

>> Michael Jenkin: Could you take your seats, please? We're going to start the afternoon session on Business to Consumer or B2C: Business as Sellers and Recent Developments. And this is going to be a two-part panel session and discussion, and our moderator for this session is Graham Branton, who's a member of the Consumer Policy Committee Bureau and has been for a number of years. And Graham is the Deputy Director of Consumer and Competition Policy at the U.K. Department for Business, Innovation and Skills. So, Graham, I'm going to turn it over to you.

>> Graham Branton: Thank you, Michael, and good afternoon, everybody. This is the last session of a long day, so we're going to try and make it snappy and passionate and forceful and exciting. [Laughter] And I've told all my panel members that they've got to be brief and they've got to be punchy and they've got to be passionate, so let's hope they rise to the challenge. The first thing I wanted to do was just to have a straw poll of all the people in the room who -- how many of you, firstly, have bought things over the Internet? And now how many have actually bought across borders? That's more than we expected. Yeah, interesting, interesting. Okay, let's move on to the session. What are we trying to do in this session? Well, it's about the new approaches that businesses are using to exploit the Internet and the consumer challenges that that's throwing up. When I say "new," I mean new since 1999. So, that's not all that new in the context of e-commerce. But we're particularly interested in the things that are happening now or have happened recently or are about to happen soon and the consumer protection challenges that those throw up. We divide the session into two panels. The first comprises business representatives, and I'm going to ask them particularly to talk about the business plans and the innovations that business are coming up with and to reflect on what challenges they pose for consumers and perhaps what solutions there might be to those challenges. I'm going to ask them to speak for about five minutes at the start, and we're going to have, hopefully, plenty of time for questions of issues arising afterwards. So, please, think of your questions and intervene and stick your hand up when we get to the question time. And the second panel will then be about a mixture of consumer and academic and other representatives, and they're going to talk more in depth about the consumer challenges and the extent to which they require the guidelines, the OECD guidelines, to be changed and updated. Okay, so first I'm going to just quickly introduce the panel. On my right -- right but one - - is Susanne Czech, who's the Secretary General of the European E-commerce and Mail Order Trade Association, which is called EMOTA. Next to me is Alastair Tempest, who's the Director

General of Public Affairs in the International Federation of Direct Marketing. On my left, immediate left, is Tod Cohen, Vice President of Government Relations for eBay. And next to him is Jane Horvath, who's the Senior Privacy Counsel for Google. And on the far left is Mr. Alexandre Nilo Fonseca, who's the President of the Portuguese e-Commerce and e-Marketing Association and also the Director-General of Marketing of a company called Controlinveste Media. So, a fine panel. Welcome to them all. And now I shall ask Susanne to get the ball rolling with the first presentation. Thank you.

>> Susanne Czech: Thank you, Graham. Good afternoon, ladies and gentlemen. It's a great pleasure and a great honor for me to be part of this last session of today. I brought slides. I have now this advantage, so to say, to be part of the last session. That means that most of what I had planned to say has already been said by the previous speakers. But, on the other hand, we have heard so many interesting presentations, and it has been a long day, so it may look for you like a summary, but this has also its merit, per se, I'd say. Next slide, please. Shortly about EMOTA, because many of you may not be familiar about what it is. We represent 23 national e-commerce and distant selling associations. You can see in the orange color in which countries we have members, and we are based in Brussels. Past years have seen a continued growth of home shopping, and it has become the dominant trend in retailing. We have heard quite a lot about that today, but, again, I would like to show you the trend -- the development in Europe. Those are figures that you can see here collected by the European Statistical Office, Eurostat. And we have seen this morning by David Mair from the commission -- he had also forecasts for 2009, which was about 37%. So, the trend is quite clear. The e-commerce is growing and growing. More and more people are trusting in this way of doing business and buying. We have heard the forecast from Forrester for 2013. It was \$229 billion turnover which is forecast. And I read in the UCD report the 66% figure of Americans who buy online. So, to remind you also, this impressive figure that we have heard from Dr. Moon about Asia. It was an increase of 527% of Internet users within seven years, so that's really impressive. So, we were invited to be passionate by our moderator, so I'd say it's a revolution going on in retailing, really, and we are living the beginning, because remember also the presentation we heard from Ms. Barayre, Cécile, on the developing countries, and I imagine the potential is still there. So, I'd say the worldwide roll-out is still to come. Next slide, please. To do business at the distance is not new. EMOTA is representing already the

interests of this kind of business for 40 years. But what's so impressive and so exciting is this new channel of e-commerce. And you can see on this slide in blue color a breakdown of how the Internet, within this distance-selling business, has developed. It is already an average in Europe of 63%. And the development is not the same, as you can see, but to remind you what was already said this morning by Mr. Sepe that the broadband access, Internet access, development has a direct link, and it may also explain why it's not at the same level all over Europe. But you can see the telephone still plays a role, as well, and mail, but the Internet, it's clearly the dominant trend. Next slide, please. Here we talk about consumer empowerment, so the consumer control in electronic retailing is at an all-time high, I'd say. E-tailing means far greater choice and convenience. We have also heard that quite often the Ambassador was calling it the priceless benefit for, for instance, women who have the challenge to combine family with a demanding job. E-tailing means greater market transparency. Transparency, I think, in many respects is a key word in this kind of business. Competition empowers consumers by encouraging traders to deliver value. So, now we see in the distance-selling business three groups of -- say, you have the traditional distance-selling companies, the mail-order companies who have developed their business model and extended their channels via which they do business, adding the Internet. Then you have the new players, and then you have more and more the high-street retailers that go online. So, this is a very sharp competition environment, and then this adds to all those possibilities that the consumers now have to exchange information for the blogs and so on. So, if you do not deliver value, you will quickly be kicked out from the market as a trader. And consumers can choose the company that best then serves their needs. The companies, so to say, they come to the living room on a screen, and they can very quickly click from one to the next and see what serves their interest best. Next slide, please. Something we have also heard quite often already today, but I think it's worthwhile repeating it again. The Internet is an opportunity for retailers to operate on a European scale -- cross-border business that had been mentioned so often. So, we definitely welcome every initiative which would help of assistance to make this cross-border business a reality. We are in close contact also with the European Commission on this. We have heard about their ambitious project to harmonize European rules so we can subscribe to this and encourage the Commission to do that. To share with you, maybe, this figure -- one-third of European citizens would already be ready to buy from a foreign website if it were better, cheaper, or if the product simply would not be available on their market. Next slide. And this is my last slide. From the questions which we were invited in the

program to answer, I have picked out two. One is online payment. Actually, of course, you are in this conference focused on the consumer perspective because you must need a secure payment method, but I should invite you to think also the fraud exposure with the today existing payment methods of retailers. Credit cards is a payment method not designed for the online world. So, we would hope that there is some innovation on the side of payment providers that the systems become more secure for both sides -- for consumers, but also for retailers. There's, of course, also this risk of not being paid. And, of course, the consumers have their concerns, as well. And previously largely debated, that will certainly be a topic on top of all our agendas. Again, the key word here, I think, is transparency. Consumers need to know what happens with their data. And also education -- when is making, what happens, what's done, so it really should not be so that they really feel like children -- like not adults, I think it was mentioned that way this morning. So, consumer confidence, trust, transparency -- these are key words if we want this kind of business to go on to the satisfaction both sides -- of consumers and traders. Thank you. That's it for me.

>> Graham Branton: Thank you very much, Susanne. The idea of companies coming into my living room is certainly -- certainly very vivid. Let's hope they can't look in. But, anyway --

>> Susanne Czech: This is the next step.

>> Graham Branton: Yes. I'll move straight across to Alastair Tempest. Alastair, please.

>> Alastair Tempest: Mr. Chairman, thank you very much, indeed. Ladies and gentlemen, thank you -- the FTC and OECD for setting up this meeting. I think it's extremely important. I was reminded at the beginning of the meeting, when the chairman of the FTC was talking, of an issue which we deal with on spam. We are a member of a thing called the London Action Plan, which is an extraordinary organization. It's an organization made up of the regulators. The FTC has the secretariat of it. I know the actual person who runs it is at the back of the room now. So I will share -- I will try to save her blushes. And there is also the enforcers. And there is business. The London Action Plan has been going for quite a considerable amount of time. And every time we meet, we see exactly the issue that Mr. Whitaker pointed out at the last session -- this tremendous difficulty of trying to persecute -- no, sorry, persecute -- no, trying to prosecute -- I beg your pardon

-- trying to prosecute -- whoops -- trying to prosecute fraudulent operators, spammers, and the difficulty that that's caused, not in the cross frontiers, but also even within countries, between criminal law, administrative law, and commercial law. I want to make that as a point, because I think it's very important when we look at how the development will happen in this business of e-commerce. Going back to David Mair's point earlier today where so many of the online businesses do not wish to sell across frontiers. I think the major issue, certainly as far as we're concerned, certainly as far as FEDMA is concerned, we receive a lot of questions from merchants which we try to help and guide. The problems that they face are really mainly legal problems, and they're aggravated by the fact that everyone nowadays operates on very low profit margins. If you have you a low profit margin, obviously it makes a big difference. The old problems of logistics do still exist. That as Dr. Sepe pointed out earlier today, logistics are not so much of a problem any longer. At least for businesses, they know more or less that they can be guaranteed a price and a time at which the product is going to be delivered to the consumer. So it's not so much of a problem. Payment systems, Susanne has just mentioned, are still an issue. But, again, they are improving. PayPal, et cetera, et cetera. Taxation is still an issue, of course. Getting back to legal insecurity -- the issue that we get faced with or with which people ask us a lot about all the time. Legal insecurity concentrates on three different aspects. The first one is perceived concerns over contractual law and applicable law. Merchants become very concerned about the unevenness of national law. And we've heard this time and time again in different ways during today. And they just don't want to be caught up in some lengthy regulatory -- sorry -- lengthy court case outside their own country, in particular. And they do talk amongst themselves. There is -- Giuseppe Abbamonte mentioned it in the last session -- this big question of the Rome and Brussels conventions, which will apply, which will mean that everyone will have to apply different laws to their contracts. And I think this will be an enormous problem -- an enormous problem in the European Union for any merchant -- online merchant -- big or small, and particularly small. Secondly, of course, the issues of privacy, which are very complex and which vary enormously between the different OECD member states. So better be safe than sorry as a merchant, better not to do any business rather than do business and get caught in, for example, Spain, where you can be fined a very, very large amount of money for breaking the privacy legislation. And there's a question of advertising. That is probably, actually, the least difficult problem because in most countries, legal, decent, honest, and truthful principles which are well accepted. Sales promotion

issues, though, are perhaps not quite so easily solvable. And sales promotion differences and sales promotion laws do exist a lot. So why are e-merchants -- Why do they remain cautious about cross-border sales, and what can be done to solve that problem? I think we have to remember -- Again, Hugh Stevenson mentioned that most -- The vast majority of sales online are anything between 10 and let's say 1,000 euros or dollars or whatever you like to say. So most of them can be done by SMEs. But SMEs don't have the resources, they don't have the army of lawyers, they don't have the army of consultants to help them. So better be safe than sorry. And I think today, in particular, talking to some of the financial backers, I notice, also, that financial backers, and that includes not just banks but so-called angels -- financial angels -- very often do not encourage SMEs to sell across frontiers because they say it's going to be a problem. So, what do we need? We need the OECD to relaunch this and to try and encourage more cross-border sales. Thank you very much, indeed. [Applause]

>> Graham Branton: Thank you. Thank you very much. I was interested to hear that businesses are now guaranteed the prices and times of delivery. Sometimes as a consumer, the times of delivery that you're given are worryingly vague, and the good don't always arrive at the right time. But I'm pleased to hear that it's at least improving from the perspective of the business, and perhaps for consumers, too, it's getting slightly better. But, anyway, let's move on to the next speaker, Tod Cohen.

>> Tod Cohen: Hi. Good afternoon, everyone. I think the last 10 years is really about being a brief open window in which we saw some of the benefits of globalization succeed for consumers, and our great concern at our companies is that that window is being closed, that the real danger over the next 10 years is really about what I call the "rebalkanization" of the Internet and the closing of opportunities for consumers and SMEs around the world. Let me give you a few examples. So, one of the things that the Internet has done has provided much greater price transparency. But it's also allowed, and we've seen an increasing amount of this over the last two years, the ability of large brand owners and retailers to impose retail-price maintenance and retail-price fixing across Internet suppliers that seek to sell at lower prices. It's been a phenomenon that we've not only found here in the U.S. but increasingly in Europe and also in parts of Asia. So what we see for consumers is that the benefits of the Internet, the ability to buy things at a distance at lower prices

and have it delivered to their own door, are being closed off more and more by the interests of large players who want to make sure that price discrimination continues to exist as it does in the offline world. They want to extend it to the online world. So a purchaser of a good that they could buy in Hong Kong that's authentic at a lower price than this Hong Kong seller would be willing to sell overseas, once they got over all the logistics, is now being blocked at the borders, not because the items aren't authentic, but because the items aren't within the price or selective distribution model that this particular retailer or brand owner has chosen to put into place. So the one thing we would ask the OECD to do over the next 10 years is to stop the rebalkanization of the Internet, to open up more so that consumers benefit more from the benefits that the Internet is all about. One of the classic examples of this is EU regional exhaustion for parallel imports. There's no reason for it to exist other than price discrimination against consumers in Europe. But yet it becomes an area in which to discuss it means that we're somehow putting at threat the basic foundation of European businesses. And what we have found is that globalization shouldn't only be a one-way street for manufacturers and retailers to move the jobs and the job creation overseas and yet prevent the benefits of lower-price supply going to their own home consumers. So that's the message we have today, which is the OECD for the next 10 years -- Let's make sure that when we visit again in 10 years in the future that we've not found a rebalkanized Internet.

>> Graham Branton: Thank you very much. I asked for punchy and passionate and short, and that's bang on. Thank you very much. We'll come back and discuss some of these points in a few minutes, but let's crack on with the presentations. Jane Horvath.

>> Jane Horvath: Hi. I want to thank you for inviting me to participate today. And as Google's Global Privacy Counsel, I'm going to switch gears a little bit and talk about privacy and some of the innovations that companies are building to make consumers feel more secure online and trust us across the globe. I did have the benefit of sitting through the FTC's presentation yesterday, and I have to apologize that I wasn't here earlier today, so I may be repeating something that was said earlier. So please bear with me. Yesterday at the workshop, there were a few findings that I found were interesting about what consumers are looking for when they're online. Consumers say that they care about privacy, but they don't change their behavior. That was one of the things that one of the panelists said. Many of the panelists said surveys say that consumers are very, very

concerned about privacy, but when it comes to turning and switching, do they really indeed exhibit that behavior? Consumers like the Internet. On Cyber Monday in the U.S., over 100 million U.S. consumers transacted -- made a transaction -- on the Internet, so they like to use the Internet to buy things, to socialize, to find information. The distinction between online data and offline data is disappearing, so we're having a convergence here. And then, finally, the bottom line is, is industry needs to do more to make consumers trust the Internet, to feel more secure on the Internet. So a question was asked yesterday, do the current regulatory framework still apply? Does notice and choice to the OECD privacy principles apply? And I would argue that they are still very, very effective and that it's technology that's changing, and technology is enabling us to provide notice in other ways than in just a mere privacy policy. For example, we recently launched at Google a tool called the Google Dashboard which puts in one place on a Website the ability to see, what does Google know about me when I'm signed in to Google? It's every single product listed. You can see all your recent transactions in connection with that product on one Webpage. It's a tool that provides increased transparency. So the notice principle still applies. Another one, individual participation -- the ability to access your data, the Dashboard applies. Another tool that we just launched is Google Data Liberation, which was a commitment by our engineers to say that when you sign up to Google, you shouldn't be walled in. You should be able to take your data with you if you're not satisfied with the service. So when we launched Gmail, we did that with that in mind. So if you decide you no longer want to be a Gmail user, you can export all your data over into Microsoft, to Yahoo! And we have committed to do that with every single one of our logged-in products -- the ability to export your data. And the third thing that we did when we launched our behavioral targeting product that we call "interest-based advertising" is there had been many, many complaints that there was automated decision making being done about consumers. They were being targeted and categorized, and they weren't able to actually see what their categories were that were being -- that they were being targeted on. For example, if I'm shopping for a car, was I keyed in as an auto lover? Or, even worse, if I have diabetes, was I categorized as having diabetes online, and some company knows that I have that, and that's why I'm seeing ads for diabetes? So we decided to open up the box when we launched our interest-based advertising product, and we launched something called the Ad Preference Manager. And we were pleased that yesterday Yahoo! has also launched a tool, that I also have to say that BlueKai had launched the tool before us, as well. And what these tools do is they allow a user to go to them, and it will read the cookie,

and it will say, "These are the categories that we are targeting advertising on for you." And we also made a commitment when we launched this to not target on sensitive data categories. So we have blocked what the European Union data-protection directive defines as "sensitive data categories" from targeting. So you'll never be targeted according to your race, according to a disease that you might have, according to your financial status -- if you're a debtor or you're in debt. And you can see by going to this tool, it allows you to add categories and delete categories. And so it gives users more granular choices. And one of the things that we've seen here is that four times as many consumers are going to the tool and changing their preferences, as opposed to just opting out entirely. So consumers are engaging with these tools. Ten times as many people are coming there and not doing anything at all. After they read and they understand what's going on under the box, they feel more comfortable with it. So I think that businesses can do more and that the OECD privacy principles are still alive and well. Thank you.

>> Graham Branton: Thank you very much. Let's move on to the last presentation. Mr. Nilo Fonseca?

>> Alexandre Nilo Fonseca: Good afternoon, again. Thank you very much for the invitation that we've got to be -- we have received to be here today. To be fairly honest with you, it's usually on Internet, on e-commerce, or e-editor -- any "E" something -- conferences. Usually there aren't many men with ties. So you can see here that this is a different conference. [Laughter] My challenge to you -- And I'm a businessperson. I'm a marketer, and I want to talk about in my presentation, to give you a different flavor from what has been said today. And I want to basically talk to you about three things that I believe are fairly important to businesses. And I'm not talking about the major businesses, because those are the ones that, although they can benefit from the Internet, they are well-known to their consumers. Brand is actually what consumers trust more. This is a fact. So, really, the challenge is for those companies, usually small and medium businesses, that are not as well-known as big companies, to really use the Internet as a selling tool. So let me just briefly go through these three points. They look a lot, but I'm trying to stick to the five minutes' rule. So trends in consumer behavior. Sometimes it's difficult to look at the future and try to understand exactly what are the key things. But to be honest with you, if you think about -- Well, go back to 1999, and could you imagine that the biggest retailer of music would be Apple

or that, for instance, the biggest maker of cameras would be Nokia? So those are really different -- The differences that we have seen or the changes that we have seen in this 10 years are really amazing. And so I think that we should forecast somehow what's going to happen in the next 10 years and understand what the generation that has today 15 years old would look like when they are 25. And this is a big challenge, because these guys are multitasking. They don't really care about privacy. If privacy -- They are willing to give information if they get something out of it. So it's a totally different mind-set from our generation. But we need to build the legal framework to work for the next 10 years. So how can we build a legal framework in the privacy laws, and everything, thinking about what's the reality today. We have to think a little bit about the future. Let me give you just some hints that we have from consumer-behavior studies. Broadband is really a key issue. Every country that has a big broadband penetration has usually also a big e-commerce penetration use. And this means that users want to have a fast Internet, they want to have transactions that are being done fast, but they also want to have online what we call a near-reality experience, which is basically to have -- to see the product, to see the information using videos, 3-D applications, things that could change their world or the way they visualize the products or the services using this type of technologies. For instance, today you can see how a hotel looks like and use a 3-D tour and see exactly how it looks like. You don't have to go there before. So these are the things that need to be online, and the consumer love this stuff. So this is something that resellers do have to take into consideration. The other thing is what we call the "just for you" concept, which is basically produce or give to consumers products and services that are built for them. For instance, a very interesting concept is iTunes Genius, which basically selects the music that the consumer have on their database and provide them with other choices which are similar to the taste of what they have. So this is basically using information of the consumer, what their tastes are based on what they listen, and give them other choices for them to buy. The other thing is using the concept of Avatar, which is basically adding another "yourself," but use this concept on an e-commerce base. For instance, a very good example is My Virtual Model, which is basically you give your information about your body, shoe size, all the measurements of your body. And with it, so you build your own "virtual model," and with that, you can go to shoe stores or clothes stores, and you don't have to give any information about the size of the clothes, because they will provide you that information up front, so you don't need to know if you are a 36 or a 45 or whatever, because with the information that the store has, they can give the products that you need. The other thing is mobile.

Mobile is really something that is catching on, and all the retailers have to look at mobile as a very important tool to make e-commerce. For instance, there's a very interesting new development which are what is called "smart codes," which are basically 2-D codes like a code bar, but it's in 2-D, and it can relate all the information that you have on the offline world to the online world using a mobile phone. So something like this -- You see billboards announcing the concert of Madonna next week, and there is a smart code there, and with your mobile, you can buy the ticket, you can download music, you can do everything with your mobile. So it connects the offline world to the online world. So these are the types of things that resellers need to understand are changing our world. The other thing is what we call the multichannel relationship. The consumers don't care if you have a part of the company dedicated to offline and the other one to online. This has to be integrated. So the consumers today expect that, for instance, your bank has branches that will have an online service and also a telephone answering system. You cannot survive if you don't have all the channels available to the consumers. And this is the same thing for retailers. Retailers have to provide multichannel access and integration to the consumer. Last thing -- communities and social networks. These are very important. Consumers are interacting -- Millions of consumers are interacting today in social networks. And also they are interacting in communities that are specifically related to their interests. For instance, moMs. Moms like to interact in sites dedicated to motherhood. Either because they are getting pregnant or because they are pregnant or because they have been pregnant. So -- And the reality is that they interact -- I can change the subject and go to pet lovers, like dogs, like cats, whatever you can imagine. So this type of communities where consumers are really interested on something very specific can be addressed by resellers also to address these tastes to the products that they are going to deliver to these communities. And, once again, privacy. Privacy -- It's something that is very different, probably for us, or for a 15-year-old. And these guys are going to be the customers in 10 years' time. So let's try to understand exactly what this new consumer is and what is going to be in the next 10 years. It's our belief that -- And I'm not going to spend a lot of time here. It's our belief that it's important to make an effort to build trust certification. So it's our understanding that both in Europe and U.S. and other countries, there has to be a common policy for trustmark programs -- so that the consumer in the U.S., if it goes to a European site, knows that this is certified and the other way around. So there has to be a program and a development around certification. It's very important. It will increase company and consumer confidence. It has to provide online traders with an instrument that verifies and shows

the commitment to comply with the law and also with the best practices. And it can provide the consumers and companies with an effective and fast dispute-resolution system. So this is something that we feel that's very important. I'm not going through all of this. It's going to be on the presentation. But we believe that auditing and trustmark should be very comprehensive. We have seen that, for instance, in Europe there are several ways of building the trustmark programs, and some of them are not good enough. What I mean is that if you give a company a set of rules and they just have to say that, "Okay, I will comply with those rules" -- This is not a trustmark scheme. Because there is no audit, there is no checking of how reliable is that e-commerce player, how willing is he doing all the things which are important for the consumers. Just to end, I think that it's important to also -- And this is a challenge both for OECD, but also for the associations in each country -- The representatives of the e-commerce companies in each country should also play a role in terms of the promotion of e-commerce, but also be a participant in the definition of the legal and fiscal framework, the definition of standards, and, of course, in order to accelerate the adoption of e-commerce. So that was basically what I have to tell you. Thank you very much, once again. [Applause]

>> Graham Branton: Thank you very much. There was lots of provocative food for thought there. I'm not sure I like the idea of an Avatar who is shaped exactly like me. [Laughter] I don't think I could bear to look at my own image online, let alone send it into shops with people knowing that was what I actually look like underneath my clothes. But, anyway -- Okay, anyway. Let's move on now to some questions about some of the issues raised there. And there's a hand up already, so I'll pass the microphone to David Mair over there. Thank you.

>> David Mair: Hello. I think there's a very powerful unspoken assumption behind all of our discussions today, which is that e-commerce is a good thing and we think we need more of it for everyone because of the benefits for consumers and trade and integration of our economies and all those things. So I think we're all agreed on the direction we want to go in, which is more e-commerce. But my question is, how will we know when we get there, where we are? People say the level of e-commerce is maybe 5%, 6% of trade. What sort of number should we be getting to when we know that we've reached the right point where e-commerce is developed as it should? What will success look like when we should stop worrying about business confidence or consumer

confidence or regulatory barriers or whatever it is? That's really what I wanted to know, is where is the point that you, the business community, think will be the place where we can say, "Okay, enough. That's where it should be," particularly when you look at, you know, digital maintenance coming into the economy now, whose perception of the role of e-commerce is perhaps very different to the perception of people in here. And they were looking to spend, certainly, a lot more than 5% of their income online. Thank you.

>> Graham Branton: Thank you. A very simple question. What does success look like and where should we stop or where should we be happy when we've reached? Perhaps start with Tod on that one.

>> Tod Cohen: I think there's a lot more of e-commerce that's blended with offline. You're going to see a trend over time when we won't think of it anymore as e-commerce. It will just be retailing. It'll be a portion of retailing. And what we see this is -- Our research shows that the vast majority of purchases for certain categories of goods, the research occurs online, and then the purchase occurs offline. So for automobiles in particular, I mean, staggering numbers of people do most of their research ahead of time online and then go and buy their automobile offline. So there is an enormous amount of this blending, so I think over time, you're never going to see a specific number where e-commerce has hit its peak. I do think we're going to see -- And I do hope that the cross-border nature will increase and be a significant increasing portion. Right now just for the eBay platforms, we see around 20% of our transactions are occurring cross-border. And we think that that obviously can go much higher. I don't know what the specific number is, but we think that there's a lot of growth still there.

>> Alastair Tempest: Thank you very much. And I think, firstly, we could never as business stop worrying about legislation and regulation. If we did, the regulators won't have been doing their jobs properly. But in terms of how far we can go, as Tod said, it's never ending. I mean, we will move slowly but surely into a mixture -- a multichannel mixture of selling across different forms of retailing. And it can be by, for example, downloading music or by going into shops and buying things. I think the environmental issues that we will also face, that we also face, may also make a

big difference to us, where people will be less interested in going into shopping malls and buying things and more interested in having things brought to their homes.

>> Graham Branton: Thank you. Actually, I'll move on to the next question, because I think there a few other questions. I've got one from the Google moderator here, which I'd like to read out to you. It says, "Search engines have the power to rank Webpages and list Websites in an order that they determine, which can make or break a business. What mechanisms are needed to ensure that search engines and large intermediaries are fair and neutral?" And I'd perhaps add one there about price-comparison Websites, which can also influence purchases. I'd like to put that question to Jane, if I may.

>> Jane Horvath: Well, I have to give a disclaimer. I'm a privacy counsel, not competition counsel, nor do I -- The search algorithm, I mean, it has to remain secret. It has to remain -- And I think Microsoft would agree, and everybody else who has a proprietary search algorithm, because if businesses could then game the system, then consumers would no longer get the information that they want. And I think that -- I think that if you disclose the process by which a search algorithm ends up returning results, then you've disclosed the secret sauce. And then we already see search-engine optimizers placing false sites -- you know, burying code within their site so they appear at the top of the search engine, and maybe you're searching for information about dogs, and the top result is about -- You think about dogs. You click on it, and it's about something -- selling Viagra. So, you know, I think there's a balance. But I, again, disclaim this as not my area of expertise. It's privacy. Thanks.

>> Graham Branton: Does anyone else have a comment on this question?

>> Tod Cohen: I do. I think that when you get to search-engine optimization and ranking, I mean, it occurs with us. I mean, we're a massive search engine on the eBay side, and our determination as to what listings come up has an enormous impact, obviously, on the success or the outcome of that. And I think that, to a certain extent, it gets gamed on both sides, all right? Proprietary companies-- We game our system, all right? We seek to have results that lead to better buyer experiences. So it's not simply the -- It's unfair to say that it's not just one side, all right, that -- And the important

part is the consumers know that. So we saw this with the FTC's discussion a few years ago with regard to paid search -- that it does need to be disclosed. I mean, I think the real challenge in this is on the mobile platform, because that's where -- And that's where the real difficulties come into place, because information that can be shared and that becomes useful to consumers is much harder to do on tiny screens. And that's where the real challenges on this -- Meaning the traditional computing setting -- A lot more disclosure can occur, and a lot more information can be provided to consumers. Whether they use it or not, it's an open question. But I also think that, therefore, there is a significant role for regulators to be in these spaces, because if we only rely on consumers, we're never going to be able to provide the safe experiences that consumers need and want.

>> Graham Branton: Thank you very much. I've got another question here. Etelvina.

>> Etelvina Andreu Sanchez: Thanks. I have questions, but first Alexandre. I don't think that there is a difference between nowadays, 15 years, boys or girls, and when I was 15 or 16, I never cared then about my privacy, neither. I think that these related -- It's not a difference, really, between generations. I think that we always think that...are different, that we were, but we are not so much, except on the age. When they arrive to have 25, and this is better that they have put today without not... It does prevent them from obtaining a better job, for example. Then they will realize that it was not a safe thing to do. But nobody thinks...to have 15 or 16. You are just interested in other boys or girls, saying, "How fine you are," or something like that. But afterwards, Mr. Cohen, you are a little worried about the kind of platforms that allow consumers to shop to other consumers, thinking that they are consumers, but maybe they are traders. I mean, they believe that they are basically on a C2C basis when maybe it's a B2C basis, for example. And which are...for example, your company is asked to ensure the consumers that -- which all called consumers are really consumers or, for example, that minors cannot...contracts through your platform. Thank you.

>> Graham Branton: Okay. I'd like to deal with the first point first, please. Alexandre, do you have a view on that?

>> Alexandre Nilo Fonseca: Yeah. Well, getting back to younger -- Well, basically, my point was regarding the generation itself, which is totally different from ours. It's not in reality the fact of if

the person has 16 or 25 in 10 years' time. The reality today is that kids are multitasking. They are used to be text-messaging at the same time they are playing a game, watching TV, and using the PC with a messenger. So this creates a totally different mind-set in terms of the way to handle, for instance, technology, which, for instance, for some of us would be an issue. For them it's not an issue. Technology is something which is very normal in their life. And the thing is, they are used to things that we are not -- For instance, I have three children. And with my age, I had like -- I can count with my hand the number of friends that I had at their age. They have 500 and people that they communicate with in India and China and U.S., and they have friends all around. I was talking with my 11-year-old a couple of days ago, and he was telling me that he is now a lord of the Warcraft Master, which means that he leads a team of 30 people to war, and he has to control the supplies, he has to control how many people go to battle, what is their destination, the route they're going to follow, what type of strategy to attack the enemy, and things like that. Can you imagine the type of skill that you have to develop to organize a 30-people army and you being an 11-year-old? So this generation is really, really powerful. And, for instance, we are talking that in the morning someone was saying that we should treat consumers in a paternal way. I don't believe that is going to work in the future. Consumers and this next generation know exactly what they want, they know a lot, they can search a lot. They can try to know everything. What they want to know, they will find it. So I think that businesses have to really address a totally different type of customer in the future. That was basically what I wanted to say, not specifically the age.

>> Graham Branton: Okay. Thank you. I'll pass the next question on to Tod, and I think Susanne wanted some comments on that, as well. Okay. Tod, then, please.

>> Tod Cohen: The question was with regard to, how do you ensure that purchasers are dealing with a professional seller versus an individual seller? I think it goes somewhat to the comments that Susanne made earlier about payment systems, because if the protection is -- So we strongly encourage people to use classified systems or online intermediaries or search-engine results as ways to connect with other sellers and, for our system, on our European platforms, in particular on the eBay side, we follow a professional seller framework to disclose that to buyers. And then on the U.S. side, we've introduced top-rated sellers as a way also for consumers to distinguish between C2C and B2C. But I really think it goes to the payment side, because what you're trying to

do is to make sure if there's a problem, that there's recourse for buyers who happen to be in a position where they were defrauded. And one of the key pieces on the payment side that's not really discussed is there's a confusion a lot of time with online payments between the safety of the transfer of the currency versus the safety of the underlying transaction. And so one of the things that we try to work with consumers the most is, make sure that if you're engaged in using online banking to pay somebody at a distance or if you're using a Western Union system, there's no security in the underlying transaction, that using a PayPal or other types of electronic payment systems where there is protection for buyers is the really important distinction here. And then it really doesn't matter as much who you do the original contract with, so long as there is recourse on the payment side. And so that's why either it's credit cards, which make a lot of sense in certain instances, but the real danger is people using Western Union or online banking where the transaction is not safe but the transfer is safe.

>> Graham Branton: Thank you. Very interesting. I'm just going to add one last question here, and then we're going to have to wrap up this panel and move to the next one. This is another question from the Google moderator. And the question is, "Why am I not able to buy products like flight tickets from Websites located in other countries?" I'm going to put this one to Susanne, if I may.

>> Susanne Czech: It seems to me I bought tickets from other Websites. So I wonder who had a problem.

>> Graham Branton: I think that -- I suspect the --

>> Susanne Czech: Sorry. I thought for sure I did.

>> Graham Branton: Well, I suspect the question is directed at scenarios like -- I know this is the case in the U.K. -- When you try and buy a ticket for a Eurostar journey to Paris from London, you are directed automatically to Eurostar U.K. If you try and buy it from Eurostar France, where the price is lower, you immediately get bounced back to Eurostar U.K. again, and you have to pay the higher price. I suspect that's what they're driving at.

>> Susanne Czech: Okay. Yes, I see the point. We were after this question several times. It brings me back to all what has been said about non-harmonization of the legal environment. So if I buy -- If I buy from the U.K., then -- On a foreign Website, and this foreign Website has to apply to consumer law. That's what we have heard on several occasions. And this cuts a little bit the other side of the operator to do so, if he is not aware or he doesn't know this law, he doesn't know how -- How did Alastair phrase it? "Better be safe than sorry." So he may then navigate into this contract. Or if he has invested because he wants to serve the consumers from this country and he has invested in a certain infrastructure, then he wants people to use that. That's what you called this redirection practice. If they order from, let's say, London, Eurostar ticket from Belgium and they are redirected to Belgium, because Eurostar may have set up infrastructure there to serve better the Belgian customer.

>> Graham Branton: Okay. Well, people may want to return to that in the next panel. But first of all, I'd like to give a big round of applause for our panelists, 'cause I think they've done a super job. Thank you. [Applause] Thank you very much. Thank you.

>> Female speaker: Thank you very much.

>> Graham Branton: Thank you. Could the next panel please come forward? Thank you. Sorry to spring that on you at the end. I was just trying to get through as many issues as possible.

>> Susanne Czech: I had in mind just to...

>> Graham Branton: If people could -- If people could sit down as quickly as possible, please. If we have too much of a break now, then we will be late for our reception, which I'm sure nobody would want.

>> Male speaker: Cutting into serious drinking time.

>> Graham Branton: Yes. The chairman has pointed out we're cutting into drinking time if we're overrun on this one, so -- Okay. Let's get started then. This second part of the session on business

to consumers is the same issues, more or less, but from the perspective very much of the consumer rather than the perspective of the seller. And the panel members I have here are a mix. On my far right is Jill Johnstone, who is the Director of International Policy Advocacy and Consumer Focus in my own country, the U.K. Next to me is Maneesha Mithal, who is the Associate Director in the Division of Privacy and Identity Protection in the Bureau of Consumer Protection at the U.S. FTC. On my immediate left is Professor Mireille Hildebrandt from the Law Science Technology & Society, Department of Metajuridica -- That's one I've never heard before -- In the Faculty of Law at Vrije Universiteit Brussel, which is the Brussels Free University. And then on my far left is Giuseppe Abbamonte, who you've already seen. He's a busy man today -- from the European Commission. So, what I've asked these panelists to do is, similarly, to be brief, punchy, passionate, and, if possible, controversial and to give it to you, all guns blazing. And with that, I'll pass on to Jill and ask her to get it rolling. Same model as before -- five minutes' presentation and then lots of time for questions, hopefully. Thank you.

>> Jill Johnstone: Thank you, Graham. And thank you to the organizers, the OEC and FTC, inviting me here today. I wanted to sort of concentrate on the guidelines, and there's sort of things that perhaps we could do to elaborate and revise them. I think, you know, they've been very useful and very influential, but an awful lot has changed in the last 10 years. And, you know, we now need to look at them quite carefully and make them fit for the 21st century. Particular developments have been, I think...the market for digital-content products, including new products like e-books, development of new forms of e-commerce, like mobile commerce and online auctions. And also sort of the growth of the consumer-information market and the targeting profile and behavior appetizing that's gone with it. Graham has restricted us to doing one challenge, so I'm going to stick to digital-content products, where I think there's already a huge market. 38% of U.K. online purchases are digital-content products, and increasingly these are bought as downloads. There is here probably a huge potential for cross-border trade, because, you know, it doesn't matter where you are to be able to download, and it avoids all those annoying transport and logistic and delivery-time problems that beset e-commerce. But there are also some quite big issues for consumers. One is -- Sorry, I wasn't close enough to it. One is digital-rights management tools, which are often embedded in projects and limits what consumers can use them for. The presence of these and how they affect the use of products needs to be clear and up front to consumers so that

consumers can make informed decisions about money and whether they want to proceed with a purchase or not. And I think that's something that could be usefully added to the information requirements in the section of the guidelines. Another related issue is, which has already been raised by my colleague Susanne today, is end-user license agreements, which can often contain unfair contract terms. Research by my own organization and also organizations -- consumer organizations in Germany and Norway -- have found a range of terms which are potentially unfair -- complex wording and legal jargon. Sort of legal uncertainty caused by ambiguous references to statutory rights or the rights in other countries, rights for providers to remove services or terminate contracts without giving notice and also excessive exclusion of liability. And I think, again, this is something where the unfair contract terms -- provisions in the guidelines, which are quite brief at the moment -- could address end-user license agreements. Another area which I think it would be helpful for the guidelines to look at is remedies and redress in this area, because there -- Certainly in the European Union, there is a lack of remedies for digital-content products, and they won't be covered by the proposed consumer rights directive that Giuseppe Abbamonte was talking about earlier today. So, again, I think there's plenty that the guidelines could look at in relation to digital content. Thank you. [Applause]

>> Graham Branton: Thank you very much, Jill. Lots of food for thought there. Let's move on to the next speaker, and we'll come to some questions at the end. Thank you.

>> Maneesha Mithal: Thank you. The topic I'd like to address this afternoon is online behavioral advertising, and in particular, the FTC's examination of online behavioral advertising. I believe some of you who are in the audience were at the FTC session yesterday on exploring consumer privacy issues, and behavioral advertising certainly was at the forefront of the discussions yesterday. So let me just give you a brief history of the FTC's involvement in this issue. A couple years ago, we issued proposed self-regulatory principles on online behavioral advertising, and the idea is that the FTC issued its principles and we encouraged the development of self regulation based on these principles. And there were four main principles. First, transparency and consumer control. Second, reasonable data security. Third, opt-in consent for retroactive material changes to privacy policies. And fourth, opt-in consent for the use of sensitive data for purposes of behavioral advertising. So these principles were very general, and we put them out for public comment, and

we received over 60 comments. Earlier this year, we issued a report that basically fleshed out some of the principles in response to some of the comments that we received. And there are basically two major issues that I'd like to highlight today. The first is, what is the scope of the principles? A lot of commenters came to us and said, "Well, traditionally privacy principles have applied to personally identifiable information such as name, address, account numbers, unique identifiers." And a lot of companies engaged in behavioral advertising are not collecting that kind of information. And so why should these principles apply to behavioral advertising? So in response, we cited two developments in technology, so, for example, 10 years ago, it may not have been possible to associate a particular I.P. address with a computer. And with technological developments, it may be more and more likely to be able to associate an I.P. address with a particular device. So the line that we drew was we said, "If there's a reasonable possibility of identifying a particular consumer or particular device, then that would be considered personal identifiable information for the purposes of our behavioral advertising principles." Another issue that came up with respect to scope was the issue of first-party advertising and contextual advertising. First-party advertising is, basically, I am on Citibank's site, and I get ads for its other services. And we said that for first-party advertising, it's reasonable that the consumer would expect that the Website operator would be collecting data about them and so that it would be reasonable to provide this kind of advertising. So we limited the definition of first-party advertising. So, for example, if a consumer is on a Website for a large conglomerate, it might not know that that conglomerate has hundreds of affiliates. So if they're getting an ad they wouldn't necessarily expect to get from that company, then we think that would fall in the principles of behavioral advertising. We also excluded contextual advertising for the principles, so this, "I'm searching on information on buying a car, and I'm getting an ad for Honda." We think, also, that's consistent with reasonable consumer expectations. And so our principles don't apply to that kind of contextual advertising. The second main issue that was raised by the commenters is, how do we accomplish transparency and control? Do we do it through privacy policies? How do we implement the ideas of notice and choice? And what we said in our behavioral-advertising report was that buried disclosures do not work, that consumers often don't read lengthy privacy policies. And so we encouraged industry to come up with creative ways outside of the privacy policy to give information to consumers about how their data is used. So one of the examples we pointed to is, let's say that you're looking at a site and you see an ad. The ad could include a line at the bottom

saying, "Why did I get this ad?" And the consumer could click on that and get just-in-time notice about how that ad was served to them, and they could get more information about behavioral advertising. So those are some of the main issues that were raised. I think our conclusion has been that behavioral advertising has a lot of benefits. It provides free content for consumers, which they've come to expect. It also creates risks when consumers don't understand the process. And so this was where we came out, and we continued to explore these issues. We're going to be hosting two more roundtables. The first is going to be in Berkeley on January 28th, and the next one will be in March at the FTC and will continue to explore these issues, monitor the marketplace, and open investigations into companies where appropriate. [Applause]

>> Graham Branton: Thank you very much. I believe Mireille also has some comments about behavioral advertising, so let's move straight on to that. Thank you.

>> Mireille Hildebrandt: Yes, indeed, I have. Though I think I'll take just another or an extra perspective. I want to talk about consumer empowerment, how to do it in the context of targeted ads, but to see it extended to targeted servicing and to concepts like proactive computing, ambient intelligence, and that kind of emerging technological infrastructures. What we basically see is that the problem that was emerging 10 years ago was a problem of spamming of what Chris Anderson called "long tail." If you send your advertisement to 3 million people, you'll probably make a profit somewhere, even at 0.1% goes in to it, and maybe the principles, the guidelines, have been focused on that kind of problems. At this moment, there is an I think entirely novel situation where there are so many data being collected, stored, and what is very important, analyzed, that you get a sort of opposite problem. The solution to spam, if we are to believe the solution that the industry is bring forth, is personalization. So, you're getting the spam, sort of the ads, the services, and perhaps at some point proactively the services and the goods that you are supposed to be preferring. That means we're basically moving from this long tail paradigm to data analysis. Now, before I go in to that, briefly I want to explain a difference between an individual profile, a group profile, and a personalized group profile, and I want to do it with a little story. Imagine if I'm a heavy smoker. I'm good for a retailer or the tobacco industry, and I have decided for myself or I'm considering to quit smoking. By means of data analysis, there is some -- let's call it a software program that has become aware of this do to my web-surfing behavior, and it sort of predicts that there is a 67

chance that within the coming three months I'm going to quit smoking. This is very interesting information. It's not data. It's information. This information is sold to a retailer or tobacco industry, what have you. They decide also on the basis of data mining that if they are now going to give me some lesser price, some offers of cigarettes to a lesser price, that the chances that I will not quit smoking are deferred 23%. On top of that, they may decide to put a banner on the "New York Times" that I read that gives me scientific information, a report that, for instance, correlates smoking positively with less chance to dementia -- and just if that report exists -- on the basis that I either decide to quit smoking or not. Now, what am I trying to say? The problem here is that my decision is going to be influenced by all this, but I have absolutely no idea of this. An individual profile that is my personal data, my past behavioral web surfing connected with offline behavior, perhaps, all the worries of the privacy community, and I've often also heard of worries in the consumer-protection community are about these data. But I think that the real impact to a person comes from these results from data mining, which are group profiles. They're simply stochastic inferences from enormous amounts of data, and they're going to apply to me whenever I match these group profiles. That doesn't mean that they really apply to me because, once again, they're stochastic. They're usually averages. What is really important is to see that these types of data analysis technologies which are connected with behavioral profiling, servicing, et cetera, do not just impact privacy. I would even say that they do not always impact privacy at all. Your personal data are not needed if you are recognized on the basis of your keystroke behavior. So, somebody wants to service you can recognize that is you, can link it to your behavior online. They don't need your IP address. Even they don't need your name and address, as long as they can influence you as the same recognized person. So, the problem here is not just or not even privacy but social sorting or non-discrimination, and the bigger problem, which relates both to privacy and social sorting, is actually due process, because the social sorting, or discrimination, issue can be resolved if you become aware of this fact and can contest the fact that you're being categorized in a certain way. So, the critical question here is what group profiles have then been built and constructed from other people's data, not from my PII. What profiles do I match? And the much more important question for empowering citizens is, which may be the consequences of matching? And those consequences could, at some point, be that my insurance premium rises. Keystroke behavior, for instance, can already be correlated to the onset of Parkinson's. These are just examples. We don't know who can be looking at my keystroke behavior, but these are totally different questions than what is

happening to my data. Actually, that doesn't even interest me. What interests me is how am I matching these profiles, who has access to them, and how can they be used. And, actually, this question is a preconditional question to the question of which data at some point I may want to hide. So, this is actually an argument against data minimization, which is the paradigm in both the legal and technical privacy advocacy communities, which I think is a very dangerous focus, one because I believe that profiling technologies are very interesting, and with all this data out there, we're not going to be able to do without them. I think they will bring a lot of advantages. But to empower consumers, you mustn't tell them what you're doing with their individual data but how they match with all these profiles that are out there, and they should enable smart minimization. So, I absolutely agree that the focus on PII is not smart, and that means we must no longer focus on individual data but on the knowledge that's being constructed from that. Now, very quickly, the solution which I of course do not have, but I have a direction for a solution. Within the European Commission funded project and on the Future of Identity in the Information Society, we've been working on what we have called transparency-enhancing tools, TETs, next to the famous PETs, and the idea is here that TETs is not about telling you what is happening to your data. That also fantastic. Very interesting. TETs is about getting feedback. "Which profiles do I match? Who has them? What might be impact on the rest of my life, my learning capacity, when I go to apply for a job, et cetera?" And then, of course, the next question, if there is some kind of transparency on that, there must also be some possibility to change the input. So, transparency is a matter of feedback. I'm not talking about transparency of my personal data, once again, but that is preconditional for any kind of sensible control of my personal data. Now, there are some legal and technological developments which go in that direction, but I'm sure I don't have the time to go deeper into that, and I referred to all kinds of websites on which you can see our work, and I'm very curious, also, to your response, and commands. Thank you. [Applause]

>> Graham Branton: Thank you very much. That's a new acronym for me, the world of TETs, transparency-enhancing tools. Now we'll have to find out more about that. Thank you. Let me move on to our last speaker, Mr. Abbamonte Giuseppe. Please. You have the floor.

>> Abbamonte Giuseppe: Thank you, Graham. For me, there is a second bite to the cherry, and after, you know, the very learned presentation of Mireille Hildebrandt, I hesitate a bit. I know that

much of the ground that I wanted to cover has already been covered by some of the speakers before me, so I will try and tell you only things that you're not supposed to know. I don't know if there were slides. So, the first slide should be "Context Digital Strategy." So, what is the EU digital strategy, what we call the digital agenda? Okay, the objectives are to promote the confidence of consumers in the online internal market and encourage cross-border e-commerce. I mean, how do we try and achieve these objectives. Well, firstly, we try and improve the regulatory environment for cross-border e-commerce. So, as I said before, the consumer rights directive tries from the full harmonization to make the regulatory environment -- the regulatory landscape more predictable both for consumers and for business. Secondly, we try and tackle unfair commercial practices online in order to preserve and also promote the trust to the confidence of consumers in the Internet and in e-commerce. So, we have issued -- Yes, we've just issued guidelines on the interpretation of the unfair commercial practice directive, part of the guidelines about online commercial practices, and the guidelines will be leaving documents that will be beefed up in order to cover new, emerging online practices. And, also, an important part of our strategy, and important strand, is to address consumer concerns on the fairness of the online data collection and usage. I mean, there is a sort of separate strand of the digital agenda, and in order to find an adequate and balanced solution for consumers, the issue, because it is a multifaceted issue, needs to be addressed or needs to be looked at from more than one angle. There is certainly a data-protection angle. You know, data protection in Europe is a fundamental right. It is in article 8 of the Charter of Fundamental Rights. In Europe, unlike the US, we have a law, a general data protection law. We also have a law on the protection of privacy in electronic communication. But again, these laws are about the gathering of personal data and the processing of personal data. There is, on top of this, an important consumer-protection angle which should be taken into consideration, and it is about the utilization. So, first of all, how informed is the consent that the consumer gives when he accepts the privacy notices, and also the commercial practice of the fairness of the utilization of the profiles. And there is an important point. Profiles which may be based to be relevant under the consumer protection legislation on anonymous data, so the profiles once our legislation -- for example, the legislation on fair contract terms, the legislation on unfair commercial practices, would kick in even if the profiles do not contain or were not compiled on the basis of personally identifiable data. Next slide, please. Okay. We have engaged in this exercise. I mean, there is, to an extent, is a highly theoretical exercise, because so far, the most prominent, if you want

regulatory angle, was the data protection angle. We engaged in this exercise in March of this year with what we called the setting up of this digital roundtable. A number of people traveled overseas from the United States and participated in the digital roundtable, and there have been lots of contacts, lots of individual contacts, with consumer advocates, business stakeholders. What have we learned in the meantime since March? We have identified a number of issues, as some of the issues were mentioned by Jill Johnstone. So, there is a first issue which is the un-transparent and sometimes unclear privacy notices. So, the privacy notices are often drafted using, you know, obscure legal language, so there is a problem. The privacy notices may be sometimes opaque, and the meaning of the privacy notice may escape the average consumer. Also, the exclusion of responsibility for any third party cookies limits also the legal value of the privacy notices, and, at least in Europe, this is legally questionable. Second, we have come across a number of repeated violations of existing legislation and self-regulatory principles. For example, the fact that personal data in Europe cannot be passed on without the agreement of the user. I mean, despite this, we know that personal data are passed on in Europe without the agreement of the user. Another example, the fact that certain websites claim ownership of stored data of consumers. I mean despite consumers not having agreed to the transfer of the ownership of the personal data. A third problem is about informed consent and default privacy settings. Besides the un-transparent privacy notices, some consumer problems result from the fact that many websites do not function without the consumer accepting the cookies. And, therefore, the default settings on the websites and in the browsers allow -- The default settings allow for the exchange of data without awareness or understanding by the user. We also have come across example of misleading and aggressive practices which come under the frame or legislation on -- the European frame or legislation on banning unfair commercial practices. So, the admission, for example, of information about the commercial usage of the data may amount in Europe to a misleading admission. If someone, for example, asks a child about the phone numbers of his friends or, for example, if you come across more or less aggressive practices like in-game advertising, which can be particularly manipulative when vulnerable category of consumers such as children are concerned. I must say that we are very much -- So, we are going about this with an open mind. We are very much agnostic and we are very much in a learning mode here and we know that much more research has to be conducted to fully understand all the nuances of the issue at stake and all the implications and especially all the effects of the upcoming technologies such as location-based services, cloud computing, the Internet

or things, and so on and so forth. Next slide, please. So, what is the situation in Europe? I mean, on this, I would say that consumer advocates and business stakeholders are even more polarized in respect to the consumer rights, because the companies insist that consumers prefer, you know, interest-based advertising to the preferable target advertising. And since this would be perceived by consumers as less intrusive, of course, targeted advertising also provides better conversion rates, so better advertising is a more effective way of advertising. And consumers and consumer advocates seem to question this and they seem to disagree. Of course, the right way to ask the question in the surveys is debatable, but the fact remains that consumers are more open to targeted advertising when they control the use of the data. Next slide, please. Okay. What are -- I'll stop. After this slide, I'll stop. [Laughter] Sorry. I always tend to be a bit too self-indulgent with my presentation. Okay. I find even this one a bit funny. I mean, what our research tells us about consumers' behavior. Okay. The research carried out by us says that less than 3 in 10 European consumers read privacy notice often or sometimes and nearly half of those read the privacy notices find them unclear. I can say that, I mean, get a life. Why should you read the privacy notices? But 3 in out of 10 European consumers, they do read the privacy notice. They do read it, yes. And 1/3 of people sometimes often visited sites where they felt that their privacy was not sufficiently protected. Okay. Just to finish, really. I really believe that this is a problem which is bigger than us and the only way to tackle this problem is through a very coordinated effort, you know, very coordinated international effort both regulatory and self-regulatory. Thank you very much. [Applause]

>> Graham Branton: Well, I asked for both passion and brevity. I know it's not easy to match those things together. [Laughter] Thank you very much, Giuseppe, anyway. Who are these people who read these -- [Laughter] Anyway, okay. They're probably us. Yes. Academic researchers, maybe. Okay. Let's move on to some questions here. I mean, I've got a number of things I'd like to follow up on, but I'll open it up to the floor, first of all. If anyone has any burning questions. Yes, please.

>> Female Speaker: I can just talk really loudly. We heard -- Am I on now? Yeah, we -- No? In the last panel we heard, and I think we often hear, about how this revolution in electronic commerce in the Internet has brought much greater consumer control over transactions, and usually

what's happening, I think, is greater choice and greater convenience and more competition, which I don't think anyone disputes, is equated with greater consumer control, and I'd just like each of you to comment on that notion. Thanks.

>> Mireille Hildebrandt: Oh, yes. It sort of follows from my talk that I certainly don't think that it can be equalized. When you look away from just behavioral advertising and behavioral servicing to visions like ambient intelligence and the Internet of things basically all getting more proactive, giving us more convenience, sort of guessing or calculating our preferences and then giving us what we are supposed to want before we have consciously picked up that we wanted. Now, you can say that is fantastic. That is great. IBM has this computer program called autonomic computing, which they compare such a computing system to the autonomic nervous system. I mean, the autonomic nervous system does not come and ask us whether our heart beat has to go up a bit. It settles all that, and IBM says our environment is going to be like that. That means there's going to be a continuous stream of subliminal influencing, and I think it's great, and also very dangerous. It's certainly not going to make us more autonomous. Of course not. In some sense, perhaps because you have your hands free to do very interesting things because your environment takes care of the rest, but in another sense, you have no idea why you're making the choices that you're making. So, at least there is some balance shifting, because what I'm not saying is that normally we are all the time making all our choices constantly. That is of course a fiction. So, we have to look very carefully. What is the difference between the fact that machines and software programs are anticipating us and proactively giving us services compared to how the situation is now?

>> Maneesha Mithal: I think that's a great question, because I think a predicate for consumer control is transparency. If a consumer has choices but doesn't know that they have choices, how are they gonna exercise them? And I think a really good example, on the panel earlier, Google talked about its ad-preferences manager, which is a great tool where consumers can look and see what profiles or what baskets they're in, but what we heard yesterday was that very few consumers are clicking on to that information about themselves. Similarly, a lot of the browsers are developing initiatives where you can automatically say you don't want third-party cookies, but I

understand that very few consumers are actually doing that. So, I think there's an issue with transparency being needed as a predicate for exercising consumer control.

>> Graham Branton: Thank you. Our eminent chairman over there wants to, I believe, say something on this subject.

>> Michael Jenkin: Well, I think Giuseppe raised a very, very sophisticated, I think very important, point, and that is, you can see the logic of these systems becoming increasingly that you are, you know -- the information that you receive as a consumer is being progressively pasteurized and treated and so forth and customized for your "interests," and I think that's one of -- It's not just, with respect, a question of transparency. It's a question of freedom, because, in a sense, what is wonderful about being able to search a market, if we take it in the old-fashioned sense of the word. Wandering in to a bookstore, for example, is the happenstantial opportunities that you get of just discovering things that have nothing to do with your preferences and had everything to do with random choice -- random chance, I should say, and therefore choice falling out of that, because you discovered something, and I think many of us have experienced this. It's a wonderful thing you discovered because you never expected to find it and it has absolutely nothing to do with your traditional choices, expectations, or longings but somehow is a very insightful purchase, you know, a book, for example, that opens up a whole new hurdle for you. One of the things I find frightening about some of these predictions is that we're looking potentially at a world where the chance of those things happening becomes less and less, and in a funny sort of way, the freedom that you had to explore markets becomes less and less online, because more and more online, it's a predictive and predictable environment.

>> Graham Branton: Thank you for that philosophical point, I think, Michael. Let's move on to some more questions. Yes?

>> Female Speaker: Good afternoon.

>> Graham Branton: Oh, sorry.

>> Female Speaker: My name's Elaine Newton. I'm with NIST, the National Institute of Standards and Technology under the US Department of Commerce. My question is about a challenge we haven't heard a lot about for the consumer, that is fraud, and I was wondering, since the current guidelines about payments say consumers should be provided with easy-to-use, secure-payment mechanisms and information on the level of security such mechanisms can afford, what else could be done to move us beyond the user name and password paradigm to multifactor at least to -- factor authentication for payments?

>> Graham Branton: Interesting question. And who wants to answer that? Jill, do you have a view on this?

>> Jill Johnstone: I have a view, but I can't really help with the technical aspects of that question. I think it's another area where the guidelines need to develop. One of the things that concerns us is that sort of different levels of protection for different methods of payment. In many jurisdictions, we have much better payment protection if we use our credit card than if we use our debit card, and, again, much better protection if you're using your mobile phone and paying through your mobile bill. So, I hope that's an area that the guidelines will pay particular -- OECD will pay particular attention to when we're looking at the guidelines, but I can't deal with the technical question, I'm afraid.

>> Ms. Maneesha Mithal: Sure. This is something that we've looked at a little bit in the United States. There's been a lot of bills introduced in congress that talk about restricting the use of social-security numbers, and the FTC actually held a workshop on use of social-security numbers and authentication, and what we recommended is that you really can't put the genie back in the bottle when it comes to SSN usage because a lot of entities are using that as an authenticator. But what we did encourage was for companies to come up with innovative ways like challenge questions and that sort of thing to improve authentication procedures, and I think that's something that we've been working towards here in the United States.

>> Graham Branton: I must say, my heart sinks when people talk about ever more complicated authentication procedures. I already forget all my passwords and my special codes and my secur-- Anyway, I guess I just have to be more organized. Another question, please.

>> Male Speaker: Thank you. Frances Armon, Deputy Director General of -- in Paris. As you may know, we have passed a law in France to find and punish people who illegally download music and movies, and many people say, especially in social networks, that the law was used less because it's very easy to find programs, especially on the net, to hide one's identity. Does the panel think there is there a market solution that is more efficient to prevent profile exploitation than regulation or code of conduct?

>> Graham Branton: That's another interesting question. Who wants to go? Yeah? Okay. Jill first and then Mireille.

>> Jill Johnstone: I mean, we're facing similar problems in the UK as well. I mean, our view is the only real way that we're going to deal with problems of P to P file sharing on the Internet or illicit use of copyrighted material is new business models that give consumers, you know, access to the content they want to consume and they way that they want to consume it, and, so, the more that can be done to introduce new business models the better. One of the problems in the European Union, which is being well documented by the commission, is rather, I suppose, chaotic and national licensing systems for copyright, which means it's very hard for businesses who want to set up new business models or very time-consuming expenses to clear all the rights in all the member states. So, things that make it easier for getting new business models up and running would make a big difference in this area.

>> Graham Branton: Sounds like a win for business as well as for consumers, if we can get that right. Mireille, comment on this?

>> Mireille Hildebrandt: Yeah, just very briefly. I'm not entirely sure that that's exactly the point that you wanted to make. One of our findings is that lawyers think that if you write something down and then say it's a law now, you enact that it's then going to happen. [Laughter] Sorry for

the mistake. I'm a lawyer. The entire communication and information structure has changed, and we believe that to enact laws in this age, we have to learn to re-articulate them into the social-technical infrastructure that you want to defend against. This is a bit paradoxical statement, but if you think of what the rule of law is, that means using the state to contest decisions taken by the state. That is the core of the rule of law. So, what we have to learn is to use the technological infrastructure that we want to defend ourselves against, partly to do that. So, the example you give is you can write down something in a law, but if people learn to play around with the infrastructure, it's not going to work just writing it down.

>> Graham Branton: Another question over here. Susan, please.

>> Susan Grant: Hi. Susan Grant. Is this working? Consumer Federation of America. I think that the fact that this session B to C and that we've spent an hour and 20 minutes talking about business opportunities and 40 minutes talking about challenges to consumers illustrates an overall problem, and that is that in reality, consumers' interests are not being put first. So, my question to the panel is, how can we make consumers the priority? Is it, as Dr. Cooper suggested this morning, that we need to have new laws? And I appreciate the statement that you just made about how that doesn't necessarily always solve the problem. Are there other innovative ways that we can really make sure that whatever government policy and business policy is developed, consumers are the real priority?

>> Graham Branton: Thank you for the question. I've actually tried to make sure that both panels got exactly the same amount of time, so we did start a bit late. But anyway, let that pass.

Giuseppe, do you want to answer that?

>> Abbamonte Giuseppe: I can try. I really believe that in Europe, at least, the consumers, at least on paper, are very well protected -- are very, very well protected. As I said before, it depends on what we are talking about here, but if we talk about something which is very dear to my heart, which means online contracts. As I said before, consumers, they benefit at least from their domestic protection for transacting with a foreign trader. They benefit from the jurisdiction so they can sue the trader before their domestic court. And again, they enjoy a number of rights. They

don't get consumers outside Europe's number of regulatory, mandatory rights which consumers around the world outside Europe do not enjoy. So, I think that in Europe consumers are very well protected. Something which is very important and which has to be born in mind is that we also have a services directive in Europe which prohibits discriminations on grounds of nationality, which, at least on paper, theoretically prevents a trader from not providing -- from refusing to supply a service on grounds of nationality or place of residence to foreign consumers. Of course there is a problem of enforcement, but also it's of initiatives which have been taken up at European levels or to be the network of enforcers dealing with -- the purpose of which is curbing cross-border scams, and there is a network of consumer centers providing advice to consumers and also in case of problem with foreign traders or with European traders and directing them towards ADR's bodies now providing mediation services. So, I would say that, at least in Europe, I would question your starting point. I think that consumers, at least on paper, they come first. And more cooperation is certainly needed, but it is not something which can be addressed now. More cooperation is needed more at the international level. Thank you.

>> Graham Branton: Thank you. You wanted to say something, Jill, as well?

>> Jill Johnstone: Yeah. So, it's not a full answer to your question, but I think one of the things we need to pay attention to is competition. The more competition, then the more likely consumers are to be able to influence choices, and in this area, there's an awful lot of gatekeepers, and I think it's gonna be a rigorous application of competition or would make a significant difference where it's inevitable that we've got a monopoly, duopoly, or oligopoly in a strong position where regulation is necessary. We need to make sure net neutrality really works.

>> Maneesha Mithal: I feel like I should jump in to defend the rights of American consumers, too, but I would say that in addition to laws, I think one example of how we've tried to put the consumer first is through our enforcement program and our enforcement priorities. So, just looking at data security is an example. We've brought 26 cases challenging the data-security practices of various companies, and I would say that is something that's really moved the market and so companies are now providing consumers with better data security, and they look at our actions and they look at our presence in this area and it's really benefited consumers.

>> Graham Branton: Thank you. I'm just minded to recall a conversation we had with a person from Luxembourg in the context of negotiating the Rome 1 Convention about the law we should apply -- or was it the jurisdiction? Anyway, one or the other, that should apply in the event of a dispute between the consumer and the business, and Luxembourg took a very strong view that they wanted the business to be able to apply the law in which the business was located rather than the place where the consumer was located, and they were defending that very strongly in their negotiations, almost alone at some points, and this was contested. They said, "How could you possibly defend that? That's not in the interest of the consumer." And the answer was, if Luxembourg law applies to consumer services being supplied from outside Luxembourg, nobody is gonna supply any services to Luxembourg. It's too small as a country to be worth their while to actually sell a cross-border service and a law that's unfamiliar to them, and the consumer interest was what was driving their policy, but it was a different consumer interest than most of the other countries were applying. I just say that because the interest of the consumer is not always obvious, and sometimes you need to do things which are in the interest of the business in order to serve the long-term interest of the consumer. But I think we've just about run out of time. We've had plenty of questions. Unless there's a burning, burning passionate desire to ask another one, which I don't see. Oh, I do see! [Laughter] This is the last one. Very quick answers only, please. Very quick question, too, please.

>> Male Speaker: Thank you, Mr. Chairman. Thank you for -- Is this on? Thank you for focusing on the consumer, because I wanted to return to Mireille's presentation, because I was struggling listening to her because it was so familiar to me, and then I finally realized what it was. We in the marketing profession call that segmentation -- segmentation at cyber speed. And segmentation has been the Holy Grail for marketers forever to put people into classifications that people make up in order to give offers of things that are useful to consumers for their benefit that they will want at the right time, the right offer to the right person at the right time. So, you're talking about segmentation at cyber speed. I would put the case to you that Maneesha and her group have one of the answers to that, which is transparency, and the second answer to that is we have new consumers, and they operate at cyber speed, too. They're 15 years old and they can do six digital things at once. And

the third thing that will protect us is the fact that human beings are totally unpredictable, regardless of what computers have ever seen. Welcome your reaction.

>> Graham Branton: Thank you. I'll just pass this to Mireille for a very quick reaction, please, and then we're gonna have to wind up this session.

>> Mireille Hildebrandt: Yes, it's an enormous comfort that we are so unpredictable, but I do think there is difference between old-time marketing that was based on classification. You're using the word. Classification means that we start out with the idea, that sort of people like that sort of products or people that look up that word in a search engine are going to want that sort of ad. What we're talking about with this data science, data analysis, which is a growing field, also, of science, I think -- and Chris Anderson, again, thinks the same thing -- is not classification but what they call bottom-up data mining. So, the classification that you're going to use and that can change dynamically in real time has been found after very sophisticated data-mining technologies. That means that you can detect correlations that are impossible to see with the naked human eye or to guess, and that means that you can get to know things about people, at the group level, of course, that they do not know about themselves. So, it's much more invasive to the extent that it is correct, and if it is not correct -- because once again we're talking about statistics -- if the profile does not apply, it is still an extremely powerful and different tool from the old way of doing segmentation. About transparency being the solution, I agree with that, and I already read what the FTC has been doing, and I think that is very excellent work, but I'm talking about transparency of something else -- not transparency of your personal data but of these dynamic inferred profiles, and I think that is something else.

>> Graham Branton: Good. Well, thank you very much, and I think a round of applause for all the members of the panel. [Applause] Thank you very much, indeed. Thank you very much.

>> Michael Jenkin: Well, thank you, Graham. I just have a couple of announcements here that are important for you. First of all, about the reception, just to remind you, I think it's up on the screen here. It is at the Columbus Club at Union Station, which is a short walk from here, and it will run to 8:00. I wanted to remind you, as well, that we'll be starting tomorrow morning at 9:00 with the

opening remarks, important open remarks, from Secretary Locke, the commerce secretary and, of course, the secretary general of the OECD Angel Gurría. So, important to be here on time. Now, I also wanted to alert you to something else that you may be hearing, and that is that there's a weather advisory about extreme weather tomorrow, and there has been some rumors going around that the US Federal Government may be closing, or government offices may be closing. I wanted to assure you this will be open here, the facility, so don't worry, but there may be a slight change at starting time, and if there is, it will be posted on the website. It's unlikely to be the case, but if you want to check, the website address is oecd.org/ict/econsumerconference , and that e-mail address, or rather web address, is on your program information that you received. So, if you want to check on the web late tonight or first thing tomorrow morning before you come here, you can do so, but as I said, I wanted to reassure you that things are a go, regardless of the panic which may be being sewn around town. This may be expectant public servants who are looking for a partial day off. I don't know. [Laughter] The other thing I wanted to mention to you is you can if you wish leave your tags on the reception desk and pick them up again tomorrow morning if you are afraid of losing them or don't want to take them back with you. Okay? So, see you tomorrow at 9:00.