SESSION G: ROUNDTABLE DISCUSSION ON CURRENT AND FUTURE ROLE OF BEHAVIORAL RESEARCH ON CONSUMER PROTECTION POLICY.

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MR. KOVACIC: If we could resume with the last segment of our day, please. I'm Bill Kovacic of the FTC, and I want to begin by thanking Joe, along with his colleagues in the bureau, for putting together a fantastic program today. My idea of a good day at the FTC is when we see not simply the law enforcement program at work effectively, but we see a continuing investment in ideas that inform the development of law enforcement, rule making, and other forms of policy intervention. In many respects I think this is the Commission at its best, so thanks to Joe for putting together a memorably good tour through an extraordinarily important subject.

With me are Joel Winston, who's the Associate Director for our Division of Privacy and Identity Protection in the Bureau of Consumer Protection; Matthew Rabin from the University of California at Berkeley, of who you know quite well both directly and indirectly through the work of his excellent students, and repeat appearances by both Pauline and Colin.

We would like to give Joel a chance to start us out by showing how theory might meet practice, to review from the point of view of a law enforcement official some thoughts about the possible implications of both the theory and empirical work. We’ll then give Matthew a chance to react to what he has seen throughout the day; and then to turn to Colin for some reactions. He has to head out to that wonderful third world airport known as Dulles, with its miserably ghastly transportation system, so in a spirit of risk aversion, we'll make sure that he can be out of the door by quarter till five. We’ll then turn to Pauline for some further reflections.

Joel, can you get us started, please?

MR. WINSTON: Excuse me. I have to apologize I've got a touch of bronchitis, so if I start coughing in the middle, it's nothing anybody said, it's just me.

We've been applying at the FTC these sorts of behavioral principles for a long time as part of the mix, not the whole mix but as part of the mix. In fact if there's a quintessential attorney/economist debate at the FTC, it goes something like this: The lawyers say, “But they're deceiving people,” and the economists say, “But it's not economically rational for them to do that or consumers are not acting rationally, so why should we care?”

In fact, if you'll indulge a quick story, at the beginning of my career many years ago, I noticed that -- don't ask me how I noticed this, but I noticed that all of the bails bondsmen in the state of Texas were all charging the same price, 10 percent for a bond. I said, “Boy that's sounds like price fixing to me.”

So I did an investigation and I came back to the economist who was assigned to the case and said, “Well, we think we have a price fixing conspiracy here, everyone is charging 10 percent,” and the economist proceeded to spend a half hour explaining to me how that's simply impossible, that the industry is too fragmented, there are too many competitors, the barriers to entry are too low, so there's no possible way they could either come to an agreement on 10 percent or certainly enforce it, at which point I pointed out that I had a copy of the Code of Ethics of the Texas Bail Bond Association that said that the price of a bond shall be 10 percent, and they had an enforcement mechanism according to the president of the association, which consisted of taking people who charge less than 10 percent and throwing them in the Bayou. So much for economics.

Let me give you some examples of how these principles play out in our enforcement work, and the first question that comes up is: How do we account for all of these consumer idiosyncrasies and limitations that we've talked about all day, the “limits on rationality,” I think somebody put it.

Well, first, as Pauline explained, when we look to see whether a practice is deceptive, the first question is: Was the representation made to the consumer something that the consumer is reasonably interpreting in a deceptive way? In other words, is the claim actually communicated to a reasonable consumer?

Well, the question then is how reasonable does a consumer have to be, and what does reasonable mean? Do we take consumers as we find them with all of their warts or do we apply some sort of objective standard to that?

There are FTC cases going back many years that suggest that if as few as 10 percent of the public is misled by an advertisement or takes a particular interpretation of an advertisement, that's deceptive, then it's legally deceptive, so as few as 10 percent.

Yet there's a lot of research out there that shows that probably a far higher percentage of people misinterpret any advertisement, maybe 20 percent. I think Jack Jacoby has done some research on the baseline level of miscomprehension. So how do you reconcile those two things?

It’s a similar problem at the other end. What if we have a copy test that shows that a pretty high percentage of people are interpreting an ad in a deceptive way? Yet, when we as the quintessential reasonable people here look at the ad, we don't think it's making that claim. We don't see it there at all. We don't think they're really acting reasonably. Again, is it subjective or objective?

The same question comes up with the issue of materiality, which is again part of deception analysis. Is the deception something that's of significance to people, is it material to people? The legal concept is we don't question why it might be material to consumers. We don't ask them why they care. We just take their preferences as given - there are Supreme Court cases that say that - but I think on all of these issues, whether it's claim interpretation or materiality or anything else, we apply our judgment and common sense to the legal principles. We don't bring every case where we could make a legal argument that it's deceptive. So we may take a pass on a case where a reasonable percentage of consumers is interpreting a claim a certain way, but we don't think it's a reasonable interpretation, or we may take a pass on a case where consumers think it's important to them that a claim be a certain way, yet we don't think that's reasonable either, so it's really kind of a combination of both the subjective and the objective.

Another area where we bring behavioral concepts to bear is in our privacy program, which is relatively new. There are certain facts we know about consumers and privacy, how they feel about privacy. First is that there are lots and lots of surveys showing that an overwhelming percentage of consumers profess to be very concerned about the privacy of their personal information.

One question comes up: What do they mean by privacy? Do they mean they're afraid of identity theft if someone steals their information? Are they worried their information is going to get passed around to other companies and they're going to get marketing that they didn't ask for? There are a lot of different ways that consumers might be concerned, but consumers are very concerned.

Yet, when you look at their behavior, and that's obviously a lot harder to test, their behavior seems to rebut the idea that people are all that concerned. Very few people seem to read privacy policies, for example. Very few people seem to take their business to a company that has better privacy policies. In a lot of different ways there are indications that consumers don't care enough to act on it, so what do we do with that?

Well, the first question is: Why aren't people doing more? Why aren't people reading privacy policies? Is it that they're too complicated, too hard to find, too obscure or are they just cynical - do they think that companies are just saying that they protect your information when they really don't? Or do consumers really not care? It's probably some combination of all of these.

All of this creates a problem with the basic approach that the FTC has historically taken to deception, and that is notice and choice, that giving more information to consumers and letting them make choices is better than prohibiting claims or prohibiting practices. And the courts have often said that for First Amendment purposes, you have a pretty heavy burden to bear in getting -- in stopping a claim from being made or stopping a practice, as opposed to requiring additional information to be disclosed.

So notice and choice is kind of the traditional FTC model, and it makes sense in the privacy field if you think about it because people's concerns about privacy obviously run the gamut from people who are what are called privacy zealots, they don't want their information going to anybody for any reason, all the way to the other end of the spectrum, which usually is called the privacy unconcerned where people could care less.

Most people really tend to be in the middle somewhere, but the idea of giving people notice and choice allows them to apply their own concerns to the matter at hand and doesn't force the same standard on everybody.

But, as I think we've heard all day today, disclosure, disclosures are tricky, and I can tell you the annals of the FTC are littered with examples of ineffective or counterproductive disclosures, either that we've imposed or that have been imposed by Congress or that businesses engage in themselves.

I think a good example of all of this is in the financial privacy notices, Gramm-Leach-Bliley notices. I am assuming everyone in this audience has gotten these notices over the years, probably multiple times, so I'll ask for a show of hands. How many people have actually read one of their financial privacy notices? I would say about 5 percent, which is about average.

It seems to be an experiment that again is based on the idea of let's throw a lot of information at consumers, let's tell them about all the ways businesses collect and share their information and the different options you have to control that. Let's explain that all to consumers and let them make a choice if they want to opt-out.

Well, what we found is that very few people are opting out, and at least in part that's because very few people are reading the privacy notices, so this notice and choice idea hasn't worked very well.

What we have done in an effort to at least salvage something out of this situation, since it's a Congressional mandate that there be this notice, is we spent two years with the federal bank agencies and came up with a new sort of model notice which is designed to actually be comprehensible to consumers, so people could actually read it, understand it, compare policies from company to company and make rational choices.

It was a very difficult process to come up with it, it took two years, and here is the result, this mega volume here.

MR. KOVACIC: This is the new notice.

MR. WINSTON: Very good. Very good. We did a lot of testing. We did what was called iterative testing, qualitative testing. We sat down with groups of consumers over and over and over again, walked them through the issues, walked them through the form, got their opinions, made changes, walked through another group.

We did it eight different times and came up with a form that seems to work, at least so far. We've gotten very good results from the limited testing we've done with consumers. We'll probably be doing some more testing.

So it is possible to take what's really a very complicated situation, the way Congress wrote this law with all the exceptions and provisos and this and that, and at least communicate at least some basic information for consumers. What we don't know is: Will anyone read it? Is it still coming in the mail? And it may just go straight to the garbage can without passing go, so that we can't do. We can lead them to water but can't make them drink, but at least we give people a fighting chance, we hope, to actually understand what it is they are getting.

I think as part of that process, one of the real beneficial things is that it reminded us and the bank agencies that we worked with, including the Fed, how important it is to do this kind of consumer research, that the idea of getting a bunch of lawyers in a room and writing a disclosure is just crazy. It just doesn't make any sense. We learn things every time we do testing, and let me give you a quick example.

All of these privacy policies you see, including these financial privacy policies, they all pretty much say “privacy policy” at the top which is generally what it is, so we thought, Oh, that makes sense, it's a privacy policy.

What we learned in our testing was that consumers took something very specific from “privacy policy,” those words “privacy policy.” What they took that to mean is that the institution that is sending you this policy does not share your information, period, because it's a “privacy” policy. Well, of course that's not the case or usually not the case, so we had to come up with another title that didn't create that implication. We had a lot of those issues.

Anyway, we're all doing more research now when it comes to disclosures. We all recognize more and more that there's only a limited amount of information consumers can absorb. Another area where that comes up is in -- when there's been a data compromise, and that's one of our big areas recently, companies that are not adequately protecting personal data. It gets hacked into or breached and then the company is sending out a notice to consumers.

Under traditional disclosure theory, we could argue that every time there's a data compromise that affects your data, you should get a notice from the company that tells you this is what happened, this is what you might want to do, here are your options, et cetera. But what we realized based on our experience and our testing is there's a real wear-out effect.

Consumers get more than a couple of these notices and they stop paying attention. So it's really critical that the notices go out when there's a real serious risk of harm and not go out when there isn't, and that's the position we've taken in proposing legislation to Congress. We have to be concerned about what Jack Calfee called overreaction or over warning. That could be a real problem. One other thing we face is our own -- we have things that we have to take into consideration other than sort of these economic principles. It's great if we could have a laboratory experiment where we were just considering how are consumers going to react to certain things, but the fact is we have legal constraints. We have statutes that require certain disclosures be made certain ways. We have public policy issues, so it's all part of the mix.

MR. KOVACIC: Thanks, Joel, and I thought now to turn to first Matthew and then Colin. As you go along, perhaps you might tell us: If you were helping us to set a research agenda or even thinking more boldly of making adjustments in policies where is it possible to distill lessons from empirical work or theory into policy prescriptions? First, Matthew?

MR. RABIN: Okay. I wasn't prepared to touch on those two. First I want to thank Joe and the others for inviting me, and I also disclose that I do not work for the Federal Reserve, yet. Everything I'm going to say represents their views. I had to say that.

Okay. So with a new agenda is in some ways, what I was going to say did address it. Partly as I said in private, in discussions with various people, one of the really important things I think the FTC could do is use its subpoena power as Joel Schrag put earlier. I think on a lot of these questions we just don't know the answer empirically, and I agree with everyone's point of view that we want to know empirically in the field what's going on.

What's a little bit worse than that, I suspect there's a strong correlation between what data we have from the marketplace and what are the domains where consumers may be making mistakes or being misled. In those domains where it's up to companies to voluntary provide the data, there are domains where we suspect they're not that enthusiastic about having academic or policy research looking at it.

So it would be great to have more data on some of the credit cards, extended warranties and rebates we were discussing over the break where we think a lot of behavioral phenomena may be very important.

I guess the second question, the second comment I want to make concerns some of the discussion about the definition of rationality. Ever since Herbert Simon, there's been some debate over the definition of rationality and probably not ever since Herbert Simon, probably for a few millennia over what it means, and I think I've always made this point within the context of scientific research, how frustrated I am about some of the debates over language, and some of the culture wars over whether to label people rational. I think it is super, super important to be clear in the context of policy implications.

Now, the question that Herb Simon emphasized about bounded rationality that he insisted he wanted to call that rationality rather than irrationality, and this has come up a couple times today, and I think it's completely compatible and emphatically compatible with the point of view of behavorial economists that a lot of times we don't think about things because it's difficult to think about, and moving and sort of saying, oh, no it's not right to label people as not being fully rational because to point out it's hard for them to think and therefore they don't get the things right for that reason rather than whatever the other reason we ever thought was that people got things right I think is an important clarification for exactly some of the discussion that came up.

This isn't about labeling people idiots, and also per some of the discussion about disclosure and per some of the frustrations people have expressed, it's not about insisting people do things differently to stop being bloody minded and stop making those mistakes. Rather the behavioral economics movement is about describing people more accurately than has been described in existing economic models, so if people find it hard to think, then we ought to allow for that possibility in the way we think about things.

The reason why that's so important in this context, and I think it's related -- I think Tim Brennan made this comment in passing is if people find it very hard to think, then that may be all the more reason to start thinking about some of these regulations per the post conjecture or per a lot of the models by David and others.

Once you write down models of the limits as to how people can deal with things, whatever label you give to that, whatever judgment you give to that about whether or not they should be smarter or not, it has implications for market efficiency, and you shouldn't make any mistake. Existing economic theory, the repetitive notion that economists give about market efficiency, one which I and David and Colin and others for the most part agree with but this incessant lesson that economists claim about markets being efficient is based not on the notion of being rational given their cognitive constraints. It's based on the notion of people being unboundedly rational.

The idea that markets will be efficient if people find it difficult to think things through is untested theoretically, untested empirically. The only people who are writing down models and doing both theoretical and empirical studies of that are essentially behavioral economists, and the answer is no to the question: Do our models and the case for market efficiency work just as well when people are bound to be rational?

So we shouldn't get hung up on condemning individuals for not being perfect and for not wasting their entire life behaving according to our models, but we shouldn't then label that rationality if that puts us in danger of saying, A-ha, people are rational and we know how markets work when people are rational. We ought to have the right model of people, whatever we call it, and I think there's a very strong case to start to entertain these alternative models.

I'll close with a final comment, which is a bit looser and more sociological but very related, which is to repeat what I just said: Existing economic theory makes the case that free choice is good when people are rational. There may be plenty of times it's good when people aren't, but it makes the case that people are -- that the world works well when people are fully rational.

There's an element, there's a strange sort of moralism by many economists, and it relates to a comment that Joel made about economists within the FTC. There's a strange moralism by many economists that if people are stupid, then they ought to be punished for it.

Now, I don't share that moral perspective, but I don't begrudge anyone having that moral perspective, but economists ought to admit that that's their moral perspective, and our models don't tell us that people deserve to be punished if they're stupid, and if they make mistakes, and this sort of strange notion that somehow the markets work well so long as firms are providing something that rational people would do well with I think sometimes comes from this weird sort of moralism that's separate from any results we have.

If people make mistakes the answer is a lot of different things can happen than our models predict, and it's up to the world policymakers and others to decide whether or not we care about people who are naive or rational or boundedly rational, and I don't think it should be up to economists preaching that idiots that don't take into account some of the costs ought to be punished for their bad behavior.

I'll stop there.

MR. KOVACIC: Thank you, Matthew. Colin?

MR. CAMERER: Just to follow on from what Matthew said, I do think you can take whatever moral stance you want, but if I pay your salaries to protect consumers, then you can't just let them drown. At least that's not what I think the intention is, and by the way, in no sense do I or Matthew think that that's been the FTC's position to be interpreted that way. It's more in some strange academic economics and so on.

I think if we could distinguish better between particular kinds of cognitively challenged or say inexperienced segments of consumers, that would probably be something that Pauline and I were discussing that the FTC does think about, and that tends to be part of policy, and I think that's something where being forced to think about practice is guiding the research in a useful way.

So now partly when you think about the brain, you think about this, and David has some data on -- which he showed you on the age of reasoning. They're very pronounced effects. Basically young kids screw up because they're impulsive and clueless, and old people screw up because they forget, and in between they're kind of doing okay.

So either markets will help out those ends of the continuum or families or advice structures and professionals will, but the ability to make differentiations like that could be a useful thing, and it's something we're pretty far behind on because the economic model has largely been work for a representative agent viewpoint and behavioral economics to a large extent inherited that so this is something that we're very much thinking about.

In terms of sort of research possibilities, I think we have not very much to say at the moment that plugs right into policy and interpretation of policy, but I can see a research agenda emerging maybe very rapidly.

One thing that would be very good would be more longitudinal studies which typically in lab experiments we're somewhat constrained to do and some of it just kind of laziness, but it's all the inability to commit people to come back for every week for a month or follow them for a six month period. That may be something you're in a better position to do.

If you're interested in things like disclosure fatigue, that's absolutely crucial. You're just not going to find out probably in one hour in the lab. That would be a very interesting thing to study on how to mitigate it.

Another thing I'll say is that, to paraphrase Roman Smith, only economists and lawyers read contracts and think about words and are persuaded by NBER type tables with 87 numbers on them. We're highly trained to accept those -- those symbolic manipulations as things that really speak to us and that we remember and tell our friends about and that influence our behaviors but that's very unusual. Certainly it's unusual in

America, and it's really more unusual in the rest of the world.

So one thing that one should explore is the -- to get ideas across the way the marketers do, which involves some combination of words and tables, examples, charts, videos, and along these lines my former colleague Chip Heath who is now at Stanford business school has a story about Microsoft, and Microsoft as you might imagine, all the neuroscientists used Apple or Mac so I'm like the lone Microsoft one, like on the TV commercials, and at Microsoft they had a hard time getting the software designers to think that there were bugs in the software.

The software is difficult to use by average consumers, and they would show these numbers from the complaint lines, 87,000 people called last month about such and such, and they would say either 87,000, that can't be or well, they're stupid, et cetera, et cetera, and they built a viewing room with a one way mirror where they had average people who didn't look stupid. Some had glasses and ties and suits, and some of them looked pretty smart, and the designers could see people were really struggling with basic software, and then it worked.

So this is the kind of organizational debiasing, where you're beating some bias with another, which is the vividness, and these average folks clearly struggling with the software, and that really was a wake up call on Microsoft, so I think this may be also something you do. All I know about the FTC I've learned today, and I feel like I know quite a bit, but if I was working on this I would go and ask people who are really good at deception.

For example, in Las Vegas they hire people who cheat at the casinos, which is extremely hard to do, to tell them how people try to cheat the casinos, and I think there may be a lot of wisdom about people, some of it you probably learned in the course of --

Mr. KOVACIC: Leonardo DeCaprio and Catch Me If You Can.

MR. CAMERER: That may help you think about your business, and also about how to design effective disclosures that are engaging and kind of get the truth across, so it's sort of in some ways enlisting the enemy to help you fight the enemy.

MR. KOVACIC: Thanks so much, Colin, and I know that you do have to head off, but I would ask for one other thing, and that's the possibility of coming back and doing this again as your work continues. I think a continuing conversation with those whom you know very well here would be very useful over time, so I hope this is the first of many discussions. Thank you.

MR. CAMERER: I would love to.

MR. KOVACIC: I would like to turn to Pauline for some comments.

MS. IPPOLITO: Reaction? I followed this literature for many years at a casual level, since it's relevant to what we do and I'm interested in consumer behavior, and as I listened today, I was struck by several things, including some things we didn't talk about.

We talked about how firms would exploit the biases that consumers have, exploit consumers in various ways, and that's certainly something we're interested in here at the FTC, but in a sense this is also a problem for firms. If you're Fidelity selling pension plans, you better figure out how to get people to get passed their present bias to think hard about what their future life will be if they don't invest for their pension, and this is a very real problem for you if you're Fidelity, and I think it's Fidelity that has the behaviorial economics group, isn't it? Does anybody know?

I think they actually have a group that does this, but there are people in the market who have strong incentives to figure out how to deal with these issues, who are working on these issues right now, and as I listen to us all talk about how psychological effects and images in ads can make a difference, well, anybody who's looked at marketing campaigns for years as we have here at the FTC, this is not news.

Marketers work -- worry about this a great deal. Color, feel, atmospherics, all of these things are important to invoking, evoking certain responses from real people, many of which are really communicative. If you're trying to get people to think about their long run health, you have to put them in a certain frame that gets them to think about those things.

When we were having the big debates about whether we should allow health claims for food ads, your health isn't determined by any individual food. It's by diets, the public health community said, and so we should never allow an individual food to talk about heart disease for sure, but the most powerful ad in terms of talking about heart disease was a Mazola ad where they were trying to sell a Mazola oil, and the guy was on a big porch and his grandchildren were out on the lawn and he was talking about he had a heart attack and he wanted to see them get married, and it was this very folksie, Hallmark sort of moment that you could really see the future.

And it really was one of framing, trying to bring that future that we're all not -- would prefer not to think about and have the french fries today -- to try to make it very real in a way that will get people to change behavior.

So those are some of the things that I thought about as I listened to everybody today, and it made me think also about one thing we're worried about right now that has behavioral issues in it on both sides, so let me just throw this out there for you all to think about. We have testimonial guides right now, and what the testimonial guides do is tell advertisers what they have to do when they use testimonials. I lost 57 pounds using program X.

MR. KOVACIC: It really focuses on testimonials from academic economists based on their research, and they're used in mainstream advertising.

MS. IPPOLITO: Yeah, but if you use testimonials in your ads, and you've all seen them, and let me talk about weight loss ads because that's one we're thinking about. You see all these people who lost 50 pounds, who lost 75 pounds, who lost 32 pounds in the ads. Well, that's not the typical experience for anybody using those programs.

And so there's a great concern that our current guides, which say if you're going to use testimonials that are not typical you have to somehow disclose that, so you say "results not typical," which does nothing, and we have evidence that it does nothing. We also have evidence that if you use bigger numbers in these testimonials, it affects what consumers tell you you can expect from program X that's being advertised. So there's evidence that says testimonials matter, and they shape expectations.

On the other hand, if you look at the really good weight loss programs, Weight Watchers and so on, American Heart Association, Duke Medical Center, they use testimonials. What's the problem in getting people who have gained weight to lose weight? You really have to commit to changing your behavior, a very difficult thing to do. You have to motivate people to think they can do it. Other people like them have done it.

If you go to the Weight Watchers site, there's the young 20 something mother who just gained all that weight from the baby and wants to lose it, and there's the middle aged woman whose weight creeped on over the years and she wants to lose it, so they try to model for different types of people someone who was successful at losing weight.

Now, the facts are most people who go on a diet lose a little weight and then they gain it all back.   So in looking at it from a deception point of view, you're tempted to say, you can't use testimonials that aren't typical or average or if you do you have to say, But most people never lose any weight doing this, so why bother.

From a policy point of view, thinking of it behaviorally, it's really a tough decision. You can see the deception argument, but you can see for effective programs the real positive implications of using these models, so it really I think raises some interesting behavioral questions of how you make those trade offs and how you think about what you allow advertisers to do in this kind of a context. So anyway, a few comments from the day.

MR. KOVACIC: I would like to just add a couple of comments, other implications where I would like to see our own work go.

One is to link some of the observations that we've been working on to the work we do in the area of competition policy. This seems to be an obvious area to draw on the synergies from having our Bureaus of Competition, Consumer Protection and Economics.

My competition law ear picked up on a couple things said today. Recall the discussion about printers and cartridges. I think this is exactly where you've had an aftermarket in which firms not associated with the original equipment manufacturer have stepped forward and said, “Hey, I'll share the rents with you, I'll give you some of the surplus back,” which on the part of manufacturers also induces a practice called tying, bundling or some other variant of that.

To the extent that there’s an aftermarket of independent suppliers, service providers or hardware providers, who are performing the function of stepping forward and saying, “I'll educate you, I'll provide the educational voice that's not being supplied by the original equipment manufacturer, I'll help you unbundle and make a better choice,” and to the extent that tying is a strategy to suppress that, this provides another way of thinking about tying. We might come up with the same policy result, but it's another fresh and I think interesting perspective on bundling.

The example also focuses on the role of intermediaries who in effect could be the personal trainer for consumers. I think most consumers, as we've suggested today, are in the position of people standing on a waterfall with a tea cup. Information is dousing them, and it’s impossible to absorb it all and think about it. Well, what's one way to cope with that?

You could hire someone to help you do it, just as you can hire someone now to take your laundry, bring in your groceries, run your house, drive your car, depending on your wealth of course, and I do think we see intermediaries stepping forward. The intermediaries like US News, which to the horror of universities ranks departments and gives prospective students, who used to be completely blind, some idea of what's going on in the inside.

One might imagine that in some instances the possessors of the information would try to resist efforts for those intermediaries to gather information. I think a competition policy implication is that you don't want the holders of the information to collectively decide that they will not deal with those who are trying to be the personal trainers and guides for people through.

I also think -- there may be a real benefit for us in looking back, not simply at our own rules in existing policies, but at what common law courts have done in the course of deciding contract, tort and property cases and also in the formulation of contract rules in the UCC. I think a number of the intuitions that we've been talking about in fact get reflected in what common law courts have done over time.

My sense is that many of these observations about behavior are reflected in existing rules. Common law courts established ages ago the sense that the quality of consent required in individual transactions depends critically on the importance of the transaction, and those cases take account of the fact that as people make more important decisions, the quality of consent has to be greater. Thus a decision to buy a candy bar is associated with lesser demands on consent than a decision to buy a house and the rituals that go along with that.

I think it's reflected in the work of economic scholars bike Bob Couter, who emphasizes the notion of double responsibility at the margin. Couter's thought is you do want to give incentives to both the seller and the buyer. Couter models bad contracting episodes like accident smash-ups in torts.

Just as tort law gives the tort victim and the tort feasor an inducement to exercise precautions, and taking to heart the notion that you want consumers to have incentives to learn and in fact improve their knowledge base, you see in a variety of common law doctrines that in the case of fraud it's reasonable reliance that matters. So I think there's an inducement in much of the common law framework to account for, a variety of behavioral characteristics, and to coax people on both sides of the transactions to do more learning.

So I think that in many ways, to reflect on our own experience in light of this new lens would be an extremely useful venture.

We've come to the end of a fantastic day. Before I turn it over to Pauline to close for us, I also want to thank a number of people who are in the audience here. I want to thank our foreign colleagues, both from the European Union and from the Government of Hungary, who have come with us.

I think that the work that we do, as the discussion has suggested today, shouldn't simply be a introspection on our own part. The possibilities for comparative study and collaborative work across borders is an enormously fruitful area for work. I'm also grateful that our fellow regulators in the United States here are too.

Too often I think our system of government is an archipelago of different public institutions that only occasionally visit each other. I think that the extent that ours is a government of overlapping responsibility where we've bumped into one agency after another, the fact that all of you are present here, both from home and abroad, is an enormously useful way to approach these issues.

Pauline?

MS. IPPOLITO: Well, I just wanted to take the last word to thank all of the folks that organized the logistics, so Neal Reed, who headed up our administrative team, and Alexi Charter, who handled the mike most of the time, and Alethea and Tammy who orchestrated all the paperwork for all speakers to travel here and hopefully get them all home safely. Thanks to all of them as well, and Joe Mulholland of course who carried the big load. Thanks a lot for coming.

(Whereupon, at 4:59 p.m. the conference was concluded.)