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AN INVESTIGATION OF COMMUNICATIONS LAWS
AND THE MISSISSIPPI BUSINESS MANAGER

by

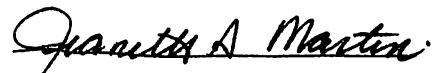
Melissa Ann King

A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of
the requirements of the Sally McDonnell-Barksdale Honors College.

Oxford

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Approved by



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ABSTRACT

An Investigation of Communications Laws and the Mississippi Business Manager

This study sought to determine if Mississippi business managers were versed in maintaining a legal workplace with their knowledge of 15 major United States laws relating specifically to the area of business communication. It also sought to gather relevant information based upon personal views related to two critical communications laws: the Civil Rights Act of 1964- Title VII Equal Employment Opportunity and the Age Discrimination Act of 1967. The study went on to determine if the 15 laws were actually being used in the workplace by Mississippi business managers. After proper approval by the University of Mississippi Office of Research and Sponsored Programs- Institutional Review Board, the study was conducted. Mississippi business managers were randomly selected from the D&B Million Dollar list; and the managers were given the opportunity to respond by means of an internet based survey on the site, SurveyMonkey.com. The findings of this research indicated an overall lack of knowledge of the 15 communications laws. With only half of the questions, proving that managers had the necessary knowledge needed to operate lawfully under them. In the grand scheme of the study, Mississippi business managers proved they were lacking vital information needed to prove their ability as a manager in the area of business communications law. Thus, the study indicates that there is a strong need for business managers to update their current knowledge bank in order to be competitive from a national standpoint.

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Chapter I

INTRODUCTION

In the 2005 hit comedy motion picture, “Fun with Dick and Jane,” the story of Dick and Jane Harper is told. Dick works for a seemingly average global company and has, after 15 years of hard work, been promoted to Vice-President of Communications. However, on the same day as his promotion, the company, he has worked so diligently for, is exposed for fraudulently claiming to be making profits when in fact they are bankrupt. The company shreds documents faster than lightening, but it is not enough; everyone is left without a job. Alongside his former coworkers, Dick must now struggle with the consequences of the company president’s actions including possibly being indicted. The president takes his millions and goes on vacation suffering no consequences. The real significance of this movie comes not from its comedy or play on current American situations but instead from the credits. Such companies as Enron, Health South, and Arthur Anderson are all thanked for their contributions. These were all organizations which were found to be fraudulently portraying company success, just as Dick’s company in the film. But most importantly the former Chief Executive Officer of Worldcom, Bernie Ebbers, is individually thanked.

Why are Bernie Ebbers and Worldcom so important? Worldcom was a Mississippi based company. Unfortunately, Mississippi has never been the crème de la crème of business industries in the United States. Mississippi is not home to a major

stock exchange; nor does Mississippi have the benefits of large cities like New York or Los Angeles financially. Thus, Mississippi is home to a different breed of business. It is a genre of business which needs time to cultivate and learn. All companies in Mississippi are not the same as WorldCom. But what is at the foundation of any good business, no matter where the location? The answer, simply put, is successful communication and following the law.

This thesis will examine 15 major laws of the United States government. Each law is designed to play an integral part in creating a well-rounded business which is communication effective. The researcher surveyed Mississippi business managers, in order to determine if Mississippi business leaders are effective and follow the law in their communications to help drive Mississippi business forward.

This study is important to the practice of business management because it asks a new question to Mississippi business managers. What do the actual managers know of the business laws they operate under on a daily basis? Are these managers thinking correctly for their organizations? Is some information not there? These questions are at the heart of making Mississippi business managers just as successful as those who work for the major American businesses located elsewhere. Communication is the answer.

The study will also analyze manager's opinions related to the Age Discrimination Act and the Civil Rights Act of 1964- Title VII Equal Employment Opportunity which play a heavy role in the Human Resource aspect of managers' decisions.

For the purpose of this study several terms need to be identified. A business is defined by the Merriam-Webster dictionary as "a usually commercial or mercantile

activity engaged in as a means of livelihood” (Merriam). Organizations take on a similar definition: “an administrative and functional structure” (Merriam). “A binding or practice of community; a rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority” (Merriam) is the definition of law. And for the purpose of this study, act shall be defined as “the formal product of a legislative body” (Merriam).

The answers to the questions of this study are rather important to the future of business in Mississippi. As the role of business managers continues to change, it will always be important to have an expanding body of knowledge to evaluate what is going on within the manager’s head and how they will deal with and react to legal communication situations. It is important for business to follow the rules because the repercussions are punitive; so therefore, one needs to understand how responsible managers can help to increase Mississippi’s power as a business friendly state. This study will help in rating where Mississippi managers stand now and develop guidelines for what they can do in the future to improve their business communication and knowledge of the 15 laws that pertain to business communication.

Chapter II

LITERATURE REVIEW

The examination of communication laws can be a troubling experience. This is simply because most laws could probably be considered as dealing with communication. However, this study will focus on 15 of the most important business communication laws and how they pertain to the manger.

While it is obvious that breaking the law results in a poor image for the company both internally and externally, what is not obvious is exactly how the manger views these laws and if they feel the law is worth following or not. As well as whether they believe their company expects them to follow these laws.

The purpose of this section is to give background information on each of the laws the individual business managers were asked about and to provide some background on what the acts mean for managers in the United States. A listing of the laws follows.

The Civil Rights Act of 1964-Title VII Equal Employment Opportunity

Copyright Act

Defamation Common Law

Truth-In Advertising

Age Discrimination Act of 1967

Commercial Speech Doctrine

Privacy Act

Freedom of Information Act
Fair Packaging and Labeling Act
Fair Debt Collection Practices Act (FDCA)
Fair Credit Reporting Act (FCRA)
Fair Credit Billing Act
Employee Retirement Income Security Act (ERISA)
National Labor Relations Act
Family Educational Rights and Privacy Act (FERPA)

The Civil Rights Act of 1964- Title VII Equal Employment Opportunity

The Civil Rights Act of 1964 is divided into 11 title sections. One of the most important is Title VII. Title VII is the Equal Employment Opportunity section of the Act.

The Act states:

It shall be unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex or national origin (USINFO).

The above passage contains sections (a) and (b) of the law and is not the entire division. Title VII also discusses illegal employment practices for a labor organization, problems in on the job training and organization retreats, issues in apprenticeships, and differences in pay based upon the listed personal characteristics.

In 1972, the act was amended to cover most United States employers. Any organization meeting one of the following criteria are subject to full consideration under

the Civil Rights Act: “all private employers of 15 or more persons who are employed 20 or more weeks a year, all educational institutions, public and private, state and local governments, public and private employment agencies, labor unions with 15 or more members, (and) joint labor/management committees for apprenticeships and training” (Jackson, 101). It is interesting to note that while state and local governments are included, the federal government is not covered.

If an organization can prove bona fide occupational qualifications (“characteristics providing a legitimate reason why an employer can exclude persons on otherwise illegal bases for consideration”) (Jackson, 102) they are not subject under Title VII. Take for example, a restaurant owner requiring a male to work as a men’s room attendant.

There are two forms of discrimination under Title VII- disparate treatment and disparate impact. To understand the two types, one must also understand the meaning of protected class. “Protected class: the original five categories-race, color, religion, sex, or national origin- along with age and disability, against which discrimination is prohibited (Franklin, 457). Disparate treatment takes the form of intentional discrimination against a member of the protected class. Disparate impact is done unintentionally. This is illustrated when on paper the selection is neutral but in all actuality the protected class is far underrepresented in the area.

Limitations of Title VII included the aforementioned exclusion of the federal government employee, homosexuals, and transgender individuals. Of course, if there are bona fide occupational requirements, one can discriminate on the five protected classes.

Copyright Act

The Copyright Act is also of great importance. It carries with it a great deal of information. There are 13 chapters which include valued information on issues ranging from copyright ownership, the duration of time for copyrights, protection of semiconductor chip products, digital recording devices, and even music videos. There have been nine Appendixes added since the original in 1976.

The Copyright Act was originally designed for the following:

- a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following: (1) literary work; (2) musical works, including any accompany words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial graphic, and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works.

- b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work (Copyright.)

A copyright gives the owner the exclusive right to reproduce, distribute, perform, display, or license his work. The owner also receives the exclusive right to produce or license derivatives of his or her work. Limited exceptions to this exclusivity exist for types of “fair use” such as book reviews. To be covered by a copyright, a work must be original and in a concrete “medium of expression”. Under current law, works are covered whether or not a copyright notice is attached and whether or not the work is registered (Cornell).

Defamation Common Law

The Defamation Common Law involves such infractions as slander, libel, and defamation. The law defines each of the types. Those accused of committing these acts do have possible defensive actions they can take. This act is not a right or wrong but many shades of gray. If accused one does have the ability to take measures to ensure they were acting in the best manner possible. There are actually limitations on the law including the cases of public figures and so-called “limited public figures” where a person does not have celebrity status but because of their actions has thus garnered attention.

Typically the elements of a cause of action for demotion include:

1. A false and defamatory statement concerning another;
2. The unprivileged publication of the statement to a third party (that is somebody other than the person defamed by the statement);
3. If the defamatory matter is of public concern, fault amounting at least to negligence on the part of the publisher; and

4. Damage to the plaintiff (Larson).

Truth is the universal, powerful defense in a defamation violation. If you know for a fact what has been said is the truth, the case will not stand. Lying on the other hand is a direct violation. Another defense to defamation actions is “privilege.” For example, statements made by witnesses in court, arguments made in court by lawyers, statements by legislators on the floor of the legislature, or by judges while sitting on the bench are ordinarily privileged and cannot support a cause of action for defamation, no matter how false or outrageous. A defense recognized in most jurisdictions is “opinion.” If the person makes a statement of opinion as opposed to fact, the statement may not support a cause of action for defamation. Whether a statement is viewed as an expression of fact or opinion can depend upon context—that is, whether or not the person making the statement would be perceived by the community as being in a position to know whether or not it is true. If your employer calls you a pathological liar, it is far less likely to be regarded as opinion than if such a statement is made by someone you just met.

Some jurisdictions have eliminated the distinction between fact and opinion, and instead hold that any statement that suggests a factual basis can support a cause of action for defamation. A defense similar to opinion is “fair comment on a matter of public interest” (Lawson). If the mayor of town is involved in a corruption scandal, expressing the opinion that you believe the allegations are true is not likely to support a cause of action for defamation. A defendant may also attempt to illustrate that the plaintiff had a poor reputation in the community, in order to diminish any claim for damages resulting from the defamatory statements. A defendant who transmitted a message without awareness of its content may raise the defense of “innocent dissemination”. For example,

the post office is not liable for delivering a letter which as defamatory content, as it is not aware of the contents of the letter. An uncommon defense is that the plaintiff consented to the “dissemination of the statement” (Larson).

Truth-In Advertising

The Truth-In-Advertising Act is a product of the Federal Trade Commission (FTC). It states the following rules for advertisers: “advertising must be truthful and non-deceptive; advertisers must have evidence to back up their claims; and advertisements cannot be unfair” (Federal Trade Commission-Advertising).

To be deceptive, the FTC describes advertisements that “contain a statement—or omit—information that is likely to mislead consumers acting responsibly under the circumstances; and is “material”, that is, important to a consumer’s decision to buy or use the product” (Federal Trade Commission-Advertising). To be unfair, the FTC describes “an ad or business practice as unfair if it causes or is likely to cause substantial consumer injury which a consumer could not reasonably avoid; and it is not outweighed by the benefits to consumers” (Federal Trade Commission-Advertising).

The FTC speaks volumes in the responsibility of the business in making sure there is validity to all claims made in advertising. The FTC is the sole determinant in what is considered deceptive advertising. Claims made in advertising must have a “reasonable basis.” “A ‘reasonable basis’ means objective evidence that supports the claim. The kind of evidence depends on the claim. At minimum, an advertiser must have the level of evidence that he/she says he/she has” (Federal Trade Commission).

Letters from satisfied customers cannot be viewed as a defense when accused of violations of the Truth-In-Advertising Act. Advertisements that make subjective claims are less reviewed by the FTC. For example, "Jamma Berries taste fantastic." This statement would be less likely to be reviewed by the FTC which mainly focuses on advertisements claiming health or safety issues, or issues that would be hard for the consumer to check for themselves. Take for instance claiming, "Our product reduces water costs by 80%." Stating that in an advertisement would be very hard for the consumer to check on their own.

Age Discrimination in Employment Act of 1967

The Age Discrimination in Employment Act of 1967 prohibits discrimination against persons over the age of 40 if they work for employers who have 20 or more workers. With more and more older workers remaining in the workplace, this act is responsible for their protection. Whereas a 40 year old can sue for discrimination if not picked over a younger candidate, a person under 40 cannot sue for reverse discrimination. An organization cannot target workers over the age of 40 to be replaced. Here again if there is a bona fide occupational qualification, the person is not covered under the act. As part of the Older Workers Benefit Protection Act (OWBPA), a direct amendment to the Age Discrimination Act, protection for those who are retiring is covered.

For example, an early retirement package that includes a waiver stating the employee will not sue for age discrimination if he or she takes the money for early retirement must include a written, clearly understood agreement, offer something of value beyond what the employee will receive without the package, advise the employee to

consult an attorney, allow the employee at least 21 days to consider the offer, and allow the employee 7 days to revoke the agreement after signing it (Jackson, 110).

Commercial Speech Doctrine

The Commercial Speech Doctrine deals with “advertising” but also deals with information as referred to in the First Amendment of the Constitution. The main views under the Commercial Speech Doctrine can be determined by what is called “The Central Hudson Test.”

The Central Hudson test recognizes the constitutionality of regulations restricting advertising that concerns an illegal product or service, or what is deceptive. For all other restrictions on commercial speech, however, the Court’s test requires that the government show that the regulation directly advances an important interest and is no more restrictive of speech than necessary. Regulations affecting commercial speech do not violate the First Amendment if a) The regulated speech concerns illegal activity-; b) The speech is misleading-; or c) The government’s interest in restricting the speech is substantial, the regulation in question directly advances the government’s interest, and the regulation is no more extensive than necessary to serve the government’s interest (Missouri).

The Commercial Speech Doctrine does not often affect many businesses. The tobacco industry does the most work with the Commercial Speech Doctrine. Also, those businesses relating to alcohol and food companies are involved with Commercial Speech.

Privacy Act

The Privacy Act was started in 1974. It shows the conditions of disclosure of information regarding United States citizens as well as how to account for those disclosures, and ways to access personal records. Rights of legal guardians are also given.

There are, however, general and specific exemptions to just what is covered under the Privacy Act.

General exemptions include the head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b), (1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c) (1) and (2), (e) (4)(A) through (F), (e) (6), (7), (9), (10), and (11), and (i) if the system of records is – maintained by the Central Intelligence Agency; or (2) maintained by an agency or component thereof which performs as principle function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associating with an identifiable individual; or c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through

release from supervision. At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section. Specific exemptions: The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b) (1), (2), and (3), (c), and (e) of this title, to exempt any systems of records within the agency from subsections (c) (3), (d), (e)(1), (e)(4), (g), (h), and (i) and (f) of this section if the system of records is – (1) subject to the provisions of section 552(b)(1) of this title; (2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under and express promise that the identity of the source would be held in confidence, or prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence; (3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant of section 3056 of Title 18; (4) required by statute to be maintained and used solely as statistical records; (5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian

employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence; (6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or (7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source be held in confidence, or prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section (Department of Justice).

Freedom of Information Act

The Freedom of Information Act is somewhat related to the same concepts of the Privacy Act. The Freedom of Information Act is maintained by the Federal Bureau of Investigation. You are able to find “information about business, an organization, investigation, historical event, or incident, information about a third party, information

about a deceased person, or information about yourself” (Federal Bureau of Investigation).

The Act was originally signed in 1966 but in 1996 an electronic component was added. United States government agencies are required to “release their records to the public on request, unless the information sought falls into a category specifically exempted, such as national security, an individual’s right to privacy, or internal agency management” (Freedom of Information). Many states have their own version. “The act provides for court review of agency refusals to furnish identifiable records” (Freedom of Information). The Freedom of Information Act holds mainly government information but is information that many felt would be useful to citizens. Often called sunshine laws, many countries besides the United States have this type Act.

Fair Packaging and Labeling Act

As anyone involved in marketing can tell you, the Fair Packaging and Labeling Act is one that can make or break your organization. The Fair Packaging and Labeling Act is a product of the American Food and Drug Administration.

Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods (Food and Drug).

Being trustworthy in any sort of packaging or labeling of your product is something the American consumer has simply come to expect. The law applies to many consumer products. The label of the product must include the identity of the commodity, name of product and place of the manufacturer, packer, or distributor, and the net quantity of the contents of the item in question (Food and Drug). The act is quite interesting in that it requires both metric and United States customary units. The metric system was added to the original 1967 law in 1994.

Fair Debt Collection Practices Act (FDCA)

The Fair Debt Collection Practices Act was created to amend the Consumer Credit Protection Act. While it was originally formed in 1978, it was last amended in September of 1996 in order to “prohibit abusive practices by debt collectors” (Federal Trade Commission-Debt Collection). The Act is a product for consumers based by the Federal Trade Commission of the United States. The Act is most closely related in the business world to companies that work within the field of debt collection and those dealing with third-party collectors.

A collector may contact you in person, by mail, telephone, telegram, or fax.

However, a debt collector may not contact you at inconvenient times or places, such as before 8 a.m. or after 9 p.m., unless you agree. A debt collector also may not contact you at work if the collector knows that your employer disapproves (Pueblo).

However, contacting a consumer in debt on a holiday or the weekend is not prohibited unless the collection agency has a reason to know the person will be

inconvenienced at that time. For example, a consumer who stated that he/she worked on weekends as well as the weekday would be seen as being inconvenience by a call during the weekend.

An individual can stop a debt collector from contacting them by writing the company a letter requesting the action to stop. Then the agency may only contact the individual to notify individual that no further contact will be made or that the collector intends to take a specific action against the individual in question (Pueblo).

Because of the strict relation to the law, managers of companies involved in debt collection must know the law. If the company's policies and means of debt collection go against the FDCA, the organization can be in for turmoil. It is incredibly easy for the "victim" to turn the tables on the collector, thus collection departments must strictly enforce that employees follow the guidelines.

Fair Credit Reporting Act (FCRA)

The Fair Credit Reporting Act was started after Congress realized there were many ways a person's credit information could be given out. The Act was created to provide valid requirements for the ways in which personal credit could be reported as well as who was to distribute the information.

FCRA allows an individual the right to repair their credit reports if needed. Legally, an individual is given the right to dispute information found on the credit report and that credit bureaus are to investigate any consumer disputes. "As per this Act, the credit bureaus must complete the investigations with a 30-day period. Any information that cannot be verified or is found to be inaccurate must be deleted" (Frewerd). It has

been “reported that nearly 79% of all credit reports contain some error or other inaccurate information” (Frewerd).

“FCRA was created to ensure that your individual rights are protected and that everyone has the same opportunity to correct any inaccurate credit information on their report” (Frewerd).

Since its original inception, the FCRA has been amended to provide tools necessary to stop terrorism. This took place in 2001 after the events of September 11. Two years later the Act was amended to protect individuals against identity theft.

Fair Credit Billing Act

The Fair Credit Billing Act is another covered by the Federal Trade Commission. It deals mainly with credit accounts such as credit cards and any charge card account. However, loans or extensions of credit are not reported. These are considered installment contracts. Examples would be buying a car or paying back personal loans. Billing errors are the only type of problem covered under the Fair Credit Billing Act. Take for instance, having your credit card charged twice for the same purchases. Those items covered under the Fair Credit Billing Act’s procedures are “unauthorized charges.” Federal law limits your responsibility for unauthorized charges to \$50 on:

Charges that list the wrong date or amount; charges for goods and services you didn’t accept or weren’t delivered as agreed; math errors; failure to post payments and other credits, such as returns; failure to send bills to your current address— provided the creditor receives your change of address, in writing, at least 20 days before the billing period ends; and charges for which you ask for an explanation

or written proof of purchase along with a claimed error or request for clarification (Federal Trade Commission-Facts).

It is imperative that business managers do all that is within their power to make sure their clients credit bills are correct. Anyone who violates the Fair Credit Billing Act can, and probably will, be sued. If the employer is found in violation of the Act then the court may award damages as well as “twice the amount of any finance charge—as long as it’s between \$100 and \$1,000. The court may also order the creditor to pay your attorney’s fees and costs” (Federal Trade Commission-Facts).

Employee Retirement Income Security Act (ERISA)

The Employee Retirement Income Security Act deals mainly with pension plans employers set up for their employees voluntary in order to ensure the plans are set up properly and will do no harm to the employee.

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for most voluntarily established pension and health plans in private industry to provide protection for individuals in these plans. ERISA requires plans to provide participants with plan information including important information about plan features and funding; provides fiduciary responsibilities for those who manage and control plan assets; requires plans to establish a grievance and appeals process for participants to get benefits from their plans; and gives participants the right to sue for benefits and breaches of fiduciary duty. In general, ERISA does not cover group health plans established or maintained by governmental entities, churches for their employees, or plans which are maintained solely to comply with applicable workers compensation,

unemployment, or disability laws. ERISA also does not cover plans maintained outside the United States primarily for the benefit of nonresident aliens or unfunded excess benefit plans (Department of Labor-ERISA).

National Labor Relations Act

The National Labor Relations Act was originally intended for use in 1935 as a means of protection during the Great Depression and is often called the Wagner Act.

“Employers must keep accurate time records and maintain those records for three years. Companies must take care to ensure that managers do not compose a majority on their safety committees” as well so that they will not be in violation of the Act (Jackson, 276).

Making sure the manager knows how to respectfully follow the National Labor Relations Act is rather important. Obviously, violations will be seen in the public eye as disrespectful to their employees and relate directly to problems in employment.

To protect union rights, the Wagner Act prohibits employers from utilizing unfair labor practices. Five of those practices are identified as follows interfering with, restraining, or coercing employees in the exercise of their right to organize or bargain collectively; dominating or interfering with the formation or administration of any labor organization by discriminating with regard to hiring-; encouraging or discouraging membership in any labor organization by discriminating with regard to hiring-; tenure or conditions of employment, discharging or otherwise discriminating against an employee because he or

she filed charges or gave testimony; (and) under the act, refusing to bargain collectively with representatives of the employees (Jackson, 536).

“Very small, family-owned and family-operated entities, and family farms generally remain excluded from coverage” under the National Labor Relations Act.

If the manager follows the Act correctly, then the employer will be content and the company will be viewed as courteous to the formed unions.

Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (FERPA) includes the protection of student education rights if the school is federally funded by the United States Department of Education.

FERPA gives parents certain rights with respect to their children’s education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are “eligible students.”

Parents or eligible students have the right to inspect and review the student’s education records maintained by the school. Schools are not required to provide copies of records unless, for reason such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies. Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent of eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the

record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions: School officials with legitimate educational interest; Other schools to which a student is transferring; Specified officials for audit or evaluation purposes; Appropriate parties in connection with financial aid to a student; Organizations conducting certain studies for or on behalf of the school; Accrediting organizations; To comply with a judicial order or lawfully issued subpoena; Appropriate officials in cases of health and safety emergencies; and State and local authorities, within a juvenile justice system, pursuant to specific state law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school (Department of Education).

Chapter III

METHODOLOGY

The first step in evaluating Mississippi managers' comprehension of business communication laws was to evaluate their perceptions. To do so, a descriptive research survey was conducted. "Survey research involves acquiring information about one or more groups of people—perhaps about their characteristics, opinions, attitudes, or previous experiences—by asking them questions and tabulating their answers" (Leedy, 183).

The University of Mississippi's Office of Research and Sponsored Programs by means of the Institutional Review Board approved the research. Each of the Mississippi managers received, via email, a link to complete their survey honestly through SurveyMonkey.com. Contact information for the managers was gathered on a random basis using the D&B Million Dollar Database, a business information directory database. Access to the database was gained through a subscription bought by the University of Mississippi. Of the Mississippi listings, every tenth business was selected as a contact allowing for a contact pool of 200 managers. The survey is attached as Appendix A.

Each manager was sent to the website SurveyMonkey.com to complete the survey at their own pace. The survey allowed for limited personal information and company information as well as knowledge of the questions asked. The manager was allowed to freely write any information they believed would assist in the research process related to

two laws. When the surveys were submitted, SurveyMonkey.com statistically analyzed the results. The information was then compiled into a database by each question asked.

Chapter IV

FINDINGS AND ANALYSIS

The information provided within this section will present the findings of the survey in an informative manner. At first glance, this may seem like it could become a confusing situation since 15 different laws are to be covered. However, the information will be presented in an educational way so the results will be clear and easy to understand. No specific company or employee names will be used without the employer or employee consent.

Since this research is being conducted to obtain information specifically from Mississippi managers, a logical first step is to provide data related to which city was home to the employer. The distribution can be found in Table 1.

Also information regarding the manager's employer was documented. The first information requested was the employer's average sales. This information was used to assure that all types of business managers were included in the study. See Chart 1 for more information. The manager was also asked if their company had an on-site corporate attorney. This information was asked because it could influence the manager's knowledge or lack of knowledge on legal subject matter. Overall, 68 percent of the respondents did not have an on-site corporate attorney.

Table 1. Mississippi Manager Employer Locations

City	Percentage Respondents Located in City
Hattiesburg	20%
Oxford	16%
Jackson	14%
Other*	12%
Tupelo	6%
Corinth, Columbus, University	4%
Baldwyn, Batesville, Booneville, Crystal Springs, Natchez, Ocean Springs, Olive Branch, Richland, West Point, Whitfield	2%

*Information marked other includes one respondent who left the city slot blank and five other respondents whose employer was a Mississippi subsidiary of a larger company located in one of the following cities: Montgomery, Alabama; Marion, Iowa; New Orleans, Louisiana; Mooresville, North Carolina; or Memphis, Tennessee.

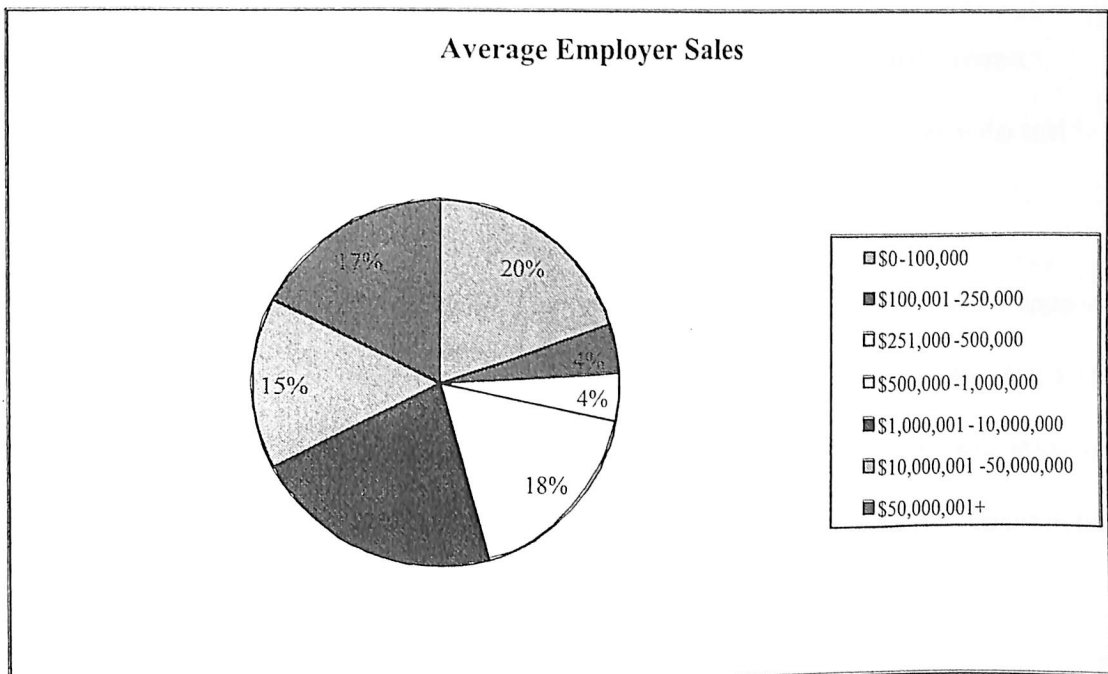


Chart 1. Average Employer Sales

The manager was then given a series of 14 questions pertaining to their knowledge of the 15 aforementioned laws. The questions had three possible answers: agree, disagree, and need more information. While agree and disagree logically explain themselves, need more information was used as a possible answer choice in order to keep the respondent from guessing answers and to give the respondent the opportunity to admit their need for more knowledge on this particular law.

For reference, the survey instrument can be found in Appendix A. Based upon Section Two of the survey, Table 2 indicates the correct answer for each question.

Using the correct responses, analysis of the questions answered gave the following results. Of the 14 questions, 7 had greater than 50 percent correct responses. Seven had responses in which the majority were incorrect or need more information was selected by the most respondents. Seven of the questions had greater than 40 percent of their responses as need more information. Also, of the 14 questions 7 had incorrect answers and need more information which made up greater than 50 percent of the total responses.

The questions with majority correct were Copyright Act, Defamation Common Law Act, Privacy Act, Freedom of Information Act, Fair Credit Reporting Act, Fair Credit Billing Act, and Employee Retirement Income Security Act. Those with majority incorrect were Age Discrimination Act of 1967, Truth-In-Advertising Act, Commercial Speech Doctrine, Fair Packaging and Labeling Act, Fair Debt Collection Practices Act, National Labor Relations Act, and Family Educational Rights and Privacy Act. The 7 laws with 40 percent or greater marking need more information included Truth-In-

Advertising, Commercial Speech Doctrine, Fair Packaging and Labeling Act, Fair Debt Collection Act, Employee Retirement Income Security Act, National Labor Relations Act, and Family Educational Rights and Privacy Act. The 7 laws with greater than 50 percent marking the incorrect answer or need more information include: Age Discrimination Act of 1967, Truth-In-Advertising Act, Commercial Speech Doctrine, Fair Packaging and Labeling Act, Fair Debt Collection Practices, National Labor Relations Act, and Family Educational Rights and Privacy Act.

Table 2. Correct Responses to Survey Instrument

Copyright Act	Agree
Defamation Common Law Act	Disagree
Age Discrimination Act of 1967	Disagree
Truth-In-Advertising Act	Disagree
Commercial Speech Doctrine	Agree
Privacy Act	Disagree
Freedom of Information Act	Agree
Fair Packaging and Labeling Act	Disagree
Fair Debt Collection Practices Act	Agree
Fair Credit Reporting Act	Agree
Fair Credit Billing Act	Agree
Employee Retirement Income Security Act	Disagree
National Labor Relations Act	Disagree
Family Educational Rights and Privacy Act	Agree

Chart 2 to Chart 15 show the percentage break down of respondent's answers to each of the 14 questions. While the answers to the questions may seem redundant, the underlying principle of the assessment of knowledge is what truly matters.

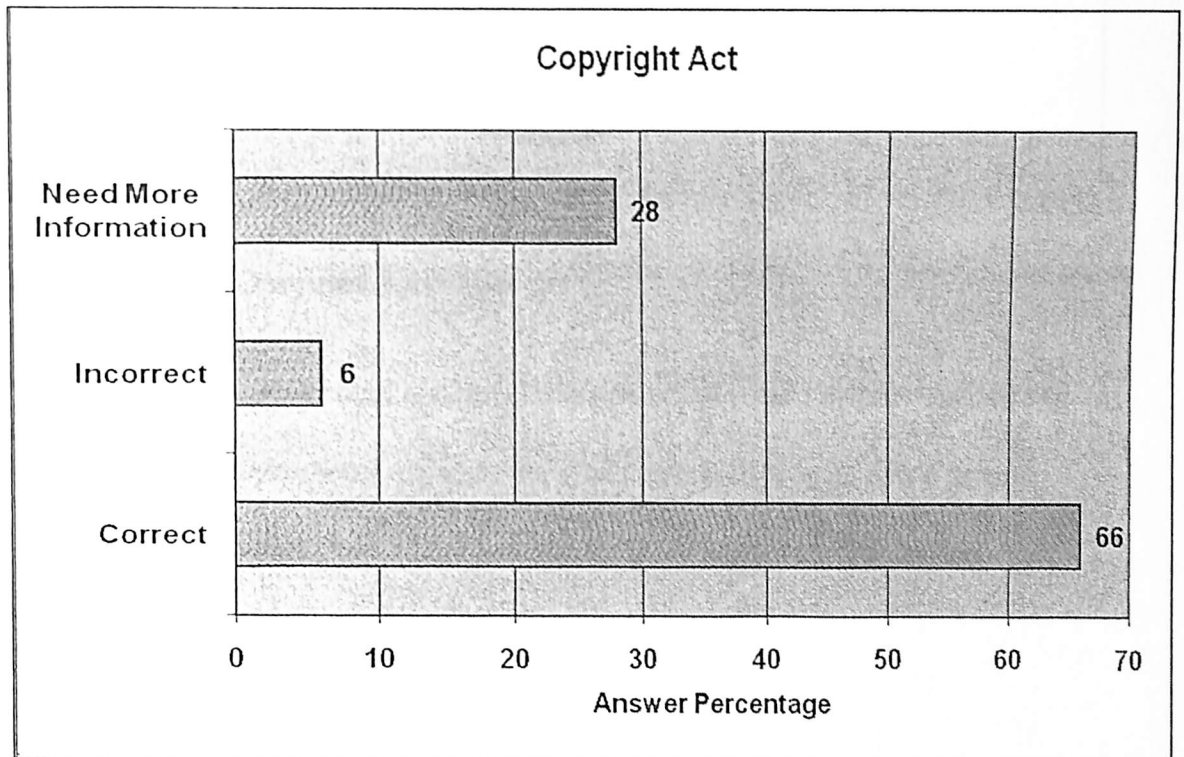


Chart 2. Copyright Act Answers

When asked if the Copyright Act dealt with the durational period of a copyright, only six percent of managers incorrectly answered the question. A fairly respectable amount of managers, 66 percent, answered the question correctly. There is need for concern though in the 28 percent who had no knowledge of the Copyright Act.

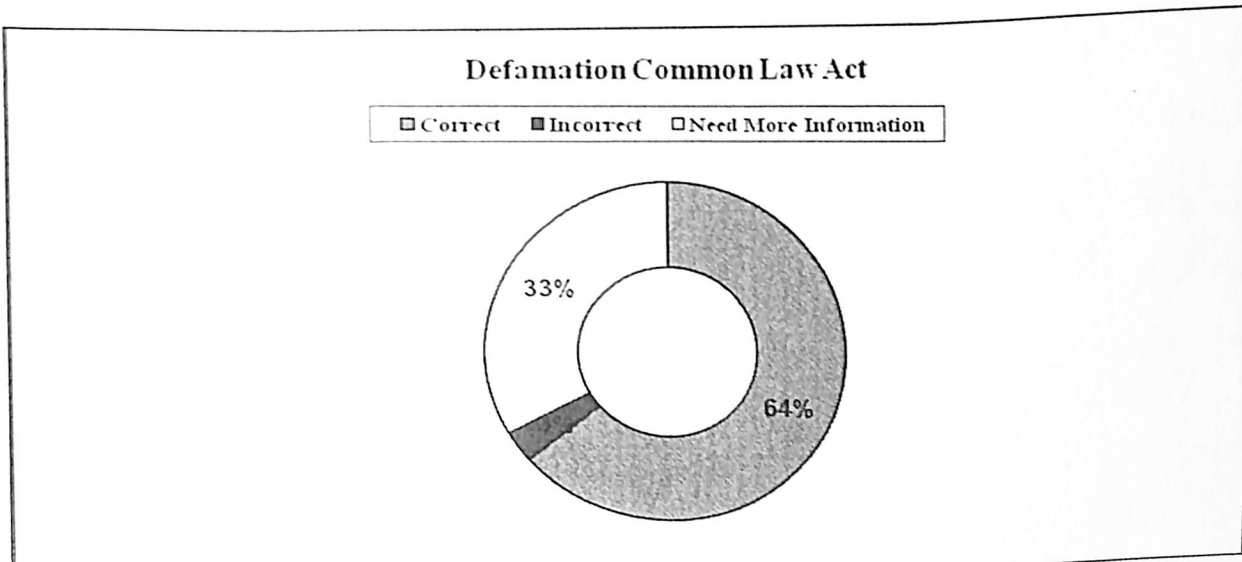


Chart 3. Defamation Common Law Answers

Mississippi managers concluded that indeed issues of slander and libel are covered under the Defamation Common Law at a rate of 62 percent. Here again only 6 percent marked the incorrect answer, but 32 percent had no knowledge of the Defamation Common Law suggesting more knowledge is needed.

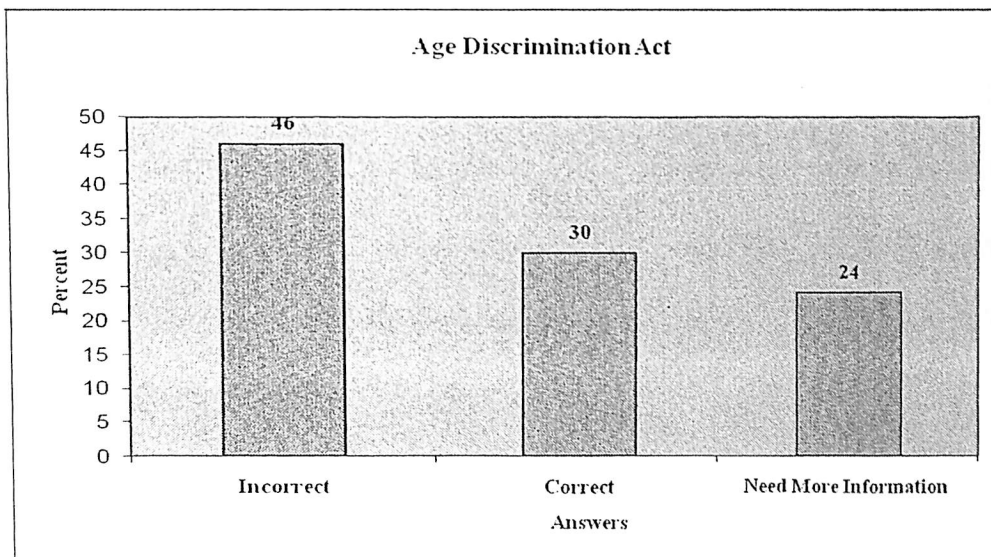


Chart 4. Age Discrimination Act of 1967 Answers

This Act is the first case of more managers getting the question incorrect than correct. Forty-six percent of managers felt that a 35 year old was covered under the Age Discrimination Act when in fact they are not, the answer only 30 percent selected. An astounding 24 percent marked that they needed more information on the subject, making over 50 percent of the respondents lacking the proper knowledge Age Discrimination.

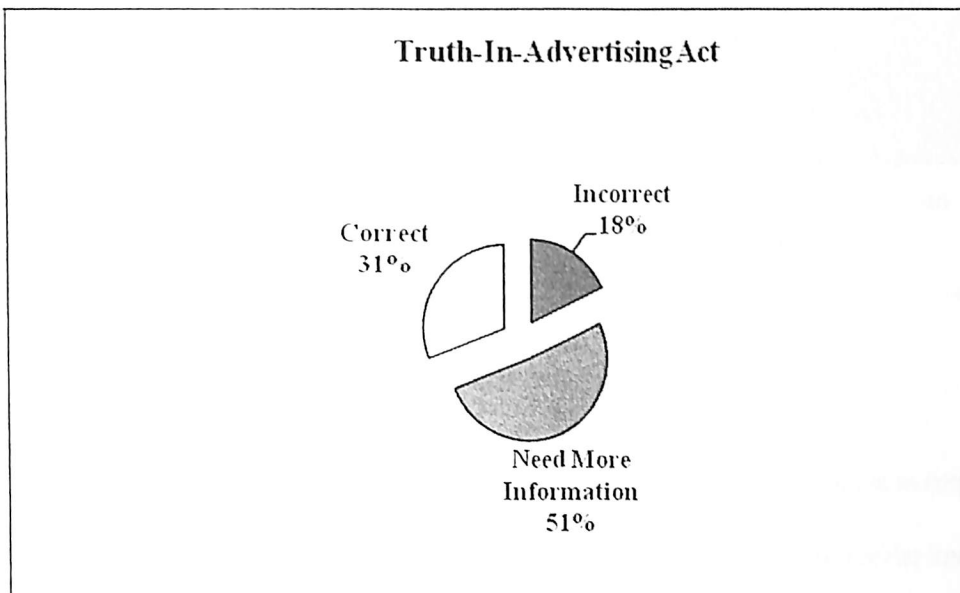


Chart 5. Truth-In-Advertising Act Answers

Over 50 percent of the managers in this question needed more information on the matter of Truth-In-Advertising before they could make a correct decision. Suggesting a greater need for knowledge in this area especially since only 30.6 percent correctly answered the question.

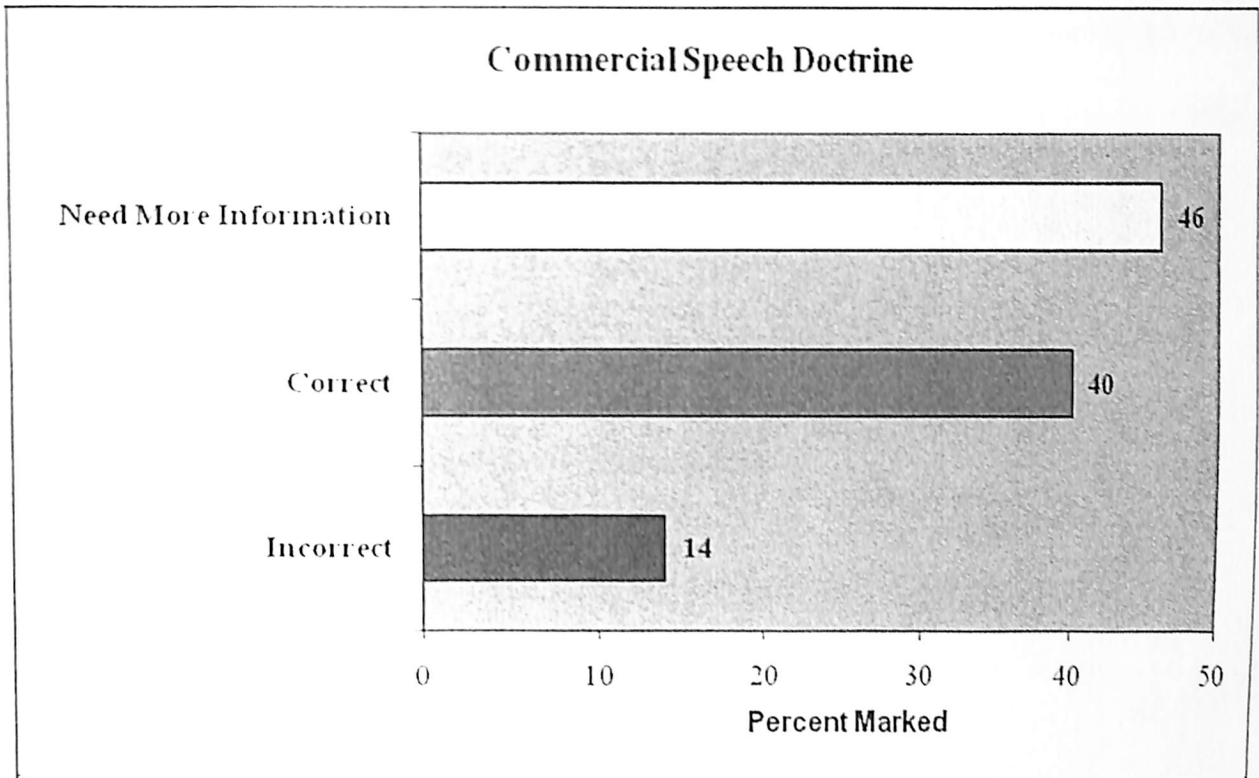


Chart 6. Commercial Speech Doctrine Answers

Nearly 50 percent of managers selected need more information in response to the Commercial Speech Doctrine question indicating again a need for greater knowledge of the subject. Only 40 percent of respondents selected the correct answer on this question.

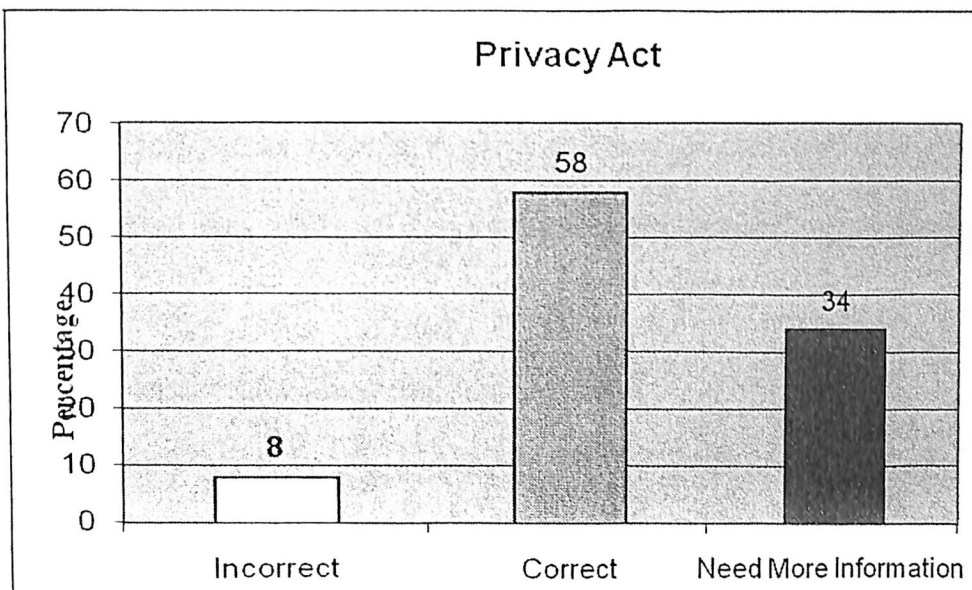


Chart 7. Privacy Act Answers

Close to 60 percent of managers, however, indicated their correct knowledge of the Privacy Act but unfortunately 34 percent still had little relevant knowledge to answer the question.

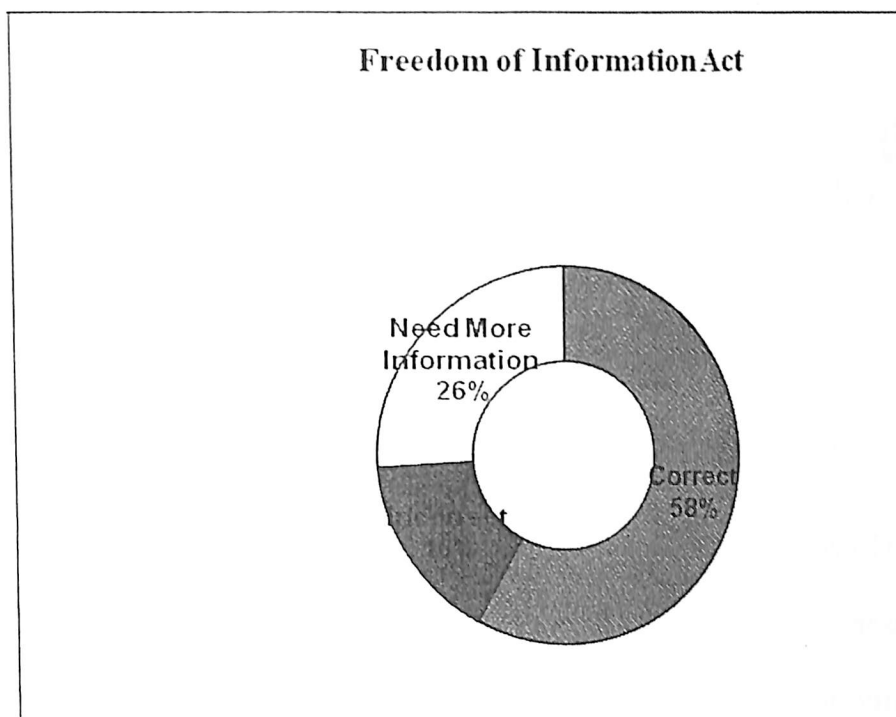


Chart 8. Freedom of Information Act Answers

Here again, almost 60 percent of managers indicated knowledge of the Freedom of Information Act. Only 26 percent thought they needed more information before they could properly answer the question still indicating a need for the knowledge since 16 percent incorrectly answered the question.

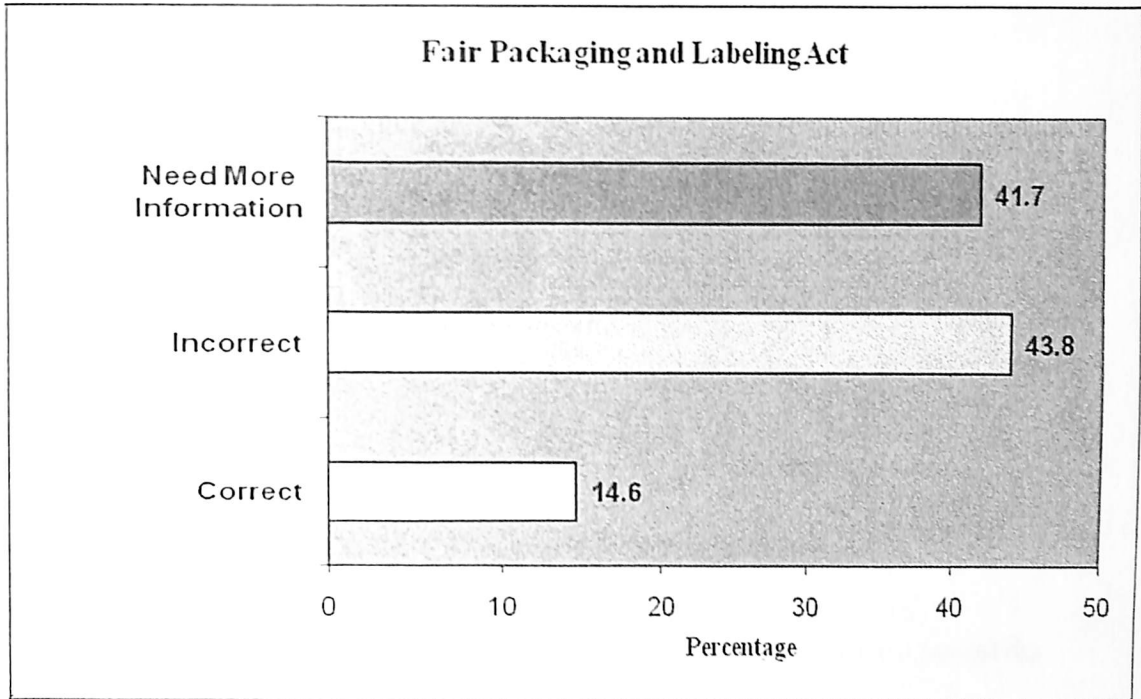


Chart 9. Fair Packaging and Labeling Act Answers

With the Fair Packaging and Labeling Act the managers illustrated a lack of knowledge on the subject material. Almost 44 percent of the respondents, did not have enough information to know if the quality of an item was a concern of the Fair Packaging and Labeling Act. Forty-one and seven tenths percent marked the incorrect answer because quality is not a concern in this Act (an answer only marked by 14.6 percent).

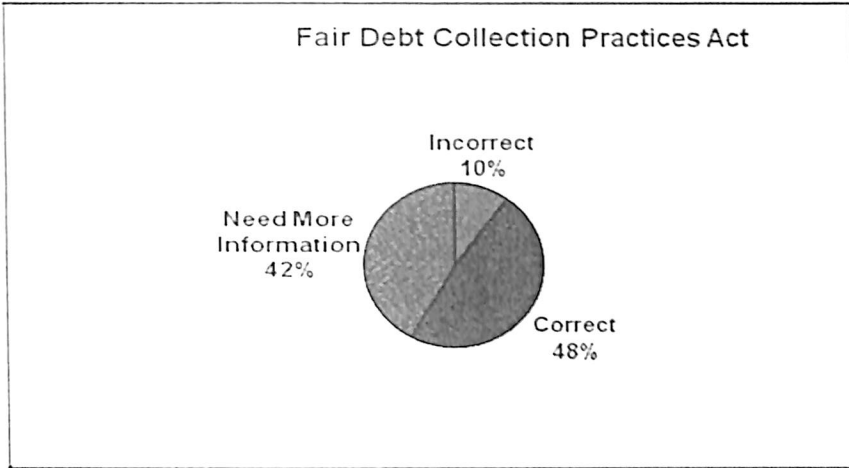


Chart 10. Fair Debt Collection Practices Act Answers

Marginal results were found on this question. While 10 percent missed the question, those who correctly answered the question only numbered 48 percent and those who needed more information were at 42 percent. This indicates that more knowledge of this subject is recommended.

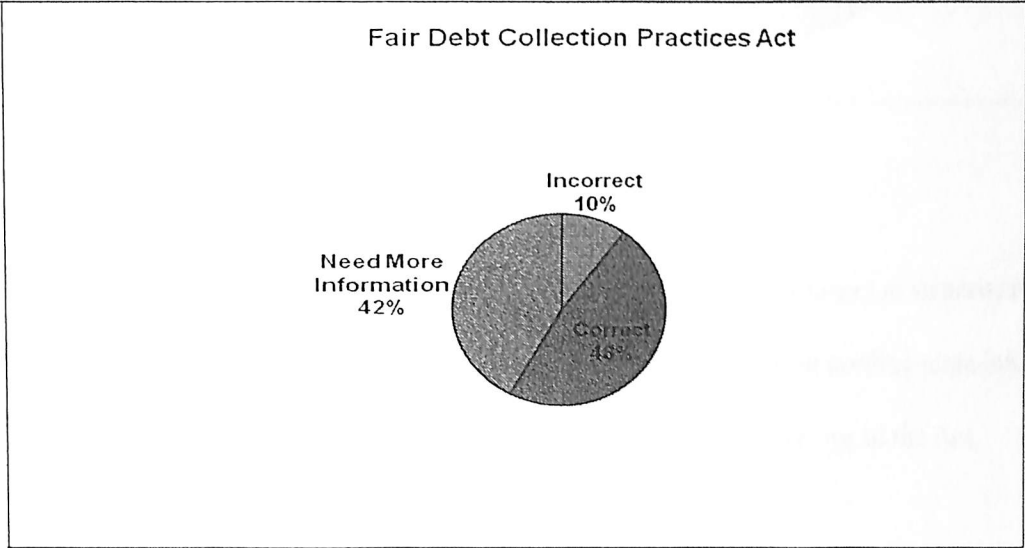


Chart 11. Fair Credit Reporting Act Answers

A majority of the applications indicated their proper knowledge of the Fair Credit Reporting Act, but unfortunately 18.4 percent answered the question incorrectly and 30.6 percent needed more information indicating a need for more knowledge.

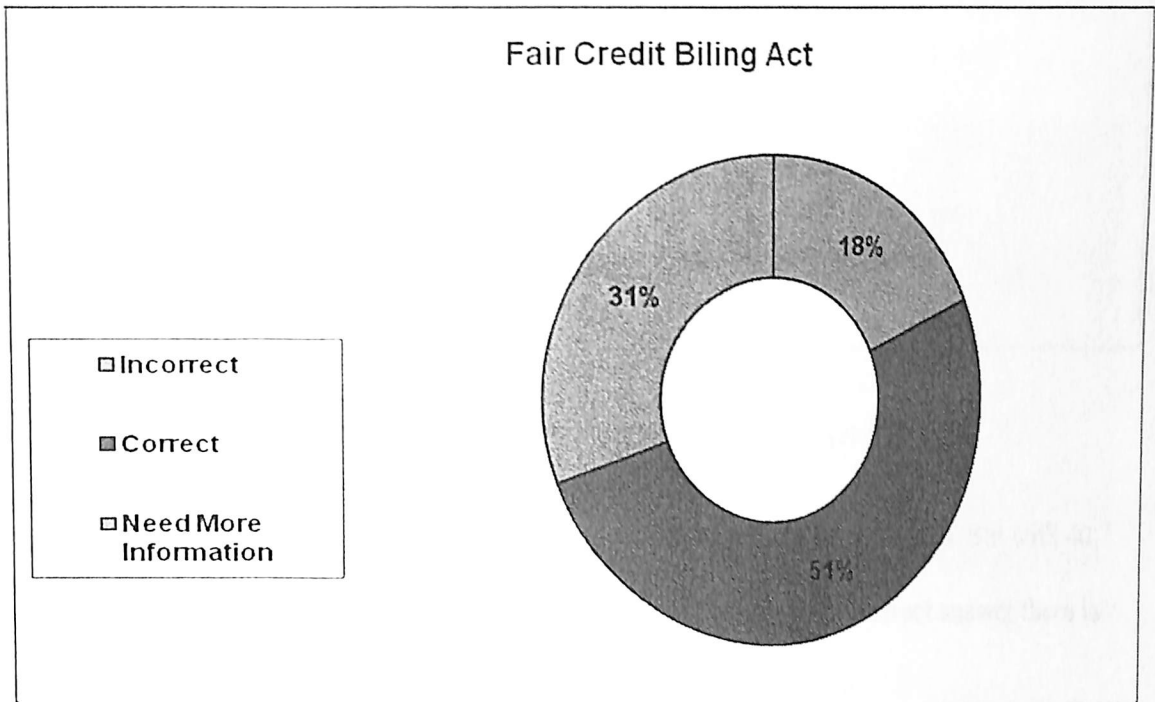


Chart 12. Fair Credit Billing Act Answers

Fifty-eight percent of respondents knew that unfair charges to an account were the basis for the Fair Credit Billing Act but at a rate of 32 percent needing more information this too indicates that managers need more developed knowledge of the Act.

Employee Retirement Income Security Act

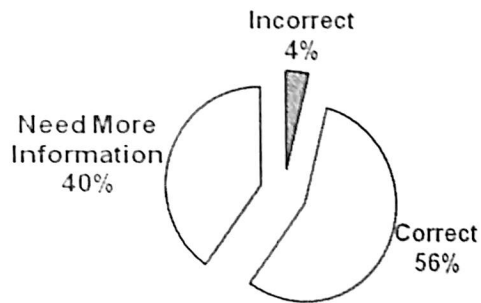


Chart 13. Employee Retirement Income Security Act Answers

Knowledge of ERISA was at a rate of 56 percent correct answers. But with 40 percent needing more information and 4 percent selecting the incorrect answer there is again room for improvement in the knowledge department.

National Labor Relations Act

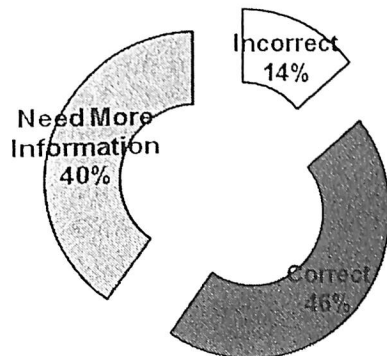


Chart 14. National Labor Relations Act

Almost 50 percent of respondents selected the correct answer. But with 40 percent selecting that they needed more information and 14 percent incorrectly answering the question more knowledge is needed on the National Labor Relations Act.

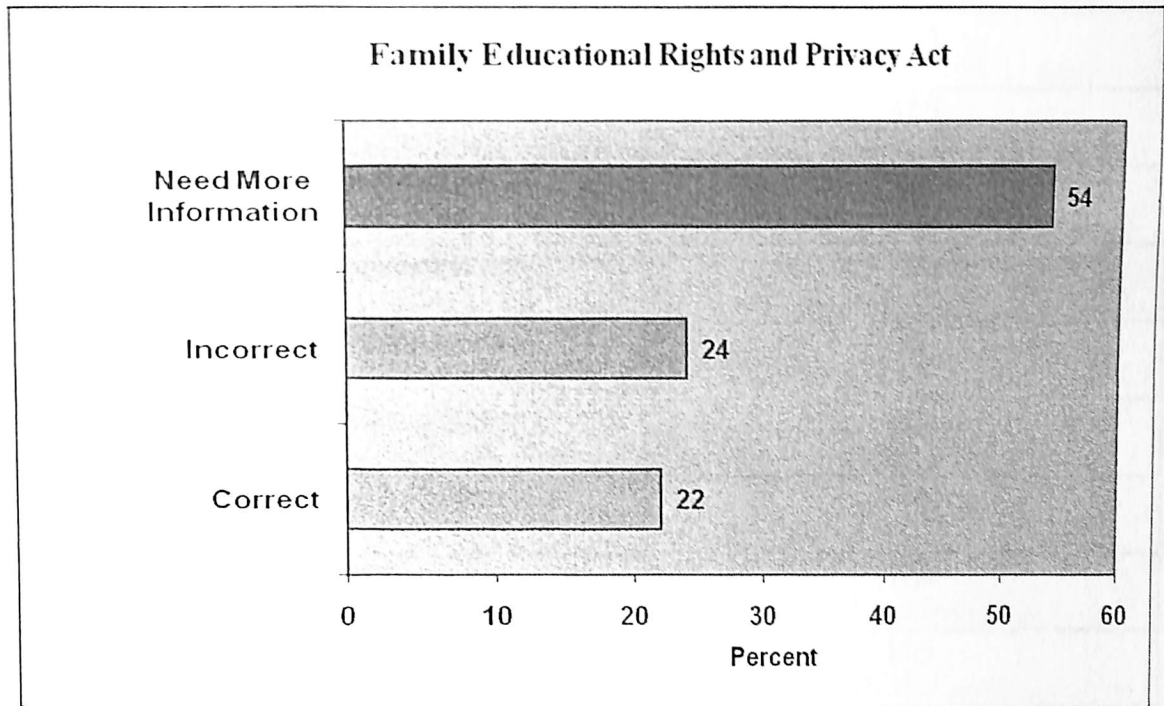


Chart 15. Family Educational Rights and Privacy Act Answers

An alarming rate of 54 percent needed more information on the Family and Educational Rights and Privacy Act. Twenty-four percent marked the incorrect answer and only 22 percent selected the correct answer showing a strong need for more knowledge on this subject.

In order to receive a more in-depth analysis of the answers provided, each manager was also given the opportunity to mark the laws which they have come across in their current position. Table 3 presents this data.

Table 3. Percentage of Managers with Experiences in 15 Specified Laws

LAW	PERCENT EXPERIENCE
Civil Rights Act of 1964-Title VII	60
Age Discrimination Act of 1967	47.5
Privacy Act	42.5
Employee Retirement Income Security Act	37.5
Freedom of Information Act	35
National Labor Relations Act	30
Fair Credit Billing Act	27.5
Fair Packaging and Labeling Act	20
Truth-In-Advertising Act	17.5
Fair Debt Collection Practices Act	17.5
Copyright Act	15
Fair Credit Reporting Act	15
Defamation Common Law Act	10
Commercial Speech Doctrine	5
Family Educational Rights and Privacy Act	2.5

Finally, each manger was given the opportunity to provide additional information regarding their beliefs on the Civil Rights Act of 1964- Title VII Equal Employment Opportunity and the Age Discrimination Act of 1967. While half of the respondents

chose not to respond to these open-ended questions, those who did provided insightful information into their beliefs and impressions for each of the two Acts.

Information gathered on the Civil Rights Act of 1964 tended to base itself around the issue of race, and not the other protected classes. As one respondent remarked, "I believe the best person for the job should be the one doing the job. Not because of the color of their skin." One respondent claimed "as a minority myself, I believe Equal Employment is a much needed law for our society." Along those same lines, another responded they believed "employment should be decided by skills." Another stated they were "all for it as long as it treats everyone equally." An Executive manager went so far as to explain her views. "This Act was created in a time of great need for our nation and I believe great strides have been made for Equal Employment. I feel this law should be continued until we really do achieve Equal Employment Opportunity for all peoples." Unfortunately there were some mistakes made in the individual responses. One respondent believed a person's social status was included. And another respondent even declared "I don't have much knowledge on the matter so I don't have the ability to make a strong enough statement".

In regards to the Age Discrimination Act of 1967, most of the responses were in support of the legislation. A respondent claimed that even though he had not really had much interaction with the law he felt "all workplace employees should have the right to a job if they are qualified no matter their age." Another said that "as someone covered by it, I feel protected against discrimination just because of my aging years" and another felt that "as our workforce gets older, the Age Discrimination Act will become more and more important." There were some negative responses, however. "For some jobs age is

relevant but for others it should have no impact” was just one comment. Another remarked “with age come physical disadvantages.” Sadly many respondents had no relevant knowledge on the subject with some admitting that they were “not too sure what it covers” or that they were “not real sure of what this covers.”

Chapter V

SUMMARY, CONCLUSIONS, AND, RECCOMENDATIONS

As the United States business world grows, so should the business world of Mississippi. In order to remain competitive in the national marketplace, Mississippi business managers must be willing to understand basic communications laws that can have severe ramifications if disobeyed but that can also bring the firm a greater sense of growth. In the context of 15 laws relating to basic communications, Mississippi managers have to understand the benefits of retaining knowledge of these laws as well as disseminating this knowledge into the workplace.

In the context of this study, 15 communications laws were researched in order to provide an in-depth view of the specific information relevant to a basic understanding a business manager must understand in order to be communications efficient. Then business managers from across the state of Mississippi were surveyed on their knowledge of such information.

As a result of the information provided by the business managers, the following conclusions can be drawn:

1. With only 7 questions having over 50 percent correct response from the business manager, there is a general lack of knowledge of the laws.
2. Since 7 questions had 40 percent or more respondents selecting that they needed more information on the subject matter, again there is a deficiency in Mississippi business manager knowledge.
3. With another 7 questions having responses over 50 percent where the respondent selected the incorrect answer or that they felt they needed more information on the law, there was also a need for concern in manager knowledge of communications laws.
4. Generally speaking, when a respondent was asked to respond with their feelings on the Civil Rights Act of 1964 or the Age Discrimination Act of 1967, there was a demonstrated lack of knowledge.

These results put Mississippi business managers in a puzzling situation. How can Mississippi be expected to be a front-runner for business growth and success if Mississippi managers are not well versed in the laws which pertain directly to their jobs? To rectify this demonstrated need for knowledge, Mississippi business managers need to first realize there is a problem. Hopefully, the distributions of this study will jumpstart managers understanding that there is a problem. Companies can implement systems for making sure their employees are well versed in laws, especially those which directly pertain to the manager's position. Another suggested recommendation for the advancement of Mississippi business manager knowledge is greater stringency in the hiring or selection processes for business managers which would require the potential manager to have an understanding of the law so the employer will be confident in their

employee's performance. Examples could include college degree requirements or having the employee participate in a training session based on communications laws.

Whatever the organization selects as its means of improving the current state of Mississippi business manager knowledge, it is clear from this study that there is a real need for Mississippi business managers to "step it up" when it comes to their abilities as managers.

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APPENDIX A

Business Laws Survey

Business Laws Survey

Please answer the following questions to the best of your ability. Answer these questions based upon your current management position only. Again, thank you for your participation.

Section One- Basic Information

In this section, general information related to you.

Name: _____

Email: _____

Employer's Company Name: _____

City and State of Employer: _____

1. What is your official job title?

2. Please briefly describe your job. (i.e. number of employees you manage, typical business day activities, etc.).

3. Does your employer have an on-site corporate attorney? YES ___ NO ___

If you marked no, please elaborate on what type of legal representation your company offers.

4. Average Sales of your Employer

- \$0 -- 100,000
- \$100,001 -- 250,000
- \$250,001 - 500,000
- \$500,001 -1,000,000
- \$1,000,001-10,000,000
- \$10,000,001- 50,000,000
- \$50,000,001 +

Section Two- Disagree/Agree Information

The following section includes several questions of basic content. Please respond based upon your initial reaction to the question asked. Your options for response are: Agree, Disagree, Need More Information.

1. The Copyright Act includes information related to the durational period of a copyright.

Agree _____ Disagree _____ Need More Information _____

2. Issues of slander and libel are NOT covered under the Defamation Common Law Act.

Agree _____ Disagree _____ Need More Information _____

3. A 35 year-old worker in a Steel Factory is covered under the Age Discrimination Act of 1967.

Agree _____ Disagree _____ Need More Information _____

4. The Truth-In-Advertising Act is no longer regulated by the Federal Trade Commission.

Agree ____ Disagree ____ Need More Information ____

5. When dealing with speech in advertising, the Commercial Speech Doctrine sets the guidelines for what is admissible.

Agree ____ Disagree ____ Need More Information ____

6. The United States of America is the only nation with a Privacy Act.

Agree ____ Disagree ____ Need More Information ____

7. E-mail messages are covered under the Freedom of Information Act.

Agree ____ Disagree ____ Need More Information ____

8. The quality of the item in question is a concern of the Fair Packaging and Labeling Act.

Agree ____ Disagree ____ Need More Information ____

9. Constant calling would be included as an abrasive procedure and thus, a violation of the Fair Debt Collection Practices Act.

Agree ____ Disagree ____ Need More Information ____

10. The collection and use of personal credit information are covered under the Fair Credit Reporting Act.

Agree ____ Disagree ____ Need More Information ____

11. Unfair charges to a person's account from a business are the basis for the Fair Credit Billing Act.

Agree ____ Disagree ____ Need More Information ____

12. Voluntary pension plans and voluntary health plans are NOT covered under the Employee Retirement Income Security Act (E.R.I.S.A.).

Agree ____ Disagree ____ Need More Information ____

13. The National Labor Relations Act bans private sector workers from labor union practices.

Agree ____ Disagree ____ Need More Information ____

14. A federally funded school is the only type school covered under the Family Educational Rights and Privacy Act.

Agree ____ Disagree ____ Need More Information ____

Section Three- Personal Dealing

Please mark any of the Laws with which you have had a personal experience.

____ Civil Rights Act of 1964- Title VII Equal Employment Opportunity

____ Copyright Act

____ Defamation Common Law

____ Truth-In-Advertising

____ Age Discrimination Act of 1967

____ Commercial Speech Doctrine

____ Privacy Act

____ Freedom of Information Act

____ Fair Packaging and Labeling Act

____ Fair Debt Collection Practices Act

____ Fair Credit Reporting Act

____ Fair Credit Billing Act

____ Employee Retirement Income Security Act

____ National Labor Relations Act

____ Family Educational Rights and Privacy Act

Section Four- Personal Comments

In this final section, please answer each question to the best of your ability.

1. Describe your beliefs and impressions of the Civil Rights Act of 1964-Title VII Equal Employment Opportunity.

2. Describe your beliefs and impressions of the Age Discrimination Act of 1967.

Thank you for your cooperation. If you would like to receive the results of this survey, please check here. _____