‘Hidden Persuaders’:
Defaults and Consumer Welfare

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Defaults have been shown to have such powerful and unrecognized effects on consumer behavior that in some settings they may be considered ‘hidden persuaders’. This paper looks at defaults from the perspective of consumer welfare, consumer autonomy and marketing ethics. It surveys research on defaults and identifies three theoretical explanations for default effects: implied endorsement, cognitive biases, and effort. These theoretical explanations are informative in understanding the implications of defaults for consumer autonomy and consumer welfare. While attention has been paid to the means through which defaults can enhance consumer welfare, we show how, in certain circumstances, defaults can diminish consumer autonomy and also have adverse effects on consumer welfare. We conclude with implications for marketers, consumers, policymakers and researchers.
“...many of us are being influenced and manipulated—far more than we realize—in the patterns of our everyday lives. Large scale efforts are being made, often with impressive success, to channel our unthinking habits, our purchasing decisions, and our thought processes by the use of insights gleaned from psychiatry and the social sciences.”

Vance Packard, *The Hidden Persuaders*  
(1960: 11; first published 1957)

Packard’s *The Hidden Persuaders* described how marketers were apparently manipulating consumers. Millions of copies of the book were sold and the term “hidden persuaders” became synonymous with marketing. Marketers rejected the charge of manipulation suggesting that consumers were just not susceptible to influence in the way Packard claimed. Fifty years later, however, his central proposition of marketing’s potential to manipulate has gone from being largely implausible to increasingly tenable.

Questions about marketing ethics were commonplace well before Packard (1957). As Farmer (1967: 1) observed: “For the past 6,000 years the field of marketing has been thought of as made up of fast-buck artists... Too many of us have been ‘taken’ by the tout or con-man; and all of us at times have been prodded into buying all sorts of ‘things’ we really did not need, and which we found later on we did not even want.”

The classic reply to such criticisms is *caveat emptor* (buyer beware) subject to the marketer operating within the law; plus an assertion of market discipline, recognizing that most companies rely on repeat purchase and favorable word-of-mouth (Smith 1995). It can be criticized on many grounds. However, it is clearly inadequate if the consumer response to the marketer is the result not of illegal and deceptive practices, but through “hidden persuaders”, a manipulation of which the consumer is unaware.

Despite Packard’s claims, understanding of consumer behavior did not offer insights that provided much scope for manipulation by marketers in his day. Today, however, consumer research offers more robust findings that provide considerable potential for manipulating
consumers. We refer here to manipulation as rather predictably causing consumers to engage in one course of action relative to other alternatives, rather than indirect and less certain influence, such as, for example, the effects of mood on variety seeking (Roehm and Roehm 2005). Thus we use manipulation in the sense of “skilful handling and control” of consumers and, potentially, in its pejorative sense of unfairly directing outcomes to the marketer’s advantage.

Many consumer research studies might lay claim to offering an explanation for consumer behavior that could potentially provide the marketer with some degree of influence over consumers, including studies identifying effects outside of conscious awareness (Fitzsimons et al. 2002). For example, Wansink and Van Ittersum’s (2003; also see Raghubir and Krishna 1999) work on area perceptions and drink consumption volumes might well suggest that marketers of liquid detergent, say, could encourage overpouring by providing short, wide pouring containers rather than tall, slender ones. However, as the authors acknowledge, there are unknown boundary conditions in relation to drink consumption, let alone the proposed detergent context, as well as evidence to suggest that the overpouring bias is not found in all adults.

In this paper, we look at defaults, the effects of which are both powerful and so well established as to be almost law-like. A “default option is the choice alternative a consumer receives if he/she does not explicitly specify otherwise” (Brown and Krishna 2004: 529). Defaults have been demonstrated in specific marketing contexts and could potentially permit marketer manipulation of consumers to their detriment. For example, recently an airline added optional travel insurance to the shopping cart of every customer ordering a ticket on its website; making it possible for a hurried, inattentive shopper to buy it without intent (Johnson and Goldstein 2006). It is also possible for the manipulation to be benign and even promote consumer welfare, for instance when employees are automatically enrolled into pension plans.
Nonetheless, defaults can be “hidden persuaders” and raise major ethical and public policy issues given their potential consequences for consumer welfare and consumer autonomy.

We first review how defaults can have surprisingly strong effects on consumer behavior and identify three theoretical explanations. We then discuss defaults as a possible implement for consumer manipulation in the context of marketing ethics and their consequences for consumer welfare. Next, we introduce the concept of consumer autonomy as an ethical, welfare-relevant consideration in setting defaults. We then look at possible default outcomes in light of the theoretical explanations before turning to how defaults can be used to enhance consumer welfare and suggesting remedies to their potential misuse in ways that reduce welfare. We conclude by identifying other effects that potentially raise consumer welfare concerns (e.g., mere measurement effects) and offer directions for further research.

DEFAULTS

“No-action defaults,” or “defaults” for short, are the decisions assigned to those who do not take active decisions (Johnson, Bellman and Lohse, 2002; Camerer et al. 2003; Sunstein and Thaler 2003). Suppose a customer has two options when completing a purchase: enrolling in a “rewards” program (and receiving promotional offers by mail) or not. In such situations it is common to speak of “opt in” and “opt out” policies. In the opt-in system, the default is to not to automatically enroll new customers, so no person is enrolled unless they actively request it. In the opt-out system, every new customer is enrolled by default and stays enrolled unless they take active steps to quit.

Defaults are surprisingly powerful. Johnson and Goldstein (2003) found that in European countries with opt-in membership in organ donor pools, typically far less than a quarter of the population opted in. However, in opt-out systems, typically over 99 percent of the population did not opt-out, leading to enormous differences in donor pools between otherwise similar countries.
Studies show that default enrollment in 401(k) retirement plans can lead to 95% participation within a few months of employment, compared to about 60% participation without the default (Beshears et al. 2006). In the early 1990s in New Jersey and Pennsylvania, a sweeping change in legislation required every driver to choose between two alternatives: i) a high-cost insurance policy that provides the right to sue or ii) a low-cost insurance policy which lacks the right to sue. Defaults exerted tremendous influence in this choice as well. As it turns out, New Jersey chose the inexpensive policy as the default and Pennsylvania chose the more expensive one. As a result 21% of New Jerseyans purchased the right to sue, compared to 70% of people on the opposite side of the river in Pennsylvania (Johnson et al 1993).

Going beyond two-alternative choice, defaults exhibit strong (or even stronger) effects in the presence of several or thousands of alternatives. Cronqvist and Thaler (2004) document how under privatization of social security, Swedish citizens were sent a catalog of mutual funds and given instructions on how to invest for their own retirement. Of the 456 possible funds, a full third of participants ended up with their entire investment in the default fund, despite an extensive advertising campaign encouraging them to make active decisions.

In some cases, defaults are so well hidden that people may not be aware they even have a choice. Since many people do not change default settings on software (Mackay 1991) the search engine defaulted to by a Web browser, for instance, could influence how a person searches the Internet for years. Since operating systems have default browsers, which have default home pages, many computer users might not be aware that they have a choice of browsers or search engines. Though it sounds trivial to many of us, these software defaults have enormous economic impact. It has been argued that AOL’s 4 billion dollar purchase of Netscape was motivated less by its software and more by its enormously popular home page, which was preserved as the default by some 40% of Netscape users (Kesan and Shah 2006). Software defaults are also hotly
contested. Search engines like Google and MSN make billions of dollars by placing ads among
search results, and the dispute over default search engines has found its way to the US
Department of Justice, the US Federal Trade Commission, and the European Commission
(Johnson and Goldstein, 2006).

Theoretical Explanations for Default Effects

Defaults are clearly powerful. Why? We identify three mechanisms thought to drive
default effects and in the next sections discuss their implications for marketing ethics and
consumer welfare.

Implied endorsement. One view of defaults is that they are perceived by the public as
implied endorsements by those who set them. In the case of policy defaults, such as for organ
donor status or pension plan membership, McKenzie, Liersch, and Finkelstein (2006) have
forwarded the view that people interpret the default as a recommended course of action set out
by policymakers. Thaler and Sunstein (2003) propose that the default selected by policy makers
might be interpreted as an indication of what the majority chooses, and that following a simple
heuristic of imitating others (Henrich et al. 2001) could lead to its widespread adoption. In a
marketplace context, Brown and Krishna (2004) posit that defaults set by marketers may be
perceived as suggestions, and in the case of suspicious vendors, as manipulation attempts. Their
experiments find that default effects are diminished or even backfire when consumers become
sufficiently skeptical. The view of defaults as endorsements does not portray the selection of
defaults as arising from cognitive limitations; on the contrary, it suggests that agents react to
defaults with a kind of developed social intelligence or “marketplace metacognition” (Brown and
Krishna 2004), which stands in contrast to the next line of explanation.

Cognitive bias. A host of cognitive biases have been proposed to explain default effects.
For instance, comparisons have been drawn between the default effect and the status quo bias
(Ritov and Baron 1990; Samuelson and Zeckhauser 1988), and the endowment effect (Park et al. 2000), all of which have been explained in terms of loss aversion (Thaler, Kahneman and Knetsch 1992). Thaler, Kahneman and Knetsch (1992) state that the endowment effect and the status quo bias (which they explicitly liken to default effects, p. 69) “are a manifestation of an asymmetry of value that Kahneman and Tversky (1984) call loss aversion” (p. 63). The gist of this explanation is that people feel as if they somehow possess the default option and that moving away from that possession would be perceived as a loss, which under loss aversion would matter more than the equivalent gain associated with changing states (e.g. “as a Pennsylvanian I already have the right to sue, why would I want to give that up?”). This account predicts that people would feel the same way if they were endowed with the opposite default (e.g., “as a New Jerseyan I already posses the more economical form of insurance, why would I want to give that up”), and as such presents itself as a human fallibility. We do not concern ourselves with the debate “on the reality of cognitive illusions” (Gigerenzer, 1996; Kahneman and Tversky, 1996). Rather, we ask what the ethical implications are under the assumption that default effects are attributable to cognitive illusions over which we have little awareness or conscious control.

**Effort.** Some of the differences in expressed preferences are surely due to effort (Samuelson and Zeckhauser 1988). Many people living under opt-out policies for organ donation, for instance, might not bother to opt out because of the effort involved in finding and mailing a change-of-consent form (Johnson and Goldstein 2003). However, effort is not the whole story. In experiments in which choosing to keep or abandon the default requires the same number of mouse clicks, Johnson and Goldstein still found differences in organ donor pool enrollment that resembled those found in the real world (42% for opt in and 82% for opt out). Similarly, other scholars have argued that rational calculations of the efforts of switching compared to the gains of switching cannot explain the range of default effects observed (Thaler
and Sunstein 2003; Samuelson and Zeckhauser 1988). We do not wish to brush aside effort-based explanations. Simply because effort cannot explain all default effects, it does not mean that it does not explain many of them. We retain effort on our list of explanations, and later consider the consumer welfare implications for situations in which it is assumed to be the cause.

ETHICS AND DEFAULTS

Evaluating the Ethics of Defaults

The ethical challenges of marketing have prompted efforts to provide normative guidance to marketers, often drawing on theories of moral philosophy, especially theories based on consequences, such as utilitarianism, and nonconsequentialist theories that are typically duty-based (Dunfee, Smith and Ross 1999). Ethical evaluations of marketing practices often rely, if only implicitly, on a consequentialist analysis. Thus one criterion by which to ethically evaluate the use of a default might be the overall goodness of the consequences.

From a nonconsequentialist perspective, Smith (1995) proposed a marketer duty to the consumer grounded in a social contract between the company and consumers. In so doing, he identified a marketing ethics continuum where, at one end, the marketer’s interest is favored relative to the consumer’s under caveat emptor, while at the other, the consumer’s interest is more favored under caveat venditor (seller beware). Smith suggested there had been a societal shift away from caveat emptor as the standard by which marketing ethics might be judged and towards caveat venditor.

Caveat emptor may not be adequate as a response to at least a certain set of ethical issues in marketing, such as targeting vulnerable consumers (Smith and Cooper-Martin 1997) or the negative effects of advertising on society (Holbrook 1987; Pollay 1986; Spence and van Heekeren 2004). However, the paternalistic implications of caveat venditor mean that it is not persuasive, at least if it creates an overriding obligation to maximize consumer welfare. Smith
(1995) favored a “consumer sovereignty” position where marketers are obligated to ensure that consumers are capable of exercising informed choice. This includes the possibility of choices that do not best serve the consumer’s welfare, at least as some third parties might see it (e.g., unhealthy foods), provided target consumers are non-vulnerable and well-informed.

Defaults can be inconsistent with consumers exercising choice and thus they are at odds not only with the consumer sovereignty test (Smith 1995), but with the consumer’s right to choice, one of the four fundamental rights identified in a landmark speech by President Kennedy in 1962 (Lampman and Douthitt 1997). This analysis is extended further by introducing the concept of consumer autonomy. However, even by the base standard of caveat emptor, marketer influence of consumer behavior using defaults may be considered problematic because caveat emptor is presumed to rely upon consumers being able to discern marketer influence strategies. This problem remains even if defaults are examined from a consequentialist (goodness of the consequences) perspective and found to be used in ways that enhance consumer welfare. However, this possible good consequence might well trump concerns for consumer autonomy, as we later discuss.

**Consumer Welfare Consequences**

In response to the charge of manipulation, marketers suggest that even marketing activities such as advertising have little real potential to manipulate (Phillips 1994). This view does not seem to be consistent with what we know about how consumers respond to defaults. Marketers can use these effects to influence consumer behavior in predictable ways, both to the detriment of consumers or their benefit. At least in aggregate, marketers may be said to exert a considerable degree of control over consumers through defaults (in aggregate, not absolute, terms because some consumers depart from the default). Thus we are identifying a distinct—and worrying—category of consumer influence that is separate from other findings on consumer...
behavior in which consumer response is far less predictable. This paper is therefore intended to help marketers, consumers, policymakers and researchers better understand where marketer use of defaults is justifiably treated as manipulation. It discusses obligations from a consequentialist perspective and from the perspective of consumer autonomy.

Where there are good consequences of the default outcome, consumer welfare may be enhanced through defaults (e.g., automatic pension plan enrollment). We argue that this is to be encouraged under certain conditions and guidance provided to marketers accordingly, possibly with support from policymaker interventions. Where there are potential bad consequences of the default outcome, consumers may be harmed by defaults (e.g., adding overpriced warranties to all orders). Here we argue that there is at least a moral obligation for marketers to use benign default designs or not use them at all (as the consumer sovereignty test would dictate). These consequences also point to a potential requirement for consumer protection by policymakers and for consumer education in regard to defaults.

CONSUMER AUTONOMY

The potential consequences of enhanced or diminished consumer welfare arising from the use of defaults are clearly important. However, both benevolent and harmful manipulations also raise questions of autonomy. First, we introduce the idea of consumer autonomy and then discuss how it might be violated through defaults. We then discuss paternalism and how a form of libertarian paternalism has been advanced to justify benign manipulation of consumers.

The term autonomy comes from the Greek words “autos” (self) and “nomos” (rule or law) and, when applied to persons, refers to their decisions and actions being their own. As Dworkin (1988) observed, it is a moral, political and social ideal. Autonomous persons are self-determining but it is much more than this, as Dworkin’s (1988: 20) seminal analysis observes:
… autonomy is conceived of as a second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values. By exercising such a capacity, persons define their nature, give meaning and coherence to their lives, and take responsibility for the kind of person they are.

Dworkin uses the classic story of Odysseus—tied to his ship’s mast so that he can resist the calls of the sirens—to explain the second-order reflection inherent in his conception of autonomy. Autonomy means that we can have a preference about our preferences (in light of how we wish to live our lives). For this reason, it is possible for autonomy to be maintained in the face of interference that infringes on the voluntary character of one’s actions (or even coercion). As Dworkin (1988: 14) writes, “not every interference with the voluntary character of one’s actions interferes with a person’s ability to choose his mode of life.” Thus some loss of liberty still may be consistent with Dworkin’s conception of autonomy. Consider, for example, life-saving medical treatment rendered without patient consent in emergency situations (Dworkin 1988: 116).

Consumer autonomy has to do with our self-determination as consumers. It too reflects preferences about preferences and is not simply about our most immediate needs and wants. Thus, it can be conceived as accommodating consumers who would wish to always have as much choice as possible and those who might prefer to have their choices curbed (e.g., because of anti-materialistic values). Defaults may challenge consumer autonomy.

In the case of manipulation through defaults, the consumer cedes some independence of choice to the marketer and consumer autonomy is diminished (even where consumers might have a preference for the convenience and ease of decision-making provided by defaults over an active choice alternative). This is clear where consumers do not frame the default as a choice (e.g., the costs of not following the default are seen as prohibitively high) or are deceived as to the possibility of choice (e.g., default web browsers and their associated search engines).
However, is autonomy always maintained where choice is recognized by consumers? We take up this question when we look at the possible causes of default effects, but first discuss autonomy in relation to paternalistic uses of defaults.

**Paternalism in Setting Defaults**

Paternalism involves a violation of autonomy. It is the “interference with a person’s liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests, or values of the person being coerced” (Dworkin 1972). Classic illustrations of paternalistic interventions by the state include laws requiring seat-belt use in cars or helmets of motorcycle riders. Dworkin (1988: 123) explained: “There must be a usurpation of decision making, either by preventing people from doing what they have decided or by interfering with the way in which they arrive at their decisions.”

Defaults potentially interfere with how consumers arrive at decisions. This could be a violation of consumer autonomy that is intended to serve the marketer’s interest and not the consumer’s. However, instead, it may be “for their own good.” Defaults can be used with paternalistic intent. A clear example is setting defaults for automatic enrollment in pension plans.

Sunstein and Thaler (2003: 1161) have argued strongly in favor of a form of paternalism, urging that default rules “should be chosen with the explicit goal of improving the welfare of the people affected by them.” Their rationale (2003: 1162) is that “in some cases individuals make inferior decisions in terms of their own welfare—decisions that they would change if they had complete information, unlimited cognitive abilities, and no lack of self-control.” Moreover, given their belief in constructed preferences, they suggest that in many situations there is no alternative to a kind of paternalism. Somebody must set the default. This “weak paternalism” is
still impossible to avoid even where planners avoid defaults and require active choices, because some people would choose not to choose.

Sunstein and Thaler (2003: 1162) advocate “libertarian paternalism,” under which, they suggest, paternalistic policies that are “self-consciously attempting to move people” would be acceptable from a libertarian perspective if choices are not blocked off and impose only “trivial costs on those who seek to depart from the planner’s preferred option.” Thus, in setting defaults, marketers could potentially have a “libertarian benevolence” in mind whereby default rules are “enlisted in the interest of vulnerable parties” (2003: 1162). It remains libertarian because the design makes it easy to take the non-default option.

We see the advantages of this proposal for consumer welfare from a consequentialist perspective but also identify two objections. The first objection is the violation of autonomy argument that stands regardless of potential good consequences. Libertarian paternalism still entails a violation of autonomy. Sunstein and Thaler (2003: 1167, fn. 22) acknowledge this concern up to a point, though they assert that it is “fanatical” in settings such as obesity “to treat autonomy… as a kind of trump not to be overridden on consequentialist grounds.”

The second objection is that while they claim respect for autonomy in saying “autonomy is adequately accommodated by the libertarian aspect of libertarian paternalism,” it is inconsistent to simultaneously respect autonomy and maintain that human judgment is profoundly biased:

People fail to make forecasts that are consistent with Bayes's rule, use heuristics that lead them to make systematic blunders, exhibit preference reversals (that is that prefer A to B and B to A), suffer from problems of self-control and make different choices depending on the framing of the problem. (Sunstein and Thaler, 2003: 1168).

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1 Dworkin (1988) acknowledged that this definition is too restrictive in scope and elaborated on how, for example, paternalism extends to paternalistic acts that do not involve interference with liberty. It is sufficient for our purposes, however.
Consumers meeting the characterization above would not be as “free to choose” as Sunstein and Thaler would have it (2003: 1161) and by the very biases that they say need to be acknowledged. If the bias of loss aversion, as Thaler suggests (Thaler, Kahneman and Knetsch, 1992), underlies the preference for default options, then using defaults as instruments of policy inevitably compromises autonomy.

**DEFAULT THEORIES AND OUTCOMES**

**Default Outcomes**

Marketer decisions governing defaults can have an effect on consumer welfare and consumer autonomy, but also potentially have an effect on company profitability. While the firm’s interests and those of consumers can be aligned in setting defaults, they are often in conflict. If a marketer decides to set a default that maximizes consumer welfare, this might be consistent with the firm’s economic interests or it might come at the cost of profitability. Quite possibly, setting defaults inconsistent with consumer welfare would be in the short- and long-term economic best interests of the firm, absent any market discipline (e.g., from a decline in repeat purchase).

Equally, an outcome that maximizes consumer welfare overall may be suboptimal for some consumers in a context where there is heterogeneity in preferences. Thus, a marketer may set a default consistent with consumer welfare maximization, but some minority of consumers will be dissatisfied and possibly harmed. Conversely, setting a default inconsistent with consumer welfare maximization, quite possibly for profit-maximizing reasons, would benefit some consumers though the majority are dissatisfied and possibly harmed.

The potential outcomes for any individual consumer and for consumer welfare overall are shown in Figure 1: Default Outcomes for Consumers. We are assuming here that default settings do have consequences for consumer welfare, but recognize that in many circumstances it may be
unaffected (though consumer autonomy may be violated nonetheless). In all four cells it is possible for marketer profitability to be affected by the default setting, though it might not be affected at all. Marketers can be assumed, absent mistakes, to set defaults that maximize their profitability. Where consumer welfare is affected, we might assert that marketers should set defaults consistent with consumer welfare maximization. This is relatively unproblematic where their profitability is unaffected. It is more difficult to assert where it lowers profit.

To take a simple example, assume that a travel agency benefits from its customers belonging to its mailing list, which is rented to other vendors. Membership on the list offers the benefit of receiving special promotions, but comes at the cost of privacy. We assume customers are of two kinds: a privacy-loving majority (who wish to receive no promotional mailings) and a promotion-loving minority (who like to find out about special offers). The vendors can set the default so that no customer is subscribed unless they request to be—this would be the consumer welfare maximizing default (Cells 1 and 3 in Figure 1). Alternatively, the vendor can create a system in which everyone is subscribed unless they take an active step not to be. This would be the consumer welfare minimizing default (Cells 2 and 4)—and the likely profit-maximizing option.

In cell 1, if the individual wishes to receive travel promotions and does not get them by default, he or she is somewhat inconvenienced by having to take an active step to receive them, while a majority of consumers are satisfied. In cell 2, the promotion-loving customer is satisfied, but a majority of consumers will be dissatisfied with the unwanted mail. In cell 3, the individual privacy-loving consumer is satisfied, along with a majority of other consumers. Finally, in cell 4,
the individual and majority of privacy-lovers are dissatisfied. As our discussion of the figure makes plain, due to heterogeneity of preferences, it is often the case that no default setting will please every individual, the majority, and the firm.

Preferences, Outcomes and the Theories of Defaults

To shed further light on marketer obligations we need to explore the default outcomes relative to the theories of defaults. While consequences of default settings are largely contingent upon the context, the different theories point to different possible marketer obligations relative to consumer autonomy. To illustrate, let us consider a case in which the following holds: 1) the firm has chosen a default that minimizes overall consumer welfare; 2) one consumer in question has preferences aligned with the consumer majority; 3) this consumer is aware of having a choice to depart from the default. To build upon the mailing list example, this situation corresponds to Cell 4 in Figure 1. How do the different theories underlying default effects speak to marketer obligations in this case?

Implicit endorsement. Under caveat emptor or the consumer sovereignty test, consumers might be assumed to know how to deal with endorsements and negative outcomes of endorsements may be minimal. Demonstrations of marketplace metacognition support this claim (Brown and Krishna, 2004). There might be less concern about diminished autonomy here because the choice is apparent and the effect of the endorsement is conscious. However, any unwarranted endorsement, implied or not, can hamper autonomy through deception. From a consequentialist perspective, if at a later time a consumer realises he acted on an unwarranted endorsement, he would be disadvantaged by the transaction costs involved in switching.

Cognitive bias. If default effects stem from loss aversion, there is diminished autonomy even when consumers perceive a choice, because they are not aware of the bias created by the default. Here we have ‘hidden persuaders’ of the type Packard described and this is problematic
from both caveat emptor and consumer sovereignty perspectives. What complicates matters is that if one has fully constructed preferences, how can defaults violate them? It is only after assignment to states and the addition of new information (e.g., the experience of consumers under that option) that we could say whether welfare was safeguarded.

*Effort.* If default effects are due to effort, consumer autonomy is hampered because choice is not free. Caveat emptor might be preserved but consumer sovereignty is not. From a consequentialist view, a state of affairs in which the greatest number needs to exert effort to select their preferred option is not ideal.

**USING DEFAULTS WITH REGARD TO CONSUMER WELFARE**

Defaults may be used to substantially enhance consumer welfare through the intentional benign manipulation of consumers. Equally, welfare may be reduced where marketers exploit defaults to their advantage or, more naively, where defaults are set without regard to the consumer welfare consequences—referred to as “inept neglect” by Sunstein and Thaler (2003: 1202). In this section, we look first at how defaults can be set to enhance consumer welfare and the potential challenges associated with identifying the welfare maximizing default. We then turn to remedies to the abuse or naïve use of defaults by marketers.

**Benign Manipulation**

Putting aside consumer autonomy concerns, consistent with Sunstein and Thaler (2003), we feel that the truly problematic cases are those in which defaults are chosen in a way that does not maximize consumer welfare. A certain number of people will be dissatisfied under most any default. However, if the default is set to the preference most people would make when faced with making an active choice, the greatest number benefit. But implementing such policies is not as simple as it seems.
Consider the case of organ donation (Johnson and Goldstein, 1993). Governments consider organ donation welfare maximizing, and polls in the United States show that most people approve of organ donation. However, only a minority of Americans have joined organ donor pools, and only a minority agree to be donors in forced-choice situations such as at motor vehicle registration agencies. Should stated preferences (polls) or revealed preferences (forced-choice questions about joining donor pools) be used to determine what is welfare maximizing? Policy makers and marketers also must look beyond the number of people affected by various defaults (as we have done here) to the consequences. The families of willing organ donors may care little if their kin are defaulted into not being donors, while the families of unwilling donors may care a great amount if their loved ones are harvested for organs. Even if one argues that having more donors despite a few outrages is better for societal welfare, one must admit that the negative press arising from the incidents could cause voters to put an end to the opt-out system, thus decreasing societal welfare.

Sunstein and Thaler (2003) focus primarily on public policymaker use of defaults (as well as framing effects and starting points) to identify welfare enhancing interventions. They do, however, also acknowledge the relevance of these interventions to the private sector (but do not consider private sector exploitation of defaults that reduce consumer welfare). Four interventions are identified: 1) “Minimal paternalism”, where a default rule is constructed with the goal of influencing behavior but it is costless or nearly costless to depart from the default plan (this intervention is most consistent with their idea of libertarian paternalism); 2) “Required active choices”, where the planner is unsure of what choice will promote welfare and so forces people to choose explicitly; 3) “Procedural constraints” typically require more effort and are designed to ensure that not following the default is voluntary and rational rather than a function of defective decision-making (due to, say, a lack of experience); 4) “Substantive constraints”
allow people to reject the default but only on certain terms and potentially at considerable cost as well as effort. Planners also have the option of denying choice altogether on the basis that people will reject a default in error. This is more typical of public sector use of defaults though, in some respects, it is what companies do in requiring consumers to read terms and conditions before committing to purchase (arguably to enhance consumer welfare but more likely to reduce scope for subsequent complaints or litigation).

In determining the appropriate intervention, there are two approaches that appear to apply to marketers as well as in a public policy context (Sunstein and Thaler 2003; Thaler and Sunstein 2003). First, a cost-benefit analysis that evaluates the gains and losses associated with the program options. If feasible, this would be an objective assessment of which option maximizes consumer welfare and thus how to set defaults. Our organ donation example illustrates the challenges this poses. Second, to adopt rules-of-thumb: the approach that the majority would choose if explicit choices were required and revealed; or a required active choices approach; or an approach that minimizes the number of opt-outs.

**Remedies to Default Misuse or Abuse**

Marketers may decide—and circumstances may well dictate (including potential litigation)—to engage in benign manipulation of consumers by setting defaults that maximize consumer welfare. More typically, perhaps, marketers will fail to consider default effects or, potentially, exploit them to their advantage. So what remedies can be offered? While at this point no formula can handle every case, we can say that where possible, if consumer preferences are uncertain managers should conduct research about underlying stated and revealed consumer preferences. When they clearly support one default over the other, marketers should respect that; at least to be consistent with a consequentialist view of marketing ethics.
In order to preserve consumer autonomy, marketers should always make it clear when consumers have a choice, and not hide the fact that a default is coming into play. No artificial effort should be introduced in order for people to switch away from a default. When effort is inevitable, it should be required to switch to the welfare minimizing choice, and not vice versa. These recommendations to marketers may well extend to industry-wide self-regulation efforts in some contexts.

Consumer policy remedies range from education to disclosure to restrictions on defaults. Consumer education initiatives can alert consumers to default effects, perhaps using some of the more telling examples we have discussed. Consumers can be encouraged to question why defaults are provided and to look for the choice alternatives.

In some circumstances, it might be appropriate to require procedural constraints (Sunstein and Thaler 2003) or warnings to consumers of default effects, not unlike how curved rear-view mirrors come with warnings about how they alter perceived distance. However, disclosure would be of less practical value as a remedy under the assumption that cognitive biases are at work. If default selection reflects implied endorsement, it might be appropriate to require warnings to the effect that the default option is not endorsed by the company where this is not the consumer welfare maximizing option (e.g., “default settings do not constitute a recommendation and may not be the preference of a majority of consumers”).

More draconian but arguably warranted in some contexts would be regulations preventing the use of defaults or that restrict marketers from using the consumer welfare minimizing default or from unfairly loading the costs of not following the default. In view of the demonstrated powerful effects of defaults, consumer protection agencies should closely monitor their use. We believe that much could be achieved through consumer education—perhaps even
through this special issue—so that consumers are better informed of how consciously or otherwise they might respond to defaults.

CONCLUSION

Our exploration of defaults is one that could be extended to certain other robust, reliable effects in consumer behavior, such as research findings over the last 25 years of mere-measurement effects. They have been shown, for instance, to both increase participation in socially-desirable behaviors such as volunteering or voting (Sherman, 1980; Greenwald et al 1987), but also to lead people to undertake behaviors that are unhealthy or socially non-normative (Williams, Block, Fitzsimons, 2006).

We have borrowed a page from an old book on the manipulation of consumers. Though its message has been brushed aside, perhaps rightfully so, where it concerns indirect manipulation as through advertising, recent consumer research documents robust, reliable effects, the consumer-welfare implications of which merit attention. Taking the strength and scope of default effects as a case in point, we argue that they present considerable potential to impact, both positively and negatively, the outcomes consumers face. Where previous discussions of defaults have focused solely on outcomes, we argue that even when consequences are benign, default manipulations can violate consumer autonomy. The implications of setting defaults cannot be judged without a theory of why default effects exist. We reviewed three dominant lines of explanation—implied endorsement, cognitive limitations, and effort—and considered how each theory gives rise to different ethical implications. Given how the particular causes of defaults effects matter to consumer welfare and marketing ethics, clarifying the theoretical underpinnings of defaults presents itself as a priority in transformative consumer research.
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## Figure 1: Default Outcomes for Consumers

<table>
<thead>
<tr>
<th>Marketer Decision</th>
<th>Individual Consumer Preference</th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Preferences Misaligned (with consumer majority)</td>
<td>Preferences Aligned (with consumer majority)</td>
</tr>
<tr>
<td>Consumer Welfare Maximizing (overall)</td>
<td>Cell 1</td>
<td>Cell 3</td>
</tr>
<tr>
<td></td>
<td>- Overall consumer welfare best served</td>
<td>- Overall consumer welfare best served</td>
</tr>
<tr>
<td></td>
<td>- Individual consumer dissatisfied/harmed</td>
<td>- Individual consumer satisfied/best served</td>
</tr>
<tr>
<td>Consumer Welfare Minimizing (overall)</td>
<td>Cell 2</td>
<td>Cell 4</td>
</tr>
<tr>
<td></td>
<td>- Overall consumer welfare not best served/consumer harm</td>
<td>- Overall consumer welfare not best served</td>
</tr>
<tr>
<td></td>
<td>- Individual consumer satisfied/best served</td>
<td>- Individual consumer dissatisfied/harmed</td>
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</tbody>
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