

## The New York Times

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers [here](#) or use the "Reprints" tool that appears next to any article. Visit [www.nytimes.com](http://www.nytimes.com) for samples and additional information. [Order a reprint of this article now.](#)



September 27, 2009

ECONOMIC VIEW

### Opting in vs. Opting Out

By RICHARD H. THALER

WHEN [Steven P. Jobs](#), Apple's chief executive, appeared in public recently for the first time in months, he revealed that he had received a [liver transplant](#) from the victim of a car crash. "I wouldn't be here without such generosity," Mr. Jobs said, adding that he hoped that many people would become organ donors.

With the help of a little behavioral economics, it is possible to make that hope a reality.

More than 20,000 organ transplants take place every year in the United States, with a vast majority coming from deceased donors. Demand greatly exceeds supply: in 2006, for example, 3,916 patients died while waiting for kidneys, according to the [National Kidney Foundation](#).

Some economists have come up with a simple solution: a market allowing the buying and selling of organs. Because people have two kidneys and need only one to live, a robust market could greatly increase supply.

The idea may have some merit, but it is spectacularly unpopular. As the Harvard economist Alvin Roth has noted, many people consider it "repugnant," mainly for two reasons. First, they object to the possibility of rich people buying their way to the front of the line. (The hospital where Mr. Jobs's procedure took place said he received the liver transplant because he was the sickest person on its waiting list who matched the donor's blood type.) Second, they object to incentives that would induce the poor to sell their kidneys.

These objections can lead to some logical quandaries. Why, for example, is it O.K. for a parent to donate a kidney to save a child's life but not for her to sell her kidney, thereby also saving a life? And why is it acceptable to risk your life for money, say, by becoming a [coal](#) miner, but not by selling a kidney?

Still, whether you think a legal market for organs is a brilliant or a dreadful idea, it's a political nonstarter, so it is important to obtain donors from another possible source: patients who have been declared "brain dead" but are being kept alive temporarily.

Nationwide, roughly 12,000 to 15,000 people fall into this category each year, but only half end up as donors. Because each such donor could supply an average of three organs, having another thousand donors could save 3,000 lives. We need more people to agree to be donors in advance.

One strategy is to alter the default rules for signup. Most states, as well as many other countries, use an "opt in" or "explicit consent" rule, meaning that people must take a concrete action, like going to a public library or requesting and mailing in a form, to declare they want to be donors. But many who are willing to donate organs never get around to such steps.

An alternative approach, used in several European countries, is an “opt out” rule, often called “presumed consent,” in which citizens are presumed to be consenting donors unless they act to register their unwillingness.

In the world of traditional economics, it shouldn't matter whether you use an opt-in or opt-out system. So long as the costs of registering as a donor or a nondonor are low, the results should be similar. But many findings of behavioral economics show that tiny disparities in such rules can make a big difference.

By comparing the consent rates in European countries, the [psychologists](#) Eric Johnson and Dan Goldstein have shown that the choice of opting in or opting out is a major factor.

Consider the difference in consent rates between two similar countries, Austria and Germany. In Germany, which uses an opt-in system, only 12 percent give their consent; in Austria, which uses opt-out, nearly everyone (99 percent) does.

Although presumed consent is generally accepted in countries that have adopted it, the idea can bring strong opposition. Many people object to anyone presuming anything about their organs, even if the costs of opting out are low. In Britain, a proposal by the Labour government to adopt an opt-out system was opposed by Muslims who objected to organ removal on religious grounds.

Fortunately, there is another possibility, called “mandated choice,” under which people must indicate their preference. In Illinois, where I live, this system has been in use since 2006 and doesn't seem to have ruffled many feathers.

Here is how it works: When you go to renew your driver's license and update your photograph, you are required to answer this question: “Do you wish to be an organ donor?” The state now has a 60 percent donor signup rate, according to [Donate Life Illinois](#), a coalition of agencies. That is much higher than the national rate of 38 percent reported by [Donate Life America](#)

The Illinois system has another advantage. There can be legal conflicts over whether registering intent is enough to qualify you as an organ donor or whether a doctor must still ask your family's permission. In France, for example, although there is technically a presumed-consent law, in practice doctors still seek relatives' approval. In Illinois, the First-Person Consent Law, which created this system, makes one's wishes to be a donor legally binding. Thus, mandated choice may achieve a higher rate of donations than presumed consent, and avoid upsetting those who object to presumed consent for whatever reasons. This is a winning combination.

THE key, however, is to make signup easy, and requiring people to make a choice is just one way to accomplish it. The private sector could help create other simple methods. Here is a challenge to Mr. Jobs: Why not create a Web site — and a free app for the [iPhone](#) — that lets people sign up as organ donors in their home states?

At the same time, he'd need to work with the states to create the technology for a secure, simple signup procedure. Social networking sites like [Facebook](#) could also help, by encouraging signup campaigns.

Many Americans say they want to be organ donors, but they just don't get around to acting on their

intentions. Helping these potential good Samaritans overcome their inertia could prolong thousands of lives a year. Signing up to be an organ donor should be at least as easy as downloading a song to your iPhone.

*Richard H. Thaler is a professor of economics and behavioral science at the Booth School of Business at the University of Chicago.*

[Copyright 2009 The New York Times Company](#)

[Privacy Policy](#) | [Terms of Service](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)