"Return Denied" and More Serious Consequences of Modern Blacklists

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blacklist *[Prob. < to blackball, to vote against. In Brit. Club society, one blackball (vote against) was traditionally enough to exclude.] n. A list of persons to be shunned or proscribed in one way or another. –v. To place a person's name on such a list.*

HISTORIC. Section 2 of the British Licensing Act of 1902 authorized the preparation of a list of habitual drunkards in various cities and areas, and the distribution of that blacklist to liquor dealers, with a prohibition of liquor sales to people on the list.

In a city the size of London, a drunkard could walk away from his home grounds to a pub that would not recognize him, but c. 1900 the British poor were not given to travel, and in country places, a local blacklist would cover all the pubs a neighborhood sot might get to.

Sometime before 1902, however, American mine owners and manufacturers, along with their Pinkertons and private goons, were preparing and distributing blacklists of workers who were not to be hired. Employers justified such lists as a way of getting rid of "troublemakers" (for which read "union organizers and sympathizers"), but no reason was required for blacklisting a man, and once so listed, he was unemployable, at least within a given industry and geographical area. (Ciardi 1983, pg. 25)

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I. Introduction

Although she was discharged a year ago, Sarah Nome will not leave the San Rafael Medical Center, (Wagenseil 2005). The 82-year-old is healthy, but she has no place to go if she leaves the hospital. No nursing homes nearby, not even the home that sent her to San Rafael to get psychiatric testing more than a year ago, will take her into residence. Why? Because she has sued every nursing home that she has lived in, and "none of them want to take her."

John S. Jones, a Texas Radiologist has created an online database of people who have filed medical malpractice lawsuits, (Feder 2004). Jones' goal for the site was to provide information to doctors about the malpractice history of some patients, allowing the doctors to choose whether to treat the patient based on that information. '"They can sue, but they can't hide," the Web site proclaims. "Malpractice plaintiffs must now permanently bear the burden of their public claims."'

Darlene Salerno, a dedicated patron of Express clothing stores, was recently denied the ability to return some items of clothing she had purchased a few days before, (Feder 2004). She was told that her account had been flagged for "excessive returns" and she no longer had the ability to return any items she purchased. Considering that she has spent nearly $20,000 on Express clothes in the past ten years, it is no surprise that she returned more items than other customers, (she *buys* more than normal customers), but it is surprising that the Express database would red flag a *good* customer.

These three examples are a few of many incidences of blacklisting that reveal efforts of businesses and doctors to control those whom they sell to and treat, respectively. The emergence of systems to identify individuals for denial of service is a

result of the desire of the list creators to manage the losses caused by these individuals. Systems such as these can be generally referred to as blacklists. This term that gained recognition in the 1950's due to McCarthyism, but blacklists have a much more extensive history. A blacklist is somewhat formally defined as "Concerted action by employers to deny employment to someone suspected of unacceptable opinions or behavior," (Hirsch, Kett and Trefil). Blacklists in their earliest form provided employers with a means to identify undesirable employees and exclude them from employment. This paper examines the existence of blacklists in two specific sectors -- the retail sector and the medical sector -- through the lens of new institutional economics. Two questions will be studied. The first is: what motivates the formation of blacklists? The second is: how do the laws of a society apply to blacklists?

I. A. Why Form Blacklists? : Increasing the Profit Margin

As is true with any business, retailers are always looking for new and better ways to manage their sales and customer base to maximize profits. One of the strategies to improve profitability involves differentiating between profitable and unprofitable customers, or, as Best Buy managers often refer to them, "angels and devils," (McWilliams 2005). Retailers are beginning to develop blacklists of the devil customers. These retailers will then employ the lists to deny devils access to certain services, for example, return or exchange services for goods they have purchased. These blacklists are created by compiling information about a customer's habits, such as how often they return items and whether or not they typically purchase items on sale or for full price. Collection of this kind of information has been greatly facilitated by improving

technology systems and increasing use of credit to make purchases; (credit purchases are easier to track than cash).

One example of implementation of a blacklist system is the story of Darlene Salerno, which was described at the beginning of this paper. If a retailer can detect a pattern of buying items and returning them shortly thereafter for a full refund, (people may do this so they can wear an outfit once and then return it), the retailer can refuse the return or otherwise restrict that person's return privileges. This cuts down on the costs associated with processing returns and marking down returned merchandise. The Express clothing stores have recently enacted this policy on people who return items frequently, such as Ms. Salerno. If the system does not blacklist and thus alienate a valuable customer such as Salerno, it will be a valuable money saver. These systems can also be extremely valuable for catching shoplifters who steal items and then return them for a cash refund, although the primary use is to discourage expensive activities like returning and exchanging.

I. B. Why Form Blacklists? : A Medical Necessity

One of President Bush's major campaign issues was increasing health care costs and the negative effect they have on Americans. He promised to work to curb the increases, specifically through medical malpractice reform, (Hogstrom 2004). There seems to be little that consumers can do to reduce their healthcare costs – when someone needs medical attention, there are no substitutes. The increasing costs of health care tend to fall instead on the providers. Health care providers are constantly trying to control costs to maintain profitability. Health management organizations are a good example of an attempt to control care and thus control costs. However, some of the increasing costs

that health care providers face are due to the costs of medical malpractice lawsuits. According to the Congressional Budget Office, malpractice insurance premiums rose by about 15% for all physicians nationwide, (www.cbo.gov). The increases for certain specialties have been even more dramatic than the average for the profession. Premiums for gynecologists and internists have increased roughly 22% and 33%, respectively. There are two causes of the premium increases. The first is that investments made by insurance companies have had lower expected returns. The second is that insurance companies have faced increased payouts for medical malpractice claims. Both of these costs are, of course, passed on to the physician. Physicians are thus motivated to reduce their premiums by reducing malpractice risk. Blacklists may begin to play a larger role in helping health care providers control costs and risk associated with medical malpractice. Health care providers can create blacklists of patients with undesirable histories - for example, those patients known to have filed malpractice claims against doctors - and use these lists to decide whom they will or will not treat. This is similar to the retail blacklisting, however with more serious consequences for the blacklisted person, who may be denied medical treatment. The justification for denial of treatment is that the patient is too "risky", and the doctor cannot afford to treat them.

This paper seeks to examine these blacklists through an economist's eyes, specifically, these lists represent a development related to new institutional economics. The lists are a form of information transmission that has been developed in response to the needs of the users. They carry valuable information about the expected behavior of a patron or patient. Game theory can be applied to the lists as well. It can be used to model how the agents in the situation will behave, and how this should be considered

when evaluating the information the lists provide. Given that people know that certain behavior can put them on the blacklist, how, if at all, will they alter their behavior? Lastly, law and economics will be used to briefly assess the economic benefit of these lists to society. In economic terms, are the lists efficient? Are they equitable? How has the law dealt with similar developments, and have those decisions been fair and equitable?

Blacklists such as those discussed above are a fairly new emergence. Thus, there is little research on blacklists *per se*. In some ways, consumer credit is analogous to blacklists, especially when one considers the type of information credit conveys, the ways in which people behave in regards to credit, and the ways that the law has regulated credit that may be applied to blacklists. However, the impact of blacklists on retail and medical markets should not be confused with the impact credit reports have on the credit markets – credit markets would probably not function without credit reports, whereas blacklists in these examples are simply a means to controlling the customers and patients. Without the lists, the retail and medical markets would and will continue to function.

The research pertaining to new institutional economics will focus on the role of consumer credit in the retail world. Once the role of consumer credit has been established, it will be used to infer the role of the lists in transmitting information to retailers and doctors. It will also be necessary to describe the differences between traditional consumer credit and the blacklists, focusing on how retailers, doctors, consumers and patients might use the information to make decisions. This decision making process leads nicely into a discussion about the way game theory can be used to predict both the list creators' and the patrons' behavior. Do these lists discourage the

"bad" behavior that differentiates devils from angels? Will devils change their behavior to avoid being blacklisted? Just as importantly, will angels change their behavior for fear of ending up on such lists? For example, what will Darlene Salerno do now that she knows that even being a profitable, repeat customer for Express stores can land her on a returns blacklist?

Examining the ways in which the law treats credit reports and privacy issues related to consumer credit will be helpful in identifying the legal issues that creating such lists entails. There are specific privacy rights enumerated in the Fair Credit Reporting Act that ensure that individuals have the ability to correct bad information, an efficiency promoting activity. Would efficiency be promoted if similar rights to be granted to those who may end up on the blacklists? For example, are those who build the lists allowed to provide that information to others, like other retailers, doctors or consumers? Are the creators of the lists obligated to provide people with some way to get off the list, or at least provide their version of the story? The law has been generous to people with bad credit in this respect. Very often people have the right to refute bad credit or comment on "adverse times" in their credit report. It may therefore be deemed fair to allow blacklisted people the right to refute their inclusion on those lists.

In general, modern and historical blacklists provide for interesting examples of new institutional economic principles at work.

II. Literature Review and History of Blacklists

II. A. A Brief History

Ever since Joe McCarthy announced that "I have here in my hand a list of two hundred and five people that were known to the Secretary of State as being members of

the communist party and who nevertheless are still working and shaping the policy of the State Department," the term "blacklist" generally has negative connotations, (www.brainyquote.com). Among Americans, the term provokes thoughts of McCarthyism and the Hollywood blacklists of the 1950's, (Hirsch et al. 1988). At that time, public figures accused of association with communist organizations were ostracized, and many had their careers ruined by the accusations. In some cases, the accusations were true, in others they were not.

An earlier incidence of blacklists is described by the passage at the beginning of this paper. Blacklists were authorized by the British government in 1902. These blacklists were distributed to local liquor stores and identified individuals known to be drunkards to whom liquor could not be sold. Use of blacklists is most common among employers. Employees known to have undesirable traits, especially sympathy and support for unions, are blacklisted from employment in a region. Use of blacklists in this respect displays a rational effort to protect against a threatening organization, certainly an understandable use. However, the most common connotation of blacklists is negative due to the association with McCarthyism.

In this paper, the connotation should not be perceived as good or bad. The term is simply a convenient way to refer to a process of information collection and action based upon that information that have goals similar in spirit to the goals of historic blacklists – namely identification and exclusion of undesirables from certain privileges. Blacklists are a characteristic example of an institution developed to deal with information asymmetries, thus it is appropriate to study them using the tools of new institutional economics. Blacklists can serve an extremely useful purpose because they aggregate

information in an easily disseminated form. Whether or not the use is "ethical" is a subjective question. Blacklisting for political reasons is almost universally opposed, but the issue becomes less clear when the discussion turns to blacklisting for possibly legitimate reasons. Should employers be able to blacklist potential troublemakers? Should retailers be able to blacklist unprofitable customers? And perhaps the most controversial question: should doctors be able to blacklist patients and deny them medical treatment based on their malpractice lawsuit history?

II. B. New Institutional Economics and Blacklist Development

New institutional economics is primarily concerned with the way that information is distributed in markets. Independently, many markets will develop severe information asymmetry problems. Societies develop institutions to deal with information asymmetries that hinder market activities. Joseph Stiglitz articulates the difference between the perfectly competitive way of thinking, (players in a market have perfect information), and the information asymmetries that we see in real life. He specifically mentions the loan market and the effects that information asymmetries have on them,

> "If lenders know perfectly the risks associated with each borrower, this (adverse selection), would matter little; each borrower would be charged an appropriate risk premium. It is because lenders do not know the default probabilities of borrowers perfectly that this process of adverse selection has such important consequences," (Stiglitz 2001).

In the case of consumer credit, a credit score communicates information to many parties, (for example, potential lenders and employers), about a person's financial history and can provide grounds for speculation about their future financial dealings and quality of character. Credit reports are basically a person's entire financial history. They display raw information about a person's payment history and existing credit lines. Credit

reports are widely available and screeners can interpret their contents to decide whether an individual is an appropriate risk – will they be a good borrower, a good employee, a good tenant, etc? Overcoming the information gap between proprietor and customer has allowed some markets to function more efficiently because proprietors can make good guesses at the answers to the questions posed above.

III. Validation for Two Examples of Modern Blacklists

III. A. Retail Blacklists

Blacklists are a kind of credit report used by retailers to either grant or deny services. They consist of data about customer purchasing history collected by a merchant or by a third party for the merchant. In the case of the Express, Return Exchange Inc. provides this service. Although they refused to divulge any information to the author of this paper, the spirit of the customer databases is expressed well by Return Exchange Inc.'s website:

> "Return Exchange's product is the answer to standardizing return authorization consistently and effectively. With this product, merchants are able to enforce a consistent return policy while monitoring consumer return transaction patterns to identify fraudulent and/or abusive customers. Bringing ease-of-use rules and predictive statistical modeling together …
>
> Through the use of (the product), merchants are given the ability to access a basic rule set to enforce their return policy. The authenticity of returns is automatically verified while ensuring compliance with all your return policies… If a pattern of unusual return activity is detected, a decline code is sent … and the consumer is offered a courtesy notice directing them to contact customer service at The Return Exchange."

Based on a customer's return history, a pending return can be denied or allowed. But why deny a customer's return? Aside from the obvious problem of shoplifters who return stolen merchandise for cash refunds, there is also the problem of overhead associated with returns.

Accepting returns is expensive. Some of the costs involved include writing off the merchandise, (it typically must be sold at a deep discount), paying employees to service customers with returns, and developing and maintaining internal controls to ensure honesty of employees conducting such transactions. Internal controls are necessary to ensure that employees are not facilitating the defrauding of a store by helping people exploit the returns system. These extra costs eat away at a retailer's profit margins. Retailers are probably more defensive of their margins especially in today's climate of thrift – customers use the improved information and choices made available by tools such as the internet to determine the best prices. They then use these prices as leverage to demand lower prices from retailers, (Masters 2005). With the interests of the retailers and the customer at odds, it is not surprising that retailers look to cost cutting rather than increased sales as a source of increased profitability.

Best Buy has put itself in a unique position to be exploited. Although it does not yet employ blacklists, they may be an effective way to deal with the problems created by people who take advantage of Best Buy's customer service programs. Thanks to the "Low Price Guarantee" provided by Best Buy, people can find basement deal prices on the internet and demand that Best Buy match them. It is not unusual for these people to turn around and sell the items online for a profit – a form of arbitrage. Not only do these customers make it a practice to buy items only when they are on sale, but when they sell these items online, they actually reduce the market for the items in Best Buy's stores. As a result, Best Buy loses money in two ways: the first is the money lost on the original sale, as it was sold at a lower than marked price, and the second is the money lost when a customer who may have bought from Best Buy at full price instead purchases an item

online from the devil customer. Not all customers plan this kind of arbitrage, but even if the intentions of the customer are not nefarious, returns of electronic merchandise can be especially costly for the same reasons that returns of clothing are.

III. B. Medical Blacklists

Medical blacklists are a bit different from retailing blacklists, and will no doubt become more controversial if they proliferate. The blacklist developed by the radiologist in Texas, Dr. John S. Jones, posted the results seven years worth of data collection in the form of a patient blacklist on a website so that other doctors could screen their patients. Those patients who have filed medical malpractice claims risk having their names put on the list and could then be denied treatment by doctors. The availability of this information helps doctors to decide whether a patient is a good or bad risk. Concern about medical malpractice lawsuits and rising insurance premiums provides large incentives for doctors to utilize lists such as this. Although information about court proceedings is public and thus Dr. Jones is not violating privacy rules, both patients and doctors are concerned about the implications of medical blacklists; many doctors refuse to utilize the lists on ethical grounds.

There may also be grounds for development of blacklists that consumers might use to select physicians. The potential usefulness of such a list is illustrated by the tragic case of Kay Kelly Cregan, (Buettner 2005). This Irish mother came to New York to undergo a nose job and face lift after reading an article about a plastic surgeon in New York. Unfortunately, the plastic surgeon she selected, Dr. Michael Sachs, has the worst medical malpractice record in the state of New York. Shortly after her surgery ended, Mrs. Cregan went into cardiac arrest in Dr. Sach's recovery room. She was brain dead

when she arrived at the hospital shortly after going into cardiac arrest, and was taken off of life support a few days later. If Mrs. Cregan had taken the time to research her physician, she may have found out about Dr. Sach's dangerous record. However, the transaction costs associated with doing so must have been too high, and the result of her lack of research was death. Perhaps a physician blacklist is in order so that patients have a mechanism to assess the risk of going to a certain doctor for treatment.

IV. Game Theory Analysis of Blacklists

Game theory can provide more insight into the behavioral effects of blacklists. In a very simplified game, there are two types of agents: good and bad. The principal can choose one of two options based on the criteria for blacklisting: don't blacklist or blacklist. In the case of retail blacklists, the retailer hopes that the list affects consumer behavior by reducing return rates of bad behavior due to the threat of blacklisting. A similar effect may be seen in the medical markets – a person may think twice before suing for medical malpractice before they file a claim given that they may be blacklisted from future medical treatment. There is clearly a high cost if one is blacklisted.

In order for the blacklist situation to be considered a game, there must be "mutual awareness of the cross effect," (Dixit et al. 1999 pg. 12). Retailers and medical professionals have a good idea about what the effects of returns and medical malpractice are on their respective professions. If they choose to implement a system of retribution for undesirable behavior on the part of their customers or patients, then the customers have to be aware that the system exists before they will change their behavior. The *probabilities* of landing on a blacklist need not be apparent to consumers or patients, in fact, if these probabilities are hidden then the blacklists will be more effective because

consumers and patients have no idea how far they can go before they are blacklisted, thus they may choose not to engage in the nefarious behavior at all.

The payoffs in blacklists mostly accrue to the principal. Because the retailer or medical professional makes the list, they make the rules. The payoff of making effective rules is increased profitability or lower malpractice lawsuit numbers. For the agent, the payoff is smaller and short-lived. They can manipulate the principal for a short amount of time, but they know that at some point they will be blacklisted. Whether or not they care to have a continuing relationship with the principal will determine the agent's decision to be a good or bad customer. However, not all customers or patients are bad.

Good customers and patients may alter their behavior given they understand the rules of the game and are afraid of being blacklisted. For example, consider a patient who undergoes a procedure that is botched by the doctor. For this mistake, the patient may have a legitimate malpractice claim. However, the threat of being placed on a blacklist may give the patient incentive to not file the malpractice claim. In this case the game has been effective for the doctor, but it is inefficient in a larger sense because the lawsuit would have forced the transaction to be efficient, (i.e. the doctor must internalize the costs of botching the procedure). Laws can deal with this inefficiency problem, which is discussed in the next section. While the game could probably effectively reduce the occurrence of undesirable behavior, it may promote inefficiencies, especially with regard to medical malpractice issues.

V. Issues Related to Law and Efficiency of Governing Blacklists

"'A law is an obligation backed by a state sanction'… Lawmakers often ask, 'How will a sanction affect behavior?'… Economics provide(s) a scientific theory to predict the effects of legal sanctions on behavior." (Cooter et al. 2004)

Laws themselves are a kind of institution that society has developed in order to cope with market inefficiencies. One of the functions of laws is to act as conveyors of information. Specifically, laws communicate price information. For example, a law that says breaking the speed limit defines the cost of speeding to you in terms of a fine and points off of your license. Given that you know this price information, it is up to you to decide how fast to drive, or whether you are willing to pay the price for driving too fast at all.

Laws can also be implemented to regulate markets. From an economics perspective, laws that regulate markets should ensure that the market is efficient; that the marginal benefit of the transaction equals the marginal cost. Efficiency is achieved when both parties in a transaction have complete information and parties have to internalize both explicit costs and externalities. For example, if one was considering the interactions that occur in credit markets, it is important to examine the laws that govern the use of credit reports because these laws are meant to deal with the flaws in credit reporting. Credit reporting is extremely similar to blacklisting. Both credit reporting and blacklisting deal with aggregated information about individuals. The soundness of decisions made based on that information greatly depends on the quality of the information. These similarities make a comparison between laws governing credit reporting and appropriate. Laws governing credit reporting will be useful tools as

blacklists proliferate as they can provide templates for governing this type of information institution.

V. A. Laws Governing the Credit Reporting Industry

Credit reports are extremely important to the functioning of credit markets because they provide creditors with information about credit applicants that they might not otherwise be able to obtain. Creditors can make more informed decisions about who to issue credit to. Laws should support the formation and dissemination of credit reports given that they increase the efficiency of credit markets. However, credit reports can also negatively affect those people trying to obtain credit. Consider a person who has always had good credit behavior, but whose credit report is marred by a mistake. This could be as simple as a keystroke error that mistakenly assigns a person a black mark or as serious as identity theft. In either case, the creditor has bad information about the quality of the credit applicant and the individual may be wrongly denied credit. The market is not functioning efficiently, so laws that stimulate efficiency are necessary.

The Federal Trade Commission (FTC) is the government body that regulates business practices. The FTC describes consumer credit much the same terms that a new institutional economist would describe it: "An elaborate mechanism which has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers." (www.ftc.gov) Among the divisions of the FTC, the Division of Financial Practices "is responsible for developing policy and enforcing laws related to financial and lending practices affecting consumers." (www.ftc.gov) The Fair Credit Reporting Act (FCRA) is the primary body of law

regulating the use of credit reporting. The Gramm-Leach-Bliley Act (GLBA) is the second body of law that affects consumer credit:

> "The FCRA ensures the accuracy and privacy of information kept by credit bureaus and other consumer reporting agencies, and gives consumers the right to know what information these entities are distributing about them to creditors, insurance companies and employers.
>
> The GLBA requires financial institutions to provide notice to consumers about their information practices, and to give consumers an opportunity to direct that their personal information not be shared with non-affiliated third parties." (www.ftc.gov)

Reading through the FTC website gives great insight into just how important the government views the role of information to be in the functioning of credit markets. The introduction to the FTC's consumer and business credit website begins, "Almost every day, you're involved in some type of financial transaction requiring an educated decision."

Clearly, the negative effects of poor information on credit reports are felt most by the consumers whose records suffer the errors. Especially in the U.S. economy, credit is necessary for day to day living, whether it is simply using credit cards or attempting to obtain a loan for a house. The FTC has taken the role of protecting consumers against harm caused by incorrect or unfair reporting on their credit reports. Consumers have the following rights regarding their credit reports (www.ftc.gov):

- To be told if information in a credit report has been used against the individual, for example, if it has been used to deny credit.
- To know what information is contained in the file if one of the following conditions applies: adverse action has been taken on the grounds of the information in the file, the consumer is the victim of identity theft, the consumer is on public assistance, and/or the consumer is employed or will be seeking employment within 60 days.

- To ask for a credit score.
- To dispute inaccurate or incomplete information on their credit report.
- Credit reporting agencies must correct such inaccurate or incomplete information.
- And many other rights related to credit reporting.

Enforcement of these rights increases the efficiency of credit markets because it improves the quality of the information used to make decisions in the market. Consumers have the right to know what information is contained in their reports and they have the right to dispute and correct inaccurate information. Creditors have an obligation to correct problems. While this may seem to benefit only the consumers, *both* parties in the market are better off because creditors have better information to use as well.

V. B. Possibilities for Laws Governing Blacklists

The extensive body of law that governs credit reports could be applied to blacklists. It is not difficult to see how blacklists could promote inefficient behavior between parties. There is the problem of adverse selection – good consumers like Ms. Salerno may choose to alter their purchasing behavior because they fear ending up on blacklists. The information on the lists could be false in the case of identity theft or other fraud. A myriad of errors and misinterpretation could lead to people being denied access to retail services or even medical care. Obviously some controls could become necessary if use of the lists proliferate. The more common they become, the more numerous the contributing parties will be, and thus the chance for errors increases. The FTC may need to step in to regulate these lists in much the same way that credit reports have been regulated so that the information on the lists is good and the markets use them efficiently.

VI. Conclusion

The field of new institutional economics focuses on the institutions developed by society to cope with information asymmetries in markets and transactions. One way for

agents to deal with information asymmetries is to collect as much information as possible and then take guesses about what the behavior of the other party in the transaction will be based on that information. The emergence of consumer and medical blacklists represents such an institution. In an effort to deal with shrinking profit margins due to excessive customer service costs, retailers have developed the lists so that they can identify and cultivate the angels while banishing the devils. Medical blacklists perform a similar function, although the consequences for the devils are much more troubling; the prospect of anyone being denied medical care regardless of their malpractice history is troubling and is an issue that must be addressed by society as these lists proliferate. Not only can the behavior provoked by blacklists be unfair, the lists can be flawed, resulting in inefficiencies in the markets due to *bad* information, not the *lack* of information. Especially in the case of medical lists, flaws in the institution must be corrected. The legal institutions are best able to deal with these situations, just as they did the flaws in credit reporting. While these systems are still in their infancies, it is certainly feasible that they will proliferate. With the possibilities provided by information technology, networks containing consumer information to be used for the purposes of blacklisting could become commonplace, as could patient blacklisting networks. While the ultimate purpose of these lists is to improve market efficiency, a desirable outcome, there remains the possibility of flaws in the system. While development of efficiency improving institutions is good for society, society must be wary of the negative consequences of some actions that are based on the institutions and so must be prepared to cope with them as it has in the past.

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