

>> Stacy Feuer: Good morning, everyone. While you're getting settled, I'd to introduce myself. I'm Stacy Feuer. I'm with the office of international Affairs here at the FTC, and we're pleased to welcome all of you in the OECD today. Being in our Office of International Affairs, I'm often on planes, and when you're on a plane, you know you get a little security announcement. So we here at the FTC do the same thing. So I'll go through the security announcements, and then we'll get started. Here goes. Anyone that goes through the building without an FTC badge will be required to go through the magnetometer and X-ray machine prior to re-entry into the conference center. So when you come back after lunch, please leave time to go through the security again. In the event of fire or evacuation of the building, please leave the building in an orderly fashion. Once outside of the building, you need to orient yourself to New Jersey Avenue. Across the street from the FTC is the Georgetown Law Center. Look to the right-front sidewalk. That is our rallying point. Everyone will rally. You need to check in with the person accounting for everyone in the conference center. In the event that it is safer to remain inside, you will be told where to go inside the building. And if you spot suspicious activity, please alert security. With that, I'll just note that there is coffee outside. We do not have a coffee break planned this morning, so feel free to go out and enjoy the coffee and pastries. And finally, we are in the 21st Century. We have a computer screen and monitor outside with Google Moderator, so feel free to send and ask additional questions through that tool. Also, feel free to twitter. There is information about twittering in your packages, and also hung up around the room. And with that, I'll turn the microphone over to Michael Jenkin, the chair of the Committee on Consumer Policy. Thank you.

>> Michael Jenkin: Thank you very much, Stacy, and welcome, everybody. We hope that you will enjoy this next three days. I think you'll find it stimulating and an enjoyable exercise, but also hopefully a learning one. And on behalf of my committee members, the other countries that are part of the OECD Consumer Policy Committee, I would like to welcome to you our conference on empowering e-consumers, strengthening consumer protection in the Internet economy. Now, for those of you who are not familiar with the Consumer Policy Committee of the OECD, we are the only international governmental body dealing with consumer-policy issues. We consist of obviously the 30 member countries of the OECD, but we also have with us, as well, the Business and Industry Advisory Committee of the OECD and Consumers International. So we do also have quite a lot of expertise and linkage with stakeholder groups, as well, on consumer-policy

questions, as well as governmental experts. So, we think that the committee is well-positioned to deal with this important issue that we will be discussing today. And, indeed, it's one that the committee itself has dealt with for some considerable time. As you will be familiar, in 1999, the committee developed the OECD Guidelines on the Protection of Consumers in the Context of Electronic Commerce. And since that time, we've also been engaged in a number of issues regarding consumer protection, dealing with not just the opportunities, which are manifest in many of consumers' involvement in the Internet, which, of course, allows you to shop abroad and to be exposed to an enormous selection of products and services, but, of course, also a number of problems and issues, not the least of which is being familiar with the rules of the road, as it were, in the place you're shopping, but also other issues that are intrinsic to the Internet today, such as fraud and identity theft and so forth. And we as a committee have been working on many of those issues, as well, over the intervening 10 years, including spam, privacy issues, and mobile commerce, identity theft, the rights of consumers in communications services, and, of course, consumer information and education. Last year, OECD consumer ministers met in Korea to discuss the future of the Internet economy, and at that stage, the committee decided that it was an appropriate time, given that as you know, on the Internet and in cyberspace, time moves at very rapid pace, not the time that we experience. And we thought it was time to have a look very seriously at the guidelines again, given the fact that contexts have obviously changed an awful lot. We've gone and thought quite a bit about what we need to do, and we feel that we need a period of considerable reflection and analysis. And this conference is the launching of that process, and we're very glad that we've got today with us such a wide selection of individuals from both the academic world, from governments, from the private sector, and from civil society and consumer organizations, to help us today launch this dialogue. Over the next year or so, we will be doing an increased analysis, and we will produce in 2010 an analysis, a report, a preview of which is contained in the background document to this seminar, which sets out some of the issues and challenges we're going to be facing. We will, then, in the course of the following year be looking at the results of that analysis to decide where we go in future in terms of updating the guidelines, so that we hope by 2011, we'll be in a position to have some serious issues and opportunities before us in terms of the options that we may wish to pursue, either within the context of the guidelines and changes to them or other policy instruments and initiatives that may be appropriate to be taken. Now, before I pass the baton to Chairman Leibowitz, I want to just take this opportunity very

briefly to thank a lot of people who have been intrinsic to getting this conference under way and without which, frankly, we would not have been able to get this project airborne. First of all, I would like to thank, obviously, the United States Federal Trade Commission for the work of the staff in helping to organize this event and for providing us, obviously, with a venue here, as well, and for arranging for the cyber-casting, as it were, and the facilities to allow other people online to join in with us. In addition, I would like to thank Japan for their financial support and to BIAC, as well, for assisting with the sponsoring of our social events, and for Canada for providing our luncheon venue later in the course of the conference. And, of course, especially I'd like to thank the OECD conference secretariat staff for all the many hours they put into this event over the course of the previous several months. And finally, of course, thank you for coming here and participating. For those of you who are participating online and on the Web, as well, thank you for being here. And we hope you'll find this a stimulating and hopefully enlightening exercise. And without further ado now, I'd like to turn the chair over to Chairman Jon Leibowitz, who is the chairman of the United States Federal Trade Commission. Jon?

>> Jon Leibowitz: Thank you, Michael. Let me just... Thank you, Michael. Let me just echo your thanks and also thank you for your just extraordinary leadership over the years at OECD in consumer-protection matters. And let me also, just following up on Stacy's housekeeping and emergency warnings -- And we don't expect an emergency to happen, actually, but if it does, about two blocks north of here, there's a fire station, and then next to that, there's a liquor store with a little deli in it. [Laughter] I'm looking forward to the Canadian lunch myself. Good morning, everybody, and I wanted to thank you all for coming. I'm just going to take this badge off, but I want you to keep your badges, because we've been having some problems with the magnetometers. And so if you have your badge, you get to come right back in. If you don't, you have to go through security again. We are delighted to host what we know will be just an absolutely terrific OECD conference, and we're honored that in just a few minutes, our U.S. ambassador to the OECD, the eminent and distinguished, and especially for someone so young, Karen Kornbluh, will take the podium -- or sit at the table. Whatever she wants to do. We're flexible here. I want to welcome all of you in the audience here, as well, also to those who are watching on webcast, to the United States Federal Trade Commission. This conference celebrates, as you know, the 10th anniversary of the OECD's Guidelines for Consumer Protection in the Context of Electronic Commerce. And

anniversaries are important. According to tradition, or at least to a faux tradition that was created by American marketers, you're supposed to present your wife or your spouse with a gift of tin for your 10th wedding anniversary. [Cellphone rings] Of course, if you actually -- That's okay. Don't worry. Of course, if you actually gave an anniversary gift of tin, you would never reach your 11th anniversary. [Laughter] So, let's just agree that in this case, our anniversary calls for some sort of celebration, but not one using tin. More important, it calls for this gathering to explore the current state of consumer protection in the Internet economy and thinking about ways we can make it better. We'll be covering a wide range of topics in the next few days, some of which were so new that they weren't on the radar screen 10 years ago, and some of which are so new that we don't even know we're going to be covering them tomorrow. Okay. [Laughter] I know it's early in the morning. You're an international group. But that was a joke. I'm just not gonna go on much longer unless you listen. More seriously, take the rise of C2C, consumer-to-consumer business. How do consumer-protection laws apply to consumers as sellers? And what about digital content? For example -- And is Paul Misener around? Don't take this personally. For example, Amazon famously, or infamous, pulled unauthorized editions of Orwell's "Animal Farm" -- unauthorized, by the way, because Amazon hadn't secured the copyright -- which consumers, of course, had already purchased off of their Kindle devices. So think of it. You could actually be sitting on your couch in Ottawa or London or Madrid or Paris or Singapore, reading about which animals were more equal than others, when all of the sudden, woof, you know, or whoosh, you know, your entire book is gone. To me, that sounds very Orwellian. [Laughter] But it does remind us that sort of, you know, we have to think about how consumers' rights and expectations change or whether they do when the product being sold is digital. Today, we're gonna look at e-commerce regulatory frameworks that are currently in place around the world. We'll also discuss the effect that e-commerce guidelines and related policy instruments have had. And we'll get a fix on the challenges that consumers face today. We are honored that tomorrow's discussions will begin with remarks by the Secretary of the U.S. Department of Commerce, Gary Locke, and the Secretary-General of the OECD, the inimitable and larger-than-life Angel Gurría. Then we'll dive into mobile commerce, digital content, and consumer-driven content. What are, for example, the challenges that consumers face in these areas? And are the 1999 e-commerce guidelines relevant to the new technological environment? On Thursday, we'll begin with the issuance of the FTC's report to Congress on online virtual worlds. This report discusses the types of content on virtual-

reality sites and what steps these sites take, or what steps they actually fail to take, if you've read the report, as I have, to prevent minors from accessing inappropriate content. We will then continue the discussion about children, how they're being protected online and what more needs to be done. From there, we'll focus on how to achieve accountability in e-commerce, what actions should the government take, what solutions should the private sector pursue. The conference schedule includes breakout groups, where participants can actively engage and share ideas. At the end of the conference, we'll be relying on all of you. We really want to hear what you discuss during these breakout sessions so that we can consider what future work the OECD, its member country delegates, and the private sector should undertake. So, as you can tell, we have a very ambitious agenda, and thanks to you, Michael, we're already off to a good start. Michael deserves just absolutely enormous credit for so capably chairing the OECD's Committee on Consumer Policy, I think, since -- 2006, right? Since mid-2006 -- where so much work has been done to improve the lives of consumers. Thank you, as well, to the committee's informal working group on electronic commerce for organizing this conference. Committee on Consumer Policy has long been a leader in examining cutting-edge consumer-protection issues. For example, the committee developed in 1999 e-commerce guidelines and subsequent OECD policy recommendations in the e-commerce area, including guidance on cross-border fraud and dispute resolution and redress. Several individuals who previously served at the FTC are with us at this conference. Among them is former commissioner Mozelle Thompson. Is Mozelle here yet this morning? Well, Mozelle will be here. And he chaired the Committee on Consumer Policy when he was a commissioner. It is a pleasure to have him back. I see former FCC Commissioner Susan Ness. We're delighted to have you here. She has been a leader in these issues since the time she was on the Federal Communications Commission, and continuing to this day. Effective consumer protection requires really keeping a pulse on the market, on the technology, on the economy, and on how people are communicating. And these issues aren't new to us. At the FTC, we have been trying to think about these issues really going back as far as 1995, when we held a workshop on Consumer Protection and the Global Information Infrastructure. In 1999, we followed up with a conference call, Consumer Protection in the Global Electronic Marketplace, looking ahead. Several of the speakers you'll be hearing from in the next few days participated in the 1999 workshop. I saw Mark Cooper here a little bit earlier. I think he might have participated in that workshop. Following that workshop, we issued a report that said cross-border e-commerce is still in its infancy, but we need

to look ahead. And, of course, we said we need to look ahead, not only because that was the title of that conference, but because you really do. Again, my jokes are not going over really well. That wasn't a really good one. But the truth of the matter is, cross-border e-commerce, though it's no longer in its infancy, we do need to look ahead. That need to look ahead does remain. And we've convened numerous workshops and conferences to educate ourselves and the public about e-commerce and new and emerging technologies. We've explored online profiling, mobile marketing, digital-rights management, alternative dispute resolution for online transactions, spam, spyware, and, of course, behavioral advertising, which really is the next generation of online profiling, though we all know it has enormous benefits, as well. Another area that we've been focusing on in the e-commerce era is privacy, including cross-border data flows. E-commerce and the Internet go hand in hand. Simply put, you can't evaluate the benefits of e-commerce without a discussion about the risks of privacy. And it's a particularly complex area where it is especially challenging to stay ahead of the curve. For that reason, just yesterday, we kicked off the first hearing in our privacy roundtable project, really to get public input and input from various stakeholders on models for promoting consumer privacy online. Now, as all of you in this room know, you can't separate these areas into neat boxes. Privacy, e-commerce, and empowering consumers are all part of consumer protection, and all of them need to be approached from an international perspective, as must law enforcement, because we do need here a global reach. The enactment of the Safe Web Law nearly three years ago has given the FTC an extremely useful tool, allowing us to share information about fraud and other law violations with numerous agencies in other countries. This cooperation has also led the FTC to take action against against the parts of those illegal operations based in the U.S. So we are thinking globally when it comes to investigation enforcement. We brought a case towards the end of last year against an entity called the Herbal Kings. They were spammers selling, among other things, male-enhancement products. I won't go into any more detail about those products. But it involved malefactors from Texas, New Zealand, Australia, fulfillment from China and India. When we took this site down, the amount of spam went down, watched by Spamhaus and others, by about 25%. Now, that only happened for a week, because, of course, they found other ways to get their spam to consumers. But it just sort of talks about the global -- It's sort of just another example of the global reach of malefactors and the need for international enforcement, cooperation. In fact, the 1999 e-commerce guidelines called for member countries to, and I quote, "cooperate at the international level through information

exchange, coordination, communication, and joint action to combat cross-border fraudulent, misleading, and unfair commercial conduct.” The FTC has taken this message to heart. Indeed, no matter where you are from, I think we all recognize that illegal operators don't recognize borders. They don't discriminate. And if enforcers are to have a chance to really make an effect, we absolutely need to work together. The OECD is a terrific place to foster and vitalize the essential coordination and cooperation to accomplish our shared goals. And really, there's no one who believes more passionately in working together across boundaries, national or international or political, than Karen Kornbluh, our ambassador to the OECD. Ambassador Kornbluh was sworn into this position in August earlier this year. Before that, she served as a visiting fellow at the Center for American Progress. She founded the Work and Family Program at the New America Foundation, where she was also a Markle Fellow, held positions at the U.S. Treasury Department and at the Federal Communications Commission, which is, I think, where I first met you, and worked for Senator John Kerry on economic issues. Karen is well-known as a thought leader on work-life balance issues. And by the way, if you could help me, please, with my work-life balance issues, I'd really appreciate that. [Laughter] We can have coffee later. And for her commitment to expanding broadband service to everyone, rich and poor alike. Beginning in 2005, she was the policy director for a junior U.S. senator named Barack Obama. But this incredibly impressive résumé really doesn't do you justice. What is really wonderful about you, Karen, is, you know, that you are energetic and dynamic, and you are a thinker, but also a doer. Sometimes these two things, as we all know, don't come hand in hand, but in the ambassador -- you, Karen -- they certainly do. Theodore Roosevelt would have referred to you as someone who wants to be in the arena. We are very, very fortunate that you're here with us today. And with that, I want to wish everyone a productive and enjoyable conference. But please join me in welcoming Ambassador Kornbluh. [Applause] There you go.

>> Karen Kornbluh: Thank you. Wow. They was really nice. I'm coming back here. [Laughter] Thank you, Mr. Chairman, for your very kind introduction and for hosting this timely and important conference. You mentioned that we've known each other for a couple of years. And I've seen firsthand your vigilance on behalf of consumers, working in a bipartisan basis all the time, protecting them from restraints on trade, from scams, from threats to the security of their personal data, and I just think that the American consumer is incredibly lucky to have you as the chairman of

the Federal Trade Commission. Thank you for your leadership. I also want to thank the FTC staff, particularly Stacy Feuer, for all your work on this conference. And, of course, the OECD's Science, Technology, and Industry Directorate, under the leadership of Andy Wyckoff, but also with Peter Avery and Brigitte Acoca. And I want to recognize Dr. Jenkin for your tireless work on behalf of the committee. And I'm just thrilled to be here as the new U.S. representative to the OECD, but also to explore with you just a couple of maybe provocative thoughts to how do you think about as you go forward with this conference. As we all know, tomorrow is the 10th anniversary of the OECD e-commerce guidelines, and while some of you might think of anniversaries as a time for flowers, or tin, I've realized in my short time at the OECD that it's actually time for conferences. [Laughter] But in addition to a conference, as Chairman Leibowitz said, it should be a celebration. And a celebration of two things, I think -- one, the Internet and the power that it offers consumers, and secondly of the guidelines and how important they've been. So, why the Internet? Well, the Internet, of course, is about access to information and giving tremendous power to the individual. And when I was thinking about that, I was remembering, in light of the anniversary of the falling of the wall that when I was a graduate student, I was fortunate enough to be on a young leaders' trip to Berlin. And we got to go all over Berlin, and they took us to East Berlin, and we got to see the lines and the crowded apartments with the extended families. And they took us to a student, you know, bar, I guess, café. And I remember sitting and talking to a young East German student and him saying, "This isn't gonna last. We have TV now, and we see what's going on in the west. We see what you have, and young people aren't gonna stand for it anymore." And that was in 1988. And I can't say that I have any foresight at all, because I thought to myself, "Yeah, right. What are you gonna do about it?" [Laughs] But sure enough, information gave people power and knowledge, and I think that it made the Wall more porous and helped bring it down. And since then, of course, there's been vast new flowing of information because of the Internet. And when Susan Ness, who's a commissioner at the FCC, and I worked there, you know, there were a number of policy steps put in place to help speed the deployment of this nascent technology. And since then, it's spread beyond what we could have thought, and it's made individuals much more powerful in terms of being more active citizens, more active employees, small-business owners, and, of course, what we're here to talk about today, consumers. And e-commerce has just -- I mean, I just don't think we can forget, you know, at the same time we're talking about some of the challenges and the problems, the incredible boon that e-commerce

has been. It's opened up markets and given consumers more competition, more choice, more convenience. And so what are some examples? You can buy directly from producers at lower prices. You can get information about products and compare prices. You can buy what you want when you want, which as a working mother is priceless. You can find niche products. So, before I went to Paris, we went on craigslist and got a used ping-pong table, which now adorns the U.S. residence for the ambassador to the OECD. Come on over and play ping-pong. It also allows for mass customization, so Dell's built-to-order computers, and targeted promotions that, you know, help you avoid clicking through ads you're not interested in, and increasingly to purchase information without the packaging, which offers great environmental boons. So I think we really have to celebrate that, and we can't forget what an incredibly important thing e-commerce has been to individuals. And then also, we have to celebrate the guidelines, because they really spurred the development of what we can call this e-commerce culture. They've encouraged legitimate and reputable companies to develop an online environment. And the high-level principles in the 1999 guidelines -- transparency, cautions against practices that create unreasonable risks to harm to consumers -- have really allowed e-commerce to expand by balancing protections with freedom of commerce. They call for a global approach, I'm quoting, to consumer protection as part of a transparent and predictable legal and self-regulatory framework for electronic commerce, and that he's been a critical element in creating the certainty needed by both sellers and buyers. So, this conference is a celebration, but it should also be a call to action to figure out what we can do so that e-commerce benefits consumers even more in this new environment. Because as you all know, so much has changed since 1999. We've moved from dial-up to broadband and now to mobile, from business to consumer to consumer to consumer, from web advertising that targeted mass audiences to these sophisticated, tailored advertisement and product placements. So over the next few days, I hope you'll make it your mission to ask questions and, you know, spark the conversations that'll help guide a review of the guidelines in this new environment so that they can be as powerful in the future as they have been in the past. So, to get the conversation going, I'm gonna pose a few questions -- okay, seven questions. But I'm from New York, so I'm gonna give them really fast. Okay, one, what can be done to address consumer concerns about fraud? Because for all the rapid increase in the numbers, e-commerce is still a fraction of all retail sales in the OECD. In 2008, according to the U.S. Census Bureau, U.S. B2B e-sales were 27%, and B2C e-sales only 5% of the retail total. So tremendous advances, but still very limited. And this is mixed, you know,

globally. Different countries have different numbers. But one of the reasons, obviously, is fraud, and this has been a huge priority for the FTC. Consumers still have concerns about identity theft, about bait-and-switch tactics by traditional retailers and emerging consumer retailers, and they're not wrong. Many consumer-protection authorities in the OECD countries deal with these challenges every day. So, what can we do to help? What can the government do, what can the private sector do, working with civil society, on fraud -- complaint lines, more active enforcement, more robust monitoring? But, of course, we have to bear in mind that government shouldn't be erecting counterproductive barriers to commerce. So fraud. Second, how can governments facilitate cross-border trade? Something I'm becoming all too familiar with, based in Paris and trying to buy from the U.S. Well, e-commerce has grown exponentially since the issuance of the guidelines. Cross-border trade has a great deal of unfulfilled potential. In theory, you should be able to take advantage of low costs in other countries if the shipping costs and the tariff barriers aren't excessive. And it could allow countries, such as the U.S. at the moment, to export more if they had lower prices for many products. But even within the E.U.'s single market, cross-border e-commerce only amounts to 7% of all e-trade. Language is obviously a barrier, but there are also technical and legal barriers that limit consumer choice. And so what can be done to facilitate greater trading across borders? It's another question for you. A third one, how to encourage digital-content trade. The distribution of digital content online offers consumers obviously the opportunity to obtain content flexibly, immediately, when they want it, where they want it, without the packaging, but it's sometimes very difficult to obtain it cross borders on law-abiding Internet platforms. In its 2008 policy guidance for digital content, the OECD recommended governments put in place policies to promote accessibility to digital content regardless of location. So what can be done to foster that? Number four, opportunities going from the participative Web, or Web 2.0. The internet is, obviously, a uniquely participatory medium -- one of the incredibly exciting things about it. It's just changed the way we all interact. And it now empowers us to develop, rate, comment on, and distribute content. There are, however, concerns about the transparency of the identity of web participants, which is another thing that the FTC is working on, having issued updated guidelines and endorsements and testimonials. In addition, there's the issue of virtual worlds that the chairman talked about and social-networking sites that create new complexities for consumer-protection laws. Number five, the move to mobile consuming. In 1999, when the OECD guidelines were adopted, mobile communication was voice-only, but technology has

brought us BlackBerrys, iPhones, 3G networks, and companies are using banners, free offers of ringtones, et cetera, et cetera. The world has really changed. Mobile banking solutions are now an option around the world. In 2008, the OECD explored whether the 1999 guidelines were adequate to address these emerging technologies and the emerging m-commerce issues. In some areas, the answer is yes. The OECD, however, identified several challenges where greater augmenting the guidelines might be appropriate, such as how the small size of the mobile screens can impair consumers' ability to access full product information, understanding key contract terms or disclosures regarding the use of personal information, as well as the need to protect children.

Number six, privacy. Differences in privacy regulations can become a barrier to cross-border e-commerce. If you're wondering if that's true, just ask the Google leaders, who are facing prosecution in Italy for practices that are completely lawful in the United States. One area of intense regulatory interest at the moment is behavioral advertising, according to research conducted by the OECD. Online advertising represents 10% of the advertising industry, and its growth since 2003 continues to exceed other forms of advertising. It clearly plays a significant role in subsidizing the availability of unprecedented amounts of information. And free content found on the Web, it enables consumers a great deal of efficiency, but consumers often don't understand how their data is being used and how it might be compiled into profiles of their web activities and who it might be shared with. So, another thing to think about, as this new world of information has data traveling across borders millions and billions of times a day and Web 2.0 speakers are posting significant amounts of their personal information, what are the challenges for existing data protections? And I think this is gonna be a fascinating conversation about how to provide consumers with the power to exercise really meaningful choices regarding their personal information, not giving them choices that aren't really choices. Protection of children is the seventh and final one. The 1999 guidelines called for special care in advertising and marketing to children on the Internet. Since then, children's exposure to technology has mushroomed. Mobile commerce, for example, creates particular challenge for parents and retailers because it's very difficult to know the subscriber's age, because they're not relying on a credit card. There's some easy solutions -- credit limits on phone purchases established by parents, parental controls being installed on the phone -- but for some of the more difficult issues, this is another area where you might explore whether or not government intervention is needed to promote some of these new technologies. So, just a quick taste of some of the issues that you might want to think about in the

days to come. I hope you won't lose sight of the opportunity that e-commerce offers consumer by opening up competition, choice, and convenience and finding new ways to expand those opportunities. You've already made a terrific start in framing the issues. I want to compliment you on all the hard work that's gone before this conference, the incredible report that was done. And I just want to wish you good luck, and thanks for all your hard work.

>> Jon Leibowitz: Yes. If the first panel would come forward, please, now. Thank you very much. That was very nice.

>> Male Speaker: Everybody ready?

>> Andrew Wyckoff: Okay. Good morning. My name is Andrew Wyckoff, I'm the director of Science, Technology, and Industry at the OECD. It's my pleasure to moderate this panel. Let me quickly give a background of a sentence or two and then introduce the panelists, because we have a pretty full schedule here. I was one of those people that Ambassador Kornbluh and Chairman Leibowitz were referring to. Way back in 1997, only two years after actually the Internet was privatized, if you can think back that long, I had the good fortune to work on electronic-commerce issues at the OECD. And I remember well it was an extraordinary exciting time to be working on these issues, and there were many who were forecasting a completely different world by now. There was a best-selling book by Bill Gates called "The Frictionless Economy," and there was a flood. People were predicting a flood of cross-border commerce to the degree that they were -- these were serious, very well-respected individuals -- that would erode our existing tax system, do away with all sales and VAT revenue, and force the development of a new tax structure built around bit taxes. Well, fast forward to today, and, man, those predictions did not materialize. But then again, as Ambassador Kornbluh was just referring to, in 1997, no one would have imagined we'd be sitting here discussing, as we will in a second, to how China would be an emerging leader in e-commerce, or that we'd be shopping by mobile phones already, this would be commonplace in many parts of the OECD. The objective of this panel today is to better understand how e-commerce is evolving and how consumer policy should adapt to it. I have six panelists who will do exactly that. And I'm gonna introduce them in the order that they will speak. First, we have Zhong Liu, who is associate professor at the Southwestern University of Finance and Economics in

China. Second, we have Luis Malanaes -- Magalhaes, sorry, president of the Knowledge Society Agency at the Ministry of Science, Technology, and Higher Education from Portugal. We have David Mair, head of unit, director general for health and consumers of the European commission. We have Tae Hyun Moon, head of international consumer research at the Korea Consumer Agency. We have Sucharita Mulpuru, who is the senior analyst at Forrester Research. And we have Takahashi -- Yoshiaki -- sorry -- Takahashi, research fellow, and a former colleague of mine -- you would think I would know how to say his name better -- research fellow at the Economic and Social Research Institute. Let me start with Mr. Liu. Please.

>> Zhong Liu: Thank you for OECD for inviting me to attend this conference. And I thank for FTC and other organizers. I'm truly honored to have a chance to share words with distinguished audience online and offline, and also truly honored to chat with my co-panelists. I am proud to present how China's e-commerce evolves. So, the first point that I want to present, that in China, the China telecommunications industry has gained astonishing growth in the last two decades. Telecommunications is a critical import of the e-commerce. As a people, China has remained almost too digital growth in the last three decades. Such kind of demand, such kind of growth contribute to the development of telecommunications, because the growth of income has resulted in huge demand. The second thing that the Chinese government really have tried to introduce competition into telecommunications sector. In 1994, China's government debuted China Unicom to compete within the...China Telecom in 1994. Then after 1994, in 1998, the Chinese government separated the regulatory functions from the then Ministry of Posts and Telecommunications and made them independent from the operators. Also, in 2002, through restructuring of China's telecommunications, China's government split China Telecom into northern parts and southern parts, and they competed with each other. In 2008 and in early 2009, China saw the completion of their latest restructuring. Such kind of structuring, though made by the government, has already contributed to the competition of this telecommunications landscape. Now China's mobile overtook in 2003 another -- the number of subscribers of mobile reached 641 million at the end of last year. And also, broadband access becomes dominant in China now, occupying almost 85% of the Internet access subscribers. Another phenomena that is similar to other developed countries is that the mobile Internet users grow explosively in less than three years. The compound annual gross rate is 90%. Now China has almost 83 million people to use mobile to access the Internet

according to the latest survey by the China Internet Information Center. Those penetrations of this telecommunications infrastructure are still low. For mobile, it's just over 50%. For the broadband Internet's penetration is almost just more than 10%. But the absolute numbers of subscribers and the users are so large, the magnitude of the hundred millions -- This large number has already passed the critical mass that is required to promote the development of e-commerce in China. So, key point in this slide is that the huge demand and the introduction of competition contributes development of the telecommunications industry, which in turn leaves a good foundation for the development of e-commerce in China. The second... The second slide that were already introduced, the development of China's e-commerce. So, you read the researchers in China developed the development in China into the following states. The first state is, of course, start-up stage, which happened between 1997 to 1999. Some entrepreneurs in China obtained their degrees from the U.S. or from Europe came back to China and set up their Internet firms by this stage. Also, in China, there are some indigenous entrepreneurs who emulated or copied the business model of their firms in the U.S. or in Europe to set up their Internet firms by this very early stage. The second stage happened in 2002, due to the bubble. There was an Internet bubble. China's Internet and the e-commerce industry also saw stagnation. This reduced their business model and trying to adapt to channels, characteristics by this stage. This is very important. Because the main crisis, they rethink on their business model. So they tried to adapt their business model to China's characteristics. The third stage took place in 2003 and 2005. This is what is called resuscitation stage. And in 2005, went through another stage. Was called high-speed growth stage, which took place between 2006 and 2007. From the slides, you can see that the explosive growth of the B2C firms in this stage. Then the development was followed by what's called transition stage, which due to global financial crisis, again, China's government, Chinese e-commerce firms recognized this is a crisis. But in Chinese, why it is called opportunity, also. They have been trying to change the business model. So, during this stage, I think there are many, many innovations. Well, I'd just like to give you two examples. The first one is the collection of mobile network and e-commerce, unlike the developed countries. In developed countries, there was already established trust system in society. But in China, especially in the late 1990s, there are no such kind of trust system. So, how to get payment from the e-commerce consumers? That was a big question for the Chinese Internet firms innovated at that time. Then connect the mobile network and the e-commerce so the people can pay through the mobile phones. This, I think, is good and big innovation happened in

the early of this century. Then the second example I want to present is what's called Internet currency. In China, there is a firm called Tencent. Tencent in 2002 set up its Q currency in Chinese. In that kind of Q currency, its customers can pay the service through what's called Q currency. The customers buy just like a prepaid mobile call. You can buy a card, buy credits, through the market. They import this PIN number to collect a count. Then they pay each other for the virtual gifts, actually -- virtual gifts with e-currency. And this Q currency has been emulated by a lot of Chinese Internet firms. Yeah. So, during this stage, the distrust still pervades on the Internet. So, I think the government, other technical institutions are required to address payment issues...which concludes my presentation. Thank you. [Applause]

>> Jon Leibowitz: Well -- One second. Sorry. We have a slight change in program here. Please. Sorry.

>> Sucharita Mulpuru: Sorry. The Forrester slides will come back up. For those of you who don't know Forrester Research, we are a technology-research company based in Cambridge, Massachusetts. And there are about 200 people like myself throughout the company who study various aspects of technology. I happen to cover e-commerce and multichannel retail. So, if we go to the next slide, this is probably a little bit, you know, somewhat misplaced. Keep going. One more slide -- Actually a couple more slides. But this is an example of the kinds of work that we do. I do a lot of forecasting work at Forrester. And one of the primary takeaways of actually these couple of slides is really about the growth and the power of e-commerce now, in spite of the economy. We are actually projecting that for the holiday season, in spite of the fact that this is one of the worst retail environments for the larger bricks-and-mortar world, holiday retail sales in e-commerce should continue to grow and will actually grow at a rate of 8% is our overall projections. The numbers actually that we collected from retailers that we just wrapped up yesterday actually collecting and asking them how they did in the month of November, the average retailer that we had surveyed, web retailers, their sales were up by 22%. So, actually, our 8% estimate for holiday retail is actually probably somewhat conservative. If we go to the next slide, this is our overall prospective of e-commerce, not only today, but as we see it in the coming five years. In the year 2009, our projection is that overall e-commerce in the United States will be approximately \$156 billion. That does not include the travel industry, which is approximately another \$30 billion or so,

but the \$156 billion comprises physical and digital goods that are transacted through the Internet in the United States. If I look collectively at what percent that is of the approximate global total, we now project the United States and the North American e-commerce market is about 45% to 50% of the global total. The second biggest region, of course, is Europe, followed by Asia, and then we have an emerging market in the Latin American and in South American regions, which are emerging and growing, as well, in the e-commerce world. Now, some of the earlier comments related to cross-border commerce are very, very true. Much of these figures are primarily figures in which transactions happen within country. Very, very few U.S. retailers ship abroad, and even amongst those that do, at most, it's for a select group of retailers that's perhaps up 10% of their total transaction volume. In general, when they do ship abroad, it's more like a very, very small, single-digit percent. The reasons primarily have to do with shipping fees. So when we look at trying to increase cross-border commerce, it really comes down to looking at it in two ways. There are certainly opportunities within digital goods and the education world and in transferring information in a way that's relatively seamless, just taking advantage of broadband connectivity. But the challenges with the physical goods will continue to remain until there are ways to solve the shipping-issue challenges. Even within the United States, the single biggest reason now that consumers still choose not to transact online has to do with the fact that they can often get the product faster, cheaper, quicker at their local store. And in many cases, they want to physically touch and feel the item. Safety and security historically have been reasons, but those actually have been decreasing as branded retailers with money-back guarantees and warranties of their products have really taken more of an impact on overall retail sales. Now, if I look forward to where the issues are -- and I apologize for the small font on this slide -- but really, three issues within the United States context of e-commerce in particular that we see in 2010 and beyond are issues related to pricing transparency. We really think that the issue of cheap prices and the ability that the consumers have to compare prices online is one of the biggest drivers of transactions to the e-commerce channel that will continue. There are sites ranging from Amazon, of course, to the shopping comparison engines, which, of course, are global players. Com things like PriceGrabber or shopping.com, which certainly are plays that consume can compare prices and find the best value for them. The challenges, though, are that even they consumers expect the lowest price online, the reality is is that manufacturers have and are exacting greater impact on their minimum kind of MSRP restrictions. We certainly see this in some industries, like juvenile product in the toy

industry, less so in areas like consumer electronics, but if manufacturers are supported in cases like -- For instance, last year, there was one with the Supreme Court in which MSRP was enforced. That is something that will actually work against the Web being the channel of the lowest transaction price. The second is the issue that we spoke about quite a bit this morning regarding behavioral targeting, which as many of us know, it's the capturing of click-stream information about you that then can affect subsequent ads that happen on digital advertising networks, on future sites that you may visit. It could also affect the future products that you are shown on the same site that you may actually transact with. Now, all of that is good and well. The reality, though, is that there is so much public information now about consumers that can be appended to that data that that is where issues surrounding privacy and consumer protection really, really make an impact. And just by way of example, I was talking to an analytics vendor yesterday, and they were talking about getting retailers information that they could scrape from your Facebook page or your LinkedIn page or your MySpace profile and add it to information that you would maybe see on Amazon. So, for instance, if somebody knows that you were talking about this digital CD or whatever the case may be that you could get a recommendation for it based on something that you may have made in a comment on Facebook. The third issue in the United States in particular as related to sales tax, and United States pure-play Web retailers like Amazon, like eBay, are favored, because they are exempt, for the most part, from sales-tax requirements, because in the United States, if you don't have a physical presence in a state, you're not required to collect sales tax. So the bricks-and-mortar retailers are not favored in that way, and they have to assess whatever the sales tax for that state is, 2% to 10%, depending on the individual state. But that very, very much favors high-ticket goods, and it favors the purchase of those products on sites like Amazon. That is an issue that states are taking very seriously, because this is an opportunity for them to collect additional revenue and even the playing field. So, with that, I think I'm probably up at my six minutes, and I'll hand it back to Peter.

>> Male Speaker: Thank you. Mr. Moon, please.

>> Tae Hyun Moon: Thank you. And thank you for the OECD CCP and FTC staff for a wonderful job, organizing this important meeting. I also appreciate the opportunity to talk today and bring you up-to-date on e-commerce trends in Korea and what Korea has been doing over the years for

protecting e-commerce consumer. The customer use grows, is nearly doubles within recent 10 years, is closely related to the e-commerce increase in Korea. Numbers of Internet use within recent two, three years take up more than 75% of Korea's total population. Almost all of Korean people use the Internet for their life, including e-commerce. Actually, Internet users in Korea access the Internet more than once a week, on weekly average, Korean Internet use spanned 14 hours using the Internet. Looking at purpose of Internet use, Internet shopping or Internet commerce, transaction is ranked first in the ranking, followed by information search, leisure activities including online games and communications. Next, this picture illustrates trend of Internet using in Asian regions. I briefly explain it, because of great panelists from China and Japan join us at this time. The number of Internet users in Asia has grown incredibly by 527% from 2000, 2007. In terms of Internet use, China, Japan, and Korea ranks high, not only in Asian region, but also in the world. Next slide. Now, we are going to look at the e-commerce status in Korea. About 62% of Internet users said that they were to patch in the Internet shopping, especially females using Internet shopping than males. Also, the rate of purchasing activity, including the clothes, the sporting goods, are highest with 63%, followed by music products, videos, such as movies, cosmetics, et cetera. For your reference, according to the Korean nationals piece, B2C e-commerce volume in 2008 amount to 11,000 billion Korean yuan. That's about \$10 billion. It is about 2,600% compared to that seven years ago. Next. And now, I'd like to turn to... cross-border e-commerce in Korea. In 2008, around 509 cross-border complaints in Korean consumer agencies. The number of cases is at a similar level with last year. The higher...about 270% increase compared to that for 2006. The reason for this growth is believed to rise with increased number of consumer-to-consumer transactions. Majority of cross-border complaints were made by Korean consumers who purchased goods overseas, followed by...in Korea. This slide is comparing by region. Contract cancellation during the delay, the delivery, and dissatisfaction with product quality remains the first, followed by unfair business practices and contract objection issues. I'd like to couple my remarks by pointing out that two important factors of the success of protecting e-commerce consumers -- how to improve legal frameworks and how to manage the main e-commerce issues. This slide shows a Korean effort to protect the e-commerce consumer regarding to improve legal framework and managing main e-commerce issues. Thank you for your time and attention. Thank you very much. [Applause]

>> Jon Leibowitz: David.

>> David Mair. Thank you very much. I was here over the weekend, and I went to the very good National Museum of American History on the Mall. And at the back of my mind, I was thinking, "What on earth do I say about the future outlook of e-commerce?" And I wandered into the shop, and I saw a huge book on the shelves. And the book is the 1897 Sears, Roebuck catalog, which has about a thousand pages and overall about 50,000, 60,000 products in there. And I thought, "This is the eBay of the 19th Century. How much has really changed?" So, whilst we're trying to look ahead and see everything that's completely new, I think it's also worth bearing in mind that some of the fundamentals of what we're looking at in this phenomenon of e-commerce have been around for over 100 years, at least. So, could I have my first slide, which should have a graph on it, I hope? Next one, please. Yeah. There we go. So, what I'm going to tell you about this morning in my six minutes is this thing about cross-border e-commerce, which everyone has identified as being something we need to think about. And I think this graph tells you everything you need to know, which is that it's not working. If you look at the two colored bars, you can see in the light blue that e-commerce is growing nice and steadily. European consumers who have made at least one Internet purchase in the last 12 months has been steadily growing over the last three years. But you can see that the number of European consumers who've made a cross-border purchase is flatlining. It's just not changing. And we have a growing gap. So consumers are getting the Internet. They're getting e-commerce. They're comfortable, but it's just not happening cross-border. And by the way, if we wanted to put in a little line about where the Europeans have bought from outside the E.U., it would be between 1%, 1.5%. So, again, infinitesimal. So they're certainly not buying from outside Europe. Why do we care about cross-border e-commerce? Isn't it just fine if e-commerce carries on on a national basis? We don't think so, because we think there are potential extraordinary benefits for consumers, but also for businesses if we can develop cross-border e-commerce and, of course, in a European context to integrate our markets. It's great for consumers, especially those who shop online, but it's also very good for small businesses, because at the moment, you might be a small business producing a niche product for which there isn't really enough demand in one member state. But if you're talking about 500 million consumers across the European Union, there might be a sufficiently large long tail there for you to start producing something which consumers across Europe want. And we also think there's something very

important in it for all those consumers who are not online and who aren't going to shop online, because if all the marginal consumers are out there shopping online and they start to shop cross-border, that will influence the behavior of all the retailers on the high streets, in the malls at home, and they will start having to price their products to take account of the fact of the marginal consumers shopping online cross-borders. So we think it really is an absolutely crucial issue for the development of the retail sector. Next slide, please. So, we carried out a very large study to try and understand why these figures are flatlining, what's going on. And we got a leading market-research company to carry out 13,500 separate mystery-shopping checks. They looked for a hundred products across all the 27 countries, and they looked to them first at home for domestic e-commerce, and they looked then anywhere else in the European Union to see if they could find them. And these are the results we found out of this. Firstly, as we think, there are, indeed, substantial savings available for consumers, even when you factor in all the shipping and everything else. And we were very careful to do that. So, in half of the European member states, half of the countries, consumers could save 10% or more compared to the best domestic offer for at least half of these products, the hundred products they searched for. And, of course, for some products, the savings were considerably greater. But really a considerable opportunity there. Secondly, and most surprisingly, an enormous number of these products, you just could not find online at home. They're not available. You cannot buy them. Perhaps you can buy them in the shops, but you can't buy them online at home. So in half the countries, more than half the products could only be found online in another country. And then the last thing we tried to do is actually to carry out the transaction and to see if businesses are prepared to deliver to you. And what we discovered is that in 6 out of 10 of the cases, the trader was not prepared to deliver to the consumer. So it's not surprising that consumers haven't bought online cross-border, because the traders refuse to sell to them. Next slide, please. So, we then spent a lot of time talking to various consumers, businesses, business organizations to try and understand this phenomenon. Why are businesses not prepared to sell, and why are consumers still being held back cross-border? It's a very complex phenomenon, all sorts of different regulatory and non-regulatory factors coming together. We produced a huge, great report a couple of months ago that tells you in great detail how this all fits together. But in brief, there are a lot of regulatory barriers for businesses -- different tax regimes for VAT, the different legal regimes for consumer contracts, strange things like the rules on recycling of electrical products and how that is supposed to be organized, which we didn't expect to

find. But the way that regulation is developed means it's not worth selling certain electronic products cross-border in certain circumstances. Laws on copyright levies that we have in Europe, the way they're implemented differently. For consumers, obviously, they're worried about enforcement. "Is the product gonna turn up? Are the bad guys gonna be caught?" They're worried about, "How do I complain if something goes wrong?" And still, a big point behind all these issues are questions of logistics, and that's why I went back to the Sears Roebuck catalog. E-commerce is new in many, many ways, but still, the goods have to get to the consumer's home, and there are fundamental logistical challenges related to our postal systems that we have to deal with. Last slide, please. In the report, we produced an action plan for what we now need to do. And you'll be hearing about more of this later from my colleagues. The first thing we're looking at is to try and produce a unified regime of rights for consumers. And then we're also looking to try and step up our cross-border enforcement efforts that you'll hear about from my colleagues. And thirdly, we're thinking about how to improve redress for consumers when something goes wrong in cross-border ways. And finally, we're still trying to improve the regulatory environment for retailers so that they feel more confident selling cross-borders, and, of course, so that consumers feel confident buying cross-border.

>> Jon Leibowitz: Thank you. [Applause]

>> Yoshiaki Takahashi: Thank you. Within my limited time, I want to talk about three points -- how e-commerce market in Japan has been developing, what kind of problems Japanese consumers face, and what topics we should take into account when we update OECD e-commerce guidelines. Let's go to the first one. Slide three gives us a snapshot of e-life in Japan. DOCOMO started i-mode in 1999, and also, ADSL start in the same year. Since then, the development of the Internet has accelerated. Now three-fourths of households have computers, and 90% of total population has mobile phones. Internet is now infrastructure for all Japanese. People use Internet much faster each year and longer. In particular, it is indispensable for children and young adults. Slide four shows the B2C e-commerce market size. It increased about 100 times for decade -- almost same size as department store in Japan. The slide five shows the top site in Japan. They all used to be a portal site, but now you can see the first is the Rakuten, online shopping mall. They have 30,000 shops and 21 million users. Yahoo! Japan now becomes dominant in the online auction. 7 million

users use it and exchange 19 million items every day. Also, you can see the blogging site. Slide six shows the activity for online shopping and auction in Japan are 30s. But most active users for digital content are late teens. And let's move on to second topics. The slide eight, also, there are many complaint-handling organizations in Japan. There are three main complaint centers. One is local consumer centers. Another one is cyber-crime complaint center by police and anti-spam centers. Last year, first one corrected 57,000 Internet-related complaints, second one 82,000, and third one 1.3 million complaints. Slide nine shows the prior Net data. It is not limited to the e-commerce issues, but e-commerce is now top among the problematic sales methods. 74% of them is fraud and billing. Slide 10. This is the figure by age. Active Internet use in 30s are also the most to complain in Japan, but 20s and teens are victims in this area, as well. Slide 11. This is because teens get used to the Internet, and most of them have Internet-connectible mobile phone by themselves. Around 50% of junior high school students have mobile phones. Next slide. Well, the major Internet-related cyber-crime in Japan is fraud over online auction, but another one relates to the child prostitution, and that is through the mobile service. 85% of victims consist of children under 18 years old in 2008. Therefore, the most concern by Japanese parents when the children use the Internet is sex crime. Slide 14. This shows brief history of mass Internet fraud in Japan. You can see variety of fraud, from online auction to e-money, drop shipping, sales of unsafe product, et cetera. ...cases in 2007 had 50,000 victims and damage estimated around 226 billion yen. That's enormous. Lastly, based on my observation, I'd like to mention a few more words for some suggestion how OECD CCP will explore the e-commerce issue. The first -- last slide -- we should emphasize more on the role of Internet giants, in case of Yahoo! Japan, Rakuten, to improve the trust on the Internet, because their brand name, brand image affect the consumer behaviors on the Internet. They are more than service providers. Secondly, most vulnerable in this area are children and young adults. Internet is indispensable for them, but they do not have enough confidence to live on the Internet. Special care may be necessary. Third point is related to the second point, that emerging mobile commerce leads to new consumer issues, such as small screen and payment scheme. Lastly, cross-border issues are barrier in Japan, because we have language barriers, but once we face cross-border cases, it's very difficult to solve it. Therefore, cross-border complaint handling framework is very important. Of course, e-commerce leaves a lot of benefit for consumers, but from our experiments, the confidence is very important, so I did emphasize the fault of the e-commerce, because that is indispensable. Thank you for your attention. [Applause]

>> Luis Magalhaes: Well, thank you very much. Well, I'd like basically in this short time that I have to address quickly five points. One has to do with trends that we have been experiencing regarding new means of e-commerce, namely different devices. The second is new aspects of e-commerce, and I mean different applications, that have popped up. Then I'll talk a bit about expected future developments and a few references regarding consumer aspects, namely building trust, confidence, and assuring privacy. And to finalize, modernizing e-commerce metrics indicators and data gathering. Now, on the first point, new means of e-commerce, we have seen that different devices with high penetration rates in the population, much higher than Internet in certain cases, have been very important in changing the way we do e-commerce, in particular cellphones. In Portugal, the penetration in the population of cellphones is 113%, so we are talking really about very, very large numbers. Also, automatic teller machines. Automatic teller machines are not new devices, as we know, but the use of automatic teller machines for e-commerce in an extended way is fairly new. And as a matter of fact, in Portugal, 60% of the population are users of e-commerce through automatic teller machines networks. Well, as a matter of fact, the country has the highest penetration of ATMs in the European Union, so it's 1,500 per million population. It's plus 15% than Spain, plus 50% than U.K., which is the third country in terms of this sort of penetration. That is more than double of the average for European Union. So, you expect that there is there a very important opportunity. And then the other point I'd like to address is the use of sensor based networks, which is beginning, but we are expected to expand quite quickly. In Portugal, actually, what is most expressive from this point of view is the use in RFID highway tolls, which happens, also, in some other countries. So, the numbers for a country of our size -- so, we have 10 million inhabitants -- are very significant -- 200 million instances of transaction per year, 120 million Euros per year, 66% of full instances of use. So they dominate compared to any other means of transaction. Of course, again, it's a high-penetration device, because we have the highest penetration in the European Union, which amounts for 22% of total population, and it is greater than 2.5 times that of Italy and 11 times that of France. Well, these means dominate nowadays. I know that same thing happens in other countries to a certain extent, but with very different aspects, because they have to do with local devices of use. And as a matter of fact, e-commerce through traditional way of Internet pages is comparatively small. In Portugal, it's only 10% of the population. So you see that 60% through ATMs, 10% through the Internet, and 22% through

sensor-based networks. Cellphones are even higher than some of these figures I mentioned. And, well, in terms of new aspects of e-commerce, my second point, I'd like to mention the role that has been played by e-marketing, so electronic marketing. Many people use the Internet not to do e-commerce through the internet, but to obtain information to decide what to buy and not as much to order or to pay. Also, we see the effort of the Web 2.0 sort of effects, and basically, the strengthening of consumer-to-consumer e-commerce. And, of course, there is a reinforced effect of this, too. I mean, consumers place a lot of importance to the interaction with other consumers to decide on what to buy, more and more, and there are functions based on the overall ecosystem of e-commerce that are related to advertising and to marketing that are receiving major changes because of that. Now, in terms of expected future developments, well, more mobile, of course, order and pay wherever you are, more sensor-based, order and pay as you go, more easy-to-use interfaces, as touch-screen and voice interfaces, very much along the lines of ATMs, but more flexible, interactive e-commerce. So the kind of e-commerce that results from interaction of consumer and producer, like tailoring products to consumer needs and orders we think will develop. And now there is another question, which is more complex, but I'd like just to point it out. It's the appearance of new, disruptive business models for the network economy. We could give several examples, and you could give several examples of applications of ICT that actually require disruptive new models, like for instance the use of sensor-based networks for environment. Is one that will require certainly that. The use of sensor-based networks for ambulatory care in healthcare systems. And as a matter of fact, another quite interesting example that is going on is what the scientific community's doing to change the way you access to open-access repositories of scientific information by building up worldwide consortia for that to that extent. And that will change also and will be change many things and will be applicable to other areas, as well. Now, in terms of building trust, confidence, and assuring privacy... Well, many people already talked about these. I'd like to stress the ones that I didn't see so far as much emphasized, like we need a better signalization of reliable providers through certification or reputational schemes, in particular led by enterprise associations. Actually, of course, there is a strong need of legislation and guidelines for consumers-to-consumer commerce. And there is a special care to be taken with privacy in sensor-based networks. In particular, the right to delete information is very important in that sort of situation. And to end, on talking about modernizing e-commerce metrics, indicators, and data gathering, the present indicators we are using in many of our countries, and certainly in multilateral organizations, is

outdated. We have to adapt to the new devices of e-commerce that I mentioned. We have to adapt to the new aspects of e-commerce, like the marketing Web 2.0 and interactive e-commerce. And in terms of data gathering, we'll need to use both surveys and information flow data to achieve complimenting to these aspects. Thank you very much. [Applause]

>> Jon Leibowitz: Okay. I'd like to compliment the whole panel on being very precise in terms of staying within the limits of the time. We started a little late, so we have a very compressed discussion right now. But we would love to take a question or two from the floor. But before taking a question from the floor, I want to take a question from the Internet, from the Web, because we are being webcast, and e-mails have come forward via the Google Moderator tool that we're using. And so I want to put out the first question to the panel and have a couple of you please address it, albeit quickly. What has changed since the last OECD conference on e-commerce guidelines that was held in Ottawa in 1998? Do consumers have to be more afraid of shopping online now as opposed to then? Who'd like to kick this one off? Thank you.

>> Sucharita Mulpuru: I'll add a point of view. The data that we have in the United States certainly indicates that issues regarding security and fraud are actually improved. And the reasons are that the places where consumers are purchasing do tend to be some of the larger-branded, multichannel retailers that only in recent years have really started to emerge. And a lot of the same tactics that they execute in their offline world are executed in the online world, as well. Now, that said, that does not mean that there is not a rogue, sinister bunch of pure plays and smaller, unbranded retailers that have not made nefarious, you know, intrusions into the e-commerce arena through, you know, kind of hijacking paid search terms or by, you know, simply infiltrating the marketplace on Amazon or eBay. And that's really where consumers do need to be careful and where these marketplaces in particular need to really monitor the behavior that happens in their channels. That's really where the challenges happen are in the marketplaces.

>> Jon Leibowitz: Thank you very much. We have time for maybe one or two questions from the floor. Are there any burning questions to what is probably the most international panel I've ever seen in my life on this topic? Please. There's a microphone. Just signal. Or else I have a long list here. Let me pose a question while you're thinking. And the first question I have which I'd like to

see someone address, 'cause I think it's one that's always in the minds of some parts -- certainly my secretary-general, when you hear him tomorrow, but many officials here in the United States -- how is the crisis, the economic downturn, changed the development of e-commerce, both currently, but I'm more interested in longer term? What does this mean? Is it a catalytic period that we're going through for the online world? And I would welcome someone on our panel indicating if they want to have... Mr. Moon.

>> Tae Hyun Moon: Okay. Thank you for the question. I think it is very typical question, in my opinion. And in general, financial crises will change the Internet and e-commerce because of the reduced household income, naturally. So purchases through the Internet -- that will lead to sales decline of e-commerce companies. However, despite of this market trend, there is some areas of the e-commerce enjoys the benefit, relatively I think. The content provide for e-commerce education and online games, to which sales grows during crises instead. And actually, in Korea, 20% of sales volume increase in this area in online games. I think it is all because the economic crisis reduced...outer equities. But we need then to find inner equities in direct relation... Also, during the economic crisis, customers tended to find online education that is relatively cheaper than acquiring education. I think the economic crisis in some areas, we will enjoy benefit. Okay, that's it.

>> Jon Leibowitz: Thank you. I regret -- I think we probably have to close this session. I'm sorry about that. But I encourage all of you to approach the panelists through the breaks and lunch and ask questions that maybe you weren't able to ask here. I'd like to close this session, and just if you would join me in congratulating all the... [Applause]

>> Michael Jenkin: Now you can hear it. Okay, okay. Please, if you don't feel confident in either English or French, Spanish, please make yourself available at one of the simultaneous-translation receivers, and you should be able to receive the English or French or Spanish versions of whatever's being said. And that applies generally for other participants today who do not feel particularly at ease in English. If you wish to hear the translations in Spanish or French, you can do so all day. We're just waiting for a minute or two for some technical hookups, so forgive us. We're starting momentarily. Okay. I think we're gonna get started now. Welcome to the second session,

which is going to consist of two panels. The first panel -- both of these sessions are about our experience with the 1999 guidelines, so this is your History Channel section. And we have with us today a distinguished group of speakers, speaking both first from the government perspective and then from the business and consumer perspective respectively. So I'm gonna introduce each panelist as they speak. As I mentioned, two of these presentations will be in French or Spanish, so I hope you all have your headsets, those of you who need them. We will also be having a short video from Mr. Ho Yul Chung, who is the chairman of the Korean Fair Trade Commission. But we're having a technical difficulty getting that able to run, so we may either have it between one of the presentations or at the very end. So, first of all, I'd like to start off with our government panel. And I think what we're going to try and do for you today is to provide both a little bit of a sense of the experience that we've had in the last decade with these guidelines from the government perspective, but in particular, as well, look to the future a bit in terms of the lessons we've learned. For example, what kinds so issues have we dealt well with from the government perspective? What, frankly, have we not? Do we need new approaches to some of the issues that we have had problems with, or, indeed, need to expand those areas where we've had some successes? And can we focus better on the things we do best, and in particular in the context, as we'll see in our second panel, in terms of dealing with other stakeholders, in particular the experience of the business community and consumer groups have had with the guidelines and whether we need to improve the partnerships and collaborative arrangements with each other to make guidelines such as these work better? So, we're gonna start off, as I said, with the government panel. And the first speaker is going to be Patricia Ruiz Velazco, who is the deputy director general of the -- now I will have to read this in Spanish, and forgive me, because my Spanish is not that good -- [Speaking Spanish] So, Patricia.

>> Patricia Ruiz Velazco: Thank you, Michael. [Speaking Spanish] Next slide, please. Okay. Next. Next slide, please. Next slide. Next slide, please. Next. [Applause]

>> Michael Jenkin: Thank you, Patricia, and thank you for keeping within the time frames, as you know we're all pressed today. And that's a big challenge for all of us to try and communicate quite a lot of material in a very short period of time. Our next speaker, who will speak in French, is

Monsieur Thierry Skonieny, who is the director of the Center for Monitoring and Control of E-commerce in France. So I'm going to turn it over now to Thierry.

>> Thierry Skonieny: Merci. [Speaking French] [Applause]

>> Male Speaker: [Speaking French]

>> Michael Jenkin: [Speaking French] Now we'll turn to an old colleague of mine -- Mozelle Thompson, who is currently president of Mozelle -- I'm sorry, Thompson Strategic Consulting. But more importantly, as I think was mentioned by the chairman this morning, Mozelle served from December 1997 to August 2004 as a commissioner on the Federal -- United States Federal Trade Commission, and was in fact chair of the Consumer Policy Committee for a number of years during that time. So, Mozelle.

>> Mozelle Thompson: Thank you, Michael. Good morning, everyone. I wanted to thank you, Michael, and Chairman Leibowitz for inviting me here today to participate in this important conference to mark the 10th anniversary of the OECD's e-commerce guidelines and to discuss strengthening consumer protection in the Internet economy. Now, I see many old friends and colleagues out here. Maybe I shouldn't say "old." [Laughter] Now, I'm happy to see that a lot of you are still continuing to work on these important issues. It seems like yesterday that the members of the CCP were deeply involved in considering how to protect consumers in the beginnings of global electronic commerce. You know, in 1999 -- I was looking at this last night -- Pokémon was the hot toy. And Ricky Martin was the hot singer. And we were right in the middle of the dot-com bubble, where the market was investing in anything with an "E" in front of it. While many of these dot-coms soon became dot-bombs, there were also many bright spots. Amazon, for example, was working on growing cross-border book sales. eBay was teaching people to auction everything in their attic. And from these bright spots, CCP members recognized that the compelling consumer benefits presented by e-commerce would likely cause it to grow. But they also recognize some other things -- that this growth would only continue if consumers were confident that they could participate safely in this new marketplace, and that they would not be disadvantaged by doing so. The CCP also recognized that many of our national consumer laws, which we were based on local

trade and custom, would possibly be inadequate to provide the degree of confidence that e-commerce would require. So this presented CCP members with their ultimate challenge -- developing a basic set of guidelines that contained elements of recognizable common consumer-protection principles that were sufficiently flexible to cover a rapidly changing and growing technological environment and guidelines that would be able to gather a consensus. And I think the CCP did that by focusing on the practical rather than the ideological, and working on common purpose rather than differences. But if you -- in reflection, I think probably the most important thing that we didn't see at the time, it gave all of the governments an opportunity, a perspective, for viewing technology and its impact on global markets, including the consumer marketplace. We knew that if these elements were appropriately balanced, e-commerce would continue to grow, and businesses would prosper and consumers would be happy. Now I'll end the suspense. I think for the most part, the CCP got it right. That e-commerce has grown exponentially -- and we can see that, especially in the U.S. -- and consumers are able to take advantage of a much bigger array of goods at more competitive prices across a whole spectrum of different items, whether it's books, whether it's airfares, whether it's hotels. And this has even had a positive effect in the offline world. You know, we talk about sales, but what you don't see in the charts is the availability of information and competitive information and how that's affected even offline sales of goods where you -- how many times have you taken something that you saw on Amazon or someplace else and gone to your local store and say, "But I can get it for 20% less." I also think that the technological improvements, like expansion of broadband availability and the development of smartphones have enabled e-commerce to be more readily available to more people in real time. But perhaps the best way to tell that the CCP got it right is that many of the principles that were memorialized in the guidelines are now taken for granted. Now, let's talk about what the CCP did not think about. I don't think we necessarily anticipated the development of ancillary issues that also affect the consumer experience. And -- which is kind of surprising, because that's what happens in the offline world. One example is technology helps fraud to grow as fast as legitimate commerce. We also didn't necessarily recognize at the time that laws that were designed to protect the integrity of prosecutions often made it more difficult to prosecute cross-border wrong-doers. And governments were still not as forward-looking as it could have been. So where are we today? In 1999, we talked about the promise of the interactive web, an Internet that really is a two-way street. But we may have failed to anticipate exactly how interactive we are today. Not only in terms of scale, but also

the diversity of content that's out there. You look at social networks, you look at user-generated content. Look at the growth of downloads and online services. We also may have failed to predict the growth of what I consider horizontal communications, peer-to-peer interactions, viral marketing, and the diminishing impact of centralized command and control models. Yes, and that includes government. So -- and finally, we may have also not recognized the importance of contextual information. A lot of what we get today is not just what we get from a purpose-driven website. We may not go to one website for every -- to deal with a single thing anymore. We want to know information in context with what our friends are doing, or what's happening in the news, or other things. So what does this all mean? I believe the e-commerce guidelines continue to provide a remarkably good baseline for e-commerce, but governments need to continue to work on areas of friction that allow bad merchants to take advantage of consumers and prevent law enforcement from prosecuting them. I also think that governments and businesses and consumers need to continue to work together to evaluate whether the electronic marketplace can run better for everyone. That includes examining the core principles, but also engaging in horizontal information and innovation streams. In other words, creating a competitive market for positive pro-consumer innovation. Finally, I think governments have to continue to press against its nature, which is to be institutional, in order to be more proactive rather than reactive. And an example of this is that the continued failure for government to take advantage of the interactive web. I recall just a few months ago, I was sitting with a government -- senior government official in a country that will remain nameless. And I was talking to him about how that agency could interact more with consumers and constituents, and that they should be where their consumers are. And he said, "Well, you know, in the future, we might get involved in social networks and YouTube and twitter." And I looked at him and I said, "Are you aware of half of your total population of your country's on Facebook? And can you think of any other place where half of your country is communicating, and government is not there?" So I think that we have to be a little bit more creative. The government has to be more creative with consumers and with businesses to talk about what kind of tools we can provide to make this environment safer for the good guys and making it more toxic for the bad guys. So that's the challenge. Thank you. [Applause]

>> Michael Jenkin: Well, thank you, Mozelle, for that thoughtful retrospective there. I think there's a few points that might be worth picking up in the question period.

>> Mozelle Thompson: Well, you used to have dark hair, and I used to have hair, so... [Laughter]

>> Michael Jenkin: Yeah, time marches on. Next, we have, from Italy, Gianluca Sepe, who is a senior lawyer with the Autorita Garante della Concorezz-- Concorrenza -- excuse me -- e del Mercato from Italy. Sorry for butchering the name of your agency, Gianluca. [Laughter] Perhaps you might repeat it so people will get what it really, truly sounds like.

>> Gianluca Sepe: I should take advantage, but unfortunately, Italian is not translated. The Autorita Garante della Concorrenza e del Mercato. Thanks, everyone.

>> Michael Jenkin: Doesn't it sound much better?

>> Mozelle Thompson: He can say anything. This man can say anything and be terrific. [Laughter]

>> Gianluca Sepe: Okay, thanks, everyone. And Mozelle has just reminded us that we were already around 10 years ago when the guidelines were negotiated at the OECD, and while those were the enthusiastic days of the dawn of the e-commerce and the economy was enjoying sustained growth and e-commerce was fastly developing. And now what happens 10 years later? What happens to e-commerce in times of economic downturn, receding hair, slowly expanding waists? [Laughter] I'd just like to contribute to the discussion by illustrating the experience of -- which is quite eccentric -- of a country representing one of the largest economies in the OECD, which is still lagging behind in this particular field that is Italy. This morning, when Ambassador Kornbluh mentioned the fact that "only" 5% of the retail sales in the U.S. originate from e-commerce, I thought, "wow, that's a matter of measures." We haven't yet come to the point of measuring the impact of e-commerce sales on total retail sales. We are still counting the number of Italian citizens who actually use Internet to buy goods and services. And those numbers are not yet encouraging. We feel that the Italian citizens are missing some of the opportunities they would have in terms of lower prices and better choice if they used the Internet more to buy things or goods and services. Only 12% of Italians actually do that, because the figure is much, much lower than

any other country in Europe, and one of the lowest, also, if we compare it with our OECD fellows. And also the distribution of these sales is quite eccentric. Italians tend to buy services much more than they tend to buy goods. And perhaps unsurprisingly, for a country of such beauty, 50% of the sales on the Internet relate to tourism. Now, it seems that the development of e-commerce in Italy is not really hampered by the regulatory framework. But the available data show that some of the obstacles actually are down to culture factors, like the fact that people just want to go to the shops, and also by a technological barrier. In Italy, the people having broadband access to the Internet is still significantly lower than in other countries, and all the available studies show that there is a direct link between the availability of fast Internet access and the willingness of people to engage in e-commerce. Now, what has changed since 1999? Well, our experience at the Italian Competition Authority -- I called it with the English name; that's simpler -- shows that this was indeed becoming central. In 1999, we only had very few cases where e-commerce issues were at stake. And now, 30% of the cases at our direct channel for consumer protection actually takes originate one way or the other from e-commerce. And since these cases do not appear to show any peculiar -- peculiarities vis-à-vis the other cases that we prosecute -- just an increasing willingness of consumers to complain about what goes wrong in the field of e-commerce. I have to say, and this is an important thing that also, from the regulatory side, that we have to take into account, that e-commerce consumers seems to be more informed, more aware, and more ready to act upon their rights than ordinary consumers actually are. The regulatory framework has changed a lot in the last 10 years. Italy has implemented the OECD guidelines quite extensively and fully by adopting new regulations on business to consumers distance contracts and acts on both B2B and B2C e-commerce, and more recently, we revised the regulation on business to consumers and fair commission practices, which of course also applies to e-commerce. So, the regulatory framework is in place. It works very well. Where it can probably be improved is on the rationalization of the competencies which are currently shared by several agencies, which of course creates problems when, in the field of e-commerce, a single conduct made impacts on the competencies of several people. What works well? Well, we will hear later on today, perhaps, that the private sector self-regulation, co-regulation, seems to work quite well. They develop trust marks, which work very well. There's an increasing trend towards participative websites where consumers are invited to exchange their views with other consumers, to post comments, to interact with their sellers, and with other fellow consumers. So we have a lot of peer-to-peer review of sites, of products and

sellers, which seems to be quite, quite good and useful. Now -- but at the same time, I have to say that the brand loyalty seems to remain the primary drive for consumers on the marketplace. Now, just to use a metaphor, Italian consumers, they tend to shop around the web pretty much like they behave in their towns. Basically, they stick and they tend to hang around the neighbors that they know better. They like to go back to the shops that they know. And they trust the advice of their family and friends, but they're more cautious about taking the advice of people they don't know, and they certainly are not willing to talk to strangers. Now, although some consumers still report a concern about nondelivery, or incorrect delivery of goods, these are usually consumers who do not shop on the web. People who do shop on the web are not concerned. This does not appear to be a problem. Even on the dispute-resolution mechanism, they seem to work pretty much the same way as the dispute-resolution mechanism that we have for corner-shop sales. They are not any different, at least at domestic level, I will say. But there are also other things which haven't changed yet in our national landscape, and they should, perhaps, change very soon. Now, when the guidelines were released in 1999, 65% of Italian consumers, they feared that the payments on the Net were not safe. 10 years later, that fear is only down to 52%. That's too little. That's really something which can hamper the ability and the willingness of consumers to be on the Net. And what's surprising is that on the other hand, the firms, they seem to be quite happy with the level of security of the payment systems at the moment. On a scale from 1 to 5, they rate our payment systems which are reputable with a minimum score of 3.7. So they are happy about that. So, is there a problem that the firms are not aware of and the consumers are, or is there just a matter of educating consumers and starting awareness campaigns on the side of the government? This certainly is a topic to be addressed. Things must change on this one. And second, what has not changed is the willingness of consumers in Italy to engage in cross-border sales on the Internet. We have heard this morning, David Mair from the European Commission saying that only 7% to 8% of European consumers are willing to shop cross-border. Well, that figure is down to 4% in Italy, which is really too low. And it cannot be explained just making reference to language barriers that certainly exist, or technological barriers. Certainly, something must be done to encourage consumers to make them believe that we can act on their behalf even when something goes wrong vis-à-vis a foreign trader. And just linking to what Patricia and Mozelle have just said, I think that where we should really work a bit is on the field of international corporation. International corporation mechanisms remain 10 years after the guidelines patchy, unpredictable, and difficult to manage. And I'm not talking

only about the wider global field, but also within Europe, where the legislative convergence has now been acquired. So it's not a matter of just making substantive law converge, but creating the formalized institutional mechanisms for agencies around the world to effectively cooperate with each other. Now, just going down to my conclusions, in Italy, the trend is quite positive. We expect a growth of e-commerce in the country which is the highest amongst the large OECD economies. And the growth of e-commerce has been further boosted by the economic crisis, which made consumers more prone to go to the Net to shop for better opportunities and lower prices. And we are witnessing for the first time an increase in the sale of goods as well, which we've never seen in Italy before. And this is certainly brought about by the crisis as well. And also, that's the best way to persuade people who've never been on the Net to go to the Net and buy things. The single most important factor, which according to the data, to the studies, might persuade consumers to go to the web for the first time to buy things is price. Not security of delivery, not the elimination of technological barriers. Not enforcement or whatever. It's the price. And also, actually, our government agencies have been very engaged in this. The regulator for insurance created their own website for price comparison where you can check the offers on the market in the field of compulsory insurance for cars, and then you can get the better price, and you have compulsory offers by the companies who are represented there that you can use for two months if you want on the Net, or at your agency through ordinary channels. Now, whilst further initiatives like this one can certainly help at the domestic level, I just want to stress once again how important it is that cross-border cooperation between agencies is really scaled up, both in terms of quantity and quality. That's enabling government agencies to act quickly and efficiently if something goes wrong. Thanks very much.

>> Michael Jenkin: Thank you very much, Gianluca. We now have our final presentation from Andrea Rosen, who's a colleague of mine in the Department of Industry. Andrea is the Deputy Commissioner of Competition in the Fair Business Practices branch of the Competition Bureau, and I'm gonna turn the floor over to her now.

>> Andrea Rosen: Thank you, Michael. Good morning, everybody. I'm happy to be here with you this morning. And I'd like to first thank the OECD for inviting me to participate in this forum, and for being so accommodating. And also, to express my gratitude to the FTC for their usual generous

hospitality. And also for allowing me to see snow for the first time this year on U.S. soil rather than Canadian soil, which is really strange. [Laughter] So, getting to our -- I want to thank Gianluca for a great segue, because I'm gonna take you into the enforcement area rather than the -- I'll speak a lot about the guidelines, although I will touch on that. I think many of you would agree that those responsible for regulation and enforcement in the e-commerce landscape, we're in -- all of us are in an era of pretty much self-diagnosis and introspection. So this conference is quite timely, and has afforded me in my area of responsibility to reflect on the competition bureau's approach to electronic commerce. The successes we've had, the challenges we've had, which are obviously many, and the questions that arise when we shift our focus from the conceptual issues of e-commerce to the practical realities. When technology evolves at an incredible pace, how do you make sure that the processes and the tools that we build today will be relevant to the challenges of the electronic marketplace tomorrow and in the future. International guidelines such as those at OECD has diligently and expertly issued in many areas, especially those relating to e-commerce, are essential to provide a basic framework for addressing cross-border e-commerce issues, and to breathe life into the dialogue upon which international cooperation and collaboration is based. And I can't stress this more seriously than that. It's -- it provides the common denominator, the common language, the common approach, that we can all take when markets fail, and we have to address fraudulent activity. The challenge is to operationalize the guidelines and also to develop best practices and secure their effective adoption by as many agencies as possible. Only then can we work towards action that has the clear and measurable impact of both building trust in the electronic commerce and marketplace and truly influencing the behavior of its participants. We know that we are seeing an increase in e-commerce, both cross-border and domestic. This means we're in a position to both coordinate our activities -- and it would have to be coordinated -- where matters are only domestic, or solely domestic, and cooperate on cross-border issues when we're dealing with e-commerce that faces some cross-border trade. Fraud continues to know no borders, clearly. While we have far to go to truly eradicate the practices that erode competence in e-commerce, the Competition Bureau has been working with our partners -- many of you in this room, in fact -- and has developed a best-practice enforcement program that has begun to achieve these goals. Through Internet sweeps, at ICPEN and in North America, we have cooperative efforts in cases involving our three markets. Today, I'd like to briefly share some of those thoughts with you and propose how we can rise to the challenge through the adoption of international best

practices and enforcement. I think you probably all know that the Competition Act has deceptive marketing practices and advertising practices provisions that apply to all forms of commercial representations, including those made online. So I'm working from that perspective when I discuss our enforcement program. So what are the actual ingredients to a good cross-border online enforcement program? Sort of like a recipe for success here. I'm gonna start with the most controversial, of course, 'cause it's the most fun. A confidentiality regime that acknowledges the trans-border issues absolutely require sharing of essential intelligence and evidence -- that's number one. We at the Bureau are able to share with foreign agencies on a reciprocal basis, and we will do so as required. Two, a willingness to set priorities and take action in a joint fashion. We see our partnerships as coming under one coalition. An ability for us to set priorities together by coming together once or twice a year and actually discussing the trends in electronic commerce, the areas that require action. And identifying those high-risk conduct that we should really put at the top of our list of activities to take on together. And if we can choose the targets for joint enforcement together, either through collaboration or just coordination, it really doesn't matter, we will make a difference. Baseline metrics from which to measure success. Our intel will let us know what level and scope of undesirable activity is out there. It'll allow us to begin to work to reduce it, and also, it will determine when we can stop. And when I say stop, I mean when we can move on to a different target and another online threat. Nimble processes that start with international cooperation in mind. This is key. When cooperation is thought of as an afterthought, we may never get there. We must look for areas where we agree and not focus on the areas and where we can't do anything. We have to generate a joint operational plan that focuses our enforcement procedures. We need state-of-the-art software tools that are fast, effective, and pervasive, and reduce the time required to identify and take enforcement action. So we can take sufficient action to make a difference. It's not good enough to have one ICPEN sweep a year or a couple of other sweeps that are going on in particular regions of the world. This needs to be something that's addressed at a higher level. And remedies that fit the conduct. These include monetary penalties or fines, asset forfeitures, restitution, including redress, effectuated across borders -- I think we've heard that already this morning -- jail, private actions, education and outreach. In fact, as some of you know this, here in Canada, we amended our legislation and improved the remedies at our disposal to achieve deterrents, and we're looking forward to seeing the impact that this new legislation has. So with all of those ingredients, we should be able to attain the following results. -

- remedies that target real and sustainable change in behavior, both by perpetrators and by consumers, performance measurement that includes a detailed assessment of the behavioral change and other success measures. And I think this is a dialogue that we all need to have. We haven't talked enough about these performance measures. Reporting on our successes to convey the impact and value of our efforts to encourage trust in e-commerce. I think communication is key and we need to keep that up at the forefront. And most importantly, it's what is absent right now from our recipe and results, and that's complacency. This we actively work to banish from our midst. It is the antithesis of what is required in the changing electronic world, and the enemy of success in this field. For every action we take, there's an evaluation of whether or not the processes should be repeated, discarded, or evolved. So, I've talked a little bit about, you know, intelligence. And I've talked about technology and how important it is. Skills and competencies in order to deal with that -- those technologies and enforce the laws, our outreach and education, and most importantly, the leveraging of our partnerships, which I think you can't do without in this world. But in order to stay within my time frame here, I'm just gonna go and say that we need to put in place a foundation for cooperation and enforcement to reduce the exploitation of jurisdictional boundaries, as Mozelle mentioned earlier. We need to set priorities together to collaborate and increase the impact of our enforcement and our compliance and our educational efforts. We need to exchange information and expertise and we need to continue the dialogue at OECD and other networks to ensure that we address the impediments to growth in e-commerce by not only working toward the same goals, but rising to the challenge together to develop a truly global response. Thank you. [Applause]

>> Michael Jenkin: Thank you, Andrea. We're running, again, inevitably, short of time. I'm gonna ask and throw it open to this floor just for one or two quick questions to the panelists. Anyone?

>> Male Speaker: That's good.

>> Michael Jenkin: Okay. All right, well, look. I -- sure, yes.

>> Anna Fielder: Yes, thank you very much. I'm Anna Fielder. My question is about the solutions on corporations offered between agencies. A couple of panelists mentioned that. When the enforcement agencies have so little resources to enforce properly things in their own country where

e-commerce is growing exponentially -- for example, you know, our consumer organization in the U.K. had to do their research and report it to the Office of Fair Trading for them to prosecute unfair term contracts. How is it going to be done on the international level? I mean, is it practical? Is it achievable, and how?

>> Michael Jenkin: Okay, panelists. Comments?

>> Mozelle Thompson: Well, I think cooperation is the only way to do it cost-effectively, in the sense that it allows agencies who are seeing -- usually if a consumer is being victimized in one country, that that perpetrator is victimizing people in other countries as well. And that research that one enforcer might do doesn't have to be duplicated in other places. And I think that the real challenge is that in -- is to remind enforcers that because they may have some of the tools that they can work with, that they actually have to go out and use them. They have to be proactive about it. And not be complacent. And sometimes something that doesn't look like it's quite as high a priority to you that in the next go-round, somebody else will have something that you would want them to do for you that's a high priority for you. So it kind of balances out at the end.

>> Andrea Rosen: I'd have to agree with that. I think there's two areas. One is the coordination, which allows more than one agency to be working on a particular problem, even if there is no cross-border context to that, because we can all learn from each other, and we can beg, borrow, and steal from each other, which is what we do constantly right now, 'cause that's the only way to go. And that is, for example, we -- if we're educating consumers, we often use each other's tools and put them up on our own websites and use them for our own consumers, but we don't have to create everything from scratch. We can sort of share the knowledge and share the tools that we have to use, and we have from the -- from the OFT, we've put a few things on our website. From the FTC, we've done the same. And we've translated into French and into Spanish, making it easy for our consumers to understand everything. And on the cooperation side, where we have -- where we do have cross-border issues. Victims in one jurisdiction and perpetrators in another. There's absolutely no way to do it without out that. There's -- because even if we aren't able to take action, a joint agency -- a counterpart agency can, and that's what's important to get it done. Otherwise, it'll just never happen.

>> Michael Jenkin: Yes, Gianluca, and then Patricia.

>> Gianluca Sepe: Can I just add something? Actually, at the moment, for several jurisdictions, the issue may not be a pressing one. But as President Leibowitz said this morning, you also have to look a bit forward in this particular field. And I think the main issue is to use international cooperation to step up the capacity of agencies to eventually tackle these issues when they will arise. A lot has been done, like Andrea was mentioning in the context of ICPEN, but a lot more needs to be done in order to allow agencies to actually tackle these issues. Second, just to give examples borrowed by the U.S. experience, but also in other jurisdictions, agencies should have the ability to prosecute wrongdoers in their own countries, even when their own citizens are not affected. Because that's prerequisite to providing meaningful assistance to fellow jurisdictions when you are asked for help. Third, you should have the ability to collect and exchange information during investigations. And fourth, which doesn't seem that important, but it is important. You have to be able to provide information if you cannot do something. The information as to who can help in a particular matter in their own jurisdiction with a particular e-commerce-related matter. And I'm thinking in particular of the cases where e-commerce becomes pathological. You have a scam or an outright fraud. In that case, you know, our agencies may not be the best place to interact with you. But at least we should be able to direct you to the competent police forces in the jurisdictions who can help.

>> Patricia Ruiz Velazco: Thank you, Michael. I'd like to add that inspired international cooperation seems to be very slow in the sense of making use of its law with problems and we have to sign confidentiality agreements, or memoranda from understanding, and so on. I believe that even if, at the end of the day, we don't finish with a common enforcement action, the simple dialogue among agencies or among authorities is very positive, because we can exchange ideas and experiences. And then it is like if we allow to be born a kind of alert system among us, so then each agency can use its best tools or instruments to better face a problem. Maybe in Mexico, we don't have the enforcement abilities that some other OECD members have, but we can still work on the case, maybe through education or orientation to consumers or providers. So I think it's very positive if we don't have still a perfect system for international cooperation.

>> Andrea Rosen: Michael, if I could just add one small thing. I just want to give an example of the situation where victims are not in the country. We recently had a challenge to one of our cases relating to victims outside of Canada. And we won an appeal. But in the meantime, we managed to clarify our law because we didn't want to take any chances that we would lose an appeal. And we've made it clear that the victims -- that the public that is addressed on any particular representation does not necessarily have to be in Canada. It can be anywhere in the world. And this is something that is -- you know, clearly recognizes the nature of e-commerce and its international aspect.

>> Michael Jenkin: Thanks, Andrea. Well, we're gonna move on to our next panel. But right now, I'm going to ask you to look at a short video which we are presenting. We were gonna hopefully have this at the beginning of our session. It's some introductory remarks by Mr. Ho Yul Chung, who is the Chairman of the Korean Fair Trade Commission. And could I ask the panelists for the next session to come forward while the video is on? And I'd just like to thank our panelists for the first session for their very effective presentations, and for helping us today. [Applause]

>> Ho Yul Chung: I sincerely congratulate the OECD e-commerce conference. I'm very privileged to have this opportunity to... on the opening day of the conference. As you are all aware, OECD set up the guidelines on e-commerce in 1999, and we commanded its member countries to adopt effective consumer-protection measures in e-commerce. This led the member...

>> Male Speaker: Running.

>> Ho Yul Chung: I'm Chung Ho Yul, Chairman of Korea Fair Trade Commission. First, I sincerely congratulate on having OECD e-commerce conference. I'm very privileged to have this opportunity to address you on the opening day of the conference. As you are all aware, OECD set up the guidelines on e-commerce in 1999, and we commanded its member countries to adopt effective consumer-protection measures in e-commerce. This led the member countries to revise their institution so that consumers can conduct commercial transactions online safely. As a result, e-commerce market of the world has grown significantly for the past decade and now takes a large

share of the economic activities in each country. Moreover, the rapid development of information technology has greatly changed e-commerce environment to the extent unimaginable just a decade ago. These days, both international and domestic e-commerce are increasingly considerably. In this sense, I believe it is timely to have this conference to respond to a changing environment of e-commerce and promote international e-commerce. My hope is that this conference focuses on the roles of the government, business, and consumers which are now reflected in the revised e-commerce guidelines. The government needs to make more efforts to create the system and environment, enabling swift response to a fast-changing e-commerce in recognition that consumer-friendly e-commerce market is essential to the e-commerce development. It always has to adopt appropriate measures to prevent consumer damage and educate consumers and business continuously. For the business part, gaining trust from consumers by providing them with accurate information on products and safe transaction method is important because consumer trust, in turn, expands e-commerce market and offers opportunity for more profits. Lastly, consumers have to be wise enough to recognize that the development of e-commerce depends on their own consumption and that e-commerce reduces transaction costs, thereby promoting economic opportunities. In short, the government, business, and consumers all need to do their part for e-commerce development. And this is the only way that we can maximize the effect of our walk toward e-commerce. In-depth discussion now made on several important matters in this conference. First, there is a need to actively respond to factors inhibiting the development of international e-commerce. In this regard, we need to find a way to cooperate internationally in resolving such matters as different languages and legal system and absence of information sharing on fraudulent websites. Second, each country has to implement strong measures for private information protection. Therefore, a discussion is needed on specific matters of both governments and businesses or private information protection. Third, we need to revise the guidelines in respect to the rise in C2C transactions. Therefore, I hope that this conference is an opportunity to explore ways to apply the guidelines which currently cover B2C to C2C. Consumers should be able to buy products safely online. So the last thing I expect from this conference is to discuss specific measures and methods to ensure consumers purchasing safely, which is provided only in principle in the current guidelines. I hope that there is active discussion on all the necessary matters for the revision of e-commerce guidelines. I also hope this conference is a venue for active opinion exchange and international cooperation on e-commerce. Thank you.

>> Michael Jenkin: That was from the chair of the Korea Fair Trade Commission. And now we're gonna move on to our second panel on the guidelines, which is commentary from other than government, I guess. Which is quite a broad swath of individuals and organizations. Now, guidelines and consumer protection are not simply a function of what governments do, and in fact, consumer protection in this area doesn't work effectively without the partnership of many others. And we have an interesting group together here today to speak to us, one from an international organization's perspective, one from the standards world, one from the business community, and one from consumer organization. So I think we're gonna have an interesting variety and spectrum of views here on what's the guidelines been like from the point of view of the non-governmental partners in this game who play a very key role. Now, to start off, we're going to have a presentation from Cécile Barayre, who's the Economic Affairs Officer, IT Analysis Section, Science and Technology and ICT branch of UNCTAD. So, Cécile.

>> Cécile Barayre: Thank you, Michael. And I would like to thank you all to give us the opportunity to present to you a little bit what UNCTAD is doing. So, in the area of ICT and law reform and also present some suggestions to take into account, the developing country perspective. As you know, the OECD guidelines were drafted for OECD members, and now we're gonna see that developing countries are also counting in this -- if you want to have a truly commercial environment, anyway. So, let me try by starting by providing you some elements to have a developing country perspective. Unfortunately, we don't have any global data on e-commerce, but what we know is that a large share is concentrated in B2B. But we know also that there are many bottlenecks, including legal bottlenecks, to realizing the commercial potential of ICT. And to start with, we talked about it a little bit this morning, illiteracy. But also e-commerce culture, not in the sense that Gianluca mentioned earlier, but in the sense that people are not used to buying anything from the Internet. The access, of course, is one of the impediments, and we talked earlier about broadband. But it's the same if in developing countries, we have seen an increase in Internet use and mobile applications recently. Broadband is still clearly the digital divide in developing countries. And this is, as we stated earlier, an impediment. Of course, when it comes to legal, even if there's not much e-commerce activities in those countries, well, they're still aware that without an interest and confidence they will not go on the Internet to do any commercial activities. And also

in addition to the shipping cost, as we mentioned this morning, we are talking about how to deliver successfully a good from one country to another. So I just mentioned here some elements about the ICT deficiency in developing countries. So we know that developing countries account now for almost 50% of the world Internet users. We know that they increasingly use mobile phone, and there's one person out of two, nearly, by the end of 2008, that had a mobile phone. However, what we don't know is what the use of Internet by mobile phone are. We know a little bit that, for instance, in Bhutan, they think they do e-commerce because they are managing now to deliver milk through mobile telephone. Before, the milk producer would just throw away whatever he cannot sell because he doesn't know how to contact people to say, "Hey, I've got this quantity of milk. Are you interested?" So now it's an opportunity for them. So, if we look into -- rapidly into Internet use by enterprises, UNCTAD is also measuring the use of Internet by enterprises. We have very few data. We're collecting data from about 20 non-OECD members in other countries. So, you know, there's a lot of discrepancies if you look at the usage of the Internet by enterprises in Finland, and, you know, where more than 9 out of 10 companies are using the Internet for banking transactions. Or for interacting with public authorities. By comparison, in developing countries, the situation is quite different, of course. According to the national survey we have from Egypt and the Republic of Korea, for example, the most common task conducted via Internet is to send and receive e-mails. Only 2% of the companies included in the Egyptian survey, they use Internet to interact with public authorities and only 6% have started to do banking on the Internet. And we do know, of course, that household are not -- I mean, depending on the country's situation, varies between and within countries, of course. What we know is the use of the Internet is mostly concentrated into a public Internet facilities. For instance, in Peru and Paraguay, half of them are going to these places to get connected, so they don't have, you know, they all can't sit back and relax at home to see what trip they want to go on, or whatever the developed countries would wish to do. So, unfortunately again, I don't have any figures for the number of OECD members who have adopted the guidelines. We have recently published a study which is outside on the organization of cyber laws in America, where, of course, consumer protection is one of the issues we're looking at. And within the region, only Mexico -- as was mentioned earlier -- has adopted or implemented partially the OECD guidelines. Most of the time in fact, people do not know about the OECD guidelines. So that's what we teach in the course, to direct them to international texts that could make reference to within their legislation. But we know also that they are concerned.

Even if e-commerce does not happen, they are concerned by, you know, whose jurisdiction is the -- if I'm doing, buying something in another country. They are concerned with fraud, in particular with the use of new application on their mobiles. What we also know -- and that's where -- an area where we should be active and hopefully cooperate more is in building the capacity. Starting with the basic capacity. Because they don't even have institution, or they're developed, and they don't know -- they don't have a clue of the basic concept of consumer protection, let's face it. So what that is doing briefly to create awareness, we have a training course available in English, French, and Spanish on the legal issue of e-commerce. And we have a module, a complete module in consumer protection. We are preparing comparative studies on regional organization. The one I mentioned earlier on Latin America. Another one's coming out in Central America. And we also help drafting cyber laws. This is, as you know, we didn't mention that -- we haven't yet, but the process of adopting legislation in a developing country is even longer than in developed countries, so since 2003, for example, we have been trying to help Cambodia to integrate within the same law some elements of consumer protection since the law has to go and be shared with private and public entities and have to go to parliament, they have no clue about e-commerce. You know, it takes quite a long time. So we are trying to train all the people along this chain. And you'll see the list of countries we are active in. I'm not going to mention them. So what we have been trying at the invitation of the OECD -- what we have tried to prepare is some -- highlight some areas where, you know, if we consider that we should revise the guidelines, and we have to take inevitably the developing countries' perspective into account, we have for each area contained in the guidelines, and I'm not too sure if I can go, I have a full slide on that. Or if you will be able to read the text that we have prepared about that. But as I say, we -- some perception in the developed world are different in developing countries. So let's take, for example, the concept of unfair practices, which is not subject to judicial consideration in developing countries. So one of the option could be that the concept through an indicative list of example, non-exhaustive list, of what are broadly accepted as unfair commercial practice, is attached to the guidelines. Also, we place great hopes in the labeling schemes, because these are visual -- can I say, visual aids for people to know, you know, what is it about, and regardless of language, also. With regard to fair business in advertising and marketing practices, the concept of deceptive and misleading and fraudulent practices are widely understood across developed country systems, including civil and common law. By contrast -- sorry. Yeah, this comes back to my previous point, sorry, about unfair commercial practices. What

I wanted to make a point here is that we cannot have in undeveloped countries the same standards as in developed countries. So as an alternative to, you know, because it could be for developing country, a barrier to entry market, so as an alternative, such business could be expected to comply with the guidelines as a surrogate for the legal regimes of the potential target markets. If we look now quickly, an online disclosure, as an alternative to text-based information requirements, needs to be developed and promoted. So we mentioned labeling schemes to facilitate understanding and trust in e-commerce. Also, it was mentioned earlier, with the use of a mobile phone, you cannot print, or you cannot even save the record, so there again, we could put, you know, put in place procedure by which the information could be at no charge, sent by e-mail or text message to facilitate and retrieve whatever they need to to ensure in case of a dispute. With regard to payment, whether again a mobile phone in all countries, I would say, this is a point where we find a commonality. So maybe that's where we can have facilities to come up with suggestion. And we certainly need to look at that, because this is a trend in developing countries now. For dispute resolution, just going to mention that for developing countries, clearly, alternative dispute resolution are not the substitute. They are the only way for them to handle disputes. So, even though it's not common and it's still also facing lots of difficulty common to the problem we have in developed countries. So, the guidelines should acknowledge this difference, and also recognize that the government should play a significant role. Privacy, okay. Most of developing countries do not have a policy in terms of privacy protection. And it might be appropriate that they deal with it in a common text, not as a separate issue. And finally, about cooperation. UNCTAD is already cooperating with international law-making bodies such as -- and also with regional institution and commission. We are promoting, of course, international text. We are creating awareness. We are not a law-making body ourselves. And we propose for this conference that we stay associated to that to reflect developing countries' perspective. We could also prepare a study on the status of the implementation of OECD guidelines in developing countries, and also explore ways to strengthen our cooperation in the area of research and activities. And anything that could be proposed by anyone. And of course, this is subject to funding and facilities, because we are not a rich organization. So, that's it. Thank you very much. [Applause]

>> Michael Jenkin: Thank you, Cécile. Next up is Dr. Kernaghan Webb, who is with the faculty of business at Ryerson University in Toronto, but is speaking here today on behalf of the Consumer

Policy Committee of ISO. That's the International Organization for Standardization. So, Kernaghan.

>> Kernaghan Webb: Thanks, Michael. It's a pleasure to be here and an honor to be here. I want to move quickly, because I know time is of the essence. So, the focus of my presentation here is basically to talk about ISO, the International Organization for Standardization and its connection, potential connection, potential relevance as a supplement to the OECD guidelines. So, let it first be said that OECD itself acknowledges the role of international standards in support of regulation and recommends support for the development and use of internationally harmonized standards. So it's built, basically, into the constitution of OECD that there should be use of international standards as a supplement. And I would argue that standards such as those developed by ISO, which stands for the International Organization for Standardization, are a potentially important way for extending the reach of the 1999 OECD guidelines, or any amended or revised version that might come out in the next while. Probably most of you here are familiar with ISO to some extent or another, but very briefly, ISO is an international non-governmental body that many governments of the world participate in, including the government of Canada, and oftentimes, the government of the United States, many of the governments of Europe and developing countries. In fact, there's about 145 member -- national member bodies that participate in ISO. It's a federation of national member bodies. So, when -- first point to note, in comparison with OECD, is that ISO has a broader forum of participants than does OECD. So when I talk about extension of the OECD guidelines, one of the ways it can potentially extend is because it has reach, for example, to virtually all of the developing countries of the world. So to the extent that ISO standards can incorporate and draw on variously referred to OECD standards or guidelines or laws, as the case might be, international treaties, they can basically touch people, countries, individuals, organizations, that are difficult for OECD to handle directly. There are a number of ISO standards that have direct relevance to B2C e-commerce. I've listed four of them here. ISO 10001, which deals with customer satisfaction codes of conduct. Many companies have codes of conduct and many of these codes of conduct are not for the -- specifically for the online world. But it's possible to develop a code of conduct for online activities, and indeed it's oftentimes a very good idea as a way of conveying to your potential customers and actual customers, "here's what we stand for." Also, obviously, complaints handling and dispute resolution are very key factors in electronic-commerce fields, because you are dealing

with cross-border issues, and in cross-border issues, the issue is raised, exactly what happens when things go wrong? So, to the extent that the organizations can work out approaches, drawing on internationally agreed-upon standards, this enhances the likelihood that the customers will be happy, and then therefore governments and government resources, will not be called upon to address those issues. And now there's going to be a new standard dealing with -- specifically dealing with business-to-consumer e-commerce. I'll talk more about that in a second. All of the standards listed directly above here are developed under the rubric or platform, on the platform, of ISO 9000 quality management, which is probably the most well-known set of international set of standards in the world, quality management. Most of you have probably seen the signs on buildings or in advertising and so on that say that a particular business is ISO 9001-certified. And this is basically a very well-recognized way that third parties can verify that the processes used by a particular organization are consistently following a particular approach. So it's very useful, and the e-commerce standards build very comfortably on that ISO 9000 platform. So, ISO has considerable reach potential beyond the OECD in terms of market penetration in the developing countries. The approach taken in these ISO standards is what I would call a management- or process-oriented. What I mean by that is the -- ISO is not the appropriate body to set substantive norms of behavior. ISO looks to inter-governmental bodies such as the OECD or the U.N. or bilateral arrangements between countries, and those are the entities most well-suited for setting substantive norms of behavior for individuals and organizations. What ISO is very good at is at management standards or process-oriented guidance standards that basically provide how-to guidance to companies without specifying that this is the level of privacy that you must achieve or what have you, because that is something that's set in law. So, they're not intended to be the basis for third-party auditing. These standards ISO 10001, 10002, and 10003, and based on past use patterns, the predominant users of the ISO standards are likely to be the private sector. There's approximately 1 million facilities around the world that have been certified to ISO 9001, and almost all of those are in the private sector. So that's an indication of the potential reach of the ISO standards. Of course, ISO standards can also be used by states and supplementary sources of guidance, and in fact, in Canada, the Competition Bureau has used them as a way of explaining and elaborating on rules with respect to environmental claims and other countries do that as well. So it's not uncommon for governments to use ISO standards to provide supplementary sources of guidance with respect to laws and intergovernmental instruments. So the new ISO B2C e-

commerce standard, of which I'm going to be the convener of that particular standard, so the chair of that standard, I'll likely have a title that looks something like this. Quality Management Customer Satisfaction Guidelines for Business-to-Consumer Electronic Commerce Transactions, and it will provide principles and guidance in designing, developing, implementing, maintaining, and improving a flexible, responsive, effective, and measurable business-to-e-commerce decision making and action framework within an organization. And it'll build explicitly on the 10001, 10002, and 10003 standards that are already in place. This is an example of what the table of contents of this new standard, what it might look like. So, cutting to the chase, it will have guiding principles dealing with such issues such as the need for there to be commitment within the organization, capacity to deliver on whatever are the commitments made, and there needs to be visibility concerning what is said, accessibility by consumers, responsiveness, accuracy, accountability, continued improvement. There needs to be appropriate information provision, language, contract formation, online privacy, and so on. And you see a lot of those points in 4.1 through -- 1.0 through 4.17 are highly similar to the OECD guidelines themselves, and indeed the intention would be to draw on them to the extent that we can. So, the bottom line here is that this is an opportunity for governments around the world to participate in the development of this standard. Intergovernmental bodies, such as OECD, is also welcome, and there are many examples in the past of intergovernmental bodies participating in ISO standards, so it wouldn't be breaking the mold for them to do so. But also the private sector and consumer organizations are encouraged to participate, and indeed, both private-sector and consumer organizations participated in the development of ISO 10001, 10002, and 10003. So, it would be building upon the existing record of participation. So I highly encourage governments and those of you who are not in government, the private sector and consumer organizations, to participate. Such as, for example, the Consumers International has been a major participant in ISO standards, including the ones I've just mentioned. So the underlying theory behind this is that the OECD guidelines and the ISO standards help to reduce the space for bad actors by providing authoritative guidance that would allow good actors to shine. And I guess you could also say the easier it is to do the right thing, and the harder it is to engage in improper behavior, the more likely it will be that good e-commerce practices will prevail, and the standards, as with the OECD guidelines themselves, are ways of showing how to do the right thing. And in the end, trust in e-commerce will increase. So, thank you very much. I don't think there are in fact time for questions now. But I'll leave the slides up here just for a second so

you can see my e-mail in case you want to reach me beyond this immediate forum. Thank you very much. [Applause]

>> Michael Jenkin: Thank you, Kernaghan. And there will be a chance for some questions, as the previous session, at the very end here. So next I'd like to ask Ms. Ronnie Goldberg, who is the Executive Vice President and Senior Policy Officer for the United States Council for International Business to come forward and give her presentation.

>> Ronnie Goldberg: Thank you. I'll do it from here, if that's okay. I'm honored to be with you today to present to you the views of my own organization, USCIB, which is the U.S. affiliate of BIAC, the Business Industry Advisory Committee to the OECD, so both the views of USCIB and BIAC business perspective on the consumer-protection guidelines. I'm going to make a few general remarks and then touch very, very briefly on three subjects. The first is the business-consumer relationship, or a perspective on it. The second is the issue of enforcement. And third is some remarks on business implementation of the guidelines. Obviously, one of the greatest benefits of the Internet is its ability to facilitate cross-border transactions, opening greater choice to consumers and widening markets for business. The OECD, which brings together governments with key stakeholders, including business, organized labor, and consumer communities, is particularly well-placed to develop balanced instruments that reflect both policy makers' concerns and current market realities. And OECD has indeed played an important role in developing guidance for consumers operating online, beginning of course with the development of the 1999 OECD consumer-protection guidelines that we're here to celebrate and to discuss. For the past 10 years, the OECD guidelines have helped facilitate online transactions by providing guidance for governments for businesses as they formulate and implement laws, policies, and best practices to ensure consumer confidence. I think it's important to remember that these guidelines operate in the context of a large family of OECD instruments intended to promote the growth of innovation and e-commerce. These include, of course, the policy guidelines as well as lesser-known guidelines on such subjects as online identity theft, protecting consumers from fraudulent and deceptive commercial practices across borders, protecting and empowering consumers in communication services, addressing emerging consumer protection and empowerment issues in mobile commerce, and digital content. Taken together, this body of work addresses the central issues and concerns of

all parties operating in the commercial online world. But our focus today is on the consumer-protection guidelines, the key role of which is to strike the balance between principles-based guidance on the one hand and the flexibility necessary to address fast-changing technologies and evolving business models on the other. Thus, they allow for both harmonization of consumer protection across borders and flexibility for national implementation for legislative processes. And they can accommodate to the rapid evolution of business models and technologies so that policy does not impede innovation. Implementation of the guidelines takes place in the context of changing risks and threats. The breadth and flexibility of the guidelines can likely adapt to these changes, but context-sensitive and appropriate education and guidance for both consumers and business is important to ensure that they are implemented effectively. Models and examples must be up to date based on existing and emerging issues and threats. Concepts of implementation must also be updated to ensure that consumers are able to trust in and benefit from emerging technologies and evolving business models. Too often, well-intentioned implementations that don't keep pace with technological developments form unintentional barriers or unnecessary burdens to innovation. One example might be requirements that information be provided in a certain form or place. And these may not be consistent with new technologies, such as mobile commerce. In short, we believe that the basic principles established in the 1999 guidelines remain valid. But at the same time, more can be done in their dissemination, elaboration, and implementation. We should consider whether and how they might be redefined or built upon to apply to the many new models of e-commerce prevalent today. A word about the business-consumer relationship -- obviously, the relationship of a company with its consumers is fundamental to good business practice, and to the company's survival. Consumer dissatisfaction can now be expressed easily, indeed instantly, and publicly online through social networks and other media of potential mass dissemination. Competition and alternative providers are also ever closer, with consumers able to exercise choice among providers at the click of a mouse. Instant feedback further enables business to adapt quickly to ensure that consumer demand is met while ensuring that consumers can safely participate in the online marketplace with their privacy and consumer rights properly upheld. The interactive nature of e-commerce has served as an important means to build enhanced business-customer relationships and extends customer services across online and offline retail environments. Moreover, more information on products and services is now available to consumers, as we've heard, including for those offered offline and traditional commercial settings, and where e-

commerce facilitates access to products and services from home. This information may be packaged with convenience and advisory services that assist in the consumer shopping and browsing experience. In this context, effective practices related to providing understandable notice and choice are essential. The high-level principles in several OECD instruments, including the consumer guidelines, can provide direction for all stakeholders in establishing best practices. A word about enforcement. We're representing companies with beneficial intent and legitimate business models here. Illegitimate commercial activity online continues to be a major challenge for business, governments, and consumers alike. We've already heard how trust is being damaged by fraudulent players, and they hurt businesses, they hurt consumers. Malicious actors take advantage of a combination of factors, including the distributed and open nature of the Internet, low barriers to entry, cost efficiencies of e-mail, and the vast socioeconomic and demographic differences amongst users. Government, industry, and consumers in civil society should work collectively to identify and prosecute these fraudulent actors who engage in fraud schemes and identity theft. It's important, though, to distinguish between legitimate and illegitimate businesses, and also to ensure that legitimate businesses are not unduly harmed by measures taken to combat these challenges. In this regard, greater and more effective enforcement of existing laws is necessary. As we've heard in the previous panel, and we certainly endorse the view that cross-border cooperation is essential in addressing substantial threats to trust and security and e-commerce. A word on business implementation of the guidelines. Industry initiatives take different forms. These include self-regulation, most often with a government backstop, such as here in the U.S., where we have the FTC, implementation of redress mechanisms, education campaigns, and technology-based initiatives that support consumer protection. They exist at sectoral, local, national, and global levels within and across industries. They are an important complement to regulation in a rapidly changing technological environment. Business has developed easily accessible product information and information online for questions and problems regarding products and services as well as complaint mechanisms to register consumer problems. And business is continuing to work to make this information more easily accessible and user-friendly. The increased involvement of consumers in creating and sharing information has led business to initiate customer-feedback mechanisms to report on sellers' activity and publicize these in online marketplaces. Reviews of hotels and airlines by travel websites are good examples of business making the most of collaborative Web 2.0 Internet to improve customer safety and satisfaction. Business has launched

education campaigns that include information on technologies that support consumer access to legitimate digital products such as music and video, explaining the benefits and use of digital rights management technologies. It is this combination of awareness and proactive caution that will keep users' online experiences secure and positive. Business also actively leads educational initiatives in Internet privacy and safety, and in the widespread and informed use of privacy- and safety-protecting technology tools. While business is providing these tools, they are also engaged in the sale and promotion of products or services. Therefore, these efforts may be treated sometimes with unwarranted suspicion by some consumers. This might be a useful area to explore as a fertile one for more public-private partnerships in outreach and education. In conclusion, let me just say that BIAC and its members provided the business perspective in the discussions that resulted in the original guidelines as well as those that have been developed over the last 10 years. We believe that OECD continues to have an important role to play here, and we look forward to continuing the dialogue, not only in this conference, but going forward, as we examine how to update the guidelines, to ensure they provide the basis for effective protection, and remain relevant for the next 10 years. Thank you. [Applause]

>> Michael Jenkin: Thank you, Ronnie. You're going up there? Okay. Next and final speaker for this panel is Dr. Mark Cooper, who is Director of Research at the Consumer Federation of America, and naturally, Mr. Cooper is gonna give the consumer perspective.

>> Mark Cooper: I don't have a slide presentation. I just like to stand when I talk. And I do have a rather different perspective on what's gone on this morning. And you've heard the details of the massive explosion of digital-economy products and practices that many of us believe have placed consumer interest at grave risk. But at the outset of the conference, I'm not gonna do those details. You'll hear a lot about that. I want to give a big-picture examination of why I think that in the past 10 years, we have failed to develop the policies necessary to protect consumers in the digital environment. And why in fact this might be the moment when we can change that and begin to build a new consumer-protection structure. I suggest that we have failed to provide the necessary consumer protections since the guidelines were issued because the decade -- that decade since 1999 -- was in fact the crescendo of what some people call casino capitalism. It was the height of market fundamentalism. The efficient-market hypothesis, which argues that the outcome of the market is

always better than regulation, and anything you do to regulate the market will undermine innovation, actually dominated the landscape for the last 10 years across the globe in a fashion that had never been equaled before. However, the efficient-market hypothesis is buried, if not dead beneath the rubble of the financial meltdown in the U.S. and around the globe. I would suggest that policy-makers should challenge the efficient-market hypothesis in consumer protection just as it has been challenged in the financial markets, particularly in Europe. Not so much in the U.S., although we're trying. I believe that the challenge is necessary precisely because the systemic risk of inadequate consumer protection parallels the problem of inadequate potential regulation in the financial sector. The fundamental problem is exactly the same. The key to the financial system and the key to the commercial system of exchange is trust. Destroy trust, and the system can no longer provide its proper function in society. The digital engineers in cyberspace, like the financial engineers on Wall Street or in the city of London, can develop wonderfully productive instruments when they empower consumers, but they can also be frighteningly destructive when they destroy trust, and that is exactly what happened in the financial markets. That is what can happen in the digital economy, and that is why the digital economy is not growing nearly as fast as some people thought or would hope. And in making this argument over the past year, I always start with a statement from Alan Greenspan, one of the most famous advocates of the efficient-market hypothesis, and certainly the most powerful architect of the financial system that was collapsing. It was made on October 23rd last year. And I quote, "Those of us who look to the self-interest of lending institutions to protect shareholders' equity, myself included, are in a state of shocked disbelief. I made a mistake in presuming that the self-interest of organizations, specifically banks and others, was such that they were best capable of protecting their own shareholders and their equity in the firm," end quote. He made that statement under cross-examination, and he has disappeared from public life since he said it. You have not seen him quoted once almost since that moment. We in the public interest have always believed that the pursuit of private profit is not always synonymous with the public good. But Greenspan goes one step further. The pursuit of private profit, he now tells us, may not even be synonymous with the private good. Fundamental observation. The lesson we must learn from this is that regulation is not a tool for the ex post clean-up of the occasional market failure or problem. Regulation is the ex ante tool of prophylaxis to prevent fundamental market failures. Regulation, we learned in the New Deal in the 50 years under it is a preventive measure to keep the system functioning. So, therefore, we must build

digital commerce on a fundamental observation. Caveat emptor -- buyer beware -- simply does not work in a space where the consumer does not have mastery of the technology to protect themselves. The technological arms race between e-companies and consumers is lost. It's over. Consumers simply cannot command those technologies because they move too fast, they don't understand them, and if they are not rendered easily comprehensible, subject to rules, the consumer will be overwhelmed. Fundamental observation -- if we begin from that premise, we then can rebuild consumer protection in the cyber age. And I would suggest that just like the growth of mass marketing in 1950s destroyed the relationship between buyers and sellers in the shop -- everybody knew almost everyone they were dealing with, they had that personal relationship. When we began mass marketing, with department stores and large grocery chains, in the 1960s, we changed the fundamental basis of product liability law. I understand that's not very popular these days. But it was absolutely necessary to replace the obligation of the seller to the buyer with a new legal framework, and you go back and look, and all those laws changed in the 1960s because the relations of exchange had changed in the 1950s. That's exactly what we must do in the 21st century if we intend to build our commerce on this new form of exchange. And so it's been a decade since the guidelines were put in place. I don't think they've done a particularly good job. You've been hearing a lot of people who say they have. There is no time to waste in starting to build a new system of consumer protection. And that system must be based on an intellectual foundation that worries less about inhibiting innovation and more about losing trust, admits that self-regulation simply cannot work in this space because the interests of the companies as private companies are too powerful. Their perverse incentives are too strong. The asymmetry of information between consumers and producers is too great that either the interest of the private companies or the marketplace will actually do the job. We need to start from the premise that consumer protection is the first thing we do, not the last thing we think of. Thank you. [Applause]

>> Michael Jenkin: Well, thank you very much. That's a bit of a stirring call to action. Suitably, just before lunch. So, we have 15 minutes, luckily, for questions. So, I think, and Dr. Cooper just raised, I think, some interesting and fundamental issues there in his last comments. So, I'm gonna throw it open to the floor, first of all, for questions. I also have one or two from Google Moderator as well, which I'd like to raise. But the floor's open. Yes.

>> Male Speaker: I have a question for Dr. Cooper. I have a question for Dr. Cooper. How would you proceed?

>> Mark Cooper: Well, I mean, there's two things to do. One is for the past 10 years, certainly in the U.S., the agencies that had the authority have not been seeking to exercise that authority as vigorously as possible. They have been asleep at the switch, to put it mildly and benignly. They've been in the pocket of the industry, if you want to tell it like it is. So each agency needs to look at the worst mistakes of the past 10 years. And each agency needs to go back and battle against that precedent. And I have advocated this across seven different transition teams. If the consumer-protection people in this agency can identify a decision or a case that they think was wrongly decided, they need to, one, develop the proof that demonstrates it was wrongly decided, and, two, then seek out a new case in which they can change the precedent. And so we have a problem here where you walk into court and the agency will say, "stop this merger," for instance. And the judge will say, "well, under the theory of this, we allowed those mergers in the past, so we can't stop this one." At that point, the agency has to hit the judge on the head and say "that case was wrongly --" judges hate to change their minds. "That case was wrongly decided." I think a top-to-bottom examination within the agencies can go a long way towards correcting those mistakes, but they have to start on day one, and they have to implement that. That said, clearly, when you -- and that's when I mentioned product liability in the 1960s. I'm a veteran of the liability battles of the 1980s. In the 1960s, it became clear that the structure of product liability, which had existed in a world in which I knew the shopkeeper and the shopkeeper knew me no longer was adequate to govern those relations of exchange. And so we passed some new laws. We changed court precedent. It's a big agenda, but if everyone believes that e-commerce, digital commerce, is gonna be -- as big and as important as it should be, then we cannot shirk from the need to have a legal framework that actually will support a viable system. We thought we had one with finance in the 2000s. I mean, it was wonderful. It was purely innovative. Anybody could do anything. It turns out that's not such a good thing. Some people have to be told there are certain things you can't do. And so you need legislation, but you also need aggressive agencies to reexamine and find the key decisions that they think were wrong and change those every day, every moment they get a chance.

>> Michael Jenkin: Okay, thanks. Other questions from the floor? Pippa?

>> Philippa Lawson: Thanks. Pippa Lawson from the Canadian Internet Policy and Public Interest Clinic. Thanks to all the speakers. It was a very interesting panel. One of the challenges, I would say, Mark, in maybe getting to a specific of -- under the generalities that you spoke about, I think, is -- has to do with online contracting between businesses and consumers. And the assumption, I guess, that consumers read and understand the terms of contract, the terms of service. And the fact that one of the things that the online medium permits is the communication of more and more terms and service than ever would have been possible in a paper environment, and very easily, just using hyperlinking and clicking. And we all know, everyone knows, that consumers don't read those terms of service. And in many cases, if they did, would not be able to understand them. So how do we get around that problem that I think is allowing businesses to take advantage of -- by putting in more and more terms that may be unfair or bordering on unfair if not illegal, and which the consumers are being held, often by courts, to be bound simply because they have clicked the "I agree" or they've said that they read it and understood it and agreed to it. But we all know that that's not actually what businesses expect. Businesses know just as well as everyone else that the consumers are not gonna read these or understand them.

>> Mark Cooper: Well, the interesting thing is that for really big and important transactions, we don't trust the consumer, right? So, society, if you think about it, when you go to buy a house, we have basically mandated exactly the kinds of information that has to be provided. We have a whole series of searches that we professionalize. We have assumed that the consumer is incapable of executing that transaction without an immense structure of information available, mandated. Of course, during the sub-prime crisis, we learned that people can ignore their fiduciary responsibilities anyway. But -- so sometimes we simply say, "here is exactly what you have to tell the consumer." And sometimes we require the consumer to have a third party who is, in theory, independent, to execute that. Those are obviously big transactions. On smaller transactions, I think the most important thing is to require a clear opt-in on everything. Now, that sends a shiver down the spine of the e-commerce companies, but let's be clear why. For exactly the reason you said. The question is, who gets the benefit of inertia? Right? If you have an opt-in, you really force the consumer to make a decision. The businesses know that if the consumers are not asked to opt in, they won't opt out. They are indifferent. So we need to have that initial shock, so to speak, where

the consumer is now made fully aware that a very important thing is about to happen. We need to establish some distance between the consumer as consumer and the consumer as self-protector. So, we're big advocates of giving consumers a lot of opportunity to say no when, of course, the thing that businesses are interested in is giving them every opportunity to say yes. You can see those two things as flip sides, right, but the question is who bears the burden of proof? On whose side is inertia? And if you shift it, you change dramatically the distribution of outcomes.

>> Kernaghan Webb: Just to add on to what Dr. Cooper said. And I hate to bring up theory, because it's lunchtime, and you weren't planning on talking to academics, I'm sure, but the underlying assumptions here have to do with things such as consumer sovereignty. That is, that consumers actually have the time, the inclination, et cetera, the expertise to read over these things so that if you give consumers this opportunity, they will exercise it responsibly. However, in practice and in theory, there's another approach which is known which is something called bounded rationality, which says that actually, consumers and anyone else, they don't have the time. They don't have the inclination. And they will make decisions based upon imperfect information. So, what's the answer to that? One is to say, well, let's give as much information, let's give as much decision points, informed decision points to consumers, and they will make the right decision. Another approach is paternalism. That's to say, "we'll make the decision for the consumer because we know what's right for the consumer." I'm not saying that Dr. Cooper has the answer. I'm not saying that Dr. Cooper does not have the answer. What I'm saying -- these are the underlying shoals and tides, riptides, that are behind the simple question of clicking on a website. The interesting thing about a website is at least the website does provoke an opportunity for the consumer to click, and that is recordable, as opposed to people going into a shop and buying a color TV without really thinking about whether or not they have enough money for it. And there's really no -- all these little increments of opportunities for decision making. They just say, "Here's my Visa card," and that's the end of the discussion. So, it's interesting that I think that the Internet does offer opportunities for more informed decisions, even though I would say right now with you that we all just click, click, click through and never actually look at it.

>> Mark Cooper: Let me pick up on the paternalism question, because it does -- intellectually, it makes it easy to understand that we're arguing about the price and not the principle. So, if you say

this is paternalistic, don't let people take advantage of someone. Sometimes we say, "hey, that's obvious," when we talk about kids, right? Everyone immediately agrees that society should be paternalistically protective of children, or of healthcare information, or of the elderly, or of the elderly. So we don't shirk from identifying the places where paternalism is widely accepted and universally encouraged and supported. The question then becomes -- and that's why I start from the premise of the difficulty of caveat emptor. In a space where the technologist on the other side is so infinitely more capable than the consumer on this side, I would argue that we begin to blur the bounds of -- we change our perception of what's too paternalistic, right? You're not supposed to protect adults because you're treating them as children. Well, when you face a technologist who can gather information in the most remarkable ways and hide it on their website so you have no idea what's going on, the answer is that the consumer in that situation is but a waif, a child, at the mercy of the supply side. Now, obviously, I say this in the extreme. But it is, in my view, it is absolutely critical for us to change our mind-set so we begin to start from the premise that consumers need a lot more protection and help than they have been getting. And maybe we can negotiate to a reasonable midpoint. If we don't change the mind-set of the last 10 years, we will leave the door open to the catastrophe of the destruction of trust in cyberspace.

>> Ronnie Goldberg: Well, I'm not gonna engage in an ideological debate, except to observe that every single person in this room is a consumer. Speaking as a consumer, I rather resent the notion that I need to be treated like a waif or a child when I want to buy a book on Amazon or a toaster. I will just simply observe that the same hyperlink capability that the questioner referred to in the context of making it more and more complicated for consumers also allows us to make it much more transparent and much simpler to provide consumers with much more information. So, I would just observe that there's nothing inherently more evil about the Internet and about e-commerce than there is about any other kind of commerce. And all of that material, that immense structure of material that's provided to us when we buy a house or when we buy a car, is provided to us physically. We have responsibilities as consumers, too.

>> Michael Jenkin: Thank you. Yes?

>> Susan Grant: Hi, Susan Grant, Consumer Federation of America. One difference between physical goods and the Internet is that there's now a whole burgeoning emergence of digital goods, and one problem with digital goods especially is unfair contract terms, unfair terms of service. Limitations to how you can use things, what you can use your products on, and so on. And whether consumers are asked to opt in or opt out of these agreements is almost beside the point, because we all just click "yes" to the end-user license agreements. So, picking up on what Mark said, don't we have to put more emphasis on going after unfair terms? It seems like fraud is something that governments are aggressively pursuing, but it's kind of like an easy target. Not to diminish its importance, but shouldn't there be a lot more emphasis on going after legitimate companies for what are unfair terms for consumers?

>> Michael Jenkin: I think we have time for one more question, and then -- yes?

>> Etelvina Andreu Sánchez: Thanks a lot, Dr. Cooper. I'm from Etelvina Andreu Spain, from the institutional part of Spain. I would like to ask you a question. I do agree with your approach that regulation is needed, and the last two years gave us the evidence of that. But I wonder one thing -- there are no borders in Internet trading. And regulation has always a nationalist kind. If we think in the European context, we can think European regulation, but even if that -- if you are trying to ship something, in Internet, there are no borders. Maybe your country has a perfect regulation, but you can't buy whatever it is. And you don't know where you buying, really. So, what are your suggestions at that? What can we do? Because of regulatory framework, with number that is kind -- like Internet is a real challenge. Even if we place in our countries, in some of our countries, really very hard and very tough regulation, I agree with you, I feel like a child when I am buying on the Internet. Even if that, nobody will prevent that someone from some other part of the world, it's with another kind of regulation that is not so hard on the -- I'm in the same place that I am now. Thank you.

>> Mark Cooper: Well, if you look at the struggle to reform global finance, you see this problem of some nations not wanting to be aggressive, other nations clearly wanting to be more aggressive. Ultimately, it turns out that national regulation can certainly in finance and certainly in big countries be binding. That is, you know, if you want to be a big global trader, they frequently say,

"well, just go to someplace that doesn't have an extradition treaty, and we'll do our business from there." But most traders don't want to live in Dubai. They'd rather live in London or New York or places like that. And so you can in fact use national regulation to require people to obey the law. The second -- on the second point of cooperation, I would suggest that we need to adopt a principle of the highest common denominator as opposed to the lowest common denominator. That is, I would suggest that consumers should be allowed to pursue their rights in an international transaction in the nation that affords them the highest level of protection. So, if you do a transaction between Spain and Argentina, and the law of Spain is better for you, then you should be able to sue in Spain. If the law in Argentina is better for you, you should be able to sue in Argentina. What we need to do is create competition to improve consumer protection, so that countries will be seen as consumer-friendly. Right now, they only care about being seen as business-friendly. We need them to be seen as consumer-friendly, and so I would like to see consumers be able to sue wherever they think they can get the best deal in any nation that was involved in that transaction. And it turns out that if the transaction moved through a server located in a third country, maybe you should be able to sue in that country if that's got a good set of consumer-protection laws. But we have to break the logic of how to be attractive to business, and change it to how do we be attractive to consumers.

>> Michael Jenkin: Well, thank you. It's now five past 1:00, and we need to break for lunch. I think this has been an interesting session. Perhaps one of those last questions is what is it about Internet transactions which are inherently difficult and unfair, as distinct from other transactions elsewhere. But anyway, I think that's something we can ponder over lunch. I want to, though, raise a couple of points, before you dash off here, about the rest of the afternoon. Number one, in your kits that you picked up, there are suggestions about where you can eat for lunch around the area that's close-by so you don't have to walk far. So please make use of that if you will. Secondly, I want to remind you that you do have to go through the electronic security, the metal detectors and so forth, on your return. So we are scheduled to come back at half past 2:00. I'd suggest that please, you come back a little sooner, because there will be line-ups, and it will take time to get through, and we'd like to start as close to half past 2:00, frankly, as we can. Now, Peter Avery has one or two other things to let you know about. Peter.

>> Peter Avery: Right. Before you all go away -- if I can find my list here. We have... Okay, there we go. We have a number of moderators who would like to meet with their panels this afternoon just after lunch. So I'd like the moderators to stand up, and I'll introduce them so you can see who they are, and I'll tell you what panels they're overseeing. And then most of them have asked that their panels come back at 2:15 for about 15 minutes to discuss the panels that will take place this afternoon and tomorrow. The first one is Etelvina Andreu Sánchez. She's the moderator for Regulatory Frameworks. And she would like to meet here at 2:15 to discuss her panel, which is going to take place this afternoon. Then Graham Branton. Over here. Graham is overseeing the B2C panel, and he also would like to meet at 2:15 in this room. Susan Grant you've already heard from. She doesn't need to have a meeting because she's already discussed it with her panel. Philippa Lawson, who's spoken. She is overseeing the C2C, and she, too, would like to meet at 2:15 this afternoon. Teresa Schwartz, Digital Content. Would you like to meet at...

>> Teresa Schwartz: 2:15 is fine.

>> Peter Avery: 2:15, okay. Daniela Battisti... is not here, so I guess that panel, we won't have a discussion today anyways. Stacy Feuer? Okay, maybe we can -- these are panels that will take place later anyway, so maybe we'll come back to that. The Accountability in E-Commerce, we have Francis Amand. And he would like to meet -- he's doing the Government Approaches part of the Accountability panel, and he would like to meet at 2:15 today. So if his panelists could come, that would be great. And then, finally, Maureen Cooney... is not here, so there won't be a meeting this afternoon. And I guess Michael has mentioned there is a map of the area and where to eat near the FTC Conference Center. And as he said, please remember you have to go through security when you come back. Thank you.