

Consumers in the e-Economy: The BBBOOnLine Perspective

**The e-Economy in Europe: Its Potential Impact on EU
Enterprises and Policies
Brussels, Belgium
1 and 2 March, 2001**



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On behalf of the North American Better Business Bureau system¹ -- and our subsidiary, BBBO nLine² -- I'm honored to have been invited to participate in this important conference.

Much of the focus yesterday and today has been on the changes for businesses being wrought by the Internet. As we have seen, those changes are -- and will continue to be -- substantial.

At this session, however, we are discussing a critical intersection on the "information superhighway", the point where suppliers at every level on the distributive chain meet the ultimate end user, the consumer. We're well aware that the Internet is revolutionizing the B2B marketplace. However, whether B2C e-commerce lives up to its superheated potential will depend, in large measure, on whether merchants and their consumer end-users adapt to this new environment.

Rather than discuss statistics, I'd like to approach this subject by speaking as a single American consumer and unabashed Europhile. I'd like to see more online e-commerce where European SMEs are visibly and readily offering European products and services to American consumers. I am trying to make the point that while much of the conversation about global e-commerce focuses on doing business with other countries' consumers, consumers, too, are anxiously waiting for the Web to live up to its promises.

My purpose here today is to carry the message that the Internet provides a terrific environment for successful self-regulation. There are four reasons why I think this is so.

First of all, as has been repeatedly observed at this conference, the Internet is not easily regulated. It crosses borders as easily as we used to cross streets, and we're having difficulty figuring out what laws ought to apply, let alone how to enforce them

¹ See <http://www.bbb.org>

² See also: <http://www.bbbonline.org>

effectively. We have heard a great deal about at other sessions. In addition, the culture of freedom spawned by the technology often resists regulation.

Second, business wants e-commerce to explode, but we're increasingly recognizing that consumer trust is crucial to this success. Even the most recent studies show that the Internet is still a scary place for many of our countries' citizens -- and that is actually becoming truer as more of the mainstream population (as opposed to the technology mavens) move online.

Third, all surveys from the earliest days of e-commerce through today show that considerable consumer hesitancy to buy online is based on concerns or fears over security, privacy and reliability.

And *finally*, business has a reasonable fear that technology and our understanding of the marketplace are such swiftly moving targets that regulation adopted too quickly, and not finely tuned to specific demonstrated and serious problems, will thwart the very growth it would be intended to promote.

In short, we believe there is a mutuality of interests here shared by government, consumers and business. That convergence makes it a certainty that the business community wants to provide meaningful and voluntary consumer protection on the Internet.

The challenge for us all is finding a way to help consumers sort through all the Internet "clutter" and find safe companies to patronize?

Here too, business has been creative. We are beginning to see insurance backed guarantees offered by some web sites; credit card charge backs applied more broadly than legally compelled; escrow services; customer satisfaction rating schemes, among other devices to protect consumers and enable them to make wise choices.

We believe BBB*OnLine* has served as an example here. Our reliability seal program was launched in 1997 (though it seems like the middle ages now). We award a seal to companies that promise truthful advertising, responsiveness to customer complaints, have no significant marketplace legal problems, and make a commitment to formal dispute resolution procedures run by the BBB or other ADR providers. Our seal holders³, covering over 9000 + web sites, make this the *largest* trustmark program on the Internet. Every one of those sites required a review by BBB*OnLine*, and a number of sites required changes in their advertising to become complaint. Our experience has been that the newer, entrepreneurial “players” are not familiar with the rules of the game, but they do want to get it right, and serve their customers honestly.

Earlier, I suggested that there were four reasons why the environment was ripe for self-regulatory efforts. Here I’ll tell you that we believe there are four critical components for self-regulation to succeed in this new environment.

First, we need to implement a well-rounded, holistic consumer protection strategy—we have taken to calling it the “three-legged stool”.

- We need tough online “best practice” standards adopted by the business community voluntarily. These may go beyond many existing legal requirements, but they would not attempt to enforce the laws of any particular jurisdiction. Voluntary standards will achieve predictability and harmony for the business community in a more practical and timelier fashion than a ponderous treaty process.

The BBB Code of OnLine Business Practices⁴— following a nearly 12-month drafting process that included more than 1000 comments from industry, government and consumer groups -- was overwhelmingly approved by the North American BBB system in September. It will be a basic component of the

³ See: <http://www.bbbonline.org/reliability/index.asp>

⁴ See: <http://www.bbbonline.org/code/index.asp>

BBBOnline reliability program in September of 2001, and it is available for review at the BBBOnline.org website in German, French, Spanish and English.⁵

- We absolutely must provide out of court alternative dispute settlement processes. Our experience in North America tells us that consumers do not go to court in large numbers. Not only is it impractical (given the value of the goods likely to be involved and the cost and inconvenience of lawyers and the courts) it is intimidating. Cross-border transactions merely emphasize this impracticality. We believe these ADR approaches should be voluntary with consumers, and should preserve legal rights and remedies grounded in law. Let the “choice of law” debate continue toward its own ponderous conclusion—whatever that may be. In the meantime, good consumer ADR schemes – of which there are a number of examples – can quickly and simply resolve most consumer disputes, using the aforementioned “codes of conduct” and principles of equity as the basis for fair, timely decisions.

The BBB system operates the largest consumer dispute resolution program in North America, if not the world. In 1999, nearly 40 percent of our 420,000 formal complaints were filed by consumers online⁶. We have trained and certified approximately 4000 volunteer arbitrators that hear consumer cases. In partnership with PricewaterhouseCoopers, BBBOnline announced at The Hague in December⁷ that we have developed an online problem resolution system and we are currently jointly seeking a development partner to build this state of the art, technologically efficient, and consumer friendly system.

- Finally, there must be a way for a consumer to determine which firms have committed to good codes of practice and effective ADR. For that, we believe a trustmark provides the answer. We believe the Internet can provide consumers

⁵ See: <http://www.bbbonline.org/intl/code.asp>

⁶ See 1999 complaint statistics at: <http://www.dr.bbb.org/news/comp-1999.cfm>

⁷ See: <http://www.bbbonline.org/about/press/2000/121100.asp>

with the information they need to make intelligent choices at the “right time and right place”—when and where they are considering purchases. Technology solutions helping web visitors to sort and search for trustworthy companies may be possible, but it is crucial that they be very simple for consumers to use.

This three-legged stool is the strategy underlying the BBBOnline program -- and the model we have been advocating globally for the past two years.

The second element to achieve success is business support—BBBOnline has made great progress, including the support of a number of companies⁸ either speaking at or attending this conference, including (among many others) General Motors, which pioneered the use of BBB consumer arbitration for auto warranty disputes, and Hewlett-Packard, Procter and Gamble and IBM—all BBBOnline founding sponsors. But to succeed over the long haul, business must then use and fund the self-regulatory processes, as Visa U.S.A. has done in its recently announced alliance with BBBOnline⁹. This is not just a matter for large companies’ government relations staffs in Washington and Brussels. Self regulation of the Internet will not succeed in the longer haul unless and until it becomes (as it is here today) a matter at the CEO level—this is a critical marketing issue that goes to the absolute heart of the relationship between a consumer product or service firm and its customers (remember, it is trust and confidence we are talking about).

Third, we need transatlantic government encouragement together with some restraint and patience. We have had a lot of moral support and bully pulpit cheer leading from the FTC and Department of Commerce in Washington and also from the European Commission. We appreciate that. Frankly, the reason self-regulation works -- its flexibility and ability to respond to the marketplace and its changes -- and its staying power, is that it relies on some consensus building. I know Internet time is different than real time, but I must tell you that a number of my own friends and colleagues (and probably some of yours) did not really experience the Internet until six years ago (and

⁸ See: <http://www.bbbonline.org/about/sponsor.asp>

⁹ See: <http://www.bbb.org/alerts/BBBVisa.asp>

I'm being generous here). Many in the media and legislatures seem to expect a degree of self-regulatory speed, comprehensiveness and enforcement that most regulatory regimes could not possibly match.

Government can play a key role in advancing the consumer protection cause by providing concrete incentives for self-regulation. For example, when legislation is found to be needed, include, as was done in the U.S. with children's privacy, a "safe harbor" for self-regulation participation¹⁰. Perhaps regulators should also consider developing "standards" for trustmark programs (including ADRs) and then making "audits" of trustmark programs—against those standards—publicly available, both to avoid both a confusing proliferation and a stampede to low standards.

Finally, we need consumer acceptance. So, that means serious input from consumer leaders, with a savvy understanding by those leaders of the strengths and limitations of self-regulation, and excellent service by self-regulation organizations to consumers. It won't work if it is not used, and it won't be used if it is not effective.

We must do all of this in the context of a commercial marketplace without territorial borders.

However, the approach I've suggested has its problems.

If one imagines hundreds of different "Codes", hundreds (or perhaps thousands) of trustmark programs in various countries and sectors, using hundreds (or perhaps thousands) of ADR schemes, the problem quickly becomes apparent. How will a consumer possibly know which "trustmarks" to trust?

We believe there is a critical need for "harmonized" voluntary standards, interoperable online DR processes and a common "look and feel" to trustmark programs. Consumers

¹⁰ See: <http://www.bbb.org/advertising/caru/ftcgranted.asp>

in the EU, considering a purchase from web sites in the US, Belgium and Australia, should be able to make intelligent comparisons not only of the price and quality of the goods and terms of service, but of the business practice “safety net” that surrounds any transaction—including the business practice standards and dispute resolution procedures.

I’m pleased to be able to tell you that BBBOnline has partnered with JIPDEC, the Japanese Information Processing and Development Center, in precisely this way with respect to our respective privacy programs.¹¹

Now, we are preparing to partner with European organizations to implement a common transatlantic reliability “trustmark” program. While I cannot yet reveal details, and our discussions are ongoing, I expect we’ll have an announcement on this subject in the next several months. We are currently exploring a number of similar Pacific Rim alliances.

We believe the JIPDEC and European alliances will serve both as a model and a springboard for other organizations throughout the world. Self-regulation can, we believe, make a major contribution to the new global marketplace.

The North American Better Business Bureau system is anxious to help make it so.

¹¹ See: <http://www.bbb.org/alerts/BBBOnlineJapan.asp>