

DAUGHTERS & RYAN, INC.

Internet/Mail Order Sales of RYO Tobacco

Adult Delivery Confirmation - Alternatives and Considerations

February, 2005

DISCUSSION OF PROBLEM

Youth access to tobacco products over the internet and mail order have been the latest rallying call for anti-tobacco advocates. Of course, no responsible adult should want their children (or any youth) to purchase tobacco products from any source. The question at hand is to what extent we should disregard the rights of free thinking responsible adults in order to protect youth from harming themselves while engaging in illegal activity? Borrowing from statistical analysis and hypothesis testing vocabulary, the problem may be summarized as follows:

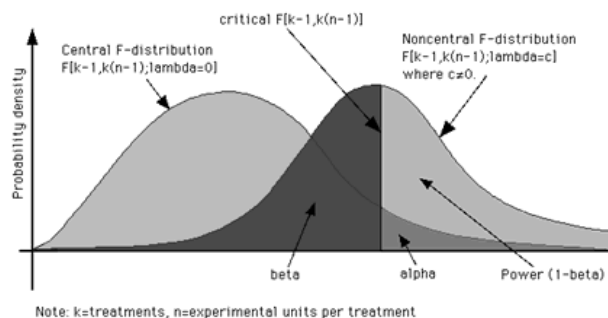
- H_0 (null) - Customer is an adult.
- H_a (alternate) - Customer is a youth.
- alpha error - Falsely accept H_a , H_0 is true.
- beta error - Falsely accept H_0 , H_a is true.
- Alpha error is bad because responsible adult consumers lose legal access.
- Beta error is bad because youth gain access to tobacco products.
- The success and power of the program is measured by $1-\beta$.
- Adult consumer support for the program is measured by $1-\alpha$.

We believe that balanced consideration toward both alpha and beta forms of error may ensure the greatest compliance and acceptance. A graph reflecting the basic principles of this analysis appears at right. It is evident that a crucial element in the design of an effective age verification mechanism will move the two probability distributions apart (and thereby minimize both alpha and beta errors).

My experience with underage access agrees with most research on the subject. All underage individuals I have observed smoking over my

lifetime obtained tobacco products from family, friends or local outlets (usually a pack at a time).

Nevertheless, we recognize that some youth may deceitfully and fraudulently misrepresent themselves on the internet as an adult in order to illegally acquire tobacco products. Some questions are beyond our scope and authority. Should society expect any individual accountability or personal responsibility from youth for their dishonest and deceitful activity? With ostensibly flagrant disregard for the intentions of parental, merchant and governmental authorities by some youth (making enforcement difficult), how much alpha error is the government willing to impose on responsible adults in order to minimize beta error? What responsibility do parents/guardians assume for their inadequate supervision of these mischievous and unethical youth? Are passionate anti-smoking advocates in our government willing to punish the masses because they lack the fortitude/capability to hold people accountable for their own unlawful behavior?



REVIEW OF PROPOSED SOLUTIONS

We believe many of the proposed measures to eliminate youth access may be ineffective at curbing youth access to tobacco products, yet these actions would undoubtedly impinge on the rights, freedoms and liberties of the average/responsible American adult on the internet (high alpha and beta errors). A frequently discussed approach is to require that the Internet/mail order vendor retain a physical copy of the prospective customer's government issued ID prior to shipping (among other information). From the perspective of an internet provider, the cost to physically store the customer profiles would be prohibitive. Subsequently, an Internet merchant may also be at a great risk from liability to protect customer data from criminal theft, employee theft, and government harassment and incur additional expenses. Further, credit card companies encourage merchants to retain a minimum amount of customer information. Merchants may understandably provide limited support of the program, many good merchants may pull out (or go out of business), and the spiral of unintended consequences and incentives, and criminal activity will proliferate. With the fear of identity threat ringing in the minds of most consumers, risk aversion reactions will be unpredictable and support will also likely be limited. The assumption that all customers would automatically possess a form of government ID may also seem naïve, disconnected from real world experiences, dismissive and indifferent. At worst, the government ID requirement may appear to some customers to be racist, elitist and discriminatory. Certainly, dishonest and committed youth would circumvent this system and submit fictitious age verification documents (at little or no cost to them).

Another proposed solution is to have merchants contact all prospective customers with evening telephone calls for age verification prior to shipping. Predictably, few merchants (or their employees) would want to miss attending their honest/responsible children's/family's evening activities, or want to work late at night in order to interrupt a regular customer's dinner with some insipid age verification question. Consumers would be frustrated by shipping delays from adult order verification, and they would be understandably exasperated with interruptions during evening dinner hours. An adult verification telephone call, initiated by the merchant to a phone number provided by the prospective consumer, would also be easily thwarted by a persistent youth with criminal contempt of parental wishes, merchant rules, and government regulations. To many citizens, this strategy may sound more like a method to harass merchants and responsible tobacco consumers rather than a system to protect youth from tobacco access. The alpha error would be huge (minimal consumer support), evidence for reduced youth access is unsubstantiated (probable high beta), and merchants would provide negligible cooperation.

Perhaps the most ineffective and least practical suggestion is to require that all tobacco shipments post prominent labels which identify the package contents as tobacco. Most importantly, package labeling does not appear to advance the goal of diminished youth access to tobacco products. Gregarious labeling may accomplish nothing other than massive product theft, shipment destruction by anti-tobacco fanatics, harassment of honest/responsible tobacco consumers, and diminished support for the youth access effort overall.

We believe all the youth access solutions discussed above may likely contain huge alpha and beta errors. We also wonder what the average hard working, blue-collar, freedom loving American will conclude about the motives of government officials who suggest these unproductive solutions to the youth access problem.

DESIGN FOR LOWER BETA AND ALPHA ERRORS

The intuitively obvious key measures of success for any youth access regulation are (1) reduced youth access to tobacco products (1-beta), and (2) understanding and support by responsible adult tobacco consumers (1-alpha). Other important characteristics of a successful youth access program include cooperation by merchants, consideration by the participating states of broader issues beyond tobacco consumption, and effective enforcement of merchants, consumers and youth. (Otherwise, cheaters will prosper). We understand some states report that “brick and mortar” tobacco stores sell to youth (with and without false identification) at an alarming rate of twenty-five percent. At the recent NAAG triennial meeting in Vermont, I recall hearing one Attorney General comment that they had gotten the rate of youth sales down to ten percent. We are confident that the states could design a youth access prevention system, with low alpha and beta errors, which would significantly improve on the youth access to tobacco rate reported for physical tobacco outlets. We believe the best approach to reduce youth access will employ multiple layers of intervention and verification. Similarly, we believe the program best accepted by responsible adult tobacco consumers would perhaps be composed of multiple small inconveniences (to ensure adult verification), rather than a single “heavy handed” approach (with concomitant consumer avoidance behaviors). In response to some unforeseen incentive which may be created by any new government initiative, we have a sense of trepidation that regulations may be proposed by some tremendously passionate and excessively aggressive state representative which may exacerbate tobacco problems and increase criminal activity. Furthermore, we ponder what impact radical solutions might have on the attitudes and sense of well being by society if these actions are perceived by some responsible adult consumers as insensitive, ineffective, capricious, and oppressive? We believe a reasonable youth access prevention program can avoid these numerous pitfalls by incorporating the following elements:

- **Method of Payment.** A critical component of diminished youth access is no cash payments. Many youth do not have personal credit cards or checking accounts. The banking industry may be encouraged to cooperate by giving youth accounts a special code or prefix. As the consumer ages out, they could be reissued a new card (or account/ID number). Internet merchants would not accept orders paid from youth accounts.
- **Adult Signature Verification.** The states could work with carriers/shipping companies to provide an adult verification service at time of product delivery. United Parcel Service (UPS) has recently added an adult signature verification service at a cost of \$2.75/package. The USPS is currently developing an adult signature service for \$4.00 on top of the \$1.85 charged for the current pink signature verification form (\$5.85 total cost/package). We believe both carriers are essential to ensure economic availability and protection against potential consumer discrimination. Merchants may require four to six months to acquire the requisite hardware and software expertise for effective implementation. Nevertheless, they would likely support the costly youth prevention program if they saw an economic benefit, regulations were uniformly and universally enforced, and if they could subsequently certify customers annually.
- **Fraudulent Youth, Responsibility and Accountability.** A prospective customer might be required to call a merchant by telephone and confirm their date of birth. This action would be proactive by the consumer, require fraud and criminal intent by youth, and could be documented once by the merchant. Youth accountability for fraudulent dishonesty might include community service. Manufacturers might add space to advertisements which admonish youth against fraudulently acquiring tobacco product and warning of the consequences.