
Consumer Benefits from Open Public Records

Open access to public records serves many valuable purposes in our democracy and provides many public benefits, ranging from preventing and detecting crime to locating missing children. (These public benefits are outlined in greater detail in the Coalition for Sensible Public Records Access paper, *Public Benefits From Open Public Records*.)

The value of accessible public records, however, extends far beyond these democratic and social benefits. The benefits of open public records are so numerous and diverse that they impact virtually every facet of American's lives as consumers. In fact, public records have come to constitute part of the critical infrastructure of our information economy. As privacy consultant Robert Gellman, former chief counsel to the House Government Operations Subcommittee on Information, Justice, Transportation and Agriculture, has written: "Many government agencies exist principally to create, collect, or provide information to assist in the conduct of business, legal, or personal affairs. Government information is a valuable resource and commodity that can be used in many different ways to further economic growth."¹

These uses of public records in the market are so common, and their value so great, that we frequently take them for granted. Consider just a few of the essential consumer benefits that open public records provide:

Information for Financial Decisionmaking

Public records provide key information about consumers' financial fitness. Information from bankruptcy courts for example, not only facilitates the recovery of debts by creditors, but also provides valuable notice to future creditors. Public record information is also used to verify loan application information, determine property ownership and value, and identify outstanding liens. That information helps increase the accuracy of future credit decisions, increases the availability of credit, and decreases the cost of credit to the public.

Accessible public information also has increased the number of Americans who now qualify for credit and other services, and increased the confidence of service providers in meeting the needs of this previously underserved population. In 1956, about 24 percent of U.S. households (13 million) had mortgage loans. By 1998 over 43 percent of households (44 million) had home mortgage loans, and the percent of the U.S. population owning their own homes were at an all-time high—thanks to reliable, accessible information drawn largely from public records.

The Coalition for Sensible Public Records Access (CSPRA) is a not-for-profit organization dedicated to preserving responsible access to public record information. CSPRA sponsors research and publications, public fora, legislative briefings, and other activities designed to foster a more thoughtful debate about how such access should be balanced with privacy concerns. Additional information about CSPRA is available at www.cspra.us.

This country's open public record system significantly reduces the cost of credit by facilitating accurate decisionmaking, reducing fraud and other losses, improving efficiency and confidence. As a result, American consumers save billions of dollars every year. In fact, economist Walter Kitchenman has calculated that just *one* of these features of our open information economy—the extent to which reliable, centralized, and standardized consumer credit information makes it possible to pool consumer loans and then sell them to investors—saves American consumers at least *\$80 billion a year*.²

Accessible public records facilitate rapid financial decisionmaking. Even major financial decisions are often made in a matter of minutes or hours, instead of weeks or months, as is the case in most other countries. In 1997, 82 percent of automobile loan applicants received a decision within an hour; 48 percent of applicants received a decision within 30 minutes. Many retailers open new charge accounts for customers at the point of sale in less than two minutes. This is unheard of outside of the United States in countries that do not share our commitment to open public records. (And this fact has not gone unnoticed, to judge from recent European reports arguing for more open public records so that Europeans can one day enjoy the same benefits that Americans have come to take for granted.)

Information to Verify and Facilitate Property Ownership

Our entire system of real property ownership and nearly all real estate transactions have long depended on public records. These records are used to confirm that the property exists, its location, and its defined boundaries. Buyers, lenders, title insurers, and others use these records to verify the title owner. Mortgages, many legal judgments, and other claims against real property cannot be collected without reference to public records. And, as we have already seen, accessible public information makes financing the purchase of a home easier, cheaper, and faster than could otherwise be the case.

Information to Prevent and Detect Fraud

Public records are used to prevent and detect fraud. Such information is used every day to identify consumers cashing checks, applying for credit, and seeking access to accounts. Check verification services use state motor vehicle records and other public information to help combat check fraud. One such service used that public record data to verify or warranty \$19 billion worth of consumer checks paid to more than 200,000 businesses in 1998. This use of public record information not only fights identity theft, and reduces check fraud, it also improves the speed and accuracy of check acceptances and gives businesses the confidence to accept checks, especially from out-of-state accounts.

Information to Verify Identify and Locate Individuals

Public records are a key source of information about consumer addresses. This information is used to help instantly verify identity when consumers apply for credit or seek to establish new cable or telephone service; protect against identity theft and credit card and check fraud; provide current contact information for owners of disused or delinquent accounts; and locate pension fund beneficiaries, heirs to estates, and owners of lost property.

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Licensure Information

Open public records have long been used by consumers, businesses, and consumer protection groups to verify the qualifications of job applicants and service providers. States license physicians and other medical professionals, attorneys, private investigators, hair stylists and cosmetologists, surveyors and contractors, hazard waste specialists, and dozens of other professionals. Access to that license information is a key means of locating a qualified specialist; verifying his or her identity, licensure, and specialization; and seeking redress in the event of unsatisfactory performance. Public access to such information is critical to protecting consumers from unlicensed professionals and sham businesses.

Information to Target Interested Consumers

Public record information helps sellers accurately and efficiently identify consumers likely to be interested in a given product or service. As a result, information on second mortgages and home improvement services can be targeted only to homeowners. Information on automotive products and services are targeted only to car owners. The American Association of Retired People can target its officers only to older Americans, and veteran's organizations can appeal only to people who have served in the armed forces. Political campaigns can target their solicitations to registered members of appropriate political parties

Target marketing reduces the prices that consumers pay for products because it dramatically reduces the cost of soliciting consumers, reduces the volume and environmental impact of unwanted or undeliverable mail, and enhances consumer satisfaction by increasing the chance that the mail and calls consumers receive are actually of interest.

Information for Innovation and Competition

Accessible public information allows new market entrants, which cannot afford mass market advertising and lack the customer lists of their well-established competitors, the ability to offer reach those people most likely to be interested. Just look at the marketing practices of companies like America Online, which achieved its current status as an Internet powerhouse because, as a start-up company, it mailed free copies of its software to people likely to be interested in Internet access. Prohibiting the fledgling AOL access to basic information about consumers would have denied consumers information about an opportunity that many of them obviously value, increased the volume of marketing material that AOL would have been required to distribute, and threatened the financial viability of a valuable, innovative service.

Open public records increase choice in the market, because the cost of alerting consumers about a new product or opportunity can be a major obstacle to the launch of new businesses and prevent innovative products from ever reaching the marketplace. The absence of such information, in the words of Robert E. Litan, Director of the Economic Studies Program and Vice President of The Brookings Institution, and a former Deputy Assistant Attorney General for the United States, would "raise barriers to entry by smaller, and often more innovative, firms and

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organizations,” by making it harder to identify and reach interested potential customers.³

Conclusion

The American open public record system not only allows citizens to oversee their government and obtain other important public benefits, it also facilitates a vibrant economy, improves efficiency, reduces costs, creates jobs, and provides valuable products and services that people want. Restricting the availability of personal information in the marketplace, in the words of Attorney General Bill Pryor (R-Ala.), inevitably imposes costs on consumers “in terms of either higher prices for what they buy, or in terms of a restricted set of choices offered them in the marketplace,”⁴ or both.

¹ Robert M. Gellman, *Public Records: Access, Privacy, and Public Policy*, a discussion paper prepared for the Center for Democracy & Technology (1995) at 6.

² Walter F. Kitchenman, U.S. Credit Reporting: Perceived Benefits Outweigh Privacy Concerns 1 (The Tower Group 1999).

³ Robert E. Litan, “Balancing Costs and Benefits of New Privacy Mandates,” 6 *Telecommunications & Space Journal* 115, 125 (1999).

⁴ Bill Pryor, Protecting Privacy: Some First Principles, Remarks at the American Council of Life Insurers Privacy Symposium, July 11, 2000, Washington, DC, at 4.