In people's neighborhoods, at the local stores they frequent, and with the mail-order companies they patronize, people make choices. Some people only feel comfortable frequenting places they know – neighborhoods where friends live and stores with names that they recognize. Others are more adventuresome. The same dynamic is at work in the virtual world of the Internet-based electronic commerce. The difference is that all of the Internet neighborhoods and most of the on-line store names are relatively new. Yet, the same process of people gaining familiarity and learning to trust certain websites – trusting what they sell, their readiness to solve after-the-sale problems, and their respect for their visitors' privacy – is underway. Already, on-line buyers can choose to shop at sites that have established names and reputations for honest dealing or to shop at a new site that may be just as trustworthy – or may not be – but it has something interesting to offer. It is a matter of consumer education and informed choice.

On-line businesses are making special efforts to increase consumers' comfort levels with e-commerce. Some stores are offering special guarantees to address lingering concerns about credit card security, promising to reimburse any consumer whose credit card is used to shop at the merchant's website and is somehow compromised as a result – leading to fraudulent charges on the consumer's bill.

While the consumers' level of concern about credit card information is understandable in light of both news stories and myths about the exploits of computer hackers, technology actually makes it less likely that credit card information will end up in the wrong hands when it is used on-line than when it is used in a local store. First, most on-line transactions involving a credit card are automatically encrypted, unless a consumer has an older Internet browser that lacks that capability, in which case merchants generally suggest that the consumer fax or call-in the credit card number. Second, in light of the profit potential of e-commerce for

Already, on-line buyers can choose to shop at sites that have established names and reputations for honest dealing or to shop at a new site that may be just as trustworthy – or may not be – but it has something interesting to offer. It is a matter of consumer education and informed choice.

merchants and credit card issuers, as well as for companies that design, build, and sell the software, hardware, and services that make e-commerce possible, all parties are continually looking for ways to improve security. Third, while credit card information is processed automatically during a typical e-commerce transaction – that is, with no human intervention – such is not the case at a store or restaurant; also, in the virtual world, there are no carbon-copy receipts to be fished out of a trash can.[1]

Finally, under federal law, credit card companies may hold consumers responsible for no more than $50 if her credit card is used fraudulently,[2] and in instances in which the card holder has not been negligent the bank that issued the card often waives any such charge. This longstanding consumer protection law applies equally to the new world of e-commerce.

Additionally, if a consumer uses a credit card to purchase goods on-line and the goods never arrive or are defective in some way, in most instances the bank that issued the credit card to the consumer will provide some help to mediate the dispute.

In some ways, just as Internet technology is enhancing the shopping experience by increasing consumer choice and convenience, the technology is also enhancing the ability of government agencies to protect consumers against fraud.

Efforts to reassure consumers about the safety of shopping on-line go beyond those made by individual on-line stores and Internet portals. For example, the Better Business Bureau is expanding and fortifying its traditional role as a symbol of good business practices. The "BBBOnLine" program[3] allows participating merchants to display a BBBOnLine graphic. In order to help ensure that a company displaying the graphic on its website is entitled to do so, anyone clicking on the graphic will be taken to the BBBOnLine website, where program participation will be authenticated and information about the company will be provided. A business wanting to take part in the BBBOnline program must do the following:[4]

a) "Become a member of the appropriate local Better Business Bureau;

b) "Provide the BBB with information regarding company ownership and management and the street address and telephone number at which they do business, which will be verified by the BBB in a visit to the company's physical premises;

c) "Be in business a minimum of one year (with limited exceptions);

d) "Have a satisfactory complaint handling record with the BBB;

e) "Agree to participate in the BBB's advertising self-regulation program, and correct or withdraw online advertising when challenged by the BBB and found not to be substantiated or not in compliance with our children's advertising guidelines [note];

f) "Respond promptly to all consumer complaints;

g) "Agree to binding arbitration, at the consumer's request, for unresolved disputes involving consumer products or services advertised or promoted online."[5]

Alternative dispute resolution, whether mediation or arbitration as used by the BBB, has enormous potential for benefiting consumers because it avoids the formality, delays, costs, and other burdens of using a court. From a practical standpoint, an aggrieved consumer facing a dispute with a distant seller over a typical consumer purchase is in an impossible situation, even if the consumer's arguments are very well-founded. It may be that a decision to pursue a lawsuit would be uneconomic unless the amount of money in dispute exceeded $10,000. And, if the dispute involves a typical warranty claim, no government agency would be able to provide help to the consumer. Only a private system of dispute resolution offers the consumer an opportunity for redress. This being said, the Council is not specifically endorsing the details of the BBBOnLine/BBB program. Rather, we simply point out that this program and

others, by providing a forum for dispute resolution that allows consumer access in a very practical sense, can provide consumers with additional assurances that the Internet is a safe place to shop.

While there have been ongoing public forum discussions about consumer protection on the Internet – protection against fraud and faulty merchandise – the actual problem appears to be limited to a few distinct areas of commerce. Websurfers who are buying goods from on-line stores are not reporting substantial problems – certainly not at levels above those faced by local and mail-order shoppers.

As for governmental involvement in dispute resolution, reports from California state agencies responsible for protecting consumers indicate that complaints have been limited to investment scams and individuals selling products through on-line auctions.[6] While these problems are not insubstantial – and when cases involve more than a handful of victims, state and federal agencies do take action[7] – the facts indicate that merchant-to-consumer e-commerce is developing smoothly.

In some ways, just as Internet technology is enhancing the shopping experience by increasing consumer choice and convenience, the technology is also enhancing the ability of government agencies to protect consumers against fraud. The Federal Trade Commission, working with state and local law enforcement agencies around the country, have creatively attacked the problem. "Sting" e-mail accounts have been established and, after they have been used to post innocuous messages to Internet newsgroups and in other ways, they invariably become part of electronic mailing lists that innumerable, small commercial ventures electronically "mine" from far and wide on the Internet. Soon thereafter, these e-mail accounts receive mass-mail solicitations from people operating fraudulent sales, pyramid, and investment schemes. Government investigators, making use of Internet search engines, also go looking for public webpages promoting such schemes. In many instances, the FTC can shut down a criminal website operation in its boost phase, before it hits any of its intended targets – gullible Internet users.

In the "real world", such preemptive strikes by government would likely be impossible because the information needed by government to support enforcement actions takes place through the mail and over telephone lines – both of which are properly protected by constitutional guarantees against unreasonable searches and seizures. On the other hand, when criminals try to run on-line frauds, they cast wide nets looking for potential victims, and it is somewhat easy for creative consumer protection agencies to become intentionally "ensnared."

Additionally, consumer protection agencies[8] and private trade organizations[9] are establishing websites and e-mail addresses to make it easy for consumers to report on-line illegal activity – allowing the agencies to act much more quickly than is possible in other criminal situations.

Recommendations

The Council has been pleased to see that consumer protection agencies have deployed resources to fight Internet fraud. This is not to say that the challenges of operating in the digital world will be easily met. Undoubtedly, adjustments in operating methods will be necessary. And, when buyers and sellers may be separated by thousands of miles and even international borders, some problems will require international agreements, while others may be intractable. Additional resources may be justified to fund enforcement efforts. However, all indications to date suggest that state and federal enforcement agencies are determined to respond to consumers' needs. Therefore, we have no specific recommendations to make in this area.

---

[1] There is some evidence that it is not the technology that troubles on-line shoppers as much as the fact that they are not interacting with a human being: A *Business Week* survey showed that the level of consumer concern about

on-line security is the same for any "distance transaction" – 80 percent are "very concerned" or "somewhat concerned" when calling a "mail order" company or shopping on-line, while the number is 79 percent for on-line banking. By comparison, when using a credit card to pay a restaurant bill, 53 percent of consumers are concerned.

[2] "Unauthorized charges. Under federal law, if your credit card is used without your authorization, you can be held liable for up to $50 per card. If you report the loss before the card is used, federal law says the card issuer cannot hold you responsible for any unauthorized charges. If a thief uses your card before you report it missing, the most you will owe for unauthorized charges is $50. This is true even if a thief is able to use your credit card at an automated teller machine (ATM) to access your credit card account. To minimize your liability, report the loss of your card as soon as possible. Some companies have toll-free numbers printed on their statements and 24-hour service to accept such emergency information. For your own protection, you should follow up your phone call with a letter to the card issuer. The letter should give your card number, say when your card was missing, and mention the date you called in the loss." From "Choosing and Using Credit Cards", Federal Trade Commission (February 1993), http://www.ftc.gov/bcp/conline/pubs/credit/choose.htm

[3] http://www.bbbonline.org

[4] "Standards for BBBOnLine Participation", http://www.bbbOnLine.org/standard.shtml

[5] The BBB CARE program is described at http://www.bbb.org/complaints/BBBcare.html. The program is free to consumers.

[6] From staff discussions with enforcement officials at the California Departments of Justice, Consumer Affairs, and Corporations. See also testimony by Phillip C. McKee, III, Internet Fraud Watch Coordinator (March 30, 1998) http://www.fraud.org/news/1998/mar98/033098.htm

[7] See "FTC Halts Internet Auction House Scam" (April 13, 1998) http://www.ftc.gov/opa/1998/9804/hare.htm

[8] The Federal Trade Commission provides an on-line form for filing complaints against businesses. http://www.ftc.gov/ftc/complaint.htm

[9] On October 5, the North American Securities Administrators Association, a state securities trade association, announced an on-line initiative against securities fraud. cyberfraud@nasaa.org