



1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLORADO

3
4 Civil Action No. 10-CV-01546-REB-CBS

5
6 The Direct Marketing Association,

7 Plaintiff,

8 v.

9 Roxy Huber, in her capacity as Executive

10 Director, Colorado Department of Revenue,

11 Defendant.

12
13 DEPOSITION OF THOMAS J. ADLER, Ph.D. taken at
14 Norwich, Vermont, on October 22, 2010.

15
16 APPEARANCES:

17 Matthew P. Schaefer, Esquire
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20 P.O. Box 3070

21 Lewiston, Maine, 04243-3070, on behalf of the
22 Plaintiff, The Direct Marketing Association.

23 Jack Wesoky, Esquire

 Senior Assistant Attorney General
 1525 Sherman Street, 7th Floor

 Denver, Colorado, 80203, on behalf of the Roxy
 Huber in her capacity as Executive Director,
 Colorado Department of Revenue.

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1 probability sample meaning that individuals have
2 equal likelihoods of being included in that
3 sample.

4 Q Professor Keller used a term probabilistically.
5 Is that the same?

6 A I don't know in what, I don't know in what
7 reference he used it.

8 Q In talking about the sample?

9 A The sample is a probability sample.

10 Q And is that reported anywhere in the survey?

11 A It's reported in the documents that we included
12 with Knowledge Networks.

13 Q That would be referenced in your Expert Report,
14 those documents?

15 A Yes. I believe that they're referenced in the
16 Expert Report. I believe it's indicated in G
17 and/or H. They're referenced in exhibit 690.

18 Q I'm just wondering, if your survey shows that -- I
19 want to make sure I get the right numbers here.
20 That 63 percent of the people in Colorado in face
21 of the new reporting law would not buy from the
22 same seller if they were to make a similar
23 purchase?

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1 A Yes.

2 Q So you're taking the survey result and applying it
3 to the entire state of Colorado?

4 A Yes.

5 Q So you're saying that 63 percent of the people who
6 have stated this intention would follow up with
7 that intention?

8 A Yes.

9 Q Are you aware of any literature or any studies or
10 anything which shows that there's a variance
11 between behavior and stated intentions?

12 A There are in some cases variances between
13 behaviors and stated intentions, yes, and there's
14 also a lot of work that we've done that indicates
15 that those variances are small.

16 Q And the same question with respect to 67 percent
17 of the state of Colorado would reduce their
18 purchase from retailers who have to report this,
19 who are required to report the data?

20 A Yes.

21 Q And again, you would think there may be a minor
22 variance from that stated intention to subsequent
23 behavior?

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1 A Yes.

2 Q And that's based on what?

3 A It's based on work that we've done in behavioral
4 intentions over the years. We've done in some
5 cases before and after studies to look at behavior
6 that has been predicted by modeling or analysis
7 that we've done to validate that that's in fact
8 what has happened, and it also, the work that
9 we've done has suggested that those results, that
10 is, the difference between intentions and actual
11 behavior, are affected by the degree to
12 which one -- two things. One is that the survey
13 respondents are put into a specific enough context
14 that they can react and in this case is why we
15 recommended putting them into a context of a
16 specific purchase that they made in the past. And
17 the second, obviously, is awareness and so,
18 obviously, they have to be aware in order to be
19 able to respond.

20 Q I take it that your survey then measures, if I'm
21 not being obtuse, but it has a cause, the law?

22 A Yes.

23 Q And an effect, change in purchase behavior? It's

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