

## Chapter 12

# A Case for Consumer Virtual Property

**Matt Hettche**

*Christopher Newport University, USA*

### ABSTRACT

*While the Internet is generally regarded as a tool of consumer empowerment, recent innovations in e-marketing signal a disparity in the quality of knowledge that the e-buyer and e-seller each bring to the exchange process. Armed with sophisticated consumer tracking programs and advanced data mining techniques, the e-seller's competitive advantage for anticipating consumer preference is quickly outpacing the e-buyer's ability to negotiate fair terms for an equal trade. This chapter considers the possible threat that aggressive forms of electronic surveillance pose for a market economy in e-commerce and offers a framework for how marketing practitioners can protect consumer autonomy online. Using John Locke's classic social contract theory as a model, I argue that information created by an end-user's online activity is a form of 'virtual property' that in turn establishes a consumer's right to privacy online.*

### INTRODUCTION

As a modern business practice marketing requires, if not depends on, a certain degree of consumer autonomy. If a consumer's ability to participate in the exchange process is significantly undermined, there is an important sense in which marketing ceases to be a relevant business function. A consumer's freedom to choose is a basic requirement for marketplace competition. If a buyer's decision to enter

into a sales agreement is manipulated or coerced, the conditions for a fair exchange are jeopardized. Practitioners of marketing, therefore, have a special interest in both preserving and advancing consumer autonomy. (Lippke, 1989; Heath, 2005)

In the traditional marketplace, one way for preserving consumer autonomy has been the personal relationships that develop between buyer and seller in the exchange process. Physical geography and the necessities of life dictate standards for ongoing sustainable commerce. The integrity of the marketplace, in this respect is grounded upon the

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assumption that trading partners will (or at least in theory, could) meet again in the future. On the traditional model, consumer satisfaction and merchant success are interdependent variables situated within a larger social context.

In our postindustrial capitalist society, however, the means for protecting consumer autonomy has shifted away from personal relationship buying and selling. Advancements in technology and communication allow buyers and sellers to interact in ways that transcend traditional social constructs. The level of production and vast scale of distribution supported by the modern global corporate system place an increased emphasis on brand image and a firm's ability to provide consistent and predictable customer service throughout multiple channels of distribution.

The central problem considered in this chapter is whether the type of transactions that take place in e-commerce can support the principles of a market economy, if certain forms of electronic surveillance become the norm. The worry, put succinctly, is that if the e-seller's ability to predict an e-buyer's purchase disposition greatly exceeds the e-buyer's ability to evaluate marketplace conditions, the chances for fair trade diminish considerably. Having detailed knowledge about a consumer's interests and lifestyle choices, for example, can easily lead to instances of manipulation and exploitation. In a worst-case scenario, I will argue, aggressive e-marketing techniques represent a form of predatory capitalism that significantly undermines consumer autonomy (in general) and broadens the susceptibility of certain at-risk consumers (in particular). The solution this chapter outlines involves using a notion of 'consumer virtual property' to demarcate the ethical boundaries for fair information transfer within the e-business environment. Using John Locke's classic social contract theory as a model, I will explore how his concept of the 'state of nature' and his labor theory of private property has unique application for protecting consumer privacy online.

## **THE MORAL AND SOCIAL CONDITIONS OF E-COMMERCE**

One truly amazing aspect of e-commerce is the incredible speed with which buyers and sellers are able to connect with one another. In *The World is Flat*, Thomas Friedman suggests the way information is created, delivered, and exchanged online has both a "leveling" and "democratizing" effect for the global economy. (Friedman, 2004) The web's leveling effect allows unprecedented opportunities for individuals to communicate across vast distances. For the first time in history, the average person can author digital content, reach a diverse audience, and sustain a meaningful dialogue with like-minded individuals. Traditional media outlets, such as newspapers and network television, are increasingly in direct competition with novices who self publish on the web. The web's democratizing effect, in turn, is manifest in the way information is accessed and created. Online content is quite literally produced "by the people, for the people" in a way that (good or bad) breaks with longstanding printing and publishing traditions.

From a marketing perspective, the Internet unquestionably provides increased opportunities for buyers and sellers to interact. E-commerce is an evolving process that facilitates buying and selling in an online digital medium. Products and services are either traded directly (i.e., electronically) or indirectly by establishing the conditions for a future exchange in the real 'brick-and-mortar' world. In ways that even possibly surpass traditional commerce, e-commerce supports the principles of free market enterprise by facilitating transparency, low transaction costs, rational engagement between trading partners, and open competition. In contemporary e-commerce, buyers and sellers throughout the world have the opportunity to enter freely into trade agreements, negotiate price, and establish mutually beneficial conditions of sale. (Brodie, Winklhofer, Coviello, & Johnston, 2007)

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