

# **WEB SEALS OF APPROVAL**

## **Discussion Paper**

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## 1. INTRODUCTION

E-commerce, in particular, online Business to Consumer (B2C) retailing is set for exponential growth. 50% of Australian adults accessed the Internet in the 12 months to November 2000 and 37 percent of Australian households were connected to the Internet at November 2000, reaching to 40 percent at end of 2000. The Australian Bureau of Statistics (ABS) projects that the half way mark for Australian households will be reached by November 2001.<sup>1</sup>

Online banking and shopping, while still minor as compared to traditional forms of transacting business, has grown significantly and will rise further. It is estimated that 13 percent of adults paid bills or transferred funds in the 3 months to November 2000 - an increase of 225 percent since November 1999 and 10 percent purchased or ordered goods or services via the Internet - up 67 percent in the same period.<sup>2</sup>

The major impediments to the broader use of the Internet for the online purchase of goods and services are concerns about:

- the security of transactions and whether they are conducted by authenticated parties;
- the disclosure of personal information; and
- levels of service. These are expected to be at least as good as in the off-line world and preferably with better prices. The main service issues discouraging Australians from buying online now seem to be high shipping costs and personal sizing or fit.<sup>3</sup>

In an attempt to foster consumer confidence, a number of measures have been adopted. Internationally some measures include the OECD *Guidelines for Consumer Protection in the context of Electronic Commerce* and the European Union E-commerce and Distance Selling directives. In Australia, the Federal Government has adopted the E-commerce Best Practice Model *Building Consumer Sovereignty in Electronic Commerce: A Best Practice Model for Business*.

A growing number of online retailers have adopted website seals of approval. These seals which are offered by both local and overseas organisations, indicate that the business has agreed to follow a set of rules or guidelines that address particular business practices. The most common "consumer" seals address privacy, security and service issues.

## 2. MAJOR WEB SEALS

Some of the better known seals of approval include WebTrust, eTick, BBOnLine seal, TrustUK, Which? Web Trader, TRUSTe and VeriSign. Attachment 1 describes these seals.

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<sup>1</sup> The National Office for the Information Economy, The Current State of Play June 2001, 6

<sup>2</sup> NOIE The Current State of Play, page 8

<sup>3</sup> Ernst & Young Online retailing in Australia, State of play and outlook for the industry, January 2001



practice were invisible to urban elderly men and women, rural and remote families, working parents who have no time, people isolated in their own homes because of poverty or ill health, people with low literacy and verbal skills, people of working age dependent on government support, young people who have never had a full-time job and non-English speaking people.

With regard to consumer attitudes to seals, some data comes from a survey conducted by Ernst and Young. The report, "*Online retailing in Australia State of Play and outlook for the industry*", was based on the results of an online survey of 7,000 Internet users in Australia and 650 webtraders. The survey found that 26 percent of the Internet users surveyed indicated that a seal of approval would make them more likely to purchase from a site. It is not known whether the other 74 percent of respondents were sceptical about seals or were unaware of them.

It is not known whether consumers who currently do not use the Internet for online transactions would see seals as an effective means to build trust. An interesting and

for and whether the site is in fact complying with the standards set. The point was well made in the International Society of Consumer and Competition Officials Network (ISCCON) Newsletter of June 1999:

*It is not difficult to imagine a future with a huge number of schemes worldwide, all with different requirements, assessment and control methods and seals. For the Internet consumer, this would mean a total lack of transparency and the whole idea of confidence building would soon be lost. This would also mean that the efforts and costs invested by industry under such schemes would become useless.<sup>6</sup>*

It is arguable whether the future as envisaged by the ISCCON has arrived.

### **3.3 Seal Compliance**

There is little data publicly available on action taken to ensure compliance with seal standards. While audit procedures are listed, consumers cannot be certain that a webtrader displaying a seal is actually complying with that seal. For example, the Internet Law Journal reported a case in which Toysmart.com, a failed Internet toy seller, was prosecuted by the US Federal Trade Commission (FTC) for attempting to sell confidential, personal customer information collected by the company contrary to its own privacy policy. Toysmart.com carried a TRUSTe seal of approval.

The issue of enforcement of standards has been perceived as a particular weakness of self-regulatory schemes. Various reasons are advanced for lack of enforcement, for example the ACCC in its submission to the Taskforce on Self-regulation stated that many codes fail to operate effectively because employees and industry members are unaware of the codes standards or fail to follow these in day-to-day dealings. The UK OFT reported a "disciplinary conflict" whereby trade associations are sometimes

on the issue in 1999<sup>8</sup>. There was an identification of some of the issues that needed to be addressed, for example it was noted that to be effective, a seal should have international recognition, be comprehensive and affordable, be backed by an audit process and an effective redress mechanism. However, further work in this area appears to have lapsed.

The Office of the Federal Privacy Commissioner of Australia in conjunction with the Office of the Information and Privacy Commissioner of Ontario has conducted a joint project reviewing the privacy components of particular web seals.<sup>9</sup> The Commissioners determined to review three well-known web seals - BBBOOnline, TRUSTe and Web Trust.

Three components were identified as necessary for an effective seal:

- sufficient privacy principles;
- a sound method for resolving consumer disputes; and
- a robust mechanism for ensuring that "sealed" sites complies with the seal's standards.

The OECD *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data* was the standard against which the seals' privacy principles were evaluated. The Australian *Benchmark for Industry-based Customer Dispute Resolution Schemes* was selected to evaluate the dispute resolution methods of each scheme. Compliance and enforcement mechanisms were also evaluated though not against an external benchmark.

The methodology involved dividing the benchmarks into component elements and allocating points to each component principle, for example, the Collection Limitation Principle which states that there should be limits to the collection of personal data and that any such data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject was weighted as follows:

- Limits to collection by lawful and fair means .5
- Knowledge or consent of data subject .5

Following the initial evaluation,<sup>10</sup> each seal "owner" was invited to comment on the rating allocated. In this way, the Privacy Commissioners hoped to establish an on-going dialogue through which seals could be enhanced over time.

As noted earlier, the Best Practice Model is not a web seal scheme. Nevertheless, it does incorporate standards which might form the basis of a seal of approval.

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<sup>8</sup> 30 participants from the private and public sectors attended this round table. There was no representation from State/Territory consumer affairs agencies.

<sup>9</sup> The Office of the Information and Privacy Commissioner, Ontario and the Office of the Federal Privacy

However, several things would be needed for the Best Practice Model to serve as a useful seal of approval basis including greater specification of standards and a third party certification process. Currently, businesses can adopt the Best Practice Model logo based on self-certification. This provides no guarantee that in fact a business has adopted standards which go beyond minimum legislative requirements and are best practice. Further, while the Best Practice Model does not claim to be a prescriptive document, the ability to enforce a web seal approval program may well rest on the clarity and objectiveness of the standards. It may be desirable that the standard set some prescriptive measures, for example with regard to delivery timelines rather than simply require disclosure of the business' current practices.

## 5. SOME INTERNATIONAL MODELS

Attachment 2 describes the TrustUK model. TrustUK is a joint venture between the Alliance for Electronic Business and the UK Consumers' Association endorsed by the Department of Trade and Industry. Its aim is to enable consumers to buy online with confidence.<sup>11</sup>

TrustUK is an approval scheme for trade associations whose members are bound by an online code of practice. It does not approve webtraders directly.

The TrustUK seal signifies that the members of an association:

- protect a consumer's privacy;
- ensure payments are secure;
- assist consumers make informed decisions;
- ensure consumers know what they have agreed to buy and how to cancel orders;
- deliver goods ordered within the agreed time period;
- protect children, and
- sort out complaints, wherever the consumer lives.

To date, three code owners have received TrustUK approval, the Association of British Travel Agents Ltd, the Direct Marketing Association and Which? Webtrader, a division of the UK Consumers' Association.

There do not appear to be other government endorsed seal accreditation mechanisms. Consumers International in their report *Should I buy? Shopping online 2001: An international comparative study of electronic commerce* said on this matter:

*There is a need for a symbol which stands for safe and reliable shopping which is recognisable internationally so that consumers can shop with confidence both in their own countries and internationally.*

*This will encourage consumers to shop at less- familiar shops, thus promoting competition. Consumers International recommends co-operation between consumer organisations, industry and governments on an international basis to raise consumer awareness and confidence, and to improve the standards*

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<sup>11</sup> See <http://www.trustuk.org.uk/>



*and consistency of certification schemes. Any certification or accreditation body needs to be independent of industry.*<sup>12</sup>

The call for co-operative tripartite work at an international level on web seals of approval does not appear to have been picked up. And yet, given the diversity of seals now on the market, there is a need for some public policy response if only to address probable consumer confusion. The next section considers some possible policy measures.

## 6. OPTIONS FOR ACTION

Four options for action are considered. They vary in cost and the degree of intervention that would be required by government.

### 6.1 Guide to Seals

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The UK Director General of Fair Trading has a specific duty under the *Fair Trading Act* 1973 to encourage trade and professional associations to develop codes of practice. Despite a history of giving formal support to codes that the Office believed would deliver real consumer benefits, the benefits failed to materialise. OFT research revealed little consumer awareness of codes and little adherence to the rules by association members. Accordingly, the OFT has now determined to adopt a different approach by establishing a "strong consumer brand for OFT codes".<sup>14</sup> Not only had the previous approach not delivered the expected consumer benefits, but as the OFT noted "the growth of E-Commerce and other international trade also dictates a new approach to self-regulation"<sup>15</sup>.

The new approach involves two stages. In the first stage, the OFT has undertaken to set out clear criteria which codes of practice should meet including compliance and dispute resolution procedures. Associations would be encouraged to adopt these criteria in developing codes. At t[revp0]-0 enct -0.5(1.15.9( r)15(ons w)25.5(oul)-119.520(ben)o4.5



## **ATTACHMENT 1**

### **A Description of Some Common Web Seals**

**BBB**

and transaction integrity, confidentiality and non-repudiation. The program is being offered in many countries around the world including Argentina, Australia, New

- Choice - Users must have the ability to choose whether to allow the secondary use of that personal information.
- Access - Users must have reasonable access to information that may be held about them to correct inaccuracies
- Security - The site must provide reasonable security to protect data that is collected

The TRUSTe program provided users with an alternative dispute resolution mechanism, TRUSTeWatchdog.

In applying for the standard, firms are required to conduct an internal self-

Privacy - TrustUK approved traders must agree that personal information will not be collected without the consumer's consent. Traders must disclose what information is collected, how the information is collected, to whom the information is made available and how it will be used. The collection of sensitive information must have the consumer's consent and no information can be collected about a child under 12 without the verifiable consent of a parent or guardian. Consumers must also have access to information held.

Secure payments - Payments must be collected and held securely. Data must only be held for the purpose for which it was collected.

Informed buying - Traders must provide clear, helpful and adequate pre-contractual information. They must display all charges.

Orders and cancellation - Traders must have a clear returns policy which must be displayed prior to purchase.

Goods delivered on time - Unless otherwise agreed, traders must deliver an order within 30 days. If they cannot, the consumer must have the opportunity to cancel

Protect children - Traders must recognise the special needs and vulnerability of children and not market in a way that exploits them.

There is a 3-step process for the handling of complaints. First the consumer must approach the webtrader, second, the complaint should be referred to the association that owns the code of practice to which the trader belongs. Finally, if the complaint is not resolved, TrustUK can be approached.

Three "code owners" or associations have received TrustUK approval, the Association of British Travel Agents Ltd, the Direct Marketing Association and Which? Webtrader (a division of the UK Consumers' Association).

The UK consumers' Association established Which? Web Trader in 1999 and now has 1947 "members". The aim of the scheme is the development of a safe and secure online shopping environment for consumers.

Web traders displaying the Which? ( )Tj0 -1.14.j7(c)3p



- Guarantees - any guarantees must be noted
- Confirmation - both price and the order must be confirmed
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Global Reviews researchers simulate the online experience, analysing all online policies, contact customer service by e-mail and telephone and, where appropriate, purchase from the company.

Global reviews selects 70 of the top e-tailers. These e-tailers are reviewed irrespective of whether they are clients or not. Global Reviews further states that it does not receive either payment or permission from these 70 e-tailers nor is the company sponsored or affiliated with any of these e-tailers.

Global Reviews states it generates its revenue by providing valuable market research and strategic advice to its subscribers which include online retailers, major consultancies, advertising agencies, media organisations, financial institutions and airlines. An annual subscription begins at \$15,000 for the retail industry.

## ATTACHMENT 2

### Building Consumer Sovereignty in Electronic Commerce: A Best Practice Model for Business

The E-commerce Best Practice Model (BPM) was launched in May 2000. It represents Australia's implementation of the OECD *Guidelines for Consumer Protection in the Context of Electronic Commerce* (December 1999). It is also consistent with the Commonwealth Government's *Strategic Framework for the Information Economy* (January 1999) and *Policy Framework for Consumer Protection in Electronic Commerce* (October 1999).

The Model's guiding principles are functional equivalence and technological neutrality. The BPM does not exempt businesses from complying with existing consumer protection laws contained in the *Fair trading Act 1999* (Vic), the *Trade Practices Act 1974* (Cwth) and the *Australian Securities and Investments Commission Act 1989* (Cwth). Such legislation requires that businesses, inter alia:

- not engage in misleading or deceptive conduct or conduct likely to mislead or deceive;
- not make false or misleading representations about goods and services they supply;
- not engage in unconscionable conduct; and
- ensure that goods are of merchantable quality and fit for purpose.

#### *BPM Key Features*

- Advertising material should be able to be substantiated and be clearly distinguishable from other content.
  - Commercial e-mail should only be sent on an opt-in basis or to consumers where there is an existing relationship.
- Special care should be taken with minors including getting consent from parents and guardians prior to transacting business.
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- Businesses must comply with privacy law.
- Businesses should provide consumers with secure, easy to use payment options. Advice on security and authentication measures should be provided.
- Authentication and security mechanisms should be up-dated over time.
- Businesses should have accessible, fair and efficient internal complaints mechanisms and should provide advice about available external dispute resolution processes. These mechanisms should accord with best practice.
- Where a business specifies an applicable law or jurisdiction to govern contractual disputes, such advice should be specified early in the transaction.