

>> Stacy Feuer: Good morning. If everyone would start taking their seats, we'd appreciate it so we can get started. Welcome back to day three of the OECD conference on empowering e-consumers. I'm going to go ahead and do the security announcements, get them out of the way while people are walking into the room and taking their seats. By now, those of you who have been here for three days know the drill, but I'll do it again. It's just like, as I said, an airline flight. Every time you get on, they make the announcements. So here we go. Anyone that goes outside the building without an FTC badge will be required to go through the magnetometer and X-ray machine prior to re-entering into the conference center. In the event of fire or evacuation of the building, please leave the building in an orderly fashion. Once outside of the building, you need to orient yourself to New Jersey Avenue. Across from the FTC is the Georgetown Law Center. Look to the right-front sidewalk. That is our rallying point. In the event that it is safer to remain inside, you will be told where to go inside the building, and if you spot suspicious activity, please alert security. With that, I'll turn the microphone over to Michael Jenkin.

>> Michael Jenkin: Well, thank you, Stacy. And welcome, everybody, to our third and final day. We have a jam-packed session today, and again, I wanted to draw your attention to the fact that after lunch, we have breakout groups, and I think we're down to true believers here this morning, so... Maybe you don't need any encouragement to attend this afternoon. But certainly are looking forward to your active participation because the breakout sessions will be key to getting good feedback for us, for this conference, and it's also, frankly, an opportunity to make up for perhaps the overly condensed question-and-answer periods we've had at the end of each session. As you know, we've had trouble keeping every -- all the presentations within the time frame, and we haven't had as much discussion perhaps as we would have liked. So this is an opportunity for you to get engaged again, and to talk about solutions and suggestions. Now, we have a very full morning, as well. And we have, first of all, an announcement by the United States Federal Trade Commission on their new report to Congress on online virtual worlds, and then we're going to follow with our first moderated session on protecting children online. But first, I'd like to ask Mary K. Engle to come forward, who is the associate director of the Division of Advertising Practices of the FTC to discuss their new report.

>> Mary K. Engle: There we go. Okay. Good morning. My name is Mary Engle, and I am the director of the Federal Trade Commission's Division of Advertising Practices. I want to welcome you back to the third day of discussions on how we can strengthen consumer protection in the ever-growing Internet economy. I look forward to hearing from the next panel on how better to protect children online. But before that panel begins, I am pleased to announce that this morning, the Federal Trade Commission is releasing a report to the United States Congress about explicit content in online virtual worlds and the methods virtual-world operators use to restrict children's access to such content. Entitled "Virtual Worlds and Kids: Mapping the Risks," and I... This is what it looks like. And it's out on -- there's lots of copies out on the table outside if you would like to take one home. Also available for downloading from our Website. The report relates the results of a survey we conducted this summer on the explicit-content offerings in 27 online virtual worlds. Virtual worlds have taken root in the American Internet experience. From Webkinz and Poptropica for the very young to RuneScape, Gaia, and IMVU for teens to Second Life and other worlds for adults. As was recognized by ENISA in its excellent 2008 parents' guide to online virtual worlds, children have embraced virtual worlds in significant numbers. Their popularity among youth, especially among preteen users, is expected only to grow. For children, virtual worlds offer endless gaming, educational, social-networking and creative opportunities. Often, however, virtual worlds also offer children the opportunity to access explicit content free of charge. This summer, FTC research has examined 27 online virtual worlds drawn from a cross-section of worlds -- specifically intended for young children, worlds that appeal to teens, and worlds that were for adults only. Our researchers registered in each virtual world as adults, as teens, and as children, and created video recordings of the world's content offerings. We then looked at each video recording, documenting instances of sexually or violently explicit content observed. While we recognize, of course, that characterizing content as explicit is necessarily a subjective exercise. Overall, our research has found at least one instance of sexually or violent explicit content in 19 of the 27 online virtual worlds that we surveyed. This represents 70%. To better understand the impact of this finding, we divided the virtual worlds in our sample into those that permitted children under age 13 to register and those that were directed to teens or adults. Our findings were illuminating. Of the 14 virtual worlds that were open to children under age 13, the commission found explicit content in 7 -- half of them. Fortunately, volume-wise, we didn't find much explicit content in any of these 7 virtual

worlds, and almost all of the explicit content that we did find was in the form of user-generated text-based postings in chat rooms and discussion forums. It should come as no surprise that the Commission observed a greater amount and a wider variety of explicit content in the 13 virtual worlds that permitted teens to register and where teens are likely to gather. 12 of these 13 worlds contained explicit content, half of which was text-based and half of which appeared as graphics, sometimes with accompanying audio. For those worlds in which we found a moderate to a heavy amount of explicit content, we examined the ways virtual-world operators tried to prevent minors from accessing explicit content. We found a variety of methods, including age screens designed to keep minors from registering with their birth date below the minimum participation age, separate adult-only sections to keep minors from viewing age-inappropriate content, age-segregation initiatives to prevent children and adults from interacting with each other, and community-policing measures, such as abuse reporting, live moderators, and filters. Despite these measures and despite virtual worlds' rules of conduct prohibiting certain types of sexual, threatening, or abusive material, explicit content was still readily accessible to minors, free of charge. As a result of these findings, the Commission today makes five recommendations for virtual-world operators aimed at reducing the risk of youth exposure to explicit content. First, operators should ensure that the age-screening mechanisms they employ do not encourage underage registration. Second, they should implement or strengthen their age segregation techniques to help ensure that minors and adults interact only with their peers, and that minors view only age-appropriate material. Third, operators should re-examine the strength of their language filters to ensure that such filters detect and eliminate communications that violate their conduct standards. Fourth, operators should provide greater guidance to community enforcers and online virtual worlds so that users are better able -- better equipped to detect explicit conduct. Finally, we recommend that operators consider employing live moderators who are trained to take swift action against conduct violations. Parents and children, too, have a role to play in reducing the likelihood that kids will come across explicit content when engaging with online virtual worlds. Our report sets forth certain things parents should keep in mind as they decide which online virtual worlds are appropriate for their children. The report also expresses the FTC's commitment to ensuring that parents have the information they need to make these choices. We hope that the FTC's Virtual Worlds report furthers the ongoing dialogue regarding children's online safety and privacy. Thank you. [Applause]

>> Michael Jenkin: Thank you very much, Ms. Engle. And I guess we now go to the first panel. So I would ask the panelists to come forward now, please. Take your places. Your names are up front. Oh, that's yours. Well, I think we're pretty much ready to go. I would like just to introduce Stacy Feuer, who you will be familiar with, who is the assistant director for International Consumer Protection and the Office of International Affairs of the FTC. And Stacy is going to chair this session. Stacy.

>> Stacy Feuer: Thank you, Michael. Well, welcome again. I'm Stacy Feuer from the FTC's Office of International Affairs, and by now on day three, I think I've met most of you. I'm going to introduce my copanelists here, starting with Paula Hannula from the Finland Consumer Ombudsman and Agency's office. We have Mr. Kazuhiro Takasu from the Cabinet Office in Japan. Professor Kathryn Montgomery from American University here in Washington, D.C. Sofia Fernandez de Mesa from Telefónica S.A. in Spain. Mike McKeehan from Verizon here in the U.S. And down at the end, Dr. Parry Aftab from WiredSafety.org. We were supposed to have Professor Urs Gasser from Harvard Law School, but unfortunately his child has the flu and his wife is on a business trip, so with those work/life issues, he was unable to make it. But hopefully we'll -- people have already talked a lot about digital natives, and hopefully that will be part of our discussion. Now, this is going to be somewhat of an unusual panel for an OECD conference because there are no PowerPoint presentations. So what you'll be hearing is a little bit spontaneous, but also a little bit scripted. I did ignore my own rule, though, and put up one PowerPoint slide, which I'll ask that it be put up. This is the prizewinning entry, and I'll -- I don't think my copanelists can see it. But -- so I'll describe what it is. It's the prizewinning entry of a new product by a team from Hasselt University in Belgium for a product that is guaranteed to be a favorite of the toddler set. It's called Twoddler. The Twoddler is a modified Fisher-Price activity center -- You know the things that babies use in their cribs? -- to send messages via Twitter to parents if the baby repeatedly presses or plays with certain buttons or features of the toy. The toy has pictures posted on it of the children's parents or other family members, so if the child turns the handle with the mom's photograph or the dad's photograph, a tweet would be sent from the toddler's personal Twitter account. A toddler could also communicate with another child's Twoddler. For example, a child could play with its toys, generating effects such as colored lights that blink on another toddler's activity center. Well, this product has generated so much buzz in the last week that its

creators have had to put up a notice on the Internet emphasizing that this is just a prototype and not a commercial product, at least yet. And they do say, well, how seriously you take this is up to you. So, clearly, this is a tongue-in-cheek product, yet it does, I think, sort of set up an interesting discussion because as we talk about protecting children online, the nature of what that means in e-commerce is changing, and, you know, maybe one day there will be products like this, and it would be interesting if that were really true. So with that, protecting children online. I wanted to start out by making a few opening remarks about the guidelines, and then we'll start by asking a number of questions. So, in my view, the touchstone of this panel is the principle contained in the 1999 OECD guidelines that, and I quote, "Businesses should take special care in advertising or marketing that is targeted to children who may not have the capacity to fully understand the information with which they are presented." So, starting from this point, I'd like to focus in on really what does special care mean when we're talking about advertising and marketing to children on the Internet, and specifically, whether and how the OECD should provide more guidance on what that term, "special care," means. Now, the OECD has already taken some cracks at this. This committee, the Committee on Consumer Policy, in connection with the 2008 Seoul Ministerial on the Future of the Internet Economy, put out a paper on emerging issues in mobile, with a whole section devoted to children. And it contains a number of preliminary policy ideas on children's access to adult content, marketing to children, overconsumption, and children in location-based services. So, to kick this off, I'll ask the following question. Since 1999, it's fair to say marketing and advertising to kids has become more ubiquitous, more targeted, and more interactive. The growth of m-commerce, which we talked about during yesterday's session, and the proliferation of Internet-based marketing campaigns using games and social networking are just a few examples. What does or what should the idea of "special care" mean in this environment? Should we be protecting kids? For example, banning certain practices, blocking purchases from children's mobile phones, or should we be empowering them and their parents to be critical in questioning consumers by giving them appropriate tools, such as filters, and information, such as ratings for content, or do we do some mix of both? What's the right balance, and does it depend on the age of the child? And I'd like to start by asking Paula to talk about this because this is an area where the Finnish authorities have been particularly active, and, in fact, they have released their own guidelines on making marketing to minors.

>> Paula Hannula: Okay. Thank you, Stacy. And good morning. To start with the idea of special care and the guidelines means that businesses do have a special responsibility when it comes to protection of minors. Children are in a special position due to the fact that they are more vulnerable than adults to different business practices. While children might be -- might have more, for example, technical skills than the adults, but that's another thing. And to answer to some of your questions, of course, we need a mix of both -- protecting children and empowering them and their parents. And the age of the child and level of maturity needs to be taken into account when considering different strategies. And, of course, we need, for example, to ban certain practices. But I would like to raise a couple of points concerning empowering parents. To begin with, parents do, of course, have their responsibilities for upbringing their children, and parents do have the right to decide upon the family's purchases, or at least those that exceed the pocket money of their children. However, we need to give parents the possibility to take that responsibility and to use that right. Thus, we need, for example, to make sure that advertising is identifiable as such, and that the exceptional styles of children as being a contracting party is taken into account properly in e-commerce, as well. Well, I give you only these two examples, but I think they are important ones and might be taken into account when considering the future guidelines. And in this context, I would also like to highlight that the first principle of the guidelines -- consumers and children, as well, should be afforded transparent and effective consumer protection that is not less than the level of protection afforded in other forms of commerce. So what this means is that the same rules should be followed in respect of e-commerce as for other purchases made by minors. And, for example, in order to protect minors from material which is harmful to them or from making contracts that exceed the legal capacity, businesses should ascertain the age of the contracting party, as in other forms of commerce, as well. Of course, this is in the interests of both businesses and consumers. But the primary responsibility should lie with the businesses when offering goods and services of this kind. And this responsibility should be pondered already in the development stages of the business operations. And to give you an example from Finland, a minor may be able to order an adult-entertainment movie online even though it would not be possible to purchase it from a store due to the fact it would be illegal to sell that movie to a minor. At the moment, in Finland, authentication age-verification systems are currently under development for e-commerce and for mobile devices in Finland. I could mention a couple of new legislation and -- new legislation that is coming. Well, we had new legislation on electronic authentication, which entered

into force in September 2009 of this year. This act is intended to increase the supply of authentication services and create a framework for this activity by establishing basic provisions for it. But this act doesn't actually state when you need to use authentication systems, but it just makes the basic provisions for authentication systems in place. And then the EU directive on audiovisual media services is one example of -- of a legislation that considers age-verification issues. This directly applies to subscription-based-content services such as movies and pay television. According to the directive, EU members should ensure that inappropriate subscription programming is not made available to children. The measures mentioned in the directives include, among other things, the use of PIN codes. And then another act from Finland -- Well, we do have an act on the classification of audiovisual programs. These presently effect the legislation...also states that minors are not able to do online. For example, this kind of a purchase that I gave you the example -- Adult-entertainment movies, for example. This law is being amended at the moment in order to specify this requirement to verify the age of the buyer or the subscriber. These are just a few examples of the legislation. And to conclude, just the notion that these issues relating to authentication do the not properly fall under the structure of the guidelines at the moment. So it could be considered in the future.

>> Stacy Feuer: Thanks, Paula. I think that's very interesting. And I know I have some follow-up questions about the legislation, but just to get the conversation going, what I'd like to do is next to ask Mr. Takasu to talk about Japan's new legislative approach, and then I'll invite any other members of the panel who want to jump in on this question to do so. So, Mr. Takasu, next.

>> Kazuhiro Takasu: Yes. Thank you, Ms. Feuer. Good morning. I'm Kazuhiro Takasu from Cabinet Office, Japan. I am very, very pleased to be able to address here today. Besides, thanks to Ms. Feuer's help, I can state my English much more properly. I appreciate it. First of all, it's very interesting to know that the station in Finland is so advanced and sophisticated, along with the guidelines. In Japan, a consumer agency was finally established this past September, but, sorry, I have no more information because I'm not a member of the agency. Then why did I come here? Basically, I have been working long in the field of policy in Japan. In the Cabinet Office, I am juggling mothers with children to protect them from being victims. I think that's the reason I was chosen to participate. So I want to bring to your attention the act that I am in charge of in the

Cabinet Office. I call it "Act on Development of Internet Environment for Young People. Here is the act translated into English. I don't have enough copies to distribute to all members, but you can access the act, upload it in time from the Website of the Cabinet Office, Japan. You can find it in the page of Policies on Cohesive Society. And the point is, we have a mixture of approaches, empowerment, and protection in the act that has been enforced since this past April. The act has two basic principles. One is on empowerment. The act encourages the young people under 18 years of age to acquire skills for the appropriate utilization of the Internet. This includes education and awareness-raising activities to develop young people's skills to use information and communication equipment properly so that the information on the Internet and appropriately transmit the information by the Internet. The second is home protection. The act provides for measures, through tools like software and filters, to minimize the chance that young people will view harmful content on the Internet. The act mandates the development of filters and the use of content filters in specific stations. I want to emphasize last that we don't think these are the best, but inevitable to have new legislation in Japan. I believe it's a trial. The act itself refers to its review within three years in the supplementary provisions. I really appreciate it if you would take notes of the act and as one of the special cares and keep watching the act as one of the stakeholders' experiences. Thank you for your attention. [Applause]

>> Stacy Feuer: Thank you, Mr. Takasu. Now I'd like to open it up to our other panelists. We don't have to go in order, but we can, because Professor Montgomery looks like she is ready to say something. But just to talk about this general issue of what's the balance here between empowering and protecting?

>> Prof. Kathryn Montgomery: Okay. Well, first of all, I think it's important for us to realize that since the late '90s, when the guidelines were originally developed, the Internet has changed and the digital-media culture has grown exponentially, and we're now talking about a -- a very powerful, global, all-encompassing, compelling environment that young people are growing up in and really living most of their lives online. And the other important thing to note is that digital media tap into the key developmental stages that young people are going through -- their need for independence and exploration of their own identities and peer relationships. So it's a particularly compelling environment. Most of the debate about the digital environment, and even this one, to some extent,

has tended to focus on safety issues and access to inappropriate content and content that was not meant for them -- adult content. These are serious concerns. And I'm glad the FTC has been looking into it in terms of virtual worlds, as well. But what often gets overlooked is this compelling marketing ecosystem that is being designed specifically to target young people and the huge market-research infrastructure that has been created to study them, to monitor them, and to develop marketing that is very sophisticated, very, very tied into their developmental needs. And not a simple thing to deal with. And I think it will take a combination of strategies. It's not a question of either empowerment or protections. It has to be a combination of both, and certainly in the U.S., in my opinion, too much of that debate has focused only on industry guidelines that generally are very, very inadequate and not easy to understand and are not universally applied. I was involved in the campaign that ultimately led to the passage of the Children's Online Privacy Protection Act, and that, in my opinion, has created an effective model -- not a perfect one, but one that combines a government framework and clear government jurisdiction with industry self-regulation and a set of principles and practices that can help protect children. The final thing I'd like to say, because you asked about the question of age, and I can talk about this more in a few minutes, is that a lot of the focus, certainly in this country, again, has been on young children. Young children do have cognitive limitations in terms of development. But they aren't the only ones we need to focus on. Adolescents have basically been ignored, and they have been considered, you know, fair game. I'm the mother of an adolescent. That's not the reason I care so much about this, but it is a reminder, and we now have new research that shows that in terms of brain development, in terms of hormone developmental phases and a whole lot -- a whole constellation of other things that are going on in adolescents, adolescents are not as savvy as we might think they are, and they do have certain vulnerabilities, particularly to these kinds of marketing. We did an conference a couple months ago where we invited experts to bring some of this research to us to help us look at it. So I hope they don't get overlooked, and I'm glad that in many other countries, the under-18 is the age frame. I think we need to revisit that here in the U.S., as well.

>> Stacy Feuer: Thanks. I know that in the Japanese act, if I'm correct, children are defined as 18 and under. Is that correct?

>> Kazuhiro Takasu: Yes.

>> Stacy Feuer: And is that true in Finland? Yeah. So that is interesting, and I think it is interesting how you're pointing out that there is another aspect of debate beyond access and safety in that there are these very broad issues that in some ways are harder to get a handle on when you're thinking about what best practices might be and what guidelines might be. I don't know. I see Dr. Aftab at the end, and I know that Sofia also wants to go, so...

>> Dr. Parry Aftab: Please go in order.

>> Stacy Feuer: There's no need to go in order.

>> Michael McKeehan: I'll jump in and make a comment. I think it's interesting that in Finland and Japan, that they have a pretty solid age limit -- 18. They can hang their hat on 18. Here in the U.S., I think we have a broader -- we have a much broader range of ages that are considered the age of majority. For example, if you're 16 years old, you can be tried as an adult in a court of law, depending on what the prosecutor wants to do. But theoretically, you can't go on MySpace if you're 16 years old. So -- and it varies state by state. Some places you can get married when you're 15, and other places you have to be 21. So I think it's -- we have maybe a unique situation here the in United States, and other countries that don't have such a unified age range as Japan and Finland do, in creating these kinds of regulations, so it's just a thought I wanted to throw out there.

>> Stacy Feuer: That is an interesting thought. Dr. Aftab and then Sofia.

>> Dr. Parry Aftab: Thank you. I think we need to establish something new, and Kathryn and I have been having these debates and agreements since 1997 when they first wrote the letter to the FTC about that started the whole COPPA issue. In the United States, we tend to be more forgiving about advertising to children. So our kids have signed up for birthday clubs at Baskin-Robbins and Howard Johnson, and they get newsletters and they get a free ice-cream cone on their birthday. And as long as we're not advertising drugs, alcohol, tobacco, and sexualization to children, our advertisers can pretty much do what they want to do. And the report on virtual worlds is crucial

here, because I think that as we're looking at these issues, and as we say "No marketing for you, no advertising for you." For children especially, the COPPA age is under the age of 13. And I advise the industry around the world. We're very active in Spain and in 76 countries around the world, and you always have to put on a different hat when you're in different places because parents expect more and are more forgiving in the United States in advertising in some instances than they are in a lot of other countries. In Canada, for example, their greatest issue on cyber-safety has to do with marketing to children, and in other countries, they are, as well. So as we look at this, we need to determine what's advertising, what's marketing, and what is branding. So if you have a virtual world that has cartoon characters that are also for sale in Toys"R"Us, and they interact with the kids and they talk about how they really like to buy toys somewhere, is that marketing? Is that advertising? Is it just branding? And at what point do we need understand that? So to complicate things further, as we look at these, we need to take into consideration the value of the different jurisdictions and cultures that we're dealing with around the world and recognize they are not uniform. We need to look to what parents really want. Do they want to pay \$50 a year for their children's access to a virtual world if it doesn't have any advertising or not? And over the years, every time these worlds have said, "You can pay and you'll have no ads," the parents never select that. They will select free with ads and think that that's okay. And the last piece of this is, as we complicate all of these, we have a program called Tweenangels. They are 8-to-12-year-old Internet-safety experts. It takes them a year to get their wings, and then they advise the FTC and Disney and Webkinz and Verizon and Build-A-Bear and everybody else in the industry. When I talk to children of that age, and I say to them, "I'm going to give you an iPod," because this morning when I logged on, they said if I caught the jumping frog three times, I would get a free iPod, and all I had to do was give them my credit-card information to charge me \$4.95 to ship it to me, and they just needed my address to know where to ship, and I caught the jumping frog twice. I'm keeping one. I'm going to give you one. And universally, when we're dealing with 6-, 7-, 8-year-old children anywhere -- I speak in the world, whether it's in Gijón or Bilbao or Madrid, or whether it's in Mexico City or Miramichi, New Brunswick, in Canada, or Singapore, the children will universally moan at me and say, "No!" "And what do you mean? You don't want my iPod?" "Don't you know those people will trick you, and they will make you promises that aren't true?" So as we look at this, we can never undersell the savvy of our children. What we need is research, seeing what these children now, given what they're exposed to, given their cyber-savvy, and given

the fact that they're afraid of a scam around every corner, what they know, and what we need to teach them, and how much they need protection.

>> Stacy Feuer: Thanks. That is a really helpful perspective, and I'm glad that we're really getting a lot of different views, but different and similar views out here. I'd like to ask our Spanish colleague to give a response to the first question.

>> Sofia Fernandez de Mesa: Thanks for letting me be the last one. Basically, I agree with the multiple comments that I've heard here today. Yes, in Telefónica, we believe of a mixture between protecting -- and we do protect as much as we can. We have devices. But devices are not oriented to marketing kids. And actually, those features are for adults. Those features are just the least of requirements that adults, parents, and teachers are requesting us -- Like whether it's a charged call, like blocking the access to certain contents, and so on and so forth. So, first of all, marketing, from our perspective, is never going to be towards kids. But more important than providing adults with sort of devices to control access, we do believe, and I'm with you, Parry, that empowerment is key, and it's key, because it's quite difficult to tease Internet and to tease the savvy of the youngsters. They know how to turn around, and they can see that sometimes we are acting very restrictively. So they're gonna get access to any type of content. So we think that the key is to give them empowerment through education, which is another way of protecting them. And what we've done in Telefónica, actually, is to go through a quite thorough investigation about the patterns, because first, what we need to understand is what are the different patterns in different countries in front of different screens in order to understand what they're doing, how much time do they spend, what type of activities are they getting rid of, just to be in front of the screen? Is it the same to be in front of a TV or playing with games? And so on and so forth. And so we've invested money and we believe that this is exactly the starting point to understand what's going on, what are the different patterns, share that with the industry, and based on that, start to debate about what needs to be done.

>> Dr. Parry Aftab: And you're doing a wonderful job, actually.

>> Sofia Fernandez de Mesa: Thank you.

>> Dr. Parry Aftab: Very wonderful.

>> Stacy Feuer: Thanks. I think I'm going to turn to the second question, although there is a lot of continuous themes that I think we can continue to bring out as we go through the panel, and to some degree, of course, these questions are all related. And that's this -- So, we've talked about the fact that there have been a lot of developments since 1999, and it's clear that the way that children engage and interact with online worlds includes a variety of methods from social networking, Web surfing to the mobile devices. And I guess question I have is, sometimes we talk about it as if it were all one thing, but do these different methods of interacting with the online world create different types of opportunities and risks for children, and are there some platforms -- and I know we've talked a lot about mobile yesterday, that raise more concerns than others with respect to marketing or privacy and data collection or online safety? And are these all e-commerce issues, or do they raise broader concerns about the Internet as a whole? And one question I guess I have is I always think through these issues is it seems to me that some of these issues really apply to adults, as well as kids. And so when we're thinking about guidelines or policies, what are the issues we need to hone in for with respect to children? So it's kind of a complicated question, but it's really, you know, how do we distinguish among the risks and challenges on the various platforms? And maybe, Kathryn, you can start.

>> Kathryn Montgomery: Yeah. It has been -- has become incredibly complicated. And we're really talking about a completely new kind of marketing system that has to be understood, I think -- it has to be understood in terms of individual platforms, but also in terms of kind of its holistic quality, because children are not just interacting on one platform. They are online. They are in school. Sometimes they're -- a lot of time, on their mobile phones. And marketers have created campaigns that really take advantage of all of the platforms in a really holistic way -- This notion of 360-degree marketing that enables marketers to reach children through a variety of different touch points. So I think we do need to think about individual platforms, but we also have to look at entire -- look at the whole system in its entirety. And there are some qualities and practices that I think are particularly worth looking at, and I agree with Parry that we need a lot more research, and I'm involved currently in a research effort supported by the Robert Wood Johnson Foundation to work

with market research -- people who are looking at market research, to look at the marketing infrastructure and to work with academic researchers to develop new ways of examining it, because most of the research has really been focused on one platform, and that's television. We're only beginning to get some additional work that's looking at these platforms, and they're changing so rapidly that it's really hard to keep up with it. And talking about parents, it's particularly hard as a parent for a parent to keep up with all of this. I think a couple of areas are particularly important. The whole practice of behavioral targeting and the ability of marketers to actually tailor marketing messages to individuals to track them, to -- to tailor marketing that is for an individual consumer, the use of social networks and social media marketing and tapping into the social graph and taking advantage of peer relationships is another area that we really need to focus on, and particularly one that I think is compelling for young people. The increasing use of neuroscience is another area. The whole growth of neuromarketing and creating ads that are designed, really, to trigger unconscious responses. And, again, they are issues, as well, for adults, parents or not parents. But I think particularly with young people -- again, young children, as well as adolescents, these really need to be looked at very closely. And what I think we need is a set of of fair-marketing principles that are granular enough in nature and that involve commitments from industry that there are simply boundaries you don't cross, in game advertising, for example, and product categories are important to look at, as well. All of the concern about food marketing and its connection to childhood obesity -- those products, I think, have to be handled very carefully. When you have an in-game ad that has targeted an individual kid to promote a snack food and to do so in a way that is designed to trigger kind of impulsive response, those things really require some safeguards to be in place.

>> Stacy Feuer: Thanks for kicking that off. Who wants to follow that and give us maybe -- Paula, maybe, the perspective from Finland on sort of what are the areas in terms of the different ways that children interact with the online environment that are of most concern, and how should we start to think about what the real issues are?

>> Paula Hannula: Well, the one thing that I raised was the requirement for marketing to be identifiable as such. I think that that's one of the themes that we've been working on in recent years. And now we're talking, for example, ad for games and that kind of sites that mix advertising

with entertainment and games. And we have some decisions on that kind of marketing. And then on the other hand, to the other issues that have been raised here, here today, well, I don't think I have time to go through all of our principles in our guidelines that were...in 2004. And that covers the case law, even the older case law, of course. But, for example, influencing the peers and working as agents, that kind of issues are covered in our guidelines. So you might want to take a look at them later on. And then -- but I have some comments on certain issues that have been discussed here, as well. I would talk to the age limits, for example. People under 18 are underage in Finland, but the question is, of course, not that simple. And there are no specific age limits in case law, for example, in Finland, but there are some limits. For example, at 15, when it comes to marketing to children, and so that's being considered as one limit. But still, of course, the age and level of maturity needs to be taken into account when considering different strategies to empower and protect children. And then it comes to, "What is marketing?" Well, at least when it comes to Finland, I think that terminology is defined quite broadly. So branding would be included in marketing. Just a few answers to the questions that have been raised.

>> Stacy Feuer: That's interesting. Mr. Takasu, getting back to the new Japanese law, I think it does make some distinction, right, between mobile and other platforms? Could you maybe explain a little bit about that?

>> Kazuhiro Takasu: In Japan, the mobile platform is of great concern, given the relatively high rates of mobile-phone usage by young people. A little -- a little -- strictly speaking, this act was set up for young people under the age of 18. In Japan, mainly 18 or 20 are the ages between young people and adult. Anyway -- and there are more concerns about content on the mobile platform than on regular Internet service. That is why our new act specifically discusses mobile Internet service. In fact, the term "mobile Internet service" is defined in the act to mean a telecommunications service for enabling access to the Internet from a mobile phone or PHS terminal that is specified by cabinet order as a service through which young people are highly likely to view content harmful to young people. And under the act, in cases where a young person is the counterpart to a contract to provide mobile services, the mobile Internet service provider may only provide services to the young person on the condition that the young person uses a service to filter

harmful content, except where the guardian of the young person waives the use of a filter. Thank you.

>> Stacy Feuer: Thank you. So, essentially here, if the young person is the contracting party to a mobile subscription, there must be filtering. That is what the act says. I'm wondering, Sofia, my panelists, all the way down at the end of the table, any reaction to this question of which platforms most concern us? Do we see it all holistically? Is it a mix? Let's start with Sofia.

>> Sofia Fernandez de Mesa: Well, I think it makes a difference when we're talking about different platforms, no matter whether we are evaluating risks or opportunities for kids. And it depends on whether it impacts in terms of the content that they get, and that means that the kids are pretty reactive -- they're passive receptionists of that information -- or whether there is a contact where they start becoming -- interfering with another person, or even further down, it can influence the conduct of the kids. So, the different stages of the influence. And having said this, it's different -- that influence at these three levels -- on whether we are using one platform or the other. For instance, if we -- just to give you an example, violence. That's a type of content that is differently believed, whether it's given through TV, or whether it's taken through a video game. If you are watching TV, you've just been a witness of that violent scene. But what if you're playing with a game? So we do segregate different impacts, no matter whether it's risk or opportunity. And let me tell you that the teleconsumer industry, we are most interested in enhancing the opportunities that the Internet provides to kids, and there are many especially developing social skills through the new ways of communicating, and those are the network. But we are fully aware, and we do not disregard the other side of the coin, which is the risks. And, yes, indeed, it's different to interact through mobile, through a TV set, a video game, or through a computer. It depends on how much time you spend on the Internet, and what type of contents your parents or any adult let you in. So, yes, I think that the problem should not be taken holistically, but in small pieces, depending on what we need to tackle.

>> Michael McKeehan: It doesn't reach. Good morning. First I'd like to thank OECD and BIAC for asking me to participate in this event. I'm kind of here wearing two hats. I am a board member of an organization called FOSI, as is Telefónica, and many, many other companies around the

world -- The Family Online Safety Institute -- dot-org. You can find their Website. But I'm also here as a Verizon person, so I'll talk a little bit about what Verizon is doing in terms of convergence and then more generally about what the industry is doing -- Not that I purport to represent all of you as industry, but here I am. So... I think, first of all, Verizon has multiple platforms. We have a television service, we have a wireless service, which now includes broadband. Imagine this is a Droid phone. Mine is actually in a box on its way to me, so I can't wave it around. So what we're seeing is a convergence of all kinds of content on to the mobile device. I think in the not-too-distant future, you're going to see people spend less and less time in front of their big television set in a fixed place in their home, and they're going to be watching television content out on the subway, out on the street, in their cars as they're driving. So our concern and a lot of our effort has gone into this device. Specifically, we have parental controls on this device that are content-based, that are age-based, that are time-of-day based. So you can set it up so your kid can't access their phone during certain hours. We're working on turning the ability to turn the camera on and off, which is a little bit harder than you might think at first. But because the camera contributes to the phenomena here we call "sexting," which everyone agrees is not a good thing. Multiple felonies in the U.S. You can set purchase limits on this device -- how much your kid can spend using their phone. However, all of those things I just mentioned are by contract -- That is, content providers who give us content to put on this device, we contract with them and we say, "We don't want any material from you that is inappropriate for ages -- you know, the age categories we have, and I don't know them off the top of my head because my kids are long gone. I think it's 7, 13, 17 -- something like that. And so we do that by contract. This device, however, gets you to the Internet -- The Wild, Wild West. And so once the kid is off of our network, we really don't have a lot that we can do. So that's when the other elements of our online-safety program kick in, and that is education -- education for parents, education for teachers, education for regulators and policy makers. That's very important.

>> Dr. Parry Aftab: And kids.

>> Michael McKeehan: And kids, of course. I was gonna let you talk about the kids. And the other element here -- we have parental controls, education. The other element is law enforcement. You can't ignore them. There are predators out there. We seem to be fixated on that in the U.S.

Verizon's goal has been to acknowledge that law enforcement is an important element of this. We need to chase down the predators who are going after the kids. But I think we're trying to move away from a fear-based approach to a more informed and empowered approach about keeping kids safe online. It's a struggle, because on the news here, it's always big news if a kid is preyed upon by somebody on the Internet. We had a whole series of shows here which caused quite a bit of panic on Capitol Hill and took quite a lot of undoing to convince people that that's not the reality on the Internet, that the Internet has really been a huge, powerful, great force for society, and not the evil thing that it's been made out to be. Let me just close with a couple of things. I'm not sure what the OECD's agreement is.

>> Stacy Feuer: Actually, Mike, if I can jump in here, I want to talk at the end about the allocation of responsibility and who is doing what. So maybe we can turn to that at the very end, and you can show us those things, and we can just have the final panelist at the end answer the second question.

>> Michael McKeehan: All right.

>> Stacy Feuer: Okay?

>> Dr. Parry Aftab: Well, my comment on this are a few things. We need to think individually, platform by platform, and we need to think holistically -- individually because it's a technology solution that right now has to be platform by platform. And we need to include handheld devices here -- DSI -- Nintendo's device for younger children that has Internet access, and parents have no idea it does. And it has parental controls, but unless the parents are going to take the device out of the box and open it up and see, the kids are the ones who are setting the parental controls. So we need to recognize Xbox, PSP, PlayStation 2 and 3 -- these kids are accessing the Internet and each other and getting advertising and messaging through those, as well. So as far as technological solutions, we need to look platform by platform. Yesterday at the mobile -- the panel, which was an amazing panel. I wasn't able to be there, but I heard from everyone. We understood that Korea had less problems with these issues than others, and it's because they use a chip and a PIN. So that works quite well. The parent can put it into the phone. When they do it, they can set it, and unless the parents are going to share their PIN number -- which, unfortunately, the kids are the ones who

set it most of the time -- it's a great way of using a lot of these devices, a solution. But we need to think holistically because children do. Children -- meaning minors, whatever age you want to use -- they don't think "online" and "offline." They don't think "my cellphone" and "my Xbox." They don't think "virtual worlds" and "my social network." They think "life." And however they impact with life and communicate with others is the issue. We looked at the three C's. I came up with three C's originally years ago -- content, contact, and cost. When it was adapted in Europe, it became commercialism, and then someone add the fourth, which was conduct, and that's what you were talking about today. And as we look at this, it all comes down to those things -- Who is talking to our kids, what content can they see, how can things cost the money, or commercialism and marketing, and what are they doing that are going to get them into trouble as far as acting out online? So we need to recognize all these pieces. But the most important piece that I think we need to recognize is the companies, the enterprises, aren't the bad guys here. And even the marketers -- it's all a matter of marketing. It's a matter of perception. Parents will not buy products if they think their children are being abused by them. Kids won't go to places they think are using them. We need to recognize that the incentive from the olden days when we said these are sort of practices the industry can do, has now become the buzzword in the industry, which is called "best practices." And if you want to do it right, then you're going to stay in business. And if you don't, you won't, 'cause I'll go on "Good Morning America" or the "Today" show and I'll out you. And if you're doing the right thing, you can be identified for that. There is a new Socially Safe Seal that identifies best practices. And we need to start saying to the companies, "There may be laws in place for access. There's a lot of education to tell people what to look for. But if you're not willing to step up to the plate and do it the right way, the market will out you, and you won't be in business for long." And I think we need to give that incentive to the companies who are saying, "I won't advertise the wrong things, I won't advertise in the wrong way, I won't collect information with children I don't need, and I can't store securely anyway." And we need to help guide them on the best way to do it and determine those that are doing it the right way and those that aren't.

>> Stacy Feuer: So I think that's helpful and sort of segues nicely to the next question, although I do want to remark that Sofia was telling me a lot about what Telefónica is doing, and she was mentioning that you have a lot of efforts dealing with child labor in developing countries, and that in order for Telefónica to sort of have credibility in those efforts, it obviously has to have

credibility with respect to its core business and how it markets to kids, and so I think that sort of touches on this. Now, Mike, you started getting at this, and I'll turn to you first now. And I just want to say, we have about five more minutes for the panelists, because I do want to sort of have some dialogue from the audience. But my third question is really that the OECD guidelines, which really deal with advertising and marketing to children, in their initial form, they really talk about transparent and fair practices by business. But, you know, it's clear that there is a wider range of responses than just businesses. So how do we allocate that, and what is appropriate for business to do? What is business doing? And what else can we do? What should governments do? After all, the OECD is an intergovernmental forum. So I'd like Mike to address that, and then Sofia, and then perhaps we can turn to questions from the audience, and I'll ask all of the panelists to be involved.

>> Michael McKeehan: Tough question. In the interest of time, I think I'll just wave a few documents, and the OECD can use them as resources. But first I urge you not to just focus on kids. First of all, kids don't have money, and people really don't care about kids, you know? People care about seniors. Seniors have money. Seniors are getting online more and more. So we have published this little "Internet Safety Tips for Seniors for Dummies. In the U.S., we have a "for Dummies" series, since everybody is a dummy, apparently. You can go online and find this -- I guess you can just look it up by "Internet Safety Tips for Seniors for Dummies." Other resources -- The Berkman Center. Parry and I and others in the room are on the Berkman Center Task Force, which reported to Congress -- not to Congress, to the Attorneys General last year about age verification on social-networking sites. In some, the conclusion of this report is there is no single solution to the problem of verifying the age of a child on the Internet. So that's that, but I commend the report to you, and the appendices, which each contributor was allowed to contribute one page about what they're doing in the area of age verification. So that's a good resource for OECD. This is the world's greatest document, in my view. Adam Thierer from the Progress and Freedom Foundation has put out a special report. This one is version three. I think he's on version four now -- "Parental Controls and Online Child Protection." It's really exhaustive. It's a couple hundred -- 213 pages long, available for download on the pff.org site. I commend that to you. And finally, in terms of best practices, the U.S. National Cable and Telecommunications Association -- several of us, again, are on this Best Practices Task Force -- has released this. I guess we released it in July -- actually had a congressional thing on the Hill a couple weeks ago. But in it, it outlines some best

practices that companies can take in this area. So, you know, I just point people to these resources instead of trying to give you a long-winded answer.

>> Stacy Feuer: Thanks. And, Sofia, maybe you can talk a little bit about from Telefónica's view, what's the allocation of responsibility here?

>> Sofia Fernandez de Mesa: Thanks very much. Yes, in our conversation, I was telling you that business -- we have business reasons to become responsible with regard to child protection. I was telling you that we've even tried to...the impact in the bottom line it is, that we are just kicked off the market, and there's something which is an intangible, that it's difficult to be measured, but not for that. Not less important we think Telefónica's reputation, and that links with the cohering strategy that I was sharing with you. You cannot just launch social programs in Latin America to support the eradication of child labor, whereas your supply chain might have children, or when you're not controlling the content for adults or when you're not just fighting against illegal content in your Web. So Telefónica has a business reason to go for this. And just to summarize, we allocate four big areas of work. The first ones have to do with self-regulation. And self-regulation includes content for adults and in Telefónica, if you want to access content for adults, you need to expressly say that you want to. That's the opt-in solution. Otherwise you won't be able to. We also signed the code of conduct at the European Union level. We've had mobile operators, and that brought us together jointly to categorize different type of contents, depending on the -- on the severity of the content around the age. And that same code of conduct helps us to foster initiatives of investigation and awareness, raise in front of the teachers and the adults and for the use of Internet in a safe way. And also, as a self-regulation, we signed a GSMA agreement, and that agreement signed in 2008 has to do with fighting against child pornography on the Web. We -- we are committed to block and to erase that content in our Web, and that's what we're doing. We are also committed to support the hotlines, and we are -- I'm advancing it a little bit, but we are thinking of doing that in Latin America because all that we have learned in Europe, because we are a European company, can be exported to Latin America, and that's what we're working on. We're not working alone. That's a key point that I wanted to stress, because we don't believe that the industry itself can do all that needs to be done. And that's the third point -- self-regulation. We do have products and services. I won't get into that, probably -- it doesn't differ that much from

Verizon, but it has to do with controlling the access, special devices, and parental controls, and so on. We have a third line, which has to do with education. And education -- I was telling you at first about these investigations that we did in Latin America... That I invite you to go through that investigation because it's different from others in terms of who has been interviewed. It's been the key. It's not the adults, not the parental, not the teachers. So we are drawing a clear picture of the different patterns of behavior and use of the ICTs in different countries, different ages, gender. It's very, very much interesting. And we believe that's a key input to help teachers and parents to develop educational strategies. And in Madrid, we have another initiative regarding education, which is Internet and Family. It's all about going along with other NGOs, and teaching in schools the best way of the use of ICT. And in the end, the last point is alliances, and that takes me back to the point that we believe it has to do with governments, it has to do with law-enforcement agencies, it has to do with NGOs, it has to do with parents' associations, schools, kids, of course, and the rest of the industry. And that's why we believe in alliances, and we have a broad list of different type of alliances that have to do with investigation, education, and whatsoever. But we do not go on our own.

>> Stacy Feuer: Thank you. So we've now covered quite a lot of ground when it comes to protecting children online -- issues such as marketing, privacy, access, safety. And, Mike, you asked what the OECD's remit is here. For our committee, the Committee on Consumer Policy, we're most concerned with the advertising and marketing, but the OECD as a whole is really looking, and obviously the member countries, the 30, soon to be 34, member countries, also are looking at this from a broader perspective, and so one of our sister committees is launching a big project on children online, that I think has many aspects, and my expectation is that a lot of that work is going to be done in what the manner that the OECD says is horizontally. So we as consumer agencies are focused mostly on the consumer issues, but we all realize these issues are interconnected. So we can talk more about this later at the breakout session. Michael has kindly indulged my request for a little more time since we started late, so I want to turn this over to the audience.

>> Kathryn Montgomery: Can I respond?

>> Stacy Feuer: Sure. But maybe we can just do that in the context of your comment, and I see a number of hands. So sure.

>> Kathryn Montgomery: I'll make it quick. I just want to respond to something Parry said about the marketplace correcting for some of these practices. And I think that only happens if people are aware of them, and it often needs to be helped along by government oversight. And, again, I think the COPPA model is a good one, where we established guidelines that are clearly enforceable by government, and industry has operated within that framework, so that data-collection issues are seen within that framework and understood in that way. But most of these things, the new practices are under the radar of policy makers, as well as parents.

>> Stacy Feuer: Great. And with that, I don't quite know where our roving mikes are, so maybe I'll first start with Etelvina, but can you come up to the podium because otherwise the Webcast and translators won't hear you. That's fine.

>> Etelvina Andreu Sánchez: I like very much your presentation, but maybe that's the theory that's not the real war. We as enforcers have to find every single month, not only against Telefónica, but against all the service providers, because that that you call autoregulation is not working. We have to work through regulation. All this...is very nice, sounds very nice, but the fact is that consumer... We as institutions have to find every single month, in joint commission, so that you shut off the access, for example, to those adult-contents providers and so on. So do you think that regulation will work? Don't you think that the real world is that without regulation, companies don't really have success to cut these, let's say pornographers or cheaters as commerce? Thank you.

>> Sofia Fernandez de Mesa: Thanks. Well, actually, I agree with you. Self regulation is the alternative to regulation, and the reason why we self regulate is because we try to get into consideration different sides of the problem, and -- and build on a solution that prevents us from applying regulations that normally is more restrictive and not always necessarily the best solution. We're working on eradicating the content for adults, and to make it not accessible unless you're an adult in Spain, but probably we can have some technical problems. And I agree with you, because we have meetings with you. And it's good for us to have that ongoing meetings, to make sure that

we enhance the quality of what we intend to do. But when this company goes publicly for self regulation, you won't ever see, in any of those meetings, that Telefonica is reversing or making a different policy. I mean, one thing is that we need to add on controls, because, actually, one thing that we're fighting, and there's not a single solution, as my colleague was saying here, is the -- the identification of adults. Many times, they're kids, or they're not adults. And that's driving a lot of problems. That doesn't mean that Telefonica wants to make business out of that. It means that we need to keep on working on enhancing the quality checks, and I think that these periodic meetings with the consumers' associations, they are obviously a little bit harmful, but they are very constructive for us, because it helps us not to stop on this specific target, which is a target. Believe me, it is, and we'll keep on discussing and making and taking measurements against these situations.

>> Stacy Feuer: So that's an interesting conversation between the regulator and the regulated. I want to get a lot of questions out. So maybe what I'll do is ask the various people to ask their questions -- I see three hands up -- and then respond, and we'll continue the conversation either in the breakout session and also in the hallways. So, Anna, your question, and then we'll sort of go around the room.

>> Anna: Is this working?

>> Stacy Feuer: Yes.

>> Anna: I want to go back to your first question, which is about empowerment versus regulation in the global-international context, which is very relevant in the OECD. First of all, COPA, which Cathy mentioned briefly -- we've done research in the U.K., and our children, of course, go a lot on American sites, but U.K. regulation is European privacy regulation, which is not about age. It's general privacy regulation. So we find it's not working, because U.K. children go on the U.S. sites, they're asked their age, and they lie, because they think somebody's phishing -- wants to know their information. So basically, it doesn't seem to work, from our research. Question -- what is the solution to this? Second question, also related to this, is about marketing regulation. Again, the EU has regulation on marketing which says it has to be clearly labeled, in paid-for space, and so on,

but as we've seen from the panel, advertisers find ways to avoid and bypass these regulations. So they take over Facebook profiles with highly fattening foods and so on and so on. What's the answer and what's the solution to this globally?

>> Stacy Feuer: Thank you. And in the middle of the room here?

>> Alan McCullough: Is it on? My name is Alan McCullough. I'm president of the Child Safety Research & Innovation Center from Canada. My question's for Parry Aftab. I know she speaks to -
- Is it on? Okay. I'm Alan McCullough. I'm president of the Child Safety Research & Innovation Center out of Canada. My question's for Dr. Parry Aftab. I know she speaks to about 10,000 kids a month all over the world in Canada, the U.S., and the European Union, and Central South America. What perspectives do the tweens and teens share with you as you go around speaking that relate to the questions of the OECD panel -- what unique perspectives, and is there much of a difference between the different countries that you speak in?

>> Stacy Feuer: That's a great question. I want to get the other question that was out, and then, as I said, we'll have to continue this in the breakout session, and I hope that many of you will come back. I think it's at 2:00 for the breakout, and we can discuss this a little bit more. Okay. Well, let's just get the question out, and then maybe we can do that in the hallway, 'cause I've already cut 10 minutes out of the next panel's time.

>> Carlos Sanchez-Reyes: Yeah, well, I'm Carlos Sanchez-Reyes from the the Spanish Consumer Organization OCU. I'm sure that many things have changed for good, for better in Telefonica. Of course, I can remark that, years ago, when there was this, say, the ad-value phone calls, well, first of all, there was no notice among the consumers that it was a new service. And, well, there was a hearing at the senate at that moment because there was cases which was absolutely horrible. It's a child -- over 1 million percent is in chats. And one of the senators asked to the president of Telefonica -- say, "What do you think about that?" And he said, "Well, good try." But this is absolutely senseless. Yeah, it was something horrible. I'm sure that Telefonica today is not like, of course, that. We were talking a little bit before. But still, we feel that, you see, Telefonica, like we talked yesterday about in the C2C question, of course you say I can just put in the platform, and it's

an instrument, but those who should be responsible are those who are using the platform. And we insist this is not the case. There should be a liability on the part of that who is giving that, because the one who is giving the platform is getting also money for putting the platform. It mean, all these sorts of services, which are companies which are just changing the name, the number, according there is new regulations say now the 805 are only for adults. So they change into 823 or 807, which are accessible to all, but they continue to give the same services. Well, with an answer to that, we have certain -- a lot of problems to get selling it. I think that those who give the platform should certainly -- could have completely to this client should no longer have the possibility of just changing the number and, then again, making a new fraud. That's what we say. I think there should be more involvement. Thank you very much.

>> Michael Jenkin: Okay, thank you. And I'm afraid we can't allow a response at this stage of the game, 'cause we're way too over time. But this points up the importance of our breakout sessions this afternoon. There's obviously chances in the hallways, as well, but I think particularly a chance to continue this discussion this afternoon at 2:00, okay? So we're gonna move on now to our next session on accountability and e-commerce, and could I ask the panelists to come up as quickly as possible? [Applause] [Indistinct conversations] Could the panelists quickly take their places, and could people sit down please? We really need to get started right away. Could you take your places, please? Could you take your places, please? Could you please sit down? We need to get started. We've got a double panel to manage between now and the luncheon break, and we know you're anxious, also, to get a little bit of dialogue in, as well. So, please, if we could get started. This is our session on accountability in e-commerce. It's broken down into two panels -- one on government approaches and one on private-sector and academic perspectives. Our first panel on government approaches will be moderated by Monsieur Francis Amand, who is the deputy director of the Direction de la Concurrence, de la Consommation, et de la Répression des Fraudes. So, Francis?

>> Francis Amand: Okay. Good morning, everybody. It's a great honor for me to be here in Washington and to moderate this OECD enforcers' panel before so many specialists of e-commerce protection. I take it as a recognition of the French involvement in concretely improving their protection the last 10 years. It's also a great pleasure for me to be here, because any person you

meet -- and I've met and talked with -- may teach you something useful to tackle practical challenges. Thank you. Thanks for the OECD to have organized this conference and to FTC to host it. If I may say a few words to introduce this panel about accountability, I would say that, from my point of view, enforcers have made a lot of good work this last decade, but that even more work remains to be done. Why? Because governmental enforcement agencies are always the ones consumers turn to when facing a problem or enduring damages. Enforcement activity may thus grow exponentially in comparison with electronic sales. Second reason -- the closer you get to a satisfactory situation, the more consumers want you to reach the situation quickly. So enforcement efficiency stifles consumer expectations towards enforcement. Third reason -- technology and marketing techniques evolve rapidly and daily challenge agencies. Consumer products and agencies are accountable for that. And it's surprising. People in the street would be surprised to see that the paths that guidelines indicate to government is a small part compared to the business or consumer associations. In this context, I think that enforcers -- enforcers with limited resources have to set priorities and adequately choose to concentrate where it can obtain quick and substantial improvements. Two questions, for example. Should we invest more on international cooperation and harmonization, especially considering the amount of political impediments that will inevitably occur, or should we focus on elaborating new technical or judicial tools fitting national problems and contexts? In other words -- or a second question -- what is more important to effectively enhance consumer confidence in e-commerce? Should we focus on finding and getting rid of bad guys, as Mozelle Thompson would have said -- bad guys who most of the time hide off shore? Or should we focus on implementing incremental improvements among a large majority of would-be good guys acting from inside the country, considering that its improvement may benefit consumers worldwide, being observed that would-be good guys can also adopt better practices via codes of conduct? Of course, the choice -- the policy choice -- might depend on the issues at stake of damage that might be encountered by consumers. For example, international corporations might be convenient to fight malicious activities, but national initiatives may be more adapted to develop consumer awareness. Here are the questions I have asked the panelists to bear in mind when presenting achievements reached in specific areas of E-consumer protection -- bid-information disclosure, dispute resolution and redress mechanisms, jurisdictional changes, rules of proof, balance between self regulation and administrative action, trust marks, bid rigging, or privacy. For that purpose, the session will comprehend two sessions on international cooperation, and four

presentations on national policies. I beg you not to interpret the score 2-4 at this stage. As ubiquity characterizes the Web, you won't be surprised if we begin by a video site by Peter Kell. Peter Kell is the deputy chair of the Australian Consumer Commission and current president of the ICPEN. Unfortunately, he couldn't come. But he's represented at the table by Renée Prescott. And this is not an identity theft in this case. And I take -- [Chuckles] And I take this occasion to thank Renée for the magnificent job she made in organizing the last ICPEN meetings in Sydney last month. Thanks again. So we can send the video now. [Indistinct conversation] Good morning to all of you at the OECD Commerce Conference. I'm very pleased to have the opportunity to speak to you today. Of course, I'd prefer to be there in person. [No audio] Good morning to all of you at the OECD Commerce Conference. I'm very pleased to have the opportunity to speak to you today. Of course, I'd prefer to be there in person, as I know you will all be enjoying the hospitality provided by our friends at the Federal Trade Commission. This morning, I'm going to provide some brief remarks in my role of the current president of the International Consumer Protection and Enforcement Network, which you know as ICPEN. And the main message is that accountability and trust in e-commerce cannot be delivered solely within individual jurisdictions. Accountability and trust can only be delivered through international cooperation, and I'm sure this has been one of the key messages in this conference so far. Single agencies working alone will find it harder to effectively act against conduct that is undermining consumer confidence. On the other hand, cooperation through networks such as ICPEN will help provide the basis for cross-border enforcement and will help us in our efforts to prevent havens arising for misconduct in the field of e-commerce. At the ICPEN Conference in Sydney last month, we heard about some of the wonderful developments in e-commerce for consumers. But we also heard how the technological revolution in the online world has allowed spammers to effectively move from being a cottage industry to conducting industrial-scale operations. If we want to give consumers confidence, we must look at ways to effectively disrupt this industrial-scale activity in the area of scamMs. We will never eliminate all such activity, but if we can reduce the scale of scams, we can take it back to being more of a cottage industry, we will have done much to make e-commerce a safe environment for consumers. It's ambitious, but I believe it should be our goal. And it's because of the importance of international cooperation in achieving this goal that the Australian Competition and Consumer Commission has taken on the role as president of ICPEN. ICPEN provides a venue for its member organizations to build effective relationships, to facilitate information sharing, and to

identify best practice that can be used to enhance our efforts to increase consumer confidence, much like the OECD. There are around 40 members, and these individual ICPEN members, obviously, undertaking a range of programs to improve e-commerce outcomes for consumers. As a network, though, I'd like to highlight several activities that we carry out in the area of e-commerce. Two in particular are ones that I would like to focus on today. The first is our annual international Internet sweep. This initiative targets the growth in deceptive conduct emerging in the online environment. It aims to build consumer confidence by demonstrating in quite a public way that law-enforcement agencies can target and take action against sites that may be engaged in misconduct. These range from legitimate sites that may simply be providing incorrect information or inadequate information to consumers through to outright scamMs. The outcomes help to educate consumers, often through media attention, as well as providing targets for regulatory action. Every year, thousands of sites are swept as part of this global incident sweep day, and spam messages are also reviewed and targeted. It is one way in which agencies can demonstrate that accountability for consumer safety occurs within a global context. This year, for example, we found unauthorized sites selling World Cup football tickets. As a result, ICPEN has established links with FIFA's ticketing organizations, MATCH Services, to share information about unauthorized and scam World Cup ticketing sites, and to coordinate a global message for consumers warning about such sites will have been issued by the time you hear my speech. The second initiative I'd like to mention is our online complaint portal, econsumer.gov. Currently provided in seven languages, this site provides consumers with tips on how to resolve their online issues, and it is also a portal to report their complaints about online transactions that involve a foreign business. It is still true that consumers will generally go to their domestic consumer-protection authority to complain about problems they have encountered online. However, econsumer.gov provides another mechanism to alert agencies to cross-border complaints. ICPEN is continuing to develop this portal. We still have work to do here, but we're looking for feedback, and I believe that Consumers International will be at this conference. They may have an interesting perspective on such a service. Ultimately, econsumer.gov is a demonstration that, as agencies, if we wish to be accountable, we can no longer rely on the excuse that complaint involving cross-jurisdictional issues. Through the thousands of complaints received each year, we receive a snapshot of current consumer e-commerce concerns. More often than not, they go to basic consumer rights. Have the goods actually been received? Can you contact the merchant? Have you been billed correctly? It

might come as a surprise to learn that the borderless nature of fraud brings with it certain enforcement challenges. However, through such activities as the sweep and econsumer.gov, we can cooperate more effectively on enforcement issues, and, indeed, I know there are many agencies at this conference who have undertaken successful enforcement action in this area. I would now like to offer a few quick comments on two of the conference-agenda questions. The first -- how can the capacity of government to address cross-border issues being strengthened? To enhance international cooperation, the importance of information sharing cannot be overestimated. Networks such as ICPEN need to be doing more in this area. Laws that allow effective information sharing are important, as are less formal information-sharing exercises, such as sharing information around trends analysis and intelligence analysis -- the sort of thing that agencies carry out on a regular basis. On this point, I also believe we have many more opportunities to effectively share information with private-sector departments, and I know there are several participating in this conference. I would encourage those firms to articulate what assistance they need from government agencies that will give greater ability and confidence to ensure the intelligence they have about fraud and misconduct in the E-commerce world. The second question goes to the areas where cross-border enforcement cooperation might be expanded. The one cautionary note I'd add here here is that the breadth of issues just seems to grow every day, and there's no lack of ambition when it comes to tackling these issues. And this, in one way, is part of the challenge. If we spread ourselves too broadly over too many issues, we will run the risk of doing nothing well. So I would encourage anyone looking at this question to consider not only where enforcement cooperation can be expanded, but where it can make the most impact. One area, as I've mentioned, is to focus on the concept of disruption, rather than expecting formal enforcement outcomes in response to each and every problem. We have, I believe, fallen behind the criminals to some extent in thinking in innovative ways about how we can disrupt activity online, so there is less chance of developing into a industrial-scale operation of the sort that I mentioned earlier. And another potential area is to extend our work with agencies from countries that have sometimes been used as the hosts for online crime, so that we can look at what assistance can be provided to such jurisdictions. I'll close by saying that it is through such collaborative efforts that we can enhance our enforcement and regulatory work and that we can build on our actions to help consumer confidence grow. I look forward to hearing the outcomes of the conference and particularly the discussion arising out of this

session. And I would be interested to hear of ideas solutions where ICPEN can enhance its efforts. Best wishes to all of you for a successful and enjoyable conference.

>> Francis Amand: Okay. Thanks for Peter. To complement Peter's presentation on what is done within the ICPEN, Tamas Molnar would give us precious insights on what is done at the European level. Tamas is, since 2005, in charge of managing the cooperation of national consumer enforcement authorities via two networks -- CBC and ECC. Before he goes through his presentation, I remind all panelists to insist on why they think the policy feature they advocate for is so important or promising and should be made a priority by all enforcers. When we are finished with all the presentations, I may also ask them to comment on their panel competitors' presentations and tell us why the other policy proposals should not be a priority. The aim of this competition game is to enable every people on the floor to build priorities so that things can be rapidly done. After all, we all think that competition is the key to efficiency. So let's make the enforcers in competition. Tamas, go ahead.

>> Tamas Molnar: Thank you very much. Thank you for the introduction, and I'm especially grateful for the video message, because, actually, my presentation is addressing many of the issues there. So first of all, let me introduce myself with other words. I am the guy who is talking only about enforcement. I'm not doing it. The European commission doesn't have direct enforcement power, so we rely on the member states, and therefore, we just coordinate what they are doing, and we talk about it, talk to them, talk to the stakeholders. And I talk to you now. So for the last couple of days, I woke up early -- one would say, perhaps, because of the jet lag, but certainly not. I was thinking, "What can I tell you?" This is the last day of the conference. So many times, the guidelines were praised. So many times, it was said that it was so good, we need to go ahead. So what is my message? But yesterday, during the lunch, I understood why I was here. The guidelines contributed to the success of eBay. [Laughter] So if we review it successfully and it will contribute in the next decade, also, to many giants of the future -- maybe they are already there -- I will have contributed to it. So maybe in 10 years' time, I can claim some profit sharing, since a part of this success belongs to me. So what are we doing here? It was already said that the guidelines are good. I don't think anybody's questioning it. It was already said that we need to improve it. But we are speaking so many times about principle, so I brought here some examples --

tangible examples -- what we did in the meantime in Europe. I'm not saying that it happened all because of the OECD guidelines. Instead, I would say the OECD guidelines were born because of the same desire, because we wanted to deliver more to the consumers, we wanted to protect them more and more, and we wanted to provide a level playing field. So I would like to share in the first half of my presentation what has happened in Europe in the last 10 years. We have adopted new horizontal legislation which equally apply all sectors. The E-Commerce Directive is one of the examples, and the Unfair Commercial Practices Directive -- both of them have already been mentioned. These are the two most important ones and the two most relevant ones to the theme of this conference. But we have many more. We have some sectoral legislations also. The Air Services Regulation actually entered into force a year ago. And we had a conversation two days ago -- whether opt in or opt out is the best way to go. This regulation actually prohibits absolutely any preselected choice for the consumers. It is an opt-in choice, and it provides very good guidelines -- at least in Europe -- that this is the way to go. What did we do with the complaints? Because it is also included in the guidelines? We set up a network at the so-called "European Consumers Centres Network." Every year, it handles more than 60,000 individual complaints, individual contacts with the consumers. We have established a so-called "European small claims procedure." It entered into force on the first of January this year, and this is a regular court case, a court procedure, but it is written only, from the starting point to the decision. If everything is -- everybody provides the necessary information, on the very last day, in three and a half months' time, the judge needs to come to a decision. It is enforceable. It solves many, many problems. Currently, we are looking into the question of collective redress. It may be strange for some of you, if you know the American terminology of "class action," but always the very first comment that we receive -- "We don't want the American type of class action." So I'm not saying that we are building that, but we are doing something else. And most importantly, at least for me, we have adopted a regulation on the cooperation between the enforcement authorities. This is the main regulation that I'm working on. Many of you are members in it, participate every day in it, attend the different meetings that we are holding. So I'm just briefly reviewing what it provides to us. The regulation is intended to -- defend the collective interests of consumers. It doesn't provide any redress to them. It doesn't deal with individual complaints. It is applicable only for cross-border issues. It set up a network of national enforcement authorities. Currently, we have about 300 such authorities in Europe. And we have thousands of European enforcers who are, in one or another

way, related to this network and protecting the consumers. And last but not least, it is applicable in 30 countries today. So it is, as you can see, indeed, already an existing international corporation. What do we do? The authorities are able to alert each other that something is going wrong and it's time to watch out, because there can be a company, there can be a business, there can be a practice which is not compliant. In the last three years -- It is applicable for three years -- so from the start, the authorities initiated more than 200 such alerts to each other. They can request investigations. And I'm saying "request," because under European law, it is an obligation. It is not a favor anymore. You are not nice to the colleagues if you carry it out. It is an obligation. If you are requested, you need to do that. So in the last three years, more than 400 such investigations have been requested by the enforcers in Europe. And the measure-takings to stop infringement practices -- we have generated about 500 such cases. So if you sum up altogether, you can see that in the last three years, more than 1,000 cross-border cases -- more than 1,000 cross-border requests have been treated by this network of 30 countries. I assume that it is quite a bigger number compared to the international cooperation -- enforcement cooperation happening in other parts of the world. What do we do? We plan the activities, since this is a network. this is a formal network. We plan the activities, what we want to do. Sweeps has already been mentioned -- the ICPEN sweeps. We also have European sweeps. This year, the ICPEN sweep and the European sweep -- we'll be much closer to each other. We have common activities, where enforcement activities come together. They choose a topic and either they carry out an enforcement action or they organize conferences, they look into the application of the different laws, and they can come up with tangible results. The regulation provides for exchange of officials. We can learn from each other. We can visit each other -- how it is going, how it is happening in other countries -- and I think it is a very useful tool. We provide workshops, as well, where we speak about problems of the application of the law -- which law to apply. Is it a consumer's law? Is it a business' law? How do we understand the different provisions, the different articles, and the different regulations? Because we want to set a level playing field in Europe. And we we are constantly thinking about new forms of cooperation. The latest initiative that we set up a working group on a specific topic. Which are the typical enforcement requests? Which are the areas? These are the measure-takings that you can see on the screen. I highlighted it in red, so the most requests were eliminated to the unfair commercial practices and the second place -- electronic commerce, and on the third place, distant contracts. I think these issues are relevant for all of us here in the room. So although it is happening in Europe,

it could be also an international or even intercontinental statistics. Why does it work? First of all, because the participants are dedicated to it. Member states believe it is a good tool, they see the value that we deliver to the consumers -- to the voters, not least -- and they participate in it actively. We have a clear scope, because the regulation is -- has the same text in all the countries, and it enacts all the legislations which I've covered as listed. No one should have a question whether it is covered by this corporation agreement or not. A shared legal framework in Europe -- in the EU -- it's very easy to provide it. Everybody works with the same laws. And the regulation also forces minimum enforcement powers which the participating enforcement authorities should have. So what are we doing now? We are working on the harmonization of enforcement efforts that we would like to be looked into -- the fines, the penalty, naming or not naming. We looked into the question of applicable law last year, and we have interesting topics for next year, as well, and we hope we will be able to make some movement here. We are also thinking about its standing, the corporation, internationally, beyond the borders of the EU. We are thinking about setting up bilateral international enforcement corporation agreements. I wouldn't like to hide the fact that we are in negotiation with the United States. On Friday, actually, we are going to negotiate next time. And we hope that we will be able to finish it soon and we will be able to provide the cooperation between the authorities in the two continents. So, the question -- is it interesting? Is it good? Is it the way to go? Do we want a standard beyond Europe? Do we want to have an international enforcement community who is able to assist us? We have found well that spammers, scammers are not necessarily being found within the borders of Europe or within the borders of the United States. So we are very actively looking forward to cooperation with other countries, as well. But is it the most effective way? We started thinking about it. We are negotiating with the U.S. We have been negotiating for more than two years. If we collect many countries, many times two years, that's a lifetime or even longer than that. So I'm not sure about that. We started thinking what else we could do, and I'm coming back to the questions which were addressed in the first part. What about a multilateral enforcement cooperation agreement that OECD delivers? We have nice guidelines. We speak about implementation. We speak about how to shape up the guidelines. Why don't we speak about actually enforcement? It was raised in the past two days by many speakers. It was raised by participants from different countries from different continents. We need something. We want to cooperate. We want to be able to share information with each other. We need a platform that we can actually carry it out. And I believe the practice, which already exists in

Europe, is expandable -- or at least it provides a very good basis on which we can build on. Many of the CPC authorities are members present here. Many of the countries are members in OECD. So actually, the practice, the knowledge is already here. Let's use it. Can we achieve it? First question -- the dedication of participants to cooperate. Are you dedicated to cooperate? Well, I heard it in the past days that, yes, you are. So I think this element of the success for the CPC network can be repeated. Do we have a clear scope? Well, we don't know. We are speaking about e-commerce. This is pretty clear. We can concentrate on it. We can start with it. So I think we can have a clear scope where we do not need to think twice whether it is -- whether a case is subject to cooperation or not. Do we have a shared legal framework? We don't know. That is the right answer. We don't have -- We have different rights, but I'm absolutely sure that consumers in all of the countries have the rights for guarantees. It can be for 3 months, 6 months, 12 months, 24 months. I don't know. But definitely, it exists. Do we like scammers? Definitely not. Do you have legislation in place at home through which you can actually address these issues? I hope so. Do we know what are your -- what can you do, what is an infringement in your country? No, we don't. But we can work it out. Do you have enforcement powers at home? I hope so. Otherwise, it's very difficult to speak about enforcement. But what can you do at home? Can you arrest somebody? Can you shut down a Website? Can you block a bank account? We don't know. But we can find it out. So what I propose is to carry out a mapping exercise which would consist of two parts. I propose to clarify the legal framework which is commonly shared, which exists in all of the OECD members. I'm not proposing new legislative initiatives. I'm not proposing to you to adopt a new law at home. What I'm proposing to you -- please, share the information with us, with each other. What do you have at home? If we are able to know that, we will be able to set the minimum, the floor, as it is today. We can see what is possible, what we can enforce internationally, what we can enforce in all of the OECD countries. The question -- questions are on this screen. I wouldn't try to go through that, because most of this has already been raised by Andrea Rosen from the Canadian Competition Office. These are her points, which indicates also that this is not only my idea. It exists. The lead exists. Andrea already raised this issue. I think the questions on the picture, on the screen, what you can see, are the ones which we can start with. We can, of course, elaborate the questions. We can formulate it, we can make it much more precise, but these are the areas which should be covered. At the same time, I also propose to carry out a mapping exercise of the enforcement powers. We need to understand what powers and what

tools are available for enforcement authorities. Again, I'm not proposing to add anything to it -- what is existing. I'm proposing to understand what exists today. And let's use it. Let's make sure that we know that if I send a request to somebody else, the person or the country will be able to take some action, because without that, it doesn't make any sense. And I think this is my last slide. The elements of the future agreement based on the experience that we have gained in the negotiations with the United States -- the agreement should cover the following areas, should consist of the following elements. It should have a very well-described scope. We should not leave any question in limbo, whether it can be subject to enforcement cooperation internationally or not. We need to have the -- We need to recognize the minimum set of consumer rights, either in the annex or in some documents. We need to know what is enforceable. We need to know the powers. We need to identify what sort of actions we can actually request from each other. Is it only alerting each other? Can we really request or can we initiate an investigation jointly? Can we actually initiate enforcement measures to stop the infringement? How far do we want to go? What are the procedures for that and modalities for that? The other ways to improve capacity -- it is very blurred, because it is a wide range -- or what I mentioned, joint activities, exchange of official statistical cooperation everything fits into. Let's see what we are interested in, what we would like to do together. And last but not least, I believe that such an agreement is the best to achieve or the easiest to achieve today at OECD level. But as soon as we set the standards, as soon as this agreement exists, let's make it open to others to join, provided that they are able to provide all the -- all those safeguards, all those points which are covered by the agreement. So this is my proposal for consideration. I think this is a tangible asset, and I think this is something that we can review in 10 years' time. Thank you very much. [Applause]

>> Francis Amand: Thank you very much, Tamas. It's true we have a very effective cooperation in Europe, thanks to Tamas. But one must keep in mind that European countries have committed themselves to work together when they have concluded the role treaty in 1957. We surely must not wait 50 years to extend this cooperation at an international level. Let's skip immediately to our national subpanel, and I give the floor to Noah Curthoys from the OFD. Noah, it's your turn.

>> Noah Curthoys: Is this on? Fantastic. Thank you for having me here. It's really good to be at this conference. I think it's been very useful to have and to speak to people and to see some of the

different views from across the world. I think in 10 years, the e-commerce field has changed an awful lot, and, in some ways, it hasn't changed at all. I'm hearing some of the things which I heard 10 years ago when I was working on e-government policy about accountability, transparency, interoperability. And it seems that some of the principles remain the same no matter when or what you're doing. But huge progress has been made over the last 10 years, and I think, first of all, I would like to acknowledge that and in large part due to the OECD guidelines. What I want to do today -- I don't have a good pitch schtick on a profit share with eBay or something like Tamas had, but what I do want to do is give some of the experience which we had in the U.K. from the Office of Fair Trading. And I'm gonna share with you some of the challenges we see over the coming years and some of the ways in which we're addressing this. I also want to give you some of the practical ways in which we think we can make some of these things work better and look a bit out to the future and see -- It would be very good to get some of your views on things we could do better, things where we can work closely together. So let me start with the challenges. And let me put up a proposition to start with. I think -- We believe that the four benefits from the Internet will only really materialize to consumers when consumers themselves trust online markets. And not just trust them, but trust them enough to confidently engage with them. And we talk about the percentage of takeup and the usage in e-commerce, and it's not 100%. I doubt it ever will be, but I think trust is an essential part of this, and our starting point in the Office of Fair Trading is very much about how do you make online markets more trustworthy for consumers, or at least how do you help that process? I think that's especially important at this moment in the economic cycle. And I think it's doubly important at this moment in terms of Internet development. I think trust is clearly one of the big issues. So in that sense, I think policy makers, regulators, and enforcers face three challenges. All things come in threes, so three challenges, coming across all countries. Number one, I've said there's an enforcement challenge. Number two, I think there's a jurisdiction and legislative challenge. And number three, I think there is a policy challenge. An enforcement challenge in the sense that issues of anonymity, tracing the harm, the transient nature of the evidence -- these are all issues which are quite hard to tackle and which we need to do better at globally, but which a lot of progress has already been made on. Jurisdiction and legislative challenge -- I think a lot of this comes back to including the role of the consumer agencies as distinct and yet complementary to the enforcement agencies, and that kind of gets on what some of the other people have said throughout this conference. I don't think, necessarily, that consumer

issues and enforcement issues are completely separate. They do need to kind of align. And the policy challenge is very much in terms of combining the consistency of offline and online consumer-protection issues. It's very easy to think of it as just online and offline -- two different worlds, but as they come together more and more, I think, while the online transaction itself is different, the actual consumer-protection issues remain the same. So those are the three challenges we see. And the way in which we've addressed these, or the way in which we're looking to address these, is very much in terms of practical issues -- like, for example, creating a single register for online problems. It's very useful, I think, for consumers within the U.K. to actually just have one place to go to. It's something as simple as that. We're looking to boost our intelligence gathering and not just intelligence gathering, but also our capabilities to analyze the intelligence. It's no good just collecting the data if you can't actually interpret and understand it. And then as a third step on, not just interpreting the data, but actually sharing it with other people so they know what you're saying, too. I think one of the other ways in which we're doing it is the way we deal with enforcement capability internally -- you know, having the right kit, the right skills, very much testing legal powers to make sure that actually we are kind of exercising our authority properly and actually sending the right signals. I think there's also a point there around how we consider the strategic significance of the digital markets themselves. For example, when we do market studies, when we look into different markets, how they're working, it's very important not to forget there is a digital dimension to this. E-commerce and online issues are a crucial part of any one market. And I think we need to be more conscious of that in our decisions in the offline world, as well. And finally -- which is an area which I'm leading on -- looking to kind of coordinate better across U.K. government agencies. For example, we're building a strategy which will help coordinate what we do, which will help to kind of prevent some of the duplication across agencies and actually help us to work better within the U.K. government in dealing with these issues. And it's not to take this starting point of, "Let's quickly regulate everything," or "Let's have one plan for everything." It's more just a kind of function just to make sure that we're not all going in different directions. It's a classic kind of government problem. So that brings me on to kind of the practical issues and what we found has worked, and considering that, you know, in the home of President Kennedy and kind of the American political tradition, all good rhetoric comes in threes and it tends to rhyme in some way, I'm gonna give you three C's, basically, on what works. Clarity, coordination, and consistency. We found that clarity is one of the key issues in terms of dealing with consumer

protection online. We have Consumer Direct, which is a Web portal which acts as a single register for online problems. People understand that. They can go to that. And I think the more that people understand that there's just one point you go to -- you know, it's not rocket science -- but the more clarity there is about how you actually purchase an issue as a consumer, the more effective the regime itself is. Coordination -- I think the more we work together -- it's again, not rocket science -- but the more coordinated we are, the more of a single picture which is presented, the better the actual outcome for consumers is. [Coughs] Pardon me. I think finally, consistency. There's an issue about constant engagement across the board with stakeholders inside government, outside of government, that over time, you build up more credibility, you have more consistency in terms of the way you deal with policy, and people understand better and better what you're actually doing. So the three C's, I think, are the way in which we practically approach this. Which brings me on to the future. Where do we go next? I'm wary of making any predictions in an e-commerce forum about where things are gonna go. I mean, people have talked about 10 years ago, we didn't know that Facebook would be around or that, you know, Nokia would be the number-one retailer of cameras, I believe it was. It's kind of a fruitless game to try and predict. But what you can do, I think, is ask the right questions and try at the very least to be flexible enough to deal with the issues as they come up. So in that sense, I think the questions for us -- and it's where I'd appreciate any thoughts from the audience, actually -- is on whether or not getting better mechanisms between agencies, between outside players, is the right way forward -- a light-touch approach to some extent, but also an approach which takes onboard some of the actual research and thinking from people who know a lot better than, necessarily, government itself does, a lot of the time. Is the clearinghouse mechanism the right method, whereby you can actually have a single point of contact on these issues, within government, outside of government. You know, we're looking into this. We're wondering if that's the right way. But, again, outside would be useful on that. Joint education-information campaigns. It's a core bread-and-butter piece of work which most competition consumer agencies do. But again, do the consumers -- are they confident enough? Do they need to have more education on this? Or are we actually just expecting too much of them? And then finally, the issue around international good practice, which is, I think, one of the things which I think the OECD conference and the more kind of context we have here really helps with. Are there good stories out there which we do not sell enough which other agencies and other countries can learn from? I think, in the U.K., we're very keen to see other experience which we

can actually use and refer back to. So let me sum up by coming back to what Peter Kell said, actually. He said the single agencies alone -- it makes it harder, but that the cooperation, via international networks, is a foundation for kind of progressing on this. I think the more that we work together internationally, the more that we have good practice -- I won't say best practice, but good practice -- and the more we involve key stakeholders who actually understand this field more than we do, the more effective we will be. But I'm very interested in seeing people's experience on this and any thoughts. Thanks. [Applause]

>> Francis Amand: Thank you, Noah. And now it's time for Kyung-Tae Gu to tell us how a collective consumer dispute settlement will be soon introduced in Korea. Kyung-Tae is the manager of the Consumer Redress Team in the Korean Consumer Agency. Kyung-Tae, go ahead.

>> Kyung-Tae Gu: Thank you so much, indeed, for your introduction. Well, about four or five years ago, I been proposing a cross-border consumer-complaint system among the ICPEN system, and I know it's not easy to handle all of the cross-border consumer complaints. It's almost impossible to make the consumers get a redress from the other sellers who are staying in other countries. Today I'm going to briefly introduce the collective consumer dispute resolution system of Korea since 2007. Well, I know there are a lot of countries who are running this kind of resolution system. When a number of consumers claim to have sustained an injury of the same type or, you know, a similar pattern, it's not efficient, not productive, either, to deal with those complaints individually. That is why OECD/CISP has also recommended member countries to have access to MAC mediums that provide for collection and resolution of those collection disputes in 2007. The collective consumer dispute settlement system in Korea has been stipulated -- the framework at one consumer since the amendment of the act in 2007. Consumer Dispute Settlement Commission, CDSC, has established the Korean Consumer Agency, KCA, since the enactment of the Act of Consumer Protection of 1987. KCA and the CDSC are also actually legally different organizations, although CDSC is located within KCA and the chairman of CDSC is recommended by KCA chairperson and appointed by the chairperson of the Fair Trade Commission of Korea. Well, upon receiving the request for collective-dispute settlement from the injured parties or by referral, by resolution, initiated the proceeding, in this situation, CDSC shall give public notice to the initiation of such proceeding for no less than 14 days prior to its launching. On the other hand,

businesses expressed serious worries, because public notice by governmental posit may mislead many consumers to believe that the mentioned business is likely to be responsible for consumers' damages, even though it has not been confirmed at the court or even at CDSC. But I believe it was to allay some fears because CDSC has decided to resolve consumer disputes which are almost legally righteous, we believe. CDSC resolves collective consumer disputes as well as individual cases, as well. In collective-consumer-dispute cases, you may designate as the representative with disputing parties who are considered most fitting to represent their collective interests. If a business operator accepts a collective-dispute-settlement decision mediated by the CDSC, he may recommend that the business operator choose some immediate plan for compensating other injured consumers, also, who are not part of the complainant part to the case, as well, and in case one or more of the consumers who are party to the collective-dispute-settlement case initiate legal proceedings with respect to the case, CDSC shall exclude those consumers without suspending the collective-dispute-settlement proceeding itself. Settlement decisions shall be considered to be legally binding as a court-ordered settlement if a mediated settlement is accepted or is considered to have been accepted by both parties. That is why CDSC is called to have judicial power, even though it belongs to administrative mechanisms -- not belong to traditional mechanisms, actually. I don't think it -- I don't have to explain the laudable merit. The ADL system has been activated such a long time. instead of replacing the formal or normal court procedures, it is why the ADL system has been activated so long time in many countries. Well, I'm gonna give you briefly a story we did -- a role-playing-game service dispute. About 1,500 consumers have been using massively multiplayer online game -- role-playing games by NCSoft Corporation. It's the largest game company in Korea. Like the other online role-playing games, it features a character progression -- the player's character is the primary goal. Many online games feature the character-progression system, in which the players earn experience points for their actions. They use those points to reach upper character levels, which makes them better at whatever they do. Virtual items and currency have to be gained through real play, not by automatic computer programs. Automated programs, which assist some players to easily be able to accumulate abnormally many currency items in a short period, have been strictly prohibited, according to the contract continuation between consumers and game-service providers. The company has cancelled the contract of game service because the users didn't comply with the contract conditions. That is because it's not fair gameplay, and it can be detrimental to the other fair players. Whether an automated program is

used or not is detected by the detecting system of the company, but consumers led it also. They actually didn't use it, and they really spent a lot of time, and the detecting system of the company is not perfect enough to fully prove that they really used the automated program. Well, the CDSC believed that the core point of the dispute was whether the detecting system of the company was perfect or enough to be admissible as evidence or not. CDSC has failed to obtain conclusive evidence of the consumers' contract breach, so they requested the company to submit any other evidence to prove the consumers really used the automatic programs, but the company failed. So therefore, the CDSC ruled that the company rehabilitate some consumers' contracts. That's all. Thank you so much for your attention. [Applause]

>> Francis Amand: Thank you, Kyung-Tae. Now, we are going to get into more technical aspects of the enforcement. And I give the floor to Lois Greisman, who you know all very well. Lois heads the Division of Marketing Practices in the FTC here in Washington. Lois, it's for you.

>> Lois Greisman: Thank you, Francis. Thank you, Francis. I'm delighted to be here. 10-year anniversaries are major milestone, and I'm especially happy to be able to participate in the review of the guidelines. Talk about setting priorities. There's more than we could possibly do, even if each of our resources were to increase substantially. Day in, day out, my biggest challenge is where to allocate what we have, what targets to focus on, what policy initiatives to work through. It is a daily challenge, and I think if there were an easy answer to it, we certainly would have found it by now, if not a long, long time ago. So as Noah said, things come in three. I want to just briefly touch upon three points -- law enforcement, education, and public/private partnerships. Law enforcement. Thinking about e-commerce and the recent cases the FTC has brought in just the past several months, I don't think there's a single one that did not have a substantial cross-border component. Defendants are abroad. Bank accounts are abroad. Other assets are abroad. We cannot do it without international help. It's just -- It's not viable, it's not -- It would not be a prudent way to proceed. So in that regard, I think, for instance, your first question, do we need more international cooperation? Of course, of course, of course. What are we seeing in terms of law enforcement, e-commerce? Same things you are. There's spam, unsolicited commercial E-mail that contains viruses. There's spyware out there. There's malware out there. There are also sort of the more traditional deceptive practices that have migrated and continued to migrate. Just one

example is if, you know, you think you're buying something that will enable you to work from home and earn money, it's a very, very low rate. Maybe \$1.99, U.S. dollars, maybe \$4.99. You turn over your credit-card number, your bank-account number. If you don't read your monthly statement, you're gonna start getting debited lots of money -- \$70-plus a month, \$80, \$90, \$100 a month. Unbeknownst to you, you've been enrolled in one those buying clubs or other sorts of clubs which in a million years you never would have enrolled in had the terms of the offer been clear. I'll just plug the Safe Web Act. Obviously, I think it has enhanced our ability to share information to exchange people, which has been enormously, enormously helpful from my perspective, and I'm sure -- I know from that of others at the FTC. We do have what's called the Can Spam Act, which I can't remember what year it was passed, but we've have used it for -- it's been in place for several years now. I think it did help facilitate leveling the rules of the road for legitimate marketers. Obviously, fraudulent marketers are not likely to comply with it and simply do not comply with it. But it did give the FTC particular tools to challenge bad conduct. Shifting to education, I think OnGuard Online is a model tool for how to educate consumers as they surf the Web. There are obviously lots of others out there, and Netcetera is geared more toward parents. It's a more recent publication. I urge you all to look at it if you're not now familiar with it. Private-public partnerships -- they're indispensable. We have to leverage what we do. There's no way we can do it alone, even if it we did not seek international cooperation. A couple of examples that I think are particularly useful in this vein -- one is we have been working with Microsoft's Bing search engine to actually get them to display public-service announcements when consumers put in particular search terms, such as "fix my credit" or something involving mortgages. In other instances, we've worked with other search engines and with other coalitions or trade associations to actually say, "Don't bring up these particular Websites. They have all the indicia of fraud. Don't let consumers see them." Obviously, that's just the tip of the iceberg. I also continued to promote E-mail authentication as a means to clean up some of the bad stuff we see out on the Web. With that, let me just -- one last point. Peter spoke of focusing on disruption. It's hard. I mean, that is something that we do try to do. One case the FTC brought within the past several months involved an ISP operating out of California that was actually hosting child pornography, hosting malware, phishing sites, all sorts of really bad stuff. In shutting it down, according to industry estimates, it did result in anywhere from a 15 to a 30% drop in spam over a several-week period, but just over a several-week period. The opportunity of the bad guys to migrate to other servers, to other Websites, to

replicate Websites is a real challenge. So I leave on the note that there are lots of challenges that we face, but I do believe that, collectively, we bring a whole lot to bear on this, and I will also plug econsumer.gov, 'cause I think getting complaints in is absolutely indispensable to enable us to set our priorities. Thank you. [Applause]

>> Francis Amand: Thank you, Lois. And to end, Peter Van Herck. Peter. Peter is responsible for the coordination of the treatment of complaints and the organization of sweep days in Belgium. Peter.

>> Peter Van Herck: Thank you, Francis. Good evening -- morning, everyone. Jet lag still. I'm an inspector in the Internet Surveillance Unit of the Belgium enforcement agency concerning everything with consumer protection and trade practices. I would like to share some short thoughts and experiences about what we do in Belgium. First of all, when I would have to make a résumé of what I heard the last two days, there are two words who came up every time again. And that's "growth" and "change." E-commerce is growing, is changing, and it is really a challenge for every enforcement agency to keep up with that growth and change, given especially what Lois said -- the limited resources all of those agencies have. So, let's say the environment is changing, practices are changing, and we have to go up and meet up with them. I would like to quickly make an order with the offline world. If you ask every police officer in the world, "What about drunk driving?," every policeman will say it will be impossible to catch every drunk driver. We simply cannot. So, what do we use, other than just the strict enforcement, to make sure that less people are driving drunk, less people are having fraudulent websites, et cetera, et cetera? Because the ultimate goal, I think, for every enforcement agent or agency would be something like an environment of relaxed monitoring. It is a -- But "relaxed monitoring" means not sitting back and doing nothing but knowing that the situation is under control and that, whenever something goes wrong, you can just quickly tackle that problem. Because now we can overflow with complaints and other things, and how to cope with that? What do we need? I think we cannot stress -- we have to stress that the classic enforcement stays really important. So, really going after the bad guys, trying to catch them, bring them to court stays essential. We do that with sweep days -- national, international, and just enforcing, enforcing. We need to adapt maybe legal frameworks and technical and other tools we need to adapt to that new situation. But the classical enforcement stays really important.

But in order to cope with that change and that growth, we need other instruments, and I would like to add one thing to the three C's of Noah. There's the C of communication. And I think enforcement agencies need to communicate more. And I would like to just stress two types of communication. On the one hand, you have the preventative communication, and that's clear for everyone. Every enforcement agency has some programs about prevention, making consumers aware of risks, et cetera, et cetera. But on the other hand, what is, I think, very useful is to use some kind of enforcement communication, that is to communicate about enforcement, and I just come back with the link that I made with drunk driving. What I see is what the Belgian police does, for example. It's on their Website. They publish, every day, some of the places they will be controlling. There and there, there will be speed controls, there and there, there will be alcohol controls. Of course, they say, "It's not only there that we control, but all the public can see we have -- we make controls there and there and there." Why not in an e-commerce environment, as an enforcement, go to the public and go to the industry and go to the press and say, "Ladies and gentlemen, the Belgian authority will be starting a sweep on electronic goods next week during one week. We'll check about guarantee, about prices, about identification, and sorts of things." After two weeks, three weeks, four weeks, a month, you come back and communicate about results. Those types of infringements, we found that percentage of Websites are okay. We caught that type of bad guy, and we'll bring them to court. So, you communicate about enforcement, and you see that that generates immediately some kind of self-regulation. It's not a regulation from out of the sector itself, but the sector knows we have to be careful because there will be controls. If we get caught, we will be punished. So I think that type of communication is also really important. So, to sum up, three types of action are important. Classical enforcement -- catching the bad guys, prevention communication, but maybe something which most of the agencies don't use now is enforcement communication. Talk to the press about how you enforce, what are you going to enforce, and what were the results of an enforcement. Thank you very much. [Applause]

>> Francis Amand: Thank you, Peter. We now have many different proposals to improve our enforcement methodology. Do we have a question from the floor? Who would like to contest or think we should do better? No questions? Yes, a question.

>> Male Speaker: Why don't you come to the microphone up here?

>> Susan Grant: Hi, Susan Grant, Consumer Federation of America. I'm really intrigued by Tamas' idea of trying to find a more efficient way of forging cooperative relationships. Certainly, that would be something that consumer organizations would be really supportive of. And so, I wondered if you could explain a little bit further how you think the OECD could do that.

>> Tamas Molnar: I think the most important part that we need to understand what we can do -- we need to look at the law, we need to look at the powers, we need to look at the data-protection issues which may inevitably come up, technicalities, but we need to decide what we want to do together. Do we want to share information with each other? This is one opportunity. Do we want to investigate together? Do we want to actually take enforcement measures? Because all these different activities require very different structures, very different contractual obligations, and very different resources, also, to be appropriated to it. Because let's not forget, it is a resource-intensive task. So, we need to understand what we want to do, because everybody is saying we want to do more, we want to cooperate, but how and when and why? It is not clear. So, I think we need to make it clear at the first place. We need to understand what is the need of the people here in the room or all over the world. And then we will be able to decide what is the right tool for that.

>> Francis Amand: Any other question? Okay.

>> Roger Cochetti: Yes, I'm Roger Cochetti, and I had a question for Lois Greisman on the CAN-SPAM Act, probably the premier example in the United States of an effort by the federal government to create a new set of regulations in this area. And, actually, two questions. First, when you look back on the implementation of the act, is there anything that you can point to that you think was missing from it? Are there any authorities or elements that, with the benefit of a few years of experience, you could say, "If we had that, we might have been able to do a better job"? And the second question is, how do you think the world would be different today if the CAN-SPAM Act had never been enacted? Clearly, volumes of spam have risen since its enactment, but there have been other changes, as well. So, how do you think the world would be different if the law had never been enacted?

>> Lois Greisman: Those are interesting questions. I just don't have a crystal ball to really address the second one. There's no question any federal law could be tweaked and improved. I mean, with experience, you learn that there are certain things that are missing that are not quite as tight as you would have liked, but there's no gaping hole in this that I have encountered. On the second question, is the world a dramatically different place? Would it be different if CAN-SPAM were expanded? Tough to say. At least in the Federal Trade Commission, primarily what the statute -- the statute did two primary things. One is it gave the FTC a different enforcement tool, civil penalties, which I think is a very valuable tool to have in this base. The other is I think it did set a clearer level playing field for legitimate actors who wanted to comply. That can be done by statute, that can be done otherwise. I think it served a very useful purpose here, and that's what I have heard, actually, from industry. So, I hope that's a sufficient answer.

>> Francis Amand: Thank you. Yes.

>> Male Speaker: I would like to ask you about a possible obstacle for the cooperation of law-enforcement authorities internationally, and especially my concerns are about the concept -- difference of concept of data protection or privacy. And I will explain about my experience in Asia. And we are now building up the international corporation of the consumer organizations who have the dispute...of the consumer complaints. But the problem is, some governments try to get detailed information of each complaint or each case. And some governments actually get them, and the public could announce the name of the company or the name of the cases, but on the other hand, there are some, you know, states or jurisdictions which are seriously prohibited by the concept of data protection or privacy. So, how do you think about this issue?

>> Francis Amand: Lois or Noah.

>> Kyung-Tae Gu: Well, I personally believe, to handle the consumer complaint, we need absolutely the information on the sellers and the name -- for example, name or the address and the phone number, and then -- because to handle their cross-border consumer complaint. So, actually, the providers of the enforcement agency, which agency will handle the consumer complaint from the other countries, because the sellers or the traders was or is the -- located in their countries. So

this, I think, is never over. Never over. Is necessary to get the kind of information from the consumers, I think.

>> Male Speaker: [Inaudible]

>> Kyung-Tae Gu: Say again.

>> Male Speaker: [Inaudible]

>> Kyung-Tae Gu: Well, actually, we don't disclose the name of a consumer. So, actually, we do disclose the name of a company -- the more practice of wrongdoings.

>> Tamas Molnar: Thank you. If I could just add something to it. In Europe, as I had mentioned in my presentation, we coordinate the cooperation of 30 countries, and we have very different approaches. The most public approach is present in the Scandinavian countries, and Bjorn Erik is probably the most hard-core in this area. He names the companies right as soon as it is on the radar screen, and he puts out the press release on it, because he believes that the consumers have the right to be informed about the risks. He knows this information, he has this information, he obtained it on using public money, so it is the right of the consumers to know about it. There is another approach, where the governments say -- the enforcement authorities say that companies have the right to defend themselves. So, maybe this information is not accurate. Maybe Bjorn Erik will have to rectify the announcement two weeks later. And so therefore, some governments, they say they will name companies only after the court has come to a decision on this. We do not have a standard approach for that in Europe. It is very diversified. It is going to be a very interesting issue, once we come to this cooperation agreement, and I think there will be a long debate of the different approaches. Thank you.

>> Francis Amand: Thank you. I will ask a last question. It is a yes/no question for my friend panelists. The question is, would you agree on the idea that governments should take actions only in the case where business associations haven't taken a private initiative that cope with the consumers' expectations? Peter, yes, no?

>> Peter Kell: No.

>> Peter Van Herck: Nope. [Laughter]

>> Francis Amand: Kyung.

>> Kyung-Tae Gu: No.

>> Lois Greisman: No.

>> Francis Amand: No.

>> Tamas Molnar: I can't break the trend. [Laughter]

>> Lois Greisman: No.

>> Francis Amand: Thank you for all, and, well, the panel is done.

>> Michael Jenkin: Thank you very much. [Applause] It's nice to see such concise and consistent views. We'll now start our next panel, which will be the last panel before lunch. We're gonna break at 12:40, so I would ask the next panel to come forward, please, now.

>> Kyung-Tae Gu: Thank you very much. [Indistinct conversations]

>> Michael Jenkin: Okay, right. Okay, could I ask you to take your seats, please, ladies and gentlemen? We'd like to get started as soon as we can because we want to have a little bit of time for questions as well before we break. Also, one of the presentations in this session will be in French, from Marie-Françoise Le Tallec. So, could you -- if you feel you need French translation, if you could pick up one of the apparatus over in the far corner. Yeah. And your English version is on channel 8 of the devices, if you wish to use one. Okay? Well, I think we'll get started. I'd like

to introduce Maureen Cooney, who is the Chief Privacy Officer, and Vice President for Public Policy at TRUSTe. Maureen.

>> Maureen Cooney: Okay. Thank you very much. It's really an honor to be here and to participate in this, really, 10-year anniversary of the 1999 e-commerce guidelines, and very much so for me, representing TRUSTe, which is a company that is all about and its total mission is building confidence for consumers online by helping them know that the businesses that they work with online are reputable and trustworthy. And so the theme of this conference is very important, empowering e-consumers -- how to do that and how to strengthen consumer protection. I'm very honored to tell you that we have just a super and distinguished international panel with us today. And I want to tell you that they're very dedicated. Our panelists have traveled great distances, from Japan, Taiwan, France, and then my good friend David Hoffman at the end, from North Carolina. So, we're very happy to have them. I'm going to quickly introduce them, and because our panelists have come a great distance, each one is going to give a short presentation today. And then we'll have questions following that, including from our audience that's tracking this on Google. So, with me today, and to my left, is professor Yoshihisa Hayakawa, professor of law at Rikkyo University in Japan. Very glad to have him. I will tell you he arrived last night after midnight, so if you would smile when he talks, it will help us all stay awake. Next to him is Miss Marie-Françoise Le Tallec, who is the General Secretary of France's Dispute Resolution Body for the Internet, a very important and newer commission. Next to her is Commissioner Ching-Yi Liu from the Consumer Protection Commission in Taiwan, and she's also a professor of law at the National Taiwan University. And finally, a good friend, Mr. David Hoffman, Director of Security Policy and Global Privacy Officer for Intel. So, without further ado, we'd really like to get into the particular topics that this panel would like to discuss, and they range over four specific areas. So, let me tee those up and then get right into our presentations. The four areas that our panel uniquely found that each of them wanted to say something about are business accountability and enhancing consumer trust online. The second is the need for effective dispute-resolution mechanisms for e-commerce, that much has been done in this area, and there are additional steps to be taken. Looking forward to the future. Three -- transparency and disclosures of e-commerce business practices and harmonization of consumer protection, both in government and self-regulatory frameworks. And finally, consumer privacy and accountable responses by the private sector -- what has been done, what can

be done going forward. Without further ado, we're going to begin with Commissioner Liu.
Commissioner.

>> Ching-Yi Liu: Okay. Thanks to OECD and the FTC for inviting me to this panel. It's quite an honor for me to do this presentation on this conference. In this limited time assigned to me, I would like to do a brief review on issues about accountable business practices, and to cover the following quick points. First, I would like to do -- the first thing I would like to do is to analyze why accountability measures for e-commerce, focusing on information-disclosure regulations. Second, I would like to explain why the development of an appropriate regulatory framework for e-payment is considered important. And third, I would do a very brief overview of information practice principles, that is IPPs, and the need for data-protection law reform. Okay. Information-disclosure regulations. The economic analysis of law asserts that government should only intervene in a government -- in a market in order to correct market failure. There are several reasons for market failure to occur, and information asymmetry is quite common for e-commerce markets. Information asymmetry can decrease the efficiency of online transactions, and it calls for compelled information disclosure about online businesses. In other words, information-disclosure regulation is a logical application of the information asymmetry for building consumer trust in e-commerce. However, the implementation of information-disclosure regulation in correcting market failure usually got only very limited success. There are many reasons for this. For instance, the mere disclosure of the legal terms of contracts will not turn out to be particularly helpful for consumers if the disclosures are as difficult to understand as the underlying terms themselves, and this is the usual case. Second, the effort to expand terms through compelled disclosure might lead to information overflow for consumers. And third, the information disclosed is not necessarily clear and timely for most consumers. So, faced with the difficulties arising from information-disclosure regulations, governments usually have the problem of deciding how accountable is accountable enough for consumers. In my personal opinion, the problem with consumer-protection regulations is not one that can be resolved by merely providing information. As the Internet can resolve most of the difficulties with interactive communications, we should consider making good use of the power of the Internet technology to overcome the asymmetry in practical knowledge between online businesses and the consumers. For instance, consumers can interact with online information -- with online businesses and obtain practical information that is specific to the online

transaction at issue. In this way, I think the Internet actually creates the possibility that consumer-protection laws can be designed into a more effective way. So, let me take the e-payment as an example. In the past two decades, new electronic-payment methods have emerged for retail payments. These P-to-P payment systems are typically offered by nonbanks but have succeeded in the Internet-auction sector. eBay's collaboration with PayPal is a good example. As a matter of fact, currently, we have seen a lot of innovations in payment technologies and business models for delivering new payment services. And most payment intermediaries build upon one or more other payment facilities. This linking of traditional payment systems with new and unregulated e-payment systems indeed gave rise to uncertainties to consumers' rights and protections regarding online transactions. Therefore, safety regulations that will safeguard consumers are most desirable for today's Internet consumers. One of the interesting questions is which level of protection is most appropriate for the regulation of e-payment systems? I do not have a clear answer or a good answer on this yet. It probably has something to do with payment culture. However, certain types of information-disclosure regulations will be necessary. Perhaps at a minimum, e-payment intermediaries should be asked to disclose some type of information -- for example, name and contact details of the person operating the system, how the system works, whether the intermediary ends a return or whether the customer's funds are insured, held in trust, or otherwise protected, and so on and so forth. And in addition, I think successful and effective dispute-resolution mechanism for consumers who have e-payment disputes are necessary. Furthermore, the development of I.T. standards could be one of the strategies used to increase the level of protections afforded to consumers in their e-payment transactions. In order for consumer interests to be represented in the content of I.T. centers, I think regulatory mechanisms should be designed in a way that is accountable for consumer groups. Okay. Information privacy. Modern data-protection law is built upon failed information practice principles, that is FIPP. The content of FIPPs, for example, data quality, user limitation, or reflected wide consensus about the need for standards to facilitate both individual privacy and the information flows in today's global economy. However, as they have been translated into the OECD guidelines, the E.U. Data Protection Directive and the APEC Privacy Framework and the national laws in the United States, European countries, and many other countries in the past few decades. FIPP have increasingly become a set of legal-listing principles, emphasizing notice, choice, access, security, and enforcement. Although this procedure approach looks appealing, it has proven unsuccessful in some ways. For example, businesses and data users

are burdened with a lot of legal obligations, while, at the same time, individuals still have very limited choice in practice. Notices...but present no meaningful opportunity for individual choice. In short, the control-based system of data protection relies upon narrow and procedure FIPPs is not working well, as many people have imagined. And the privacy is no better protected under this regime. Furthermore, the idea behind FIPPs was that national data-protection laws would be compatible, and the privacy would be protected, without impeding global information flow because they would be built upon some commonly shared principles. But the reality has been quite different. Implementation of the FIPPs have been very divergent, and the national laws are often incompatible. And this has been various to the international flow of information. As a result, data protection has become inconsistent and unpredictable and also become burdensome for international commerce and trade. This is also true for online commerce to some extent. On the other hand, although some countries have given self-regulation some years to produce a reasonable privacy protection for the online world, it seems that the privacy self-regulation schemes are not successful at all, as there are many new technologies through which online users can be tracked, can be profiled and monitored, and a decade of self-regulation has led to apparent failures in the consumer privacy-protection field. It seems to me that the time has come for more government intervention. The focus of data-protection law reforms should cover more substantive requirements of information-privacy protection, more meaningful procedure protections, and more responsibility for e-commerce business. So, conclusion. What we can learn from the relationship between technological innovation and the future of consumer protection laws. I think this is a quick -- the key question we all have to think about very hard. It's also interesting to observe whether more harmonization of government regulation and market-oriented approaches is possible in the next decade. However, some forms of government intervention on behalf of consumers seems indispensable, as there are already plenty of evidences showing market failures, widespread abuses, and no reasonable prospect of remedies. So, finally, more cross-border law-enforcement cooperations will be necessary if we are to reach a proper balance between consumers' rights protection and the prosperity of Internet economy. Thanks for your attention. Thank you. [Applause]

>> Maureen Cooney: Thank you very much, Commissioner Liu. The very interesting remarks that you've made about market failures and how that maybe does not empower consumers is interesting,

and we -- I'm sure there will be some interesting questions at the end. Our next speaker is Professor Hayakawa, and he will speak a bit about what is happening in Japan on e-commerce and guidelines there, as well as self-regulatory efforts. So, Professor Hayakawa.

>> Yoshihisa Hayakawa: Thank you, moderator. It is my great pleasure and honor to be here and to speak about our experiences in Japan and Asia. And I actually prepared 36 slides for this presentation, but the allocated time is only just five minutes or a maximum of seven minutes. I'd like to try to do my best. I skipped many of the slides, and, yeah, I will inform you the core information for me, and, yeah, especially I will do my best, especially in this situation. The lunchtime is immediately after this session, and you are hungry. Okay, so, first of all, I'd like to inform -- give you some information about the present trends of consumers in Japan, online. And this is a chart of a number of the cases gradually, you know, increasing in one online consumer institution, consumer disputing institutions -- network. And this is broken down by nature of complaint and broken down by the means of the settlement and broken down by amount of money involved. This is very important information because many of the transactions of the consumer online are mostly only just 300 products or 500 products. So, it means that we should make right now very efficient disputes -- in a way of avoiding disputes. The consumers cannot use much money to resolve their own disputes. That is a very important issue. Secondary, the number of the cross-border cases are increasing, especially online transactions for consumers. And nowadays, 20% of the claimants are occupied by the cross-border disputes. And it means, if you have five cases, one of them are cross-border ones. So, we should make some kind of dispute-resolution system for the cross-border complaints. And this is broken down by contributing partners. And many of the Japanese consumers actually trade with American vendors and European vendors. 25% of such kind of cross-border ones are owned by the European ones, and 50% American. And from this perspective -- so, in Japan, we are annually making the interactive guideline on e-commerce. It is annually issued for Japanese e-commerce vendors and consumers. It is conducted by means of economy, trade, and industry but incorporated by the business communities and consumer organizations. And what is this? There are so many unclear issues and interpretation with current laws and regulations on various brand-new e-commerce transactions. It means consumers cannot know easily about how this law or regulation applied to my case. So, this is very important. So, interactive guidelines on e-commerce help consumers and e-commerce vendors for

this issue. And this is a comprehensive guideline for interpretation of existing laws relating to e-commerce transactions and consumer protections. This is, of course, no binding effect for judicial court, but seriously expected that they would respect this interpretation and that they actually respect the interpretations. So, advantages -- of course, the Internet world is already changing, but we can respond speedy to business and consumer needs. And the processes making with these guidelines -- process of making these guidelines are very transparent and fair procedures. And many experts, not only judges, but also many experts, various experts, can be involved in the rule-making process. What is the process of interpreting guidelines? And first, we collected examples of the issues and laws from the consumers, organizations, or from the business communities. And we established an expert committee, and we examined what is a desirable interpretation of these issues and made recommendations, and they reported by committee. And these reports provided to public opinion and public generals, and we gathered public opinions, and we checked the response from the judicial decisions or ADR organizations. And finally, these opinions are free -- and we annually issued. And sometimes it changed our interpretation, and -- but this is a continuous effort, giving detailed information about the consumer protection, about e-commerce transactions. So, these principles of making guidelines, you know, everyone has to participate...responding to these changes, and, of course, we have to make rules with international consistencies. And this is only just an example of the list of the guideline. And this is the original one. And we skip. And finally -- anyway, so you can check English version of these guidelines. So, you can check Japanese government Website, and you can download these English forMs. So, if you have an interest, please check the Website. And secondly, I will show you about the Asia challenges, the ICA-Net project in ERIA. ERIA is an economic research institute for ASEAN and East Asia. So, this is an international organization in Asia. And the ICA-Net project is an International Consumer Advisory Network. So, the program that we are now attacking is very simple. Consumers can easily communicate with the foreign vendor. Because that kind of vendor sometimes provide to Japanese-run...to Japanese consumer. But if disputes happen, the consumer in state A cannot easily communicate with vendors in state B due to language. Because, unfortunately, many of the consumers in Japan are not able to, you know, speak frequently English languages. So ICA-Net is helping consumers in state A to communicate with vendors in state B, assisted by this ICA-Net and powered by the area. And the system is very easy. So, consumers can make a complaint with their own local language. And the consumer organization can translate the local language into English.

In the past 30 years, it increased to statewide. And statewide area zone increase translate it into their local language and passed to vendor. And the responses actually move like this. And surprisingly, 50% or 60% in our experiences, the disputes are resolved. So, it means that most of the disputes are occurred by the miscommunication between the vendors and the consumers. Of course, there are evil cases. I think that 20% of this type of disputes are very evil case, but in such evil case, unfortunately, vendors are already disappeared. So, it means that if you bring a suit, but it will mean nothing. So, this is, of course, inspired by the ICA-Net in E.U., and we are now making the Asian version, the Asian-Pacific version of these kind of networks. And this is a developmental unit. And currently, Singapore, Malaysia, Thailand, Vietnam, Taiwan, U.S., and Canada, by BBB, and Japan. And consumers internationally have already been involved in this project. And now these are examples of six cross-border cases, but I have no time to explain details of the cases. But, for example, case one. This is a BCU over BBB case, consumers located in Japan and business vendors located in China. And second case is a consumer located in Thailand, and he claimed to be a vendor in Australia. And case three. This is a negative-auction case. It means if you were to -- get quick art from the box, you have to buy various things to gain the Internet game. And the Japanese consumer I know made a complaint against the U.S. company. And this is very interesting, but I have no time to explain about the issues. And the fourth one is a fake escrow company. And this is -- might be a Spain company, and the consumer is located in Japan. And the five case -- fifth case is from the U.K. And the consumer is located in Taiwan. And the goods, unfortunately, have not been delivered to the consumer from the U.K. Yes. And the sixth case, this is an auction-agent case, and the consumer is located in France, and the business location is in Japan. And her organization asked to our networks to help them. Unfortunately, the result has not been yet reported. But -- and this is very important relationship between the international organizations. So significantly -- so we have many experiences about the handling, and some of -- many of them are resolved. And secondly, we can exchange our own information, our own legislations, internationally, and thirdly, sometimes, you know, we can provide, you know, the information to consumers, and we can, in advance, prevent disputes. And fourthly, we can make, you know, some kind of business practice. And the problem is that we should expand this network, and we should make a cross-relationship with law enforcement, including ICPEN, especially fraudulent cases. So, this is our image of the networks. And this is the future prong, and especially we should expand our members, including to Korea and -- in Taiwan we have a member,

and we should do an exchange with U.S. and E.U. like this place. And anyway, so, yes. We are now trying to make some kind of that disputed system now. And we are now doing efforts continually to use efforts. Thanks so much. [Applause]

>> Maureen Cooney: Thank you, Professor Hayakawa. Well, we heard a little bit about market failure from our first speaker, but I think what we heard from our second speaker was that there are some encouraging things on the horizon about raising consumer awareness, cross-border cooperation by online dispute-resolution bodies, and looking for further cooperation with law enforcement, ICPEN, and other networks like that, and so that's very encouraging. Our third speaker is Marie-Françoise Le Tallec, from France, and she will share with us what is happening in France, specifically on online dispute resolution, and how technology can be very helpful for the e-consumer.

>> Marie-Francoise Le Tallec: [Speaking French] Will speak in English. So, if you want...

>> Maureen Cooney: Yes, and may I encourage that anyone who would like translation services, in the back of the room, there are headsets, and they can be very helpful.

>> Marie-Francoise Le Tallec: Okay. [Speaking French]

>> Male Speaker: [Speaking French]

>> Marie-Francoise Le Tallec: [Speaking French] [Applause]

>> Ms. Maureen Cooney: Thank you very much, Marie-Francoise. You know, our international participants have traveled so far, and it's very -- particularly interesting, I know, as a citizen of the United States to hear from you, as I'm sure it is for all of our international participants. So, on this panel, we've been giving a little extra time. Many of the questions that we'll want to take up, we may be taking up during our discussion period this afternoon, and I hope that many of you will join our accountability group for that. We have one last speaker, who is David Hoffman, and he's going to speak on emerging global frameworks on accountability. And, David, I give the platform to you.

>> David Hoffman: Thank you, Maureen. And I'm gonna be brief so we can maybe take a couple of questions. So, once again, I'd like to thank the organizers for allowing me to speak here on the 10th anniversary of the guidelines. The guidelines were absolutely historic, and there's a number of different components of which that, I think, from the overall concept of trying to create a structure to encourage trust in e-commerce, which is something that's critical to Intel Corporation, and we believe for us to be successful as a company, people need to be able to trust their participation in the digital economy and their use of digital devices. So once again, we think these guidelines and the future work and further progress of the guidelines are very important. Specifically, I'd want to call out part four of the guidelines, which really focuses on global cooperation, and talk a little bit about that and how it relates to accountability. The future that Intel sees evolving is one that doesn't just involve cross-border data flows and cross-border transactions but actually involves what we call global innovation. And so what we see is further progress towards a global digital infrastructure, which is primarily built out of global commercial off-the-shelf hardware products, software products, and services that have decreasing variation between individual countries and individual geographies. And what we think is important is that we continue to evolve towards a policy framework that fits for that increasingly global digital infrastructure. So we've been seeking a metaphor to look to for that global digital infrastructure policy. And I'm a former musician, or struggling musician, and so I often look to music. And there's a person who I think actually typifies the way we see this, and he's a famous cellist by the name of Yo-Yo Ma. Yo-Yo Ma, who many of you know, I actually believe is the epitome of global innovation. Yo-Yo Ma is of Chinese ancestry, was born in Paris, raised in New York City, and now performs and composes worldwide. He's been working on a project that many of you may know about called the Silk Road Project, where he's going and creating new works with a number of musicians internationally. This is very similar to the way we are developing technology. And he has a phrase that I think is very important. He says, "The most important thing you need to do when you're going into an environment like that and trying to create a new innovation is to honor each other's cultures and then find a way within that to be able to collaborate together." So that's what we have been focusing on at Intel, as we have labs and organizations worldwide that need to work together to develop the future of technology. And so what we have been working on is to try to define the elements of what we believe this global digital infrastructure policy looks like. And we have come up with five main

elements, which I will give very short discussion to, to save time for a couple of questions. The first, and most important, coming back to the '99 guidelines, is global cooperation. We believe that there's two very important components of that element. One is overall guidelines that can be used internationally to point to at a high level, very similar to the OECD guidelines. And the second are more detailed global standards that can be developed. The second element that we think is important to are flexible laws at a country- or a geography-based perspective that point towards that global cooperation and those standards and those guidelines. The third component we think is very important is technology neutrality, to make sure that we develop both the overall guidelines and the flexible laws in a way that they'll be able to relate to technology as technology changes, which it always does. The fourth component then, we believe, is something that we call the triangle of trust. There's been a lot of fascinating discussion by the prior panelists on this, I think, already. I think 10 years ago, we were in a process where many people were calling for self-regulation. I think we then evolved to where people talked -- I'm not actually sure we were ever really in a system of self-regulation, because there was always enforcement at the back end, especially here in the United States with the Federal Trade Commission's enforcement of section 5 of the FTC Act and other acts that they enforce. But we then evolve to talking about public/private partnerships and co-regulation. I think where we're evolving to now and where we need to go is to talk about a triangle of trust, and that would be the government, industry, and global NGOs working together to set up systems where people can create trust -- specifically with global NGOs being able to cross borders and work as trust mechanisms, similar to what TRUSTe does, to be able to establish that among people from different countries. And then the fifth -- and something I want to drill in just a little bit more. The fifth of the main elements of this global digital infrastructure policy would be accountability. And for accountability, I think there's actually some tremendous work that's going on right now. So for those of you who aren't familiar, the OECD has been a leader in working with the Center for Information Policy Leadership to set up a process to further define what do we mean by accountability. So, there was a project that went on last year. It was called the Galway Project, and the OECD co-hosted one of the meetings of that, to try to flesh out, what are the different components of accountability? And, once again, sticking with the number five, there were five main components of accountability, and I think this was very good work. The first was organization showing -- organizational commitment and policies around what they were going to enforce. The second was mechanisms to put those policies into place, including tools and training

and education. The third being systems for internal and ongoing oversight and assurance. And the fourth being a level of transparency. And the fifth being some sort of means of remediation and enforcement -- the organization subjecting itself to a method of enforcement to make sure that the other individuals that are going to be interacting with that organization actually have a means to make sure any complaint that they would have would be heard. So, that work is going to continue, and it has influenced our thinking at Intel. We have brought those elements of accountability into our internal development processes and the way that we manage personal data and engage in e-commerce transactions to make sure that we flesh all of those out. And so what I -- I was going to go into more detail on that, but I won't so that we save a little bit of time. Instead, what I want to do is just to close and come back to the Yo-Yo Ma example. I think further detail about how we do this, especially cross-border with enforcement and giving effect to handling complaints for individuals, is going to be very hard work. And Yo-Yo Ma, when he was 4 years old and was first trying to master the Bach cello suites, which is his signature piece of work that he still plays, complained once to his father, saying, "This is way to hard. I don't think that I can do this." And his father's phrase back to him was, "Everything is hard until you make it easy. Get back to practicing." And I think that's where we are now. There's going to be another round of this work on accountability. It's going to be hosted in France by the CNIL, the data-protection agency in France. And I believe the OECD will be participating in that -- and I encourage others to participate in that -- to further develop what it is exactly we mean by accountability. Thank you. [Applause]

>> Maureen Cooney: Thank you, David. What we would like to do now -- I have a list of questions, but I think we'll save those for our 2:00 session and again invite everyone back for that. Are there questions from the audience that we could take for the panelists? Yes.

>> Male Speaker: [Speaking French]

>> Marie-Francoise Le Tallec: [Speaking French]

>> Female Speaker: [Speaking French] But I'm wondering, what proportion -- what proportion of the cases that come to you do you reject because they're inappropriate for mediation? For example, cases of fraud, where one party is simply not going to participate or cooperate?

>> Marie-Francoise Le Tallec: [Speaking French]

>> Maureen Cooney: Professor Hayakawa wants to have the last word on this, as well. He had a comment. And then I think we're going to wrap and come back at 2:00 p.m. So go ahead.

>> Mr. Hayakawa: Yeah. I'd like to emphasize the differences between my project and her organization. Because sometimes we use various meaning of the mediation, but we are not using mediation under our definition. Because mediation is very workable, and I love mediation, but mediators have to encourage communication to parties. But the problem is that, in cross-border cases, the language is a very difficult problem, so we're only just comprehending. It means conveying message and conveying message. That's it. But I asked her about how the ratio of cases -- cross-border cases -- in their total complaint. And she answered me, 90% to 95% are domestic cases. So mediation is very workable. And in Japan, the same -- we have the same situation. But on the cross-border cases, we have language problems. So we have to, you know, find another way of dispute resolution. That is our answer in comprehending.

>> Maureen Cooney: That's a very helpful comment. Very helpful, indeed. Thank you very much to our panelists and to all of you for participating. For those who participated by webcast and giving questions on Google, we'll take those up at 2:00, as well. Thank you. [Applause]

>> Francis Amand: Okay. Peter's got a couple of announcements about the breakout sessions this afternoon. Peter?

>> Peter Kell: Thank you, Michael. Just very quickly, when you come back, what we're going to do is divide this room into a number of different areas, and it's in those areas where we're going to have the breakout discussions. Probably what we're going to do is combine some of the groups so there won't be one for each of the sessions, but there will be a sign so you'll be able to tell which

one -- or, identify which one you might want to go to. The breakout sessions will be led by the moderators, and all the panelists who served on those panels will be taking part in the sessions, and those people in the audience who would like to participate in any one of the sessions can sit and join them and can wander around and perhaps join others during the discussions. Two other notes. There are lots of reports on the virtual world back there. You're encouraged to take them, as well as additional copies of the background report for this conference. And finally, we have asked the moderators to come here for a very brief meeting before they go to lunch. So if they could come forward now, that would be greatly appreciated.

>> Male Speaker: Timing for return?

>> Peter Kell: And the timing for return. We know you are a bit hungry and should have some time for lunch, so we ask that you come back by 2:15, sharp. And we'll begin the session at 2:15 sharp.