored in the B2C privacy policy context. Second, B2B contracts for data sale often include “gag clauses” that prohibit buyers of personal information from informing consumers about the provenance or characteristics of the data purchased. Third, most Americans believe that common practices in the data broker industry are illegal. Finally, the information sold by commercial data brokers can, depending on context, be very sensitive, and cause harm to consumers. Some lists characterize consumers in a pejorative manner and are an affront to individuals’ dignity interests.



1. Strong protections are in place in B2B contracts. Unlike privacy policies, these contracts are clearly written and create many substantive limits on data.

In a forthcoming paper, I describe common contractual clauses used by commercial data brokers when selling information to other businesses. These contracts are interesting for several reasons: they incorporate fair information practices (including use specification, use limitations, security duties, openness, and accountability), they are clearly written, and they contain active verbs and certain restrictions on data use. In many ways, consumers benefit from these protections. But at the same time, the dichotomy between rights reflected in the B2B context versus those in the B2C context is striking.

For instance, in one B2B contract, buyers of personal data assume a duty of confidentiality to the seller. This highlights a fundamental misunderstanding among consumers. Consumers think that they enjoy a duty of confidentiality with businesses they frequent. Alan Westin has found repeatedly that about half of Americans believe that, “Most businesses handle the personal information they collect about consumers in a proper and confidential way.” In fact, confidentiality agreements may be used to enable the sale of data without the data subject being fully informed of the practice.

While many privacy policies contain slippery language concerning sale of personal information to third parties, B2B contracts prohibit it with certainty. One contract specifies: “Client shall not sell, rent or otherwise provide the Licensed Data to any third party.”

Retention of personal information is a contentious issue, and some actors in the debate are vigorously opposing requirements to delete personal data. However, in these B2B contracts, data is required to be destroyed soon after it is used.

Finally, the accountability gulf between the B2B and B2C worlds is vast. Many companies have lobbied to prevent meaningful accountability provisions for consumers. Not so in the B2B world. These contracts, among other things, give the data seller the ability to audit the buyer, they make the buyer fully liable for acts of service providers, require notice to the seller of a security breach (even when the data are not sensitive identifiers normally subject to such duties), and require the buyer to pay for any costs associated with a security breach. One even requires buyers of data to give the seller an express right to sue service providers hired by the buyer for violations of the contract.

2. B2B contracts for the sale of consumer personal information include “gag clauses.”

Imagine receiving advertising mail for a child or loved one who died,¹ or marketing based upon receiving in vitro treatments that were ultimately ineffective,² or targeted advertising based upon a sensitive medical condition.³ An objecting consumer might ask the advertiser, “how did I get on this list?” The advertiser is contractually bound to say: “we can’t tell you.” Some commercial data brokers prohibit their clients from telling consumers how data were acquired, what data were acquired, and what categories the consumer has been placed in. One requires that pitches, “...shall not contain any indication that Client or Client’s customers possess any information about the recipient other than name and address...”

These restrictions are hostile to the FTC's agenda to promote transparency. Without “data provenance,” consumers cannot tell what the original source was for personal information sold about them. This leads to several suboptimal outcomes: lack of data provenance obscures the sale of personal information to scammers. Lack of provenance makes it easier to sell lists where consumers are characterized in pejorative ways. Without provenance, consumers who have some desperate need to stop redisclosure of information (for instance, stalking victims or police officers) have no effective remedy. And, consumers have no way of avoiding companies that quietly resell personal information, and thus are robbed of the market opportunity to vote with their feet for more privacy-preserving competitors.

¹ “...The PRC [Privacy Rights Clearinghouse] has received numerous complaints from individuals who have recently experienced the death of their spouse. They continue to receive unsolicited mail addressed to that individual long after the death, and long after the surviving spouse has notified the mailers to stop sending solicitations. We have also been contacted by parents who have lost a baby due to miscarriage or Sudden Infant Death Syndrome, but who are receiving mail solicitations relevant to the infant years after the death (for example, “Now that your child is two, you will want to delight him with ... xyz.”). There is no reason why these grieving individuals must continue to receive unsolicited mail, once they have told the mailers to cease. Yet, such instances are not uncommon in the annals of the PRC hotline.”

Comments of Beth Givens, Executive Director, Privacy Rights Clearinghouse, before the Federal Trade Commission workshop on The Information Marketplace: Merging and Exchanging Consumer Data, Apr. 30, 2001, available at http://www.privacyrights.org/ar/ftc-info_mktpl.htm.

² Milt Freudenheim, *And You Thought a Prescription Was Private* - *NYTimes.com*, NEW YORK TIMES, August 9, 2009, http://www.nytimes.com/2009/08/09/business/09privacy.html?_r=2&em=&pagewanted=print.

³ Vente, *Addiction Responders* - E-mail, Postal, Telephone, available at <http://lists.venteinc.com/market;jsessionid=F62EC8004ECF547ECD814EB33907C378?page=research/category&id=57>

3. Many consumers believe common marketplace practices of commercial data brokers are illegal.

Appendix I details a number of survey questions where common practices in the commercial data broker field are explored. Many consumers falsely believe that common practices, such as selling personal information from ordinary offline transactions, are illegal. This has consequences for the Commission's goal of promoting notice and choice. For individuals to exercise choice, they must know the default rules, but they often misunderstand the rules. The Commission's primary remedy to this, privacy policies, seem to cause more confusion; numerous surveys have found that consumers believe that privacy policies require companies to follow stringent legal obligations.⁴

Enhancement⁵ deserves more exploration here. Enhancement is the practice of linking more information about consumers to an existing database. A recent case explored this practice at Williams-Sonoma: "After acquiring this information [zip code from Jessica Pineda at the register], the Store used customized computer software to perform reverse searches from databases that contain millions of names, e-mail addresses, residential telephone numbers and residential addresses, and are indexed in a manner that resembles a reverse telephone book. The Store's software then matched Pineda's now-known name, zip code or other personal information with her previously unknown address, thereby giving the Store access to her name and address."⁶

The Commission should closely examine enhancement, as it contravenes transparency and fairness principles. The standard (uninformed) self-help argument in this field is: if you don't want your information sold, don't give it out. But enhancement obviates many attempts to protect privacy through selective revelation. It tricks the individual into thinking information revelation is required and/or harmless, so that the company can opaquely identify or learn more about the consumer.

⁴ Joseph Turow et al., *Americans Reject Tailored Advertising and Three Activities that Enable It*, SSRN ELIBRARY (2009), <http://ssrn.com/paper=1478214>.

⁵ We asked Californians in 2007 about enhancement: "If a website has a privacy policy, it means that the site cannot buy information about you from other sources to analyze your online activities." Forty-two percent answered true incorrectly, 45 percent correctly answered false, and 12 percent answered don't know. CJ Hoofnagle & J King, *What Californians Understand about Privacy Online*, SSRN ELIBRARY (2008), <http://ssrn.com/paper=1262130>. (N=377)

⁶ *Pineda v. Williams-Sonoma Stores Inc.*, Cal. Ct. App., 4th Dist., No. D054355, certified for publication 10/23/09.

4. Consumers lack meaningful rights in data sold by the direct marketing industry.

Some lists characterize customers pejoratively, with euphemisms such as “spontaneous” and “impulsive” used to denote individuals. The implication is obvious: these individuals lack the critical faculties necessary to delay gratification, or to evaluate advertising claims. One such list obtained by the New York Times read: “These people are gullible. They want to believe that their luck can change.”⁷ These lists are sometimes sold to fraudsters, even by mainstream data brokers.

Congress and regulators must pay particular attention to this problem in light of our aging population.⁸ For instance, list broker Walter Karl was investigated by the Attorney General of Iowa in 2005 for allegedly selling lists to scam artists.⁹ According to an investigative file, the company advertised lists of “impulsive buyers...primarily mature”¹⁰

The attached Appendix II contains some examples of lists offered by mainstream sellers of personal data. Ask yourself: would you want to be on one of these lists? Maybe you are and you don’t know it, perhaps because you once completed a survey or purchased a certain type of item.

Americans expect to be treated with respect. The lack of a rights-based framework in this space leads to harm and affronts to dignity.

Respectfully Submitted,

/s

Chris Jay Hoofnagle

Director, Information Privacy Programs

⁷ Charles Duhigg, *Bilking the Elderly*, *With a Corporate Assist*, New York Times, May 20, 2007, available at <http://www.nytimes.com/2007/05/20/business/20tele.html>.

⁸ Karen Blumenthal, *How Banks, Marketers Aid Scams*, Wall St. J., Jul. 1, 2009 (“Other lists offered names, addresses and other data on ‘Wealthy Widows who Donate’ and ‘Suffering Seniors’ who have maladies such as Alzheimer’s and are described as ‘perfect prospects’ for holistic remedies, financial services, subscriptions and insurance.”).

⁹ Attorney General of Iowa, *A.G. asks Court to Order List Broker to Respond to Telemarketing Fraud Probe*, Mar. 3, 2005, available at http://www.state.ia.us/government/ag/latest_news/releases/mar_2005/Walter_Karl.html.

¹⁰ Affidavit of Barbara Blake, Investigator, Office of the Attorney General of Iowa, Mar. 1, 2005, available at http://www.state.ia.us/government/ag/latest_news/releases/mar_2005/Walter%20Karl%20BBlake%20Affidavit%203-1-05.pdf.

Questions ^{11, 12}	Year	True	False	DK
When I subscribe to a magazine, by law that magazine cannot sell my name to another company unless I give it permission. (N=1500, national)	2005	36	48	16
When I subscribe to a newspaper or magazine, the publisher is prohibited from selling my address and phone number to other companies, unless I give them explicit permission. (N=309, California only)	2007	46.6	50.9	2.5
When you subscribe to a newspaper or magazine by mail or phone, the publisher is not allowed to sell your address and phone number to other companies without your permission. (N=1000, National)	2009	36	49	15
When I order a pizza to be delivered to my home, the pizza company is prohibited from selling my address and phone number to other companies, unless I give them explicit permission. (N=341, California only)	2007	54.7	39.5	5.8
When you order a pizza by phone for home delivery, the pizza company is not allowed to sell your address and phone number to other companies without your permission. (N=1000, National)	2009	44	31	25
When I give money to charity, by law that charity cannot sell my name to another charity unless I give it permission (N=1500, National)	2005	47	28	25
When I make a donation to a charity, the charity is prohibited from selling my address and phone number to other companies, unless I give them explicit permission. (N=339, California only)	2007	43.6	42.4	13.9
When I enter a sweepstakes contest, the sweepstakes company is prohibited from selling my address or phone number to other companies, unless I give them explicit permission. (N=292, California only)	2007	42.2	54.7	3.1
When you enter a sweepstakes contest, the sweepstakes company is not allowed to sell your address or phone number to other companies without your permission. (N=1000, National)	2009	28	57	15
When I send in a product warranty card, the product manufacturer is prohibited from selling my address or phone number to other companies, unless I give them explicit permission. (N=365, California only)	2007	50.3	38.9	10.8
When I give my phone number to a store cashier, the store is prohibited from selling my address or phone number to other companies, unless I give them explicit permission. (N=333, California only)	2007	56.9	38.9	4.2
When you give your phone number to a store cashier, the store is not	2009	49	33	18

¹¹ Questions asked in 2005 derive from J Turow, L Feldman & K Meltzer, *Open to Exploitation: America's Shoppers Online and Offline*, ANNENBERG PUBLIC POLICY CENTER 10 (2005), http://repository.upenn.edu/cgi/viewcontent.cgi?article=1035&context=asc_papers. Questions asked in 2007 derive from CJ Hoofnagle & J King, *Research Report: What Californians Understand About Privacy Offline*, (2008), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133075. Questions asked in 2009 derive from Turow et al., *supra* note ____.

¹² The correct answer appears in **bold**.

allowed to sell your address or phone number to other companies without your permission. (N=1000, National)				
When I complete a form for a rebate on a product, the product manufacturer is prohibited from selling my address and phone number to other companies, unless I give them explicit permission. (N=388, California only)	2007	50.8	37.2	12.1
When I order something from a catalog, the catalog company is prohibited from selling my address and phone number to other companies, unless I give them explicit permission. (N=308, California only)	2007	48.5	47.9	3.7
My supermarket is allowed to sell other companies information about what I buy. (N=1500, National)	2005	36	36	28
When I purchase groceries using a loyalty or club card, the grocery store is prohibited from selling my address and phone number to other companies, unless I give them explicit permission. (N=293, California only)	2007	49.8	42.6	7.6

Bilking the Elderly, With a Corporate Assist



Ozler Muhammad/The New York Times

Richard Guthrie, 92, was tricked into giving banking data to telephone callers, who then stole money from his account, investigators say.

By CHARLES DUHIGG
Published: May 20, 2007

The thieves operated from small offices in Toronto and hangar-size rooms in India. Every night, working from lists of names and phone numbers, they called World War II veterans, retired schoolteachers and thousands of other elderly Americans and posed as government and insurance workers updating their files.

Then, the criminals emptied their victims' bank accounts.

Richard Guthrie, a 92-year-old Army veteran, was one of those victims. He ended up on scam artists' lists because his name, like millions of others, was sold by large companies to telemarketing criminals, who then turned to major banks to steal his life's savings.

Mr. Guthrie, who lives in Iowa, had entered a few sweepstakes that caused his name to appear in a database advertised by [infoUSA](#), one of the largest compilers of consumer information. InfoUSA sold his name, and data on scores of other elderly Americans, to known lawbreakers, regulators say.

Golden Opportunities *Blind Eye to Fraud*

Articles in this series are examining how businesses and investors seek to profit from the soaring number of older Americans, in ways helpful and harmful.

Previous Articles in the Series

[Aged, Frail and Denied Care by Their Insurers](#) (March 26, 2007)

[Late in Life, Finding a Bonanza in Life Insurance](#) (December 17, 2006)

Multimedia

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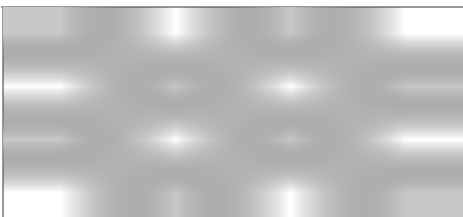


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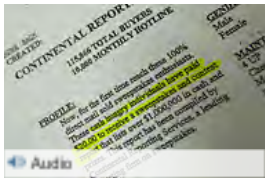
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Telemarketing Scams

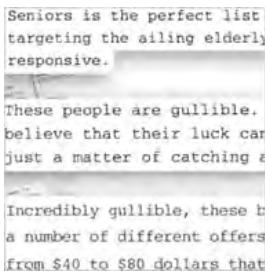
InfoUSA advertised lists of “Elderly Opportunity Seekers,” 3.3 million older people “looking for ways to make money,” and “Suffering Seniors,” 4.7 million people with cancer or Alzheimer’s disease. “Oldies but Goodies” contained 500,000 gamblers over 55 years old, for 8.5 cents apiece. One list said: “These people are gullible. They want to believe that their luck can change.”



Following the Trail

As Mr. Guthrie sat home alone — surrounded by his Purple Heart medal, photos of eight children and mementos of a wife who was buried nine years earlier — the telephone rang day and night. After criminals tricked him into revealing his banking information, they went to [Wachovia](#), the nation’s fourth-largest bank, and raided his account, according to banking records.

[Enlarge This Image](#)



[Enlarge This Image](#)



Ozler Muhammad/The New York Times
 Steve St. Clair, an Iowa assistant attorney general, investigated the sale of mailing lists that may have been used in the first step of a scam aimed at the elderly.

[Enlarge This Image](#)



Ozler Muhammad/The New York Times
AFTERMATH Tony Unspach takes care of bills and banking for his grandfather, Richard Guthrie, a victim of fake telemarketers.

“I loved getting those calls,” Mr. Guthrie said in an interview. “Since my wife passed away, I don’t have many people to talk with. I didn’t even know they were stealing from me until everything was gone.”

Telemarketing fraud, once limited to small-time thieves, has become a global criminal enterprise preying upon millions of elderly and other Americans every year, authorities say. Vast databases of names and personal information, sold to thieves by large publicly traded companies, have put almost anyone within reach of fraudulent telemarketers. And major banks have made it possible for criminals to dip into victims’ accounts without their authorization, according to court records.

The banks and companies that sell such services often confront evidence that they are used for fraud, according to thousands of banking documents, court filings and e-mail messages reviewed by The New York Times.

Although some companies, including Wachovia, have made refunds to victims who have complained, neither that bank nor infoUSA stopped working with criminals even after executives were warned that they were aiding continuing crimes, according to government investigators. Instead, those companies collected millions of dollars in fees from scam artists. (Neither company has been formally accused of wrongdoing by the authorities.)

“Only one kind of customer wants to buy lists of seniors interested in lotteries and sweepstakes: criminals,” said Sgt. Yves Leblanc of the Royal Canadian Mounted Police. “If someone advertises a list by saying it contains gullible or elderly people, it’s like putting out a sign saying ‘Thieves welcome here.’ ”

In recent years, despite the creation of a national “do not call” registry, the legitimate telemarketing industry has grown, according to the [Direct Marketing Association](#). Callers pitching insurance plans, subscriptions and precooked meals collected more than \$177 billion in 2006, an increase of \$4.5 billion since the federal do-not-call restrictions were put in place three years ago.

That growth can be partly attributed to the industry’s renewed focus on the elderly. Older

- Staying with newfound friends, for a fee
- Cooking at Canada’s cordon bleu

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Americans are perfect telemarketing customers, analysts say, because they are often at home, rely on delivery services, and are lonely for the companionship that telephone callers provide. Some researchers estimate that the elderly account for 30 percent of telemarketing sales — another example of how companies and investors are profiting from the growing numbers of Americans in their final years.

While many telemarketing pitches are for legitimate products, the number of scams aimed at older Americans is on the rise, the authorities say. In 2003, the Federal Trade Commission estimated that 11 percent of Americans over age 55 had been victims of consumer fraud. The following year, the [Federal Bureau of Investigation](#) shut down one telemarketing ring that stole more than \$1 billion, spanned seven countries and resulted in 565 arrests. Since the start of last year, federal agencies have filed lawsuits or injunctions against at least 68 telemarketing companies and individuals accused of stealing more than \$622 million.

“Most people have no idea how widespread and sophisticated telemarketing fraud has become,” said James Davis, a Federal Trade Commission lawyer. “It shocks even us.”

Many of the victims are people like Mr. Guthrie, whose name was among the millions that infoUSA sold to companies under investigation for fraud, according to regulators. Scam artists stole more than \$100,000 from Mr. Guthrie, his family says. How they took much of it is unclear, because Mr. Guthrie’s memory is faulty and many financial records are incomplete.

What is certain is that a large sum was withdrawn from his account by thieves relying on Wachovia and other banks, according to banking and court records. Though 20 percent of the total amount stolen was recovered, investigators say the rest has gone to schemes too complicated to untangle.

Senior executives at infoUSA were contacted by telephone and e-mail messages at least 30 times. They did not respond.

Wachovia, in a statement, said that it had honored all requests for refunds and that it was cooperating with authorities.

Mr. Guthrie, however, says that thieves should have been prevented from getting access to his funds in the first place.

“I can’t understand why they were allowed inside my account,” said Mr. Guthrie, who lives near Des Moines. “I just chatted with this woman for a few minutes, and the next thing I knew, they took everything I had.”

Sweepstakes a Common Tactic

Investigators suspect that Mr. Guthrie’s name first appeared on a list used by scam artists around 2002, after he filled out a few contest entries that asked about his buying habits and other personal information.

He had lived alone since his wife died. Five of his eight children had moved away from the farm. Mr. Guthrie survived on roughly \$800 that he received from Social Security each month. Because painful arthritis kept him home, he spent many mornings organizing the mail, filling out sweepstakes entries and listening to big-band albums as he chatted with telemarketers.

“I really enjoyed those calls,” Mr. Guthrie said. “One gal in particular loved to hear stories about when I was younger.”

Some of those entries and calls, however, were intended solely to create databases of information on millions of elderly Americans. Many sweepstakes were fakes, investigators say, and existed only to ask entrants about shopping habits, religion or

other personal details. Databases of such responses can be profitably sold, often via electronic download, through list brokers like Walter Karl Inc., a division of infoUSA.

The list brokering industry has existed for decades, primarily serving legitimate customers like magazine and catalog companies. InfoUSA, one of the nation's largest list brokers and a publicly held company, matches buyers and sellers of data. The company maintains records on 210 million Americans, according to its Web site. In 2006, it collected more than \$430 million from clients like [Reader's Digest](#), Publishers Clearinghouse and Condé Nast.

But infoUSA has also helped sell lists to companies that were under investigation or had been prosecuted for fraud, according to records collected by the Iowa attorney general. Those records stemmed from a now completed investigation of a suspected telemarketing criminal.

By 2004, Mr. Guthrie's name was part of a list titled "Astroluck," which included 19,000 other sweepstakes players, Iowa's records show. InfoUSA sold the Astroluck list dozens of times, to companies including HMS Direct, which Canadian authorities had sued the previous year for deceptive mailings; Westport Enterprises, the subject of consumer complaints in Kansas, Connecticut and Missouri; and Arlimbow, a European company that Swiss authorities were prosecuting at the time for a lottery scam.

(In 2005, HMS's director was found not guilty on a technicality. Arlimbow was shut down in 2004. Those companies did not return phone calls. Westport Enterprises said it has resolved all complaints, complies with all laws and engages only in direct-mail solicitations.)

Records also indicate that infoUSA sold thousands of other elderly Americans' names to Windfall Investments after the F.B.I. had accused the company in 2002 of stealing \$600,000 from a California woman.

Between 2001 and 2004, infoUSA also sold lists to World Marketing Service, a company that a judge shut down in 2003 for running a lottery scam; to Atlas Marketing, which a court closed in 2006 for selling \$86 million of bogus business opportunities; and to Emerald Marketing Enterprises, a Canadian firm that was investigated multiple times but never charged with wrongdoing.

The investigation of Windfall Investments was closed after its owners could not be located. Representatives of Windfall Investments, World Marketing Services, Atlas Marketing and Emerald Marketing Enterprises could not be located or did not return calls.

The Federal Trade Commission's rules prohibit list brokers from selling to companies engaged in obvious frauds. In 2004, the agency fined three brokers accused of knowingly, or purposely ignoring, that clients were breaking the law. The Direct Marketing Association, which infoUSA belongs to, requires brokers to screen buyers for suspicious activity.

But internal infoUSA e-mail messages indicate that employees did not abide by those standards. In 2003, two infoUSA employees traded e-mail messages discussing the fact that Nevada authorities were seeking Richard Panas, a frequent infoUSA client, in connection with a lottery scam.

"This kind of behavior does not surprise me, but it adds to my concerns about doing business with these people," an infoUSA executive wrote to colleagues. Yet, over the next 10 months, infoUSA sold Mr. Panas an additional 155,000 names, even after he pleaded guilty to criminal charges in Nevada and was barred from operating in Iowa.

Mr. Panas did not return calls.

“Red flags should have been waving,” said Steve St. Clair, an Iowa assistant attorney general who oversaw the infoUSA investigation. “But the attitude of these list brokers is that it’s not their responsibility if someone else breaks the law.”

Millions of Americans Are Called

Within months of the sale of the Astroluck list, groups of scam artists in Canada, the Caribbean and elsewhere had the names of Mr. Guthrie and millions of other Americans, authorities say. Such countries are popular among con artists because they are outside the jurisdiction of the United States.

The thieves would call and pose as government workers or pharmacy employees. They would contend that the [Social Security Administration](#)’s computers had crashed, or prescription records were incomplete. Payments and pills would be delayed, they warned, unless the older Americans provided their banking information.

Many people hung up. But Mr. Guthrie and hundreds of others gave the callers whatever they asked.

“I was afraid if I didn’t give her my bank information, I wouldn’t have money for my heart medicine,” Mr. Guthrie said.

Criminals can use such banking data to create unsigned checks that withdraw funds from victims’ accounts. Such checks, once widely used by gyms and other businesses that collect monthly fees, are allowed under a provision of the banking code. The difficult part is finding a bank willing to accept them.

In the case of Mr. Guthrie, criminals turned to Wachovia.

Between 2003 and 2005, scam artists submitted at least seven unsigned checks to Wachovia that withdrew funds from Mr. Guthrie’s account, according to banking records. Wachovia accepted those checks and forwarded them to Mr. Guthrie’s bank in Iowa, which in turn sent back \$1,603 for distribution to the checks’ creators that submitted them.

Within days, however, Mr. Guthrie’s bank, a branch of Wells Fargo, became concerned and told Wachovia that the checks had not been authorized. At Wells Fargo’s request, Wachovia returned the funds. But it failed to investigate whether Wachovia’s accounts were being used by criminals, according to prosecutors who studied the transactions.

In all, Wachovia accepted \$142 million of unsigned checks from companies that made unauthorized withdrawals from thousands of accounts, federal prosecutors say. Wachovia collected millions of dollars in fees from those companies, even as it failed to act on warnings, according to records.

In 2006, after account holders at Citizens Bank were victimized by the same thieves that singled out Mr. Guthrie, an executive wrote to Wachovia that “the purpose of this message is to put your bank on notice of this situation and to ask for your assistance in trying to shut down this scam.”

But Wachovia, which declined to comment on that communication, did not shut down the accounts.

Banking rules required Wachovia to periodically screen companies submitting unsigned checks. Yet there is little evidence Wachovia screened most of the firms that profited from the withdrawals.

In a lawsuit filed last year, the United States attorney in Philadelphia said Wachovia received thousands of warnings that it was processing fraudulent checks, but ignored them. That suit, against the company that printed those unsigned checks, Payment Processing Center, or P.P.C., did not name Wachovia as a defendant, though at least one

victim has filed a pending lawsuit against the bank.

During 2005, according to the United States attorney's lawsuit, 59 percent of the unsigned checks that Wachovia accepted from P.P.C. and forwarded to other banks were ultimately refused by other financial institutions. Wachovia was informed each time a check was returned.

"When between 50 and 60 percent of transactions are returned, that tells you at gut level that something's not right," said the United States attorney in Philadelphia, Patrick L. Meehan.

Other banks, when confronted with similar evidence, have closed questionable accounts. But Wachovia continued accepting unsigned checks printed by P.P.C. until the government filed suit in 2006.

Wachovia declined to respond to the accusations in the lawsuit, citing the continuing civil litigation.

Although Wachovia is the largest bank that processed transactions that stole from Mr. Guthrie, at least five other banks accepted 31 unsigned checks that withdrew \$9,228 from his account. Nearly every time, Mr. Guthrie's bank told those financial institutions the checks were fraudulent, and his money was refunded. But few investigated further.

The suit against P.P.C. ended in February. A court-appointed receiver will liquidate the firm and make refunds to consumers. P.P.C.'s owners admitted no wrongdoing.

Wachovia was asked in detail about its relationship with P.P.C., the withdrawals from Mr. Guthrie's account and the accusations in the United States attorney's lawsuit. The company declined to comment, except to say: "Wachovia works diligently to detect and end fraudulent use of its accounts. During the time P.P.C. was a customer, Wachovia honored all requests for returns related to the P.P.C. accounts, which in turn protected consumers from loss."

Prosecutors argue that many elderly accountholders never realized Wachovia had processed checks that withdrew from their accounts, and so never requested refunds. Wachovia declined to respond.

The bank's statement continued: "Wachovia is cooperating fully with authorities on this matter."

Some Afraid to Seek Help

By 2005, Mr. Guthrie was in dire straits. When tellers at his bank noticed suspicious transactions, they helped him request refunds. But dozens of unauthorized withdrawals slipped through. Sometimes, he went to the grocery store and discovered that he could not buy food because his account was empty. He didn't know why. And he was afraid to seek help.

"I didn't want to say anything that would cause my kids to take over my accounts," he said. Such concerns play into thieves' plans, investigators say.

"Criminals focus on the elderly because they know authorities will blame the victims or seniors will worry about their kids throwing them into nursing homes," said C. Steven Baker, a lawyer with the Federal Trade Commission. "Frequently, the victims are too distracted from dementia or Alzheimer's to figure out something's wrong."

Within a few months, Mr. Guthrie's children noticed that he was skipping meals and was behind on bills. By then, all of his savings — including the proceeds of selling his farm and money set aside to send great-grandchildren to college — was gone.

State regulators have tried to protect victims like Mr. Guthrie. In 2005, attorneys general

of 35 states urged the Federal Reserve to end the unsigned check system.

“Such drafts should be eliminated in favor of electronic funds transfers that can serve the same payment function” but are less susceptible to manipulation, they wrote.

But the Federal Reserve disagreed. It changed its rules to place greater responsibility on banks that first accept unsigned checks, but has permitted their continued use.

Today, just as he feared, Mr. Guthrie’s financial freedom is gone. He gets a weekly \$50 allowance to buy food and gasoline. His children now own his home, and his grandson controls his bank account. He must ask permission for large or unusual purchases.

And because he can’t buy anything, many telemarketers have stopped calling.

“It’s lonelier now,” he said at his kitchen table, which is crowded with mail. “I really enjoy when those salespeople call. But when I tell them I can’t buy anything now, they hang up. I miss the good chats we used to have.”

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Tips

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The New York Times

May 19, 2007

FOLLOWING THE TRAIL



List brokers
sell lists of potential victims to telemarketers.



Criminal telemarketers
trick victims into revealing bank account information.



Check printers
manufacture unsigned checks, which are submitted to banks like Wachovia.



The bank
submits the unsigned check to the victims' bank requesting payment to be credited to the telemarketer's account.

The New York Times

 Close Window

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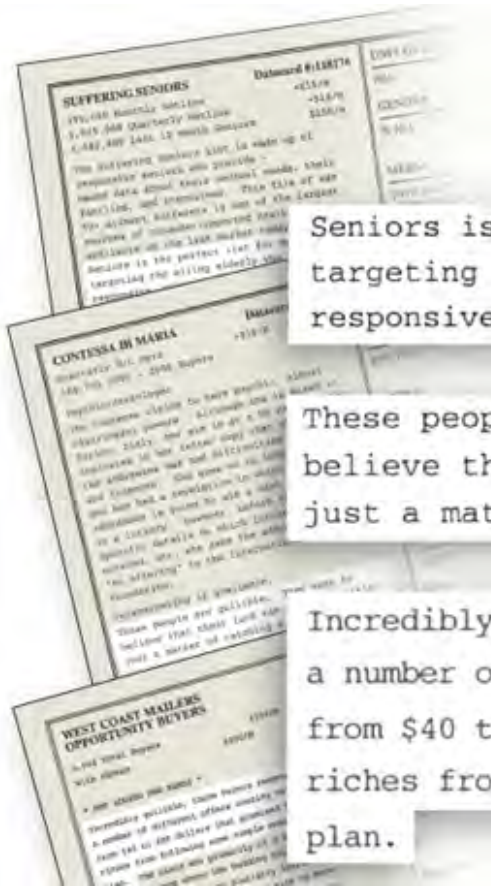
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Recommend



The New York Times

May 19, 2007



These three databases, with a combined 4.7 million names, are among many currently for sale for as little as 6.5 cents a name.

Suffering Seniors is the perfect list for mailers targeting the ailing elderly who will be most responsive.

These people are gullible. They want to believe that their luck can change and it's just a matter of catching a bit of star dust.

Incredibly gullible, these buyers responded to a number of different offers costing anywhere from \$40 to \$80 dollars that promised them big riches from following some simple money making plan.

The New York Times

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Connecting Businesses and Customers

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ABOUT US WHAT WE DO PRODUCTS INDUSTRY SOLUTIONS OUR DATA CONTACT US INTERNATIONAL FOR OUR PUBLISHERS

Addiction Responders - E-mail, Postal, Telephone

Vente's Masterfile is the industry's largest and most comprehensive compiled database of self reported online data.

Client-Ready
Print Version

Full Text
Email Version

SEGMENTS

143,706	Postal
77,407	Phone + Postal
55,216	E-mail (Vente Delivers)

DESCRIPTION

Addiction Responders

Who is struggling with an addiction to gambling, sex, or food? Who can't "just say no" to drugs, alcohol, or tobacco?

Millions of American consumers, and Vente has them.

Vente's Addiction Responders file has all the data you need to reach those Americans who suffer with addictions.

With a consumer database of more than 37 million consumers and 7,000 selectable data points, Vente's self-reported data pinpoints projected purchases by consumers, providing a highly responsive file for e-mail, direct mail, telemarketing and research.

Vente, an Experian company, has the industry's largest and most comprehensive consumer database of self-reported online data, compiled from three reliable sources including online surveys, direct response e-mail marketing and consumers visiting Vente websites.

Sampling of Selects:

Alcoholism
Drugs
Food
Gambling
Sexual addiction
Tobacco

Volume Discounts	% Discount
0 - 50,000 Records	0%
50,001 - 100,000 Records	15%
101,000 - 250,000 Records	30%
250,000 - 500,000 Records	50%
500,001 - 1,000,000 Records	60%
Over 1,000,000 Records	Quote

ADDITIONAL NOTES

Sample mail piece/script/html and mail/call date required. Prices are subject to change. Full payment is required if order is cancelled after mail date. 50% payment is required if order cancelled after delivery with proof of non-usage. E-mail minimum is \$1000.00. List owner employs a data cleansing process that includes real-time CASS™ processing, NCOALink™ services, phone append and verification, DMA and a number of other proprietary in-house verification and cleansing processes.

CONTACTS

NAME	EMAIL	PHONE	FAX
Vente Sales	atacards@venteinc.com	(877) 899-1490	

ID NUMBER

NextMark ID	162497
mIn	114699
SRDS	863030-0

UNIVERSE

BASE PRICE

Contact Vente for pricing

LIST TYPE

Consumer



SOURCE

Lifestyle questionnaire

PERMISSION LEVEL

Opt-in

LIST MAINTENANCE

Market entry	02/01/2005
New to manager	
New to system	04/22/2005
Counts through	10/20/2009
Last update	10/20/2009
Next update	12/02/2009

GEOGRAPHY

Domestic (US)

LIST OWNER

Vente, Inc.

GENDER PROFILE

Male:	45%
Female:	55%

AVERAGE INCOME

Dollar:	\$54,500
---------	-----------------

EXCHANGES

Exchange is not allowed

KEY CODING


Key Coding is available


ADDRESSING

DISKETTE
EMAIL
RUN CHARGE
RUSH FEE
CD-ROM
FTP

CATEGORIES

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1 Search 2 Results 3 Data Card 4 Request 5 Finished

PULSE TV - INFOMERCIAL BUYERS, **IMPULSIVE** BUYERS, CREDIT CARD BUYERS Mailing List

Pulse TV (www.pulsetv.com) is a general merchandise retailer that advertises through infomercials. This file is updated monthly with all the new **impulsive** infomercial credit card buyers. These **impulsive** infomercial credit card buyers love to buy the newest gadget or product on a **impulsive** whim. These **impulsive** infomercial credit card buyers have a very **impulsive** mindset for buying new products. These **impulsive** infomercial credit card buyers are constantly watching infomercial TV, checking their mail, and surfing the internet with their credit card in hand ready to buy. Pulse TV's **impulsive** infomercial credit card buyers are loyal repeat **impulsive** credit card buyers. As long as there is a new product in front of them that they feel they need or want they have the **impulsive** nature and the credit card ready to buy. These **impulsive** infomercial credit card buyers all bought with their credit card and have spent an average of \$30 per transaction.

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[Get a Price Quote](#)

SEGMENTS		COUNTS THROUGH 09/30/2009
112,920	TOTAL UNIVERSE / BASE RATE	\$100.00/M
9,627	SEP 2009	\$125.00/M
7,837	AUG 2009	\$125.00/M


DESCRIPTION

Pulse TV (www.pulsetv.com) is a general merchandise retailer that advertises through infomercials. This file is updated monthly with all the new **impulsive** infomercial credit card buyers. These **impulsive** infomercial credit card buyers love to buy the newest gadget or product on a **impulsive** whim. These **impulsive** infomercial credit card buyers have a very **impulsive** mindset for buying new products. These **impulsive** infomercial credit card buyers are constantly watching infomercial TV, checking their mail, and surfing the internet with their credit card in hand ready to buy.

Pulse TV's **impulsive** infomercial credit card buyers are loyal repeat **impulsive** credit card buyers. As long as there is a new product in front of them that they feel they need or want they have the **impulsive** nature and the credit card ready to buy. These **impulsive** infomercial credit card buyers all bought with their credit card and have spent an average of \$30 per transaction.



Preferred Provider

MARKET:	CONSUMER	
MEDIUM:	 mail	
SOURCE:	BUYERS	
GEO:	DOMESTIC (US)	
GENDER:	49.7% FEMALE 47.6% MALE	
SPENDING:	\$30.00 AVERAGE ORDER	
SELECTS		
GENDER/SEX		\$10.00/M
GEO/GEOGRAPHICAL		\$7.50/M
ADDRESSING		
KEY CODING		NOT AVAILABLE
CASS CERT POSTAL PRESORT		NO CHARGE
DMA SUPPRESS		NO CHARGE
EMAIL		\$65.00/F

ORDERING INSTRUCTIONS

- To order this list, contact your List Broker and ask for NextMark List ID #271500 or [click here to place your request](#).
- 5,000 NAME MINIMUM ORDER \$500.00
MINIMUM PAYMENT
- PLEASE INQUIRE ABOUT NET NAME
- PLEASE INQUIRE ABOUT EXCHANGE
- PLEASE INQUIRE ABOUT REUSE
- TELEMARKETING IS NOT AVAILABLE
- CANCELLATION FEE AT \$150.00/F

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1 Search 2 Results 3 Data Card 4 Request 5 Finished

AILMENTS, DISEASES & ILLNESS SUFFERERS Mailing List

Here's a brand new database of individuals and households suffering from a wide variety of ailments, diseases, illnesses and medical conditions.

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SEGMENTS	COUNTS THROUGH	
200,000,000	TOTAL UNIVERSE / BASE RATE	\$150.00/M
200,000,000	AILMENT SUFFERERS	\$150.00/M
200,000,000	UNLIMITED USE	\$300.00/M

DESCRIPTION

Here's a brand new database of individuals and households suffering from a wide variety of ailments, diseases, illnesses and medical conditions. The head of the household or the person with the illness has responded to a questionnaire/survey indicating that someone in the household suffers from an ailment.

Selections include Ailment Type, Age, Income, Ethnicity, Gender, Homeownership, Marital Status, Presence of Children and Telephone.

Permission based E-mail addresses are available. (Rates on request)

Please inquire about counts and pricing.

Select by Ailments: (samples) (from \$10/M to \$100/M)

Acid Reflux	1,054,900
Acne	1,035,100
Actinic Keratosis	3,161



POPULARITY:	98
MARKET:	CONSUMER
MEDIUM:	mail email phone
OPT-IN:	
SOURCE:	LIFESTYLE QUESTIONNAIRE
GEO:	DOMESTIC (US)

SELECTS

AGE	\$10.00/M
ETHNICITY	\$25.00/M
GENDER/SEX	\$10.00/M
HOME OWNER	\$10.00/M
INCOME SELECT	\$10.00/M
INDIVIDUAL RESPONDER	\$10.00/M
LENGTH OF RESIDENCE	\$10.00/M
MAIL RESPONSIVE	\$10.00/M
MARITAL STATUS	\$10.00/M
PHONE NUMBER	\$50.00/M
PRESENCE OF CHILDREN	\$10.00/M
SCF	\$10.00/M
STATE	\$10.00/M
ZIP	\$10.00/M

ADDRESSING

KEY CODING	\$5.00/M
DISKETTE	\$50.00/F
EMAIL	\$50.00/F
P/S LABELS	\$15.00/M

HIGHLY CORRELATED LISTS

ADD/ADHD	322,300	AILMENTS & HEALTH CONDITIONS
Alzheimer's	176,000	ACTIVE AILMENTS, DISEASES & CONDITIONS - SUFFERERS & PATIENTS
Anemia	6,287	MYHEALTHFACTOR - AILMENTS & MEDICATIONS MASTERFILE
Arthritis	10,340,000	AMERICANS WITH AILMENTS
Arthritis-Rheumatoid	2,695,000	MEDICAL AILMENT AND CONDITION POSTAL EMAIL ADDRESS
Asthma	3,663,000	AAA - AILMENT & ILLNESS SUFFERERS
Asthma - Child	111,100	ABSOLUTE AILMENT SUFFERERS SURVEY! AILMENT AND MEDICAL CONDITION SUFFERERS
Athletes foot	90,650	CONSUMER LIFETREND RESPONDENTS
Bad Breath	18,978	HEALTH AILMENTS RESPONDERS - E-MAIL, POSTAL, TELEPHONE
Bedwetting	367,950	
Bladder Control	5,170,000	
Blindness /Visual Impairment	7,692,630	
Blood Disorder	67,042	
Body Odor	7,256	
Cancer	633,600	
Cancer - Breast	156,200	
Cancer-Lung	1,572	
Cancer-Other	6,083	
Cancer-Prostate	125,400	
Canker Sores	1,760,000	
Cardiovascular Disease	5,500,000	
Cataracts	2,533	
Cellulite	23,370	

Cerebral Palsy	1,121
Chronic Bronchitis	1,540,000
Chronic Fatigue Syndrome	13,433
Cold Sores	3,190,000
Colitis	26,950
Constipation	5,720,000
COPD	451,000
Crohn's Disease	42,350
Diabetes (total)	4,565,000
Diabetes - Juvenile	345,400
Diabetes Type 1	328,350
Diabetes Type 2	3,080,000
Dry Eyes	1,650,000
Eczema	440,000
Erectile Dysfunction	932,800
Emphysema	233,200
Endometriosis	49,033
Epilepsy	164,387
Fibromyalgia	6,433
Gastritis/Gastroenteritis	1,038,400
Gum Disease	594,933
Headaches - Frequent	4,950,000
Hearing Difficulty	1,980,000

Heartburn	3,190,000
Hemorrhoids	2,420,000
Hepatitis C - Acquaintance	17,600
Hepatitis C - Self	9,134
Herpes	3,873
High Blood Pressure	122,320,000
High Cholesterol	14,080,000
IBS/Irritable Bowel Syndrome	531,714
Impotence	2,884
Insomnia	9,020,000
Kidney Disease	246,400
Lactose Intolerance	13,090,000
Lupus	3,705
Macular Degeneration	372,900
Menopause	517,000
Menstrual Cramps/PMS	1,127,375
Migraines	7,150,000
Morbid Obesity	1,430,000
Multiple Sclerosis	149,600
Nail Fungus	47,300
Neuropathy/Nerve Pain	332,200
Nosebleeds, Frequent	256,300

Osteoporosis	3,300,000
Pain - Arm and Shoulder	845,478
Pain - Back	3,630,000
Pain - Chronic Pelvic	9,886
Pain - Joint	163,900
Pain - Leg, Hip, Knee, Ankle, Foot	85,923
Pain - Muscle	202,475
Pain – Total	22,220,000
Pain - Stress & Tension	39,664
Parasites	1,486
Parkinson's Disease	167,200
Physical Handicap	419,100
Poor Leg Circulation	8,533
Prostate - Enlarged	1,002,100
Psoriasis	507,100
Puffy Eyes	14,717
Respiratory Ailments	8,360,000
Rosacea	4,626
Sensitive Skin	1,672,068
Sexual Dysfunction	14,077
Sinusitis	1,323,832
Skin Rash	1,650,000
Snoring	11,220,000

Spinal Disorders	6,699
Spinal Injury	271,504
Sports Injury	639,730
Tooth Decay	18,201
Tumor	4,085
Ulcer	501,600
Urinary Tract Infections	9,225
Vaginal infections	5,818
Wart	8,671
Wheel Chair	188,100
Yeast Infection	672,007
Sample Mailing Piece Required.	

ORDERING INSTRUCTIONS

- To order this list, contact your List Broker and ask for NextMark List ID #102585 or [click here to place your request](#).
- \$750.00 MINIMUM PAYMENT
- NET NAME IS NOT ALLOWED
- EXCHANGE IS NOT AVAILABLE
- REUSE IS AVAILABLE ON ORDERS OF 5,000
- PLEASE INQUIRE ABOUT TELEMARKETING

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