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United States Senate

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

WASHINGTON, DC 20510–6125

WEB SITE: http://commerce.senate.gov

February 3, 2014

Mr. Bryan Kennedy
Chief Executive Officer
Epsilon Data Management, LLC
4401 Regent Boulevard
Irving, Texas 75063

Dear Mr. Kennedy,

As you know, the Senate Commerce Committee is investigating how data brokers collect, compile, and sell consumer data for marketing purposes.[1] Last month, the Committee released a staff report on findings of this investigation to date and held a hearing regarding current industry practices.[2] I am writing to you for information related to an industry practice highlighted in the report and hearing that merits closer review: the compilation and sale of products that identify consumers based on their financial vulnerability or health status.

As noted in the report, data brokers such as Epsilon collect vast amounts of data and compile detailed dossiers on consumers that include financial, health, and other personal information. Based on this information, many companies create and sell products that group or "segment" consumers based on judgments about their characteristics and predicted behavior.[3] Many of these products focus on consumers' financial or health circumstances, such as lists titled "Rural and Barely Making It."[4]

Data broker industry representatives assert that the compilation and sale of such data benefits consumers by facilitating targeted outreach by retailers and others regarding the

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[1] Senate Committee on Commerce, Science, and Transportation, *Rockefeller Seeks Information About Data Brokers' Practices* (Oct. 10, 2012).

[2] Senate Committee on Commerce, Science, and Transportation, *What Information Do Data Brokers Have on Consumers, and How Do They Use It?*, 113th Cong. (Dec. 18, 2013) (hereafter Committee Hearing), Committee on Commerce, Science, and Transportation Staff Report for Chairman Rockefeller, *A Review of the Data Broker Industry: Collection, Use, and Sale of Consumer Data for Marketing Purposes* (Dec. 18, 2013) (hereafter Committee Report).

[3] *See* Committee Report.

[4] Other examples include "X-tra Needy," "Retiring on Empty: Singles," "Credit Reliant," and "Burdened by Debt: Singles." Committee Report at 24.

consumer's specific interests and needs.[5] However, privacy experts argue there are strong profit interests in using personal consumer data for purposes that do not necessarily benefit consumers – such as helping companies decide who should wait longer for customer service.[6] They also raise privacy concerns regarding compilation and dissemination of lists that identify a consumer's fragile health or financial condition without the consumer's knowledge or permission.[7] Further, examples show that such lists can be valuable tools for businesses seeking to target vulnerable consumers for financially risky lending products or fraud schemes.[8]

The existence of lists such as these underscores the importance of learning how data about consumers travels through the industry. Today, I write again to request information necessary for the Committee's assessment of the potential consumer harms and benefits associated with data broker practices. I ask that you fully respond to the questions below by February 17, 2014.

(1) Provide a list of all purchasers of Epsilon data since January 1, 2009, authorized to sell, rent, lease, or distribute the data. For each entity or individual listed, provide documents sufficient to show the type of data shared and the entity or individual's stated, contractual, or intended use of the data.

(2) Provide a list of purchasers of the segments from Epsilon's Niches product identified at Appendix A, since January 1, 2009. If customers are unable to purchase specific segments individually, provide a list of all purchasers of Epsilon's Niches product. For each entity or individual listed, provide documents sufficient to show the entity or individual's stated, contractual, or intended use of the data.

(3) In response to repeated requests for sources of consumer data, you have provided general descriptions of entities that provide consumer information. Provide the identity of the each of the data suppliers you previously identified to the Committee with the alphabetical and numeric codes listed at Appendix A.

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[5] *See* Committee Hearing, Testimony of Tony Hadley, Senior Vice President of Government Affairs and Public Policy, Experian and Jerry Cerasale, Senior Vice President of Government Affairs and Public Policy, Direct Marketing Association (DMA).

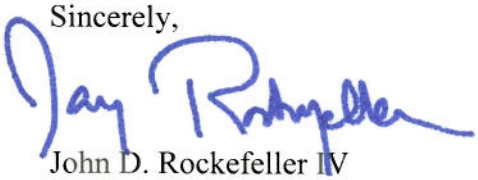
[6] *See* Committee Hearing, Testimony of Pam Dixon, Executive Director, World Privacy Forum, and Joseph Turow, Robert Lewis Shayon Professor of Communication, The Annenberg School of Communication, *supra* note 2.

[7] *Id.*

[8] *See* Committee Report, *supra* note 2, at 6 (discussing potentially harmful uses of data broker products).

The Committee is conducting this inquiry under the authority of Senate Rules XXV and XXVI. If you have any questions, please contact Melanie Tiano with the Committee staff at (202) 224-1300.

Sincerely,



John D. Rockefeller IV
Chairman

Enclosure

cc: John Thune
Ranking Member