

>> Joel Winston: Good morning. We're going to get started now. I'd like to welcome you to the Federal Trade Commission and today's public forum. My name is Joel Winston, I'm the FTC's Associate Director for Financial Practices in the Bureau of Consumer Protection. We're here this morning in, perhaps, the most important room in this historic New Deal-Era building. In fact, I see one of our former commissioners here who spent many a day in this very room. This is the commission meeting room, where the commissioners convene to conduct formal business. For example, deciding whether to bring a lawsuit against someone who violated the law. And soon the commission will be making a decision about the proposed rule that we'll be examining today, which would amend the telemarketing sales rule to address practices by debt relief services. I'm delighted that we have here today a diverse group of stakeholders from the public and private sectors, who will be discussing the key aspects of the proposed rule. And the important consumer protection issues it addresses. Needless to say, this forum couldn't be more timely. These are difficult times for many consumers. Americans today are holding record levels of unsecured debt. In fact, some estimates place the average U.S. household's credit card debt, which is probably the largest source of consumer indebtedness, at over \$10,000 per person. More and more, consumers are finding themselves in financial distress, struggling to pay their bills and to stay afloat. It is in this environment that the for-profit debt relief industry has burgeoned. While the commission applauds efforts to educate and assist people who are struggling with their debt, too often, unscrupulous debt relief companies deceive consumers into paying large sums of money that they can ill-afford to pay, only to get little or no results in managing or settling their debts. The many cases brought by the FTC and state law enforcers are a catalog of fraud and abuse, including such practices as making false claims about the amount and timing of fees, making promises of successful results that never happen. Misrepresenting refund policies. And failing to alert consumers about the negative consequences that can flow from these services. For example, that consumers may accumulate late fees on their debt, adding to their debt load. And may damage their credit history. These problems are exacerbated by one of the predominant fee models used by debt relief companies. Large and nonrefundable up-front fees that are paid over the initial months of enrollment. Under these circumstances, what protections do consumers have against fraudsters who collect these fees, then don't deliver? In many of our cases, debt relief firms took thousands of dollars from consumers without making any serious effort to help them pay off their debt. I don't know about you, but that sounds a lot like grand larceny to me. And these unlawful practices continue to plague this industry. Last September, a little over a year ago, the FTC held a public workshop on debt settlement and other forms of debt relief. That workshop, which many of you here today attended, advanced our collective understanding of the issues that we face. Subsequently, in July of this year, the commission announced its proposed rule for public comment. We received over 220 written comments by the October 26th deadline. Today, we're providing another opportunity to share information and views to augment the record in this rule making. We will be focusing on the three pillars of the proposed rule. First, the ban on collecting advanced fees. Second, prohibitions on materially false claims. And, third, six proposed mandatory disclosures that are designed to ensure that consumers understand the basic mechanics, fees and potential negative consequences of enrolling in a debt relief service. When considering these remedies, there are a few overarching issues that we need to address. Does the proposed rule cover the right entities? Do the problems and their solutions vary depending on whether the service is debt settlement, debt negotiation or credit counseling? Do the proposed remedies establish the right incentives for providers to treat consumers fairly? Will the rule reduce deceptive, unfair and abusive practices in this industry? Are there other remedies the commission should consider,

either in addition to or in lieu of the three primary remedies? And finally, to what extent are there legitimate for-profit debt relief services, and what impact would the rule and the specific remedies we've proposed have on their ability to operate their businesses? Now, with regard to that last point, we have sought, for some time, empirical data about this industry. Are the abuses we've encountered repeatedly in our law enforcement efforts pervasive and systemic? Or are they simply bad apples in an otherwise properly functioning industry? In particular, we ask the debt settlement industry for evidence showing that there's a significant segment of that industry that provides valuable services to consumers, commensurate with the fees that they charge. We did receive some survey results during the comment period, but questions have been raised about its completeness, objectivity and probative value. We hope to discuss these studies in more depth today. And in the meantime, we're seeking the underlying data to help us evaluate the studies. I think, at this point, it's fair to say that we don't feel that we have a definitive answer on this issue. The panels assembled today represent a wide spectrum of stakeholders. They include consumer advocates, state law enforcement officials, federal regulators, academics, nonprofit credit counselors, and representatives of the for-profit debt relief service companies and industry groups. We will be dividing the day into several panels, each corresponding to go a significant component of the proposed rule. The two panels this morning will focus on the proposed advanced fee ban, then we'll break for lunch. After lunch, we will discuss the proposed disclosures and prohibitive misrepresentations in the rule. The final panel this afternoon will address the proposed definition of debt relief services. Now, following the afternoon panels, which should come to a close around 4:15 or so, we will be holding an open mike session, during which both audience members and panelists are free to participate. Now, for the ground rules for our discussion today. First, each panelist has a paper table tent thing. When you want to say something in response to a question, please turn your table tent up vertically and we'll try to call on you. We do want to try to give everyone an opportunity to speak, so please keep your remarks as focused and as concise as possible. I'm going to try to call on each speaker by name, so that the court reporter can attribute your remarks accurately. Next, please speak only when called upon by the moderator, and don't interrupt others when they're speaking. One of the last sessions I attended that the commission held, which was on the debt collection industry in Chicago, within about 15 minutes, the panelists were all shouting at each other and speaking at the same time, at which point the court reporter got up and said, "I can't possibly transcribe this, you have to talk one at a time." So, please try to do that. And keep in mind that this forum is designed to be a respectful give and take discussion and not a platform for delivering speeches. The panel moderators will be gentle, but insistent in ensuring that the rules are followed and that the discussion is productive. And now, for the all-important housekeeping announcements. First and most importantly, the bathrooms are located right outside the door here to your left. And also keep in mind that if you leave the building, you'll need to pass through security again to re-enter. So, you need to allow time for that. In particular, we've slotted one hour for lunch, which is not an abundance of time, so that if you are leaving the building, make sure you allow enough time to get back in. In particular, we ask our participants in the first afternoon panel to be careful to budget their time when leaving the building, because we do want to start that panel sharp 1:30. One time saving lunchtime option is the FTC's top of the trade cafeteria. A famous place. It's located on the seventh floor of this building. Take the elevators up. It's actually quite good. In case you don't want to go there, we've distributed a list of local establishments where you can find a bite to eat. Finally, in the event of an emergency, walk, do not -- no, that's for movies. I'm sorry. In the event of an emergency, fire or evacuation, the alarms will sound. And we

ask you that if you hear that alarm, you gather your personal belongings, if you have time, and you leave the building in an orderly fashion. Once outside the building, make your way across the street to the national gallery of art on the corner of seventh and constitution and enter the national gallery. That's our gathering point. If you like, you can go see the Rembrandts while you're there. But do check in with Kara Reading when you get to the national gallery. Kara, are you around?

>> Female Speaker: She's outside.

>> Joel Winston: She's outside. She's the -- we'll introduce her when she comes in. In the event it's safer to remain inside, you'll be advised where you should report while inside the building. There will be information and updates distributed via the public address system. And also, if you do spot suspicious activity, please alert one of us or the security staff. Again, thank you for coming here today. We look forward to a robust and illuminating discussion. So, let's now move to our first panel and our first topic of discussion. The proposed rules ban on the collection of advanced fees. Not surprisingly, this is the subject that drew the most public comment during the comment period, by quite a wide margin. To proponents of the advanced fee ban, it's -- it is necessary to have this measure to protect consumers from deception and abuse in an industry that is rife with those problems. To opponents, a ban would make it impossible for the many legitimate debt relief services to survive, to the detriment of competition and consumers. As I mentioned earlier, we'll be discussing this issue in two separate segments this morning. The first panel will focus on the fundamental question of whether the commission should impose an advanced fee ban. Is it necessary and what would be its impact on consumers and industry? After our break around 10:45, we'll move to a discussion of implementation issues. If the commission does decide to impose some type of ban on advanced fees, how should it work? Now, I'd like to introduce our panelists. We're going in alphabetical order, around this way. First is John Ansbach, the chairman of the legislative committee for the United States Organization for Bankruptcy Alternatives, USOBA, where he develops legislative and public policy for the debt settlement industry, working closely with federal and state regulators and legislators. John is a graduate of Texas A&M University and the University of Texas School of Law. Hook 'em horns. Michael Bovee, who's next, is the founder of Consumer Recovery Network, a company dedicated to educating and assisting consumers who are struggling with debt. Michael has been helping financially-troubled consumers for the past 14 years. Norman Googel is next. He's an assistant Attorney General at the Attorney General's-- West Virginia Attorney General's division of consumer protection, where he's been since 1995. Prior to coming to the AG's office, Norman was employed as a legal aid lawyer for nearly 15 years in two cities in West Virginia. While at the consumer protection division in the AG's office, Norm has worked on a number of matters, including unscrupulous debt relief schemes. Mark Guimond, there you are. Mark Guimond is the Executive Director of the American Association of Debt Management Organizations. ADMO. ADMO is the largest trade association for the credit counseling and debt management industry. Mark has worked directly in advocacy for the credit counseling industry for the last 12 years. And prior to that, he served in the Washington, D.C. office of U.S. senator Pete Wilson from California. Guimond, I'm told. I'm sorry, I got yoru name wrong. Mark Guimond. And after graduating from the University of California at Berkeley, he became a lobbyist in private practice. And he notes in his bio that his favorite legislative victory was the repeal of the 55-mile-per-hour national maximum speed limit. Way to go. We all thank you. Gail Hillebrand, an old friend, is Senior Attorney at the west coast office of Consumers Union where she manages the credit and finance advocacy team and leads Consumer Union's

financial services campaign. Her issues at Consumers Union include banking, consumer credit, payments, identity theft, the community reinvestment act, arbitration reform, electronic commerce, consumer legal rights and remedies, and the UCC revision process. You must be very busy. Andrew Housser co-founded Freedom Debt Relief and its parent company, Freedom Financial Network, in 2002. Previously, Andrew worked in the financial services industry. Andrew received his MBA from Stanford Business School and Bachelor's from Dartmouth College. He's here on behalf of the association of settlement companies. Bob Hunt is an assistant vice president of the Federal Reserve Bank of Philadelphia. He became director of the bank's payment card center in 2009. Prior to this appointment, he was a Senior Economist in the bank's research department. Bob's published research includes studies of the dynamics of the consumer credit reporting industry, credit counseling organizations, the collection industry and others. Before joining the bank in 1998, Bob worked for the U.S. congressional budget office, which is a very busy place these days. Within received a Ph.D. in economics from the University of Pennsylvania, and a bachelor's in political science and economics from Butler University. Jim Kaiser is speaking today on behalf of the national association of consumer credit administrators. Which is an association of state financial regulators. Jim started as a field examiner in the consumer credit bureau of the Pennsylvania department of banking in 1982 and he's currently an administrator for non-depository institutions for the department and spends most of his time on policy development. Jane McNamara is president and chief executive officer of Green path Inc. Green path a national, not for profit organization that provides consumers with counseling and education on financial literacy topics. Before assuming the CEO responsibilities, Jane served as the chief operating officer of green path. She's a graduate of Michigan State University, my home state, but not my home school. She earned her bachelor's degree in consumer services at Michigan State, her master's in family economics and management with a specialty in family financial counseling. She currently serves on the board of the national foundation for credit counseling where she is the chair of the finance and audit committee. Jean Noonan, we all know very well, spent many days in this room. Jean is a partner at the Washington D.C. office of Hudson Cook. Prior to joining Hudson Cook, she was employed by Lovells, another law firm. Served as general counsel of the farm credit administration and worked at the federal trade commission for many years in numerous positions, including basically my predecessor, as the associate director for credit practices in the bureau of consumer protection. Jean is a graduate of Oklahoma state university and university of Texas law school. Johnson Tyler down at the end has worked at the south Brooklyn legal services since 1989. His interests in debt settlement began in 2006 when a client of his of limited means lost \$1400 to a debt settlement company that California had already sanctioned. He's litigated consumer cases under the FDCPA, New York's deceptive law and other statutes. He's a graduate of Yale college and CUNY law school, city university of New York. Derek Witte, Professor Witte teaches contracts in commercial law at the Thomas M. Cooley Law School, in Grand Rapids, Michigan. Professor Witte also provides in-house legal services to credit solutions of America, a leader in the debt settlement industry. Before joining coolly law school, professor Witte was a litigator at Genner & Block in Chicago and then in grandrapids. Wesley Young, general counsel of American debt exchange and sits on the executive board of task where he serves as legislative director and he plans, drafts, lobbies and testifies regarding legislation affecting industry. From 1996 to 2006, he was a senior associate with the law firm Barron & Budd in its asbestos litigation group. He's admitted to practice by the state bar of Texas and received his bachelor's from Baylor university in 1992 and his law degree from Baylor law school in 1995. So, as you can see, we have a very distinguished group, a knowledgeable group of speakers. And now I'd like to get the

discussion started. Bear with me for a minute. So we're talking about advanced fees. And some of the fundamental questions I have is how widespread is the practice of charging large advance fees and what other fee models are used within the industry and does it vary with the type of service, debt relief, debt settlement, debt negotiation, credit counseling? Do the fee models vary depending on the type of organization? Let's start off with a general discussion about how advance fees how are prevalent there in the industry? Gail? That's Gail Hillebrand.

>> Gail Hillebrand: Thank you. Good morning. I appreciate the opportunity to be here. I'm going to speak to the fee models that we have seen or observed in the debt settlement arena and leave to others some of the other forms of debt relief. There is a form of advanced fee -- I can't tell you how prevalent they are statistically, but I can tell you how prevalent they are in terms of what the industry has been seeking in state legislatures. Both in states where debt settlement is already illegal and in states that haven't spoken. There is a fee model that's being actively promoted by the industry adopted in a couple of states, stalled out in a couple more last year, where there's a setup fee, Dr. Briescha 2% to 4%, but the bills I've seen and the state laws are 4% and 6%, due on signing but commonly spread out not required by law, but spread out over the first three months of the savings. And then deducted directly from the savings. The same fees are going in and fees are coming out during the first three months. So 2% to 4%, but the model would allow that to be 6% and there are a couple of states that authorize a 4% up front purely up front fee, but there is an additional form of advanced fee in the debt settlement, within this model and that is an acceleration of the remaining fees on a percentage of debt basis. Dr. Briescha's study says 14% to 18%. We've seen state laws at 17%, 18% and 20%. And this is an advanced fee, the industry calls it is pay as you go, but it's pay as you go even if you don't get there. And it's pay as you go in full over the first half of the contract and these laws commonly have an additional provision that permits further acceleration beyond that first half if there are offers on half of the accounts. So if a consumer comes in owing a couple of small credit cards and one big one and they get offers on the two small accounts, that would, under this fee model allow further acceleration of the entire percentage fee on the original debt. That's a form of advanced fee even though it's not fully in advance, it's certainly well in advance of results. I'm going to pause there, except I do want to say that I think that the advanced fee model responds to more than the bad apples. There are two different problems we see in debt settlement, one is the sort of traditional bad apple, take the money and run. No services are provided, no benefit. But the other is the signing up of people who cannot benefit, either because they can't save enough, or because the savings are immediately drained by this front loaded fee structure, or because their creditors simply won't deal with the debt settlement and that's a deeper problem that can also can be advanced fee ban.

>> Joel Winston: Andrew Houser?

>> Andrew Houser: So, I can only speak for the task members that I represent, but based on my experience, the vast majority of companies who spread fees out over a period of time typically 18 to 24 months. And that is consistent with the work that's being done. It is not in advance of the work that's being done. To give an example, our company typically doesn't take the first fee until after about a month to six weeks that work has already been done, invested in the company. So this allows the consumers to pay as they go and it allows the debt settlement companies to earn fees for the work they're doing. I'm not aware of a single company that has ever made a fully contingency fee model work and the reason for that is simple. It's a lot of work to do, it's business, it's a

complicated business. It sounds really easy in theory, like losing weight is easy, burn more calories than you consume. Debt settlement is easy, just settle debt for 50 cents on the dollar. It's really hard to execute. It takes a lot of people, we have over 500 employees, task members have over 10,000 employees. And it takes a lot of processes, investment technology, and infrastructure. And no company has made the contingency fee model work. Because, you can't make it work. You can't get consumers through the program and settle the debts if you can't do the work. And you need to get paid on do the work.

>> Joel Winston: Jean Noonan?

>> Jean Noonan: Well, we just disagree that the model doesn't work. Accord is an organization of companies that are dedicated to making the model work, and we have members who are making the model work. I say we have to agree with Gail's comments about the concern about the state laws. And setting regulating fees based on the amount of the debt as opposed to the services that are performed. Consumers sign up for debt settlement services because they want their debts settled. Performance is settling the debt. Performance is not marketing, budgeting, or anything else that happens before the debt is settled. To be effective, the commission needs to do two things, two provisions in this rule to make it effective. And I think we can probably all agree around this table on one objective, and that is that we don't want consumers to be worse off from signing up with the debt settlement company than they were had they not signed up. Those of us in the industry are here committed to helping consumers get out of debt and to do so as efficiently, as effectively as possible. That's what the debt settlement business strives for. To do it effectively, we have to not take fees until the debt is paid. That's number one. Number two, the amount of our fees should be proportionate to the amount of the consumer's savings. Anything else can leave the consumer worse off than before she contacted the debt settlement company.

>> Joel Winston: Jean, if I could follow-up on that, are you aware of firms that operate without charging significant advanced fees?

>> Jean Noonan: Yes.

>> Joel Winston: And how do they finance their operations?

>> Jean Noonan: Organizations have to be well capitalized. This is not a business that is well served by poorly capitalized, it for the moment, or fly by night companies. Some businesses work fine that way, easy entry in, easy entry out. We saw a lot of those problems with the mortgage brokerage business in the last couple of years. It is an expensive business to operate properly. I agree with the comment that you have a lot of employees, you have a big investment in infrastructure and technology. It is a business that requires a big capital investment. And like a lot of businesses that require that, you have to have the capital and to be in it in order to begin working for consumers and accept your fees after the creditors are paid.

>> Joel Winston: And I want to give everyone a chance, I see there are a lot of people that want to talk, but if I could ask everyone to focus specifically on this issue of can a legitimate debt relief business function without charging an advanced fee or do they need a certain amount of money up front before they can provide their services? So let's turn to Wesley.

>> Wesley Young: Well, Jean was mentioning in her comments it's an expensive business to run and absolutely it is. Our members have looked at staffing of a

comparably sized credit counseling company and a debt settlement company and the number of staff that the debt settlement company hires to manage its clients is one staff person for every 85 clients approximately. For credit counseling, the numbers approached one staff person for every 1,000 clients. So there's a significant amount of resources that must be spent on employees and all the things that come with employees, rent and benefit, health insurance, 401(k)s, things like that. So it's a very expensive business to run and companies need the fees to provide the ongoing services to get to where you want. I mean, I think our paper, our task paper shows that we provide significant benefits to the consumers, but in order to get to that point, it's a lot of work.

>> Joel Winston: Wesley, if could I follow-up on that. To what extent are these costs that you refer to that need to be paid through the advance fees are costs that go directly to the service being provided versus marketing and client generation?

>> Wesley Young: Very approximately the costs in marketing were approximated between 15% and 25% of the total costs. I think that was in Nationwide support services paper.

>> Joel Winston: And there's empirical data that shows that or is this an estimate?

>> Wesley Young: It was a study done by themselves on their own costs.

>> Joel Winston: Okay. Michael?

>> Michael Bovee: To my knowledge, there's about three or four and now perhaps another one through public commentary leading up to today that provide full settlement services without charging any kind of fee. We're kind of a hybrid and when we started out before we gave consumer recovery network, we were DECA and for 18 months we charged no fee, absolutely none, zero. And it was not a success. And we had some cost outlay, we sent books out, education, that's our format is consumer education. And we ran multi-six figures in uncollected fees as a result. No, we did not use escrow funds, so that was kind of a handicap for being able to access though fees as settlements were done, but we launched further into our consumer educational focus and became consumer recovery network and we have immense success working in the fashion that we do providing education, encouraging consumers to do as much, if not all of the settlements on their own and there by charging no, quote/unquote, contingent fees or direct settlement services. When we do perform those services, we do charge a fee and it's based on success after the creditor is funded and often times there's terms associated with the offers made by banks and their signees. As a result of that, sometimes it's six months, 90 days from the actual settlement and the final signing of it split into three payments before we would realize the fee and then oftentimes, again, we find that the next offer is on the table and if our goal is to get the consumer out of debt as quickly as possible and avoid litigation and all the knockdown effects of aggressive collection tactics, we don't collect our fee as that would further lose the strategy and the focus being getting the consumer out of debt. We forego the fee to the degree, we've got a couple of clients right now, they have graduated from our program, they've settled sometimes as much as \$150,000 worth of debt all the way down to \$15,000 worth of debt. We never collected the contingency fee and now we're on a payment plan with them. So that's our goal and we stay focused, but I can tell you this, we would not be able to get there if it were not for our education and our focus on providing unmatched education, focusing consumers on their ability to settle. And it is that cost outlay, it is that funding, that membership

arrangement, that helps us break in states where we cannot charge a contingency fee. We don't make a profit per se, but we do deliver full settlement services at cost for all intensive purposes. And my position on this is it would be next to impossible to deliver the degree of adequate services that a consumer -- every measure of stress and emotion from collection calls, from family, from anything can upset the apple cart, we can get three phone calls in a day, we can get three phone calls in a week, and some consumers we work with are sophisticated enough that we hear from them maybe once every two months. So it's a mix of everything in between and it's the consumers that need the most attention that deserve the best attention and it should not be somebody who is just answering phones and has little to no background or history in working with consumers. That's an expensive cost. And finding advocates that populate the special lists that work with our members, needle in a hay stack, finding people that are motivated to help people and not profit, but they still have bills to pay. So my position is while there are a couple of companies, and I would suggest that consumer recovery networking is one of them, although something of a hybrid, it would be next to impossible to defer or defray those costs waiting up until five months before the first settlement is available. A lot of the public commentary that's been submitted, up to today, suggests that there's no way a company can survive for two or three years. I don't think that was the recommendation. I read it. I believe it was phrased so that at each time each settlement is done, you can fund yourself. That's doable for a well capitalized company because we're talking five months. That's all we're talking before you reach that first settlement. So the consumer success. And one other thing is most of my concern leading up to last year even and my criticism to the industry is the sales process. It's the high commissions. 25% for sales driven would be perhaps applicable to a company who does no outside referrals, does their own advertising, runs their own ads, radio, television, newspaper. But for companies that are taking referrals from outside sales companies, which we tried to do last year and it was an abysmal failure. Those companies wouldn't get it from us, but prior to working with us, they were referring to Hess Kennedy and receiving much larger than 25% finder's fee or commission. We were a pit stop and then they went on to ALLEGRO. So these outside sales companies are going to look for the dollar, they're going to look for the high commissions. The internal companies in this industry, that are doing good work, that manage and control their open sales team. Typically you don't find problems in a massive amount of complaints with those companies.

>> Joel Winston: Thanks. Derek Witte, if you could focus on the question of capitalization. What I'm not clear about is what makes this industry different from lots of industries where you don't pay until the services are fully provided. If I go to my doctor's office and have a procedure done, I don't pay up front. I pay when it's done. And obviously there are a lot of industries where that's the case. Why can't that be the case for this industry?

>> Derek Witte: I don't think it's that simple, but we do agree with you, that you should pay for what you get as you get it. Where we disagree is that it's our position credit solutions and other members of the industry understand that that's what we're doing and what we advocate. We start working with the consumers on the first day. One of the things that we could share with the FTC and our submission is the number of offers that we get for our customers in the data set was all of the people in the past three years who were customers of CSA. And in the first month, we were able to get 56% of the people one offer and 28% of the people five or more offers just in the first month. And I think everyone can agree that's pretty remarkable and sort of stands against what was in the NPRM that no work is being done at the beginning. So we're doing work for the beginning advocating with the credit card companies, we're also fielding

these calls. And I agree with Michael, part of our function is hand holding. And I think the task paper said that, too. We can't stop the creditor calls, we can't. But we do field the calls with people who are well trained through a series of certifications to provide the other support on a day to day basis for the people who are going through this. And so, these are the things that are part of our performance. It's not the end result, not the goal, but that is what we're saying you need to pay for as you go. And my concern is, and credit solutions' concern is, is if we are asked to have a fee model that only allows us to be compensated upon settlement, that is not what's best for protecting consumers. Not only do we know according to the task survey or I'm sorry, the USOBA survey that 84% of their members who responded to that believe they'd go out of business if they had to have that fee model, but we see an even bigger problem. I don't know that we could stay in because what would happen is the consumers who stay in longer and who don't cancel, and we can talk about many of the very legitimate reasons to cancel, would end up subsidizing the fees for the people who take those day to day services from day one, who we field their calls, we call the credit card companies on their behalf, we invest in resources to protect them, but then we can't collect from them, so who pays? And so what we would see is it's not a capitalization problem. It's that the consumer is not best served because the fees would go up. And what I think is remarkable, although I agree with Jean that in a perfect world, we could have this system, we're not in a perfect world. People will cancel. And the end result is the consumers who stay in longer settle more accounts, save the way they should, foot the bill. If you look at the FCS paper that we were instructed to look at as one of the exemplars to prepare for today, there's something missing. How high are their fees? Our fees don't exceed 15%. And, frankly, we're working to be more and more efficient and I hope we can do better than that. But the only way to be the best independent consumer advocate and protect all our customers is to have a pay as you go system where everyone we're investing in resources pays for what they're getting.

>> Joel Winston: Thank you. Bob Hunt?

>> Bob Hunt: I always have to start with a disclaimer, these are my views, not those of the Federal Reserve. Just an interesting observation. We've really been talking about working capital in this industry. And in any industry, there are a variety of sources of working capital. We can have a long conversation about the flow of work that gets you to a settlement and then the settlement, but as I listen to this I think about doing a home improvement project, at the end of the day I want that they think finished and I backload my contract with my builder so that that happens, but my builder also needs working capital as well. The difference is that I'm not a credit and liquidity constrained consumer. I'm essentially loaning my assistant funds at an opportunity cost of 25 to 30 percent a year. And so, we have to ask ourselves whether the way that we are funding these activities are being funded from the lowest cost provider much those funds. I think that that should be part of that conversation.

>> Joel Winston: Mark Guimond?

>> Mark Guimond: I think I need to throw in a little different twist too on the credit counseling model versus just the debt settlement model. Credit counseling on the front end fees is highly regulated by the states and if you see a large advance fee for credit counseling, it's an anomaly, it would not be a licensed or registered entity. It's just something that's out there, it's a bad apple. One of the interesting things in credit counseling is credit counseling does receive continuing ongoing monthly funding. There's a nominal startup fee, but continuous funding that goes on throughout the duration of the

DMP. So an advance fee is not necessarily required. One of the things I would like to note is I think the impact of the advance fee ban on the for-profit debt settlement industry will be very bad. I think it's going to put most of the industry out of business and I'm hoping that the commission's intent is not to fill this void with nonprofit credit counseling because, and I'll quote Jean, I can't see Jean down there, but Hi. As she said, the debt settlement is expensive to operate, has a big capital investment, and is investment heavy. And if the commission's desire is to throw this business or this block of consumers over to the nonprofit tax exempt world, I don't know how those particular statements from Jean are going to be met by these nonprofit charitable entities. So I'm hoping that the consequence of this, it's not an unintended consequence in that the nonprofit world is not going to be able to fill that void.

>> Joel Winston: John Ansbach, if I could ask you, to the extent that the fees are front loaded and you have somebody who is dropping out of the program after three months, five months, seven months and have paid in quite a lot of the fee, is it, do you think it's appropriate, fair to the consumer, that they forfeit all that money? Do you think that the services that are being performed for that person who has dropped out before any settlement has taken place, are those fees that they have paid commensurate with the services performed?

>> John Ansbach: Frankly, it's an excellent question and to understand the answer to the question, you have to get to what services are being provided. And with all due respect to Jean down there on the end, I have not worked at the FTC before, but I have worked at a debt settlement company. And maybe I'm not the best source on this issue, but if you ask 700 employees who do this work every day, 75% of whom, unlike the people at this table, are on the front lines talking to consumers at least once a day, if you ask them what they do, what is the service that they provide, in fact, what is the primary service that they provide, you look at the survey results and they will tell you, 65% of those people that said that said that the primary service was something other than the settlement of the debts. With all due respect, Jean, you're saying the performance is the only -- performance is settling the debt, nothing else is performance, people that do this work for a living will tell you that it is financial literacy and education, it is how to deal with creditor harassment or threats, it is hand holding and emotional support. Coincidentally, is hand holding and emotional support something valuable? 47% of the people that responded to this survey said that suicide was mentioned in the debt settlement process in terms of dealing with harassing creditors. Hand holding, emotional support, program coaching, budgeting support. To understand what is charged in this model, you must understand the service that is being provided. And 65% of the people that do this for a living will tell you it's not settling the debt. That's not the primary service. It is all of the things that happen before you ever get to that first settlement. And Michael's comment was that that was about five months in with Michael's program our data, and the folks that I've talked to, it seems to indicate it's closer to 12 months. So the question becomes this. Because the number of questions here in the last 25 minutes on this issue. Which you did ask, you said, "Can a legitimate debt relief option provider function without advance fees?" And if you account for all of the things that these people do, that these companies do to help consumers during this time period, the answer by 84% of our members is no. In fact 84% of our members will tell you that if this, you call it an advance fee ban, if this passes, they will fail. And 95% of them will not only fail, but 95% said they would lay people off. So if you're looking to understand the impact of a quote/unquote advance fee ban, you asked are large advance fees charged, the vast majority of our members operate under the half the life of the program,

which, Gail, you said it was promoted by the industry. You failed to mention it's not the industry's bill, the UDMSA is not the industry's bill. We back the UDMSA. It is promoted by Nick Usel, the uniform law commission. So this concept that you can operate a business for a year or more without revenue, I don't have a Ph.D. in economics, but that seems entirely implausible to me. And you might be able to do it like Jean's client, you may be able to do it if you don't provide any services, but how does that possibly help the consumer to have a limited service provider fill the space? That absolutely cannot be the case, it cannot be the commission's intent with this rule.

>> Joel Winston: Let me just ask you, and I apologize if I missed this, you referred to this survey where 65% said that the primary service they received was something other than settling the debt. This is survey of who?

>> John Ansbach: At the time that we took the numbers, and there are more since then, but 700 employees of debt settlement companies who helped consumers every day. These are the people that do this work for a living.

>> Joel Winston: But this is not a survey of the consumers themselves, right?

>> John Ansbach: It's the people that help the consumers.

>> Joel Winston: Okay. Are you aware of any surveys of what consumers actually perceive to be the services that they're receiving?

>> John Ansbach: Actually, the best evidence I think to this point, and certainly with this group, would be the consumer testimonials that have been received. Which if I have read all of them correctly, run about 40 to 1 in support of the services that are being provided to those consumers.

>> Joel Winston: Johnson Tyler?

>> Johnson Tyler: I have a response. People go to debt settlement companies because they are desperate, they're not looking for hand holding, they're looking for a solution to their problem. The fact that all the capital that the expenses of the debt settlement industry needs is to do hand holding, well hand holding doesn't get them anywhere. They need results. And the eight clients that I've helped, if you look at the fee structure and how it strips the escrow account, they always end up with less money, whether they're in there for five months or they're in there for 24 months. The fee structure is such that whatever time you look at it, they're paying \$500 a months, if they're paying \$600 a month, if they're paying \$300 a month, the majority of that monthly payment is going to fees and they don't end up with anything. The question is how you can make this business work. Well, you need to learn how to screen people who could benefit from it and that's where the problem is with the debt settlement fee structure. It promotes people, it promotes businesses to take all comers. I have client who is on SSI, SSI is a need based program. It's a welfare program. You have no assets. You can't have more than \$2,000 in assets to qualify for it. It pays \$700 a month. She had \$30,000 in credit card debt. How is she possibly going to get a debt settlement? That person should never have been signed up for debt settlement. To the extent that that would become a loss to the company, well, the company, the reason they're taking that client is because the fees allow them to make a profit off of it. If they're going provide a service, they need to screen clients who would benefit from it and, frankly, I've never run across someone who could benefit from it. Anyone who can benefit from a debt settlement company could benefit from a traditional debt negotiation company. Because they just don't have enough money. They don't

have enough money to create that mass that's going to enable them to settle debts. And one last point I want to make is, the idea that if you get offers that you're providing value, I just don't think it's true. I had a client who got three offers. She had no hone in the escrow account. She had no money to pay the offer. The offer was for \$4,000 on a \$10,000 debt. How is she going to come up with \$4,000? She didn't have that sort of money. So a lot of the empirical evidence that goes towards trying to show the value that's received, I think is I will losering.

>> Joel Winston: I want to remind everybody to please speak into the microphone otherwise it's not picked up on the web cast. I'm sure you all want to be heard. So it sounds like we have a difference of opinion surprisingly. This basic question of what services are being provided and whether they are commensurate in some sense with the fees that are being paid up front, but that's useful to know. Let's try Jane McNamara, could you?

>> Jane McNamara: Thank you. I want to give you a perspective from the not for profit credit counseling world. Under IRS 501 Q, we are not able to charge a client fee because of a consumer's inability to pay that fee or because of their unwillingness to participate in a debt management program. When a consumer comes to us, we do an assessment of their situation. We review what their income is, what their expenses are, and what possible solutions are for them. We spend about an hour doing that. We prepare a specialized budget for them. They are given an action plan. And it is up to them whether or not they want to establish a debt management program if that's appropriate. In Michigan, for example, we are unable to charge the client a fee until we have 51% of the creditors who agree with the program and 51% dollar amount of the debt that is owed. Our fees are highly regulated. And the maximum fee that we charge on a monthly basis, and this is common within members of the national foundation for credit counseling. The maximum fee we charge is \$50. We charge a nominal setup fee, but, again, those fees we cannot take from the consumer until we actually have cooperation from the creditors. We have approximately one employee, one and a half, to every 200 clients that we work with. They take ongoing calls from those consumers, they teach them how to budget, they work with their creditors, and they disperse money to those creditors. The consumer has a right to cancel the agreement they have with us at any point in time and they're not charged anymore fees. We don't get fees based on what work we may do in the future. So it's on a month to month basis.

>> Joel Winston: Thank you, that's very interesting. And I would ask people to focus on this issue, as well. Is there a difference between the amount of work that's necessary to be performed by a credit counseling outfit versus a debt settlement outfit such that the debt settlement outfit needs these large advance peas to fund operations but apparently the credit counselors don't? So what is the difference, I guess? Let's try somebody that hasn't spoken yet. Norman? Norman Googel.

>> Norman Googel: I'm afraid I've had mind focused on the preceding topic. But I, I'm sorry, thanks. What I want to address and what I've observed here today and have observed over the years is that there is a basic tension between the fact that the debt settlement industry, and I guess to an extent the nonprofit credit counseling industry, also, is trying to find a way to make a living and in some case make gigantic profits from a group of consumers who are so upside down in debt that it looks like up to them. Now, How can you do that? Obviously, although some debt settlement companies have come and gone, many have been highly, highly profitable. They're spending lots of money on lobbying, on marketing. Where is this hone coming from? It is coming from the people who

are least able to afford it. And in order to make that happen, you have to do things that are not serving the consumers. And I think the mission of the regulatory agencies, including the federal trade commission, is to protect consumers, not to protect the industry. Now, there's no intent to be unfair to the industry, but what has happened is the way things have gone down with the advance fees, it is basically shifting the entire risk of a very risky approach to helping people with debts to the consumers. And that has not worked well for the consumers. And no doubt many debt settlement companies do settle accounts, generally not all of them not as much as they should, and certainly not as much -- not something that justifies not only the high fees that are charged, but the fact that the fees are charged in advance. And the focus should not be on -- in looking at advance fees, it shouldn't be about, well, if we can't charge advance fees, then the industry won't be able to survive. Well, maybe that's true. If that is true, then maybe you have to question the legitimacy of the industry or just question the entire approach. If there is validity to the concept of telling consumers to stop paying your debts and there is legitimacy to that, and I've advised people to stop paying their debts over the last 30 years because they didn't have any money left and they were paying credit card debts and letting their house payments go, so I have advised them that as a lawyer, but when I do that as a lawyer, I have evaluated all their circumstances and in some cases I say if you get sued on this claim, you're on your own because you don't have any defenses, but on the other happened, if you get sued on this other claim, I'm going to defend it. Or maybe file counterclaims based on abusive debt collection practices. But in the debt settlement industry, consumers are not getting that. And I do want to make one brief comment about hand holding and I agree with the gentleman that hand holding is not what the people want, but I will say that those consumers who have sought hand holding in our experience, once the debt settlement companies have gotten their fees and the energy and focus has been on signing people up and getting the fees, later on when they might need hand holding, consumers have complained that had they can't reach anybody, so they call us. We do the hand holding. Or they contact legal aid lawyers and they do the hand holding. I don't see the hand holding going on, so we certainly don't accept the idea that large expenses are justified for hand holding or other types of activities. Basically the service -- the concept of debt settlement could really be done as a lean, mean, fighting machine and it's not necessary to spend tons of money on marketing or lobbying. Just do the job that people need and maybe you won't get rich doing it, but you can have a viable business without exploiting the consumers who have the least money. You can't finance this industry on the backs of the people who are totally drowning in debt. There has to be a better way to do it. And the risk has to be Borne by the company. And if it doesn't have the capital or competency to bear the risk, then they shouldn't be in the business.

>> Joel Winston: Thank you, and if could I just take a moment, I neglected to introduce the staff from the FTC who has put this proposed rule together and is going to be making a recommendation on the final rule. On my left is Allison Brown, and my right, Evan Zoolow. Behind me, we have Keith Anderson, from our bureau of economics. Katie Harrington-McBride, and Stephanie Rosenthal. So these are the folks who you can either thank or blame. Andrew Housser, could you address this issue about the difference between credit counseling where apparently the services they perform don't require the big upfront payments?

>> Andrew Housser: Obviously I'm here representing our industry, so I'm going to have strong feelings about this. But I think it is important to recognize that a lot of our critics have their self interests in mind and actually have a lot to benefit by having our industry removed from the competitive landscape. In particular, the non profit credit counselors. It's a service that is valuable

to a certain segment of the population, the same way that debt settlement is. But debt settlement is fundamentally a much more labor intensive business than credit counseling, it's just a fact. Credit counseling is largely an automated bill payment service that's set up, up front by the credit counselor with pre-arched agreements with the credit card companies to lower interest rates. Again, a valuable service for consumers that can afford a DMP, which is significantly more expensive and longer than a debt settlement program. Debt settlement is not a prearranged agreement. It is a negotiation. And it is hand holding and everyone that says hand holding's not valuable, sure, it's not the outcome is not hand holding, but you cannot get to the outcome if you don't hold their hands. You cannot. Consumers will not. They need to you Marshall them through the program. And that hand holding and that negotiations is, as Wesley mentioned, over ten times as labor intensive, based on our share of credit counseling companies and debt settlement companies. And, you know, a lot of the criticism, I think if you think about it, the financial crisis we're in, one valuable lesson is that is if you use bad data and you use bad analysis, you're going to make bad decisions and I think every criticism that we've heard today is bad today data and bad analysis. We're looking at couple enforcement actions that are not representative of our industry. Were looking at eight anecdotes, which, not to minimize those, every one of those is serious and they need to be addressed, but those are eight anecdotes. We have the data. Task is on track to settle a billion dollars of debt this year. Call me provincial, but I think even by Washington, D.C. standards, that's a lot of money. A billion dollars, 200,000 accounts, TASK members are going to settle for consumers. So look at the real data. And why bad analysis? Because we're looking at every study that I've looked at that quotes a graduation rate of 1%. We're looking at a consumer population that's been enrolled for a year, six months, two years. How can you graduate from a three year ram if you've only been even rolled in one year? It doesn't take a Ph.D. to figure that out. So what did we do at TASK? We looked at, okay, it takes three years on average to graduate. Let look at a pool of consumers that signed agreements three or more years ago.

>> Joel Winston: Not to cut on you off, but we're going to address that a little bit later. I do want to hear from Jane McNamara about this specific issue of credit counseling versus debt settlement and what the differences are in terms of the up front expenses.

>> Jane McNamara: There are many similarities and we are not opposed to a debt settlement type product by any means. In fact, a task force was put together with the association of independent credit counseling agencies as well as national foundation for credit counseling organizations and the large credit card grantors to actually create a less than full balance product that would be acceptable to not only the financial institutions but the regulators, as well. Chase right now is in the process of piloting such a program with credit counseling organizations. We spend a tremendous amount of time, 10 to 15 hours establishing a debt management program for an individual. It is not a bill paying service because there are ongoing reviews with that consumer with regard to their situation. Are they following their home budget? We're also teaching them to manage money so that they don't get into trouble in the future. Many similarities, no doubt.

>> Joel Winston: Let me move to a related topic and I know every wants to weigh in on this issue. But I'm mindful of the time. Obviously there's been a lot of debate about the prevalence of unfair, deceptive, and abusive conduct in the debt relief industry and whether there's at least a substantial part of the industry that is providing valuable services to consumers commensurate with what they charge. In the comment period we received at least two studies that bear

on this, the study from TASK and a study from a professor Brieche, I believe. What do people think about these studies on the prevalence of deceptive or unfair conduct? Are they methodologically sound? Do they provide us with any answers to this question? Should we be relying on these studies? Let's start with Mark.

>> Mark Guimond: I have a little different twist on it. There was a study we did a foyer request of the FTC consumer complaints that were conducted against debt relief agencies in a 2008/2009 period. Taking the 2008 data, there were 7,308 complaints filed by consumers against debt relief agencies. We found that over half the complaints within that data pool were against creditors themselves. So I think if you're looking at the consumer complaint data, it needs to be matched up with the industry data, as well. And I just put that out as an observation. We did file comments. Our excel file on our data analysis did not load, so I've spoken with counsel and they'll be providing that later on to everyone. But I think that if you look at the complaints within the FTC, for the unfair and deceptive trade practices, that are alleged. You have 464 complaints that have no designation at all as to company name or problem. Unable to make an identification company name. There's 100 HSBC, a creditor has 1,036 complaints out of 7,308. So I think if we're looking at numbers and statistics, I would like everybody to review that in comparison to industry data, as well, to find whether there's problems with not only the debt settlement folks, but with credit counseling. Because I don't think it's as big as you see.

>> Joel Winston: Let me just give a little more detail on this. As I read the task study, which was characterized by the author of the study as preliminary. And I think at this point we don't yet have the sort of underlying methodology, but what it found was that 34% of the clients of this company substantially completed their plans or were still saving. Meaning 66% dropped out. Over 70% of the debts enrolled in the programs that were still active had been settled. But, again, this did not account for the dropouts. That the aggregate debt reduction in settlements was twice what the fees were. So that was a benefit. Again, what can we draw from this study? Gail?

>> Gail Hillebrand: Well, I'd like to comment on the TASK study and also note Dr. Weinstock's paper which was not data heavy did have a point that was surprising to me. On page six, this is the USOVA study. He talks about the sign up process and contracting process occurring first and the consumer being told after signing the contract what the monthly payment would be. And that's a piece of evidence I had not seen before. Dr. Briescha's study is very upfront about the limits of the data. One company surveyed, there's no information about the fee structure for that company, but he documented a 60% cancellation rate for that company, with a median cancelation time of five to six months. Consumers dropping out fairly soon after the time period at which they would have paid a pretty substantial setup fee under the prevalent so-called flat but truly advanced fee model in the industry. And if we look at -- and then, Dr. Briescha's pretty clear that he doesn't tell us what happened to all of the other 40%. Instead he tells us what happened to the portion of that other 40% who received either offers or settlements. But we don't know if that was 10% of that 40%, one out of four or two out of four, or some other number. The task study has some interesting numbers on what happened to the people who dropped out that I think is helpful to look at and then I want to comment on the point you raised about the 25%. TASK says that \$105.1 million in debt was settled. And those were for people who still have at least 25% of their debt left. And then it says that those folks paid \$55.6 million in fees--

>> Male Speaker: That's all the people that dropped out. Regardless of how much debt they had left.

>> Gail Hillebrand: Right, but these are people that dropped out. They had some debt settled, \$105 million and they paid \$55 million in fees. If we add into that the amount that those consumers must have paid in the settlements, we get at the task rate on the next page of 45% for that same year, 2008, those consumers would have paid \$47.295 million. \$47.3 million. So these consumers who had \$105 million in debt settled would have paid \$47.3 million for the settlements themselves and \$55.6 million in fees. In other words, the total obligation on dropping out would have been \$102.9 million on settled debt of \$105 million. In other words, they saved two cents on the dollar. So to say people dropped out and got benefit without looking at the combination of the fees paid, the amount paid in settlement, and that doesn't even account for the amount which the remaining unsettled debt remains owed and has grown I think is math logically flawed. And I thought that was a valuable and useful piece of information about what happens to people who drop out, and that is new information. There are, of course, other dropout numbers. The Colorado attorney general number. Certainly for people who signed up in '08, some of those signed up recently, some of those since they were ongoing customers in '08 probably reflected a longer group of people, they found less than 1% of -- it's a snapshot, not a history of the customer relationship. Less than 1% of consumers in debt settlement in the annual reports in Colorado had all of their debts settled in '08. Now, some of those people signed up last month, some have been on for three years or longer, but at 1% per year is not a very good indication that we're going to get there for 100% of customers. And finally, I would note on the task report that 34% that they cite of completed or active, almost 10% of those 9.8% were still active. And task sample was only people who had been in debts for at least three years. So after three years, the task number shows us that almost 10 percent were still trying to get rid of all their debt. That almost 25% had completed under a definition of getting rid of between 75% and 100% of their debt. After three years, only a quarter of the customers had gotten what we think people sign up for debt relief for, which is to get out of debt, to get rid of their debt, to start over. Certainly when things are advertised as an alternative to other methods of starting over, that implication is created. I found those numbers a little shocking even though they are -- we don't know a lot about the methodology, we'll talk about that later, but that suggests to me that a lot of consumers are not getting what they expected to get, if only 5% are even getting close.

>> Joel Winston: Thank you. Wesley Young?

>> Wesley Young: Yeah, and I will address Gail's comments directly, but I think there is a glaring hole in our prior discussion about the credit counseling versus debt settlement, and that is that we do not receive a fair share from the creditors. And I understand that the fee -- they're saying it's not what the consumer is paying, but that fair share is taken out of the consumer's payment and given to the provider. And if you follow Johnson's comments about financial motivation, I mean, the credit counselor, in the sense, has a motivation to make that monthly payment as large as possible because they receive a percentage of that payment. So I wanted to point that out. And then addressing Gail's comments on the task data, one thing that I think -- it's that hard to compare the benefits of, which I think are significant for debt settlement. Benefits of debt settlement and benefits of other debt relief options, because with debt settlement, I think what's left out of the equation often is the fact that consumers normally pay interest in any other debt relief option that they have. Whether it be making minimum payments or going through the credit counseling

route where they pay between 13% and 16% interest per annum on the pay back of their debt. The terminated clients, the numbers that Gail used, if I'm out -- if two years after I enroll in a program and I've settled all my debt but I paid what I owed when I enrolled and I haven't incurred basically any interest, that's still a big consumer benefit. So I think that you need to look at the debt settlement benefits in light of the fact that a lot of times interest is excluded. With Colorado, those numbers are, obviously, I think are-- it's a problem with a lot of the data that you see out there including, I think, data that the FTC has relied on, and that the pool of consumers looked at haven't really been given an opportunity to complete the program. And that's why task's pool and this goes so much into the methodology, only includes the people who have been in for three years. And I think that actually puts our data at a disadvantage because I think if you look at, for instance, the settlement rates, the settlement rates have been going down. We've been able to save our consumers more money as we've been going. So the implication is that a consumer who enroll today is more likely to succeed through the program because we've been improving in our services than a consumer that enrolled three years ago. But to look at the pool of consumers who've had a fair chance of actually do something by enrolling in the debt settlement program, that's why we limit it to the three year pool, to people who have been enrolled for three years. And of the 10% of people that are still active, I don't think it's fair to exclude them because of those 10%, they've settled 70% of their debt, so they're well on their way to moving on towards succeeding in the program. Out of the 35% of folks that completed the program, our data shows that that's for consumers who settled 75% or more of their debt, but 80% of those folks actually settled 100% of their debt. So the percentage of people who didn't get to the 100% point is pretty small. And then I understand Gail's comment about the percentage that is 35% a low completion number, but it's not when you look at the debt relief industry as a whole. You look at Chapter 13 bankruptcy. The US Trustees office reported that they have a 33% completion rate. The NFCC has reported that nonprofit credit counseling has between a 21% to 26% completion rate. So when you compare the debt settlement numbers to those other options that the consumer has, the debt settlement numbers look really good.

>> Joel Winston: Let's hear from the accountants. Bob Hunt?

>> Bob Hunt: Getting back to this question about the value of debt settlement relative to the alternatives that the consumer has available. I'll throw out one thing and just run. One of the things that the consumer has to think about is what does their credit score look like, depending on which choice they make and assuming they're successful at that choice. Whether it's completing the settlement or completing a debt management fine. Now those are the numbers that are different, but let's set that aside for later. The sort of background assumption is, in fact, we're talking about consumers that are not about to pay on original terms. They don't have that cash flow. They're quite likely not to be able to pay a debt management plan and this may be where the debt settlement product fits in. And so, if that's the target population, and what I would suggest is, we focus on the cash flow that the consumer has to have in the roughly three year period that these settlements work to understand what we're asking them to be able to produce and then compare that to what the first three years of the debt management plan would look like. For example, set aside the later years because if we're right, they can't support DMP and that debt's gone anyway. It's not really relevant. So if you take the kind of numbers that are in the record and you just do some algebra, and I'm assuming here that the debt settlement fee is 14% of the original interval, what you find is that you take the sum of the payments that a consumer would make over 36 months on a debt management plan, an ordinary debt management plan, that's going to be about the

same amount of money as a debt settlement plan, if the haircut is about 40%. If the haircut is larger, then maybe the consumer in total is doing better -- is paying a little bit less over those 36 months, okay? Now, in the first 18 months they might actually be paying more because with the tendency to front load the payments, the DMP payment will be a little bit lower than will those first four to 18 months and then afterwards it sort of reverses. And so, that sort of sweet spot to be thinking about where these products would fit. Now, we don't have a less than full balance plan, but if we did, roughly speaking, the algebra, we'd say these two products would have the same cash flow requirement on the consumer over 36 months if the haircut on a debt settlement plan was about 75%. So those two numbers that I described, 40% and 75%, are a good way to think about it and of course there are settlement numbers in the record that suggest that at least some people are getting that. But that is the way that I see how these things line up in terms of the sort of immediate problem the consumer has. Which is, very limited cash flow and having to make choices about how they're going pay their debts.

>> Joel Winston: A couple questions for the industry members and let me know if you can answer these. What is the membership number for task and what percentage of the industry is task members comprising? And the task study, who can talk more about the methodology of that study? Andrew?

>> Andrew Housser: Task represents 200 members. We believe that we represent about 25% of the debt settlement industry. I'm going to try and call a truce with Gail. This 1% graduation rate in one year, I'll commit to getting you guys all the data you want if you'll commit to stop using that terrible analogy. It just doesn't make sense. A consumer in a three year program is not going to graduate in one year. We've heard it, it makes a great headline, but it's not at all based in any reality. So we're going to get you the data. The data was, because of this fundamental problem we've been having. We've had a bad PR problem with this one percent number thrown around incorrectly. As we said, let's look at the three year pool. Let's look at every consumer and we got task companies that represented 75% of our consumers to participate in the study. We tried to go after the largest task numbers which represented 80% and we got responses from enough companies that represent 75% of all task members. Every consumer that signed an agreement and made a payment three or more years ago, regardless of whether the consumer dropped out after one month, two months, three months, four months, or went on to completion or is still active today, the whole pool, and then we looked at what debts were settled for those consumers and what fees did they pay. And across that pool, \$444 million in debt were settled and \$126 million in fees were paid. And Gail and I have a difference of opinion on the terminated pool. I think it's actually pretty interesting that the people that were least successful in our program still got debts settled well in excess of 2x their fees in debt reduction. You know two cents more than the fees, whatever it was. That is a significant point that I think is very interesting. The people that were the least successful got a benefit from this program. The people that were very successful got a huge benefit. Multiple -- four times, three, four times their fees in debt settled and debt reduced.

>> Joel Winston: These were similar-reported data, right?

>> Andrew Housser: Self reported. The data was reported from the task member companies to an accounting firm, who then blinded the data and then sent it to me. And then I did the analysis on it.

>> Joel Winston: Let me move to something a little bit different. And that is the question of whether the advance fee prohibition is necessary to protect consumers from the deception and abuse that occurs in some part of this industry. Are there other remedies that would be as effective or do we really need an advance fee ban? Derek?

>> Derek Witte: I think we have -- it's not that simple because I think we're having a definitional problem here and we have from the beginning of the day. In your opening remarks, assistant director, you said that while the FTC came in with the thought that the predominant model, I think your words were was a large upfront mostly nonrefundable fee, and we've sort of heard that refrain. When I read the notice of proposed rule making, there was a description of basically three fee models. One largely up front, the first three months. One what we say is more like what the industry follows, which is a pay as you go or half of the debt settlement program, and the other would be a truly back end. And just so everyone here knows, Credit solutions has gone it an even pay where we have our fees as contemplated by the UDMSA, they are not front loaded, they're even every month. And so I don't want to throw every fee model into this jargon of advance fee bank. And also you're not going to get any argument from me and I think from several members of the industry that a front loaded fee is bad. And as I read the NPRM, all the horror stories in there, and there weren't too many, but were talking about this super front loaded fee. We agree, and we can agree, that a true advance fee ban, a true advance fee ban, we would support. What I'm concerned with is the case that's been laid out says here is our argument and here is our syllogism for why we need to only allow fees upon settlement, but all the supporting data is against that truly front loaded fee. So getting finally back to your answer like an attorney takes three minutes to get there. I think that the right solution, maybe a true advance fee ban and then everything else is solved with the mandatory disclosures, the prohibited misrepresentations. We agree if you get people in the program who don't know what they're buying, problems abound. And we really want to be your partner and the other regulator's partner in making sure the people who are contracting with us to get the service know what they're getting. Because that's where the problem arises. Preventing us from being compensated fairly for what we actually provide doesn't fix that misunderstanding and it doesn't fix the problems that come from it.

>> Joel Winston: What do people think about this idea of instead of banning all fees before settlement that we focus on this large advance fee which I think I said it was one of the predominant fee models in the industry, but allow the collection of some fees during the course of the program, James Keiser?

>> James Keiser: In a perfect world where a consumer signed up for a program and followed it to completion, I don't know that the advance fee would be a problem because they pay fees, they get what they want. I think one problem might be is, too many people might be getting into programs that aren't appropriate for them, that they can't afford. And that's where you hear the horror stories. I paid a lot of money and nothing was done. Nothing was done because the consumer dropped out of the program. This might be a function of screening on the part of the industries. And I'm not familiar enough with the debt settlement industry to say that or not, but I would just toss that out as a suggestion. I think the industry is saying we need money to do what we do to do the hand holding, to help the consumer. I think some type of nominal operating fee might be far preferable to having a very large upfront fee, which I understand is one of the models today.

>> Joel Winston: What do others think of this idea? Michael Bovee?

>> Michael Bovee: My comments that I submitted leading up to today allowing for, what was just referenced, a nominal fee to defray operational costs on a daily basis, monthly basis, commiserate with your actual client load the amount of consumers that you're serving. \$50 a month, it also tracks very well with debt management plan providers. And with our business model at consumer recovery network, that's sufficient to allow us to do everything we do, the education, the focus on the consumer getting as much, if not all, of the settlements done on their own, so there is no contingency fee or any additional fees. We can support that. The high up front fee in the model that's being referred to as this three month loaded, six month loaded, that's my criticism with the years of that abuse in my opinion, where you're setting up the consumer for failure, because they can get some very dynamic deals done with their creditors quick, very quick, what I refer to as five months. That's been our model if years and we're extremely successful with it. So barring that, and we're a more enrollment fee, and I'm not talking about a \$50 Maintenance fee anymore, but more of a several hundred dollar enrollment fee, that should be if it were contemplated fully refundable and maybe that's fully refundable period is somewhere between 90 days and six months. If you're doing a good service, if you are controlling you're suitability requirements for enrollment with the members that you bring on board, you've got a committed person from jump street, you're hopefully providing materials that maintain that commitment and you're hopefully providing customer service that has that person stick with you. Look, if they made a bad decision and they got somebody that's money grabbing and fee grabbing, with nominal fees like that, they have just like the -- I think it was Briesche that put forward the cell phone company and jumping around to different places, with a monthly nominal \$50 service fee, so to speak, and even contemplating a couple hundred dollar enrollment fee. You've got somebody who is, it they feel their needs are not being met, they will be able to jump on to a competitor and that's the original company's fault for not servicing. And if they made false representations.

>> Joel Winston: I'd like to get other views on this. And to focus it specifically on the issue of creating the right incentives. If one of these firms is able to take all of this payment up front, what incentive do they have to actually settle the debts? Jean?

>> Jean Noonan: I guess I should start by saying it's always dangerous when a lawyer tries to talk like an economist. But the great thing about the advance fee prohibition, and I'm talking about complete advance fee prohibition, is that it perfectly aligns the company's interests with the consumer's interests. And you can accomplish that without trying to figure -- I can't imagine the federal trade commission getting into the price setting business for a debt settlement industry. Some of the states have done that, I think it's a terrible mistake. It's not what the commission typically does. But you can do with the advance fee ban is perfectly align the company's interests and the consumer's interests. If we don't get paid until the creditor gets paid, that gives me the maximum incentive to, first, pick the best customers. Don't pick the SSI person who can never hope to pay. Don't pick the person who wants to hold back three credit cards so they can continue living their life as they were before, because the creditors will see that and they won't want to make a deal with them. Pick the consumers for whom this program is the most appropriate and it is someone between bankruptcy and full repayment on a debt management plan. So, no one's happy with the 65% dropout rate, although I certainly agree with Wesley that debt settlement compares very favorably to the alternatives of bankruptcy and nonprofit consumer credit counseling, but it would be better still if people who weren't suitable were not in there. Now, some of the dropouts occurred not

because the consumers weren't suitable, but because the consumers for whatever reason didn't have the ability to continue even though they looked like they might have when they began. Maybe more disasters befell them, maybe they're just too financially undisciplined to be help. Who knows? Probably all of those things happened, to some extent. But what you have here is with a simple rule that says no fees until the creditor is paid, then you have the company working as hard as it can to get the creditor paid. And I agree with John that a very important part of our business is hand holding. I don't think the consumers hire us to be hand holders. They may hire a therapist or their best friends or something else to be the hand holders, but they hire us to get their debt settled. We have to hold their hands in the process of doing that. But that's not the end product that they're looking for. The end product that they're looking for is a good outcome with their creditors and becoming debt free.

>> Joel Winston: John?

>> John Ansbach: Just on the last point, I couldn't agree more with what you said and I'm hopeful that Norman, you'll get a chance to reach this stack of consumer testimonials which were submitted by people who haven't experienced settlements yet. I don't want to get into it's all about hand holding, it's about hand holding, but when you send a cease and desist letter to a creditor who is harassing, and everybody at this table knows that the number one complaint that the FTC has received is about collection efforts. So let's try and focus on what we're trying to do for consumers. The incentives question is a really important question, and I'm reading super freakonomics, which is all about economic incentives, so I won't veer off course with that, but we thought a lot about this question and it's an important one. And we disagree on this issue. If the creditor gets paid when the consumer's advocate gets paid, then what you've essentially done with this ban, to the consumers detriment, is you've aligned the advocate, the debt settlement provider or the credit counseling provider, with the creditor. And we know that this is the case. And here's what happens. And by the way, as a former contingent fee lawyer, I'm very familiar with this model. Because I had defense lawyers starving me to death to try and get me to do things that were adverse to my client's interests. That's exactly where this heads. The creditors, as soon as the creditor knows that the consumer's advocate -- and by the way, debt settlement folks are the only truly independent advocates, we do not get paid by creditors, okay? And that's incredibly important, I'm glad Wesley pointed that out. But what happens is as soon as the creditor finds out that the advocate, the debt settlement provider, will not get paid or compensated in any way until or even nominally, by the way, until there is settlement, then the incentive for the creditor is to hold out. And the incentive for the creditor is to offer smaller settlements. Because then the advocate, to survive, is incentivized to take whatever it can and go back to it's client and say well I know it's not great, but it's a pretty good deal because they're now trying to survive. What you've essentially done is, you've aligned the creditor with the advocate. A couple of other points I really do want to make, and I really respect your tough job here, because you've got a lot of voices on a lot of issues, but I wanted to say a couple of things that I thought were really incredibly important on this stuff. Bob mentioned about focusing on the cash flow. And it certainly is one place that you can focus on, but it seems to us, by the way we represent 200 members as well. It seems to us that why not focus on the reason that consumers are not successful in these programs? Our survey indicates, again from the people that do the work, 40% of the people that aren't completing the programs are harassed out by creditors. Dr. Briesche addresses this in his study, as well, and I know it may not be a popular topic with the ABA, but bankruptcy has protection precisely

for this reason. If you can protect consumers while they're working a bankruptcy program or in this case a debt settlement program in some respect, as Briesche points out that if you have ten creditors who are in a program and nine of them are willing to participate in a debt settlement program, but one of them does not, the one can literally harass the program some into failure. So why would we not want to look at some protection for people that are actively working a debt settlement program. Just a couple of last things and I know there's a lot that want to talk on this point. I did really want to point out, and Wesley mentioned it, but if NFCC's members are willing to not take any money from creditors during DMPs, we'll absolutely find a way to work on our programs too for free. It is equally unrealistic, and you mentioned it and I have to bring this up, you said apparently large advance fees are only needed by debt settlement companies. Nothing could be farther from the truth. They, the nonprofit folks are getting paid by consumers and fair share payments up front as the lingo is being used here. We're not asking for anything different. We're asking to fund our operation so we can provide the service. It is a critical, important distinction. And it's in the Colorado -- it actually taints the Colorado report, as well, if you take a snapshot and look at the Colorado report, it says money paid by consumers and it compares the average fees. But it doesn't indicate how much was received from the creditor during the same -- during the program. Both providers are getting paid. I find it hard to believe that anybody at this table is saying that providers should be able to operate for free for any period of time.

>> Joel Winston: John, I've been reading that the creditors are getting very reluctant to provide fair share payments these days. So, can you give an estimate of how frequently the fair share payments are received and in what range are they?

>> John Ansbach: Yeah, and I think I would defer to Jane on that, but I can tell you in terms of creditor behavior, what we've seen, and I suspect that Andrew would tell you the same, Wesley would tell you the same, I suspect Mark will as well, that in these current times with the economic conditions being what they are, the primary need for financial institutions is liquidity. And I won't name the creditor here, I think it'd be inappropriate to do so. I will say that it's one that has been alleged won't work with debt settlement companies, but I will tell that you one our largest members had a financial institution call up and say we'd like to scrub our data against yours and offer 25 cents on the dollar. There is tremendous pressure and incentive, which is appropriate, on creditors to seek out liquidity when it is to their advantage and they are doing so. And if you are a creditor, and this makes sense, if I push these folks in to bankruptcy, I'm going to get five cents on the dollar. If I offer 25 or 30 cents on the dollar, I have extremely mitigated my losses and I come out in a much better place. And the reality is and certainly the focus of this public forum is customers ultimately will benefit. And again, and I hate to keep bringing it up, but we asked consumers to participate in this process and 209 consumers and citizens indicated they took it on their own volition to write in and 98% of them said please don't take away debt settlement as an option, it is an option and it is settling our debts. Gail was using a lot of great aggregate numbers and I happen to think those -- I like to use aggregate numbers because when I added up a number of the data that were submitted from CSA and task and some of our members, it appears that almost \$3 billion in debt has been resolved by these providers. That's half a million accounts.

>> Joel Winston: We're running short on time and I wanted to nail this down with Jane. What's the status of fair share payments these days?

>> Jane McNamara: Well, with all due respect, IRS code 501 Q provides limitations on the revenue that we can actually receive from creditors. Contributions from creditors are voluntary. They're far from mandated and fair share is minimal. Most of the large credit card issuers have gone to a granting process. We do not know what their basis is for granting funds to organizations and, frankly, the smaller organizations, smaller agencies, within the NFCC are struggling because the revenue is down dramatically. We are also restricted under IRS code 501 Q. We cannot refuse to make payments to a creditor on behalf of the consumer because we don't get a contribution from them. Those contributions are voluntary, but we are restricted as to what percentage of our revenue can actually come from creditor contributions.

>> Female Speaker: What is that percentage?

>> Jane McNamara: It's on a sliding scale. 501 Q was passed in August of 2006 part of the pension reform act. The first year, more than 80% of your revenue could come from creditors. The second year, it was 70. It went down to 60. And ultimately the ceiling is going to be no more than 50% of your revenue can come there from creditors. In the case of Green Path, less than 20% of our revenue comes from creditor contributions or grants.

>> Joel Winston: We've got just a couple of minutes left and at the risk of running over, I wanted to just go around the entire panel and in a very short concise statement tell me what you think the FTC should do about advance payments. Let's start with John.

>> John Ansbach: Can I go last?

>> Joel Winston: Go last. We'll go that way. Wesley?

>> Wesley Young: We really think that this is a state issue. We think the uniform law provides significant other protections that would minimize the need to really exclusively regulate the industry with the fee.

>> Joel Winston: Derek?

>> Derek Witte: Well, I just go back to Assistant Attorney General Googel. Frankly, we need a lean, mean, fighting machine that's on truly -- truly independent on behalf of the consumer advocate. Advocate on behalf of the consumer. That's what we're trying to do. We want to do so meaningfully. But we can't do it in a way that burdens customers who cancel early to it for legitimate reasons and drives fees up. So we would advocate a true advance fee ban, but not something made puts everything onto the back end.

>> Joel Winston: Johnson?

>> Johnson Tyler: We support a fee ban up front. The attorney general's of each state speaks for the citizens. They've brought many actions against task and you saw the members. They cite 127 actions that are either litigation settlements or investigations. of 127, 40 of them involve task. So the idea that the industry can police itself and that they have a benign and helpful view of helping these clients I think is belied by the Attorney General.

>> Joel Winston: This may be useless to say but if you feel like there's a middle ground here, something between a total ban on advance fees before settlement and no ban whatsoever, we'd be interested in hearing about that. Jean?

>> Jean Noonan: We've thought about that, Joel. And the problem that we come into is that it starts getting into very prescriptive regulations. That's why we like the simplicity of the simple plan where there is no fee until a creditor is paid. And that's kind of an important point because -- and I disagree that it aligns our interests with the creditor rather than with the consumer because the other important corollary there is that the amount of our fee is proportionate to the amount of our savings. So, therefore, we have the greatest incentive to get the debts settled on the very best terms for consumers. Because we share their savings. If we -- if the best we can do is 80% of the debt, then our fee is very small. We'll lose money on that settlement, but that's okay. On average, we do fine.

>> Joel Winston: Jane?

>> Jane McNamara: Large advance fees for the consumer are a problem. And I have examples of case studies of clients, individuals that have come to Green Path where they have been harmed by large advance fees. We're not opposed to service fees. You have to have revenue. No money, no mission. But it needs to be fair and equitable for the consumer.

>> Joel Winston: James?

>> James Keiser: Some states might regulate that there are some advance fees, but there should definitely not be large advance fees before some type of substantial performance is done.

>> Joel Winston: Bob?

>> Bob Hunt: We had discussion about the importance of having some screening and suitability. This came up also in the credit counseling experience about ten years ago when there was a concern that not everybody was doing the screening that they should do for selecting the DMPs. One of the solutions that at least some of the creditors came up with was this idea of having graduated fair share. In other words, for the first couple months of fair share, the payment was a certain level. If the consumer was performing well, the fair share payments would get a big bigger. And the idea there was trying to better align the incentives so that you got people performing on the plan. So that's something to think about.

>> Joel Winston: Andrew?

>> Andrew Housser: I think the FTC staffers working on this rule should defer their salaries until the rule comes out. No, just kidding. I think that would create weird incentives for this rule which needs to be well thought out, the same way that I think an advance fee ban would create weird incentives that John creatively mentioned, with respect to our negotiations with creditors. I do think disclosures need to be improved. I do agree with Wesley that the state regulators can provide and are providing. We do need to get into more states. And I do think one of the things that was mentioned is that any firm that does provide guaranteed settlements in their marketing, if you're guaranteeing settlements, then the service you are providing is the guaranteed settlement-- absolutely those companies should have their fees met. Thank you.

>> Joel Winston: Gail?

>> Gail Hillebrand: Thank you. It would be no surprise we'd would like to see the rule adopted as proposed tying the fee to the result of debt reduction is the way to align the incentives in the marketplace. It also fundamentally changes what is a bad lead in a way that ought to cause folks who are paying for those leads to either screen the customer more carefully or screen the lead generators and their promises more carefully, which is an important additional side effect, value. It would be a terrible waste here to artificially divide the universe into pure upfront fees and call those the only form of advance fees. The pay over half the contract is an advance fee. Consumers are paying well in advance of settling all their debt and those consumers are also paying quite a bit more than the uniform debt management services act under the Colorado 18% and the Dr. Briesche's \$24,000 average debt, that consumer is going to pay \$224 a month in months four through 18. Under the Uniform law act, they would pay on \$10 per creditor after a \$400 setup fee. So this just fundamentally is not true that the thing commonly being done in the states-- but let's not pre-tend the flat fee is not an advance fee. It is particularly when it's accelerated. Thank you.

>> Joel Winston: Thanks. Mark?

>> Mark Guimond: To the first part of the question, do we need an advance fee ban? Speaking just for credit counseling specifically, I don't think it needs to be included in the proposed amendment. Credit counseling for profit or nonprofit, which is the commission will not regulate the nonprofit side. For profit credit counseling is highly regulated already by almost every state. So I don't think the credit counseling needs to be included in the general parameters. To the second part of the question, is there an alternative? I think the commission should look two things that are working. I think the uniform act provides very good regulatory structure for the states, but I've taken the time to actually over to the UK and study their system for debt management plans, and I'll discuss this in disclosures, particularly, this afternoon. But I think it would be beneficial if everybody to familiarize themselves with systems that actually work in the UK. This is a regulated activity and they seem to do it well. If anybody wants me to go back to London to study that, I volunteer gladly.

>> Joel Winston: Norm?

>> Norman Googel: The regulatory actions that were referred to here and are attached to the letter filed by the 41 states, these are all driven by complaints. The states don't have the resources to go out chasing the debt relief industry or any other industry, so we deal with what comes in the door and the classic complaint that I think most states have received is consumers who paid thousands and thousands of dollars up front who probably weren't even suitable candidates for debt settlement, then after a year, even a year and a half with no settlements, they drop out, they ask for a refund, they don't get a refund, they complain to us. That's how the investigations start and we issue subpoenas and we learn typically with those companies that many consumers had the same experience. The advance fee ban we think is very simple and brilliant, while on the one hand, the disclosures that are part of the rule are not controversial. Many companies already make them, but I think we all agree that that doesn't really address the heart of the problem, which is the fees. If we have an advance fee ban, the complaints will stop and even consumers who aren't getting the service, they're not going to be complaining, or they will not have been harmed that much. And also what the limited money that they have had, perhaps can go to much earlier settlements. And then the system will start

working early on as it should rather than somebody a year and a half in the program getting nothing except creditor abuse or collection agency abuse.

>> Joel Winston: Mike?

>> Michael Bovee: Theoretically I'm completely aligned with an advance fee ban. That's the best of all worlds, Jean mentioned it, and yes it definitely aligns, yes the more I save I, you more we get paid. It's all results driven. We've been there, we've done that, we continue to do that outside of our educational perspective. So it does not affect at all our ability to negotiate with creditors. We are not in a weakened position. In fact, I find that the specialists we work with are members were in a better position to work with creditors that are typically more adverse or treat their parties more adverse, because in some states we're not even going to get paid and in other states they know we're not getting this huge fee. So we're looked upon and have relationships that I'm receipt sure, I don't know this, more favorable than other industry participants. I've already kind of addressed a model, something unique in my prior comment as to if an advance fee ban is not the way to go, when's an alternative? I believe a nominal monthly fee to help defray operational costs and then have your fees based on success after that. And even offset the original enrollment fee, whether it's a couple hundred dollars and then a maintenance of \$50 a month. Have that apply as an offset to future contingency fees, so as to affect, you're not charging twice for something. That's an option. Plus an aggressive refund policy.

>> Joel Winston: John?

>> John Ansbach: The question is, what should the FTC do? Before it does anything, it needs to think long and hard about what the effect of a "advance fee" ban would be. I've said it a number of times, and nobody has refuted it. Roughly nine in ten debt settlement companies will fail. Thousands of people will be out of work. And if you don't care about those folks, then you ought to care about the tens of thousands of existing consumers that they serve and the many other tens of thousands of consumers -- the need, this one of the only three available options that are out there in these tough economic times. To be very clear, USOBA and, I believe, TASK as well -- we are advocating for the preservation of consumer options. Credit counseling is an incredibly important service and should be preserved. Bankruptcy in some cases is an incredibly important option and should be preserved. Debt settlement is an incredibly important consumer option and should be preserved. And an advanced fee ban, as it's being defined here, would absolutely shut down 9 and 10, and shut that off to consumers in need. So the question is, what should you do? It occurs to us that the -- that finding a reasonable solution that will protect consumers -- and Gail, you and I have sat across the table from each other in Sacramento, and I think that we are actually having good discussions on how to do this. I think it's one of the reasons that none of us are here saying disclosures are a bad idea, they're a great idea. I think that the telemarketing sales rule was designed for telemarketing. It should be used to -- we should be using it here to have prohibitive misrepresentations, all of those things are incredibly important. The states are doing a tremendous amount of work on fees. They should be allowed to continue to do that. With all due respect, when you say that the attorney generals speak for the citizens, the citizens and their elected officials have a way of speaking for themselves. The states of Colorado, Utah, Delaware, Rhode Island, Montana, Oregon, Minnesota, Connecticut, have all adopted some form of debt settlement law. And if I'm not mistaken, only one has gone the route of a radical simple blunt instrument that would kill an industry. So we would certainly respectfully ask the FTC, let the states

work on fees, and if you're still compelled to go the fee regulation route, then don't take industry's viewpoint, don't take the consumer's viewpoint. Let's maybe look to the folks that have everybody together, look to an accusal, look to the uniform law commission that created the uniform commercial code. Let's use what has been adopted in most states, let's use a pay-as-you-go or prorated fee structure or whatever you want to call it, and let's protect consumers from large upfront fees, let's spread them out over time, but let's allow those entities to continue to provide those needed services.

>> Joel Winston: Thank you. That's actually a very good segue into our next panel. After the break, we'll talk about state law and industry standards. We're going to take a break until 11:10. So please be back by then. And I want to thank this panel, before you all get up -- I want you to join me in thanking this panel for a superb discussion. We'll see you all -- we'll see you all back in about ten minutes.