

# REPORT ON ELECTRONIC COMMERCE™

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## Cannon, Eshoo Introduce First E-Privacy Bill of 107th Congress

**T**he 107th Congress had not settled into its seats for long before the first piece of legislation on Internet privacy was introduced. Reps. Chris Cannon (R-UT) and Anna Eshoo (D-CA) this month proposed the Consumer Internet Privacy Act, HR 237, which would require operators of commercial Web sites that collect personally identifiable information to define what type of information is collected, and to state how it will be used and who is collecting it. The bipartisan bill would allow the Federal Trade Commission (FTC) to issue civil penalties of up to \$22,000 per violation, or a total of \$500,000.

The bill is a good starting point for addressing Internet privacy, Cannon said. "We are going to rely heavily on the marketplace to help define how to implement the guidelines established in this bill's language, just as the market has commendably worked with government officials to develop other standards and seals for privacy," he added.

Eshoo, who said consumers shouldn't have to "reveal their life story every time they surf the Web," added that privacy must be protected without impeding the free flow of information on the Internet. "This legislation achieves that goal—the bill doesn't regulate the Internet; it empowers the consumer," Eshoo said.

HR 237 also would require Web site operators to enable users to limit the use and disclosure of their personal information for marketing purposes in a "clear, conspicuous and easy manner to execute."

As lawmakers launch new Internet privacy legislation on Capitol Hill, lobbyists are espousing their own views. AeA, formerly the American Electronics Association, said the new Congress should make federal pre-emption of multiple state privacy laws one of the top legislative concerns for the coming session. Federal privacy legislation

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## INTERNET'S EFFECT PEGGED A KEY MARKETPLACE CHALLENGE BY CEOs

A new study by Accenture (formerly Andersen Consulting) and The Conference Board seems to suggest more company heads worldwide are realizing the growing importance of doing business online. When asked to list their top marketplace challenges for the next year, some 500 global chief executive officers (CEOs) ranked "effects of the Internet" second among several concerns, compared to ranking that concern eighth in a similar survey last year.

The study, "The CEO Challenge: Top Marketplace and Management Issues 2001," states that the top three marketplace challenges for this year are changes in type/level of competition (identified by 41 percent of CEOs surveyed), effects of the Internet (38 percent) and industry consolidation (37 percent). Other marketplace challenges of note include shortages of key skills, downward pressure on prices and changing technology.

"The study clearly underscores the importance of technology and the Internet to business leaders around the world, especially among successfully established 'old economy' companies," said Richard Cavanagh, president and chief executive officer of The Conference Board. "The Internet, which only six months ago was the principal promise of emerging 'dot-coms' and the fascination of Wall Street, has become the practical technological lever for large and mid-sized competitors. As the Internet makes pricing more transparent, as customers demand faster service at lower costs, and as Internet competition intensifies, it is not surprising that the Internet is the concern that has risen dramatically for CEOs and is now ranked the second major issue globally."

European CEOs, who ranked the Internet's consequences eighth last year, ranked it first among their concerns this year. Asia-Pacific and Japanese executives ranked it second (fifth in 1999), while North American company heads listed it as their fourth-highest concern (eighth in 1999). The survey suggests that effects of the Internet did not make the top three North American challenges because many U.S. executives believe they have begun using the Internet effectively and they use it as tool, not as a total business transformer.

While the Internet showed the greatest gain from last year's survey among marketplace challenges, fewer technology CEOs this year rated the effect of the Internet as a top concern than did so last year. Rather, the study states that executives of trade companies, utilities, health care and other nontechnology industries were far more likely this year than last year to view the Internet as a top marketplace challenge. In addition, larger firms with sales volumes of more than \$5 billion are embracing the Internet as critical to their success.

"The early lead of technology firms has paved the way for innovative business models on the part of trade and services companies," said Tom Pike, Accenture's managing partner for growth and strategy. "Similarly, the early lead of the 'dot-coms' has given way to a major comeback on the part of mature enterprises. We'll certainly continue to see some bumps in the road ahead, but those who stay focused on innovative applications of new technologies to solve business problems will win big."

Accenture: Contact Anne Barlow. Phone: (312) 396-3404. <http://www.accenture.com>

"should play a crucial role in maintaining consistency and certainty" in the marketplace, said William Archer, AeA's president and chief executive officer.

Archer warned, however, that poorly crafted legislation could have the unintended effect of imposing burdensome, impractical new requirements on e-commerce and Internet businesses. "Only the federal government is in a position to create uniform U.S. privacy standards and work for international harmonization," he said. "Otherwise, online business could face 50 conflicting sets of privacy rules. Consumers and businesses alike would lose."

AeA urged lawmakers to consider its privacy principles in drafting federal pre-emption legislation. The principles recommend uniform, transmission medium-neutral national standards to protect privacy. AeA wants standards to require merchants to notify consumers of information collection practices, while allowing them to opt out of the use or disclosure of information if it's unrelated to the initial transactions between consumers and merchants.

The AeA principles also urge lawmakers to build on private-sector privacy seal programs and privacy codes, while relying on the FTC's See PRIVACY, p. 5

## Federal Update

### White Paper Views Fraud, E-Crimes at 'Crisis' Level

The rapid growth of economic and Internet crime is costing the United States billions of dollars, prompting the head of the National Fraud Center (NFC) to call it a "national crisis." In a new white paper, the NFC urges the use of hardware and software to boost online security and authentication, along with the enactment of Internet regulations to tackle economic and Internet crimes.

In the paper, "Economic and Cyber Crime: A Growing Global Threat," NFC, a division of Lexis-Nexis Risk Solutions, states that economic crime now costs Americans more than \$500 billion annually, compared to about \$100 billion in 1990 and \$5 billion in 1970.

"For decades, our society has focused primarily on violent crime and has ignored many of the warning signs of growing economic crime," said NFC Chairman Norman Willox. "The growth of economic crime is increasing far faster than normal and has the potential to become a serious national crisis. For this reason, we can no longer afford to view economic crime merely as the cost of doing business. Further, we must recognize that victims of economic crimes are in many instances just as seriously victimized as many violent crime victims."

The NFC paper, co-written with The Economic Crime Investigation Institute of Utica College, states that the Internet can enable scroflaws to spoof or hijack a Web site, compromise payment systems and enable identity theft and credit card fraud. For example, the white paper states that identity theft affected up to 700,000 victims in 2000, costing about \$50 billion for the year.

"As more electronic banking occurs, as more securities are purchased over the Internet, and as other financial services are provided, the consumer

will be more vulnerable and the risk of theft of private information will increase," the report states. "This does not mean that stolen personal information will grow rapidly online. In fact, traditional identity theft is still much easier. But transmitting fraud online is easier. Preventing, detecting, investigating and prosecuting economic crimes must become a priority in order to lessen their impact on the economy and the public's confidence."

Among the recommendations NFC proposes in the white paper are:

- Enacting laws, regulations and improved reporting systems, adding that future legislation addressing Internet security and fraud should use language that will be easily adaptable to future technological changes to help deter economic crime.
- Fostering public-private partnerships to prevent and combat these crimes, including sharing tools and fraud databases.
- Increasing law enforcement budgets for personnel and hardware and software to investigate and prosecute Internet criminals.
- Increasing global interaction and cooperation through multinational organizations, treaties, alliances and consistent laws.
- Balancing privacy interests, weighing personal privacy concerns against the need for prevention, investigation and prosecution.

"The United States must take the lead in fostering cooperation throughout the global community in the development of uniform laws, meaningful and comparable privacy policies, effective assistance to prosecutions by foreign countries and sharing information," Willox said. "Current and future administrations must recognize the full impact of economic and cyber crime, both domestically and globally, and make a concerted, strategic effort to combat it. A national plan of action must be developed."

### Fraud Prevention Tips Now Online

In another fraud matter, the Worldwide E-Commerce Fraud Prevention Network (WECFPN) has launched a Web site (<http://www.merchantfraudsquad.com>) that provides

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#### GETTING IN TOUCH

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advice about how to combat online fraud. The site now contains articles on tools for preventing the use of stolen credit cards online; secure Web hosting tips; how to effectively report online crime; the future use of e-signatures for fraud prevention; and consumer tips for shopping safely online.

“Combating online fraud represents a huge challenge since merchants can be vulnerable to a wide range of criminal tactics, even if their own Web sites are secure,” said WECFPN co-chair Jennifer Bennett, vice president for customer service strategy at American Express Corp. WECFPN “seeks to identify these vulnerabilities and provide smart solutions for fighting back.”

The Network seeks to educate merchants about fraud prevention techniques and to encourage online enterprises to adopt best practices and anti-fraud technology. Since the coalition’s launch, more than 375 businesses and organizations have signed on as charter members.

“The number of companies that have joined the Network over the last three months indicates there is a broad interest in learning more about combating online fraud,” added WECFPN co-chair Travis Fagan, vice president for customer support at buy.com. “As more merchants use our site to get educated and adopt fraud prevention practices that fit their businesses, we hope they will see a meaningful reduction in fraud losses.”

National Fraud Center:  
<http://www.nationalfraud.com>

WECFPN:  
<http://www.merchantfraudsquad.com>

## ITAA Report Offers Guide To Securing E-Government

U.S. government agency officials now have a guidance that addresses key security concerns about offering Internet and other electronic services. A new publication, “Securing Electronic Government,” released Jan. 19, stems from an eight-month partnership between the Information Technology Association of America (ITAA) and the government’s CIO Council and CFO Council.

The report covers e-security concerns in three principle areas – government e-procurement, Web-based information services and governmental financial transactions. It focuses on five security

goals – data availability, user identification and authentication, confidentiality, information integrity and nonrepudiation.

“What we will do is provide this to the federal community and, based on their feedback, we will expand to other areas or refine these three areas,” said John Gilligan, deputy chief information officer and principle deputy assistant secretary for business and information management for the U.S. Air Force. “That becomes the road map ahead.”

Gilligan stressed that the government needs to ensure secure electronic documents to avoid a loss of public confidence. ITAA and the CIO Council and CFO Council initially met in May 2000 to develop guidelines for adequate security provided by industry that government agencies can use.

The report states that availability and integrity were the most important priorities in providing Web-based information services, such as data on taxes and unemployment rates. Denial of service attacks and malicious data change were identified as the most threatening breaches to this category. Confidentiality, identification and authentication, and nonrepudiation were listed as lesser priorities. “Techniques do exist to safeguard these priorities,” said David Nelson, deputy chief information officer for the National Aeronautics and Space Administration.

Concerning government Internet procurement, the report notes that current industry security solutions for credit card purchases are adequate for small e-procurement transactions of \$100,000 or less, which comprise the bulk of government online procurement deals. Medium procurements between \$100,000 and \$10 million require heightened time sensitivity and confidence, requiring more extensive security solutions. Large purchases of more than \$10 million are unique in confidentiality and require means to ensure the integrity of the data, calling for customized solutions.

When making financial transactions, government agencies must ensure the integrity of the transactions, the report states. “The public holds government to high standards because they have no choice in conducting transactions [with the government], and [agencies] need to ensure high public confidence,” added Sky Leshner, deputy chief financial officer at the Department of the Interior. “They need to feel like they are in a secure environment.”

Leshner added that the report seeks to take a proactive stand on government e-security. "One of the things that will be important is we prefer to be in a prevention mode rather than a recovery mode" that reacts to security breaches, he said. "We're trying to avoid major problems." Nelson added that the report also provides agency managers with security "know-how" from industry representatives.

ITAA: <http://www.ita.org>

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existing authority to enforce information-collection notice requirements.

### Other Voices

In response to AeA's privacy principles, the Competitive Enterprise Institute (CEI) applauded AeA for cautioning legislators to avoid imposing rigid rules for e-commerce privacy and for seeking similar privacy rules for the Internet and physical world. However, CEI favors industry self-regulation rather than moderate federal legislation on notice and consumer opt-out options favored under the AeA plan.

"The federal legislative process too often resembles lining up under the gun, hoping that the legislative firing pin will fall harmlessly on an empty chamber," said Solveig Singleton, senior policy analyst for CEI in a commentary comparing AeA's principles to playing Russian roulette. "Moving too fast to a legislative agenda will tempt companies to give short shrift to educating Congress about the consumer benefits of preserving the freedom to exchange information about their customers to trim costs, design new products and enter new markets. There's no reason to hasten along a regulatory boot in the door of the Internet."

Singleton added that even minimal federal legislation could create more serious liability problems than it solves. "Could a notice be clear and concise, and yet realistically describe complex business practices?" he said. "A 'notice' requirement gives rise to particularly thorny questions such as, what if the notice is changed?"

In addition, the Privacy Leadership Initiative (PLI), a coalition of chief executive officers from major companies and business associations, is urging online firms to proactively develop sound Internet privacy policies. PLI Executive Director

## CLINTON ADMINISTRATION REPORT LAUDS INTERNET ADVANCES

As one of its final acts, the Clinton administration took credit for many of the advancements made in cyberspace during the past eight years. A new report on achievements during Clinton's tenure says the number of unique Internet addresses rose from 1.3 million in 1993 to 93 million in 2000, generating about \$184 billion in estimated business-to-business e-commerce revenues last year.

The report, which was released by then-White House Chief of Staff John Podesta, said the administration's policies had helped boost Internet use for children, inner cities and disabled Americans.

The report also credits the Clinton team with enhancing consumer protections online by "successfully challenging industry to establish codes of conduct, encouraging consumer education and aggressively fighting misleading and deceptive practices online." It notes that the number of commercial Web sites posting privacy policies increased from 2 percent in 1998 to 62 percent in 2000.

The report also cites the Federal Trade Commission's issuance of rules in April 2000 implementing the Children's Online Privacy Protection Act, and President Clinton's signing of the Electronic Signatures in Global and National Commerce Act (E-SIGN) making digital signatures as legally valid as hand-written signatures (REC, June 20, 2000, p. 6).

In other Clinton administration matters, former Commerce Secretary Norman Mineta unveiled a new government information-sharing center designed to protect information technology (IT) from future online attacks. President Clinton had promised last year to establish an IT Information Sharing and Analysis Center (ISAC) during a meeting with IT company and organization executives concerned over network disruptions during 1999.

The IT-ISAC, which includes a list of voluntary members such as Cisco Systems Inc., Entrust Technologies, Microsoft Corp., RSA Security Inc., Securify Inc., Verdian and VeriSign Inc., will report and exchange information among its members concerning electronic incidents, threats, attacks, vulnerabilities, security solutions and countermeasures.

Mineta said the IT-ISAC would enable the high-tech industry to take the lead in spotting potential threats to the Internet and information infrastructure security measures. He said the industry program could lead to broader information sharing in the future. "Ultimately, we anticipate that there will be industry and government sharing of information among the ISACs that have been created," Mineta said. "The industry-only ISACs are a first step in that direction."

The center is the fourth industry-specific ISAC in the nation. Other ISACs have been created for the financial services, telecommunications and electric power industries. Clinton issued an executive order creating the first ISAC in May 1998.

Walter O'Brien identified a "trust deficit of troubling proportions" that prevents many consumers from participating in e-commerce.

"We know the trust deficit exists and we know people are skeptical about whether businesses are capable of developing and implementing sound privacy policies," O'Brien said. "We have a

chance to show – clearly, consistently and convincingly – how information-sharing based on informed consent and real protection worked to benefit all parties over time. We have an opportunity to reverse the trust deficit." PLI in the next few months will release a report on the economic effects of restricting the routine use of consumer information.



Gary Arlen

## Finding Lessons Amid Holiday Sales Data Deluge

By Gary H. Arlen  
Senior Contributing Editor

On Dec. 28, 2000, one online marketing analyst published a report headlined, "Holiday E-Sales Flat Compared to 1999." The next day, another report boldly stated, "2000 Holiday Site Visits Up Over 1999."

Although the two findings were not mutually exclusive, their seemingly contradictory messages appropriately reflect the nature of the holiday season online shopping binge. It actually took several more weeks for the various research services to come up with "final" figures (still subject to further verification), and even now the messages remain convoluted.

Consensus estimates put the U.S. online holiday shopping spree in the \$9.5 billion to \$11 billion range – significantly below the \$12 billion forecast (REC, Oct. 17, 2000, p. 5), but still well above last year's \$5 billion level. Those figures nullify that first headline above. Indeed, America Online Inc. (AOL) alone claimed that its merchants sold \$4.6 billion worth of merchandise during the holiday season.

In what is becoming the most-studied segment of the e-tailing process, holiday shopping figures are being scrutinized and evaluated as merchants and manufacturers seek lessons from the annual experience. For example, the MediaMetrix gauge of site visits (which spurred the second headline) found that 34.3 million unique visitors on average went to retail sites each week during the 2000 holiday shopping season (the week ending Nov. 26 through the week ending Dec. 24). That was up 30.3 percent compared to the 1999 holiday shopping season and surpassed the Web's overall growth of 18.6 percent during the same period.

The data dump includes not only raw sales figures, but also explorations of site performance, customer satisfaction and merchant experiences.

So far, the results paint a generally upbeat – yet still mixed – assessment of the 2000 holiday shopping binge.

- Customers generally were satisfied with the experience, but they were frustrated by high shipping fees, lack of inventory and frequent Web site failures.
- A handful of categories emerged as continuing best-sellers, during the holidays as well as throughout the year: computer-related items, books, apparel, music and movies. Toys appear to be the only true seasonal winner.
- Brick-and-click establishments are escalating in value, confirming the belief that online shoppers are most comfortable with merchants they recognize.
- Experienced online shoppers learned the fulfillment lesson in 1999 and bought early in 2000. Nielsen/NetRatings found the season's all-time high of 68.4 million online shopping trips took place the week ending Dec. 10. Web shopping actually fell off precipitously during the week before Christmas.

### No Standard Tally Procedure

If size is important, then the measurement of holiday online shopping remains a guessing game. Depending on whose numbers you believe, online shopping hit \$6 billion (BizRate.com), \$8.4 billion (Gartner Group Inc.) or \$11.6 billion (Jupiter/MediaMetrix). Among firms that lump the entire fourth quarter together, IDC said the seasonal sum was \$12 billion, while Yankee Group called it at \$9 billion.

Not only are these researchers' definitions of "holiday season" significantly different (November-December vs. Thanksgiving through Christmas

Eve), but their methodologies vary widely. Some of them sample Web sites for sales data, while others poll shoppers to draw usage conclusions. Still other researchers focus on specific merchants or categories.

Although there is disagreement about the gross value of the holiday online shopping tally – other than for promotional purposes – the overall revenue for holiday sales is considered a useful benchmark. That’s why the vast range of results is frustrating. BizRate.com found that online shoppers spent \$6 billion during the holiday season, with more than 52 million orders placed online between Nov. 20 and Dec. 26. Bizrate.com’s interpretation was that the modest growth of only 60 percent above the previous year means that “e-tailers will no longer have to be as dependent on the season to boost their annual revenues.”

The Boston Consulting Group and Harris Interactive survey found that 49 million consumers spent, on average, 38 percent more on holiday gifts than did online purchasers in 1999. However, the study says online retailers didn’t fully capitalize on consumer demand as many potential e-shoppers opted not to buy online. Research in October showed 70 percent of online users planned to conduct part of their holiday shopping online. Yet the BCG/Harris survey found 27 million of those same consumers, who represent 22 percent of the total online population, decided against purchasing holiday gifts on the Internet this year. No reasons were given for the decisions to abandon online shopping.

Visits to Web sites were an indicator of both shopping preferences and promotional success. According to Nielsen/NetRatings, the top 10 shopping sites during the holiday season were: Amazon.com/Toys ‘R’ Us (122,996,842 unique visitors); eToys.com (21,120,709); Dell.com (21,001,245); Barnes & Noble (20,248,728); CDNow.com (20,019,849); Walmart.com (18,007,889); HP.com (15,634,552); Buy.com (14,527,981); JCPenney.com (14,463,598); and BestBuy.com (12,482,813).

The lineup demonstrates that brick-and-click presence has value. Of the top 10 online retailers, half are firmly connected to brick-and-mortar stores: Toys ‘R’ Us, Barnes & Noble, Walmart, JCPenney and BestBuy.

Yet contradictory interpretations abound. An independent consulting firm called Quidnunc Inc.,

insists that the “shopping experience they provide could quickly put them under.”

Similarly when it comes to gender usage, NPD Group, BizRate.com and PCData Inc. found that women shoppers outnumbered men online this year by a very slight majority. But the Digitrends/AudienceProfiler’s study identified a significant male skew. Not only did males use the Web proportionately more than females, said these researchers, but they spent more: Men average \$298 in total online purchases; women bought \$251, according to Digitrends/AudienceProfiler.

## Lessons Emerge

Even with this conflicting and abstract data, trends are sprouting up that point the direction for future consumer online selling – applicable during holiday seasons and year-round.

- **Shop early:** Concerned about fulfillment problems, consumers seemed to bail out of Web shopping earlier than usual. E-tailers saw little action the week before Christmas, according to MediaMetrix. About 31.8 million visitors did some last-minute e-shopping the week before Christmas, marking a decrease of 10.9 percent from the holiday season’s peak of 35.6 million visitors in the week ending Dec. 3. The survey also found traffic to retail sites was down each day of the week before Christmas compared to the prior week, with visitors down by 2.9 percent on Monday, Dec. 18, and by 31.0 percent on Sunday, Dec. 24.
- **Geek levels remains high:** The top 10 e-tailers were overrepresented by electronics/computer vendors (HP.com, Dell.com, CDNow.com

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and BestBuy.com) – underscoring that electronically minded shoppers are the best prospects online. Although there are many indicators that shopping extends well beyond this cluster of products, electronics are likely to remain a mainstay for the foreseeable future.

- Handful of dominant categories: computer hardware, books, music and toys plus apparel remain the constant giants of online shopping. That means niche products must find special audiences.
- Customers don't recognize their own online habits yet: In a valuable before-and-after study, Digitrends.Net teamed up with AudienceProfiler to benchmark the online buying patterns of experienced Web shoppers. The study started with a pre-holiday poll of what these customers planned to do online, then compared it with a post-holiday review of actual behaviors. For example, the group intended to handle 33 percent of its holiday shopping online, but actually conducted 38 percent of its purchases via the Web. On the other hand, they expected to average \$305 in online purchases, but ultimately spent only \$276 on average – a cost-consciousness that mirrored the scale-back in much offline buying patterns. Shoppers who have been online for more than a year spent a median of \$277, while users who have been online for less than one year spent \$155.
- Be ready for returns: Customers sent back 15 percent of their orders, up from 13 percent last year, according to BizRate.com.

Separately, a study by WatchDog247.com found that many of the top 20 e-commerce sites couldn't process orders for more than 30 minutes per day during the final leg of the holiday shopping season. For example, the company estimates Egghead.com Inc. lost more than \$1 million during the last week of the peak holiday season because buyers couldn't access its Web site.

Those frequent complaints about slow performance at some busy sites was another topic for this year's researchers. Keynote Systems Inc., a San Mateo, Calif., firm that conducts an annual e-shopping holiday study, monitored the response times of 30 major e-tail sites. It identified a trend of week-to-week improvement during the period after Thanksgiving. Overall, performance for all the sites Keynote monitored (i.e., the time to serve up a frame) was about three seconds. During

the week before Christmas, Macys.com was the only site to exceed the "eight-second rule," according to Keystone, serving frames in an average 8.71 seconds.

Accenture (formerly Andersen Consulting) conducted its second annual "e-fulfillment study," which showed that almost 92 percent of online holiday purchases were successful this year, far better than the 1999 level in which only 75 percent were completed successfully. The survey found that both traditional and online retailers were 95 percent reliable in having the stock that they promised customers, but traditional retailers still take longer to close an order – the gap has decreased from three minutes in 1999 to a minute and a half this year. The time savings for customers online has improved, as customers now spend 25 percent less time shopping, down from 12 minutes in 1999 to nine minutes in 2000.

### What to Know about Online Customers

The intense scrutiny of online holiday shoppers has generated an avalanche of user data that can teach e-tailers how to approach their future marketing efforts. For example, the Digitrends/AudienceProfiler study confirmed that two characteristics stood out among the Web shoppers: high income (more than 75 percent of Web shoppers had incomes above \$50,000) and Web experience (71 percent had been using the Web for more than two years).

Several studies also found high overall consumer satisfaction levels:

- NPD Group states that 92 percent of shoppers were satisfied with their online experiences. Of these, 57 percent were "very" or "extremely" satisfied and 35 percent were "somewhat" satisfied. The NPD e-Visory study also concludes that 37 percent of shoppers had no troubles whatsoever with their online experiences. For those who did encounter difficulties, the most common problems were out-of-stock merchandise (encountered by 31 percent) or the site was down (23 percent).
- The Boston Consulting Group/Harris Interactive study concludes that 79 percent of online holiday shoppers were satisfied with their shopping experience, and 90 percent indicate the product selection online was as good as or better than it was offline.

- The Digitrends/AudienceProfiler research states that 70 percent of e-tail customers were “very satisfied.” Again, there was great annoyance with specific sites. For example, oft-visited sites such as Toys ‘R’ Us often ranked low because customers found limited product selections and no timely response to their questions. The biggest turn-offs were prices, return policies and shipping fees.
- A CBS News/New York Times poll says that 69 percent of online shoppers rated their experience better than shopping at a store. Only 5 percent said shopping on the Internet was worse than shopping at a traditional store. The poll concludes that of those surveyed, 97 percent said they would buy gifts online again.
- The Digitrends/AudienceProfiler study finds that customers were not turned off by the check-out process and site navigation, saying that these were the least important reason for abandoning an online shopping process.

The intense holiday shopping season – especially in a year like 2000 when consumer

confidence was waffling – offers a barely reliable petri dish for evaluating e-tailing. The number of variables is too great. For example, customers still are concerned about credit-card security, high shipping charges and the inability to gauge product quality. Those factors transcend the individual offers of competing merchants.

What’s more difficult to assess – especially amid the clutter of so many surveys and conflicting interpretations – is the behavioral shift as shopping acquires new dimensions. Just as the social/window shopping pleasure of malls and Main Streets have been ruined by parking jams and rude clerks, so is the e-tailing process being affected by technical and back-end factors. The entertainment factor – a part of “recreational retailing” in the ‘80s and ‘90s – has been sacrificed to efficiency, thus taking away one of the merchandisers’ benefits.

The major lesson of holiday shopping in 2000 was that online merchants may have attracted an intense, small cadre of satisfied shoppers – but there are still ideas to be gleaned from their brick-and-mortar brethren.

## Industries Look for Ways To Implement E-SIGN Law

By Marvin V. Greene  
Contributing Editor

A new federal law authorizing the use of electronic signatures in contracts and other documents is creating a flurry of activity in several industry sectors seeking to take advantage of the law and advance their e-commerce initiatives.

The Electronic Signatures in Global and National Commerce Act (E-SIGN), signed into law last summer (REC, June 20, 2000, p. 6), advanced exponentially the use of online and electronic contracts signed with electronic signatures by standardizing their use for interstate commerce. Previously, most states had adopted their own e-signature procedures, but methods and standards were varied and inconsistent. The E-SIGN law, in effect, tidies up all the efforts of the states.

“It has laid a foundation and it raised awareness so that people will say, ‘I don’t have to worry whether it’s legal or not,’” said Toby Brown, vice

president of strategic initiatives for iLumin Corp. of Utah, which offers infrastructure that helps organizations deliver automated enforceable online transactions.

Industry sectors – including real estate, financial services, insurance, health care and government – are scrambling now to find the best ways to implement procedures under the law. Procedural, security policy and technology questions loom, but organizations are rushing to get going, observers told REC. Already several organizations have launched pilot programs.

“When I look back on where we were 10 years ago, I never would have believed where we are today,” Stephen Bisbee, president and founder of Baltimore, Md.-based eOriginal Inc., an enabler of digital e-commerce transactions, said about the rise of e-signatures.

In fact, the law last year moved through Congress and the White House so dynamically, “it really surprised a lot of people. It caught a lot of people in the industry flat-footed,” Bisbee added. The law is spurring demand for devices like signing pads and software tools to enable the



Marvin V. Greene

execution of transactions, e-documents, archival systems and public key infrastructure (PKI).

Organizations, after surviving the Y2K distraction, now are refocusing their information technology (IT) budgets on building e-commerce infrastructure, iLumin's Brown said. "The E-SIGN legislation was very well-timed," he said. "We see in the next six to nine months that this is going to ramp up and take off."

Bisbee added: "It has caused some dramatic reactions. I think it's going to accelerate faster than I had expected. A year ago, I would have said this would take two or three years, but I think you're going to find quite a large segment of electronic transactions occurring this year."

Companies like iLumin and eOriginal, for instance, are offering their own proprietary applications, and other companies are partnering to speed solutions. iLumin's Digital Handshake Server technology contains an "online signing room," where verified participants to a transactions can originate, review, modify and digitally sign documents.

eOriginal is pushing its Electronic Original process, which creates unique, identifiable and unalterable source records in electronic form. Michael H. Jordan, former chairman and chief executive officer of broadcaster CBS Corp., is chairman of eOriginal.

The various industry sectors seeking solutions believe the use of e-signatures will help them reduce costs and increase market share because it will speed up the execution of contracts and other documents such as purchase orders, leases, bills, promissory notes and receipts. Documents exempted from the law include wills, divorces and adoptions.

What E-SIGN did was "level the playing field between electronic and paper media," eOriginal's Bisbee added. "It has caused some dramatic reactions. I think it's going to accelerate faster than I had expected. A year ago, I would have said this would take two or three years, but I think you're going to find quite a large segment of electronic transactions occurring this year."

Prior to the Oct. 1 effective date of the E-SIGN law, states, which oversaw the execution of legal contracts, had created a fertile ground for using e-signatures. About half of the states in 1999 had

adopted provisions of the Uniform Electronic Transactions Act (UETA), which had been recommended by the National Conference of Commissioners on Uniform State Laws (REC, Dec. 7, 1999, p. 4). While E-SIGN and UETA are similar, UETA provisions lacked consumer protections, consistency among the states and uniformity over interstate commerce.

For instance, consumer advocates like the stronger language in E-SIGN that requires a specific electronic consent process before an electronic document can replace a legally required written one. In short, the electronic document must be proven before it can be executed, whereas in the UETA provisions the two parties only have to agree to it.

### Mortgage Industry Assesses E-SIGN

The mortgage industry sector is moving ahead quickly to determine how it can benefit from the E-SIGN law in real estate transactions. "They're looking very hard at what solutions are available, what it costs to implement them, what are the benefits to their business in being able to do this and how do they get ahead," Bisbee said.

The E-SIGN law will impact all segments of mortgages – loan origination, underwriting, title insurance and closing, Bisbee added. Mortgage companies believe the law not only will allow them to lower expenses and capture additional market share, but these savings also will prevent them from losing market share to competitors. "The cost savings of being able to process and originate that loan will be passed on to the consumers," he said.

Helping to drive the market for electronic contract documentation is the E-SIGN law's flexibility. The legislation does not endorse a specific authentication technology, whether it is standard electronic signatures, public key certification or biometrics.

"People are now spending a lot of time trying to get educated on the myriad technologies that could potentially satisfy the requirements" of the E-SIGN law, said Patty Edfors, director of government and mid-Atlantic operations for Baltimore Technologies Ltd., a Dublin, Ireland-based e-security solutions provider.

Organizations must decide whether to develop their e-signature programs around electronic

signatures or the more complex digital signatures, which involve PKI. "There is a whole area of electronic records management that is being explored as well," Edford said. "In addition to figuring how you want to digitally sign something or electronically sign something, you have to figure out how you retain that record and how long retention needs to be. Everybody has different views on that. That is taking a fairly long amount of time because there are a lot of management decisions to be made."

These parameters for retaining electronic documents will vary, depending on a particular business's practice and type of contract, rather than depend on the will of a particular industry segment, Edfors said. For instance, in business-to-consumer situations, consumers likely will accept the technology given them when they agree to an electronic contract. However, in business-to-business interactions, both sides will need to agree on what technology to employ, such as with a mortgage company and title company, she added.

Brown of iLumin said the real estate industry may favor digital signatures rather than electronic signatures because it must retain records for several years.

While electronic signatures can occur simply when parties commit themselves to an agreement and generally are less secure, digital signatures are "tied to the identity of someone," Brown said. "The digital signatures provide a very high level of ensuring that we have indeed the same document that was signed 20 years ago."

**CORRECTION:** A story in the Dec. 19, 2000, issue of REC (p. 9) incorrectly identified ElderVision.net as a dot-com online destination.

## B2B Transactions Boost Financial EDI Numbers

If new numbers from the National Automated Clearing House Association (NACHA) are any measure, companies are growing more adept at making electronic payments to their online business partners. NACHA officials this month reported that financial electronic data interchange (EDI) over the automated clearinghouse network grew by 21.5 percent in 2000 as the network

handled more than 96 million financial EDI transactions, up from 79 million in 1999.

Financial EDI is the electronic exchange of payments or financial-related documents in standard formats between business partners, in which the remittance information accompanies the payment. "At the same time that financial institutions and companies are creating and using new business-to-business (B2B) technologies, financial EDI continues to grow," William Nelson, executive vice president of NACHA, said while presenting the findings at NACHA's Electronic Commerce 2001 conference Jan. 22 in San Francisco, Calif.

"B2B on the Internet is contributing to the growth of financial EDI, because payments still need to be made no matter how the transaction is originated. Today, financial EDI remains an effective way for companies to do business with trading partners, whether through new B2B applications such as digital marketplaces or through traditional vendor/purchaser EDI arrangements," Nelson added.

In addition, NACHA found that corporate trade exchange (CTX) payments, a type of financial EDI that allows multiple invoices to be paid with one transaction, increased by 39.8 percent, from 14.4 million in 1999 to 20.1 million in 2000. These payments have more than doubled in the past two years. "The high growth in [CTX] payments means that companies are achieving productivity gains in their accounts payable and receivable operations by paying for multiple invoices with a single payment," Nelson said.

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The total volume of corporate electronic payments over the ACH network was more than 902 million in 2000, up from 818 million in 1999, a 10.3 percent increase. This total includes B2B and government-to-business financial EDI, non-EDI payments and intra-business cash concentration. The number of addenda records – the information and documentation portion of financial EDI – rose from 206 million records in 1999 to 267 million in 2000, a 29.8 percent increase.

In another NACHA matter, NACHA's Council for Electronic Billing and Payment this month released a white paper assessing three models for B2B electronic invoice presentment and payment (EIPP).

"The purpose of the white paper is to provide an objective, educational tool on Internet-based electronic invoice presentment in business-to-business transactions," said Connie Howard, chair of the council's B2B task force and director of sales strategy development with TriSense Software Ltd. "It is intended to help businesses

understand the different approaches emerging in the market today."

The white paper, "Business-to-Business EIPP: Presentment Models and Payment Options," outlines three current EIPP models – seller direct, buyer direct and consolidator. It states that businesses seek to migrate to EIPP because of shortened transaction cycles, accelerated revenue cycles, improved cash flow management, increased marketing opportunities, improved productivity, reduced direct costs and enhanced customer service.

B2B EIPP transactions include procurement, contract administration, fulfillment, financing, insurance, credit ratings, shipment validation, order matching, payment authorization, remittance matching and general ledger accounting. Each of these steps may be governed by complex business rules. B2B transactions also are more likely to be disputed than business-to-consumer transactions.

NACHA: <http://www.nacha.org>

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## Q&A on Wireless E-Commerce

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### FTC Commissioner Keys Flexibility to Wireless Internet

At a recent Federal Trade Commission (FTC) workshop on the wireless Internet and emerging data technologies, speakers hailed the promise of wireless e-commerce but said policymakers must take steps now to assure the security of consumers' personal information for it to reach its potential.

Federal government officials, industry representatives, and consumer and privacy advocates stressed the need for a uniform set of privacy and security standards covering mobile devices. One issue that drew much discussion was the use of location technology, which privacy advocates worry could allow consumers' movements to be tracked. Another key question explored was how service and content providers and other players can disclose their advertising and privacy policies on mobile devices' tiny screens.

FTC Commissioner Mozelle Thompson told the workshop that any regulatory response to the wireless Internet "should be creative, flexible and organic—built with an ability to embrace change." Commissioner Thompson discussed the issue with REC. An edited transcript of that interview follows.

**REC: Why did the FTC hold the wireless Web workshop?**

**THOMPSON:** We wanted to set a framework; we wanted to have people talk about some of the issues that are involved with wireless technologies that actually present some questions for the public. Namely, there are privacy and security issues that we've been concerned about at the FTC as one of the principal consumer protection agencies in the United States. And so it gave a chance for people who are working in this area to talk about what they're doing, for us in government to learn more about what's happening in the marketplace, for consumer groups and others to talk about some of the concerns that they have, and for businesses to talk about how these issues are going to be addressed in the future.

REC: Was it helpful?

THOMPSON: It was very helpful. It's always good, especially in the area of technology where things are changing so fast, to have a place where people can exchange ideas. And we have to recognize that no single entity has the right answer or, for that matter, sees the problem in exactly the same way as others. So to begin to talk about some of those issues collectively is a good thing.

REC: Some speakers at the workshop said regulators and industry officials could learn lessons from the approach toward the wired Internet. What regulatory actions has the FTC taken regarding privacy and security over the wired Internet?

THOMPSON: First of all, we've brought more than 150 different actions dealing with fraud and deception on the Internet. We've also brought some actions dealing with privacy issues: We had a very well publicized action against GeoCities about a year and a half ago, when it was making representations about how it was keeping consumer information private, yet it was providing that information to third parties without letting people know about it.

REC: Regarding legislation, the majority of FTC commissioners have favored "backstop legislation" to ensure that consumer privacy is protected online [REC, Aug. 8, 2000, p. 4].

THOMPSON: Right, at this stage a majority at the commission said that what we support is legislation that would essentially get at the holes in the Swiss cheese – to recognize that the industry itself has a first-line interest in ensuring that consumers are confident by giving them privacy protections. And to the extent that companies don't provide that, then we would like to have some legislation that allows us to get companies to provide those protections.

The second point is that companies that essentially are providing protections should find some very basic principles – like notice and choice and security and access – so that all consumers can see that across the Web. That's the key linchpin to consumer confidence.

REC: What are the chances of such legislation passing in Congress this year?

THOMPSON: I'll tell you this, I think that privacy is on the front burner. There are well over 60 bills dealing with different aspects of privacy [that were introduced last session] in Congress. We also saw many people go home to their various congressional and senatorial districts actually

running commercials and campaigning on this issue, because it's not a left issue or a right issue.

It really has to deal with the "middle America" issues that people are concerned about. So privacy in some form is going to be dealt with pretty early on because there's a common consensus that the answer is not zero. Then the challenge is to do something that's workable.

REC: The wireless, Internet and advertising industries are urging self-regulation. How effective do you think that can be?

THOMPSON: I don't want to prejudge that issue. Clearly self-regulation is going to be a very important first line of defense, because companies involved in the wireless Web are the ones that are best able to talk about what the technological responses could be and to work on creation of technological responses.

But it's also important for those companies to be involved in discussions with consumers and the government so we can all be sure that we're on the same page.

REC: What do you see as the key privacy and security issues for the wireless Web?

THOMPSON: We're only now beginning to understand a little bit more about those issues, and I'm hesitant to give you any one particular thing. Clearly, security is one issue that people talk a little bit about – particularly with the Global Positioning System and hand-held devices, and the ability to know where people are and under what circumstances. Another issue is ensuring that the information you send actually goes to the places you intend to send it; that's going to be very interesting, too. And, of course, what representations companies wind up giving consumers about how their data is being used and how it's being collected also will be important.

REC: Are there even more privacy and security dangers with the wireless Web than with the wired Internet?

THOMPSON: There are some unique challenges posed by the wireless Web, like the fact that you may not know exactly what people are doing with information they're gathering about you, including such basic information as where you are and what you're doing. That's a very interesting point, but we're only beginning to talk about those issues now and to signal that they're issues that consumers are concerned about.

REC: How difficult will it be to assure consumers their personal information is secure?

THOMPSON: This is an area where consumers and government and business alike have a common interest – to ensure that consumers are confident. Consumers are using the Internet more and more every day. There's such a great potential.

There's this great difference between the number of people who use it to look for information and those who actually buy things. Those who don't buy actually tell you that the reason is they're concerned about what happens to their data. So the challenge for industry is to include consumers in the value proposition. In other words, if information is being collected, consumers must be aware of what's being collected and that there's a value they derive from being involved in that process.

REC: You said at the workshop that the FTC's response to the wireless Web should be creative, flexible, and built with an eye toward embracing change. What did you mean by that?

THOMPSON: One of the challenges for any government is, in a fast-moving marketplace, not to create systems or rules or regulations that are outmoded the day they leave the typewriter. So the key is, are there common sense ideas and principles that people can follow, that can meet consumer expectation, and that actually can embrace change? I think we can do that.

REC: The workshop was billed as an information-gathering session. But a lot of people are wondering if the FTC is going to impose regulations on the wireless Web. What are your plans in this area?

THOMPSON: I don't think that we're looking toward broad-based regulation or anything like that. What we're looking at is, first of all, to begin scoping out some of the issues. Once you begin to talk about the issues, then there is a variety of different responses, some of which don't have anything to do with government at all.

REC: The FTC isn't responsible for licensing new devices or technologies. Does that make it difficult for the agency to keep up with such developments?

THOMPSON: No. There are lots of areas we're involved in, and we don't necessarily have to be a regulatory agency. We're also a law enforcement agency. We actually serve an important function in being able to highlight not only problems but also some real benefits coming to the marketplace.

So the fact that people know there are various wireless Web outlets and that interesting things are coming is valuable. The other thing that's important to recognize is that we, as an agency, really deal with consumer issues and antitrust issues. We're involved in the whole array of different market issues all the time.

REC: The FTC is an independent agency, but [do you think] the new Bush administration [will] result in any different regulatory approach at the agency?

THOMPSON: I don't want to speculate what's going to happen with the new president and his administration. By and large, the FTC has been well respected for taking a well-balanced, even-handed and practical approach to a variety of issues – especially technology – in the new economy. And these issues are not going away. As I said, they're not a left issue, not a right issue, not a "D" issue or an "R" issue. They're issues that the market wants some response on and wants to raise some concerns about.

REC: Would you expect the chairman or any of the other commissioners to leave early because of the new Bush administration?

THOMPSON: We all serve for staggered terms; the chairman's term is not up until September. There's been a history here of a degree of bipartisanship. The former chairman who was here during the first years of former President Bush was a carryover for several years here.

#### NEW FEATURE FOR SUBSCRIBERS TO REPORT ON ELECTRONIC COMMERCE

Over the past two years, some 5,000 domain name proceedings have been presented to the International Corporation for Assigned Names and Numbers (ICANN) for hearings by one of four ICANN-approved arbitrators. To inform our readers on how these arbitrators are basing their decisions in these domain name disputes, REC begins a new monthly feature, "What's in a Name?," a one-page synopsis of the parties in the dispute, the domain name in dispute, discussion, arbitrator's decision and comments from dispute participants. The first in this series focuses on the recent case of "BUZZER.COM" (see story, opposite page). The staff of REC hopes you find this new feature informative. We welcome feedback.

## What's in a Name?

BUZZER INC v. REFRACT LLC  
(Claim No. FA0011000095968)

### DISPUTED DOMAIN NAME

BUZZER.COM – registered to Tucows Inc. Complaint filed by Buzzer Inc. of New York, N.Y., with the National Arbitration Forum Nov. 13, 2000, requesting the domain name be transferred from the respondent, Refract LLC of London, U.K., to the complainant.

### PARTIES' CONTENTIONS

**Complainant** – The complainant alleged that it had been using the mark “BUZZER” since May 1, 1999, for its business services, designing and implementing Web sites. It filed an application regarding this name with the U.S. Patent and Trademark Office. The domain name in question was alleged to be virtually identical to the complainant’s mark, “BUZZER.” Further, the complainant contended that the respondent does not use, nor has it ever used, the domain name for a legitimate purpose or made any fair use of the name. It also contended that the respondent acted in bad faith in registering the name primarily for the purpose of selling, renting or otherwise transferring the domain name to the complainant for a valuable consideration.

**Respondent** – The respondent neither confirmed nor denied that the domain name was identical to the complainant’s mark and said it lacked knowledge or information sufficient to believe that the complainant owns the trade name or service mark “BUZZER.” The respondent contended it has rights or a legitimate interest in the domain name in question because it is developing it as a portal site. The respondent stated it was unaware of the complainant’s existence prior to registration of what it terms a generic word “BUZZER,” and alleged that none of its actions had been in bad faith.

### DISCUSSION

Paragraph 4(a) of the Internet Corporation for Assigned Names and Numbers (ICANN) Uniform Domain Name Dispute Policy requires that the complainant prove each of the following three elements to obtain an order that a domain name should be canceled or transferred: the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; the respondent has no rights or legitimate interests in respect to the domain name; and the domain name has been registered and is being used in bad faith.

The spelling of the domain name in question is identical to the spelling of the complainant’s pending mark “BUZZER” with addition of the “.com.” The respondent is not known by the domain name nor makes any use of the name, and therefore respondent has no rights or legitimate interest to the domain name in question. The respondent shows no legitimate noncommercial or fair use without intent for commercial gain.

The statements made by the respondent demonstrate an attempt to sell the domain name in question for a sum in excess of the actual out-of-pocket expenses expended by respondent in registering the domain name. This shows that the registration was made for the purpose of selling, renting or otherwise transferring the name for such a consideration, that is in excess of the actual costs. This type of registration is not for a legitimate purpose and is an act of bad faith.

### DECISION

The relief requested by the complainant was granted, directing the domain name “buzzer.com” be transferred to Buzzer Inc.

### RESPONSE

Buzzer Inc. “is clearly delighted we were able to convince the arbiter without the costs of litigation that the domain should be owned by a business with virtually the identical name,” New York City attorney Mark Kaufman, who represented Buzzer Inc., told REC. Kaufman said the defendant was not planning to use “BUZZER” for its own trademark purposes, but for a pornography and telephone sales site. In his argument to show the respondent was using the name in bad faith, Kaufman said he cited an e-mail “the alleged cybersquatter” sent to Buzzer Inc. “We took a section from the [domain name] owner’s e-mail saying that we were not trying ‘hard enough’ to settle to mean that we were not offering enough money” for the domain, he said.

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## Mergers and Acquisitions

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- **InteliData Technologies Corp.** has acquired Home Account Holdings Inc. and its operating subsidiary Home Account Network Inc. for 6.9 million shares of InteliData stock valued at \$36.225 million. "This transaction significantly broadens our product suite and technology competency and increases our intellectual capital with a team of professionals who share our passion and values," said Al Dominick, president and chief executive officer of InteliData. "Furthermore, by adding Home Account's statement rendering, bill presentment and bill payment application, with its real-time interface, to First Data Corp.'s credit card processing system, InteliData becomes a significant biller service provider, and will realize immediate revenue in the credit card processing channel. In addition, these customers will be able to leverage our expertise in payment systems switches, like Spectrum, for presenting their statements and bills." InteliData: <http://www.intelidata.com>

- **Yodlee.com Inc.** has completed its deal to acquire VerticalOne Corp., a subsidiary of S1 Corp., to create a single, global technology platform for aggregation under the Yodlee name. S1 will receive about a 2 percent ownership interest in Yodlee. "Because the business value of account aggregation is ultimately derived from a positive network effect, we believe this merger will accelerate account aggregation adoption, making it a required business imperative for Global 20 companies by 2002/03," said Tim Hickernell, analyst with META Group. Yodlee, contact Melanie Flanigan, (650) 980-3671. <http://www.yodlee.com>

- **Platinum Equity** has signed a definitive agreement to acquire Centura Software Corp.'s e-business products and services division in a \$20 million deal. The division has about 75 employees in five offices worldwide. "We are excited to acquire Centura's client/server software business," said Tom Gores, president and chief executive officer of Platinum Equity. "The Centura products and services are assets that we're eager to work with. From building on the blue chip customer base to expanding the services, tools and operations, we're committed to leading Centura through an intense period of growth and revitalization." Platinum

Equity, contact Alanna Chaffin, (310) 712-1850. <http://www.peh.com>

- **Ecklan Corp.** has entered into an agreement to acquire 100 percent of issued and outstanding shares of e-commerce software provider Mindset Interactive Inc. Ecklan also will assume the liabilities of Mindset, pegged at about \$550,000. Intrepid International, (942) 248-9561.

- **Home Shopping Network (HSN)** said it will acquire the operating assets of Craftopia.com, granting HSN access to the arts and crafts industry. "While other online companies were focusing on developing big branding campaigns that did nothing to sustain their business model, Craftopia.com focused on what we at HSN know is most important – really great products that aren't easily available elsewhere," said Mark Bozek, president and chief executive officer of HSN. "We look forward to leveraging our powerful multiple retail channels to bring the strong content to millions of consumers who have a passion for crafts and home decorating." HSN, contact Darris Gringeri, (727) 872-4567. <http://www.hsn.net>

- **ServerLogic Corp.** has acquired e-commerce development and hosting company StorePartners!com. The acquisition is part of ServerLogic's initiative to broaden its e-business and Web development exposure and support the growing needs of its traditional enterprise customers. "We are extremely excited about the momentum added to our company with this acquisition," said Terry LeLievre, president and co-founder of ServerLogic. "StorePartners is an innovative organization that has developed a strong methodology for delivering e-business solutions to organizations of all sizes. This methodology, combined with our expertise in enterprise systems, will better ensure that projects meet the goals of our clients and that they are delivered on time and within budget." ServerLogic: <http://www.serverlogic.com>

- **Xcelera Inc.** and its subsidiary Mirror Image Internet have acquired the business of server-based content delivery solutions provider Clearway Technologies LLC. The

acquisition will help Mirror Image expand its range of services and technologies to help enterprises distribute high-performance e-business applications. "We're being opportunistic about adding resources, pursuing new avenues and attracting new talent, and we see the addition of Clearway as a logical next step in enhancing the Mirror Image network," said Alexander Vik, chairman of Mirror Image and chief executive officer of Xcelera. "Xcelera will continue to fund, acquire and partner with innovative technology companies that can enhance their capabilities through the Mirror Image platform, and further bolster the Mirror Image offering." Xcelera: <http://www.xcelera.com>

- Business-to-business e-commerce market maker VerticalBuyer Inc. said it intends to acquire U.K.-based Litech Ltd. "Litech has a consistent record of achieving solid revenue growth in an exciting niche of the lighting industry," said Tim Rosen, president and chief executive officer of VerticalBuyer. "We believe that

this acquisition will provide us with a bricks-and-mortar underpinning that will enhance and assist the development of our online properties." VerticalBuyer, contact Joseph Donahue, (203) 459-1553. <http://www.verticalbuyer.com>

- Proxim Inc. has signed a definitive agreement to acquire broadband Internet equipment and e-commerce Web platform provider Netopia Inc. in a stock-for-stock merger. Each share of Netopia common stock will be converted into 0.3 shares of Proxim common stock, resulting in an aggregate purchase price of about \$223 million. "This exciting combination of Netopia and Proxim expands the market for Netopia's products, extends Proxim's solutions to small and medium-sized businesses and will result in joint international expansion," said Alan Lefkof, chief executive officer of Netopia. "Looking forward, we expect to provide wireless, voice and data solutions to residential as well as small and medium-sized business customers." Netopia: <http://www.netopia.com>

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## Items of Interest

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- The Federal Trade Commission (FTC) Jan. 22 closed its investigation of Double Click Inc., finding that the company didn't use consumers' personal information for purposes other than those it disclosed in its privacy policy. The FTC opened an investigation of the Web marketing firm's advertising services and data collection practices in February 2000. In a letter, the FTC stated, "It appears that DoubleClick has not used sensitive data for any online preference marketing product." The FTC's finding cleared the company of charges that it had engaged in unfair or deceptive acts or practices in violation of section 5 of the Federal Trade Commission Act. The FTC urged DoubleClick to fulfill the privacy protection commitments it pledged during the agency's investigation. According to the FTC, DoubleClick has agreed to disclose the use of Web tracking and information collecting devices and allow consumers to opt out of information collection systems employed by the company. FTC: <http://www.ftc.gov>

- The Electronic Funds Transfer Association (EFTA) has launched a new industry council – the Electronic Commerce Payment

Council (eCPC) – which seeks to increase the visibility of emerging e-commerce models and guide mass market acceptance. The new council comprises executives from 25 organizations in retail, financial institutions, consumer groups and regulators. "The Internet has launched an entirely new economy, offering consumers unprecedented choice in goods and services," said Paul Schnelzer, eCPC acting chairman and executive vice president of Star Systems Inc. "The challenge for the electronic payments and commerce industry is to adapt existing physical-world payment systems to serve this new economy, or to create new payment solutions tailored to the e-commerce environment. The eCPC will help industry participants address this challenge by expanding the visibility of operational models that encompass secure debit, stored value and enhanced credit payment solutions." EFTA: <http://www.efta.org>

- IBM Corp. has developed new e-commerce software that enables multinational, cross-cultural trade. The IBM WebSphere Commerce Suite v5.1 supports functions such as region-specific sales tax and shipping rules,

customized product catalogs, and localized payment methods and pricing. "Conducting business across countries and cultures is essential to improving customer loyalty and increasing sales," said Ed Kilroy, general manager of IBM electronic commerce solutions. "Handling cultural nuances – such as taxation and shipping policies – from a single solution helps businesses control their costs while focusing on designing more compelling marketing campaigns that increase sales and reach, and improve" return on investment. IBM: <http://www.ibm.com>

- Microsoft Corp. has reached agreement with Sun Microsystems Inc. to settle both the October 1997 lawsuit Sun filed and the Microsoft countersuit in the dispute over the Java technology license agreement between the two companies. The 1996 license agreement was scheduled to expire in March. Under the new settlement, the existing technology licensing agreement between the two companies is terminated. Microsoft can continue to shape all current products and those in beta containing Sun's technology for seven years and in return, it agrees to pay Sun \$20 million. The license agreement and the settlement agreement confirm Microsoft's freedom to independently develop technology that competes with Sun's technology, Microsoft officials said, adding that the settlement would not affect its customers or current products in any way. Microsoft: <http://www.microsoft.com>

- Vignette Corp. has signed a strategic alliance with Ariba Inc. to deliver solutions that enable buyers, suppliers and marketplaces to develop deeper relationships with their

trading partners and enhance customer revenue opportunities. Vignette and Ariba will offer a comprehensive business-to-business (B2B) e-commerce platform for enabling e-marketplaces using Ariba's B2B Commerce Platform and Vignette's E-business Application Platform. "We are demonstrating a powerful, end-to-end solution with strong commerce, community and content capabilities to drive sustainable competitive advantage for our clients building B2B digital markets and vertical online communities," said Dan Fishback, vice president of global channels for Ariba. "This allows our clients to attract buyers and sellers and manage those relationships while driving liquidity by providing a robust system for commerce transactions." Ariba: <http://www.ariba.com>

- Interwoven Inc. and BroadVision Inc. have extended their strategic alliance and will target their solutions for highly regulated vertical markets, including government, financial services and pharmaceuticals. BroadVision will have the right to resell Interwoven's TeamSite/Vignette Interface. "BroadVision and Interwoven have had an alliance for several years now with major joint customer wins such as General Electric [Corp.], the state of California and Nortel Networks [Ltd.]," said Doug Jones, vice president of business development at Interwoven. "Both BroadVision and Interwoven recognize the importance of strengthening our relationship to serve our joint customers and new prospects. We look forward to developing new market initiatives with a leader in e-business applications." BroadVision, contact Janine Kromhout, (650) 261-5940. <http://www.broadvision.com>

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