I had an interesting experience recently. A well-known magazine (the name is not necessary for my purposes) has been sending me dunning letters claiming that a gift subscription I gave a friend recently is about to expire. Here’s the text of the letter I just sent to the Chief Information Officer of the publishing company:

* * *

RE: Computer error generates possible interstate postal fraud

Dear <name concealed>:

I bought a gift subscription for a friend in June 2002 and paid for a three-year subscription.

I have been receiving dunning letters from your subscription service since August, two months after I bought the subscription. All of them insist that the subscription will end "soon."

The computer program that sends out warnings about expiration of gift subscriptions has a serious error – it doesn’t consider the actual expiry date. This error is likely an oversight; i.e., quality assurance has failed. However, it is also possible that someone has deliberately programmed the system to ignore the termination date in an effort to frighten gift donors into sending renewal fees years earlier than required.

The message "In fact, they’ll soon receive their last issue" was in a letter purportedly signed by <name removed>, President and Publisher; I enclose that letter for your reference.

Given that the subscription in question ends in June 2005, the statement is false.

Sending misrepresentations designed to induce recipients to send you more money may constitute fraud. Using interstate postal mail to perpetrate fraud may constitute a violation of US Federal Mail Fraud statutes. I urge you to correct this error at once.

[I am not a lawyer and this is not legal advice. For legal advice, consult an attorney qualified to help you in this matter.]

* * *

What struck me about this relatively minor problem is that a computer programming error may have legal repercussions when it affects marketing or any other communications with clients. In this case, what I hope is the simple omission of an expiration-date check allowed the computer system to send wholly inappropriate warnings that could be interpreted by naïve recipients as pressure to renew gift subscriptions that won’t need renewal for a long time yet. There’s nothing wrong with suggesting early renewal; stating or even implying that without the renewal, the
A much more bizarre case of legal implications resulting from a computer error was described in February 1999, when for unknown reasons, the BUY.COM online store Web site listed a $588 Hitachi monitor at only $164.50 — and staff failed to notice the error until two days later, by which time there were 1,600 orders for this incredible bargain. The potential cost was estimated by the company at $320,000.

Analysts speculated on the cause of the error. One intriguing possibility: the BUY.COM online store had a policy of underbidding any price on the Net and may possibly have used knowbots (knowledge-robots) to scour the Web looking for prices of products it was selling. Speculation had it that if a competitor accidentally or deliberately posted a bad price, the unsupervised knowbot could very well poison the BUY.COM Web site database. The same technique could be used in an information warfare attack to ruin a competitor. Even worse, the same problem could occur if two companies inadvertently used the same policy of underbidding all competitors and then simultaneously launched automated processes to lower the price without human intervention. In the event, BUY.COM filled 200 orders and told all the rest that they were out of luck. They also posted new language on their Web site explicitly repudiating erroneous prices.

In this hypothetical case, the design error – allowing an automated process to lower a price without warning a human being and without a floor price set by a human being – could have led to lawsuits for false advertising. Now, according to an attorney cited by Polly Sprenger in her article about the case (see reference below), it was very unlikely that anyone would win a lawsuit for fraud in the case of an error. It remains, however, that even a failed lawsuit could be a considerable embarrassment to a reputable company and that even a cheap lawsuit is expensive compared to, say, the cost of a new router.

Similar concerns about being held to out-of-date advertising lead to the recommendation to put expiration dates on all advertising likely to be circulated via e-mail. Concerns over fraudulent tampering with the content of such freely-circulating e-mail ads leads to the recommendation to use digital signatures to be able to repudiate forged versions of the original advertisements.

In conclusion, to avoid embarrassment and possible legal entanglements, everyone with responsibility for automated processes should be especially careful to apply proper quality assurance to any automatically-generated mass communication involving prices or services.

* * *

For further reading:


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NEW! 18-month online Master of Science in Information Assurance offered by Norwich University; see <http://www.norwich.edu/msia> for full details.
