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Technology Crime and the Bottom Line By Attorney General Catherine Cortez Masto

When people think of technology crime, they usually think of how it affects their personal economic situation: identity theft, unauthorized use of a credit card, hacking into a database for private information. Then there is the global affect of tech crime - stealing a government's secrets and ultimately endangering a country and its citizens.

But there is another aspect of technology crime that does not immediately come to mind: how this issue affects businesses, affects the consumer and ultimately affects the entire economy of the country.

If your credit card is compromised and used by someone else to purchase gasoline, groceries, designer clothes or a trip around the world, you will be credited for most of the money spent on your card if you report the incident appropriately to the card issuer. But the gasoline has been pumped into a car, the groceries eaten, the designer clothes worn – or sold, and the trip around the world taken. So who is stuck with these costs? Ultimately it is the businesses involved who take the loss.

Credit card theft hits the bottom line of an individual business. As detailed in a report from Paynet Systems Inc, merchants are the most affected party in a credit card fraud, particularly in the card-not-present transactions, as they must accept full liability for losses due to fraud. As a rule, the merchant must absorb the cost of the fraudulent transaction including the cost of the goods sold, any shipping cost, administrative costs and fees associated with the credit card company itself as well as merchant bank fees.

Another growing threat to retailers is Organized Retail Crime or ORC. Data indicates that 85% of retail establishments will be victims of ORC with over \$30 billion dollars lost annually. A theft of a single low value item is prosecuted under the category of "petty theft." A member of an organized crime ring that works in coordination with other members to steal hundreds of items is also prosecuted under the petty theft category. These ORC rings coordinate the activities of their members (i.e., their thefts) by computer to ensure no one member exceeds the "petty theft" threshold as recognized by the courts. The sentencing structure of the existing laws and the use of the computer as an organization tool allow these rings to thrive.

Compounding the problem, the use of the Web has made the transfer of money electronically easy to use, hard to track and open to thieves. As reported in the May 7, 2008 issue of *Nevada Lawyer*, "Web bandits are stealing from us in record numbers. The same Internet that provides consumers a competitive international marketplace allowing businesses to reach customers easily and cheaply affords similar opportunities to scam artists."

Retailers are not the only businesses seeing their bottom line shrink as a result of technology theft. Electronic monetary transactions are predicated on information-based credentials. Those credentials might (falsely) identify a city treasurer or an individual applying for a credit card.

Recently, we have tended to concentrate on making personal data harder to steal. We are becoming more educated in the perils of disclosing personal information online and we now limit the use of Social Security Numbers. Unfortunately, however painful it is to be an individual victim of identity theft, we are all paying the price of tech crime through the increased cost of goods and services passed onto their customers by businesses who have also been victimized by these schemes.

As a state, we must move forward with joint efforts to fight those who perpetrate these technology crimes. We must continue our consumer advisory activities, but we must also continue to educate, train, and equip law enforcement and prosecutors to be effective in this age of digital evidence and Internet crime. And we must add the members of the business community, who also have been victimized, to our defense team. We need to continue to search for innovative solutions to protect our state, our communities and our citizens in this war against these faceless thieves.