

>> Loretta Garrison: Hello, and welcome to Panel Two. This morning we heard a lot of conversation from various people, such as Jim Harper and David Hoffman and others, talking about what do consumers really want and what about disclosures and transparency. Well, we're going to get the answers from this distinguished group of panels. This panel is going to address what we know about consumer expectations with respect to the collection and use of their information. We've heard that surveys present little value on this issue because they don't actually measure real consumer behavior. On the other hand, there's general agreement that consumers really don't understand what happens behind the scenes as they use a loyalty card when purchasing goods, they browse or they search online, they visit websites or complete a survey. So, relying on actual consumer behavior to understand consumers' attitudes toward and expectations about the collection and use of their information has limitations. Our expert panel today is prepared to talk about these issues in light of their own research as well as to address the role that disclosures play in informing consumers about data flows or as a vehicle for consent to commercial collection and use of information. First, I'd like to briefly introduce our panelists, Lorrie Faith Cranor from Carnegie Mellon University on my left. Next to her is Alan Davidson from Google. Then Jules Polonetsky from the Future of Privacy Forum. Adam Thierer from the Progress & Freedom Foundation, Joe Turow from the University of Pennsylvania. And last but not least, definitely, is Alan Westin from Columbia University. I'd also like to present to my right Chris Olsen, who is co-moderating this panel discussion.

>> Alan Davidson: Can I intercede to say, you can't forget about the consumers?

>> Loretta Garrison: Oh, I'm sorry. Joel Kelsey from the Consumers Union. My apologies. For those of you in the audience, again, if you have a question for any of the panelists, write it on a question card. It will be collected by one of the staff who are circulating. And for those of you listening, you can e-mail your questions to [privacyroundtable@ftc.gov](mailto:privacyroundtable@ftc.gov). Now we're going to be talking about a number of consumer surveys and studies during this panel. Those are all available on the agenda as pdf links, so that if you want to explore these issues in more detail, you're certainly welcome to find those materials there. I'd like to throw out a general question. What do consumers know about data flows and the collection and uses of their personal information, both online and offline? And Joe, why don't we start with you? Because what I'd like to do is to have

each of you talk at a high level about various studies and research that you've done and what your findings are in this point.

>> Joe Turow: Thank you. Yeah, at a very high level -- as you said, the reports available -- we've also done national surveys over the last ten years, and some starting from about 2003, I believe, have data about what Americans know. So, it's the most just their opinions. And I think it's fair to say that generally speaking, they know very, very little about what goes on online, behind the screen, under the hood. The kinds of things they don't know would surprise many people around here, particularly, for example, Americans think that it's illegal to use discriminatory pricing. This is from surveys we did in 2005. That is, they believe that a company like Expedia and Orbitz is required to give people the lowest amount of fare, simply when people go online. They think it's illegal for supermarkets to change prices for different people during the same day. Generally speaking, people believe that the Government enforces laws about privacy far more than it does. So, there is a sense that there are laws out there -- people have this great sense that laws protect them far more than they actually do when it comes to privacy.

>> Loretta Garrison: Joel, have you found anything similar to that or different?

>> Joel Kelsey: Our findings are largely similar, actually. I think that consumers have a general perception that information is collected about them online. I think they're uncomfortable with the idea of third parties. But for the most part, they think that if the information is being used, sold to target them, they believe that they need to be given notice ahead of time and that their prior consent is required. And similarly, with the government kind of protecting or government laws protecting the use of their private information, I think they feel relatively comfortable that there's sufficient protections out there when that's just not the case. And I think that the biggest concern that folks have comes from an identity theft and kind of financial risk position. And I don't really think they have a true understanding based on the data that we have of how the information is being used about them behind the scenes.

>> Loretta Garrison: And Lorrie, do you have anything to add to this?

>> Lorrie Faith Cranor: Yeah, we found pretty much the same thing, but let me add that I think people have very little understanding of both the policies and the laws about privacy, but also even how the information flows. There are a lot of people who don't know what a cookie is still. There's almost nobody outside this room probably who knows what a third-party cookie is, a flash cookie, all these types of terminology. When we've done one-on-one interviews with people, we find that they're even confused about which part of a web page content is advertising, let alone advertising that's tracking them, which they have very little idea about.

>> Loretta Garrison: Alan, you've done a number of studies over the years -- I'm sorry, Alan Westin. Can you talk briefly about your high-level findings and how consistent they are with or different from what we've heard so far?

>> Alan Westin: My sense is that the surveys that I'm familiar with over several decades are remarkably in concert, rather than in conflict. For example, on the behavioral marketing, all of the surveys that are represented on the table here found that a majority ranging in numbers from low 50% all the way up to 70% and 80%, say they're uncomfortable with behavioral marketing and would want to have at a minimum a kind of notice, choice, security and ways of intervening that would give them some comfort if they were going to have their information tracked in that way. So, even though it's true that we're starting from a base of low knowledge by consumers as to how things really work, if you ask them how they feel about such and such happening, they're pretty strong in believing that they're being abused, that this is not something that they have bought into. The other thing that my surveys show is that even though you can tell people that it's behavioral marketing that makes possible the freebies of e-mail and other kinds of internet benefits, we've gotten to the point the way the internet has developed that people just take that for granted. They're not prepared to make that into a real equation. So in our survey, we asked people in setting up the question, that it's because of the ability to provide various free services and things to be free on the net that advertising makes possible, That bargain is now long gone, and people are not willing to trade privacy for the freebies on the internet.

>> Loretta Garrison: Alan Davidson, can you comment on this in terms of what you found that consumers expect or understand about data flows?

>> Alan Davidson: Thank you, and I think, certainly, it's clear that a lot more work needs to be done, and I guess what I would say is that there is a lot of work being done now. What we're seeing is, I think, a lot of innovation in the space in terms of trying to find ways to give consumers more information. I think, certainly, industry is seeing, we've experienced, that consumers don't necessarily understand all these issues and there are lots of things that can be done to give them more information. We can dig into some more of the examples, but I think, for example, Yahoo!'s recent announcement about a product launch this weekend that's very similar to something that we've launched to give people, our users, a chance to see more about what we know about them when we're showing them advertising, I think is an example of the kinds of new tools that are going to be out there for people to see what is being collected, how this data flows work. And that's just one of many, many examples. There's many people in the industry who are trying to come up with interesting, new ways to inform consumers.

>> Loretta Garrison: Thank you. And Jules, I think you're one of those who has been doing some of this work. Can you talk briefly about your findings here with respect to what consumers know and understand and expect will happen to their data?

>> Jules Polonetsky: Well, the most recent work we've done "A", was a set of focus groups and now a larger 2,600-user survey. The focus group feedback when we tried to drill down specifically on behavioral advertising, the moderate-expert users were just completely unfamiliar with the concept. The expert users, there were one or two that were familiar, and they said, "Yeah, we know what that is. That's when you're watching a movie, and all of a sudden, you're really hungry and you want some popcorn, and you know, there was something flash." They somehow thought we were talking about subliminal advertising. So, clearly, lots of talking to people about privacy and privacy policies and all the other communications haven't really moved the bar. But what we did start seeing when we turned to the advertising industry, since it's this selling and this advertising that seems to be, you know, of such debate, we said, "Well, can we use those skills, can we use those communications skills to actually talk to people, taking it out of the hands of lawyers and technologists who are experts in what they do? Let's talk to people." So, the folks at WPP spent a chunk of time with us generating language and symbols that we hope can be effective at

communicating to people, not a legalese and not anything about privacy, but how your data is being used for you. And that's a real win for transparency. If companies can advertise, if they're doing good things, if what they're doing is trying to sell you some stuff, which, you know, with or without the word consumer being, you know, the right way to talk about people, if they're trying to communicate something about what they have, let's use those skills. So, we're hoping that some of the output of this can be used by the industry who can adopt it and perhaps make it a part of an IEB, a DNA, other self-regulatory programs that are not about privacy, here's how we're keeping things secret and not doing anything with your data, but here's how we are trying to communicate with you and we'll be trying to circulate broadly which phrases work best and what really resonates with users.

>> Loretta Garrison: Thank you. And Adam, do you have something to add on this point? From a slightly different perspective, perhaps.

>> Adam Thierer: Sure. For many years, at the Progress & Freedom Foundation, we've been taking a hard look at polls and surveys having to do with child safety and free speech. And recently we've expanded that to look into privacy surveys and polls. Our message is really quite simple, which is that, while these surveys and polls may offer some really interesting insights into how some people in the public think about privacy, advertising, so on, ultimately, they are no substitute for real-world experiments which involve making real-world choices, often involving real money in real time with real trade-offs. And those market-based experiments happen every single day in the marketplace in ways that we probably wouldn't have imagined they could have if we would have listened to what polls said a couple years ago. People are living their lives like an open book on social networking sites every single minute of the day and voluntarily giving away information that we probably, if asked in the poll, two or three years ago, would you do these things, they would have said absolutely not. And of course, we have to also remember what Jim Harper said in the first panel, I think which is important, which is that privacy is a subjective condition and that there's a lot of trial and error out there that people themselves personally experiment with how much they want to give away about themselves every single day in exchange for something else. There is no free lunch and these services online cost something, and sometimes it means we have to give a little something to get them, and sometimes that something's information. So, what I would argue is that

there's a little bit of rational ignorance at times at work in these markets. We might say one thing if asked by a pollster or a survey what do we think about X or Y. We might do a very different thing once we have our own time and money on the line.

>> Loretta Garrison: Lorrie, what about this disconnect between the online or the behavior that consumers exhibit on a daily basis and, yet, what we hear in the polls? Is this truly a disconnect in that what consumers are doing really represents their views toward privacy, or is there something more going on here?

>> Lorrie Faith Cranor: So, while it's true that there is only so far you can go with surveys, that, you know, people will say things, and it doesn't necessarily reflect their real behavior, but you still can learn an awful lot from surveys, and I think we do understand about their attitudes. Now, if we look at behavior, we've observed all sorts of things about what happens in the real world, but it hasn't actually been set up as a controlled experiment. And so, we have situations where people don't understand the consequences of their actions. We haven't done a good job of communicating this. And so, people are behaving in the real world based on asymmetric information, as Alessandro had mentioned in the previous panel. And so, that in and of itself is also not giving us exactly the data that we want here. We have in some of our work at Carnegie Mellon tried to facilitate some experiments where we could actually measure people's behavior in a controlled experiment. And this is very hard to do in away that you have, you know, very valid data. But we have been able to show, for example, that if you annotate search results with information about website privacy policies, people will actually pay a little bit more to shop at the websites that have better privacy policies. And so, I think it's these kinds of experiments -- and I would love to have some of the search engine companies actually work with us so that we could do this on a very large sample of users instead of the small ones that we can do as a University.

>> Loretta Garrison: Alan, do you have any response to that?

>> Alan Davidson: We would love to work with you on something like that. And I was just going to comment in terms of these experiments that are happening in market places, to give an experience of our own recently, we launched a product this spring, what we call interspaced

advertising and an ads preference manager. Some of you probably heard about it. We have a handout in the back that -- kind of a screen shot of it. Basically, the idea was to try to be responsive to the concern that people really don't understand what's happening when we do interest-based targeting of advertising. So, there were three components to this. One is, we'll call "in ads notice," so when you see an advertisement that we've helped placed, there is a little link so you could get more information about the ad. The second is that link takes you to a privacy center where there's an ads preference manager that shows you, shows the user all of the targets, signals that we're using to target that advertisement. And then there's the ability for the user to change those signals. So, signals might include things like, we think you're a sports enthusiast or we think you like interior design, based on your web behavior. And we not only let people opt out of this, but we also let people change it. So, you might say, no, no, no, I'm not a sports enthusiast, but I really am interested in automobiles, or you know, cooking. And we've now had this out for about, I guess since the spring. And what we've seen is, and it's been interesting for us, this site gets visited by tens of thousands of people every week now. Well, actually, tens of thousands of unique visitors each week. The behavior has been interesting to us, because I think we sort of had the assumption that people who were interested in privacy and were going to visit this site would all be opting out. And what we found is actually that a lot of people come to the site -- in fact, four times as many people who come as visitors to the site actually change their preferences rather than opting out. So, in other words, people are coming. They're not necessarily using our persistent opt-out. What they're doing is they're playing with it to see what happens if they, you know, change these preferences. And actually, ten times as many people actually do nothing when they come visit the site and opt out. Now, there's lots of things you could read into this and it's still a relatively new experiment. But I think to simply say that people are uninformed and if you inform them, all they want to do is get rid of all this stuff is probably too simplistic a view. I think what we've heard is that your mileage may vary in terms of what consumers want and how they feel about their privacy. And what's been interesting to us is that if you empower people with choices, they may actually start to exercise them. I think many consumers, from our perspective, is that many consumers do understand that there's a bit of a bargain here and that part of the reason that all of these amazing free services exist on the internet is partly because of the advertising that supports them. So, there's a lot of work to do to unpack this, but some of -- I think there are going to be more experiments like this in the marketplace, and we will see how -- it will be interesting unpack how people use them.

>> Loretta Garrison: Joe Turow, do you have any additional information to add on this?

>> Joseph Turow,: Well, I just wanted to suggest that while I understand what Google has done with those categories, it's important to realize that, essentially, from one consumer's standpoint, those are marketing categories. I mean, you go to that Google site, and they say, first of all, it appears incredibly benign. It almost makes what some people who worry about privacy look foolish, because it says, you like bicycles or you like water skiing, you know. Why would that be a problem for somebody and yes, you can be targeted for it or not targeted for it. What is not shown in this kind of thing, and possibly because Google doesn't do this sort of thing, maybe because they don't implement it yet, are the various kinds of psychographic, demographic activities that go on behind the screen to yield up the particular categories or the kinds of things that many companies do to supposedly anonymously grab people's financial information and link them to create profiles. You know, it appears as if it's simply a do you like bicycles, do you like cars sort of scenario. And I think it's not a correct assumption or set of projections of what's happening in our online and offline world.

>> Loretta Garrison: Jules, do you have a response?

>> Jules Polonetsky: Well look, yeah, my response is this. What I think we're seeing, hopefully -- I'll let the economists sort of debate the "should users accept it because it causes things to be free even if they don't like it" -- I'd like to focus on the fact that there is a potential feature here. When users do interact with the kind of tailoring they like, whether it's choosing a book and understanding what happens at Amazon or at Netflix, clearly, you know, we have got some real behavioral evidence that it works. So, the question is, can any of these models, despite the fact that they're operating as third parties, despite the challenges of the ecosystem being linked as it is, can any of them actually make data use a feature? And in developing a feature, can they succeed at it being, you know, an honest depiction of what actually goes on without it becoming incredibly complicated? So, I think things are going to go in the direction that Professor Turow suggests, but I would hope they don't become a dashboard of a 767, because that's as complicated as it does get in the back ends here. So, my argument is, can we at least agree, because the perfection is what

prevented any of these things from happening so far --this idea of showing a profile back in my early double-click days, oh, my God, it would be too hard to do it accurately. We need a little bit of experimentation and leeway to figure out how do you create a feature that will succeed in the market so that people enjoy it, play with it. You know, today, both Yahoo! And AT&T's yellowpages.com went live with versions of this sort of little symbol which lead to these sorts of ad preferences, interest managers. And so, you're starting to see people doing it in different ways and experimenting, and we'll see whether, indeed, users play with it, like it, turn it off, tweak it, and hopefully, the kind of feedback -- ooh, I don't like those kind of categories, so why in the world are you doing them, will drive some interaction will actually be this first drive of development in the market. So, we need a featureized data use, instead of hoping that interested people who care enough about privacy care enough to read a notice or find data about them.

>> Loretta Garrison: Joel?

>> Joel Kelsey: Sure. I'd just like to go back at looking at real-world choices kind of idea. And I think that, you know, we do actually see a lot of consumers making real-world choices when it comes up to answering that cost benefit question of, you know, free content versus giving up information about themselves. You know, one of the things we found was a lot of consumers try to protect their anonymity by giving false E-mails, by providing wrong information about themselves, by deleting their cookies. And you can talk about whether that's to protect privacy or for computer hygiene, but I think consumers are going to great lengths to try to protect some kind of anonymity. To try to protect some of their personal information, and then we see the market response and the financial incentives of responding -- flash cookies and things like that -- to circumvent that certain preference. So, you know, I think a lot of these things -- and I would also say, we also have real-world experiences of data breach, of you know, security, financial security problems, and a lot of this, to me, leads down to a place where we need some kind of regulatory framework that provides more transparency, that talks a little about what kind of data is being collected, what is clearly acceptable, what's not acceptable in terms of what's being collected and how it's being used, ultimately, at the end as well.

>> Loretta Garrison: Alan?

>> Alan Davidson: Just a super quick response. First of all, to the point about what the benign nature of these categories. Well, I'll just say that in our case, those are the categories that we are using or not using some of these other things. And I think that speaks to though-- and for example, there are categories in Google's interspace advertising that we don't have. We don't have sensitive information that we use for targeting, so health, the financial information, and certain other things that have been discussed. But it speaks to the fact that there is certainly a need for greater transparency. I also don't want to make it sound like this is an isolated occurrence. We've heard there are other companies who are launching, actually, coincidentally, this weekend right before this conference. Shocking. Similar efforts, which is fantastic. Google has a product called Google Dashboard that lets you see a lot more, not just about advertising, but all the information that we keep about a Google account-holder in one place. I think there are others. Facebook has been a pioneer in making transparency tools for all the information that's kept. And these are going to be incredibly important. So we expect that there's going to be a lot of experimentation in the market. You're already seeing it. The market -- I would say you have some very sophisticated players out there who are consumer-facing and have a great desire to meet this demand that Joel has already said, for people to have more control, and it's going to be incredibly important, because we really believe that transparency and consumer choice is going to continue to be a foundation of fair information practices and how we protect people online.

>> Loretta Garrison: In order to match the tools that you're providing with what consumers expect, do we have any understanding about their expectations with respect to say the company they're dealing with directly, what they expect that company to use, or do we have any information about their expectations with respect to further use of that information by other companies that are essentially behind the scenes? Do consumers even know about this, and what would we understand their behavior to be if they did fully understand the data flows, which will never happen, but assuming we did? I'm trying to get at differentiating what consumers expect with respect to information on different levels, also different types of information. You know, if you're just going to buy a toy online, that's very different from dealing with health information. Jules or Joe, do you want to start with that?

>> Jules Polonetsky: I'll try to be brief. Joe's studies and so many others have shown this tremendous concern, and it's been -- this theoretical concern, because nobody has actually played with a dashboard such as Professor Turow suggests, and said, look, it's working or not working. This seems to bother me. They don't know it's happening. So if you tell someone, guess what, someone tracked you all day and a lot of the things you saw, I hope you found them useful because we did this for you. Well of course you're going to get a very negative answer, and that's the reality today. The question is, can we bring some of that into public view so that users actually get their hands on it, tweak it, feel it, and we start getting a good sense, as here's what they like, here's what they don't like? One of the things that I like about Yahoo!'s Interest Manager is, it shows you something that everyone in this room probably knows and everyone outside other than the technologists don't know, right? But many of these sites know where you are, right? Have some general idea based on your IP address. And so, by saying, not only are these the things we think about you, 'cause we're all locked into this behavioral, and if it's not behavioral, no one cares, right? There's other stuff we care about and some of it seems trivial to us. Well, of course, IP, we all know you can geo target based on IP, but users still kind of wonder, why are there cuties in Potomac who want to meet me. How do they know that? Where do they know exactly where I am? So, you know, the fact that it just says, hey, this is your IP address, and so, we think you're generally here is just this great, I think, demystification, so I think we don't really know what it will truly be like when people start flicking, playing, and we featurized data use. Let me give you one limited example. Facebook, we always talk about Beacon an example. And we've completely forgotten the most interesting Facebook example, which isn't Beacon, alright? It may be why Beacon happened, and that's the outcry that came when Facebook initially rolled out its newsfeed. Oh my god! Instead of just going to your page and seeing your own page, and then having to visit your friend's pages. All this stuff about what everyone did -- so and so just broke up with so and so, so and so just got married here, boom, right it was on your page. There was a big outcry, we were stalking all of our friends. And I think if you would have asked anybody, would you like? Oh no, that would be terrible and indeed there were groups and people joined it and there was outcry. And now, it's like, why we go to Facebook? Because we now learn that Jules is here and he's there and she's there. So, I think you need little bit of a room -- and this isn't an argument for or against legislation -- but we need a little bit of room for people delight users with new ways of

engaging each other and then let's learn about how to make sure we're not surprising them once we understand what they like.

>> Loretta Garrison: Joe? Do did you have a question?

>> Joseph Turow: Yeah, not to disagree at all with what Jules just said. We found, for example, it's not just the online world. I don't want to color it only as an online. I don't think there's a difference anymore between online and offline. And most Americans, for example, don't realize that supermarkets have the right to sell their data and they probably have no idea that supermarkets collect the enormous amounts of data that they collect. But I want to bring up another issue briefly that you suggested, and I think, in your question, which is, how do people even know to trust the companies, whether they trust the companies? So, you may have seen yesterday's piece in the "Times" about Next Jump, which is a company that companies, corporations, Fortune 500s, contracts with for discounts, for employee discounts. And, why not? It sounds like such a great idea. But apparently, what this company has been doing has been collecting enormous amounts of data about the people who get discounts, tying it to some extent with their credit ratings -- credit card activities, I should say, and then using it now to deliver advertising or whatever else they're going to do. That's the kind of thing it'd be very hard to know if anybody in the companies that worked there had any clue that this stuff was going on. And whether, in fact, there was a privacy policy presented to the people. So, it's a very difficult scenario to imagine. How do we know when companies are being straight-forward when maybe the companies themselves haven't taken the opportunity to look?

>> Loretta Garrison: Alan Davidson, I'd like to go back with a couple of things to you. One is you said that you don't use sensitive information. Can you describe or explain what you mean by that? And also, before you get there, do you -- can you give us any sense in terms of a percentage of the total number of visitors to Google, how many actually have gone on to the ad purposes site or to the Dashboard?

>> Alan Davidson: So, on the first point, I don't have an exact number, but I would say it's small. It's obviously very small. If we're getting tens of thousands of people to visit each week, and you

know, we have many, many more users. Now, you could argue many different -- there are many different points that one could make from it all we have is sort of the data that we can offer. But, you know, it also may be that this is something that users probably don't necessarily interact with on a regular basis, right? I think that if we do this right for a lot of our users, it's the kind of thing where they'll set their privacy preferences or controls in a way that they feel comfortable and then not have to think about it again until they've changed or they're interested in it. So, I don't think we necessarily expect a lot of recurring traffic to the site. But others will draw other conclusions. On the question of sensitive information, I think this is a really important area and one where there's probably -- where the guidance from the commission has been helpful and probably will be helpful in the future. So, for example, for our own -- and again, this is all within the narrowed context of our own interspaced advertising, product, and others have done similar things in different ways. We don't use signals about certain categories of sensitive information that we believe aren't appropriate to use for that kind of targeting. So, health information, information about, for example, sexual preferences, information regarding relating to children, certain financial information we don't use. And if there are others who are more expert in the room, if you really wanted to dig down even deeper about how you unpackage those. Defining those is really important. I think we also heard in an earlier panel about some of the reasons people might want to do that. We've made a choice not to in this context. We think that's very important. We think that's appropriate for this kind of advertising regime from our perspective. Others may feel differently, but I think this is an area where clearer guidance from policymakers to set a baseline of understanding for users would be really helpful.

>> Loretta Garrison: If I could just push on that a little bit to understand better, when you say, for example, health information -- if somebody did a search for Alzheimer's, how --

>> Alan Davidson: You would not see --

>> Loretta Garrison: How is that used or not used?

>> Alan Davidson: Right, and you would see, and anybody can go look, and we hope you will go look at this Ads Preference Manager. You can search for it on Bing, and it will come up, actually.

[ Laughter ]

Or you can click on the link. But the fact is, if you look at the -- this is the easiest way to know this is if you simply look at the categories that you can make choices about and that you can see, you will not see something that says "Alzheimer's patient." You will not see anything that's even close to that, and that's the most important way we can show people directly. And I think this is the power of these kinds of approaches, is that people should be able to see what it is exactly or other -- what other kinds of information is being used about them. As Jules said, you know, this was heresy a few years ago, and I will say that when we first talked about it internally it was heresy, the notion that we would show users what it is that we're using to target and advertise on them? Could we do it? Wouldn't they be freaked out if we did it? And I think what we've -- the reaction we've gotten is that we think actually, users are pretty mature about it. And they're actually -- well, some of them will be freaked out about it, and that's appropriate for them, but some of them actually have had a totally different reaction to it. So, this is just one small step in the market. It's a relatively narrow part of our business, but I think it's a good example of what could be done.

>> Loretta Garrison: Thank you. Alan Westin, you've done some work in the health area in terms of consumer surveys. I think personal health records, in particular. What have you found about consumers' attitudes with respect to their health information as opposed to say, just buying a toy online?

>> Alan Westin: Whenever you ask people what's the most sensitive information about you that could be collected and used, health information and financial information are always the winners. We've done a number of surveys on how the public feels about the emerging electronic health record movement and also personal health records. And in general, when we've asked people, do the privacy risks outweigh the benefits, did you see electronic health records bringing to health care and to your care? Or do you think that the benefits outweigh the privacy risks? We get an absolutely 50/50 division in the surveys we've done. So, half the people feel it's the privacy risks outweighing the benefits and half believe the benefits outweigh the privacy risks. But I think that as electronic health records are now unfolding throughout the health care system, trust in the

keepers of the electronic health records is absolutely central, and we see that it's only when promises are made and explained as to limits on who will get to see a health record without your explicit consent or data security will be provided to make sure that data breaches of health information, which are much in the news lately, will not take place. Will the people that we survey feel that they're comfortable with and trust the people running the system? And I think there are a lot of quotes from the top levels of the electronic health record officialdom that without trust, the advantages of electronic health records will never be achieved, because people will not willingly give their information or subscribe to health research using their medical records with explicit notice and consent. So, I think it's an absolutely central aspect of the whole personal health record and electronic health record development.

>> Loretta Garrison: Thank you. Joel Kelsey, are there other areas that consumers are particularly concerned about or sensitive about the use of their information or disclosure to others?

>> Joel Kelsey: Well, I think financial and health is absolutely the top two, but I wanted to go back actually to what would -- if consumers understood the true difference between first party and third party kind of data collectors, would their behavior change. One of the things that we found is that they're absolutely aware that companies are tracking their behavior online. They're uncomfortable with it and take steps to protect, anonymity, and things like that. But going back to the beginning of the panel, we also found they do that, and that cost benefit analysis in their head leads them to a particular choice largely, also, because they're confident that there's some kind of government protection if the data that's collected about them or is being used about them goes too far. So, I think I would ask the question a different way in that -- what would consumer behavior look like if they, "A," knew that, you know, what third parties were able to do with their data -- ad networks, ad exchanges, data exchanges, collecting demographic, geographic information, financial transactional information. Pretty soon, that starts to be combined and looks pretty close to PII. So, if they knew that on one hand and then also knew that there wasn't a whole regulatory framework to protect them from bad uses of that, not necessarily the target ads, but maybe to hold back financial offers on mortgages, on credit cards, on travel, things like that, I think their relationship to first-party sites would then very much change. And I think, you know, one of the things we have to address and one of the reasons I'm glad the FTC is having this debate is there's really this kind of

growing tension, I think, between the usefulness of display information and display advertising that is going to require that, you know, the financial incentives in the market are going to require information be collected as it gets closer and closer and closer to PII, in order to target information more, and I think that we really absolutely need fair information practices to start talking about what that information should -- what kinds of information should and shouldn't be collected and ultimately how it should and shouldn't be used.

>> Loretta Garrison: Jules?

>> Jules Polonetsky: Just a quibble though, because we all throw around this third-party thing online in a unique way, and if we actually explained it to the consumers, their minds would explode. So, I'm not sure any consumer would choose UPS based over FedEx, based on the fact that the -- unless they were cared about the labor issues, that the FedEx folks were contractors technically and that the UPS folks were employees. They care that someone was in control and somebody was responsible. And I think what ends up happening online all that much is we can see some of these third-party things because the technology makes it visible, and whether or not it's really someone else who has the right to do something with it or whether it's just a technology that is completely under control, and because of the nature of the contract, they're first, they're third. So, we throw around "third," we throw around "first" in ways that I think people would have no clue and it would make them meltdown if they said, hey, guess what, the website you've gone to is actually operated other than someone than the person who actually owns it and it's stored somewhere and it's hosted somewhere. We ought to focus a little bit more on, you know, who's accountable, who's in control, who's responsible for what's going on, and do they have the right to do something with it. Now, industries have been guilty because we've got lots of folks who are kind of vendors who also seem to have the right to do stuff with data, and so we've created the confusion, we still, I think need a little bit more clarity here so people -- so when we try to communicate with people, we actually tell them things that are meaningful, that they might actually make decisions based on.

>> Chris Olsen: Adam, I wanted to raise a question for you and give you a chance to respond to what's just been said as well. I think you mentioned the real-world scenarios that exist every day.

And I guess the question I have is, if you were to do a study where the full extent of the tradeoffs were made known to consumers, you know, could you do that? And this goes to Jules' point a little bit, could you provide adequate information that consumers would understand, that would reflect the sort of trade-off that's going on every day?

>> Alan Davidson: Well, it would help in an experimental economic sense. If we had consumers bargaining with something their own money and their own real time, and obviously gave them access to other types of relevant information that's often missing in some of these polls and surveys, like what other types of tools do you use that might be privacy enhancing that would change the equation? I mean, why is there no mention in surveys and polls of things like Ad/Block Plus, which has 67 million downloads in the last five years. On Firefox, it is the number one most downloaded utility in Firefox history. Number two, by the way, is NoScript. Another privacy enhancing or security based measure. So, people are obviously doing something. Maybe Firefox users are a especially unique class. The point is that, in the real world, they take privacy enhancing or security enhancing steps. So, those are the kinds of things I think need to be worked into surveys and polls, but again, that's not going to substitute for what happens when people actually make a choice in the real world. I'll just go back to the social networking examples and some of these others. I mean, information flying around on networks that would have been unthinkable to many of us a generation ago, not just a generation, just a few years ago, and to some of us, still raises sensitivities. I'm really concerned about what my kids put online and I take steps to try to minimize it and teach them why they should think through that decision. So, I just think those things need to be taken into account.

>> Chris Olsen: I wanted to raise a question that came in from the audience, and I'll paraphrase it a bit. There seems to be considerable support for the view that consumers may not be fully informed as to aspects of data flow and what happens to the data, notwithstanding some evidence of deployment of Ad Blocker Plus and other tools. And given the lack of information that consumers have about the benefits of certain activities, should we really care about attitudinal evidence about what consumers may or may not feel? In other words, do attitudinal surveys really matter if there is an information deficit? Alan, you wanted to make a comment?

>> Alan Westin: If you lay the consumer privacy surveys alongside larger surveys of consumer knowledge, it's quite consistent. Consumers are ill-informed about financial affairs, investments, about home protection, about medical affairs and so forth. So, the base has to be that we have a largely uninformed majority consumer population in the country. Second point would be that most consumers then get their signals from the organizations that they trust to tell them what to think about and what to do in that situation. So, be consumer organizations or business organizations or ideological organizations or the AARP, et cetera. And if that's your model, then you say, how can you make privacy relate to that? The other point I would make is that studies that we've done show that the American public divides into roughly three groups when it comes to privacy. About 25% are intense, will reject benefits and insist upon strong privacy protections. About 10% to 15% are privacy unconcerned. They couldn't care less because the benefit is fine for them and they're not worried about their privacy. And I'd like to say that for 10 cents off, they'll give you their family history or anything else you want. And in between are the privacy pragmatists, who say what's the benefit to me? What are the privacy risks that are presented? How do you propose to inform me and give me some choices on that and fundamentally? Do I trust you? Or do I think that only law and federal regulation will make me comfortable in this situation? So, when we talk, as we've been doing this morning about the consumer, I think it's useful to see that there's a pattern that the American public divides into, which has been shown over 20 years of surveys to be a repeat in terms of the way in which the public divides on these issues.

>> Chris Olsen: Joe, do you or Lorrie want to add anything to that, given --

>> Joseph Turow: Yeah. I think that on a number of levels you can interpret the data that we've collected. It's true that attitudes can be critiqued as simply a point in time, but we've also collected a lot of data about what people know, okay, in relation to those attitudes. And what they believe in terms of what the government does. And if you lay those things one on top of another, people who know very little believe the government does a lot and are very nervous, okay? We then ask the question, if you found out that a company is collecting your information illegally, what would you do? And aside from the monetary amount, we asked them what would you do to executives. Well, something, a little over 30% said they would get the company to train people, teach people in the company about privacy and I should say outside of privacy issues. A strong percentage wanted to

put the people in jail, the executives in jail. And I think it was 18% wanted to shut the companies down. Now, I don't think that if people were on a jury, they would really do this. But I think what it does do is it shows a kind of frustration and anger that people have about these sorts of issues, even while they believe that many companies are doing the right thing, whether or not they know. I mean, they think the U.S. Government is doing the right thing, meaning, protecting their privacy. One more point I'd like to make, which is we have done four times asked the same question, true/false, in this sort of way. If a website has a privacy policy, it means that that site will not share your information with other sites or companies without their permission. In almost every -- in fact, every time we've asked it, 75% of the people get it wrong. That is, most Americans don't realize that the word privacy policy doesn't mean that a company will protect your privacy in terms of not sharing your information. And it seems to me that label's defective and deceptive, that it really doesn't mean what most Americans think it means.

>> Chris Olsen: I want to move on now to disclosures a bit, and I'll note, Jules, you described what you and WPP have worked on. Alan, you've talked about the Google Ad Preferences Manager. We've heard discussion about Yahoo!'s new efforts. I think AT&T, new efforts as well, to bring additional transparency to information management practices. And I guess one question that that raises is how usable, how feasible is it to have these multiple different systems available, depending on what service you visit, to manage your privacy, and is this something that consumers will really be able to navigate, going from one site or one service to another?

>> Jules Polonetsky: No. I think the answer is -- industry groups need to adopt and standardize, and if they're going to have real meaning to the self-regulatory programs that have been hammered out, the final step needs to be adopting a good, standardized way so that every time a user sees something, in means your data is at work. Then different businesses may do different things behind that. There's different models, there's different features, but that power button is the thing that indicates, this is a smart interaction. And let's be a little broader than behavioral advertising, because it's not the entire world, right? Data's being appended. Lots of folks talk about behavioral advertising and don't include retargeting and remarketing, and you know, there are billboards that are interacting with me and there are screens. We're in a world of smart interactions. And will users understand that it's not just click, I paid and I've been charged, but I'm getting something

different than the person before. This is being used in some robust use. I like the fact that my local giant in Potomac, where those folks are looking to meet me, is now giving me coupons as I use the scanner and I've worked through the supermarket. And I'm wondering -- I looked at the coupon that popped up, and I wasn't in the island with orange juice, and I was wondering, is it because they know my shopping? It would be useful if that was, or they knew where I was, but I was like, "I have no clue." And if I had a simply saw sort of a symbol whether or not, you know, which dashboard was behind it, I get it. I want to use this or not based on whether -- you know, I want to know who knows about my shopping and whether I find this of value or not. So, I think industry adoption and industry putting rules behind it, that this is what it means, it means, trustee promises this, BBB is asserting this, is essential. One effort by a couple of companies, by FPF, by WPP will be nothing. If we're going to move, you know, the vast majority of people and get it on the radar screen of their consciousness, it needs a broad effort.

>> Chris Olsen: Lorrie, did you want to comment on this?

>> Lorrie Faith Cranor: Yes. So, we've done a lot of work at Carnegie Mellon looking at how to communicate with people about privacy and on privacy notices. Going more broadly than just the behavioral advertising, looking at the privacy notice in general. And we find that, you know, the traditional English language privacy notice is completely impenetrable to most people, and we've done studies where we asked them basically reading comprehension questions as well as see how long it takes them to try to figure out, you know, will this company send you postal mail advertisements? People read a privacy policy. They can't figure that out. So, we've tried a number of different formats, including the layered notices format. We've tried some things that my students have come up with. And what we found is that if you move to something that is closer to what we call the nutrition label, where you have this, you know, very simple format that everything's always in the same place, then suddenly, people are able to actually use it and derive information and you can give them these policies from two companies and they can compare them and tell you what's different. And we've tried a variety of these formats, and actually, the gains from, you know, do you put it in paragraphs? Do you put it in tables? You get little gains here and there, but the key thing is that they're standardized, that the two companies both used the same format, and that's where you get a really big win.

>> Chris Olsen: Are there particular elements that you think consumers are most interested in? Would it be, I share information with other unaffiliated companies, for example, or are there other things that are more important when you talk about a nutrition label that should be included?

>> Lorrie Faith Cranor: Yeah, so, I mean, we've looked at the survey work that's been done over the years by many people, including some of them at this table, and it seems like some of the hot buttons for people really have to do with information-sharing and the secondary uses of their information. And then there are particular sensitive data types that are also a hot button as well. And so, in the nutrition label format that we came up with, which you guys can all check out at [privacyfinder.org](http://privacyfinder.org) -- you can do a search, and any website that has a P3P Privacy Notice, we automatically Generate a nutrition label for them. But anyway, we have tried to highlight Some of the areas that do seem To be more hot buttons with Consumers.

>> Chris Olsen: Alan, did you want to jump In?

>> Alan Davidson: First, to echo something that Jules said, which is just that, you know, to the question of whether this is feasible, I think in some ways we don't necessarily know, but what we know is that industries is going to really have to get together to do more together to address some of these issues. For example, I mentioned the persistent opt out that we created for our own interest based advertising offering, and, you know, one of the big -- I think one of the biggest legitimate critiques of it has been that it works for Google, but what does a consumer do for all the other information out there. The great thing about it is we released it in an open source forum and an intrepid young hacker who will remain nameless but is in the room actually took it and made it into something that users could -- that would work for a large number of other advertising networks and that's great. That's the kind of thing that we need to see more of and to do more of. But I think the fact that there's a giant challenge here and to your earlier question about whether these attitudes matter, on the part of consumers? They absolutely matter and I Think they're a strong signal to all of us in the industry that we have to do more and do better here. It's a business imperative. It's difficult. I don't want to sugarcoat it because I think you can even Look at Lorrie's fantastic work on the nutritional labels and realize how hard it is because it's not like Vitamin A. We don't have a

recommended daily allowance of these things. And they're not objectively measurable in a lot of ways. So it's going to be very difficult. I looked at her great paper again this weekend and if you looked at the label, but I think one of the labels that was listed in there didn't include location information, right? This is a dynamic environment, there's new things happening all the time. So, the nutrition information is hard, but we've got to find better ways to communicate with people.

>> Loretta Garrison: In addition to a standardized format, is there something more that can be done with respect to delivery of the information? I mean, typically right now you have a Link at the bottom of your opening page which just says "privacy policy" or "privacy notice" and we've heard from Joe about what that means to many consumers. So how can we make the disclosure more effective, how can we have better transparency in terms of delivery? Does anyone want to take that on? Jules.

>> Jules Polonetsky: Well, one of the things we tested was what happens if you mouse over the disclosure and you get a simple sentence that says here's what's happening. And people got that even though 15 minutes before they had very little concept of behavioral advertising. A simple, brief sentence. And then go ahead and find out a lot more. And so I think that's in some way consistent with where the self-regulatory regime focused. Don't point this to your privacy policy, point it to something that is relevant to what's happening here. And so again, to get back to my point about Featurizing, I don't think I've read. I've probably have read the Amazon privacy policy. But I think most of us may not have, in the real world out there. But yet we know books are being tracked and we're getting books based on the books we've done because it's in context. It's relevant to what I'm doing and so I think that's the feature that we need to crack. How do I not give that you policy that my lawyer will insist has every caveat and every will not in every case. Can we, the legal folks and the consumer protection folks of the world, give a little bit of leeway so someone can say something and give the users the gist. The gist is never going to be exactly accurate and it's not going to have the 18 caveats, but if we don't give them the gist, then we've got no hope of -- one of the very interesting things from the focus groups was we tested a particular phrase why this ad? And what users said to us was, I get what that means, but why are you asking me questions and then making me click to go find out what it is? They said, "If you've got something to tell me, tell it to me here and then I'll decide whether I want more information." And so we have to kind of

avoid a little bit of here's what you should want to know right now with actually testing and hearing what they had to say. It was remarkable to me, because I thought that that would be the obvious term. But they said, "Tell me. Why do I have to click and come back." And, "Maybe I won't be able to come back, they'll be a pop-up, my browser won't work. You know, let me know whether I want to know something and then I'll move on."

>> Loretta Garrison: Consumers are a lot smarter than we give them credit for, I think. Joel, do you want to pick up on this?

>> Joel Kelsey: Yeah, you know, I think one of the things that would be interesting to talk about would be if every time data is appended to an existing profile that exists within -- running the risk of being ambiguous, I'll say third party data collector, most ad networks, ad exchanges. So every time they append new information, they either collected or bought to an existing profile, it would be interesting to it see -- you know, what that looks like, how close it comes to being able to actually point to which consumer is -- the information is being collected from and then making sure that those consumers have access to any of information that's being collected about them. In going back to I think the distinctions that need to be made and what information consumers care most about? I Think Google and Yahoo! should be commended for trying to be more transparent and adding some types of transparency to the marketplace. But I think consumers do actually have -- there's a difference in consumers brains I think with regard to Google or Yahoo! as a search engine and Google and Yahoo! as an ad network. And the dashboard I don't necessarily know makes that distinction and lets them kind of understand how that information might be used differently when they're off of Google's properties or off of Yahoo!'s properties. And I think everybody has actually said this, as well is, needing consistent information or consistent -- the need for consistency with regard to transparency is absolutely crucial. And I'm not sure that the companies that are collecting the data have financial incentive to be consistent across the board. And so that I think calls again for getting away from this notice and choice model which I think is clearly failed because we don't have clear disclosure and, two, some type of regulatory framework or national standard that will give consumers consistent information upon which they can make marketplace decisions in a rational way.

>> Chris Olsen: First Joe, then Adam.

>> Joseph Turow: Yeah, I just wanted to second what Jules was saying, and actually Joel now, too about the point it's very important, it seems to me, to know what's going on at the point of the ad being served. Because so many things are happening now that may not be, for example, Yahoo! doing it or even the site publisher. There may be a network that bought a particular person in real time. Right now what's happening is more and more people are dynamically served in real time based upon ad exchanges. And so, you're literally buying individuals or at least individual consumers -- computers rather than clusters or space or time. So that -- it makes the challenge much greater, but it also I think, makes it very important to say you're a dynamic person, your profile may not be what's in some back page somewhere, it may be available at that moment for that particular purpose.

>> Chris Olsen: Adam?

>> Adam Thierer: Let me just sort of cut to the chase here, I know we're short on time and get to what I think is really the ultimate issue at stake here. I mean, we're talking about the need for more information, more disclosures, more transparency. Everybody agrees that's generally speaking, a good thing for consumers, but how we get there is what's the real challenge. And we have to ask the question if we're going to allow ongoing experimentation with disclosures and dashboards and privacy tools and settings and so on. Or if we're going to foreclose that process with sort of a one size fits all model that says, "Well this is the way we think it should work, and work forevermore." I think we've all lived through this in this town, when we've had debates about disclosure and things like product information ratings for content in the field of child safety. I mean, we had a debate that many of us were involved in in the '90s about should we have a one size fits all V chip model for, you know rating on all television content. You know, I'm not here to say that didn't work out at all, but I think, look at the model that evolved when we allowed experimentation in the internet context, where you have myriad tools, a mosaic -- a rich mosaic tools and empowerment methods that exists there that don't exist for television. I mean, those are two very different types of models that we chose. And I think the latter one is something that has some lessons for us here. That we should allow and encourage more experimentation, more competition between these

companies like what Google and Yahoo! and others are doing for better dashboards, better information disclosures, better seals, so on and so forth. I say let a thousand flowers bloom.

>> Chris Olsen: One follow-up question on that point, Adam. Which is, does it make sense to have, even in the context of experimentation, does it make sense to have certain things be consistent from one entity to another and Jules, you mentioned the Amazon example. Consumers may understand that information is being collected to provide guidance about books they may read. Similarly there may be certain expected uses of information that companies engage in. Do you need to provide consumers with a notice and choice or additional information related to the fulfillment of an order, for example, or to let consumers know that information may be used for fraud detection? So one way of simplifying the information that's provided to consumers is perhaps to take some uses, expected or anticipated uses off the table to reduce the amount of information that consumers are hit with. And does that sort of approach make sense?

>> Adam Thierer: Well, I think there's a couple of different questions there, but the question of whether or not we should have a standardized disclosure or should we have standardization of terms? I mean, the problem is the terms and the notions, they evolve. Again, getting back to something Alan Davidson said, I mean, you look at some of the things that are out there that we're trying to measure or trying to deal with today, location based services, and privacy surrounding that. Things that have developed and come on the market very rapidly we didn't expect before. I mean, I'm for holding companies to the promises they make about the information they collect. I think that's really where we need to be about saying if you promise to treat information a certain way, live up to your promises. But the question of taking a different approach of mandating everybody apply the same policies across the board, I think forecloses experimentation, innovation in this field. Information is the life blood of the internet and if we foreclose it through these sorts of regulatory regimes, I think that has profound ramifications for the internet accountant.

>> Chris Olsen: But that doesn't mean the industry ought not to be working really hard to figure it out, right? If I got into a car and every car had a completely different, you know, set of controls, we'd be in pretty big trouble, right? We sort of worked by combination of legislation and effort and consumer research about what actually works. Such that at least my five year old who, when she

sits down and gets a new computer game, she can already kind of scroll her way around because she knows generally what different things do. So I think we need to drive it. And we joked about people doing coincidentally things for today, but it's these sort of touch points that let the privacy folks in the room go back and say, "Look, we gotta do stuff by next week, by tomorrow because there's a bill, 'cause there's a law, 'cause there's a proposal, 'cause the FTC is into it." So I urge you to, you know, keep the whip going and use the different tools to cajole because it is a messy ecosystem and it sometimes needs a prod. And sometimes it's industry leaders and sometimes it's you guys. So, keep pushing.

>> Chris Olsen: Joe, you wanted to make a comment?

>> Joseph Turow: I just wanted to say in response to something Adam said. We're not just talking about the internet anymore. I mean, television is becoming the internet. All you have to do is look at what various television cable networks and other entities are doing in terms of canoe ventures and Comcast lab experiments with collecting data. The same that we're talking about in terms of coursing people's data through the internet is going to happen is beginning to happen in what we call television. These words are not metaphors that are going to have less and less meaning over the next several decades. The other point is all the data that we're talking about, this is peanuts compared to what's going to happen ten years from now. And it's not just going to be for advertising. Increasingly, the news, the information and the entertainment you get will be varied based upon the profiles that you have. And I think the issue here confronting us not now, not to make rash decisions, is how are we going to live in a society where those kind of data get coursed under you without you knowing it and without your having any control about it. Do you want 60 minutes to be different for your neighbor compared to what you see based upon what companies know about you and you don't? Okay? Do you want discounts to be different based upon what companies though about you and you don't? These are small things, they exist now, but only in small technologically feasible ways. Add up some of the fire power in terms of technology and they're going to happen because the industrial logic points that way. And that's why I think we have to be worried about this stuff.

>> Loretta Garrison: And Alan Davidson, I think you'll have the last word.

>> Alan Davidson: Wow. Okay. A lot of responsibility. I'll go back, actually, then to what the chairman said at the beginning, when he posed this question of "Is this the worst form of government except for all the others?" And I'd say actually, maybe it is. And it's one of the reasons why we really have to try to get this right. I mean, if ten years ago we had been sitting here and said there's going to be a website -- there's a set of websites out there that will ask you to input all sorts of personal information, where you went to school and all -- who your closest friends are, right? And then we're going to share that information with hundreds or thousands of people, including thousands of developers who develop applications. We would say that is crazy and we should prohibit that, right, in terms of these prohibited practices. Or that if there were going to be location based websites that would ask you to share with all your friends where you are any given moment, and they'll do the same thing. We would say "That's nutty, we should never let that happen." Is a very dynamic environment. So I think we have to be careful. That said, there is a giant business imperative for us all to get this right. We need to work more closely together. I would offer one challenge to the commission, which is an area that we haven't talked about, which is how government gets access to information because one of the things that I think consumers really don't understand is under what circumstances we all are forced to turn over information to the government. The commission, because it is both a law enforcement agent and a consumer protection agency has a very interesting role to play here and I think in helping us all think about that. So thank you for having us.

>> Loretta Garrison: Well, I want to thank all of the panelists. This has really been a very provocative and interesting discussion. We could clearly go on for another hour or two. So there are many, many challenges ahead, but I thank everyone for their participation today.

[Applause]

>> Chris Olsen: Let me add one note. One logistics note. We have a limited amount of food available out here. There is a list with local eateries outside at the registration desk. If do you leave the building to get food, please keep in mind that it takes time to get back through security and we'll reconvene promptly at 1:20pm. Thank you.