Due 4/5

Part 2

Argument

Directions: Closely read each of the ***four*** texts provided on pages 12 through 17 and write a source-based argument on the topic below. You may use the margins to take notes as you read and scrap paper to plan your response. Write your argument beginning on page 1 of your essay booklet.

Topic: Should companies be allowed to track consumers' shopping or other preferences without their permission?

Your Task: Carefully read each of the ***four*** texts provided. Then, using evidence from at least ***three*** of the texts, write a well-developed argument regarding companies being allowed to track consumers' shopping or other preferences without their permission. Clearly establish your claim, distinguish your claim from alternate or opposing claims, and use specific, relevant, and sufficient evidence from at least ***three*** of the texts to develop your argument. Do *not* simply summarize each text.

Guidelines:

Be sure to

- Establish your claim regarding companies being allowed to track consumers' shopping or other preferences without their permission
- Distinguish your claim from alternate or opposing claims
- Use specific, relevant, and sufficient evidence from at least ***three*** of the texts to develop your argument
- Identify each source that you reference by text number and line number(s) or graphic (for example: Text 1, line 4 or Text 2, graphic)
- Organize your ideas in a cohesive and coherent manner
- Maintain a formal style of writing
- Follow the conventions of standard written English

Texts:

Text 1 – Cell Phone Carrier Marketing Techniques An Invasion of Privacy?
Text 2 – EyeSee You and the Internet of Things: Watching You While You Shop
Text 3 – Where Will Consumers Find Privacy Protection from RFIDs?: A Case for Federal Legislation
Text 4 – RFID Consumer Applications and Benefits

Text 1

Cell Phone Carrier Marketing Techniques
An Invasion of Privacy?

BOSTON (CBS) – Your cell phone may be spying on you.

Every time you download an app, search for a website, send a text, snap a QR code or drive by a store with your GPS on, you are being tracked by your cell phone company.

"They know you were playing Angry Birds. They know that you drove by Sears. They know you drove by Domino's Pizza. They can take that and take a very unique algorithm[1] that can focus on your behavior," explained marketing expert Mark Johnson. "It's very impactful."

According to Johnson, your data trail is worth big money to the cell phone companies.

Details about your habits, your age and gender are compiled and can be sold to third parties. The information is predominantly used as a marketing tool so advertisers can target you with products or services that you are more likely to use or want.

The idea does not sit well with smartphone user Harrine Freeman. "It does seem creepy that companies are collecting all this information about consumers," she said.

Freeman is so uneasy; she turns off her GPS when she is not using it. She also clears her browser history.

"I think it is an invasion of privacy," she said.

All of the major cell phone carriers admit to collecting information about its customers. Some in the industry argue it benefits consumers because they get ads that are relevant to them.

Cell phone companies do notify customers about the data they collect, but critics say the notices are often hard to understand and written in fine print.

Rainey Reitman of the Electronic Frontier Foundation doesn't like the fact that those who don't want to be tracked have to go out of their way to get the company to stop.

"This is something that consumers are automatically opted into," Reitman said.

To find out how your cell phone company might be monitoring you, be sure to carefully read the privacy policy.

Also, make sure you read all of the updates your carrier might send you because this tracking technology keeps changing.

—Paula Ebben
http://boston.cbslocal.com, January 16, 2012

[1]algorithm — process or set of rules followed in calculations

Text 2

EyeSee You and the Internet of Things: Watching You While You Shop

...Even the store mannequins have gotten in on the gig. According to the *Washington Post*, mannequins in some high-end boutiques are now being outfitted with cameras that utilize facial recognition technology. A small camera embedded in the eye of an otherwise normal looking mannequin allows storekeepers to keep track of the age, gender and race of all their customers. This information is then used to personally tailor the shopping experience to those coming in and out of their stores. As the *Washington Post* report notes, "a clothier introduced a children's line after the dummy showed that kids made up more than half its mid-afternoon traffic... Another store found that a third of visitors using one of its doors after 4 p.m. were Asian, prompting it to place Chinese-speaking staff members by the entrance."

At $5,072 a pop, these EyeSee mannequins come with a steep price tag, but for store-owners who want to know more—*a lot more*—about their customers, they're the perfect tool, able to sit innocently at store entrances and windows, leaving shoppers oblivious to their hidden cameras. Italian mannequin maker Almax SpA, manufacturer of the EyeSee mannequins, is currently working on adding ears to the mannequins, allowing them to record people's comments in order to further tailor the shopping experience. ...

It's astounding the amount of information—from the trivial to the highly personal—about individual consumers being passed around from corporation to corporation, all in an effort to market and corral potential customers. Data mining companies collect this wealth of information and sell it to retailers who use it to gauge your interests and tailor marketing to your perceived desires.

All of the websites you visit collect some amount of information about you, whether it is your name or what other sites you have visited recently. Most of the time, we're being tracked without knowing it. For example, most websites now include Facebook and Twitter buttons so you can "like" the page you are viewing or "Tweet" about it. Whether or not you click the buttons, however, the companies can still determine which pages you've visited and file that information away for later use. ...

As the EyeSee mannequins show, you no longer even have to be in front of your computer to have your consumer data accessed, uploaded, stored and tracked. In August 2012, for example, data mining agency Redpepper began testing a service known as Facedeals in the Nashville, Tennessee area. Facial recognition cameras set at the entrances of businesses snap photos of people walking in, and if you've signed up to have a Facedeals account via your Facebook, you receive instant coupons sent to your smartphone. Similarly, a small coffee chain in San Francisco, Philz Coffee, has installed sensors at the front door of their stores in order to capture the Wi-Fi signal of any smartphone within 60 yards. Jacob Jaber, president of Philz Coffee, uses the information gleaned from these sensors to structure his stores according to the in-store behavior of customers. ...

Not even politicians are immune to the lure of data mining. In the run-up to the 2012 presidential election, the Romney and Obama campaigns followed voters across the web by installing cookies on their computers and observing the websites they visited in an attempt to gather information on their personal views. CampaignGrid, a Republican affiliated firm, and Precision Network, a Democratic affiliated firm, both worked to collect data on 150 million American Internet users, or 80% of the registered voting population. ...

—John W. Whitehead
excerpted
https://www.rutherford.org, December 17, 2012

Text 3

Where Will Consumers Find Privacy Protection from RFIDs?: A Case for Federal Legislation

What Are RFIDs? How Do RFIDs Work?

...RFID [Radio Frequency Information Device] technology is an automatic identification system that identifies objects, collects data, and transmits information about the object through a "tag." A device called a reader extracts and processes the information on the tag. Experts characterize RFIDs as devices "that can be sensed at a distance by radio frequencies with few problems of obstruction or misorientation."[1] In essence, RFIDs are wireless barcodes. However, unlike typical barcodes, which are identical for all common products, each RFID has a unique identification. Therefore, every individually tagged item has a different barcode sequence. Typical barcodes also require unobstructed paths for scanning, whereas RFIDs can be scanned through solid objects.[2] RFIDs have communication signals that facilitate data storage on RFID tags and enable the stored information to be gathered electronically—hypothetically permitting, for example, Coca-Cola to have a database storing information about the life cycle of a Coke can. The database would contain tracking details from the moment the can is manufactured through its processing at a garbage dump—since RFID readers can be attached to garbage trucks. Between the birth and death of a customer's Coke can, the RFID tags would tell the Coca-Cola Company where and when the Coke was purchased, what credit card the Coke was purchased with, and, in turn, the identity of the purchaser. Even if the customer did not purchase the Coke with a credit card, state issued ID cards equipped with RFID technology could relay the customer's identity to RFID readers as he or she leaves the store. Coca-Cola's final product of the RFIDs' communications is a database of the life cycles of individual cans of Coke and personal information about their purchasers. With this myriad of information, Coca-Cola has the ability to individually market to each of the 1.3 billion daily Coca-Cola consumers. ...

How Are RFIDs Used?

RFIDs are currently used in many ways, including, "livestock management[,] 24 hour patient monitoring[,] authentication of pharmaceuticals[,] tracking consignments in a supply chain[,] remote monitoring of critical components in aircraft [, and] monitoring the safety of perishable food."[3] Advocates of RFID technology, including retailers and manufacturers, praise the increased functionality and efficiency that will likely ensue from using RFIDs. Once all products are individually tagged, shoppers are expected to be able to purchase items without checking-out. This should be possible since RFID readers will be able to scan every item as the customer exits the store and charge an RFID credit card, thereby simultaneously increasing efficiency and possibly reducing shoplifting. Other RFID uses include easy monitoring of product recalls, tracking lobsters for conservation purposes, and purchasing products with transaction-free payment systems.[4] Additionally, in October 2003, the Department of Defense set standards mandating suppliers to place

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[1] KATHERINE ALBRECHT & LIZ MCINTYRE, SPYCHIPS 13 (Nelson Current 2005) quoting Raghu Das, *RFID Explained: An Introduction to RFID and Tagging Technologies*, ID TECHEX (2003).

[2] *Id.*

[3] Viviane Reding, Member of the European Commission responsible for Information Society and Media, Address at EU RFID 2006 Conference: Heading for the Future, RFID: WHY WE NEED A EUROPEAN POLICY, 1,3 (Oct. 16, 2006).

[4] David Flint, *Everything with Chips!*, BUS. L. REV., Mar. 2006, 73, 73.

RFID tags on all packaging for the Department of Defense.[5] Thus, RFIDs can be used to increase efficiency and safety. ...

Do Consumers Have a Right to Privacy from RFIDs under Tort Law?[6]

...In the context of RFIDs, there are some situations where gathering information from RFID tags violates consumers' privacy expectations. For example, a consumer does not have a reasonable expectation of privacy when carrying RFID equipped items in a transparent shopping cart. However, once the items are placed in an opaque bag, a right to privacy immediately arises. If a business or third-party gathers data about the items once the items are no longer visible to the naked eye, there is an objective invasion of privacy. Gathering information stored in the RFID tag in a winter jacket worn in public is also not an invasion of privacy, yet pulling data off undergarments is intrusive. However, since the home is always considered a private place, once an active RFID tag enters the home, any information gathered, including information from the winter jacket, immediately offends the principles of privacy. Protecting consumers from unreasonably intrusive actions of businesses requires that RFID tags become unreadable once they enter private places. However, the fundamental nature of the technology does not harmonize with this privacy goal because RFID readers do not scrutinize whether the information is considered private before it gathers data from the tag. ...

With new technologies come new methods of consumer tracking and changing parameters for what may be considered highly offensive. These new methods of tracking are not considered intrusive simply because the nature of the technology requires consumer purchases to be recorded. If individuals make active decisions to use a credit card instead of cash—a voluntary act—their purchases can be tracked. Similarly, the gathering of information stored on RFID technology in consumer goods may not be deemed highly offensive depending on changing consumer expectations. ...

—Serena G. Stein
excerpted and adapted
Duke Law & Technology Review, 2007, No.3

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[5] Press Release, US Dep. of Defense, DoD Announces Radio Frequency Identification Policy, United States Department of Defense News Release, (Oct. 23, 2003).

[6] Tort Law — covers civil wrongs resulting in an injury or harm constituting the basis for a claim by the injured person

Text 4

RFID Consumer Applications and Benefits

...One of the first consumer applications of RFID was automated toll collection systems, which were introduced in the late 1980s and caught on in the 1990s. An active transponder is typically placed on a car's or truck's windshield. When the car reaches the tollbooth, a reader at the booth sends out a signal that wakes up the transponder on the windshield, which then reflects back a unique ID to the reader at the booth. The ID is associated with an account opened by the car owner, who is billed by the toll authority. Consumers spend less time fumbling for change or waiting on lines to pay their toll fee.

In the late 1990s, ExxonMobil (then just Mobil) introduced Speedpass, an RFID system that allows drivers who have opened an account to pay for gas automatically. Drivers are given a small, passive 13.56 MHz transponder in a small wand or fob that can be put on a key chain. To pay for gas, they just wave the key fob by a reader built into the gas pump. Seven million people in the United States use the system, and it has increased the number of cars each gas station can serve during rush periods. ...

RFID has other consumer applications, besides being a convenient payment system. One is the recovery of lost or stolen items. A company called Snagg in Palo Alto, Calif., has created an electronic registry for musical instruments. It provides an RFID tag that can be affixed to a classic guitar or priceless violin and keeps a record of the serial number in the tag. If the instrument is recovered by the police after being lost or stolen, they can call Snagg, which can look up the rightful owner. ...

Merloni Elettrodomestici, an Italian appliance maker, has created a smart washing machine. When you drop your clothes in the machine, an RFID reader in the appliance can read the tags in the clothes (if your clothes have tags) and wash the clothes based on instructions written to the tag.

Whether smart appliances with RFID readers catch on depends on how long it takes for RFID tags to become cheap enough to be put into packaging for items. It also depends on whether consumers find RFID-enabled products convenient enough to accept the potential invasion of privacy that comes with having RFID tags in products. But RFID will certainly have a positive impact on people's lives in less direct ways.

One area of importance is product recalls. Today, companies often need to recall all tires, meat or drugs if there is a problem to ensure people's safety. But they can never be sure they recovered all the bad goods that were released into the supply chain. With RFID, companies will be able to know exactly which items are bad and trace those through to stores. Customers that register their products could be contacted individually to ensure they know something they bought has been recalled. ...

And RFID should enable consumers to get more information about the products they want to purchase, such as when the items were made, where, whether they are under warrantee and so on. When RFID tags are eventually put on the packaging of individual products, consumers will be able to read the tag with a reader embedded in a cell phone or connected to a computer and download data from a Web site. They'll be able to learn, for example, whether the steak they are about to buy is from an animal that was raised organically in the United States. Some companies will be reluctant to share this information, but smart companies will provide it to their customers to build trust and loyalty.

RFID could also have an [sic] positive impact on our environment by greatly reducing waste. The main reason many companies want to use RFID is to better match supply and demand and to make sure that products are where they are supposed to be. If successful, there should be fewer products that are thrown away because no one wants to buy them or they pass their sell-by date (it's estimated that 50 percent of all food harvested in the United States is never eaten).

RFID tags could also help improve our environment by identifying hazardous materials that should not be dumped in landfills. One day, robots at landfills might be equipped with RFID tags, and they might be able to quickly sort through garbage to locate batteries and other items that contain toxic materials. ...

—Bob Violino
excerpted
http://www.rfidjournal.com, January 16, 2005