



August 14, 2012

Hon. Edward J. Markey
2108 Rayburn House Office Building
Washington, DC 20515

Hon. Joe Barton
2109 Rayburn House Office Building
Washington, DC 20515

Hon. Henry A. Waxman
2204 Rayburn House Office Building
Washington, DC 20515

Hon. Steve Chabot
2351 Rayburn House Office Building
Washington, DC 20515

Hon. G.K. Butterfield
2305 Rayburn House Office Building
Washington, DC 20515

Hon. Austin Scott
516 Cannon House Office Building
Washington, DC 20515

Hon. Bobby Rush
2268 Rayburn House Office Building
Washington, DC 20515

Hon. Jan Schakowsky
2367 Rayburn House Office Building
Washington, DC 20515

Dear Sirs and Madam:

Epsilon welcomes your inquiry and the opportunity to provide you and other Members of Congress with background and details on the important role our company plays in fostering economic activity and how we strive to do so every day consistent with reasonable consumer privacy expectations. Epsilon and other companies in the direct marketing industry help connect producers of goods and services with the consumers most likely to purchase them, and for this reason act as indispensable catalysts for economic growth.

At Epsilon, we have been providing marketing services from our home in Texas for over forty years to mainstream companies that are known to and respected by American consumers. Our industry supports not only the thousands of jobs for Americans who work in our industry, but many thousands more at companies big and small that use our services to grow their businesses, lower their costs, and market more efficiently and effectively.

Companies that come to Epsilon may be interested in receiving more information about their current customers, or in obtaining information about potential customers who may be interested in their products or services. This information makes the marketing messages that consumers receive through print or online communications more relevant, as it enables companies to market to consumers based on their individual interests and preferences. Companies want to find the best fit for their products and not waste valuable resources marketing to consumers who are likely not interested in their products. For example, if a men's clothing retailer wants to find consumers who are most likely to purchase their suits, the company may not want to incur the production and mailing costs to send catalogs to women. Epsilon is able to help companies ensure that their promotional materials are sent to the most relevant individuals. This



process helps companies control costs, since they are able to focus efforts on sending materials to consumers interested in their products. Lower marketing costs means companies have more money to spend elsewhere, such as expansion, job growth, and innovation, or it may give companies the ability to provide consumers with lower prices.

Epsilon is committed to providing its innovative marketing solutions in a way that balances the legitimate information needs of businesses with the reasonable privacy concerns of consumers. Most importantly, Epsilon limits the use of marketing information to marketing activities. Epsilon does *not*, for example, allow clients to use Epsilon's marketing information for activities such as making decisions regarding credit, employment, or insurance rates.

From the consumer perspective, Epsilon's marketing services help consumers receive information regarding products, services, and messages from businesses, non-profits, and political organizations that they are most likely to be interested in. Direct marketing means consumers receive less unwanted junk mail and more relevant offers and communications related to their actual needs. For example, home improvement and furnishing retailers may use Epsilon's service to send valuable offers to new home buyers to help them get started in their new home following a move. Retailers may use Epsilon's services to contact existing customers to send them catalogs and offers regarding new products of interest. Charitable organizations may use Epsilon's services to reach individuals likely to be interested in their cause.

Meanwhile, Epsilon supports industry-standard and regulatory opt-out procedures for consumers who wish to limit information use. We are also actively exploring ways to provide consumers with greater transparency and access regarding the information we collect and maintain on behalf of the companies we serve, while at the same time ensuring appropriate privacy safeguards are in place for individuals seeking that information.

Your letter seeks information that helps foster a deeper understanding of our industry, the products and services we provide, and addresses common questions about serving our clients' interests in building and growing their businesses, and supporting our domestic economy while respecting consumers' privacy interests. Below we provide details that respond to your inquiries.

Information at Epsilon

Epsilon obtains consumer information from a variety of public and private sources and uses quality control procedures to help identify inaccurate or out-of-date information. These sources include:

- federal and state governmental agencies,
- catalog and retail companies,
- charities,
- magazines,
- retailers,
- utility companies,
- marketers, and



- other information brokers.

Epsilon also collects information from consumers who elect to respond to marketing surveys, as well as from a variety of publicly available sources, such as public property records, telephone directories, and certain public information posted to social media sites. Due to the confidential and proprietary nature of our contracts with our sources, we are unable to provide the exact identities of these sources.

The types of information Epsilon obtains vary somewhat by product or service, but generally include geographic (county, ZIP code, etc.), demographic (gender, size of household, etc.), financial (estimated home value, etc.), and interest (charitable causes, hobbies, sports and recreation, etc.) information. Epsilon also collects generalized household purchase information to help understand the types of purchases consumers have made. Epsilon clients (mostly catalog and retail companies, but also charities, magazines, and others) contribute information about their customers in exchange for information about prospective customers that may be interested in their products. This information helps Epsilon and our clients determine consumer preferences and interests based on where a household shops, the categories of products and services a household buys, and non-profit organizations that a household supports. Epsilon clients that contribute this information must agree that this sharing does not violate any laws, regulations, self-regulatory guidelines, or privacy policies; that the client features an easy to find privacy policy, provides notice to consumers that their information will be disclosed for marketing purposes and a method for opting out of disclosure; that the client will not share any sensitive information, such as Social Security numbers, financial account numbers, biometric information, protected health information, etc.; and that the client will not share information about children under the age of 18.

Epsilon filters household purchases into subcategories contained within the following 22 primary categories, based on the purchases a household has made:

- Female Apparel & Accessories
- Male Apparel & Accessories
- Children's Apparel & Merchandise
- Home Décor & Gifts
- Bed & Bath / Linens
- Beauty & Spa
- Recreational Sports & Outdoor Enthusiasts
- Garage / Home Tools & Supplies
- Home Electronics
- Computer/Home Office
- Gifts & General Merchandise
- Home & Garden
- Crafts & Hobbies
- Books, Music & Movies
- Food & Beverages
- Pet Supplies



- Collectibles
- Health & Wellness
- Art & Museum
- Cigars and Tobacco
- Religious Merchandise
- Business Merchandise

For example, if a consumer buys children's clothing, that household will likely be in the category of "Children's Apparel and Merchandise" and may receive catalogs of children's clothing in the mail. As another example, a household that purchases sports logo merchandise may be in the category of "Recreational Sports & Outdoor Enthusiasts" and may receive catalogs or information regarding that household's local sports teams.

Epsilon may also utilize third parties on behalf of its clients to collect publicly available activity and information that clients' consumers share on social media sites. This activity includes user interactions such as tweets, posts, comments, likes, shares, and recommendations. The types of publicly available user information include user IDs, names, ages, genders, hometown locations, languages, and numbers of social connections (e.g., friends or followers). Epsilon does not access or collect any information that users have not made public. Epsilon also does not associate social media information with any other consumer information stored in our databases. Rather, we evaluate social media information to provide companies with analytic insights and strategic consulting to help them better understand and interact with their customers. Aside from survey information regarding whether a consumer is a cell phone or smart phone user and their mobile carrier, and statistics regarding when a marketing e-mail is opened on a mobile device, Epsilon does not collect any information regarding mobile use and activity.

Regarding children, Epsilon does obtain information about whether children are present in a household through a variety of sources, including surveys, product registrations, and certain suppliers. This information, however, is generally limited to basic elements such as name, address, gender, and date of birth. Additionally, this information is not collected by Epsilon online, and thus does not implicate the Children's Online Privacy Protection Act. Other than information on the number, age ranges, and genders of children present in a household, Epsilon does not provide information regarding children until they reach adult status at age 18.

Epsilon Products and Services

Epsilon provides products and services that utilize information about consumers in four primary product lines: Abacus, TargetSource, TotalSource Plus, and New Mover.

Epsilon's Abacus product line is created from information collected from clients who contribute household purchase information as part of the Abacus cooperative. These clients include companies such as catalogers, retailers, publishers, and non-profits. Epsilon then uses this purchase information to draw conclusions about the categories of products and services that households may be interested in. For example, if certain household information suggests that a consumer is a pet owner, Epsilon can group that consumer with other pet owners. Epsilon can



then learn that many in the group are interested in animal rescue nonprofit organizations, and therefore, the group of pet owners may receive a mailing hoping to identify new donors to the organization.

The categories are then used in Epsilon's Abacus products and services in multiple ways. One way these categories are used is in customer acquisition-related services, which utilize proprietary models to provide companies and organizations with information about prospective consumers who are likely to be interested in their products, services, or causes. Another way these categories are used is in retention-related services, which work with a company's own information to identify consumers for mailings or to enhance that company's customer information with purchase and lifestyle information, so that companies can learn more about, and better serve, their existing customers.

Epsilon's TargetSource product line is created from information collected from consumers who complete a Shopper's Voice survey. These completely voluntary surveys ask consumers for information about their households, including what types of products they use, where and how they shop, demographic information about their household, and their hobbies and interests. The surveys are administered online¹ and through the mail, and clearly disclose that the information consumers choose to share may be used for marketing and research purposes. The surveys also require that the individual completing the survey be a legal adult 18 years of age or older. Epsilon uses this information for a variety of customer acquisition and retention services designed to connect consumers who fill out these surveys with companies that cater to their interests.

Epsilon's TotalSource Plus product line utilizes information collected from the sources described above, and includes both actual and derived or modeled information. This includes information such as household identifying information (address, telephone number, etc.), household demographics (age ranges, presence of children, occupation, etc.), household interests, and household real property information. TotalSource Plus does not, however, include social media information that Epsilon has collected, nor does it include online interest-based advertising information collected via web browser cookies. Epsilon provides TotalSource Plus services to companies and organizations in multiple industries including direct-to-consumer, multichannel retail/catalog, insurance, financial, telecommunications, travel & hospitality, consumer packaged goods, pharmaceutical, and non-profit organizations. Services within the TotalSource Plus product line include list selections (where the names and addresses of potential prospects are provided based on actual and modeled information), information enhancement services (which companies use to learn more about their existing customers to serve them better), and information licensing services (so that companies can more easily use information about consumers within their own environment).

Finally, Epsilon's New Mover product utilizes information collected from entities such as utility companies, magazine publishers, and public property records to indicate whether a consumer has recently changed their residence. The database used for this product contains the consumer's name, new address, approximate move date and, possibly, the old address. This

¹ *Shopper's Voice 2012 US Survey*, SHOPPER'S VOICE, <http://www.shoppers-voice.com/usa/>.



product is primarily used by companies seeking to acquire new customers who may be interested in those companies' products and services based on the consumer's recent move. For example, if a consumer recently purchased a home, that consumer may receive a flier in the mail for a local dentist or a coupon from a local book store.

Epsilon's clients typically receive only basic contact information (e.g., name, address, and possibly e-mail address or phone number) for the consumers they are interested in contacting. For example, a retail store interested in contacting fishing and outdoor enthusiasts within a certain radius of its location via a direct mail campaign would only receive the names and addresses of consumers matching those characteristics.

For potential clients requesting more than just basic contact information, Epsilon evaluates the potential client to ensure it is a legitimate purchaser. If so, Epsilon and the client will enter into a contract that includes standard terms regarding information use and security. Epsilon also maintains a right to audit such clients and typically retains independent third parties to conduct these extensive audits. Epsilon audits clients randomly or if we suspect any information misuse issues. As part of this process, Epsilon seeds information provided to clients with decoy information that can be used to identify unauthorized use. Decoys contain actual addresses, but manufactured names and other information. Monitoring companies will receive mail at these addresses and examine any marketing materials to determine whether they are coming from an authorized client. If Epsilon finds these decoys in use outside an authorized client, Epsilon will conduct an audit to investigate. Finally, Epsilon strictly prohibits clients from using information for credit, employment, or insurance purposes, and as such Epsilon's products and services do not fall within the scope of the Fair Credit Reporting Act.

Consumer Access and Choice

Epsilon fully supports multiple industry standard and regulatory opt-out procedures for consumers who wish to limit information use, including:

- National and State "Do Not Call" Registries

Consumers can register their personal telephone number(s) with national and state Do Not Call registries so that they will not receive telemarketing calls from for-profit companies. The national Do Not Call registry administered by the Federal Trade Commission does not apply, however, to certain organizations, such as non-profits, political, or polling organizations. Additionally, if a consumer already has a business relationship with a company because he or she purchased from that company or asked for information, that consumer will need to contact the company directly and ask that they no longer be contacted by telephone for marketing purposes.



- E-mail Unsubscribe Requests

Consumers may opt-out of Epsilon corporate communications by using the unsubscribe mechanism within the e-mails they receive, or by visiting Epsilon's website.² Consumers who have opted out will still receive transactional e-mail, such as registration confirmation, product updates, and responses to direct requests they have made.

Due to Epsilon's position as a third party service provider, consumers are not able to opt out of e-mail communications from Epsilon's clients via Epsilon. Epsilon's clients provide their customer e-mail addresses to us, and we deploy e-mails on their behalf. Epsilon does not in any way own this information and is therefore unable and unauthorized to remove consumers from a client's e-mail list. Consumers who would like to be removed from an Epsilon client's e-mail list may use the unsubscribe mechanism within the e-mail they receive, or they may contact the client directly and request that their e-mail address be removed.

- Cookie-Based Online Advertising Opt-Outs

Consumers may opt out of online interest-based advertising from Epsilon and our partners by clicking on the Advertising Option Icon in the ads they receive. The Icon is an initiative of the Digital Advertising Alliance aimed at providing consumers with enhanced notice and choice regarding interest-based advertising. Consumers can simply click directly on this Icon and proceed to the opt-out link or preference setting link. Once directed to the opt-out page or preference setting page, consumers may immediately opt out of future interest-based advertising from Epsilon and our partners by placing an opt-out cookie in their browser. Consumers can also manage their online profiles and opt-out statuses via the Digital Advertising Alliance's opt-out tool³ or the Network Advertising Initiative's opt-out tool.⁴

- The Direct Marketing Association's (DMA's) Mail Preference Service

The most effective way for consumers to receive less marketing mail at home is to use the DMA's Mail Preference Service. Through this service, consumers can choose to stop all future direct mail marketing from DMA members entirely. As a DMA member, Epsilon subscribes to and suppresses any name and address on the DMA's Mail Preference Service file from its direct mail marketing lists. Consumers who would like to opt out of direct mail marketing can visit DMAchoice.org to learn more.

- Epsilon's Own Internal "Do Not Share" Lists

Consumers who prefer to opt out of Epsilon's Abacus Cooperative Database, Compiled File Database (used for TotalSource Plus), or Shopper's Voice Database individually may do so

² *Are you sure you would like to opt-out?*, EPSILON, http://info.epsiloninteractive.com/p/WebSiteLeads/Epsilon_Opt-Out.

³ *Opt Out From Online Behavioral Advertising By Participating Companies (BETA)*, DIGITAL ADVERTISING ALLIANCE, <http://www.aboutads.info/choices/>.

⁴ *Consumer Opt-Out*, NETWORK ADVERTISING INITIATIVE, <http://www.networkadvertising.org/choices/>.



by contacting Epsilon directly. Epsilon provides information to consumers interested in opting out of Epsilon's services on its Consumer Preference Center,⁵ which is easily accessible via the "Opt Out" link found at the bottom of every Epsilon web page. This page fully explains consumers' available opt-out options and allows consumers to decide for themselves which services they would like to opt out of, and which services they would like to remain in. Consumers wishing to opt-out of Epsilon's services directly need only provide their name, current address, and previous address (if they have been at their current address for fewer than six months) via phone, mail, or e-mail. This information is only used to match a consumer with the information Epsilon has on file and not for any other purpose. Epsilon received and processed over 15,000 opt-outs during the first half of 2012.

When a consumer opts-out with Epsilon, Epsilon marks the consumer's information as "Do Not Share," rather than deleting the information. Epsilon does this to preserve the consumer's preference; if the consumer's information is deleted, in the future, Epsilon would have no way to know that the consumer requested that their information not be shared. When a consumer is marked as "Do Not Share," Epsilon will know that the consumer did not want their information shared in case the consumer's information is later resubmitted. Epsilon adheres to this policy to ensure that consumers' opt-out requests are persistent and honored. Consumers who do opt out, however, may not receive information and offers about products and services they would be interested in, from companies who use Epsilon's services to deploy cost-effective, targeted mailings.

Epsilon is also actively exploring ways to provide consumers with greater transparency and access regarding information we collect and maintain, while at the same time ensuring appropriate privacy safeguards are in place for individuals seeking that information. We are also considering whether there are practicable means for providing consumers with the ability to "correct" information, though this presents its own unique challenges. Providing greater access necessarily raises privacy and security concerns, and thus identity verification is key to ensuring that information access requests are not abused by individuals seeking to obtain information about others under false pretenses. Finally, Epsilon may opt to charge a nominal fee to consumers seeking access to information. Epsilon does not, however, charge any fee to consumers seeking to opt out of Epsilon's services.

Information Security

Epsilon is committed to responsible information governance and recognizes the importance of keeping consumer information secure. To enhance security across its infrastructure, Epsilon for the past several years has implemented and maintains an information security program conforming to security standards set forth by the International Organization for Standardization ("ISO"). More specifically, Epsilon has implemented an ISO 27001 compliant information security management system that implements ISO 27002 controls. This system requires an information security program that assesses an organization's information security risks, designs and implements comprehensive safeguards to control unacceptable risks, and

⁵ *Consumer Preference Center*, EPSILON, <http://www.epsilon.com/epsilon-consumer-preference-center> (last revised Apr. 24, 2012).



maintains that program to ensure continued improvement and ongoing assessments. The goal of the ISO 27002 standard is to facilitate best practices for controlling the types of information security risks to which companies like Epsilon might be exposed. Combined, the ISO 27001 standard and 27002 controls provide a process for comprehensive information security that is detailed, rigorous, and adaptable to changing circumstances.

Epsilon was the first in its industry to become ISO 27001 certified. Epsilon has been ISO 27001 certified since 2006, and has subsequently received yearly re-certifications. Acquiring this certification is a thorough and demanding process. The certification process, which started in 2005, took nearly a year to complete and required validation from independent third-party auditors. Epsilon has maintained its ISO 27001 certification every year since then, undergoing yearly reviews that demand continual improvements to the company's information security program.

In addition to audits undertaken as part of Epsilon's ISO 27001 certification, Epsilon undergoes annual independent SAS 70 (now SSAE 16) audits, which cover Epsilon's marketing products and services described above. Also, while Epsilon's marketing products and services do not incorporate cardholder information, such as credit card numbers, for Epsilon's products and services that do incorporate cardholder information, Epsilon complies with Payment Card Industry Data Security Standard (PCI DSS) requirements for Level 1 service providers and undergoes yearly independent assessments. By obtaining and maintaining its ISO 27001 certification and undergoing these other regular audits and assessments, Epsilon has demonstrated its commitment to ensuring that its information security program provides reasonable and appropriate safeguards for consumer information. While, for security reasons, Epsilon cannot provide information regarding all of the ways that Epsilon safeguards the information that it obtains, these controls include, for example, role-based privileging and firewalls for all our marketing products. Additionally, all information transfers between Epsilon and its vendors and clients are sent via secured protocols.

Last year, Epsilon was the victim of a criminal hacking incident that affected a proprietary e-mail services platform.⁶ The investigation into the incident revealed that only consumer e-mail addresses and, in some cases, first and last names were affected by the attack. Other platforms, such as its hosted client databases and Epsilon databases containing the information described above, were not affected. Since the incident occurred, Epsilon has worked closely with the Secret Service and has devoted significant time and resources to further improve its security posture and prevent a similar attack from occurring in the future. Epsilon also added information to its website to provide consumers with educational materials on guarding against phishing attacks. We remain committed to providing reasonable protections for information management, our clients, and, most importantly, the end consumers.

⁶ Epsilon previously provided testimony on this incident and spoke with several of the signatories to your letter, or their staffs, about the details of the incident and our remediation efforts. *See Sony and Epsilon: Lessons for Data Security Legislation: Hearing Before the Subcomm. on Commerce, Mfg., & Trade of the H. Energy & Commerce Comm., 112th Cong. (2011)* (statement of Jeanette Fitzgerald, General Counsel, Epsilon Data Management, LLC), available at http://democrats.energycommerce.house.gov/sites/default/files/image_uploads/Testimony_06.02.11_CMT_Fitzgerald.pdf.

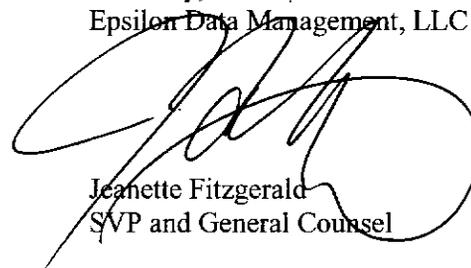


* * * * *

We hope the information provided above addresses any questions you may have about the valuable marketing services Epsilon provides to companies and organizations large and small. We strongly believe that information-driven marketing is a catalyst for growth in the American economy, and one that has a measurable effect in lowering costs for companies and organizations, and in creating jobs. This type of marketing provides a particularly compelling benefit to smaller companies, who are able to outsource to Epsilon critical research and analytics, and then utilize that information to more effectively compete against their larger peers. It also benefits not only companies, but also consumers, by providing all different types of consumers in all socioeconomic groups with relevant information in which they are likely to be interested. We believe existing sectoral information use laws and self-regulatory direct marketing regimes adequately protect consumers from any potential “harm” that may arise from these practices, while allowing them to reap the benefits.

We would welcome the opportunity to follow-up with you in person to further discuss the information provided in this letter, address other questions you may have about Epsilon or the information services we provide, and share with you our views on how these services can be provided consistent with respecting consumer privacy and the responsible use of consumer information.

Sincerely,
Epsilon Data Management, LLC



Jeanette Fitzgerald
SVP and General Counsel