

## **FINANCIAL SERVICES: Your Time Will Come**

by **Marty Abrams**

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### **Privacy legislation is here for financial institutions and may not be far off for others**

I'm sure many of the non-financial service marketing executives reading the Gramm-Leach-Bliley (GLB) privacy provision are saying to themselves, "Thank God it's not me." Think about it. You could be mailing detailed notices that are complete, easy to read and expensive to mail; charting who you share data with so that use matches notice; making sure you give new notices before you change your information use; and enjoying the company examiners. I don't know about you, but it all sounds yucky to me. But guess what? If you're a cataloger, a magazine publisher or a fundraiser, GLB-like legislation may be in your future. Unless there's a massive shift in direction, the "Marketing Privacy Act of 2004" will be based on GLB, but maybe with opt-in as a kicker.

Before you say this won't happen, let's list what you've already lost to privacy law as a database marketer, but haven't felt yet:

- Is the car someone drives an important psychographic? Forget it. The Drivers Privacy Prevention Act (DPPA), as amended by Sen. Richard Shelby (R-AL), means that as automobiles rust away that information will oxidize, too.
- Is age useful? This data has a half-life as well. The GLB final rules combined with the DPPA means that age on individuals reaching adult status won't be there in the future.
- Does modeled income say a lot? Not unless it's based on more than a suspicion. If you can't use a person's credit statistics (GLB) and the vehicle they own (DPPA) in the income models, those models will be just a hunch anyway.
- Is shared data from financial institutions great stuff? Not necessarily. Many companies that previously shared data have decided not to go forward, because the cost of implementing notice requirements and opt-out systems makes it too much trouble.

So instead of getting richer, your targeting data sets are getting poorer. And they'll continue to lose value. Public record information is under attack today. States are exploring whether to continue providing data like hunting licenses at all, and whether to limit the use of real estate information to real estate-related purposes. And the states won't stop with public records. It's only a matter of time before state legislatures begin debating whether to require detailed notices on warranty cards before the data can be used to flesh out the modeling process.

When thinking about the future, it's useful to look at what is on the table today. What's good about GLB? First, financial institutions now understand their data flow — that's good. In addition, they've begun to integrate their systems to accommodate compliance, which will have business payoff. Lastly, financial institutions are learning to talk about how they use information to create value for consumers, and consumer communications is always a valuable skill.

What's bad? The manner in which notice must be exercised is too expensive and yields only limited consumer knowledge. The definition of the information that should be considered financial, and therefore sensitive, is also a problem. But most important, GLB drives us in a

direction that says sharing data to build larger, more dynamic markets is bad, not good. We therefore have companies saying they won't share data because it raises reputation risks. Our marketing economy was built to a significant degree on the confidence marketers showed in the future by sharing data to build markets.

So what does this all mean? It's crystal clear that it is not time for marketing privacy legislation. It should be avoided until all parties understand how to produce legislation that builds trust without sapping value. We're not there yet. However, we are quickly approaching the point at which legislation, ready or not, is inevitable.

It's time for us as an industry to begin asking the following questions:

- What can we do through legislation that helps educate consumers about how data is used and how the data creates value, but doesn't create notice burdens that will act as an anchor on industry growth?
- How can we assure accountability without endangering proprietary processes?
- How can we deliver consumer choice and options that are easy to understand and easy to exercise, but still maintain our opt-out system?

Privacy legislation has taken two paths over the past decade. One route is to cut off data flows as demonstrated by the DPPA Act. The other is to create massive and expensive processes that illuminate the uses of data. GLB is such a privacy law. As we have seen, neither path is good for this industry. Before more legislation is passed, marketers must design an approach that achieves consumers' shared desire for value, knowledge, choice and accountability, without sacrificing our ability to use information to create better markets. Without your involvement in building the legislative architecture today, you'll be implementing the daughter of GLB tomorrow.

In the simplest of summaries, the time has come to either be proactive now, or live with cumbersome legislation down the road that doesn't resolve the consumer's issues.

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