

>> Jon Leibowitz: Everybody all set to go? Are you raising your hand? Because we will be taking questions later in the afternoon. I don't think we're going to do it this morning, because the SG and the Secretary has a tight time frame. But good morning, everyone, and I'll give you a few seconds to take your seats. And welcome back. By all accounts, yesterday's discussions were enormously productive, and we, of course, covered a lot of ground. And like yesterday, we have a very full agenda today. By the way, I want to thank Hugh Stevenson and Stacy Feuer and the folks from OCBE for all of their terrific, terrific work on putting this conference together. We're honored this morning, because we get to hear from two incredibly accomplished individuals. First the United States Secretary of Commerce, Gary Locke. Next, the Secretary General of the OECD, Angel Gurría. You know, we have been kind of, at the FTC, on a sort of a workshop role the last few weeks, it's been kind of exhausting, but it's been exhilarating, too. And it's been sort of been evidenced by -- we did a workshop last week on the merger guidelines, we did a workshop last week on the future of news. They were both substantive, they were both educational. They -- we had a sort of a little back and forth would be an understatement between Rupert Murdoch and Ariana Huffington, the stature -- they don't agree on a whole lot, as you might imagine. The -- we've had a number of -- the stature of the guests, continues today, of course, has just been extraordinary. Henry Waxman, Jon Stewart, President Obama, no, we haven't had president Obama. I just wanted to see if you were awake this morning. But today is really, is absolutely really one of the highlights. And I am delighted to start by introducing Secretary Locke, who was sworn into office as commerce secretary in March of this year. Secretary Locke's is a story that we do want to tell about America in the 21st century. His grandfather on his mother's side emigrated from China to the United States, as did his father. Secretary Locke worked in his dad's grocery store while he was going to school in Seattle and he earned his way to Yale University, and then went on Boston University for his law degree. Secretary Locke later served as governor of Washington state. He was the first Asian-American to do so, and he served for two terms. And by the way, I checked with our Seattle FTC office, and they said you just an absolutely terrific governor, which we already knew to be true, but we always rely on our folks in the regional offices for evaluations like that. As governor of Washington, the most trade-dependent state in the United States, Secretary Locke traveled all over the world, leading missions to Asia, to Mexico and to Europe. Through his visits to China, he successfully strengthened economic ties between China and Washington State. And in past, due to Secretary Locke's considerable trade in economic

development efforts, due in large part to this, Washington State gained almost 300,000 jobs during the eight years of his administration. So it's now my distinct honor to invite Secretary Locke to the podium. Thank you so much. [ Applause ].

>> Gary Locke: Well, thank you, Jon, for the introduction, it's really a pleasure to be here. And thank you all for attending. To those listening in remotely, as well, it's really about the topic at hand, the power of technology, and, of course, the internet. Also want to thank the FTC and the OECD for organizing this particular conference. Of course, it's great to welcome Secretary General Gurría, who is also here with us in Washington, D.C., and looking forward to hearing your remarks. We were just together at another forum this morning as we celebrate anti-corruption day, international anti-corruption day, and talking about the need to fight foreign corruption. But the topic today is a very important one. Discussing the future of electronic commerce, and the public policy framework that supports it. For many of our retailers, sales made during the holiday season make up a significant chunk of their annual business. And those of you from the United States know that last week we enjoyed another successful Cyber Monday, on the first Monday after our Thanksgiving holiday. Electronic retailers woo holiday shoppers with a whole host of different deals, and despite the difficult economic times that we find our self in, sales grew by 5% over last year's figures, in terms of Cyber Monday. E-commerce clearly continues to thrive, even while our traditional consumer spending is off at brick and mortar establishments. Looking back over the years, the speed at which consumers have adopted the internet for their shopping needs, and indeed, it's more than shopping needs, but, you know, we're talking about commerce right now. But for their shopping needs, is truly amazing. Between 1999 and 2007, the value of business to consumer e-commerce in the United States increased over 500% to \$251 billion. By adding in business to business transactions, e-commerce makes up more than \$3 trillion of economic activity in the United States. Across the OECD economies, the percentage of adults doing business online grew by 33% in just the five years between 2004 and 2008. So in today's environment of economic uncertainty, we need to keep these numbers growing even more. Now many of you know, as Jon indicated, I'm from Seattle, and several of the world's leading e-commerce companies have created thousands and thousands of good-paying jobs. But when I think of successful e-commerce companies in Washington State, I just don't focus on the Amazon.coms, the Expedias and the Microsoft's of the world. I also think about T-mobile USA, which is headquartered in the Seattle

suburb. I think of also Boeing, Boeing commercial airplanes, which electronically transacts business with customers and suppliers all around the world. And I think about entrepreneurs and small businesses that rely on e-commerce, not only to grow their businesses, but actually to stay in business. On the outskirts of Seattle there's a small ten-person shop that engraves plaques and trophies. Today, 60% of its business is conducted online with customers that live primarily and operate primarily outside of the Seattle area. Without the internet, small businesses which, when I was growing up, sold almost exclusively to local customers would be in dire financial straits today. So these are the positive outgrowths of our online economy. And they need to be cultivated around the United States and indeed all around the world. But as all of you know, expanding e-commerce also presents targets for those who seek to steal information and to victimize customers. When consumers lack trust in the online environment, the internet's economic potential and its potential to generate new jobs is restricted, is limited. Ensuring a high level of trust in all internet activities remains a huge challenge. A 2009 European commission survey found that 37% of consumers were more confident making purchases from domestic online sellers than from overseas vendors. And a different study showed that nearly 30% of U.S. households that use the internet believe their credit card information is not secure online, and nearly three quarters are concerned with identity theft. So as the OECD recognized a decade ago, policy makers must strike a very careful balance. On the one hand, we need to refrain from the precipitous, prescriptive regulations that can stifle innovation. Instead, we need to keep in mind that innovators want to please customers, that's how they succeed. So we have to welcome new commercial scenarios. And this is especially important, because the internet changes so quickly. Developing hard and fast rules is exceedingly difficult and sometimes impossible, because the online experience can evolve in new directions, even before the ink on traditional detailed regulations dries. On the other hand, when threats to consumers arise and the world's innovators are at a loss as to how to remedy these dangers, it's the government's role, working with stakeholders to address the situation, to protect those consumers. The commerce department is grateful to the OECD for demonstrating leadership in this area and for its measured approach. In the years after releasing its 1999 consumer protection guidelines, during what might be called version 2.0 of internet policy making, the OECD's committee on consumer policy developed recommendations on a number of issues, such as fighting cross-border fraud, combating spam, and preventing online identity theft. But today, on the tenth anniversary of those OECD guidelines, we need to recognize that the internet has evolved and evolved dramatically,

substantially, radically. And this change in the evolution of the internet requires us to reevaluate the way we think about policymaking. Let me just share a few facts on why we believe the internet has undergone a seismic shift, indeed almost a Paradigm shift. Since 1999, we have seen a bevy of new data-intensive services burst on to the scene. Google did not begin serving ads associated with key words until the year 2000. And now hundreds of thousands of advertisers use Google's ad words. In 1999, the founder of Facebook was a sophomore in high school. And by some accounts, his company now owns the fourth largest website in the world. In 1999, NTT Docomo was the first to provide a dedicated web service for mobile phones. In 2008, over 160 million internet connected smart phones were sold. And there are reportedly over 100,000 applications available for the Apple iPhone and iTouch. 100,000. In 1999, the world had 4.1 million broadband users. By 2008, the figure had grown 100 fold to 410 million users. So looking at these facts, we see that the internet use will continue to evolve, at least in three dimensions. First we'll continue to observe rapid growth in the diversity of applications, services and devices. Single-purpose smart appliances, like a smart air conditioner or even a smart electric clothes drier will connect to the smart grid. And additionally, several companies are creating global cloud computing systems which will offer on demand super computing capacity. Second, as the end uses of the internet diversify and expand in number, we will continue to see major changes in how information is collected, compiled, and aggregated. And third, data will increasingly need to move across jurisdictional borders in order to reduce cost, to improve efficiencies and to help consumers find the products they want. So the agenda for this conference recognizes this new reality. And I'm very pleased to see so many people here who are committed to wrestling with the policy changes that the new e-commerce ecosystem creates. At the commerce department, we're stepping up to this new reality, as well. We're committed, we're recommitting ourselves, indeed, to working with all stakeholders, domestic and overseas, as well as from the commercial and the civil sectors, to develop policies that foster innovation and grow e-commerce jobs. But that also enhanced consumer protection. In particular, we're looking to evolve what we're informally calling a version 3.0 of e-commerce policy, a set of policies that strike the right balance of interests in this new reality. What new policy principles should we adopt for this era? The policy principles of the '70s simply need to be revamped. And e-commerce will not reach its full potential unless these issues are tackled successfully, and if they are, that will lead to more jobs and indeed more economic growth. Not just in the United States, but indeed around the world. This is an initiative that will

take hard work and new thinking. But that's exactly what's required, because today's world is so extraordinarily different from the web 1.0 era. We not only have to come up with the right tools to correct -- to protect the integrity of the internet and its users, but we need to make sure that we're focused on the right issues. Given the complexity of today's environment we have to ask ourselves whether our tried and true principles are enough. Or instead should we supplement existing principles with different thinking and new tools? We have to look to see if there are more effective methods that all nations can use to safeguard cross-border e-commerce. And we have to ask if there are new models for accountability, better models for accountability. And if there are, we must also ask if sophisticated, multinational companies should be held to higher standards than small entrepreneurs and start-ups. Because we know that just like traditional brick and mortar businesses, we do not want to drown that small engraving shop in Seattle in a flood of internet-related red tape. Let me just conclude by saying that these are just a few of the questions that we're beginning to explore at the department of commerce. And I know that the FTC is conducting its own workshops in consumer privacy and security role. And the EU will be reviewing its data directive, and this body, the OECD, will continue to play an important role in articulating an international perspective. This is all essential and critically important work. And we at the department of commerce look forward to collaborating with all of the stakeholders on this very important mission. Thank you very much.

>> Jon Leibowitz: I want to thank secretary Locke for those very, very thoughtful remarks, and what's wonderful about the commerce secretary is that he has really grown up with the internet, and he recognizes its wonderful potential and the many, many benefits its given to consumers around the globe, but also that there are some perils which really do require international cooperation. I also want to thank, once again, Michael Jenkin, for his tireless work as chair. I want to thank his team for working with us to put this commerce together. I see Andy Wyckoff, who has been equally tireless in his workaroud this conference. And so we want to thank all of you. I now have the honor of introducing Angel Gurría, the Secretary General of the OECD, really one of the most dynamic leaders on the international stage today. Secretary General Gurría has headed the OECD since June of 2006. Before that he had an extraordinary career in public service in Mexico, where he served in two ministerial posts during his Zedillo presidency. From January 1998 to December 2000, he was Mexico's minister of finance and public credit. And for the first time in his

generation, he steered Mexico's economy through a change of administration without a recurrence of the financial crises that had previously plagued such changes. Prior to this role, he was Mexico's minister of foreign affairs from December 1994 to January 1998. I would say that dialogue and consensus-building and really getting things done were the hallmarks of his approach to global issues, both then and now. I was just sitting here thinking as I was coming up here that he was -- for those Americans in the audience, that he was both the Tim Geithner and the Hillary Clinton of Mexico. Very impressive. He has continued his approach of getting things done, and working together as OECD's Secretary General, reinforcing the OECD's role as the center for global dialogue and debate on economic policy issues, while pursuing international -- pursuing actually, internal monitorization and reform. Under his leadership, OECD has agreed to open membership talks with Chile, Estonia, Israel, Russia, Slovenia, I'm sure I'm missing a country or two, and to strengthen its links with other major emerging economies, which is critically important, including Brazil, China, India, Indonesia and South Africa. And the OECD is very active participant in the G-20, and perhaps if there's still a G-8, the G-8 summit process. But to my mind, what is really wonderful about the Secretary General is that you can speak with him about topics as diverse as global anti-kickback laws, and of course, today as we all know, is international anti-corruption day, or new Mexican cinema, and he will know more about those topics than you do, or at least than I did. And he is tremendously gracious, speaks many more languages than I do, which would be true, even if I spoke four languages, which I don't. And so it is now my distinct privilege to call Secretary General Gurría to the podium. Thank you so much.

>> Angel Gurría: Thank you, Jon. That was an enormously gracious and generous introduction. In bull fighting and in boxing, they say that the most difficult part of the career is when to retire. I should retire now, after that introduction. And just leave you with those ideas.

>> Jon Liebowitz: I'm just hoping the check is in the mail, right?

>> Angel Gurría: Commissioner, secretary, ladies and gentlemen, and also to Japanese and Canadian governments, I thank you for supporting this event. The internet economy is as, and I quote, "amplifying brain power." The way mentioned amplifying muscle power during the industrial revolution. It almost become a cliché. Over one-third of the adults in OECD countries

are now not only plugged, but are becoming actually e-consumers, in spite of the financial and economic downturn, by the way. Their numbers continue to grow, and so do retail sales in the range of goods that you can buy on e-commerce. Now, as we address this worst economic crisis in our lifetime, the internet economy and the innovation capacity of our economies will show the way forward. There will be a part of the solution. Now, innovation breeds change. And it can be a powerful tool to reactivate and transform our economies, to make them stronger, cleaner and fairer. And by the way, let me say a little bit on the sideline, that reducing public spending or even private investment on research and development, which we're seeing already, using the crisis as an excuse is a very, very short-sighted decision, a very short-sighted policy, both public and private. Actually, the success of a number internet companies has helped to cushion the economic downturn, and they will be an important part of the turn-around. We recently put out a book, "Innovation in growth: Chasing a moving frontier." We did this together with the World Bank and we argued that effective policies aren't as innovation and channel it for economic and social goals, is obviously what we have to do. And we recently got a mandate. Actually, last year, we're going to deliver our innovation strategy according to our ministerial mandate. We're going to deliver that in our ministerial council meeting of next year. Is it, Mr. Wyckoff, yes, we will, no doubt about that, right? And we've been working the better part of two years now on this strategy. And the idea, of course, is to bring innovation to promote innovation as a tool for also more inclusive and greener growth, two of the main targets of any public policy. Developed countries have until now been the main beneficiaries of e-commerce. Only last year, 60% of the population, high-income countries were internet users compared to less than 20% in low-income countries. In many developing countries, usage was less than 1%. Obviously, these are the poorest, the neediest. According to internet world stats, 75% of the world's population still does not have access to the web. These numbers illustrate the size of the digital divide, but the situation is changing. China, India, Brazil, together, 341 million internet users. But the problem is, we always use Chinese numbers and Indian numbers and Brazilian numbers in order to show that the developing world is doing better. But it's always these huge numbers or these huge countries in terms of population and economy that we use for the example, and there are 170 out there, or 150 out there. And they don't care very much about the averages. Expanding the benefits of the internet economy to developing economies is part of our mandate. And this, of course, depends on at what cost can we deliver the service? Now, the internet economy and e-commerce can also contribute to meeting environmental

challenges. Migrating from physical to digital goods can have enormous environmental impacts. It could reduce heavy carbon footprints to barely visible scratches. You know, when you have encyclopedias, books, music, all of them can have enormous environmental implications if delivered electronically. Both the greening of the internet economy, but also the greening by the internet economy, that means you use the internet economy for the greening of practically everything we do are important to require all of our attention. Governments need to continue to ensure regulatory and policy environments that support innovation, and the internet economy and their green applications across sectors. We just -- actually, only a few months ago received another mandate to develop a green growth strategy, very much related to what we are discussing here today. We'll present next year, a progress report, but the final product, Mr. Wyckoff, will be in 2011, in June, when we are celebrating our 50th anniversary. It's going to be our big deliverable then. But it's just a coincidence that Andy's got all these things, you know. But there are other important issues that we have to address. The secretary mentioned the question of security. In Korea last year, ministers from OECD and nine non-OECD countries adopted the sole declaration. There were many others, by the way, but some of them did not come around to signing the declaration for different reasons. But 39 did, stated their commitment to, and the main principles for the promotion of the internet economy. Through the sole declaration governments committed themselves to strengthening confidence and security in the internet economy through policies that, one, reduced malicious activity online. Two, ensure the consumers' benefit from effective consumer protection regimes and meaningful access to fair, easy to use, effective dispute resolutions and redress mechanisms. We subscribe, by the way, to the philosophy that, you know, if it ain't broken, why fix it? And that basically we had this wonderful tool, it's developed well, we should keep it on track and encourage its further development. You and the consumer protection community have acted swiftly on the sole mandate. The OECD commerce guidelines that you're currently reviewing as a follow-up to sole have provided us with a good blueprint for protecting and empowering consumers for many years. But much has changed, even in the last couple of years since we did sole. So it's time for a robust review. And let me address four issues. Can we remove remaining obstacles to cross-border e-commerce? There are still many remaining obstacles, and we should. How can we fight online fraud more effectively? How can we improve the effectiveness of education and awareness campaigns? And finally, how can we better protect privacy and personal information? Because this -- 40% of the users are saying they're reluctant to

buy online, because they're afraid of identity theft and there will be abuse. Ladies and gentlemen, Mr. Secretary, Mr. Chairman, Michael, the further expansion of the internet economy will bolster the unrestricted flow of information, freedom of expression and protection of individual liberties. These are critical components of a democratic society and of cultural diversity. To achieve these important goals, we need to join forces across borders and engage in broad-based cooperation among partners from the public and the private sector, civil society and the internet community. Today's conference is an important step in this direction. You have assembled an impressive group of global representatives from governments, business, academia, other international organizations, civil society, to launch a debate on ways to address these very key issues. The outcome will contribute importantly to the policy work we will undertake in 2010. We will get our bearings from the work you do here. You had great success developing instruments in the consumer policy area. We need you to succeed once again, to address the issues that are in the agenda today. The OECD will continue to support you. You can count on us. Thank you very much. [ Applause ]

>> Male Speaker: Could I have the first panel come up, please? Could I -- Okay, we're going to be starting the next panel shortly. So please take your seats. Could you take your seats, because we're going to start the next panel. We are a little behind, obviously, so we'd like to get started quickly. Susan, I've just got to make an announcement here. Thank you very much for taking your seats. We're going to be starting now on mobile commerce. But before we do that, I just wanted to remind participants that while we are trying to do questions and answers after each of these sessions, and we know you're anxious to participate, I did want to remind you all that tomorrow afternoon, we are going to have breakout sessions to discuss all of the issues that we've addressed in the panel discussions yesterday and today, and tomorrow morning. And there will be two hours reserved for you to participate actively, as well in these breakout sessions. And I did want to underline that, because I know many you are anxious to talk, and I know we have never managed to get as much time for questions and answers as we would like at the end of each panel session. So just to underline, there is this block tomorrow afternoon for two-plus hours. So if you don't get your questions in at that stage or points you wanted to raise and discuss, please reserve them for tomorrow afternoon, because you'll have ample time to do that then, as well. And we'll have a report back session at the end of those breakout sessions, where each of the moderators will report back on what they have heard to help with the summing up at the end of the day tomorrow. So do

gear yourself up. By all means, ask questions today. But do gear yourself up for that session, because we're looking forward to it, and actually hoping that you'll be quite vocal then, as well, to help make sure that we get the kind of input that we need at the end of the day tomorrow. So now I'm just going to turn it over to Susan Grant, who is going to be dealing on our next session on mobile commerce, so Susan, it's over to you.

>> Susan Grant: Thank you very much. Good morning, everybody. I'm glad so many stayed and didn't run out after our luminaries this morning. I am director of consumer protection for Consumer Federation of America, which is an association of non-profit consumer organizations across the United States. And I'm really pleased to be moderating this session on mobile commerce. When the OECD guidelines were adopted in 1999, and I was fortunate to be part of that process, none of us realized that within the space of ten years, mobile phones and other mobile devices would essentially become mini computers. Offering a lot of the benefits of PCs, but also presenting many of the same challenges. Last year, the OECD committee on consumer policy issued policy guidance to address emerging issues in mobile commerce. And those included the difficulty of providing pre and post transaction information, given the small screens of mobile devices and their limited storage capacity, unauthorized transactions, the need to protect children from overconsumption, aggressive advertising, and other dangers. Confusion about where to go if you have a complaint with mobile transactions, and concerns about privacy and security. This session is designed to continue that discussion. On what needs to be done by the OECD and others to ensure that consumers have transparent and effective protection that is not less than the protection afforded by other forms of commerce as the OECD e-commerce guidelines call for. This question is urgent because of the explosion of mobile devices and their use beyond voice. According to a March 2009 U.N. report, 60% of the world's population now has mobile phones. In the U.S., the "Wall Street Journal" reports that PayPal payments made on mobile phones the day after Thanksgiving went up by 650%, compared to the previous year. Media post reported that 4% of the transactions that consumers made on cyber-Monday were made via mobile devices. Analysts said ABI research are increasing forecasts for the physical sale -- the sale of physical goods via mobile devices in North America this year to \$800 million, compared to \$346 million last year. And in October of this year, "Business Week" said that this was M-commerce's big moment. Is that true, or is that just hype? We have four great panelists to help answer the

questions that we have about mobile commerce. Marzena Kisielowska-Lipman, a senior policy advocate at Consumer Focus in the U.K. will set the stage by revealing the results of a new cross-country mystery mobile shopping study. This study has not been made public yet, so you are getting a sneak preview of this. And it will help to frame the presentations by Christine Von Dylan, director industry initiatives and partnerships at the mobile marketing association. We appreciate very much her substituting for Michael Wehrs, who could not be with us. Darren Bowie head of legal and intellectual property at NOKIA, and via videotape, we'll have Yoshikazu Kumagai, director of the consumer services department at NTT Docomo. Marzena?

>> Marzena Kisielowska-Lipman: Susan, thank you very much for introduction. Ladies and gentlemen, I would like to express my gratitude to OECD for inviting me to speak on their panel, and also to FTC for their hospitality. It's great to be here and to take part in the debate, helping hands consumer protection across the OECD countries. I represent the U.K. Consumer organization that champions consumers' rights across England, Scotland, Wales, and pollster services in Northern Ireland. My presentation, as Susan mentioned, is based on the results of a cross-country study, which is a mystery shopping study, which was carried out with the use of third generation mobile phones with broadband access. We carried out the survey by consumer organizations from 11 countries between July and September this year. Could I have the next slide, please? And the next one. Thank you. And as Susan said, we are here to launch the results of the survey in a report next week. It's called pocket shopping, and if you would like to see full results of the survey, you are welcome to visit the Consumer Focus website, or you can e-mail me directly, and I will send you the report. I am also particularly delighted to see in the audience Mr. Carlos Sanchez-Reyes, who's the president of the Spanish organization for consumers and users, whose organization participated in the survey, in the project. I would like to express again gratitude. Unfortunately, the rest of product participants were not able to come. But I would like to use this floor to thank them for their hard work and contribution to this project. So what was the aim of our project, what was the objective? Well, we -- as it's a new environment for consumers, we tried to test the real-life consumer experience using mobile phones for shopping purposes. We aim to identify good and best practices, and highlight areas for potential consumer concern. In total, we purchased 112 products that belong to four product categories. Next slide, please. Thank you. So we purchased mobile premium rate services, such as the ring tones, screen savers, games. Also, e-

tickets, for example, tickets for trains and parking, but also for concerts, cinema, and exhibition. We also bought digital content other than mobile premium services, such as e-books, music downloads and software. And we bought also physical goods from online shops, which were accessible to buy via mobile broadband. So the shopping list included books, DVDs and CDs. So what were the results of our survey? Well, the results were as follows. Restricted market choice, inadequate information disclosure, poor complaint handling and redress, payment lacks confirmation stage. In the majority of the cases, the transactions had no age verification systems. We also found insufficient advice on mobile security. We were also concerned about privacy issues, and we faced problems with unwanted subscriptions. However, the good news was that in the majority of cases, shoppers were not targeted with unsolicited advertising. Overall, we received around 11% of unsolicited advertising, which came from vendors which we purchased, made purchases, and they have a built-in system to unsubscribe from the service. So what is it about the restricted market choice? So we found that the mobile market was dominated by mobile premium rate services, whereas access to digital content, other than premium rate services, for example, music downloads available, was restricted by lack of interoperability of software, and the digital right management systems. So to illustrate you on an example, we had a shopper from Germany who bought an e-book on his mobile, and when he bought the product, he realized that it's -- the software package was not compatible with his mobile software. So he tried to change the package. However, to make it compatible with his mobile software. However, he was restricted to do so by digital right management systems. So he contacted the vendor, and asked if he can use this particular e-book on another mobile, which was compatible with the software of the e-book. However, the mobile vendor didn't agree to this. So in the end, he was left with a product which couldn't work on his mobile. But he could not get any redress or remedies for it. Next slide, please. Next slide, please. We also found problems around the area of inadequate information disclosure. Partly because of technical constraints of the mobile hand sets, such as small screens, low processing capabilities. But also, we found that information disclosure was limited by business practices. So, for example, you have a look at the information about the cost, only 62% of vendors provided information on the costs. However, this figure was much lower for rate services, and other digital content, and it was quite high when we were purchasing digital and physical items, such as books, for example. We also found limited information about restrictions on digital RAD management systems software application needed, for example, digital content, which is crucial,

and we ended up in the end with lots of products bought which were in defective and couldn't work on the mobile. Next slide, please. Thank you. We also found problems around poor complaint handling and redress. We found that on -- you can see, in 46% of cases, vendors did not provide details on who would take responsibility for dealing with a complaint. And in 13% of cases, shoppers struggled to identify lines of responsibilities, because of the multiple chain of vendors using the transaction process. For example, in a typical transaction buying a ring tone, you go through a service provider, then you would be directed to a vendor saying a ring tone, and then another vendor would be processing the payment. So obviously, we found that all the three vendors were having different terms and conditions attached, and it was difficult to establish lines of responsibility. Next slide, please. We also found that the majority of vendors did not provide information about dispute resolution. Overall in 71% of cases, such information was not provided, and this figure was much higher for mobile premium rate services, e-tickets, and digital content whereas in for physical goods, the information was not provided in 48% of cases. Next slide, please. Thank you. Another problem we faced was around payment. We found that in quite a few number of cases, vendors did not provide so-called review stage, which presented the -- a consumer with an opportunity to confirm the intended purchase, correct any errors, retain information or withdrawal from the purchase. So this contributed to a lot of unwanted subscriptions. Because, for example, information about the product subscriptions was presented at the very end of the transaction, when shoppers were not able to cancel their payment process. So, again, if you analyze mobile premium rate services, the opportunity to review were slightly lower than, for example, in the case of e-tickets or physical goods. Next slide, please. Thank you. We also were interested to find out whether vendors provided any protection for underage -- prevent them from overconsumption and unauthorized payment. And we found that in the majority of cases, no such verification system was provided. The systems which we found were credit card protection, because of this the under age users do not have access to credit cards. Also, they were like systems that crediting needs. We also found very limited advice on mobile security, which we believe its crucial, because the mobile set is on the growth, and we also know that consumers awareness on how to protect themselves when it comes to mobile self and mobile misuse is low. For example, we recently carried out a survey on mobiles at Consumer Focus and we found that consumers in the UK were confused about lines of responsibility, and many believed that they were granted the same level of protection as the credit card holders, which obviously is not the case. Next slide, please.

We also are interested about issues of privacy, what sort of information was collected during the transaction process. And we found that in the majority -- and also with the previous policies were provided, and we found that in the majority of cases, policies were provided, however in 26% of the cases overall, vendors demanded personal information, such as the name, address and contact in order to provide full information about the product. Next slide, please. So the most common -- we also tested the problem -- one set of of problems with the E-berry. We had -- you could see that goods or e-tickets we didn't really have any delivery problems. The problems with deliveries were mainly around mobile premium rate services, and other digital content, and they included unwanted subscriptions, defective items, but also other problems, which included incorrect billing, and problems with incompatibility of the software applications. So -- next slide, please. What's the way forward for OECD guidelines, and is it relevant, and how can we move it to enhance customer protection in mobile commerce? Well, we came up with three recommendations, and they would be interested in your views and to debate on this. The first one is to access relevance of the guidelines and regulations in relation to the new emerging problems that include restrictive access and limited net neutrality and software, of software and equipment. We'd like to find out to what extent their restrictions are caused by technical incapability's or put deliberately by major mobile operators to restrict market competition. The other one is the limited right to address and remedies for forward and undelivered digital content, we found that out of the participating countries, only Korea had consumer protection, which gave remedies for example, undelivered digital content. Also, limited protection for payment, when it comes to payment, we also found that only Denmark's legislation protects mobile payment in the same way as the credit card payment. And, again, we would like to investigate the protection of children who were mobile phone users. Then we would like to put effective systems to ensure enforcement of the guidelines of the existing guidelines, especially on information disclosure, redress, access of the dispute resolution, and so on. And obviously would like to encourage businesses to comply with the guidelines and invest in technologies that enhance consumer protection. Thank you very much for your attention. [ Applause ]

>> Susan Grant: Thank you very much, Marzena. So I have asked our panelists to respond to the concerns that Marzena study raises. Not only what they're doing in their respective companies and

associations, but also what should the OECD be doing to address these issues? And Christine, we'll start with you.

>> Christine Von Dylan: Sure. Thank you both. The mobile marketing association represents over 700 companies around the world, all in the mobile marketing space. So that includes operators, that include agencies, brands, technology enablers, research companies. One of the things we've noticed in mobile commerce is we certainly don't have enough research, so Marzena I really appreciate this study, and I think that this will be very valuable for us as we go forward. One of the goals of the mobile marketing association is to create standards, guidelines, best practices, that companies, operators, can follow as they move forward in their progress of implementing mobile commerce. As a mobile marketing association sees it, mobile commerce is split up into a couple different areas, and the first area is the ringtones, the wall papers, the premium services that billed to your mobile phone. And one of the things that we did to address that here in the U.S. was to create a consumer best practices guidelines. So it's probably -- it's very similar to the OECD guidelines from 1999, but really more of a detailed version of how to implement this in mobile devices, as it applies to the premium space. So very important here in that we really kind of -- we took the scope of where we were focused from mobile commerce and decided to focus just on this premium off deck and on deck content. So these guidelines address some of your concerns about billing, about the clarity of what a consumer is purchasing, about customer service and how that's being handled, and whose responsibility it is. So when a consumer goes and purchases a ringtone and it's billed to their phone bill, do they see the name of the company that serviced that ringtone? Do they see the phone number of that company? And our consumer best practices in the U.S. outlines all of those rules. And the CTIA here in the U.S. enforces those. Interestingly, now that we've become a global company over the last couple years, we're trying to expand these guidelines outside of the U.S. so we do have a German version of these guidelines and we've also got a Portuguese version of the guidelines, we're looking to expanding it into Canada next, and so we're hoping to have more of a global presence as it applies to this type of mobile commerce specifically. Then we start addressing some of the other issues of mobile commerce, and this is where we're getting some of the newer spaces where purchasing E-books and purchasing movies on the mobile web, or through an application, and addressing the issues of limited screen size, limited storage capability of the device, all of those things, we are still looking for studies, so that then we can

establish those guidelines. As -- you know, as a trade association, what we're trying to do is we're trying to allow that innovation, and then understand what the consumer response is, understand what the marketplace needs and then create those guidelines to put in place. So more research is absolutely the first step here. And I think global cooperation to the point of OECD absolutely we need global cooperation. We need to continue to work with the associations and organizations around the world. Right now, we know that the mobile operators have a great deal of insight into the consumers' wants and needs and concerns. So we do tend to lean on them heavily for some of the feedback about the consumer experience. But this is extremely enlightening, and I really appreciate this. I think, you know, moving forward, we need to work collaboratively, and we need to make sure that the principles of the 1999 guidelines are in place as we move forward with mobile commerce, and I think the MMA has addressed some of the specific guidelines that we need to have for this, almost this first generation of mobile commerce, which is the ringtones and wallpapers. And now we probably need to take that next step with some of the data that we have, and move forward to establish guidelines for mobile commerce through -- through, you know, payment accounts, like PayPal or through credit cards, you know, content that you can get elsewhere, other than just through these premium on deck and off deck services.

>> Darren Bowie: Thank you. Excuse me. Thank you, very much. I'm happy to be here. I'm Darren Bowie, I'm the head of legal for North America at NOKIA. I would like to thank the OECD for convening this conference and inviting us to participate. I'd also like to thank the federal trade commission for hosting. I worked at the FTC for many years, so it's always nice to come back and see my former colleagues. This panel in particular is very timely, because as we have heard, mobile commerce is growing exponentially, and at my own company, NOKIA, the transformation that we've been going through in the past couple of years reflects the changes in the industry as a whole. A number of years ago, NOKIA was primarily a manufacturer of mobile devices. And we still are. In fact, we are the largest supplier globally of mobile devices, and continue to be so. But we've also become a services and solutions company over the past couple of years. So in addition to offering mobile devices, NOKIA offers maps, messaging services, games, music, many other services. NOKIA offers these itself, it also partners with other third parties to offer these services. So, our own company and where we're headed shows that truly the mobile device is becoming a mobile computing system and clearly not just a means of making calls. So this review is very

timely. And I would also like to thank Marzena and consumer action for the study, excuse me -- Consumer Focus for the study, and it is very, very timely and I would like to address a couple things and give my thoughts and some suggestions of where we could have some further research and some possible recommendations. First, with respect to the issue about disclosures, I agree that this is a very difficult and complex issue. It is one that we've seen in the online context, how do you make all of the disclosures to consumers that you should make as a company in the online environment, and those challenges are magnified in the mobile environment, because of course, you're dealing with a screen that's very, very small. And it's just not possible to make detailed disclosures in a way that is compelling to consumers. So the question becomes, what is it that you need to disclose on the screen, where do you use your valuable mobile real estate, and what can you disclose through other means? For example, in a policy that can be linked to -- if a consumer wishes to read a more in-depth policy, can something be disclosed through other means on paper or through advertisements or through some other ways? And that is an area that continues to present challenges for companies that also, of course, for consumers. And I think it would be helpful for the OECD, also for industry associations and perhaps government agencies, to think about what guidance can be given to companies and other players in the mobile marketplace about what should be disclosed prominently on that screen. I think there is consensus about certain material terms that should be disclosed prominently on the mobile screen. For example, cost and price. And I was surprised to hear -- I think the figure was -- only 62% of consumers are -- of companies in your study made sufficient disclosures in your view. And that's actually a surprisingly low number, to me. It's widely understood that cost is a material term that needs to be clearly disclosed to consumers in all context. And obviously, according to this study that's not happening. So to the extent we could have global guidance about that type of disclosure about other types of disclosures -- for example, negative option type marketing or free trial marketing, where there are other material terms and limits on what consumers are offered, that I think would be very, very helpful. So that's one suggestion. And I think we all have a role to play here, as well. Industry organizations like the MMA, and the OECD can help in that area. Another area I'd like to talk about, and this was touched on, as well, relates to privacy and security, in the mobile context. And, again, there are unique issues with respect to privacy and security in the mobile context. Location-based services is one. It's an area that's continuing to grow, and I think there is a need for guidance in the industry about how to make disclosures to consumers, how to -- how to obtain consent from

consumers when they're using mobile applications that involve location-based services. In the United States, CTIA, the US wireless association, has issued guidance on location-based services, and how to obtain consent and to make disclosures. I think more of that guidance is needed globally, as we're going to be seeing a lot more of these types of services, and as we all understand, the privacy issues associated with those are potentially significant. While guidelines are important, it's also important to understand that there needs to be some flexibility with respect to how consumer consent can be obtained, and how disclosures should be made in the location-based services context in particular, based on the nature of the service being offered. There are certain types of location-based services where a very clear opt-in check the box consent would be appropriate. But there also might be other cases, for example, if a consumer were to sign up for a location-based service, and then use it and say, please show me where the nearest gas station is. I think it's fair to say that in that case, the consumer understands that he or she will be transmitting their location in order to find out where the nearest gas station is. So it certainly depends on the particular context of what is being offered to the consumer. So I would recommend that we recognize that flexibility is necessary in any guidelines issued on location-based services and other privacy issues. And I would commend the CTIA guidelines in the United States as a good example of that. Finally, with respect to security, that's also an important issue in the mobile space, and I think we could all benefit from additional law enforcement in this area. And also, additional law enforcement with respect to mobile disclosures, as well. Law enforcement in the U.S. by, for example, the federal trade commission, globally from other government organizations, sends a message to the industry that these are serious issues, that there are consequences for not acting appropriately, and not complying with relevant laws, and I think we could all benefit from greater enforcement targeted to the mobile environment. So I'll end my remarks now, and I know we'll be discussing these issues going forward. But thank you again.

>> Susan Grant: Thank you, very much Darren. [ Applause ] Can we show Mr. Kumagai's video now? Thank you.

>> Yoshikazu Kumagai: My name is Yoshikazu Kumagai from the NTT Docomo consumers services department. Today as the use of mobile internet services grows dramatically among the young, I would like to explain Docomo's initiative to deal with each kind of trouble, focusing on

filtering service and anti-spam. Japan's mobile content market has been expanding since the start of the mobile internet service in 1999. Additionally, the mobile commerce market has expanded dramatically since 2003, and this growth continues even now. Together these are resulting in U.S. 16 medium market in fiscal year 2008. Mobile phones are growing as items necessary for lifestyle and mobile commerce and have also become popular among the young. Usage of mobile phones to access the internet is at 30% among elementary school students, 60% among junior high school students, and 95% among high school students. Given this, there is a wide increase in illegal activities such as -- transactions and illegal music downloads. Furthermore, there is increased handed to the young resulting from to online dating sites, and grown more away from dependency. As searching to protecting the young, I will introduce Docomo's filtering service and -- . This is an overview of Docomo's filtering sites. White lists and black lists are to nestled for mistreating this couple websites that can be accessed. There are two nestled for misleading time accessed, the twenty-four hour nestled, and the nighttime nestle. Additionally a customizing service enabling individual range of accessing the sites according to the parent's discretion was long shed in general this year. These services are provided free. An increase in young people encountering programs on the internet means that there is increased recognition of the importance of filtering and the numbers of filtering contracts is on the rise. In April of this year, the low rating mobile phone internet usage by minus was implemented, -- usage of filtering for users up to 18 years of age, except where deemed unnecessary by parents. This is an overview of measures taken to counter spam. Docomo is working to lessen the -- sent from both PCs and mobile phones, and by implementing anti-spam rejection settings on the customers mobile phone. -- Docomo can use information provided by customers to take various measures such as suspending usage of the account, used to send this. Inquiries to Docomo regarding from peaking in 2001 and haven't become a major issue. Accordingly by providing various functionality to counter these trends and spam and making good use of these -- . The i-mobile services have continued to grow with a number of inquiries kept to low levels. Spam is a breeding place for illegal activities and transactions, and meaning that these can result in widespread -- not only to use but to society as a whole. We are continuing our efforts to strengthen our measures. This concludes my explanation about the commerce filtering and measuring to counter spam. We at Docomo undertake to deliver safer, more secure, and high confident mobile phone services. Thank you very much for listening.

>> Susan Grant: Thank you. Let's give Mr. KAMAGI a virtual round of applause. So I'm really grateful to my panelists for making their presentations very concise, so that we actually do have ten minutes for questions and discussion. Are there any questions in the audience at this point? Let me -- oh, great.

>> Male Speaker: Hi. I was curious. There are a lot of filtering technologies on regular computers to protect children. And I'm curious why, if these are small, mini computers that we have, that those haven't migrated as easily to the mobile world as might be expected. And then secondly, with regard to your study, Marzena, I saw there was a large disparity between the age verification aspect for Korea, vis-à-vis other countries. And I was wondering if you had any insight as to why there was such a large disparity there. They had a lot more than any other country. Thanks.

>> Christine Von Dylan: Well, I'll go ahead and start. I know that the mobile technology companies right now have put technologies in place to allow parents to have the controls of the phones, so that when setting up a child's account, they identify that individual as a child, and then the parents have controls over, you know, limits of how many phone calls or limits of content that's downloaded and purchased. So I think its one way technology is being used to address that question. I would agree that some of the other -- the age verification capabilities that are immediate when downloading content are probably not addressing the issue correctly.

>> Darren Bowie: It's a good question. I think we're going to continue to see improvements in this area. Part of the challenge is that unlike in the online context, there are, as we know, a number of different mobile operating systems that are currently in use. So, for example, there's the Symbian system which NOKIA uses, Apple has its own, there's the Google android system, palm, et cetera. Each of those are different, and while that competition presents a lot of opportunities for consumers, it makes it challenging, in some cases, to offer one particular type of filtering technology that will work on all of the different systems. So as the industry evolves, there is more work to be done in that area, I agree. But I think that's the part of the difference in the mobile context.

>> Susan Grant: And before Marzena answers the other question, I just want to make a comment that Mr. Kumagai pointed out that the filtering services that they provide are free. I know that some companies, like AT& T have really, really good parental control programs, but there's a fee for it. It's not a large fee, but still it may be a barrier for parents to use, and so one thought that I have is that if you build in these protections and make them free, you'd have more uptake.

>> Marzena Kisielowska-Lipman: To answer your questions about disparities and results when it comes to age verification and payment between Korea and other countries, is that in Korea, the shoppers, the searchers used a so-called microchip payment which are available on the mobile phone, for example, mobile payment, which has a special pin number, which is obviously only given to adults, not the underage. And in this way, yes, this is one of the systems which could stop underage from overconsumption.

>> Susan Grant: Thank you. Other questions?

>> Male Speaker: Good morning. My name is Thomas, I'm from the European commission. We last year coordinated an enforcement action in this area, actually, on the mobile service providers' websites. It covered ringtones, it covered wall papers, and sometimes also games. And we understood that it is very easy to find big companies like NOKIA or mobile-content providers, and talking to them, of course, we can come to an agreement on different issues. But we also understood that the content providers themselves, they are very often very small companies. It's very difficult to find them. They are not members of any association. So it's, for us, for enforcers, to address any issues to them, it is difficult. So I would like to know that you representing this area, and working with them on a daily basis, how do you see it? What are your tools, and how can you address these issues? Thank you.

>> Christine Von Dylan: I'll go ahead and start with that one. I absolutely agree. We have identified that the issues that content providers and then the marketers, the acquisition marketers that they use to advertise these products, are sometimes so small and is -- unidentifiable. They're 14-year-old children sitting in their parents' basement who are creating these advertisements, and then acquiring these customers on behalf of content providers. And the chain of responsibility

comes down from the operator to the aggregator, to the mobile content provider, and down to the this acquisition marketer, the affiliate marketer who is, you know, acquiring these customers through unfair advertising. The mobile marketing association absolutely identifies these issues, in addition to putting out guidelines to help content providers, and affiliate marketers advertise fairly, and this even goes down to the point where we start talking about the pixel size of font. So they're fairly detailed guidelines. We've also introduced a program where we have -- we will have affiliate marketers as members. And that way, they can be identified. So even as small as they are, they can raise their hand and say that their good behaviors -- behaviors in this industry, and that way, they will receive preferential treatment through that chain. So ideally, you know, they will -- this good behaving group of affiliate marketers and content providers will have lower refund rates, they will have, you know, ultimately will work toward getting them quicker time to market. So ideally, we'll kind of bubble up the good behaviors in the industry. And that's what we're working to do.

>> Darren Bowie: And in addition to the work that the industry does, and the industry does do a lot of work in this area, so, for example, at NOKIA, we have an application store in which we offer third-party applications. And we require all publishers who have applications in the store to agree to our own terms and conditions, and to abide by certain privacy standards. And we have the ability to remove those providers from our application store, if we learn that they are violating our own policies. The mobile operators have similar policies, as well. So that's an important check on the system, is to work with large companies who do have the ability to terminate certain third-party application providers who are not acting appropriately. From a law enforcement perspective to the extent that there are third-party providers or other parties who are engaging in fraudulent activity, criminal law enforcement is often the most effective way to address this problem. And we've seen that in the online context with online fraud, with telemarketing fraud, where you're dealing with small actors who are engaging in fraudulent conduct. Really, the best way to take action is to prosecute them criminally. And I think that's an area where there is a need for increasing global coordination, and one where the OECD can play a role, as well.

>> Susan Grant: Do we have another question?

>> Male Speaker: Hi, good morning. Well, we have seen that in Japan, there has been a huge growth of technology called QR codes, which are basically codes that you can put on the offline world and connect it using the mobile phone to the internet or mobile video and things like that. It's been huge in Japan. We have seen also that Google has announced that they're going to distribute D-CALCs to put on front stores so you can connect these to Google maps. How do you see for instance NOKIA and also the marketing association, how do you see the importance and the growth of these -- of that technology as a future for mobile commerce?

>> Darren Bowie: So I'll begin. And I think those are both very good examples. And I think we're going to be seeing many, many more types of activities in this area with all of the parties in the mobile system. And, again, it raises a lot of the challenges that we have been discussing about how do you make effective disclosures about those types of services and technologies? So it's going to be increasing. I would agree with that.

>> Christine Von Dylan: Yeah, I think at the mobile marketing association, we're really excited about that technology. It enables users to engage with the physical world in a virtual way. This is one way for them to circumvent the S & S system, so now they're not being charged fees in that particular way. But it then raises a whole issue of concerns about what is this other technology, and what sort of guidelines and best practices do we need to put in place there? So this is the fun, exciting challenge of the mobile industry, where it's justify one technology after another every day. And, yeah -- challenge it.

>> Female Speaker: Especially when you can just hold your phone up to something without having to put a pin number in, so that anybody who gets a hold of your phone can then make a purchase that way. It does raise concerns. Marzena, do you have any further views about that?

>> Marzena Kisielowska-Lipman: No, I don't have any views on this. We didn't covered this particular stuff in the survey. As mentioned, there are privacy issues around these technologies and information disclosure that consumers need to be informed about what's available. And so they express informed consent and the same with location tracking technologies, which are particularly used by children. And it just -- an important issue. And I think I would kind of question this kind

of flexibility of disclosure of information on location tracking, because as you mentioned, this -- this case of -- of information disclosure about -- on the federal station, and you actually -- with new technology, someone else can view you, as well. So I believe that consumers ought to give a consent to any sort of in disclosure about their location tracking. So, yes, that's -- it. Thank you.

>> Darren Bowie: One point on security, I think there is a real need for education on consumers on mobile security. There are certain technologies and steps that are already in effect that I think many consumers don't understand. For example, NOKIA has a system where you can sign up for a remote lock program. So if your device is lost, you can send an SMS to your device, and it locks remotely. I think others have that, as well. We do what we can do to try to educate our customers about that. But I think a partnership with the government, consumer groups and others, to really explain to consumers the options that are already there would be very useful. And then to follow up on the location-based services comment, my example with the gas station would presume that there would be a consent to sign up for that service to begin with. But that I didn't necessarily think it was required for consumer to opt in through a separate terms each time they then were to request a gas or petrol station. But there would be some initial consent at the beginning of that process.

>> Susan Grant: Thank you. We're going to be having a breakout session about mobile commerce tomorrow. I'm hoping that lots of you will stick around for that, and participate to help us talk further about these challenges. I'm really sorry to have to cut the conversation off now, because I think that there's lots more that we could get into. But -- and we've made a good start, and I really appreciate the work of my panelists. Please give them all another round of applause. [ Applause ]

>> Jon Leibowitz: Okay. We're going to move on to our next panel now. So could I ask panelists to come up, please?

>> Male Speaker: Ladies and gentlemen, could I ask you to please take your seats? We would like to get started. As you know from experience, we have lost the cover, and we don't want to lose discussion time as well. Okay. We're going to start our next session today, which is an interesting -- an interesting set of issues, because it's something that's emerged since the guidelines came out, really, which is consumers as merchants on the -- on the internet. An area which opens a whole

interesting set of of issues and questions. And to moderate our panel today, I'm pleased to introduce Philippa Lawson, who is the -- an associate with the Canadian Internet Policy and Public Interest Clinic. And Philippa comes to us today from Whitehorse in the Yukon, so she's glad to see no snow. [ Laughter ]

>> Female Speaker: Yeah, I was saying, up in the Yukon Territory, far north of Canada, people rely very heavily on electronic commerce. And, in fact, one the projects I'm working on up there with the territorial government is on internet safety. So I'm really pleased to be here, and thank you very much to the OECD for inviting me to moderate this panel. Consumer-to-consumer commerce is, of course, the oldest form of commerce. And it continues to thrive offline and in the form of flea markets, garage sales are very popular in North America, auctions, estate auctions, newspaper classified ads, just to name a few examples. But the internet has, of course, revolutionized this form of direct consumer commerce, and the trading possibilities for that by exponentially expanding the scope and the reach of -- of direct consumer advertising and trading. And the leader in C to C commerce, I think we would all agree, is eBay, with its wildly successful international online auction, a model that a number of other online entrepreneurs are now following. And I know I'm looking very much forward to hearing from John Donahue, the president and CEO on eBay over lunch. We don't have an eBay rep on the panel. We tried very hard, and we're hoping to have a representative from one of the big online C to C providers on this panel. But unfortunately, they couldn't make it. But we have a great panel, nonetheless. Before I turn it over to them, just a few more words. Craigslist, another wildly popular online C to C marketplace is, of course, an online classified advertisement service. And like other local online buy and sell services, it's eclipsed paper-based advertising in many local markets, and I would say often to the financial detriment of local newspapers. Individuals, of course, are finding other ways to use the online marketplace to advertise and sell items through their personal websites, social networking sites, or to just through e-mail, as well. So a key challenge for C to C commerce, I would say, is establishing trust between buyer and seller. That challenge, I would argue, appears to have been met to a large degree. But perhaps more than deserved. Given that internet auction fraud continues to top the charts of internet complaints. And, indeed, online auction fraud accounted for over one quarter of the 275,000 complaints referred last year to the U.S. internet crime complaint center. And in the previous year, total losses in the United States from online C to C auctions were

estimated to amount to over \$53 million. So we've been asked in this panel to address a number of questions that are in the -- in the agenda there for you. I'll just read them out before I turn it over to our panelists. To what extent should the principles and rules governing B to C commerce be applied to C to C commerce? And what are the main challenges in this regard? What roles can or should intermediaries play in C to C commerce? And what principles should govern their terms of use? What role could or should governments play in deciding how C to C commerce should be structured and what the responsibilities of consumers and intermediaries should be? Now with that introduction, I'm going to turn it over to our five panelists, each of whom is going to speak for about five minutes, and then we're hoping to have lots of time for questions, answers and discussion. So we will start with Mr. Ho-Tae Kim who is the director of the e-commerce team at the consumer policy bureau of the Korea fair trade commission. Thanks.

>> Ho-Tae Kim: Hello, everyone, nice to meet you. My name is Ho-Tae Kim, head of e-commerce team of Korea FTC panel commission. I am very happy to see you, and have an opportunity to participate in this conference. So today I am going to tell you about C to C and consumer protection. Next page. So to begin, I will tell you about features of C to C. We can find some different points as follows -- in trade methods B to C is operated by businessmen directly or indirectly through intermediaries. Because there are lots of consumers in B to C, government regulate B to C by strong intervention for consumer protection. On the contrary, C to C commonly occurs in websites offered by intermediaries, for the most part. So because one style -- one is related to one consumer, sellers status is uncertain, and the consumer protection -- consumer protection rule doesn't use this. So consumers ensure the protection by their own efforts. In some of C to C interpersonal e-commerce and -- information problem. And the consumer will have a relatively high trade list compared to B to C. Next. So I will tell you about consumer -- and its management in C to C in Korea. This is according to consumer agents data in 2007. The most consumers are [ Inaudible ]. Each with 33.8% and 32.4%. So it means that sellers take the heaviest impact, and not delivering the incident. Cheating sellers takes just the money in advance and it doesn't deliver these items. Next. The results of consumer venue --and because they have no methods or rules, they present to the point -- including third party resolution. Most parts of management are under condition of other institutions, and explanation of law, et cetera. This data shows that consumers are not set up at all, so far. Next. So 4.9% of consumer resolution of C to C,

I would like to propose some measure, preventing measures, all sellers and the intermediate dairies must disclose, and the commerce must strengthen intermediaries' duty. And we must introduce -- introduce a trade system like this system. And second, we must arrange settlements system by several resolutions many and establish consumer intermediates, and con strengthen consumer protection, I.D., et cetera. Next. So at last, I would like to propose the role of government for consumer protection. As you mentioned, about -- governments have to help to strengthen disclosing sellers' identity, and the common information in C to C. And must enlarge ADR. ADR means al anyway dispute resolution system. People should -- it will lesson the expense. And the government must enlarge poor e-commerce education. For sellers and buyers. And for information of e-commerce and cooperation, commerce must give opinions about C to C consumer protection. So far, I've talked about some -- in terms of C to C consumer protection. Thank you very much for listening to my presentation. [ Applause ]

>> Female Speaker: Thank you very much, Mr. Kim. And now I turn it over to Renée Prescott who is the director of international at Australian competition and consumer commission.

>> Renée Prescott: Thank you Philippa and it's an honor to be here today. To provide a little background of myself I'm from the Australian competition and consumer commission. We are an independent statutorily authority responsible for the enforcement of national competition and consumer protection laws. In Australia, we have no separate or specific e-commerce law. In a way, our law is what you could call technology-neutral. It applies to both traditional and online forms of trade and commerce. We've just heard about some of the detriment to consumers as biased in the C to C area. I would like to focus on the actual consumer doing the selling. And consumers acting as sellers face many vulnerabilities, and as people mentioned, internet fraud is one of the major areas in this region. Some of the conduct that we are seeing in the ACCC that is undermining the confidence in e-commerce includes accounts being hacked into, a seller's classified or their auction account is being hacked into literally, or through phishing. This is a case where say through an email, seller has received a message to say please update your account or renew it, and they have to provide personal information or account information to do this. And this is a way that a scammer gets the information and can then utilize their account and pretend to be the seller for fraudulent purposes. So all that trust that the seller has gained is being used by the

scammer. Another issue that we are seeing are check overpayment scams. Very briefly, this is where the seller will provide a check over and above the agreed price for that product. The seller will then -- and there's often a lot of excuses for selling -- for providing that amount of money, such as they thought they had to pay shipping fees, or something like that. The seller will ask to refund this excess money, usually via wire transfer. And in a hurried way, so that by the time they have paid the money, they have found out the check has bounced. Or they can be transferring this money as part of a money laundering scheme. So there are many other scams and vulnerabilities that consumers or sellers face in this market. The online environment has made it very easy for consumers to sell their goods and services. Often, these consumers have started with very limited entrepreneurial skills. Many that we see are face -- that are facing difficulties start with the knowledge of say running a garage sale. But in this case, they're running their garage sale online, and they just lack the awareness of the vulnerabilities. As an enforcement agency, we do a lot of outreach in education activities, and it was quite an eye-opener in preparing for this session to look at our activities in the eyes of a consumer as a seller. There is a lot of education and awareness out there for business, both big and small, on this issue. On the other side, there is a lot of education and awareness for a consumer as a buyer, and what they're looking out for. But there is little that is specifically for a consumer as a seller. I'm not saying the information isn't out there. It is. It's just not packaged in a way to target this group, and cover all of the issues in the one place. Issues such as where is the line between a private sale and that of acting in trade and commerce when the actual trade practices law applies. If it applies, what then are their rights and responsibilities? What doubt are they may be receiving as part of their sale that requires privacy requirements? What are the options for safe payment or escrow services if they're looking at a higher amount of money? Computer security. Awareness of scams, phishing, website intrusion, and then tips on how to solve issues or where to go for potential assistance if required. Information like this from the one place, because I know a lot of these issues cover a lot of different departments and jurisdictions, so in the one place, aware of these skills that consumer as buyers have and tailored to that level of skills would provide a step to empowerment. So education and awareness, however, is only one step, and it's often only as good as the enforcement that backs it up. So C to C issues may often only be one of private sales. Often of secondhand goods. And a consumer as a seller often doesn't have the same reach as business to have their claims or their conduct, have a large detrimental effect to a large body of consumers. As enforcement agencies, we look to achieve maximum impact with the

resources we have at hand. So we will go after the blatant disregards of the law, the high detriment to consumer cases, and the conduct that targets disadvantaged and vulnerable people or consumers. So unfortunately, you may not see the big court cases on C to C issues. And they do provide the publicity and awareness factor. But we tackle these issues in different ways. And one way is working with the intermediaries. The ACCC as an enforcement regulator, has established informal relationships with both big and small intermediaries, and these have been of great assistance to our enforcement. These relationships enable us to remove wrongful conduct very quickly. In the past 12 months, we've managed to remove over 500 advertisements with one intermediary alone, and these are through informal relationships. So I'll end it there with a bit of of enforcement insight from a consumer as a seller perspective.

>> Philippa Lawson: Thank you very much, Renee. I would like to now to Senny Boone, who is senior vice president for corporate and social responsibility at the U.S. Direct Marketing Association to provide some comments.

>> Senny Boone: Thank you so much. And thank you so much for the opportunity to tell you what we're doing at the Direct Marketing Association, especially how this may or may the not impact C to C. And the consumer as a marketer. The direct marketing association, for those of you not familiar, has a very extensive self-regulatory program. And this is around the B to C marketplace, primarily. So we basically operate through a peer to peer committee structure. We have a self regulatory program that involves setting policies, and then, of course, enforcement for the marketers that may not be following the guidelines. This past year, we have had several recent initiatives that are really, I think, branching out into the area of C to C, where marketers will have to pay attention. And that has to do with the mobile marketing, as was mentioned at a previous panel. We have also just issued online barely advertising guidelines for marketers. We also run a website called DMAchoice.org for the consumer that wishes to be taken out of the marketing process. Through these recent initiatives, our ethics policy committees, as well as other marketing practitioners, have been wrestling with the issues that bleed into the area of C to C marketing, because as you can appreciate, with the various social media marketing tactics and techniques, the social media marketer is reaching out through the individual, and the individual is reaching out to their peers. So there are a lot of opportunities and also a lot of risks for both the marketer and also

the consumer that's engaging in some of these transactions and also the messaging and engagement. I also wanted to mention that we represent numerous charities and nonprofit organizations that are also looking at how to engage in the marketplace. Our basic goal is, as has been mentioned earlier, just like many of you, is to build the consumer's trust. And also, their interaction in the marketplace across marketing channels. So certainly, we have a stake and an interest in ensuring that both the marketer and the consumer know the rules of the road, and are -- be able to effectuate good marketing practices. Through our self regulatory program, we will be asking ourselves in terms of what our marketers can do to effectuate and assist the consumer as we engage them through social media marketing platforms. And what role the marketer should play. Because in many of these instances, the marketer may be serving as the platform for that relationship. So it's really B to C and then the C to C. And I would be very interested -- excuse me -- in learning a little bit more about how we as a direct marketing association can assist with consumer outreach and education opportunities. We represent over 3,700 marketers, as well as the charities and nonprofits. We feel that we touch pretty much every household in the U.S., and, of course, internationally, and we would like to get the key messaging out on consumer protection for the C to C marketplace. And I know one of the questions that has been asked is how our self regulatory program may apply to the C to C marketplace. One of the things that we have considered is to provide sort of a very simple template for the consumer, as they are getting into that marketing space that is basically premised on our principles, and I won't go through those today, but certainly would be happy to provide those to you in terms of how they should be looking the at a marketing offer that they're making, what sort of clarity, what sort of responsibilities and duties they have in that sense. We certainly field many consumer requests and questions about the marketing practices across channels. So we're kind of in the middle there. And we're working with the marketers to clarify a lot of the consumers' questions. So we certainly get questions from consumers about what's happening in the marketplace, and if they wish to engage, how can they be protected. So with that, I'll end the remarks.

>> Philippa Lawson: Thank you, very much. Senny. So now having heard from regulators and the direct marketing industry, I'm going to turn it over to a consumer representative. And we have Mr. Carlos Sanchez-Reyes, who's president of the Spanish organization of consumers and users. [

Speaking in Spanish ] And also member of the executive of bay at the European consumers' association.

>> Male Speaker: Thank you. [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Applause ]

>> Philippa Lawson: Thank you, very much, Mr. Sanchez-Reyes. And now our final speaker is Mark McCarthy, who is now teaching and researching at Georgetown University in the communications culture and technology program. But I think it's important to note that he was for ten years senior vice president for global public policy at Visa, Inc. So we're turning it over to Mark in his capacity as an independent commentator on the issue.

>> Mark McCarthy: Thank you Philippa. And thank you for organizing this panel so well. We just heard a nice discussion of the role of intermediaries, and that's what I want to talk about, the role of intermediaries in C to C transactions. Primary examples of these platforms are the online auction sites and the classified advertising services. These services link buyers and non-merchant sellers to allow the sales of goods and services. These services link buyers and non-merchant sellers to a lot of sales of goods and services, but the C to C platform universe is really larger than that. It includes social networks, peer to peer software networks, online video sites, cloud computing services, wireless digital platforms. These entities all link consumers in one way or another in commercial and noncommercial transactions, and they face the same questions as the more core examples of C to C commerce face. And because C to C attracts -- effects such a large variety of platform providers, I think policy in this area that effects C to C transactions is going to be of growing importance, as policy makers look more carefully at what these sites are really up to now. We all like what these organizations do. Let's start with that. Online auction sites, classified advertising sites and all of the other entities that I just mentioned are enormously popular, and have created enormous value for large numbers of people. However, bad things can and do happen with these C to C transactions. They can be illegal. Simple as that. The seller could offer counterfeit goods or goods that infringe on copyright. There could be fraud by either the buyer or the seller. And as Renée and Carlos pointed out, real merchants who are engaged in public commerce can

impersonate private sellers in these contexts. And so the question really arises, what obligations do the platform providers have to deal with these illegal transactions? What obligations do they have to be responsible for enforcing consumer protection rules in this area? I think one comment at the beginning, Renée mentioned that there are informal relationships that have been set up with many of the intermediaries to help law enforcement in carrying out their investigations. And I think you'll largely find that the platforms that deal with C to C transactions welcome those kind of informal connections and rely on them to help keep their platforms free of illegal transactions. So what's the legal framework? Its complex, its all over the map. The perfect ten case described what the responsibilities are for payment providers, like Visa in the area of copyright infringement. The Groxter case talked about peer to peer responsibility in that area. Tiffany versus eBay talked about counterfeit sales and auction sites in the United States, section 230 of the communications decency act talks about the peer internet providers and their responsibilities. The traditional card payment companies have responsibilities to provide dispute resolution and limits on unauthorized payments and other consumer rights. But the other consumer protection responsibilities are less well defined. I was talking earlier about a case that's working its way through the courts in Italy, and I think we all heard about the French example, where the auction sites are being required to more properly identify the identity of the sellers. But regardless of the legal situation, it seems to me that the platform providers and other intermediaries are moving towards providing procedures that are reasonably designed to limit the use of their systems for illegal purposes and to provide for consumer protection. Visa and the other payment card, for example, ban transactions that are illegal in either the jurisdiction of the card holder or the merchant. Notice how that bypasses the problem of which jurisdiction you have to worry about. And in one case, when Visa took voluntary action against a Russian website, all of MP 3.com, they themselves were subject to liability when the website went to a Russian court and won a case for wrongful termination, and required the local affiliate to -- to restate -- reinstate the payment services that Visa was providing. Online auction sites and classified ad services also have policies against illegal transactions. For example, they have provisions for takedown after notice in the area of copyright infringement and counterfeit goods. Dispute resolution, however, depends on the forum. Some auction sites run their own dispute resolution systems, as do to the traditional payment court brands. Some online classified services do not, saying that they are under no obligation to become involved in disputes between participants on their service. Banks that work with credit card systems usually prescreen

merchants, so they know who these merchants are, and have found them to be reliable, and reputable. But they do not prescreen the goods and services offered for sale. Auction sites and classified ad services typically do not prescreen. So the practical result is a mix. The policies and procedures are not uniform across the different platform providers. But I think the direction is clear. The platform providers are gradually and voluntarily adopting these sensible procedures to regulate illegal transactions and to provide for consumer protections. First point I want to make is that this is probably the right direction. But public policy should be extremely thoughtful in extending legal requirements to intermediaries in this area. The usual requirement argument is that the intermediaries are the least cost avoider of problems in this area, but that's simply the wrong standard. The right cost benefit standard is to reduce damages until the costs of mitigation efforts exceed the savings from damage reduction. For example, we probably could eliminate counterfeit sales from online auctions by requiring the auction site to prescreen all sales. But this would make the site unworkable, and it would reduce the value created by the site by far more than the savings and stopping counterfeit sales. Before moving ahead with platform liability, some careful cost benefit thinking is needed. But this is not to say it shouldn't be done. Cost benefit analysis should be long-term and dynamic. And focused on innovation. One of the examples of forward-looking regulation in this area was in the credit card world, where in the 1970s in the United States, legislators required the card companies to hold the card holder harmless in case of unauthorized use of cards. And that prompted a generation worth of innovation and fraud prevention. So if you take the long look here, and you see, what will assignment of liability do in the area of innovation, there may be a case to be made for imposing liability. On the other hand, on the particular question of consumer protections, some things have to be sort of discussed first. One of which is, what protections are we talking about? Carlos made the important point that when we're talking about private sales, the entities involved in this are largely exempt from current consumer protection rules. And so there needs to be a serious definition of what consumer protection should be. And then the second step is, what role should the intermediaries have in enforcing those? So those have to be really set up before you move ahead with assigning the liability. It may be that business to consumer is a greater problem. Skill matters in this area, as Renée was mentioning. You want to focus on those cases, where the damage is the largest. And it may be that the C to C area is not the area where the damage will be the largest. Scale does matter. So that's the first point. Let's do some careful cost benefit thinking in this area. The second point is that the intermediaries, if

they're given an enforcement role, you really don't want them to be making subjective legal judgments all on their own, or simply to take the word of a complaining party, and do what the complaining alleges. The visa case, the all of MP3 case sort of illustrates the problem in that area. I should point out that the MCA provides a kind of legal process for allegedly infringing sites after the fact. And in France, they recently adopted a graduated response law against online infringement that requires a ruling by judicial authorities before the ISP is required to take any step against an alleged infringer. Finally, a point that's been made by lots of people in this discussion, the intermediaries cannot manage the problem of overlapping and conflicting jurisdictions anymore than consumers or merchants can. If they're going to have an enforcement rule governments should harmonize the underlying laws and define in some kind of uniform fashion what it is that they want the intermediaries to be doing. OECD is a perfect forum for airing these issues and reaching some kind of consensus on how to move forward in this complex area, and in an international context. I hope we can all endorse Secretary Locke's call earlier in his discussion for new models for cross border cooperation and in this area. So thank you very much for your kind attention. Be happy to engage in discussion afterwards. [ Applause ]

>> Philippa Lawson: Thank you very much, Mark. So we now have a half hour for questions, answers, comments, discussion. And I'm hoping that we'll have lots. And I see a question right here. And so do we have microphones being passed around? I'm just looking. I'm not seeing -- [ Inaudible ]

>> Female Speaker: Thank you. I was asking, in my country I do understand the approach to intermediaries. I do understand that from your point of view, they can only be there for benefits, not for risk, and not for responsibility. What I mean is the following. For example, that consumption -- I mean, consumption is in all of countries, is for --. So I am a buyer or I am a disco owner, and I don't deal with drugs, but in my bar or in my disco, often people go there to deal with drugs. I do have a responsibility. I do have it. Even though I'm not a dealer, I'm not a consumer, but I am along with it in a way. So I get the benefits, because a lot of drug dealers, and a lot of drug consumers are going to my bar, but I'm not a dealer. So it's the not my responsibility. Of course it is. And if the police notice that it's not in a scarce manner but they often go there to deal with drugs, I will have bigger responsibility in that. I think its more or less the same with

intermediaries -- of course they have benefits, they don't do it in a way, I mean, they obtain benefits, and that's normal, and I think that's good. So if someone has benefits in one activity that they have to take responsibility, I don't think that they are the drug dealers' responsibility, but they are the bar, of the people that deal there. Thank you.

>> Mark McCarthy: Thank you for a very direct question. I tried to be a little nuanced, and that may have contributed to your lack of clarity about what I was actually saying. But let me try to be a little bit more direct. I don't think that intermediaries should simply do nothing. For a variety of reasons, from, you know, ethics, morals, good business, in some case legal requirements. They have to step up to the plate to put in place policies that are reasonably designed to control illegal transactions, and to provide consumer protections. I think they have those generalized responsibilities. The question is, what are they in particular? And that's where we have to be very, very careful and very thoughtful. If, for example, intermediaries respond regularly and fully to law enforcement requests for cooperation because the law enforcement officials have found that their sites are being used for drug dealing, then you don't need to, you know, create a special requirement, for example, that they screen all of the people on their website to make sure that they're not drug dealers. They already have taken a step in the direction of cooperation with law enforcement and that may be enough to address the problem. Without the need for further legal liability. So I think it's really a question of case by case, what exactly are we talking about, what are the consumer protections involved here? If -- as was mentioned earlier, the consumer protections themselves aren't clearly defined, it's not possible to say to the intermediaries, we want you to enforce consumer protections, because they don't know exactly what they're supposed to enforce. So I think we need to have a full and open discussion of what it is that you want to do in the area of protecting sellers and buyers in these marketplaces. And when we've got that settled out, are the intermediaries doing enough with their current operations to meet those requirements? And if not -- you know, if there's some bad actors in the world who are just not doing anything at all and need to be brought in under the common tent then there may be a way for going forward in a legal environment. But it should be done carefully, thoughtfully, and I think with a reasonable understanding of some of the costs that might be involved in doing that, as well.

>> Renée Prescott: No, it is a problem. And often in these cases we're dealing with individual private sales, which is under contract law, and often up to the individuals. And when you look at a lot of the terms and conditions on intermediary sites, you do see them absolve all liability onto a buyer and the a seller to work out. So whether that's right in itself is probably something to discuss. The complaint mechanisms and consumer redress on these sites is often the buyer or seller makes the complaint of the fraudulent or bad act or activity, and what happens is often they -- the bad actor will just be moved from that site, so they can no longer be a buyer or seller, because it's often through a registration process. What happens then is that that bad actor will go to the smaller intermediaries, those that don't have the good mechanisms, maybe some consumer resolution or education. So they'll often go to less savory sites, as well. And they'll just continue their habits. So we shouldn't only look at, say, the dominant players with good trust marks, with good mechanisms. We've the got to look at the little players, often local, in your jurisdiction, the people you look to because they're based within their knowledge area, geographically, rather than the big players. So we've got to look the a both forms of intermediaries on this issue, as well.

>> Female Speaker: No? Oh, okay. Assuming that we could reach some consensus on what the consumer protection expectations and parameters should be, what would be the most effective way of moving intermediaries towards adopting policies to implement them? If not strict legal liability, could we have some sort of government rating system that rated them as to best protection, middling protection, least protected, or are there other innovative strategies that you can think of to accomplish this?

>> Senny Boone: Well, one thing I can speak to is just in terms of self regulation in this area. Certainly we've had a lot of experience beyond the legal requirements in sort of self policing best practices. So certainly, the marketers, the platform providers, the service providers, have an interest in making sure that there's a lot of trust, and that this is a rich or robust marketplace for anyone to participate in. So we certainly have a track record. And what happens for us is, through developing and shaping guidelines, peer to peer, working with practitioners, really working through that process, we can act quickly and flexibly to set forth some very basic, good membership obligations and requirements. And I would imagine that we could act similarly with other partners

to produce something specifically for consumers in this regard. So in terms of direct marketers, self regulation has proven quite effective.

>> Carlos Sanchez-Reyes: [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ]

>> Mark McCarthy: I'm not sure what the right innovative strategy might be here, but as I mentioned in my remarks, I think what you want to look for is something that will encourage all the participants and in these platforms, you know, the payment providers, the platform itself, and any other participants in the system to sort of, how do we really get a handle on controlling fraud and other abusive practices? And the thing, as I mentioned in my remarks that worked really well in the traditional payment card world was assignment for liability for damages when things go wrong. That was the driver, the incentive that moved payment card world into dramatic reductions in fraud. How that would work in this context, I think, requires a lot of careful thought. But it's a direction I'd look in to see if there's something that could be done there that would begin to move the system towards a higher level of consumer protection.

>> Philippa Lawson: Thanks. I'm just going to follow up on that. We have been talking at a fairly high level of generality. I'm wondering if any the panelists would like to comment on the specifics of good C to C facilitation by intermediaries. What are the specific kinds of policies and practices that good, reputable, online providers, such as eBay and others are doing right now to protect consumers, as both buyers and sellers? I'm expecting and hoping that we'll hear maybe a response to this from our luncheon speaker today. But I'm wondering if any the panelists want to comment on that.

>> Senny Boone: Well, one of the things that we've been looking at, just again, this might be a little bit at the higher level, but for the social media marketing best practices, certainly for marketing best practices, when you are the marketer, and you're trying to engage a particular consumer to engage in their peer to peer network, we're looking at what sort of consent is required, what sort of transparency is required for that relationship, so that there's some trust being built with that consumer, so that the marketer can then engage in the social media marketing as a platform. But

again, these are at the marketing best practices, the high level versus a lot of the troubling issues of the fraud, the illegal activity that is possible, and I would imagine all practical tissues are looking at that very carefully and need to work together on that.

>> Male Speaker: If I could jump in, eBay is doing several things that are really important, and should be -- they should be praised for and then maybe emulated. The first is that they have extensive connections with law enforcement. If there are problems on their website, organized crime, and other groups that use their facilities for large-scale fraudulent purposes, they turn anything they find out over to enforcement, and work closely with them to try to put an end to that. That's very important. The second is, they have -- they have a reasonably good dispute resolution mechanism. The -- the -- they know exactly how to refer sellers and buyers to each other to attempt to resolve it, and there are informal ways in which they try and reach a resolution in that area. They're associated with the payment system, PayPal, which has a robust dispute resolution mechanism, as well, and if you use your payment card in that context you're covered by the dispute resolution mechanism that the payment card companies provide. So the dispute resolution is pretty good. And their third, in the area of counterfeit goods, this is a subject of the court case between them and Tiffany, they have a program to respond immediately to complaints on counterfeit goods. All of the provider of counterfeit -- real trademark goods has to do with eBay is go to them and say, we've discovered that the following sellers are selling our goods -- its not really our goods it's counterfeit stuff, take them down, and they're down. So they respond quickly and immediately. It's not enough for some of the groups like Tiffany's and others that they want more. But it's a program that steps up and goes in the right direction of providing protection from counterfeit goods on their website.

>> Philippa Lawson: Another question to the panelists. In your view, are online trust mechanisms, both actual and potential, being fully exploited by consumers in this marketplace, and if not, do any of the panelists have ideas about what could be done to make trust mechanisms more used and useful for consumers in the C to C context?

>> Renée Prescott: On the issue of sellers building trust, they're useful, and they can work for the consumer as a seller. But there can often be a lot of hard work. It's often your happy customers

that won't provide comments to help you build that trust. And it's usually the one dissatisfied consumer that puts their little comment up, and it taints all other sales after that. So it's a lot of hard work to keep that going. For trust marks, as an enforcement agency, I would just like to say, we do find a lot of sites that use what we call certified trust marks in a false and illegal way. You will have, like, ticketing sites that will use the logos of, say, the Olympics, of the FIFA World Cup illegally, but it makes it look authorized. So you do have to be careful with the trust marks. For trust marks themselves, we want to ensure that -- that the process is all right. That they do provide an auditing system behind their trust mark, and they're constantly looking at it, providing that security behind it, and also that you know who is actually behind the infrastructure of the trust marks, and someone you can trust when you put that behind you, on your side.

>> Carlos Sanchez-Reyes: [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ]

>> Male Speaker: Yes, I'm Roger Cocetti, and I wanted to comment on the topic that we just sort of covered, which was the use of trust marks. And I think we have known for quite a while, because of the multinational nature of the medium and the dispersed nature of it that trust mechanisms are a key piece of this puzzle. And having been involved in about a half dozen efforts to create trust mechanisms, I wanted to sort of throw out to the panel some of the challenges. Because most of the efforts have been partially successful, or have completely failed. And for the most part, the reason is that the cost structure of providing an effective trust mechanism as the speaker just said a moment ago, if it is going to be effective, is considerable. And faced with the considerable cost structure of an effective trust mechanism, what you find is many consumers and many merchants really are deterred, and if you ask them, would you be willing to pay X percent extra for this, in many cases, when they realize the cost premium, would say no. And so you're left with an economic dilemma in moving forward on the front of trust mechanisms. That can partly be addressed through more advanced and intelligent technologies, but, you know, an audit is an audit. And, you know, it -- things like this can cost quite a bit. So I was wondering if the panel had any thoughts, since there have been quite a number of efforts to create trust mechanisms, some of which are successful, and are going on today, but many of which have been partially successful or not at all.

>> Carlos Sanchez-Reyes: [ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ]  
[ Speaking in Spanish ] [ Speaking in Spanish ] [ Speaking in Spanish ]

>> Mark McCarthy: Let me jump in for a quick moment. I think there may be a role for trust marks and other sort of ways in which sellers can competitively differentiate themselves on the area of consumer protection. But it's got to be above a sort of floor that's set by government. I'm thinking of the example in the credit card world, the governments set the floor that said if you have a transaction that's unauthorized, the consumer is liable for only \$50. So that's at the legal requirement. But Visa, Master Card, American Express all took that to zero. Out of competitive reasons. One of them started to do it, the others ones didn't want to be left behind, so the legal limit went from 50 to 0. That kind of competitive effort is good. But you don't want to leave it entirely to the marketplace to define what consumer protections are. If you do that then you wind up with a trust seal that says this is where you get consumer protection and everybody else is assumed to be a bad guy, a negative inference. And especially in a consumer to consumer world, where people aren't going to want to spend the time to get qualified, because they're one off sellers or maybe two off sellers, it'll look as though they're bad guys. So you want to have a generic, uniform kind of policy. And this is exactly the area where to -- put another burden on Andy, who is sitting over there in the first row, -- [ Inaudible ] [ Laughter ] you need help, Andy. His group is working on a study in the area of intermediary liability in this, and what should the role of governments be, and what should the role of intermediaries be? And that's in process, and do whatever Andy says that should be done.

>> Philippa Lawson: If you have a question, please waive your hand high, and so I can see it. Okay. I'll pose another one, then. Mark, you -- when you were talking about intermediaries, you defined them very broadly, to include platforms such as P to P, and social networking sites. And so forth. And I'm wondering if it would make sense to distinguish between active intermediaries, whose, you know, primary purpose is to facilitate C to C commerce, and then maybe just other platforms, who are doing it, but not as a primary purpose. Just as one of many -- many activities that they facilitate. And with that in mind, I'm wondering what you and other panelists think about

the potential for unmediated. And I mean, unactively mediated or inactively mediated C to C e-commerce. For example, through peer to peer technology.

>> Mark McCarthy: That might be away to sore of draw a line. But sort of from an economic point of view, all those guys look and act and feel the same, from my perspective. They're all ways of looking individuals for economic or quasi economic transactions. And so if there is a worry about whether or not the consumers are treated fairly and there are rules that will be set up for regulating their behavior, the intermediaries are going to be brought into the picture at some point to address whether they should be enforcing those things. On the peer to peer, it looks as though it's unmediated, right, because, you know, you're just dealing directly with all of the other people who have the software installed on their systems. But someone designed the software. And that was exactly the Groxter case, when they were held to be liable for copyright infringement, because they had affirmatively encouraged their uses to infringe copyright. So even in the most apparently direct connection between consumers, typically you'll find a platform provider there, and in that circumstance, it's a question whether or not that platform provider, you know, should be involved in any kind of enforcement efforts.

>> Renée Prescott: Apart from the obvious platform entire intermediaries, as enforcement agencies we do use the banks in our informal relationships that help us quite a bit as well with our enforcement on the various platform and classified platforms, which we would call intermediaries in this area, as well. For P to P, we're seeing a great increase in this. Often, the sale will start on an auction platform, and move to a P to P. So it will move-- the buyer will say well lets talk offline on e-mail, so they'll get on the e-mail system and continue to talk. Or the product has been sold, but the seller's been put on to e-mail to say, oh, is there anymore of your products available? Can we talk? I'm sure you've got something else to sell. And we find that's where a lot of the fraudulent activity actually takes place, off the platform, and when it gets to the e-mail P to P situation.

>> Female Speaker: I would like to come back on the question that you have asked on the P to P. And on what the professor responded. In that case, in the case of P to P, applied to a content, it's not, if I may say, a C to C issue. Because it is not -- consumers are not sellers. It's something which is completely out of the market, which is pretended out of the market. And if the consumers

were sellers, that might be -- that they would have to -- to hold the rights, which is, as you know, the problem, and the problem, which was also at the core of the Groxter case. The Groxter case had a very good answer at that time, because they said that it's not consumers as sellers, but consumers as benefitting from a system which they are not liable, but there is somebody liable. And on that case, it is the software publisher, which would be the liable for this. And in that case, we have introduced in France, and I wanted to give you -- we have introduced in France a disposition which, for the first time, and it's followed by -- its following the Groxter case, consider the publisher, the software publisher, as liable if it can be ended civil -- and how do you say penal? Penal, uh-huh -- criminal basis that the software publisher might be liable to the judge on having proposed a service which would induce to infringement. So in that case, the liability is on the software publisher, on the intermediary. A new kind of intermediary, it's not a wholesale, it's not an ISP, but its somebody who is behind the software, and is something new that we have introduced in France, and that we shall use in the years to come. And it's a protection of consumers in that case.

>> Philippa Lawson: Thank you. That's a very interesting and useful analogy. Immediately?

>> Male Speaker: Yeah.

>> Philippa Lawson: Sure. Great.

>> Jon Leibowitz: Well, yes, thank you everybody for that. We now have to break for lunch, and I have a few just details here just to remind you, for those of you invited to the embassy luncheon, it is on 501 Pennsylvania avenue. There are directions in your kit and a map. It's about a 15-minute walk. Or if you want to take a taxi, it's a short taxi ride. I've been told that the best place to pick up cabs is at the Hyatt Regency Hotel, the other side of the street, just down towards -- just south of here. Because that's where you'll likely find the most cabs quickly. For those who are not attending the embassy luncheon, there is again, to remind you, in your package, a list of places where you can eat nearby. And I just like to remind you that we're going to start up again at 3:00. So please get back in advance of that time, because you have to go through security again.

>> Male Speaker: Sorry. Just a couple of other program notes. Daniela Battisti, who is moderator of the participative web panel, is Daniela here right now? Yes, okay, fine thank you. She would like to meet briefly with her panel at 2:45 this afternoon. Is that right? If it's possible. So if you get back at 2:45, she would like to meet with you briefly. Then Maureen Cooney, Maureen Cooney is over here. She's on the accountability, moderator for the accountability panel, the private sector and academic perspectives, and she too would like to meet at 2:45 in this room to speak briefly with you about her panel. And then Stacy Feuer, protecting children online. She would like to meet with her panel at 6:00 p.m. today, so at the conclusion of today's meeting. Now there's one other note. If there are some of you who aren't sure if you have been invited for lunch or not, you can check at the registration desk. And there's a list, and you can see if your name is listed there. And I know I've spoken with some of you, and if I have spoken with you, and you've asked, and I've told you you're on the list, you can take it for sure that you are. Thank you.