

## Essay #2

For your second paper, you have a choice between the two topics given below, both centered on the piece we read by Richard Posner. Please indicate at the beginning of your essay which prompt you are responding to, and keep your response to no more than 1800 words. Turn your paper in to the Sakai drop box no later than midnight, Saturday 11/23, and bring a hard copy to class on Tuesday, 11/26.

**Topic A.** One cause of market failure is the lack of clearly assigned and enforced property rights, the absence of which inhibits the formation of markets for things that have value but are not owned. The Coase Theorem states that, in the absence of transaction costs, an efficient allocation can be achieved by assigning property rights, and it doesn't matter (in the absence of transactions costs) to whom the property rights are given, since resources will flow to their highest valued use in any case. When transactions costs are significant, maximizing the net value from correcting the market failure calls for assigning the property right in a way that minimizes transaction costs.

In Richard Posner's economic approach to the law surrounding property rights to personal information, how important are arguments about minimizing transaction costs? What other economic arguments does he invoke as he seeks to delineate a wealth-maximizing set of rights to privacy?

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**Topic B.** The Chicago School of economics is known for its emphasis on market efficiency and rational actors. Posner argues that the economic approach to crafting rights to privacy offers "generally no protection for facts about people" because hiding information about ourselves mainly serves to deceive persons we deal with, and these deceptions lead to inefficiencies. Bounded rationality (the ability to process only a limited amount of information), systematic deviations from rationality, and the existence of inadmissible preferences such as malice, envy and prejudice are all grounds on which a perfect-markets, perfect-rationality view of the world can be challenged. Where in Posner's arguments is he relying heavily on these "perfect" constructs? What challenge might be mounted, and how might evidence be brought to bear on the competing approaches to viewing these situations involving the decision of how to assign rights to personal information?