

CHAPTER FOURTEEN

The Consumer Superhighway

Consumer Rights in the Computer Age

WHILE ADVANCES IN TECHNOLOGY in recent years have moved so fast as to make new personal computer models obsolete as soon as they hit the market, the law ... limps along. On the one hand, technology changes faster than the law can keep up with it. On the other hand, many in policymaking positions are reluctant to impose new regulatory restrictions in an era of development, international competition and deregulation. Your solution, then, is to stay on your virtual toes, keep your data close to your vest, and don't let any technology you don't at least basically understand get control of your money.

AUTOMATIC TELLER MACHINES

Downtown, at the mall, at the superstore -- everywhere -- an automatic teller machine (ATM) is there, ready to give you cash in exchange for a swipe of your plastic and a few magic numbers. ATM's have become so prevalent that we forget that little more than a decade ago people had to decide how much cash they would need for the weekend before the end of banking hours on Friday, or else had to hope to find a sympathetic grocery store where a check could be cashed. That convenience, however, comes with a certain amount of expense and some exposure to risk as well.

Perhaps one of the most important unsung risks of ATM use is the havoc it can play with your checking balance. There was a time when transactions in a checking account revolved around the checkbook, where all the checks lived. Now you can withdraw money directly from your checking account (and even casually invade your savings!) and, if you're not careful, find yourself bouncing checks because you forgot to enter these transactions into your checkbook. The trick, of course, is to save the ATM receipts and enter withdrawals into your checking register as soon as possible -- ideally, no less frequently than once a week.

Another approach might be to set up a savings account -- not for savings, but for spending. In other words, you might want to set aside an account into which you will make a budgeted monthly or bi-weekly deposit for withdrawals from your ATM. Then you don't have to worry about affecting your checking balance with your ATM use. It will also allow you to focus on your "spending money" or cash use without other transactions distracting you from monitoring this hard-to-capture spending. (Of course, keep your regular savings account for savings!)

Receipts, incidentally, should ideally be kept until you reconcile your account balance with the monthly bank statement. The idea is to ensure that the bank got as much of a deposit as you thought you put in, and that it doesn't claim a larger withdrawal than you thought you took out. Do this regularly and promptly, or you'll find yourself with a huge sheaf of these little slips and end up tossing them all. Bank computer errors are quite rare, but they have happened. Don't count on anyone else to catch them. But once you have done the reconciliation, there's no reason to keep the slips, which are hard to store and can become quite voluminous. The bank's

confirming statement is good enough proof in case a dispute comes up later. If you're squeamish, however, you can keep the deposit receipts (see below) or retain all of them for three years at the most.

ATM Fees

When shopping for a place to open an account to which you want to gain access with an ATM, find out the different institutions' terms. This information should be available from bank personnel (not necessarily a teller, but certainly someone behind a desk) as well as in the mandatory disclosure forms provided with each new account. You can also get this information in pamphlets, arranged by subject, at the front of the lobby.

Any bank that charges you a fee simply for the privilege of having an ATM card should be someone else's bank. There's no reason to pay, either annually or even once, for this service today; anything less than basic ATM privileges at the bank's own machines is simply not competitive. A small fee for replacing lost cards is not desirable, but not necessarily unreasonable in itself. Remember that when you receive an ATM card from a bank, it comes with a disclosure form, like a credit-card cardholder agreement, which is your formal contract with the issuer.

Few banks will allow free ATM use even for their own customers beyond withdrawals and deposits, however. There are exceptions at some larger banks for larger customers, whose linked accounts maintain a minimum balance of a thousand dollars or more, depending on the bank. Be aware that most banks now require *minimum* balances for these privileges, not

average balances. If your account sinks a nickel below that minimum for even one banking day, your privileges are shot for the month -- possibly resulting in tens of dollars of fees that you had not counted on paying!

For everyone else, however, each time you use the ATM for a balance update or, as is increasingly common, an interim statement of account activity, you are going to incur a fee of seventy-five cents, a dollar or more. Though the interim accounts can be of some use, activities such as checking your balance are available from many banks by a 24-hour computerized phone line or via the Internet -- for free, from the privacy and warmth of your own home and usually toll-free if you're on the road.

One way to reduce ATM fees, as discussed above, is to find a bank that allows free or very cheap ATM access to its own customers. That means that if you've racked up \$20 or \$30 in ATM fees from the machine in your office lobby, maybe you should factor that amount into your reckoning for whether it's worth opening an account at that bank. Numbers like that also suggest that you could try to estimate your cash needs with a little more long-term perspective. If you're going to the ATM every day -- or more -- you're fooling yourself about how much cash you spend. You may say you can quit whenever you want, but this is not just an ATM-fee problem. It's a budgeting and cash-management one that requires a little honest reflection on your part.

Remember, by the way, that using your ATM card at the gas station or grocery check-out lane may or may not be the same as using an outside-bank ATM, depending on your agreement with your bank and that business's agreement with the ATM network. Find out.

ATM Deposits

You can make deposits at ATM's of your bank or in your network. Those deposits are often credited a business day after you make them at your own bank's ATM, or even later if it's at another bank within your network. Banks depend on the information you write on the ATM envelope plus the computerized information that goes along with the envelope. That is why many of these envelopes ask you to write your whole ATM card number on the envelope -- in case the envelope and the computerized transaction record don't match up exactly. You don't really have to put down your whole card number, but it isn't a bad idea.

Remember that your computer-generated "receipt" of an ATM deposit only reflects the information that you input on the ATM keypad. It does not prove that you deposited any amount, only that you were, at the time of the transaction, *stating* that you were depositing that amount. For this reason, some people never make substantial deposits of cash via ATM, and this is probably a good approach. Your checks should, besides being endorsed, also contain the notation "For Deposit Only" under the endorsement, ideally with the name of your bank and your account number as well. Be sure to confirm the amount actually posted to your account by your monthly statement or, if your bank has one, its computerized bank-by-phone system.

Do yourself a favor in terms of security, and at the same time show consideration for others who might want to use the machine: Fill out a withdrawal slip while still in your car, or an envelope off to the side, before sticking in your card. (There's nothing wrong with taking a few extra envelopes from machines you use often so you can prepare them in advance.) It isn't fair

to make others wait while you do your paperwork.

ATM Security

The ready availability of cash through ATM's has obviously not escaped the notice of people who'd like to make your cash readily available to themselves. Most ATM security tips are self-evident:

- **Watch your back.** Be careful where and when you go to the ATM. If the ATM you were planning on using is in a risky neighborhood, and that withdrawal can wait for tomorrow morning, perhaps it ought to. If someone seems to be hanging around the ATM with no business to do there, look for another machine. If you really need the cash tonight, it may be worth it to look for a supermarket or other indoor, secure location where there are ATMs.
- **Guard your PIN.** Your personal identification number (PIN) is the key that unlocks your ATM card. Short of your spouse or your mom, no one should know your PIN. Certainly don't write it down on the card, or anywhere else if you can avoid it. There is absolutely no reason to ever give it to anyone over the telephone. If someone is watching you input your PIN a little too closely, hit the cancel button and finish the transaction later or elsewhere.
- **Don't leave a paper trail.** Leave ATM slips you don't want to keep at the site only if there is a deep, completely secure place to toss them -- ideally, after you've torn them thoroughly. Otherwise take them with you. It's no one's business how much money is in your account, or for that matter that you have "insufficient funds for the requested

transaction." And some receipts also contain your account number and other numbers from which clever techno-thiefs can "clone" your card.

One last detail. If your ATM isn't the kind where you just swipe your card and take it back, don't forget to take it back after the transaction. But if you do forget, contact the exact branch or bank whose ATM you used as soon as they open. (Without your PIN the card should not be usable by anyone else, so the delay should not cause a security breach.) Cards left in the machine are eventually pulled back in for retrieval in the morning. But some branches automatically dispose of them, or send them to hopelessly inscrutable central offices, if they aren't claimed promptly. If the bank doesn't have your card, call the issuer (if different from the bank whose ATM you used) and have it canceled and replaced immediately.

SIDEBAR: BUYING A COMPUTER

Not only is the computer this book was written on "obsolete" by now, it was begun on a computer that became "obsolete" before the book was halfway finished and revised on a computer that is about 10 times more powerful than the first one. But obsolescence means different things to different people -- computer users, manufacturers, and salespeople, for example. The fact that, for a couple of thousand dollars, you can buy a computer systems many times more powerful than what NASA used to put men on the moon doesn't mean those guys didn't get to the moon.

This isn't the place to examine all the issues in buying a computer. You have to bring

yourself up to speed before plunking down the kind of money a computer system requires. But, as in buying a car, do not allow yourself to be buying more than you need or conceivably will need in the foreseeable future. Each little \$100 more for the "next generation" feature adds up fast. Bring a knowledgeable person with you if you can.

Also be realistic when choosing peripherals such as printers and monitors. If your main use of the computer is for word processing, and you're not the game-playing type, maybe a minimum of multimedia equipment is appropriate. Color inkjet printers are almost routinely included in computer packages offered by major retailers, but there is no reason to spend the money on a laser printer if there's no realistic prospect of your needing what they provide.

Finally, check out the manufacturer's reputation for telephone and online support of its product, as well as the hours of support operation and typical on-hold times.

COMPUTER SOFTWARE

Software is a bunch of magnetic "ones and zeros," or electronic signals, that takes your thousands of dollars worth of plastic, metal and glass -- your personal computer, or hardware -- and animates it into something that lets you "fly" an airplane, balance your checkbook or manage your small business. Most personal computers sold today come with a "bundle" of software pre-loaded onto the computer. In addition to an operating system, typically DOS ("Disk Operating System") and Windows, most consumer-targeted computer packages include basic financial, word processing, communications and entertainment software.

But as your computing sophistication grows, you will inevitably want to add your own software. This book is not a shopping guide; you have to familiarize yourself with the technical specifications and performance characteristics of different hardware and software combinations. There are, however, some important legal issues connected with buying and using software.

SIDEBAR: SHAREWARE AND FREeware

Besides software that you purchase, there are two other legitimate sources of sophisticated programming:

Shareware is protected by copyright, but the copyright holder permits free copying and distribution. The new user is usually requested, on the honor system, to remit a relatively small payment for costs and to register as a user.

Freeware is what it sounds like: free as the air. Programmers make it available through on-line bulletin boards and user groups. You may not have the right to copy it for others, however, since the programmer might want it to keep tabs on where it goes.

Remember that software is a commodity that costs money to produce and whose producers are as entitled to payment as the producers of cars, food and shelter. The fact that there is no direct cost to the producer if someone makes an illegal copy of the software does

not change this legal and moral fact. (There are indirect costs to unauthorized copying, starting with the lost revenue to the developer.) The fact that "everyone does it," of course, is also of no moral or legal consequence.

Illegally copying software is no more legitimate than copying videotapes, books or musical recordings. For that matter, it is no more legitimate than stealing an apple -- a costly apple -- from the front of the grocer's store simply because you can, or cashing someone else's paycheck. Software piracy deprives the producer of the fruit of the producer's labor, something that any working person or anyone who owns property should understand. You should be no more ready to steal software than to steal anything else.

Software is only legally usable by people or businesses who purchase a **license**, which is simply permission to use the software, which is protected by copyright. Most software that you buy in the store, and much of what comes with your computer (such as software on compact discs (CD's)), comes with a **shrink-wrap license**. (The software already loaded onto your computer is covered by licenses arranged with the company that preloaded it, and to which you agree under a principle analogous to the shrink-wrap license.) Under this license system, the manufacturer regards you as agreeing to the terms of its licensing agreement contained inside the package once you open the plastic shrink wrap of the package.

Increasingly, you are also required to navigate a "click box" that comes up on the first screen you see during installation, during which time you click "YES" to the terms of the license agreement if you want to proceed – and "NO" if you want to throw your money away. (You usually can't return open boxes of software, whether you clicked "yes" or "no.") This device is

also used for licenses that allow you access to certain Internet websites and other online resources.

Fundamentally, these are your obligations regarding the use of software that you purchase:

You may not make copies for the use of others. "Others" obviously includes your brother-in-law, your co-workers, your friends, and fellow Internet users. Does it include other computers you use? That depends. Some licenses are designed to apply to **networks**, a system of interconnected computers that is in a sense one computing system. Few consumers are buying software for networks, of course. Some lawyers specializing in this field maintain that you are entitled to use software that you buy both on the computer you keep at your desk and your laptop, though certainly not the one at work if the use is for your employer's benefit. (The typical software piracy path is, of course, usually the other way -- software legitimately purchased by businesses ends up on employees' home computers for their own use.) Presumably you are not using both of these at the same time, though it gets muddier if one is for your use and one is for the use of your high-schooler or spouse.

Other legal experts -- many of whom represent software developers -- disagree, and say each software license is for use on one machine, period. It wouldn't hurt to see what rights the license actually does grant you, of course, but the point is that many legal experts doubt the legality of some license limitations.

You have a right to make backup copies. Even though your software comes on a disk or CD, most lawyers in this field agree, as do many software manufacturers, that you are

entitled to make a backup copy of the software for protection in case the original disk is damaged or defective. The copy on your computer's hard drive is always vulnerable to a crash or other system disaster, and software companies recognize this as well as anyone -- especially since their software often causes the problem! On the other hand, the use of zip drives and other backup media, as well as affordable Internet-based automatic backup solutions, may also be an intelligent way to protect yourself.

SIDEBAR: YOUR RIGHTS AS A SOFTWARE CONSUMER

Software may come on a little floppy disk -- or ten of them -- or a CD, but while it may transform your existence, it can also present as many performance problems and threats to your well-being as any large appliance. Avoid any software that does not include at least some degree of free telephone support, at least for a limited period. The developer's confidence in his product is ultimately reflected in the extent to which the developer stands behind it. Ideally this support should be accessible with a toll-free call, during more than regular business hours.

Practically speaking, however, this may be unobtainable. The world's largest software developer only provides support through its regular lines on the West Coast, though observers report that early problems with interminable holding times (which add insult to the injury of a toll call) have largely been relieved.

For more sophisticated users, help with popular programs is also obtainable on-line, through company- and user-sponsored bulletin boards and forums, as well as by electronic mail.

THE INTERNET

The Internet has become so ubiquitous in American life that this is hardly the place to explain what it is, how it works, or how to get on line. There are, however, a number of consumer-protection issues that can be addressed here.

Caution On Line

Don't let your guard down when communicating with strangers on-line. The major commercial services usually require that your real name and address be available to them, though you are often able to choose a pseudonym for participation in forums. And, once you leave the proprietary areas of the service and venture into that vast, unregulated frontier of the Internet, anonymity is the rule. But even if you are relatively anonymous, there's no reason not to be a *mentsch* ("good guy"). For one, if you're a "flamer" -- someone who, as some people do on the road, think that their anonymity is a license to be a jerk -- you might get booted out of a forum on one of the monitored services. But also, considering the sophistication of some computer-savvy people, your anonymity might not be as well-protected as you think. Not by a long shot. So don't get the wrong people sore at you. You could even find yourself on the wrong end of a harassment lawsuit.

Much of what has been said above regarding mail and catalog sales applies to shopping for merchandise over the Internet -- only more so. It is remarkably easy to put up a slick website

that has nothing real, or nothing legitimate, behind it. Do not assume that because a merchant displays an authentic trademark or accepts credit cards that it is what it seems to be. Nothing could be easier than copying these marks or arranging for a third party to act as a credit card clearing house with little or no accountability. Avoid buying luxury goods over the Internet except from established merchants you know from the "real world." Chances are they are counterfeits.

Then there's the whole question of transmitting your credit-card information over the wires. Though some services claim to use truly secure lines, some experts are skeptical that information like this can be kept secret from truly sophisticated hackers, or computer experts-cum-pests. (Some experts say that once your computer is hooked up to a modem and a phone line, *all* the data on your computer are fair game for anyone who knows where to find you. If you use a high speed line that does not require dialing in, you are very vulnerable to hacking. Consumer-priced "firewalls" can help.) The same goes for data sent by electronic mail. In the latter case, even if no one is snooping on the line, a typing error in your e-mail address can result in sensitive or confidential information hurling through cyberspace to someone who never heard of you until just now. Your best protection in this regard is that the sheer volume of Internet traffic makes it unlikely that you in particular are in danger of being hacked. Nonetheless, caution is the word.

[Click here to go to Chapter 15](#)