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## IN THIS EDITION

- The Potential of the Internet and Electronic Commerce
- To Shop or Not to Shop? What are the Issues?
- What is the Best Way to Protect Consumers?
- The International Perspective
- Next Steps

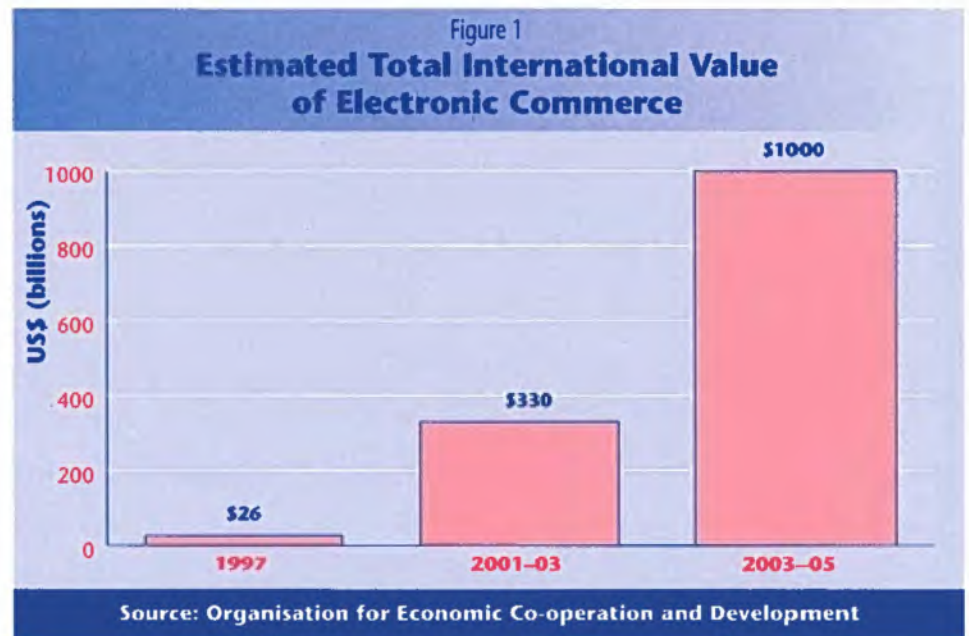
## Electronic Commerce and the Consumer

It's 7:00 p.m. on a fall evening in 2010 and a soft blue glow is visible from the windows of houses across the country. The World Series or the latest movie?

Neither. People are shopping with their computers for everything from the latest software to groceries. Gigabytes of information flow from telephone lines, cables and satellite dishes, carrying full-colour 3-D catalogues, product descriptions, price comparison tables, advertising and, most importantly, payment instructions and electronic money. A fleet of delivery vans fans out across the country. For fresh air, an occasional shopper decides to go to the local mall to pick up what she has just purchased on the Internet.

This is the promise of on-line shopping. No matter where they live or what time it is, consumers with Internet access will have a global smorgasbord at their fingertips.

Canadians are surfing the Internet in ever-increasing numbers, but are they equally inclined to take the plunge into on-line shopping? What are the pitfalls involved with ordering a product or service over the Internet and paying on-line by credit card?



This edition of *Consumer Quarterly* examines consumer concerns about electronic commerce and the resulting consumer protection challenges, some methods

of meeting those challenges, and the ongoing international and domestic efforts to respond to them.

## The Potential of the Internet and Electronic Commerce

**A** Nielsen began surveying Canadians about Internet access in 1996 and the data show that the Internet population in Canada is

continuing to grow rapidly. In 1996, 23 percent of Canadians used the Internet. By the spring of 1997, this user group had grown to 28.5 percent

of Canadians and in the fall of 1997 it was 31 percent. An even larger group has access to the Internet but for some reason chooses not to use it.

Growth in electronic commerce has been even more dramatic. According to a study by the Organisation for Economic Co-operation and Development (OECD), in 1995 international electronic commerce was virtually nonexistent. In 1997 electronic commerce had grown to US\$26 billion. Optimistic projections for 2001–03 are US\$330 billion, and US\$1 trillion in 2003–05 (see Figure 1). Business-to-business electronic commerce is clearly the driving force accounting for 80 percent of current totals. Business-to-consumer electronic commerce is slower to take hold. Only 13 percent of Canadian Internet users, about four percent of the Canadian population, have made a purchase on-line.

Some Internet users do see the benefit of shopping on-line. According to research carried out for the Office of Consumer Affairs (*Electronic Commerce Quantitative Report*, Decision Resources Inc., June 5, 1998), consumers who do shop on the Internet buy things from companies they are familiar with and have dealt with before. Purchasers are more likely to be male, have higher household incomes than average and see themselves as financial risk takers. The most popular Internet purchases are computer software and hardware, books and magazines, and CDs or cassettes.

The research also shows that consumers cite three reasons for buying something through the Internet: the transaction involves little monetary risk, they buy from a previously known vendor, or they can't find the product or service through their usual retailers. Internet shoppers are quick to point out, though, that they are aware of the risks involved in buying on-line, see those risks as the trade-off for getting the product or service they want, and accept responsibility for their transaction. But why aren't more consumers taking advantage of the Internet to conduct electronic commerce?

## To Shop or Not to Shop? What are the Issues?

There is always some hesitancy involved in doing things a new way. Consumers' reluctance to embrace electronic commerce, however, reflects a deeper concern with key consumer protection issues that arise from this way of doing business. Consumers have six main concerns.

1. How do I know if an Internet merchant is legitimate?
2. How can I be sure that the information on a Web page accurately states all the facts I need to make an informed purchase decision?
3. What assurances do I have that my privacy will be protected?
4. What assurances do I have that a merchant's on-line payment systems are secure?
5. What redress mechanisms are available if an on-line transaction is not completed to my satisfaction?
6. How can I find out about the scams and pitfalls associated with Internet transactions?

### Location/Identification

When deciding whether to make an on-line purchase, consumers have only the merchant's Web site — which could be sophisticated-looking, yet misleading — as a reference. This increases the riskiness of the transaction, including the chance of fraud, the possibility that the merchant will not deliver the product or service, or the likelihood that the consumer will not be able to resolve a dispute with the merchant.

Scam artists can establish a false identity relatively easily, set up operations cheaply, process large numbers of transactions quickly, and move on before being caught. Even if they are caught, the global nature of the Internet exacerbates the problem, since it is not clear which jurisdiction's laws apply. Knowing the identity and location of a business provides consumers

with a means to determine that firm's reliability and reputation, and is the first step in resolving a dispute.

### Information

While the Internet feeds consumers' insatiable appetite for more information, even volumes of facts on products and services are of little value unless the information is accurate, truthful and presented in an easily accessible form.

Ensuring a minimum standard of information accuracy on the Web and applying existing laws and standards against misrepresentation and false advertising will be difficult challenges to meet. They are magnified by the global nature of the medium, since information standards (e.g. for product descriptions, advertising rules and exchange rate disclosure) vary considerably among countries.

### Privacy

Consumers have little control over personal information in on-line purchases. Each transaction leaves a data trail that anyone can compile into a profile of preferences, spending patterns, demographic particulars and financial status. Merchants can collect valuable marketing information on Web site visits in a "cookie" file, without consumers' knowledge or consent.

As more and more personal information is digitized and transmitted through networks, the risk of misuse increases. Consumers are highly conscious of the privacy risks the Internet poses: they seek assurance that the collection of personal information is transparent and that they have some control over what is collected, by whom, and for what purpose. Children are particularly vulnerable to slick marketers, and few Web sites provide for meaningful parental involvement in disclosure-of-information processes.

### Security

The security of on-line payments is a key consumer concern, although many experts have suggested that making on-line

payments through a secure site with state-of-the-art encryption is safer than handing a credit card to a stranger in a restaurant or gas station. However, few consumers understand encryption and must take on faith a merchant's assurances of payment security.

Any on-line payment system must be secure, reliable, accurate and accessible. Purchasers need to be assured that their payment will not be intercepted by thieves, and that any financial information goes only to the intended, legitimate merchant.

### Redress

In a traditional retail transaction, consumers have a general idea of what to expect if an item is defective. Many merchants offer refunds or exchanges, and many products come with a warranty. More and more firms also provide a contact number and a complaints procedure for dissatisfied customers.

When the vendor in an on-line transaction fails to deliver as promised, or goods arrive broken or defective, assigning liability and providing avenues for redress may be difficult. For transactions within one jurisdiction, ultimate redress is available through the court system. However, cross-border transactions reduce the feasibility of this option because it is not always clear which jurisdiction's laws apply. Even if it were clear, a consumer would need deep pockets to attempt to resolve an international dispute in court.

### Awareness

Not all consumers are aware of the hazards of the Internet, and there does not seem to be much consumer education in this area. It is in the best interests of industry, as well as consumer advocacy groups and government, to make such issues as the risks of electronic transactions, legal rights and obligations, and the identification of disreputable entities and practices apparent to consumers. The result will be protected consumers who make informed decisions about Internet transactions.

## What is the Best Way to Protect Consumers?

Industry recognizes the great potential of the Internet for commercial transactions and understands that this potential will never be realized if consumer confidence is eroded by fraudulent and misleading conduct. The challenge is to develop a framework (i.e. voluntary codes and standards, technology and regulations) capable of ensuring that the necessary foundation of trust for conducting on-line transactions is in place.

Businesspeople are keen to understand consumers' concerns and take steps to mitigate them, and are quick to point out safeguards already in use.

Certification systems, for example, involve recognized third parties reviewing a company and attesting that it meets a standard. The ideal certification system requires audits before and after certification, including site visits to the firm establishing the site; includes effective standards; and features a consumer complaints and arbitration mechanism.

The main weaknesses of certification systems are that not all of them provide the same level of assurance and that not all of them suit electronic commerce.

### Examples of certification systems

- The Canadian Automobile Association (CAA) inspects garages and allows those that meet its standards to display the CAA logo.
- The Canadian Standards Association provides a seal of approval to products that meet its standards.
- The Canadian Direct Marketing Association has a privacy standard to which all members must adhere.

Another option is to use encryption-based methods to prevent criminals from accessing or altering on-line communications. As this technology spreads, it will boost confidence in the security of on-line transactions, and ease consumer concerns about the identity of on-line merchants and payment security.

Governments will have to amend some laws simply because they do not cover electronic commerce. For example, legislation governing contracts may require amendment to make on-line transactions enforceable and to recognize digital signatures as binding.

Consumer advocates want to see proactive measures that would give electronic commerce users the same protection as they have in traditional retail transactions. Governments would continue to be responsible for searching out and prosecuting those who commit fraud, although industry would prefer that government not overregulate electronic commerce.

The most effective solutions will likely blend technological, regulatory and voluntary steps. Several industry associations in Canada have already developed voluntary codes to govern the practices of their members. A single, comprehensive code for on-line electronic commerce could address the range of existing consumer protection issues, and in the process boost consumer trust and confidence. The code could include provisions, for example, for affordable consumer access to an external and impartial process for resolving disputes not effectively settled by an internal complaints-handling service. Industry is also exploring alternative dispute resolution mechanisms capable of operating across borders that could save both consumers and merchants significant legal expenses.

# The International Perspective

**M**asures to promote greater consumer protection on-line are being developed around the world.

The U.S. Federal Trade Commission has recommended that businesses need further incentives for self-regulation and that legislation be introduced to protect children and ensure that parents have knowledge of, and control over, the collection of information from them.

Several branches of the Australian federal government are working on consumer protection in electronic commerce. For example, the Australian National Advisory Council on Consumer Affairs has developed principles for consumer protection in electronic commerce. The council hopes that these principles will provide a basis for effective industry self-regulation and will complement

the protection afforded consumers under trade practices legislation.

The European Union (EU) is looking to self-regulation supported by a legal framework for electronic commerce. It is apparent from the EU Data Protection Directive that the EU is interested in regulating privacy issues. The directive includes two important requirements: a "controller" of personal data must obtain consent from individuals before processing data about them; and a regime to regulate exports of data outside the EU must be established.

On the international front, Canada and a number of other countries are strong supporters of establishing guidelines for electronic commerce. Ministers from 29 countries attending the OECD Ministerial Conference on Electronic Commerce in Ottawa in October endorsed the *Declaration on Consumer Protection in the Context of Electronic Commerce*. In addition, the ministers also committed to the development

of consumer protection guidelines that would set out the principles countries should follow as they adjust their domestic consumer protection programs to cover electronic commerce. Canada will be chairing a working party of key member countries to produce these guidelines in 1999.

## Draft OECD general principles for electronic commerce touch on the following areas:

- equivalent protection for electronic commerce
- essential on-line information
- electronic contracts
- consumer complaints, redress and dispute resolution
- privacy
- security and authentication mechanisms
- education and awareness.

## For further information

➤ about electronic commerce, contact Colin Barry, Consumer Policy Analyst  
E-mail: [barry.colin@ic.gc.ca](mailto:barry.colin@ic.gc.ca)  
Tel.: (613) 952-2771

➤ about *Consumer Quarterly*, contact Cathy Enright, Office of Consumer Affairs  
E-mail: [enright.cathy@ic.gc.ca](mailto:enright.cathy@ic.gc.ca)  
Tel.: (613) 952-3466

Or write to:

Office of Consumer Affairs  
Industry Canada  
9th Floor, East Tower  
235 Queen Street  
Ottawa ON K1A 0H5  
Fax: (613) 952-6927

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## Next Steps

**T**hese are still early days for electronic commerce. Some observers suggest that businesses will, in time, take care of consumer concerns; others claim that it is too early to know how to respond to them. What is clear is that until consumers have the same degree of confidence in shopping on-line as they do in buying things at the corner store, electronic commerce will not develop to its full potential.

Ensuring complete protection for on-line consumers will require international cooperation, adjustments to domestic legislation, the use of emerging technologies, and positive steps by businesses. No one component offers a full set of assurances to consumers. Together, however, they represent a strategy for promoting safe and reliable electronic commerce.

The Government of Canada introduced privacy legislation on October 1. The privacy bill is based on the Canadian Standards Association's Privacy Standard. Thus, merchants and industries that adhere to this standard will know that they are in compliance with the law.

The Office of Consumer Affairs (OCA) is currently engaged in broad consultations on the issues mentioned in this edition of *Consumer Quarterly*. In April 1998 it sponsored a multistakeholder roundtable on consumers and electronic commerce. It is now working with consumer organizations, industry and other governments to develop Canadian consumer protection guidelines to address these issues. The draft guidelines are available on the OCA's Web site (<http://strategis.ic.gc.ca/oca>).