FEDERAL TRADE COMMISSION

FOLLOW THE LEAD:

AN FTC WORKSHOP ON LEAD GENERATION

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FEDERAL TRADE COMMISSION

I N D E X

WELCOME

MS. WORTHMAN: Good morning. My name is Katie Worthman. I'm an attorney with the Division of Financial Practices in the Bureau of Consumer Protection at the Federal Trade Commission. Welcome to Follow the Lead: An FTC Workshop on Lead Generation.

Before we get started today with the substantive program, I have some administrative details to review. First, please silence any mobile phones and other electronic devices. If you must use them during the workshop, please be respectful of the speakers and your fellow audience members.

Please be aware that if you leave the Constitution Center building for any reason during the workshop you will have to go back through security. Please bear this in mind and plan ahead, especially if you're participating on a panel, so we can do our best to remain on schedule.

Most of you received a lanyard with a plastic FTC event security badge. We reuse these for multiple events, so when you leave for the day, please return your badge to the event staff.

If an emergency occurs that requires you to leave the conference center but remain in the building, follow the instructions provided over the building PA system. If an emergency occurs that requires the evacuation of the building, an alarm will sound. Everyone should leave the building through the main 7th Street exit. After leaving the building, turn left and proceed down 7th Street; cross E Street to the FTC emergency assembly area; remain in the assembly area until further instruction is given. If you notice any suspicious activity, please alert building security.

Please be advised that the event may be photographed. It is being webcast and recorded. By participating in this event, you are agreeing that your image and anything you say or submit may be posted indefinitely on FTC.gov or on one of the Commission's publicly available social media sites.

Restrooms are located in the hallway just outside the auditorium; and the cafeteria is currently serving breakfast. It's quite good. Lunch will be served from 11:30 until 2:00. There is a limited menu from 2:00 until 3:00; however, no food or drink is allowed in the auditorium. The panelists will have some water.

During the panel discussions today, if you're interested in submitting a question, please fill out one of the question cards located at the table just outside the first set of doors in the back. Spencer will -- if he's around -- he's very tall; you will see him walking around. Just wave your question card and he will come collect them and deliver them to the moderators. If your question is not asked today or you wish to file a formal comment, you can file one online until December 20th.

Now, I would like to introduce the Director of the Bureau of Consumer Protection, Jessica Rich.

(Applause.)

INTRODUCTORY REMARKS

MS. RICH: Hello. Good morning. Welcome to Follow the Lead: The FTC's Workshop on Online Lead Generation. This topic is of particular interest to me. These microphones, oh, my God. So, I'm really pleased to kick off this event.

Let me start by stating the obvious, which is that lead generation is a well established industry that has served a very important role in the marketplace for many, many decades. We know that lead generators are fairly ubiquitous across different industries and offer benefits to both consumers and advertisers.

Consumers can spend hours, days, and even weeks searching for goods and services that meet their needs at their price. Advertisers and businesses are constantly searching for new and better ways to reach these consumers. Lead generators serve the important function of connecting the two, and that's a good thing.

For example, today, we'll hear about a study showing that the ability to sell consumer leads in the mortgage market translates into real financial benefits to consumers. According to the study, when mortgage companies were able to sell consumers' information to third parties, consumers received lower cost mortgages. That kind of economic benefit is of enormous value to consumers, and we hope to learn about other such benefits throughout the panels today.

That sounds pretty straightforward, right, something we've known about for a long time? So, what's new? Why are we having this workshop? The answer is we're seeing a number of trends in the marketplace that point to lead generation as not just a source of leads for legitimate businesses, but also a source of highly sensitive consumer data for scam artists.

One of the benefits of being a general consumer protection agency is that we see what's happening across different industries and topic areas, and we can see links between them. Here are some of the things we've observed. First, starting about five years ago, we began bringing cases against companies that were seeking repayment of payday loan debts from consumers that either never owed the debt or owed the debt to somebody else. We learned that these companies, dubbed "phantom debt collection companies," which is actually a pretty polite way to describe these scam artists, had been able to purchase payday loan applications, full applications, from other companies as leads for their debt collection calls.

The fraudsters then called the consumers, demanding repayment and threatening arrest, jail, and even violence. In many of these cases, the fraudsters were able to collect millions of dollars that the consumers did not owe to them, simply because the consumers were intimidated and scared by the fraudsters' demands and threats.

Second, we observed a similar pattern, that is, the purchase of highly sensitive data from lead generators or data brokers in other types of fraud cases: debt relief scams, unauthorized charges, prepaid card scams, sweepstakes fraud, recovery room scams. For example, in two recent enforcement actions, the FTC alleged that two payday loan lead generators -- LeapLab and Sequoia One -- sold consumers' sensitive bank account information to fraudsters who then used the data to withdraw funds from consumers' accounts. These sales of leads resulted again in millions of dollars of consumer losses.

Third, the data being sold in these cases went well beyond the usual lead lists we've been seeing for years. No, it wasn't just so-called "sucker lists" of consumers who had fallen for scams in the past. The data being sold often included detailed loan applications, account information, and Social Security numbers, making it easier than ever for the scam artists to perpetrate their frauds.

Fourth, even apart from fraud, we have observed certain lead generators or brokers being incredibly reckless with sensitive consumer data. Earlier this year, for example, we took action against two debt brokers -- Bayview and Cornerstone -- for posting the sensitive information of more than 70,000 consumers on a public website as part of their efforts to sell portfolios of past-due payday loans, credit cards, and other purported debt.

The posted data included bank account and credit card numbers, birth dates, contact information, employers' names, and information about debts the consumers allegedly owed. They simply posted this sensitive information in plain text on a website.

Finally, we know from our privacy program that highly detailed information is increasingly available for sale to any buyer and that the implications for consumers can be quite serious. Purchasers may use this data to decide whether or not to provide consumers with important benefits such as a loan, a job, insurance, and housing.

They may use it to decide who gets the best customer service and who sits on hold, who gets the best coupons, and who gets ads for the best deals. Use of this data also could result in certain consumers being denied benefits based on stereotypes. We explored this issue in our workshop last fall, Big Data: A Tool for Inclusion and Exclusion, and we do have a report coming out on that workshop shortly.

Given the benefits that lead generation can provide and the perils when the information that lead generators collect and sell is misused, we thought it was time to have a workshop to develop a more detailed understanding of this segment of the economy.

What are the mechanics as leads journey from website to aggregator to end purchaser? How is lead generation evolving with the advancement of online marketing techniques, the presence of data brokers, and the fast-paced marketplace that mobile technology creates? What best practices and codes of conduct have been developed in this industry? What legal standards apply?

Through discussion at this workshop, we hope to provide insight into how to be one of the good guys in this industry and to help ensure an efficient and fair marketplace for consumers.

So, that's the purpose of the workshop. Here's how the day will go. We'll have five panels to explore this very important topic, composed of consumer advocates, industry experts, researchers, and others. Our first panel will set the stage for the discussion by providing a survey of the industry, describing the role of lead generators and related entities in the market and detailing the various lines of business or verticals that rely on lead generators. We will hear about how companies collect, process, and use leads and how this practice benefits consumers.

Our second and third panels -- in our second and third panels, we'll have case studies focused on industries that rely heavily on lead generation: consumer lending and education, respectively. Representatives from industry and consumer groups will drill down on the specifics of lending and education verticals to explore more fully how lead generation works on a day-to-day basis in those industries. We will discuss the potential vulnerabilities of collecting and selling consumer information, as well as what industry is doing to address consumer protection concerns.

Our fourth panel will focus on the consumer protection issues raised by lead generation as discussed in the case studies and as they occur in other lines of business. Among other things, panelists will discuss what laws apply in this space, including the FTC Act, which prohibits unfair and deceptive practices. They'll also discuss the risk that violating these laws poses to certain business practices.

Our final panel will discuss the steps industry can take to better protect consumers. We will hear about self-regulatory codes developed by the Online Lenders Alliance, the BBB, and the LeadsCouncil. We look forward to a robust discussion of how to promote a better consumer understanding of lead generators to help consumers avoid those lead generators who cut corners and break the law.

I want to thank the team that put this event together: Evan Zullow, Katie Worthman, Patrick Eagan-Van Meter, and Sandy Brown from our Division of Financial Practices; Jessica Skretch from our Division of Consumer and Business Education; and Devesh Raval from our Bureau of Economics.

I also want to thank our federal and state partners who are participating today: Deputy Under Secretary Jeff Appel of the Department of Education; Nathan Blake of the Iowa AG's Office -- I think you guys are sitting in front here; and Joseph Chambers of the Connecticut AG's Office. And thanks also to our event planning and web teams, our press office, our honors paralegals, and, of course, all of you out there.

So, enjoy the day, everybody.

(Applause.)

PANEL 1: INTRODUCTION TO LEAD GENERATION
MARKETPLACE AND MECHANICS

MR. ZULLOW: All right, well, good morning. And thank you so much again for being here, both in the audience, on our panels, and on the webcast. My name is Evan Zullow. I'm an attorney with the Division of Financial Practices here at the FTC, and we're very happy to welcome you to this first panel of our day, which is entitled Introduction to Lead Generation Marketplace and Mechanics.

Our panelists here will each be giving presentations with slide decks, about 15 minutes apiece. And as the title of the panel indicates, we hope to provide you with an initial overview or survey of lead generation, including the roles that lead generators and related entities play, the mechanics of collecting and selling leads, and the potential benefits and risks associated with this activity.

Also, if we have time following our final presentation, we may have a few question and answers, either from me or the audience. So, we're hopeful -- and, actually, we're quite confident -- that this panel is going to serve as a very nice foundation, giving us a bit of a common vocabulary and background to go into the rest of our day.

So, I will go ahead and introduce very briefly our panelists, who we're very grateful to have here today. The first, directly to my left, is Michael Ferree, who is a member and board member of LeadsCouncil. Next to him is David Morgan, Chief Revenue Officer at PerformLine. Next to David is Paul McConville, also Chief Revenue Officer at LeadiD. Then we have Professor Liad Wagman, who is the Faculty Chair and Associate Professor of Economics at the Illinois Institute of Technology, Stuart School of Business. And last but definitely not least, Jonathan Gillman, Founder and CEO of Omniangle Technologies.

So, without further ado, let's begin our presentations.

MR. FERREE: Great. Thank you, Evan. And thank you to everyone that's worked hard on this workshop. It's a real great opportunity for us to be here and speak to the industry that we all work in and have a passion for. As Evan said, my name is Michael Ferree. I'm Board Member on the LeadsCouncil and also Vice President of Corporate Development at Anomaly Squared.

LeadsCouncil is an association of over 400 companies, both buyers and sellers in all. In my presentation, I'll go into what that really means. And we work with those companies in the industry to promote best practices, benchmarking reports, code of ethics, that sort of thing. If you have any questions -- this is going to be a one-day event, and there's certainly so much to talk about in this industry. And I will provide my email after this presentation. If there's any questions, please feel free to reach out at any time.

So, let's begin. I'm going to be talking really basically about lead generation as a whole to really set up the rest of the day. So, I'm going to give you a brief overview of what lead generation is and how it works.

So, let's dig right in. Lead generation is a marketing activity that generates consumer interest in a company's product or service. This activity is also called performance marketing and relies on a cost-per-action model. So, the key really is with lead generation it's a relationship between advertisers and marketing companies to create a specific action and then action is paid for specifically.

So, what sort of benefits does lead generation provide these parties? When we look at it from the advertiser perspective, advertisers are able to rely on experts to generate that traffic, without risking large amounts of their budget. So, they can pay for what they want. They can define what that action is, whether it's a lead; and what that lead is defined as I will go over here in a second.

Marketers and publishers are able to focus on what they do best, which is drive traffic and consumers to a landing page. And then consumers benefit from having an efficient process to shop and compare different products and services.

So, what is a lead? A lead is a consumer that's raised their hand and expressed interest in a product or service. It's really that specific. Someone who has expressed interest in a product or service is a lead. It could be in a form of a data lead, which a lot of us are familiar with. It's a web form; it's a collection of personal information; and that is the lead.

It also can be a call. We think of leads that come from TV or radio that are direct calls to the advertiser. Those are also leads. And, then, now, with the advent of mobile and more and more mobile traffic, we're seeing click-to-call as becoming a really great source of leads, as well. So, users will see an advertisement, click on it, and it initiates a call to that advertiser.

Let's take a look at an example of the lead generation process. Now, there are different variations to the process, but I think this example is pretty straightforward and a really great example of what sort of happens in the lead-gen process. So, we're going to look at Google. Google provides a lead generation funnel for insurance carriers. As you see here, in this example, I have typed in insurance rates, and Google's paid advertisement, their own ad, shows up, where it says "compare quotes from

10-plus car insurers with Google." All I have to do is type in my zip code, and you can see that there. That's a little -- a closer shot of the advertisement. And I get to this page, and this is Google's page, and they're asking me to complete my personal information and put it in their form. And once I do that, I'm going to get options. So, they've collected my information and now are able to show me appropriate companies that can offer me services with insurers. And they've also aggregated the pricing. It's a really great -- really great source for shopping.

And this happens also in -- this is really similar to other verticals like education, where a consumer will complete their information and then be shown multiple schools based on their different filters. It happens across multiple verticals really, so this is a good example.

So, in this example, I went ahead and I didn't choose the lowest price, but I went with the second option and chose The General. And you can see towards the right, I really have a few options to be contacted. I can buy online. I know it's hard to see there, but that blue button says "buy online." Or I can use the click-to-call right below that and produce a call to The General.

So, what I'll do in this example, I'll just go ahead and say "buy online," and I get directed to The General's website. It has that same quote, and they actually have my information that Google collected, and Google passed it along to The General so that I don't have to re-input that information when I finish off the application here.

Let's take a look at what companies make up the lead generation process. You know, there's thousands of companies that really participate in the industry, and I sort of grouped up the process into three -- three main categories. We have marketing agencies, publishers, and advertisers. And really when we group those up even more, we have marketing agencies and publishers. And those are considered lead sellers or service providers. And, then, we have our advertisers, which are the end consumer of the lead -- the lead buyer. And, so, that's how at least from the LeadsCouncil and generally across the industry, you know, we break out lead buyers versus lead sellers.

When we look at marketing agencies, these are the companies that are specialists in different channels of marketing tactics. So, whether it's paid search, social media, TV/radio, these are your agencies that advertisers go to to manage their media campaigns. Sometimes these companies also own content, very similar to publishers here. So, a publisher is someone that owns the content; they have a website; maybe it's TV programming, you know, you name it. They own the content; they also run different advertising campaigns on that content, and they also collect the data;

whether it's a lead form, typically publishers will collect the leads on their sites; whether it's a call, they'll generate the call or click a call from their site to the buyer; but basically a lot of the actions that happen within the process will happen on the publisher's site.

Advertisers are your lead buyers, so we've got brands like Allstate, Quicken Loans, DeVry, Ford, USA, they all interact in lead generation activities, either on their own site or through third parties, and they purchase leads to generate business and sales to their company.

Let's take a look at companies that support the lead generation industry. The lead-gen industry is a -- the relationship between buyers and sellers is a dynamic one in that it's always trying to become more and more efficient. The more efficient they can be, the better performance they can derive from the campaigns.

So, a lot of these companies help the process become more efficient. So, I already talked about creative agencies, but let's look at tech providers here. We have companies, just a few here, that provide additional data or support. So, to -- like Neustar will confirm phone number, if it's accurate, is it real information. They will provide support there.

We have lead management. These are all lead management companies that once the lead comes to the advertiser the advertisers use these management companies to efficiently call them back, to create nurturing campaigns, and to better efficiently take the lead and close the lead to a sale.

We have call services companies like my own, Anomaly Squared, that provides the support around the call services. So, a lot of companies aren't as efficient at calling out on the data that they get or receiving the calls that they get from the click-to-call campaigns. And, so, these companies support that action and then they will transfer a call directly to the advertiser.

Compliance tool, this is really important. Over the last three, four years -- and we'll hear more about it here on this panel -- there's more and more tools and companies that are providing assistance with the management oversight of marketing and lead generation campaigns. And, so, when we think about compliance we think of a few different things. We think of brand monitoring; how are the partners like the agencies; how are they managing your brand as an advertiser? Are they doing the correct things?

And, so, there are some of these companies here that do that, and they also make sure that the disclosures are on the pages, that leads are coming through that are accurate and not fraudulent; data, is the information being collected on the webpage accurate, like I said, and not fraudulent.

So, this -- that's really important. We see more and more lead buyers and more and more lead sellers doing some level of self-regulation with these tools, which is good.

So, how big is the lead industry? It's a really, really good question. In 2010, I think most of us are familiar with IAB's study that said that the market -- the advertising market is $26 billion, and then lead-gen is about 5 percent of that, about $1.3. Where is it today? It's certainly, from an anecdotal standpoint, growing. We see it every day, and the conversations we have at LeadsCouncil and through the industry's number one conference, LeadsCon, that more and more companies are getting involved in performance marketing campaigns. Agencies that focused on brand marketing are now getting more involved in performance campaigns, and advertisers are demanding those campaigns. They want to have an option where they can reduce their budgetary risks and purchase exactly what they want, which is typically a lead or interested consumer in their product.

And, so, you know, that really ties in why there's so much growth in the industry, as well. Advertisers are becoming smarter. They're using math, analytics, all these sorts of things to increase their performance on the actions and the campaigns that they're currently running and what their third-party advertisers are running. So, lead generation is absolutely growing. When we look at it across multiple verticals, this is information specifically from conference attendees, and it's from LeadsCon, which has been in the working for eight years, I think, now. And the way trends go -- come and go and industries come and go depending on different cycles, and a lot of them around economic cycles. And right now, we're seeing a trend with insurance campaigns. We see a lot more individuals attending our shows and being a part of the LeadsCouncil from insurance-related verticals; financial services also growing; and then it sort of trails down here to home services and education and others.

So, my hope is that -- I had 15 minutes to really describe something that's very big and broad. My hope is that I covered a basis for this, and we'll pass along to David here, but if you have any questions, my email is there, and feel free to reach out anytime, and I'd be glad to help and educate you guys on lead generation. So, thank you.

MR. ZULLOW: Thank you so much, Michael.

(Applause.)

MR. ZULLOW: All right, David? Thank you.

MR. MORGAN: David Morgan. I'm the Chief Revenue Officer of PerformLine. PerformLine is a cloud-based marketing compliance, monitoring, discovery, reporting and analytics platform. We work with a lot of the major advertising brands, as well as lead generators and publishers in the industry to principally do three key things: to help mitigate risk; save money; and help them protect their brand.

Just a little bit about PerformLine and our position in the industry, founded back in 2008. We're a privately held company; 100 percent of what we do is solely focused on marketing compliance. For a lot of the major companies we work, it's very important for them to have an impartial third party that does not have ties to the media but are really helping them to maintain the best position that they can have in marketing.

We have a great team of industry and technology experts, and we perform our activities for our clients at a pretty large scale. We do north of 50 million data observations daily for our clients, and that covers a number of different channels and a number of different activities. We've been lucky enough to be recognized by the LeadsCouncil, for at least the last four years, as being the best marketing compliance monitoring company in the market, and that's something that we take seriously. We want to make sure that we're putting solutions in market that are helping people move their business in a positive way.

The general problem that I think we're outlining here is that while performance marketing and lead generation in general can have many great attributes, some of the points where there are blind spots really revolves around the fact that there can be some lack of transparency. And that's further exacerbated when you look at the active regulatory environment. So, marketing compliance for large companies, as well as service providers, can generally be complicated, labor-intensive, and expensive. And we can put some numbers around those as we go through this.

So, we've built a platform called PerformMatch, and there are three principal things that we do to help folks in the market, and it's what we call the DMAs of marketing compliance. And that's to discover, to monitor, and to act; to discover potential compliance violations automatically, to monitor where your traffic is coming from and not spot-checking but monitoring known traffic sources 24/7/365, and then having the technology within our workflow platform so you can track issues from when they're identified all the way through resolution with ownership and assignment of every step in the process, as well as live aging reporting against every open issue.

When you think about a company that might be buying hundreds of millions or billions of ad impressions per month across the internet, which is not an unheard of number, when I personally looked on the lead generation side of the business, at one point my company was buying 11 billion ad impressions a month. There's no way that you could use a human-based approach to actively monitor where your brand is 24/7.

So, a few lead generation basics, and we can dig in a little more here. So, different types of traffic that is available out there, so Michael showed you a great example of how someone might interact with a -- with a search that feeds back a lead generation flow on Google.com. Google is one example of where there's traffic available for brands to interact with consumers. So, Google is typically called PPC traffic. You also get organic site visitors, so those are folks who may go online and directly type in a brand or a site name and be directed straight there.

Contact centers -- and we'll dig into each of these boxes, too, in terms of what fits where. Contact centers are used at different points in the process by different players, and then cost per action. So, these would typically be performance-based campaigns that are not PPC or necessarily contact center, but are provided by third parties.

This slide didn't come out exactly the way it should, but what you're seeing there is supposed to be a graphical representation of how an advertiser can go from working with one point of contact to potentially being distributed on hundreds, thousands, or millions of websites. So, an advertiser could typically interact, if they like, with an advertising agency or directly with a marketing network, and they typically have a one-to-one relationship or a one-to-few relationship. That marketing agency or partnership then turns around, and the value that they bring is they have a many-to-one relationship. So, I have one relationship with an advertising network; that advertising network has a relationship with 10,000 websites. When I give them the offer that I want distributed, that I'll pay people for, they can turn around and get my offer on hundreds, thousands, or millions of websites within a matter of not just days but sometimes hours and sometimes minutes.

It's very efficient from an advertiser's perspective because I'm managing one relationship, and I get reach that I could never achieve myself in days or weeks of working on things, but it also comes with some liability. I'm taking the partner's -- on their expert relationships in the business to have vetted or proved or have oversight on the partners in their network. Right, so, in some relationships where there's limited exposure, that's very, very doable; in some relationships where there's massive sprawl in the network, that becomes something where there's more risk involved.

Now, there's added complexity because those partners themselves may have partners, and those partners' partners may have partners, and then those partners' partners may have partners' partners. And all of a sudden I thought I was working with one network; they thought they were working with five websites; and my brand's on 10 million. And the blind spot in this is where is that 10 millionth website and what is it saying around my brand.

And we speak a lot with our clients about this. We actually screen shot every ad that our clients have online every 24 hours and score them against a customized rule engine that's totally transparent to our clients so that they can have as much reach as possible. It's not just about finding your brand in places that it is unknown; it's about knowing where your brand is that you do know and keeping your eyes and ears on that, too, because the world has changed very much in the digital world, where now the content on a page isn't going to be the same in two weeks as it was yesterday. It may not be the same tomorrow morning.

So, a site can go from being compliant one day to noncompliant very quickly, and we also counsel our clients on the FTC's Net Impression Rule, and we heavily look at the dot-com disclosures and advise them towards looking at those documents themselves because a compliant ad on a noncompliant page can give a noncompliant impression. So, these are obviously being great guidance on things that I've looked at in my tenure in the industry, ever since the first dot-com disclosures came out.

So, if we look then at what happens to a consumer, it's really that same pyramid but upside down. So, how did an advertiser go from being one brand with one relationship to being on 10 million websites? Well, how does a consumer's information then pass back to that advertiser?

So, consumers could be many, many different places. The reasons advertisers work in these types of scenarios is to get that extended reach and to get a cost efficiency. So, if a consumer is anywhere on any of these different websites, they could -- their information could pass through a number of different hands before it reaches the advertiser.

So, note that a consumer doesn't necessarily start at the very top of this funnel; a consumer can interact at any point in this funnel. A consumer who does organic search could direct navigate straight to an advertiser's website, but, again, this is meant to illustrate, as some of the discussions will today, that the further away from an advertiser a consumer is and the less transparency that advertiser may have, the more risk there is to mitigate and the more controls you should have in market.

So, a few examples of what some of these different things that we showed on the initial grid look like. So, a page search placement. This is typical -- typically similar to what Mike just showed. Mike showed something that showed up as Google's own interface themselves, but obviously on those pages there are a lot of advertising, and I heard Google makes a couple of dollars selling paid search. But Google's not the only company out there. Obviously Yahoo! and Bing also exist.

So, a consumer comes onsite; they put in a search term; they see organic search results, which are unpaid, but then there are also paid search results that are targeted specifically around those keywords. A consumer clicks on a paid search ad; they get taken to a landing page where there's typically a call to action; and then they are typically taken to a form, and the way in which the advertiser is able to determine how much they will pay for this ad is based on how well their ads convert and how -- and what the value is -- the lifetime value of that consumer on the back end.

So, they're not guessing how much they're going to bid on paid search terms; it's math, and it's very data-driven. There's PPC traffic, and PPC traffic can be different from paid search in that it's not necessarily on a search engine. You could be on any of the websites Michael showed. You could be on The New York Times, MSN, or any one of a hundred or a million other sites and you may see an ad. And, again, these are just ads that we picked online; these are not ads that we chose for any specific reason, other than they were illustrative. And you could click on that ad and get taken directly to a company's website. And instead of them paying each time you see the ad, they're only paying when you click. So, this is just to illustrate pay-per-click traffic doesn't just occur on search engines.

CPA traffic. This is when you may be, again, on a different website, like a content-based website, and you may be looking at anything from something that's a news website to a job website to a search engine and see an actual banner that has a call to action for you. In this scenario, this is an ad for a mortgage company and trying to drive you into their funnel. And when you click on this ad, instead of them paying each time you click, the publisher or the website is paid when you actually submit your information. So, again, CPA traffic, the A in the scenario counts for action.

Banner ads. These are traditional ads that have been on the internet probably since the first -- I think the first internet ad that was bought was on Wired magazine's website many, many years ago. And this is when someone puts up a banner ad that is a graphical representation of a call to action. And when a consumer clicks on that and goes through they again typically are filling out information or doing something that creates value for the advertiser, but the ad is -- the ad is paid for each time the ad is shown.

Email. There's a lot of email out there. And, again, this is something where the email is the channel of delivery, as opposed to it being something that's present on a publisher's website. It's sent directly to someone; they interact with the email creative; they click through. And any of these channels can be used both by a direct publisher, a marketing partner, an affiliate, a subaffiliate, a sub-subaffiliate, anywhere in the value chain. So, any of these tactics can fall and either match you directly to an advertiser or take you to a site that will match you to potentially multiple advertisers as is shown in this example here.

And then contact centers. So, contact center is when you talk to someone on the phone or you engage with someone in a chat online. Any time you see a phone number on an advertisement, the reason there is a phone number there is because there is someone on the other end of the phone. Anytime you submit your information and you submit your phone number, typically the reason you're submitting your phone number is because someone on the other end is going to pick up the phone and call you.

For high-value transactions like a home mortgage or home refinance, an auto loan, insurance, considering higher education, a lot of these things are things where there is a considered purchase and you want to interact with someone. So, there are lead generators who will collect your information, and it may only be partial information, call you up, validate where your interest lies, verify your information, and pass you to an appropriate solution or advertiser that they may work with. On the other hand, when you submit information directly to an advertiser, say to a loan company, they're going to pick up the phone and they're going to call you.

So, depending on where in the consumer path the contact center falls, consumers can have very different experiences. If you're very far at the top of that funnel and your information passes through many, many hands, you may get calls from way more people than you were expecting, and way faster than you anticipated.

If you interact directly with someone who works directly with an advertiser, you're going to have more limited interaction, and, again, the cons are you may get more calls than you anticipated; the pro, you may have more information and more market choice than you would have had if you had just called one company directly.

A few other items to consider, depending on where a consumer enters their information and how they come into the path, there could be different hands that the information touches, and there are different ways in which consumers use additional technologies to both augment and verify and validate the information. So, data verification, similar to an example Michael pulled out there, when someone puts their information on my web form, I want to make sure that that person lives at that address with that phone number. And if they don't, some of the technologies will actually tell the consumer that's incorrect information, and that can happen both in web and a call center. Data augmentation is that partial data sets exist; an advertiser has a certain piece of information, can actually cobble that together with other pieces, and then they have a full data set on the person.

Lead scoring, I'm sure we'll go into this in some of the other panels, too. Literally the ways advertisers filter out different leads. Some are higher value and some are not. We've hit on the different relationships of the marketing partners. And, again, depending on where the consumer comes in, that data could be owned by multiple people in the channel. I think to some of the earlier comments, having channel controls, this is very key because if the marketing data is passing through many different hands, not only can an advertiser lose touch of their brand, a consumer is a brand themselves, and they can lose touch of their own -- their own information, and that's really where some of the risk starts to escalate.

So, again, thank you very much for having me. I'm David at PerformLine if anyone has any questions or would like additional information, don't hesitate to reach out.

(Applause.)

MR. ZULLOW: Thank you so much, David.

All right, Paul?

MR. MCCONVILLE: Evan, thanks for having LeadiD, and my kids would also like to thank you. Their father, who is from a tech company, they could see in the uniform of a tech company, the hoodie and jeans every day, I left and, my Dad, when did you get a suit? So, apparently, they thank you that I get to look professional today.

Coming in from LeadiD, I'm the Chief Revenue Officer. I've spent the last 12 years in the analytics business, working with large brands around better use of information to make decisions as they interact with consumers. And TARGUSinfo was one of the pioneers of realtime decision-making in industries like the performance marketing industry.

LeadiD, I call us the facts and the math of lead generation. We're an analytics company. And I think what Ms. Rich, you talked a bit about five years ago and some bad things starting to happen and what you see is a lot of technology companies like LeadiD and Omniangle and PerformLine, others coming in to say, hey, we can do a lot of good to help bring -- our mission at first was bring trust and transparency to the lead generation industry, right, where buyers and advertisers were saying, hey, we need better clarity, better transparency, on what the performance marketing industry is doing and how they're doing it.

Performance marketers for the most part were saying we're happy to give that transparency, and that was our birth and our origination. We've now built our business really around being data and insights and analytics on consumer interactions. And we focus on two areas: understanding and ensuring compliance and understanding and ensuring intent, two things that as consumers we expect and two things that as advertisers we also expect when interacting with consumers.

How we work, we are sitting on about 15,000 different sites now where our code is present. We witness all consumer actions on that site. We witness no or store no PII. We simply witness the actions of the consumer. That information then becomes useful, one, for the publishers or the providers, the aggregators, to say, yes, a consumer was here and they were demonstrating intent and we also witnessed that the consumer gave compliance. They said yes, I would like to be contacted about a service.

We issue a universe elite ID. Think of it as like a CARFAX. We store the origin and history of a lead. And, so, like the car industry, if you're going to buy a car, you get to say, hey, show me where that came from. And that's our business, to give that transparency.

We do that now about 120 million times a month on consumer actions. We are -- as David said, I'd call it the measured and considered purchase industries, right? Where as consumers we expect that we have choice. If we're going to buy -- get a mortgage, we're going to buy insurance, and I think as a study will say today around mortgage, right, we expect choice. We're going to use the internet to help us shop. We're going to make sure we visit multiple sites, and we may say on multiple sites, I'd like to be contacted, because I want to get the best deal, right? I don't want to overpay; I want to make sure my service is tailored to me. And that's where we are typically sitting is this look on those 15,000 sites that represent those industries to be able to say let's ensure that the consumer was providing compliance and was demonstrating intent.

The group talked a little bit about what's the typical consumer journey, right? We seek answers. What we see is about one in ten, maybe one in 12 of these interactions that we have on sites in these measured purchase industries, we as consumers, we decide to fill out information and say, yes, I'd like to know more. Right, we fill out that web form; you'll see devices here; one is what we're all carrying around now, and a desktop, both heavily used in the industry. We click "submit," and then as David talked about, right, then information is entered.

What we see is, again, fields. We don't see the information, but we see that fields for name, email, address, and phone, almost universal on those sites. And this is in education and mortgage only. And then rarely you'll see some other information like date of birth. But sensitive information, yes, but what we're seeing in these industries, the vast majority is simply the way that we would like to be contacted, right? We have to tell our names, and we have to say we'd like to get an email from you to get information; here's our address; here's my phone number.

The consumer then submits lead and then typically publishers and buyers will do some checking, right? They want to make sure that there are things, like, hey, if I'm going to call that consumer, I want to make sure that I do get the right person. So, if Paul entered his cell phone, let me make sure that that's Paul's cell phone before I call it, right? I don't want to call someone that is other than the intended consumer.

There will be some fraud checking in there or compliance checking. We do a lot now in this idea of TCPA, right, that FCC has been now very clear that if you are going to call a consumer on their cell phone through an automated means, you better make sure that that consumer is read the right compliance language; they've agreed to it; and they've provided that consent.

We'll also do things like checking lead age, right, how old was that lead? How long ago did a consumer submit it? Was it a duplicate to something that may have been submitted before all of this analytics information that the buyers and sellers are able to say, great, here is assurance that consumer was compliant, they saw the right language, and they are demonstrating intent that says, yes, I'd like to be contacted. That all ties back to our universal ID, that VIN number that we issue.

Buyers then get to look at that and say, yes, hey, I want to buy it or I don't, right? In this case, Brand A and B may say, yes, I'm very interested; Brand C, we'd be telling them, hey, you're the third brand that has been offered this lead. And as the third, brands are starting to say, hey, no, I don't want to overwhelm the consumer; forget it, I don't want to buy. And we'll talk a little bit more about that.

Then that's often driving phone calls; it's also driving emails, but a lot of work going into ensuring that there is that compliance and intent in advance. We're facts and math, so our data on those 120 million interactions a month tell us a lot. And, so, simple things. We're seeing the industry become far more efficient. And if you look at a lot of reports, there's one by the [Chief Marketing Officer] Survey, you've got -- CMO is now spending between 12 and 16 percent of their marketing budget on analytics, right? They're hungry for information so that they can make better decisions. That also is driving companies like ours, the technology   companies, to help improve that efficiency.

So, one of the things we witnessed is over the last two and a half years, the industry's gotten far more efficient, right? We can see that as a consumer submits a lead how soon until a buyer says, great, I would like to call that consumer. They receive the lead, and that consumer has shown intent, I want to reach out to them.

Two and a half years, 50 percent of the leads were making their way into the hands of a buyer who was saying, hey, I want to get a hold of that consumer, and as a consumer, I'm waiting for that call. About half of them were getting there quickly; half weren't. Now, almost 96 percent of what we witness consumer is pushing "submit," and within a minute, a brand is starting to reach out to them.

Important because that's also saying that we're not seeing what was a problem five years ago, kind of this recycling of leads, information where a consumer may have entered it a few months ago, a few weeks ago, and now it pops up again. That VIN number is present; we can say, hey, that came from something that was weeks ago, and it's now out of the industries in mortgage and education that we're demonstrating here.

We also see this idea of compliance as incredibly important. The industries reacted fairly quickly, and we're actually seeing an up-tick in that since the July ruling from the FCC around TCPA, but the industry has said, great, it's important that we ensure compliance, and we're now seeing what's approaching 90 percent of all leads having clear, conspicuous, correct language on there that says to a consumer, yes, by submitting my information I am authorizing that I get a phone call. Brands want to make sure that that's there. They don't want to call anyone that's not looking to receive a call, and there's also the assurance as a consumer that the brands and the lead providers, both playing by the rules here.

What we also see is as more and more of us are adopting use of our phones and tablets on nearly everything that we do, the industry has helped drive towards that, as well. We look in education, now over 50 percent of forms in education filled out on a phone; mortgage, biggest typical, a bit more information required in mortgage, a little less than that. But the industry is adapting to, okay, as consumers, we rely on these devices and, great, we're going to make this collection of information efficient for consumers where they want to interact with those brands.

Call centers, I'll look at education and mortgage. Right, so, this information, a little bit of where is it going. We're seeing in education call centers actually creating about 16 percent of leads, so that means a call center calling out to us as consumers, where we may have provided some information at some point and saying are you interested in going back to school. Much less so in mortgage.

What we're seeing, though, is these rates going down. And these are where we see those calls originating from. The vast majority is onshore; still a bit offshore. And, again, those are calls going out to us as consumers. But what we see, again, market efficiency. Offshore, although a small percentage there, it is a group that is very good at making phone calls; they're really bad at helping us as consumers show intent, show interest. And, so, the market is driving kind of any offshore call activity really out of the marketplace.

As you see here, this is what marketers care about, right? Phone calls are being made, but does someone agree, yes, I'd like to talk to someone about mortgage or someone about education.

Transfer rates are much worse if it's an offshore call. Application rates -- actually somebody saying, yeah, I'm interested -- those much worse. Enroll rates, far, far worse. Right? So that's being driven out of the industry again, another example of just where we see industry and transparency cleaning up -- cleaning up the practices.

The other thing we've seen, leads are being sold less and less. Where it was, if we look back three, four years ago, three, four, five times was a norm in many industries. We largely don't see that anymore. The vast majority of leads in mortgage, only sold once; in education, only sold twice. And, so, as consumers, hey, that seems normal. I want choice; I don't want to be bombarded, right? Brands have figured that one out. Performance marketers have figured that out, so they do a lot to tune where does this lead go, how do I get a consumer who is most interested.

And, again, we've seen the number of calls going down dramatically simply because the analytics are now there to say what's the most efficient, right? And that's exactly what this slide -- right, so, if I'm making -- selling that lead to more than two parties that are going to make calls, conversion rates go down and, frankly, it's brand-disruptive. I don't want to be the fourth guy that calls someone who may be interested in a mortgage and have the consumer say will you stop calling me, right? So, market has driven some efficiency through this transparency.

And, then, what we've also seen is the efficiency. So, this is the education industry. If we look back two years ago, you're seeing companies that can't deliver the right performance or are not driving the right or best practices being driven out of the marketplace. So, if we use what -- the number of companies we saw is selling leads to the for-profit education industry two years ago, there's actually 15 or 16 percent less companies in that market now, and it continues to regulate, simply because, again, the access to data is there and marketers aren't going to continue to spend money where they're not getting performance.

And that's all for me. Thanks for having us here.

(Applause.)

MR. ZULLOW: Paul, one quick question. All of the --

MR. MCCONVILLE: I did leave it up there to have questions.

MR. ZULLOW: Thank you.

MR. MCCONVILLE: I opened myself up to that, yeah.

MR. ZULLOW: I take you up on your invitation.

Just to clarify, the trends and statistics that you're sort of referring to in your presentation, these all relate to entities who utilize the, you know, ID service that you provide?

MR. MCCONVILLE: Yes. So, we see 96 to 97 percent of all leads created in the education industry, third-party leads. We see about 90 percent of all leads created in the mortgage industry. So, we think we've got near full view of every lead being created in those markets.

MR. ZULLOW: And, also, too, does it -- in order to sort of be a part of the ecosystem that you can view, does it rely on sort of each entity in the chain sort of subscribing to the same system, where the lead can be identified? Or are there some that are outside of that?

MR. MCCONVILLE: Yeah, so, where present are codes there, and it's the same -- essentially the same code for all, so no derivatives of that for other industries. But, yes, you have to put our code on a site for us to witness any of the statistics I just showed there.

MR. ZULLOW: Okay. I thank you very much.

MR. MCCONVILLE: Yeah, thank you.

MR. ZULLOW: All right. And to our technical staff, the next slide. This is the one where I think we're using a different -- great.

Professor Wagman, thank you.

PROF. WAGMAN: Thank you very much. Hi, I'm Liad Wagman. I'm a professor of economics at Illinois Tech in Chicago, and I've been working on lead generation from the perspective of information economics over the past 10 years or so. And I want to show you today a specific case study in the market for mortgages. This is joint work with Jin-Hyuk at Boulder.

And what we're looking at is lead generation as a byproduct. So, you're shopping around for a mortgage; you decided on a lender; you're filling out your application;

you're providing a lot of information to the lender; and then the lender can turn around and trade that information.

So, what kind of information? Well, this is the kind of the traditional kind of information, but it's quite extensive: your credit report; it could be a credit score, but it could be much more. It could be a lot of information about you. And you're voluntarily providing that as part of your application, okay? And it can legally be traded. As my colleagues have talked about, if you have an affiliate that's partnered with you in some shape or form, there's hardly any restrictions on that information going downstream to another firm. So, that firm might be an insurance provider; it might be a warranty provider, and so on. Okay?

Now, consumers can opt out of some sharing, and it's usually limited to nonaffiliates. The problem with opt-out is that nobody does it, okay? We have here on this figure; this is from Johnson & Goldstein; countries on the left are countries where people do not sign up to donate their organs postmortem at the DMV. Countries on the right, they do, and the only difference is the default. Default on the right is that they're opted in; the default on the left is they're opted out. And the countries on the left they practically begged people to sign up, and this is as far as it got them. You see, people just go with the default. So, if you don't beg people to opt out, they're not going to.

Okay?

So, you might say, oh, this doesn't affect me, but really it does. These are just the privacy statements that you get with your credit cards. And you can see all of that there; you can see that firms will continue sharing your information, even if you're no longer their customer. And this is not limited to Barclays by any means. You know, Chase does the same thing; American Express does something very similar. Some of them have slightly more favorable terms, but really nobody opts out. Everybody goes with the default, and that means that your information will be sold and traded. Okay?

In some cases, it will be traded in an anonymized way. So, what I want today is kind of show you a flavor of an academic research project where I'm creating a game theoretic model and an empirical model to study the effect of being able versus not being able to trade information downstream. Okay.

And I just want to give you a little bit of a flavor of the theoretical model. And theoretic model is just -- you know, it uses math to study the equilibrium dynamics in the setting. So, consider a setting such as a mortgage market. It doesn't have to be, but let's consider that, where firms post prices; consumers decide where to apply; consumers apply; they provide information; information is collected as part of the application process. The lending firm is looking to accept the low-risk applicants and reject the high-risk applicants, but it can also sell the data they collect downstream. Okay?

So, very simple. Let's think about two types of firms. There's an upstream firm that's the lender you're applying with, and there's a downstream that could be the insurance provider, let's call that Firm B. Okay? Now, consumers vary. Consumers are heterogeneous. They have, you know, the high-risk consumers, the high-risk borrowers that you want to reject, and there's the low-risk borrowers, and they're spread out in the population, and firms do not know ex ante in the beginning whether a consumer is a high risk or a low risk.

And you really want to serve the low-risk ones, but, you know, the information you collect, even bad information, even disqualifying information can be useful because you can sell it. Okay.

So, then, the idea is to try to quantify the value of information, okay, how much do you get from collecting a certain amount of records about a consumer, about an applicant. All right. So, to do that, we have to model what information means here. So, this is really, really simple, to put it basically collecting a bunch of records. And you can summarize these records with, you know, positive and negative ones, and if one of the records is negative, usually that means you disqualified, the consumer didn't qualify for your loan, but that's not necessarily a bad thing.

The thing is, though, the more records you collect the more likely you are to find something disqualifying. It's as simple as that. Okay, and if you don't find anything disqualifying, then you approve the applicant for your mortgage. You can still sell the information in either case. All right.

So, using this simply model, we can determine the value of information. And we find that both negative and positive information has value downstream. And because it has value, that incentivizes lenders to collect more data when they can sell it. Okay.

So, putting the math together, we get an actual value for this information. I didn't just put it there to scare you a little bit, but, really, you know, it's not complicated. It's very, very doable just with pure math.

MR. GILLMAN: You're scaring me.

PROF. WAGMAN: Okay, I'm sorry.

MR. MCCONVILLE: It should be a plus somewhere.

(Laughter.)

PROF WAGMAN: All right, but that's the idea. So, I'm going to just tell you the lessons we learned from this. And the first lesson is that the lender's profit rises with amount of information that has collected. Okay? Now, collecting your information is a cost. It's costly to acquire more and more data. And, so, there's a tradeoff between the two, and we can obtain equilibrium, and what we see in equilibrium is that when firms can sell information then they collect more. And as a result of that, they deny more applicants. So, mortgage denial rates go up.

Okay, but overall, consumers, those who qualified, those who end up being qualified, they benefit from lower rates. All right, so, there is a direct benefit to consumers. And because there are high rejection rates there are less defaults down the road, less foreclosures.

So, this is kind of a positive associated with the ability to sell information. Our knee-jerk reaction is telling us, oh, this is bad, this violates our privacy. But there's a tradeoff here because there is some positives associated with it. All right?

So, then we turn to an empirical analysis model. This is all nice and good; it's a mathematical model. But can we actually see this? Okay, and we bumped across a natural experiment that happened in the Bay Area. In the San Francisco Metropolitan statistical area, there are five counties: Alameda, Contra Costa, San Mateo, Marin, and San Francisco. And they all had uniform privacy laws until three of them adopted stricter opt-in ordinances, where consumers would have to opt in in order for their information to be traded.

Now, we know what "opt in" means. It means no information will be traded because consumers go with the default. All right? So, that is a perfect opportunity to study the effect of being able versus not being able to trade data downstream. So, this specific ordinance was adopted in 2003 and 2004, and then it was superseded by CalFIPA and the FACT Act towards the end of 2004. That leaves us with two years to basically study it. Those are the treatment years of 2003 and 2004, intervention years, and then there's post-intervention after CalFIPA was implemented.

Notice that the GLB Act took effect towards the end of 2000, so it doesn't give us a lot of time for a uniform law before the adoption of the ordinance, only 2001, 2002, which is good. So, we have two years before, two years during, and two years after the treatment. Okay.

So, the data we use is data that anyone can obtain. It's from various government institutions. Some of it needs to be purchased; some of it is freely available. Okay. Some of the data is on the level of Census tract, which is between 2,500 and 8,000 people or so. Some of it is loan-level data, so specific loans, individual loans. Okay?

Now, the data is on loans that were originated, loans that were approved but not accepted, loans that were denied, loans that were withdrawn or were incomplete. And we have a lot of control data, as well, on median income, median home value, and so on within the Census tract. Okay?

Now, I'm going to focus on home purchase loans and refinancing loans. All right? And the variable I'm interested in is the denial rate, the rate at which loans were rejected, found to be disqualified by the lender because this maps exactly to the theoretical model, and then we can test the prediction. All right?

So, what's interesting to see is that before the ordinances were adopted, the trends in the counties were more or less the same. They looked very similar before it was adopted. They're also composed of very similar people. Demographic-wise, they're very similar, which is perfect for a natural experiment. It's just the ideal situation.

Okay, and, so, we do a simple difference-to-difference econometric specification. There you go again.

MR. MCCONVILLE: It looks simple.

PROF. WAGMAN: And let me explain it very quickly. For each tract, I, and year t, within our group of years that we studied, the treat(It) just indicates that this county was treated with the ordinance, the opt-in ordinance, meaning cannot sell data essentially. Okay, and then we have some control variables that I mentioned earlier. This is the Census-level study. All right.

And we used some simple econometric techniques that are widely accepted in the literature to study this, and here's what we find. Okay, the counties where firms can sell the data easily, meaning opt-out, rate of denial went up. So, if it used to be, say, 20 percent of mortgages were denied, it went up to 21 percent. Okay, because more information was collected. All right. Now, tracts that had larger minority populations, that spiked up even more. Okay, some statistical discrimination that was already observed in other papers, we see it here, as well.

Now, when we turn to loan-level data, to examine the same question, we get the same results. Okay, denial rates go up when firms can trade data because they can better screen applicants; they can find more information. They have incentives to find more information. Now, interesting is that this held very strongly for jumbo loans, for the big loans. You might ask why. Well, these loans cannot be resold to Freddie Mac, Fannie Mae. The banks actually have to hold onto them, so the incentives play even in a stronger fashion. Okay.

So, kind of exactly what we predicted in the theoretical model we see here. Firms can trade data; they have incentives to acquire more; and then they deny more applicants. Prices go down, too, though. Okay?

So, then, all right, this is great, and we see some confirmations, some vindication of our predictions. Can we say more? And, so, we looked down the road, a few years down, to see if, well, maybe we can see something about foreclosures or loans that were seriously delinquent as a result of the difference in the denial rates. And that could corroborate our evidence here.

So, remember that the model predicts that a decrease in denial rates just means that more unqualified people will make it through. Remember, the denial rates are lower under opt-out; denial rates are higher under opt-in. Okay? And, so, we actually find that in the counties that had the opt-out versus the opt-in, the foreclosure rates were different. Okay?

So, remember, opt-in means you cannot sell data; opt-out means you can. Opt-in means that firms acquire less data; opt-out means firms acquire more. And, so, more foreclosure rates in loans that were seriously delinquent were higher when firms could not sell data. And the reason they were higher is because firms acquired less data, approved more applicants, even when they shouldn't have been approved. Okay, so, this is kind of confirmation of what we expected.

Okay, so, just kind of to summarize, a few final remarks here, is that this is a specific study from our mortgage market. And the model we had here can be applied to many other markets, and we see that even if a market is taken as competitive, there are still inefficiencies, and those matter. And from an economic angle here, the outcome is actually more efficient when firms can trade data, when they can sell consumer data.

And, so, an opt-in standard, which might seem like it favors consumers more, might look good on paper, but it can actually have some undesirable effects in practice. It can be risky in practice. Okay, in this specific context, opt-in can come at the cost of higher prices and possibly higher foreclosure rates. Okay.

And, so, this is great, and this is a specific study in the mortgage market, the market that we're all probably familiar with, but it can be extended to other markets -- credit cards, insurance, and so on. And, so, I'm happy I got to share it with you. Thanks very much.

(Applause.)

MR. ZULLOW: Thank you so much.

And I think we'll be turning back to the PowerPoint component. Thank you very much.

Okay, Jonathan, thank you.

MR. GILLMAN: Good morning. I'm Jonathan Gillman. I'm the CEO of Omniangle Technologies. I started my career in consumer protection, so it's nice to see all of you state AG and FTC folks here. And now I kind of have a better sense of why Evan and Katherine asked me to be on this introductory panel. What we do here at Omniangle Technologies is we audit, preserve, and analyze the consumer experience throughout a lot of different online marketing contexts. And, so, as an intelligence firm, it's our job really to kind of put aside how the industry categorizes itself and what analytics and controls the industry has in place already and take a different approach, a more law enforcement approach, very similar to what we did at the Cyberfraud Unit at the Florida Attorney General's Office.

So, what we generally don't talk a lot about with our clients, who are banks, insurance companies, and schools, is why the issues that we see have persisted over the course of years, and I suspect that's why the FTC invited all of us here today. So, what I really want to get into is why are these issues so persistent in lead generation and what's different and similar with what you see in lead generation versus other areas in online marketing from a consumer protection standpoint.

So, it's a little obvious, but when you talk to online marketing professionals, they will really tell you that if you don't get a consumer in your front door, it's over. So, the sort of natural tendency in online marketing generally -- and this certainly is true for lead generation, as well -- is the most aggressive, most loud the ad, the creative, whatever you want to call it that's most likely, not just to get that consumer's attention but to get them to actually click on that ad, click on that link, open up that email with a very exciting subject line.

So, there are a lot of things I see when I read news sites. I see these things that come up. I couldn't even tell you what they're for -- kids hooked on hookah, I don't know where that's taking me or where they want me to go or what they want me to buy, but I can tell you sitting right here that someone is paying a lot of money to take consumers, distract them from whatever it was they were reading, probably not about that subject, and take them somewhere else to buy something.

So, there are some real kind of consequences to the natural tendencies towards the most aggressive, the most loud messaging in online marketing. And one of the things that you'll hear a lot in internet marketing is this concept of rogue affiliates. It's, you know, everything's fine; we have our guidelines; and we just want the highest intent consumers. And every once in a while through one of those intermediaries that David was talking about, someone will slip through with messaging that doesn't work.

So, if you're selling people movie streaming as a service, you probably want to tell them right up front what it's going to cost and what they might get. So, you're going to use an initial representation like this, and you would expect and you would want your affiliates and their sub-affiliate partners and all the other intermediaries to use messaging that's accurate and consistent because when affiliates do get a little creative and offer people three months free of Netflix for Obamacare, it sounds good. They might get a lot of people to click on the ad, and initial representations do matter. From a consumer protection standpoint, there's a reason why the standard is you cannot cure an initial deception with subsequent disclosure. So, the reason is people will actually sign up for offers that come in through a front door that is either confusing or deceptive or at least random, at best.

But some offers have kind of a self-correcting, and some types of offers have more of a self-correcting mechanism built in place in that. If I'm charging people 7.99 a month or 9.99 a month for a service but the consumers that come through the more aggressive ad tend to drop off a lot sooner, they might actually be convinced to put that credit card information in because they might think a week later they'll get an email from Obama saying here's your refund check. But they're ultimately going to cancel at much higher rates.

So, this self-correcting mechanism, it doesn't work perfectly. We have clients outside of lead generation that sell shoes and sell computers and sell TVs, and you do have to watch out for issues like this. But this self-correcting mechanism is broken in lead generation, and that's our assessment as an intelligence firm.

And the reason it's broken is not just the amount of intermediaries that exist between lead buyers and consumers in lead generation but the way that they interact. And one of the big differences between intermediaries and other forms of online marketing and intermediaries in lead generation is that these intermediaries in lead generation will host their own forms; they will have their own call centers; they will sometimes have an initial redundant process before they take you to a lead buyer, whether it's a bank or an insurance company or a school's process; and those intermediaries can create some kind of interesting economic disincentives if you're talking about truth and accuracy in advertising.

So, we see things like this in education all the time where it becomes for lead sellers or intermediaries out there very, very difficult to compete with affiliates and lead aggregators and whatever you want to call these intermediaries with those who are willing to use more aggressive messaging.

The ad that we have highlighted in red will generate more clicks. It will actually, because education is one of those areas where a lead is simply a form submit, will generate a tremendous number of additional forms. But, most importantly, because these initial representations tend to lead users to interact with intermediaries instead of interacting directly with buyers, those intermediaries are able to kind of triage and blend and massage users that come through these funnels in ways that make the economics work.

You'll hear the phrase "performance marketing" probably used a lot, and at Omniangle, when we analyze what's going on out there, it doesn't matter if you're paying someone on a cost-per-click basis, cost-per-lead basis, cost-per-action, or even a cost-per-impression or CPM-type metric, because no matter what business relationships exist in online marketing, the technology does exist to manage performance very, very well.

So, none of the tactics that we identify at Omniangle really represent users that cannot be made to work in some volume or in some configuration of interactions for lead buyers. And that's what makes lead generation different, largely, than a lot of what else we see out there in online marketing in that the intermediaries and the way the intermediaries interact with consumers make it more productive economically for ads that are more aggressive to persist, and they do persist, and those are the issues that are so difficult for banks and insurance companies and schools to try and deal with and manage.

Some of the common user experiences that everyone on stage kind of alluded to highlight the fact that these initial representations, if I say click here to join the FBI, I might go to a lead aggregator form; I might be called by a third party call center right away because the initial representation itself has a form within it. So, at Omniangle, we don't like to distinguish between, you know, PPC ads or emails or, you know, display ads. We simply say there are initial representations; then there are intermediaries that will interact with those consumers; and that information ultimately gets sold to lead buyers.

So, the sales pitch, I guess, from the lead generation industry is this slide. What they'll say when they go in and talk to Bank of America or Chase is they'll say, listen, we know there's a lot of aggressive tactics out there and, you know, you can call them third-party call centers or affiliate traffic. And by here affiliate traffic, what I mean is affiliates that send traffic to lead aggregators, not affiliates that work directly with banks or insurance companies.

But the fallacy of this slide and this narrative that this industry continues to perpetuate is that we're the lead buyers. It's as if there's an internet for the lead generation industry that's separate and apart from the internet that the buyers themselves buy ads and target users from. So, the reality looks much more like this. Anyone who does any analysis of this industry will tell you that education, banks, and insurance companies are the largest online marketers in the world in terms of advertising spend. And, so, when you ask yourself, well, really do these intermediaries fit just from a real estate standpoint if Allstate and MetLife are in thermonuclear war with each other over the summer season, where is an insurance lead aggregator supposed to get high-intent users from.

And, so, it's not to say there aren't ways to do it and that it can't happen, but the reality looks much more like this than the situation that often is advertised. This is why we see initial representations that get churned through call centers, aggregators; whatever you want to call them, they're intermediaries in initial representations like this, people looking for jobs, people who advertise specific job outcomes. You get emails that are basically promising government assistance or, again, referencing specific jobs. You have initial representations that are actually forms that look like they're job applications that will result in you being called by a third-party, or in some cases aggregator, call center that will try and turn you into an education lead.

Now, is that to say that there's no place for an education offer to be offered to a user who's looking for a job? I don't think that's the case. It's not our job to tell the industry what the rules are, but when you're telling someone, fill out this form to become a Homeland Security officer, and the next thing you know they're getting called by education lead generators, that probably isn't where the balance and the fine line is going to be drawn in the final analysis.

The same thing happens in lending. Again, people looking for help might also be a great candidate for a small-dollar loan or a payday loan. But if they're filling out their information on a site that looks like they're being offered government benefits, there's going to be a lot of problems with that, whether it's for unemployment benefits or unclaimed funds or, again, subject lines that are just designed to get you to open the email, but they do make clear representations, even if they're not always the most accurate, to consumers that are about to enter the lending process.

So, you know, we see consistent things in insurance, as well. The point is these initial representations are persistent. The spectrum of intent in lead generation, I think, is the real issue at hand here. And buyers are huge advertisers. They're the largest advertisers in the world. They're competing with the intermediaries. They're not just buying from a separate internet that the intermediaries operate in; they are both competing with and having to react to the economic efficiencies that some of these intermediaries can benefit from. And it's not just the messaging.

The other problem with the proliferation of call centers or just parties who share and trade information with each other is what happens to that user's data. So, it's great if someone fills out a form where a LeadiD has their pixel. We know when LeadiD has their pixel on a form. They're very transparent. But we also encounter many, many, many forms out there in lending and insurance and in education where we know, first of all, there's no LeadiD pixel because it's not being detected. And, secondly, the company who's pretending to be a government website isn't the most inclined to actually work with companies like LeadiD who are working for transparency in the space to cooperate in that manner.

So, what that means is not only are the representations of concern, but when you're filling out these random generic forms for jobs, your information doesn't get treated very well. And that's simply because while TCPA has made things better and buyers have made contractual prohibitions a little bit tighter against this sort of activity, the reality is these intermediaries that do not contract directly with insurance companies, schools, or banks are really going to monetize users' information as much as they can. And these are just some examples of what users can experience after they fill out forms for either jobs or government assistance. Again, these are third parties that are very large, very much active in the lead generation space and are impacters on this sector, both from a consumer's data and privacy standpoint, as well as the competitive pressures of being able to say much more aggressive things out there.

So, if I can sort of make any point louder than anything else is when you're looking at this from a consumer protection standpoint, you have to understand that ad space is finite. Yes, there are billions of display ad impressions out there, but they are increasingly expensive. And when you are an auto insurance lead aggregator and you go in and you pretend like you're not competing with Allstate's own internal direct marketing efforts and their own internal direct marketing campaign budgets, you're being disingenuous.

That's not to say that people can't figure out creative ways to target high-intent users; it's just the reality that it's the same internet; it's the same real estate; and it costs money -- a lot of money -- to target high-intent users in a specific vertical. And that's just an economic reality and much more of a common-sense sort of statement than anything else.

So, in closing, unlike many other areas in online marketing where there are these more -- let's call it functional self-correcting mechanisms from an economic standpoint, I'm really hopeful that this conference can continue the dialogue around where the lines should be drawn in lending, in auto insurance, and in education because in the absence of clear guidance from the industry and from partners in the government on where those lines need to be, the aggressive ads will win; they will win big because it's online marketing; and they will win even bigger because the intermediaries and lead generation specifically have capabilities to triage and monetize and blend users that come through these more aggressive channels much more effectively than in other areas of online marketing.

So, thanks to the FTC for having this conference. We're really excited to participate. And I look forward to answering anybody's questions throughout the day. And I just want to thank all the other panelists on here. I think they did an outstanding job of describing how the industry works from a mechanics and technology standpoint. Thanks.

(Applause.)

MR. ZULLOW: Thank you, Jonathan.

So, we've got about 10 minutes remaining to work with here, and I wanted to invite you all, because I think we could probably fill the day with a conversation involving your reactions to the other panelists' presentations, but just before we start to do that, I just wanted to ask, on one point that I think both Paul and David referenced, that in some instances lead information will come in from a consumer, you know, they'll elect to be a lead by maybe entering their name, contact information or the like, and you made mention of the fact that in some instances there's a process of augmentation or supplementation by some entity or someone in the lead pathway of what the consumer provides, you know, to augment or improve the lead or make it more useful.

And first what I was wondering about that process, if anybody can comment on it, is where is that information coming from that's being used to augment the leads as they're provided by the consumer?

MR. MCCONVILLE: So, there are a number of companies, I think Michael showed a slide, Neustar, that was the company that bought Targusinfo. They're one of the largest providers of caller ID in the U.S., and a very common practice is before a performance marketer sells a lead, they want to say, do I have the correct identity, right? And if Evan just filled out that form, did Evan give us his correct cell phone number, right? I don't want to call him if that's not correct.

Does he really live at that address? Again, because that will say two things. It will say, one, I want to make sure I've got it correct; two, if you're not providing correct information, likely it means you have lower intent. And, so, companies like Neustar or there's Axioms, the Experians, right, where they'll do that verification to understand that consumer intent or that consumer information.

MR. ZULLOW: And do you have a sense of how commonly that's done? You know, are there sort of costs and benefits to it that are weighed and involve it sometimes being, you know, this additional information being used and sometimes not?

MR. MCCONVILLE: I mean, it's fairly common, and I'll, you know -- Liad gave a great presentation around the value of the opt-in on information. I would suspect that's in an application, which will get far more scrutiny than on consumer information or kind of credit data or anything about that house or previous foreclosures. Not saying -- at least I haven't seen it in my years where in the lead process that that scrutiny is happening, right?

Fairly low-level information on the front end, right, of that consumer information; let me check that it's correct; let me see if the IP address on that form was filled out; where is that coming from, right? Was it out of country? Somebody saying they live in Ottumwa, Iowa, yet that's coming from Nepal, right? Let me see what's happening there. Or is there an IP I'm seeing over and over and over again, right again, there will be lots of checks and a lot of it not even looking at PII; it's simply looking at where is it coming from.

MR. MORGAN: And I think, you know, it depends on the industry, too. One of the things we didn't hit on here that Jon hit on a little bit was in some of the ads he showed there were major, massive brands. And a lot of the brands that we work with are major, massive brands, and we don't just monitor where they get leads from and where they know about. We have a crawler that goes out and crawls for where their brand appears that they're not aware of.

So, the downside of some technologies is they're limited. So, a lot of our clients use a stack of technologies together so that they can monitor information at a lead level to make sure that the data is verified as it's coming in, but then they also use data and technologies to go and look at where is my brand being used that I don't know about, because if it's not resulting in a lead that comes into me, I'm wholly unaware of it.

And when we think about messaging and what consumers see, if I see a brand that is now being associated with a payday loan but that company does not have a payday loan product, and the person submits all their information for this payday loan, the consumer has a negative experience with the brand; the brand owner has absolutely no idea this is happening because the person is never entering their databases, and then that impact on the consumer can be very bad.

So, we see this all the time in payday lending and small-dollar lending, that there are companies out there that will literally take any major brand that they can see, and let's say -- I'm picking this out of the air -- Disney Payday Loans. So, you can pretty much take any major brand that has brand equity and there is a payday loan site out there with that brand being used on it.

These sites -- and we've shown examples to some of our clients in the form of alerts just multiple times in the past week. It collects a lot of information -- driver's license, date of birth, state you live in, name, address, phone number. And as Jon pointed out, information that's collected in those types of scenarios is treated very, very differently.

So, all of a sudden now, someone submitted their information because they thought they were going to get a Disney payday loan of 1,500 bucks in their bank account in the next 20 minutes, and they may or may not get that information, but their information is going to get sold six ways from Sunday. So, who does that information get sold to, where does it go? You know, there are definitely many markets for many things out there. Who's buying it? It can get fragmented and bought in many different ways, too.

So, folks aren't often going out and buying a whole data set on someone, but sometimes they may be getting small pieces of information either to build a targeting profile or actually to augment those folks. I think if anyone's refinanced their house or bought a home, it's sometimes funny that right when you're about to close your loan your phone starts lighting up and your mailbox starts lighting up with all these offers from all these banks. Well, there's a thing called a trigger lead, so when you get your credit pulled, the folks who were actually the reporting agencies turn around and sell your information for an incredibly small amount of money with an incredibly large amount of information that goes out. And that's why those banks try to get you right before you're about to sign the paper with the bank that you had originally engaged in.

So, there's ways in which we use technology to try and uncover what's uncoverable, but there are also ways in which this has been part of the industries and the banking industry for many years in ways that folks may not know.

MR. ZULLOW: All right, thank you.

And with our last few minutes, does anyone else have any reactions or comments?

PROF. WAGMAN: Just a quick comment about real time augmentation. I think a lot of the data has already been collected, and a lot of the contracts between companies like

Axiom and somebody who's getting the lead are negotiated on an individual basis, particularly if it's a big buyer of augmented data from, say, Axiom. And, so, the marginal cost to augment one lead can be infinitesimally small. It can be practically zero if you purchase say a million queries on email addresses or something like this.

So, to answer your question of whether this can be done and how often it's done, I think for the bigger buyers, it's done all the time or most of the time because it's just free to do and, you know, it provides you with more information.

MR. ZULLOW: Well, thank you.

Any other reactions or comments from our panel?

MR. FERREE: I think I just want to make a comment regarding the ability to correct within lead generation and lead quality and intent. From a buyer's perspective, I used to purchase hundreds -- hundreds of leads a day in the mortgage and insurance space. And it's very, very difficult to make leads profitable and work for companies. They work very hard at calling and getting the quality leads that they need so that they will close at a price and a rate that's profitable. It's not easy. Not everybody can do it. There's companies that do it well, and there's companies that fail miserably.

And, so, when we talk about levels of intent, leads with intent and even at some of Jonathan's examples of the jobs, that's the last thing an advertiser wants is a lead that has low intent and that wasn't given the right content and approach to get it. So, as soon as they find them, that's why companies like Omniangle, PerformLine and LeadiD are really getting -- gaining more and more and more popularity in the industry because advertisers are forced to sort of regulate the leads that they're buying and monitor.

So, I think there is certainly a self-direction to some extent with advertisers and lead buyers. And I think you're seeing far less of those ads and far less of those types of strategies these days. And, granted, I am not seeing them. I'm not looking at the millions of pages that you guys are, but from a buyer's perspective, we're seeing less of those. The companies are disappearing that are doing that. Are they still out there, yes, but my point is, is that I think it's not an easy process for advertisers to work and buy leads and making them successful, and they want the highest-intent leads possible and talk with consumers that truly want to talk with them.

MR. ZULLOW: Great. Well, thank you so much. You know, I think we could easily fill a thousand minutes instead of the 90 that we've used today. But thank you all so much for being a part of this event and participating in this panel. Thank you.

(Applause.)

MR. ZULLOW: Okay, and as we step down, we would welcome all the panelists for the second panel of our day to come up. Thank you.

PANEL 2: CASE STUDY ON LEAD GENERATION IN LENDING

MS. WORTHMAN: Good morning. Welcome to Panel 2, which is a Case Study on Lead Generation in Lending. I'll briefly introduce the panelists. To my immediate left, Tim Madsen, who is President of PartnerWeekly; Glenn McKay, Cofounder, President, and CEO of Selling Source; Pam Dixon, Founder and Executive Director of World Privacy Forum; John Henson, Vice President and Head of Compliance; and Aaron Rieke, Director of Tech Policy Projects, Upturn.

First, I'd like to start with some initial reactions towards what you heard on Panel 1. And first with Tim and Glenn and John, does the description of the lead generation industry -- are there any specifics that you would like to point out with lending in particular?

MR. MADSEN: Thank you very much for inviting us here today. You know, in particular, I think the last speaker talking about the way that the lead aggregators fit into the ecosystem of both the lead buyers and then the marketers becomes more an integral part in making sure that the process is maintained and the consumers are given the correct type of information and that they're protecting the consumer experience by making sure that they're not being presented with something that is inaccurate and doesn't flow through to the actual product that they're going to be engaging with.

MR. MCKAY: And I think they made a lot of points that we really agree with in our marketplace, our industry, specifically around how we treat the consumers' data, how we protect it. And our industry is working very hard to find ways to, you know, help identify the lead, protect the consumers' data, like from a LeadiD/PerformLine perspective.

MR. HENSON: Yes, and I would think that just like Tim said that I think Jonathan made very good points about the focus of getting high-intent consumers and that there are affiliates and other lead generators who are hurting the high-intent consumers by confusing them and not the messaging out to begin with. And I think that that's a struggle that we have, people using our brand and our name to maybe lower some of the intent and to get the lower-intent consumers, and that's hurting us, as well. So, that's something that I found very interesting.

MS. WORTHMAN: And, Pam, do you have a reaction to the first panel?

MS. DIXON: Yes. Thank you for your invitation to be here today. I really appreciate it. Yeah, I thought the first panel was really interesting. I kept waiting for a particular model to kind of come on the screen. There's an illustration I have. It's of this giant network ball of all the different connections that come in this space.

So, the structure of this industry is

extraordinarily complex, and it's really difficult to articulate in any kind of graph, other than if you imagine a giant ball of yarn that loops almost infinitesimally. That's much more of the structure of the industry, actually. I don't find it at all probable that any single company is going to be able to say leads are generally not resold very often. That's not what our research shows at all.

There's a really -- there's a really difficult and challenging underbelly to lead generation that's very problematic. I really appreciated a couple of ideas that came out, though, that were really good and give us, I think, a very good starting point. One is that the problem with initial deceptions -- I would add to that that there are initial unfairness factors, for example, lead generation that is based on ECOA factors, such as marital status or where that has figured into the equation somehow. So, I think those are very important principles to think about as we move forward.

MS. WORTHMAN: And, Aaron?

MR. RIEKE: Yeah, I would just echo all of that. There's a huge amount of complexity here. I'm a computer nerd that got lost and briefly went to law school, and so I enjoy seeing all the graphs and the charts and the mechanics of how all this works. But I want to step back just for a moment and recognizing the fact that this is not the CFPB and this is not a panel to debate payday lending, and just remind everybody that short credit loans with high interest rates have an enormous impact on low-income and minority communities. And just one area that I think deserves special attention when we're talking about the complex machinery of lead generation precisely because we're involving vulnerable populations; we're involving sensitive financial data; and as Pam said, potentially factors that would fall under ECOA in nonmarketing contexts.

And, so, I just hope, you know, and I know that John sitting next to me is the mortgage guy, but as we talk about payday lending, I just want to make sure that we remember behind all the lead generation complexity and consumer protection issues are consumers' financial well-being.

MS. WORTHMAN: Well, I think let's talk a little bit about the sensitive information that's collected, and I know that, Tim, you've prepared actually a PowerPoint. And, Aaron, I'm going to ask you to pass the clicker down. I was not quick enough on my feet to grab it. And, so, we're going now to the mechanics of the auctioning process, which is how the information that a consumer puts -- well, I'll just let you begin.

MR. MADSEN: Yeah, thank you. So, we'll begin with the mechanics of a ping tree, which is really the technology behind how the consumer information once they engage with a marketing website finds its way to the actual advertiser, in this case, the lenders that we work with.

So, the first step begins with the customer finding that marketing website that they have either come across either through coming to Google, through entering in a keyword that is of interest to them, or possibly finding some other ad that is presented to them. Once they've made that choice that they want to engage with that website, they want to present their information in order to try to begin that service, they will begin by filling out a secure form on that site.

Once that form is completed, the consumer then has -- that information is then presented into the lead-handling system of either an aggregator or of that same lead generator themselves. You know, at that time, the encrypted information is then validated -- is validated for proper structure. We mentioned earlier in the first panel today, looking for information like this, is the phone number formatted properly; is the email formatted properly; does their address match the zip code, you know, so that we can make sure that the consumer is giving the proper information and giving them the best opportunity to be placed with a service that can help them with what they're initially looking for.

From there, the beginning of the ping tree system evolves into now looking at the information that the consumer has provided and finding the various advertisers or, in our case again, lenders who are able to do business or wanting to do business with that consumer based on the information that they provided. Filters, you know, can be anywhere from the states that they operate, the hours of operation, the number of leads consumers are able to service in that particular period.

And then once those filters are applied, then lenders who are still available to work with that consumer, still wanting to work with that consumer, are now eligible to be shown that particular piece of information.

So, if you look at the individual consumer information and having known that they've been matched, at least from a filter standpoint with available lenders who are able to work with them, then the process begins by taking that information and then putting it into a reverse auction program. Reverse auction, obviously, being it starts with the highest priced bidder, if you will, and then works its way down until somebody is wanting to engage with that consumer.

So, in this case, the customer information is presented first to ABC Corp., and ABC Corp. responds back with a no; then down to MNO Corp., the same answer. Finally, it finds its way to XYZ Corp., who says, yes, I'd like to work with that consumer. At this time, the consumer, their information, having been accepted by a lender, is directed to a page that provides them with the information of that lender. And then once that's given to the customer, then they are automatically redirected to that lender's website, where the consumer is presented with information and details on how they can proceed with the process of completing that application with the lender.

In the instance where the consumer is not matched or is not accepted by a lender, the consumer is then directed to a page that notifies them that they were not able to be -- weren't able to find a lender at that time to work with them. At that point, the ping tree process ends, and then the consumer experiences finalized net process.

MS. WORTHMAN: I think, Glenn, I think you have just a brief slide to describe the consumer experience, of what they see and how they put their information onto the websites.

MR. MCKAY: Yes, thanks. And as Pam said, this is a -- internet marketing is a very large complicated ball, if you will. I'm trying to pull a slice out of here and explain at a very high level, very simply the short-term lending online process from the consumer's perspective. So, the first section is the consumer has a need for a loan product.

And many times, as mentioned in the first panel, they will go to a search engine, Google being the most popular one, and key in some search terms, where sites will come up either in a pay-per-click or organic format, and they'll click on one, okay?

Or they may go to -- directly to the site from seeing a TV ad or a radio ad. They may get an email with a link in the email to click to go to a website. So, they're finding the site in many different ways, and once they get that site and then they'll go back to Google and type it in or go directly to the site. Okay?

These websites, a marketing website, let's call it, are usually made up of page one, page two, and three, and the information that the lenders require for the underwriting process is then entered by the consumer. So, the owner of these websites could be a number of people. We talked about publishers' affiliates; it could be one of them. It could be an aggregator might have their own websites. All -- virtually all lenders have their own websites and drive traffic to the sites. So, there could be different types of owners of these sites.

So, once the information is collected, many affiliates and publishers don't have relationships with the lenders. They don't know who they are; they're fairly small organizations and are not big enough to work with these larger lenders and be compliant with these lenders. So, they'll use an aggregator in the middle.

And these aggregators have lead-handling systems that do a few things. One is, as Tim said, they make sure that the information is in a correct format, but they really do a lot of fraud mitigation here. This industry is being hit unbelievably hard with fraud. I can go into details later, but there's a lot of -- we stop a lot of fraud right here.

From there, that aggregator might -- would have a ping tree of multiple lenders, as Tim just described; or some of them might work directly with one lender, okay? Most have the ping tree type of relationship.

Back to the website, some websites, as I said, go to an aggregator; some affiliates might go direct to a lender or, obviously, the lender themselves would go direct to that lender. From there, whether it's the ping tree or the individual lender, the process begins, as Tim explained, and lenders will underwrite that consumer in realtime. Okay, this is all happening very quickly; and the consumer is either -- starts the process with a lender or they're not able to do that.

MS. WORTHMAN: Now, as part of the information that a consumer inputs into an application, what is the information that's required in order for an application to be considered complete?

MR. MADSEN: You know, it depends on the actual product itself, and it is evolving at different times here of late, actually. But generally it's going to be looking for general customer information. We're going to be looking for first name, last name, address, are you employed, how long have you been employed. And then in the case of the short-term lending industry, they're also looking for information on employers, as well as bank account and Social Security number, so that, as Glenn mentioned, those lenders are able to make that realtime underwriting possible.

MS. DIXON: May I respond quickly? Okay, thank you.

So, just very quickly, something that I haven't heard mentioned today is the Fair Credit Reporting Act, and, of course, we all know that Fair Credit Reporting Act applies to firm offers of credit. And lead generation is outside of that. However, there's a very intriguing and very important gray area that I think we need to mention, which is zip code. So, aggregate credit statistics that determine the approximate credit score of a very tight block of homes, say between four and seven homes, can lead to a quasi or a pseudo-credit scoring of a neighborhood. That can be very effectively applied in lead generation. And this is -- this is a very controversial area that really needs to be taken into account. So, most of the ping trees and most of the analytical processes in lead generation do request zip code. This is part of the antifraud.

So, to make these applications without a zip code would be literally, I think, unheard of. I think that's a fair thing to say. However, right now, there is no regulation that prohibits the application of aggregated or statistical credit scores to people who are in the lending vertical. And this is a fundamental issue that needs to be dealt with at the policy level. Do we want to apply statistical credit scoring to neighborhoods when people are being offered lead generation in the financial vertical. I think this is a very important policy question to address.

MS. WORTHMAN: And I actually think that was something that was touched on a little bit in the big data workshop that, as Jessica mentioned, a report will be forthcoming, but it also does raise sort of what happens to the data that's collected during the time that a consumer is applying for a short-term loan.

MS. DIXON: The statistical funnel happens very quickly nowadays. It's not like, okay, let's collect the data; let's take a week and send it off to a data broker; and then we'll get something back. It doesn't happen that way anymore. It's very, very quick.

MS. WORTHMAN: And I guess one of the points is why is it necessary to collect the specific data that's required for a small-dollar loan.

MR. MCKAY: I think it's really -- that's how the industry began originally, and it comes down to speed and convenience. If a lender is trying to give feedback to a consumer very quickly that they do or don't want to work with them, they need that information to be able to underwrite. And in the small-dollar, short-term lending, they don't use FICO score. It's not applicable. Certainly in the larger dollar loans it is applicable, but in this, it isn't.

So, it really comes down to being able to offer the consumer the fastest method possible of being able to work with that particular lender.

MS. WORTHMAN: Is the bank account information used for underwriting? Or is it used for the delivery of the loan?

MR. MADSEN: You know, that's really a lender question. You know, they take it into account in various areas. They can look at it, you know, for underwriting purposes potentially. And, again, I can't really speak to what the lenders would use. In the case of ourselves as an aggregator, we will look at that bank account information as a way to help us key off of different fraud programs that are out there right now where people may be running different bots that are sending, you know, hundreds of applications through with maybe a single bank account but using, you know, false data with the intent of trying to defraud the lender. So, we use that as a way to provide a better quality program for our partners that are on the lender side.

MR. RIEKE: Can I make a comment? I mean, I feel -- you know, we're talking -- we're here at the FTC, and this is a consumer protection agency, and so I want to take this back to the perspective of the consumer for a moment. I just want to add some color to, you know, Tim said earlier that someone will find the web -- you know, a consumer has a need for a loan. Oftentimes, that need for a loan is evidenced by a search term that indicates financial distress, like I need money to pay my rent.

So, sometimes the search is "payday loans"; sometimes the search is just a search that indicates financial distress. And payday lead generators are advertising to those terms. When you arrive at a lead generation website, as Glenn said, it may be a big company like Selling Source, Money Mutual; or it could be any number of other people, including small affiliates that may or may not be good ethical functioning businesses.

Even when we're at a big brand name lead generation website like Money Mutual, the privacy policies are pretty shockingly permissive, given the sensitivity of the data that's being turned over. I mean, this is your full name, your address, your Social Security number, your driver's license number, your bank account information. And when you look at the consumer facing privacy assurances what you see is Money Mutual reserves virtually unlimited right to share, rent, sell, or otherwise disclose this data to other businesses. Oh, and by the way, if you're on the do-not-call list, that won't apply to anyone we share this data with. That's not to say that that means they're necessarily doing something bad.

But it's interesting to me that from a consumer perspective I have more privacy assurances with respect to the music I listen to from an internet-streaming website like Spotify than I would if I went to a payday lead generation website and provided this very sensitive info.

And I hear that that could be a side effect of the complicated industry that falls behind here. But, you know, again, from the consumer and the privacy perspective, it's pretty scary, especially if the website is an affiliate and you have no idea who this person is.

MS. WORTHMAN: And let's talk a little bit about who sees -- who sees the data and where it ends up. And --

MR. MCKAY: Can I respond to Aaron's comment first?

MS. WORTHMAN: Yeah, yeah. You can.

MR. MCKAY: Yeah, I don't have the privacy policy in front of me, and we've spent a great deal of time with some very expensive Washington, DC law firms making sure our privacy policy is correct, I could add. But our company -- and I can't speak for the entire industry -- but I will speak for many of the bigger companies; as you stated, we do not share personal information or sell personal information other than to the lenders that are contracted with us, okay?

Also, Lisa McGreevy, the President of our trade association, is on a panel later this afternoon, and in a meeting of major lead generators about a month ago, we adopted the best practice of not allowing anyone in our industry who is part of OLA to sell or share any of that data, except for the people that are contracted to. I don't think anybody was doing that with the larger companies, but we're just making sure that it's in writing.

MS. WORTHMAN: Mm-hmm.

MR. RIEKE: And my quick response to that is, you know, I'm not saying that Money Mutual is out of line in any way, shape, or form with the lead generation industry as a whole. And the DC folks that are writing your privacy policies are doing a good job to the extent that there's a whole lot of wiggle room here, and a surprising amount. And the Online Lenders Alliance guidelines are similarly permissive in recommending that there be contractual protections for these very sensitive leads, as they move through the ecosystem, but that's not even a requirement.

And, so, my point is not that there is noncompliance or illegality here, but there is -- there is just incredibly few restrictions when it comes to the sensitive data.

MS. WORTHMAN: And I think that that's -- let's talk about who sees the sensitive data, because I think, Tim, when you went through and showed how the flow would go to the first lender who could take a pass on whether or not to actually fund the loan, is there a way for that lender to capture the sensitive data? How is that an unscrupulous lender doesn't necessarily get the information and then can sell it subsequently?

MR. MADSEN: Yeah, it's a good question. And, really, so the way that the process works, the encrypted data that is posted to that lender in a secure API, they do see the full form of the data, and it's used in a realtime underwriting by these lenders. And at that point in time, if there were a lender who was wanting to do something and, you know, sell it off themselves, the potential is possibly there.

What we do is we've put different tools in place, where we're able to police that through automated seedings and through customer feedback and programs that we've put in place for the consumers to let us know if anything happens beyond the process of what we've given to them as a reasonable expectation for the lenders that we're working with.

In the case of the realtime seeding, we're constantly sending things out, and we're passing things through to those lenders, and we're monitoring to see if they're making phone calls when they didn't buy the lead or they didn't decide -- or they didn't at least tell us they wanted to work with the consumer, in the case of emails, if they're sending out emails that are different than the product that they're offering. So, if we're working with an installment lender and they get -- they send out an email for an installment loan, that's expected.

If the lender who told us they were going to work with the consumer is also immediately sending something out that's different than the installment loan, then we're reaching out to them and letting them know what's going on. And then we start policing that program and make sure that the lender either changes their behaviors or whatnot.

MS. WORTHMAN: I think John actually might have --

MR. HENSON: Real quick. So, LendingTree is a little different in that we -- obviously we do sell leads to lenders, but we are a -- we're an online loan marketplace, which -- so, when the consumer comes through, fills out a form, each step kind of shakes out borrowers. They fill out the entire form and it actually shakes out the lenders. So, they would finish the form and then they get matched with up to five lenders. And they're displayed and then the consumer can comparison shop.

So, but we're also different in the fact that we are a licensed mortgage broker. So, from a data privacy standpoint, we have state regulators and federal regulators who are also regulating us for our data protection. And our larger national lenders, and actually just all of our larger lenders, also audit us for data protection and things like that. So, we're held to the exact same standards that your Bank of America and your Wells Fargo are for a privacy standpoint.

So, that is a little bit of a differentiation for us. We don't actually do the loans, but we are a licensed broker, so we can sell them to our lenders.

MS. WORTHMAN: And, Pam, you had a comment, too?

MS. DIXON: Yes, just very quickly. So, the APIs, when you look at the realtime feeds from APIs, it's really fascinating. I mean, they -- when you think about them, you need to understand that those can -- those can really, you know, you know, shovel out data to 10,000 leads, you know, a day or more. It's a lot of data.

And when we looked at these back-end APIs, what we found is that in most of them, in addition to zip code, marital status was almost always included, as well as gender.

And I think as everyone knows who's sitting here, these are factors in the Equal Credit Opportunity Act. So, again, we come back to the policy gap that we have. And I don't want to take away from the policy panel at all, but I have to say, this is both a technical issue in the lending vertical specifically, where this data is being taken.

Okay, so, we have to understand, there are some very complicating factors here. You've heard fraud mentioned here. The fraud products require this data in order to work; however, once a lead -- a lead that's been generated that includes marital status and also gender, the lender will get that data. So, this is in a lead generation context, but that lender getting that data and also zip code and perhaps some credit -- you know, statistical credit scores, what does that do to the firm offer of credit?

And I think that this is a very significant issue that needs both technical solutions, and it also needs policy consideration, because these are protected factors. And there are really no disclaimers anywhere that these are protected factors and need to be handled as such. And this is a very robust and very fast-paced marketplace, and there's got to be some way of carving out a path that allows us to have continuing protections in this important unfairness area.

MS. WORTHMAN: And one of the things I want to also focus on a little bit is the policing of the lead buyers. And, Tim, you mentioned that you can seed, and describe that a little bit -- a little bit more.

MR. MADSEN: So, when we're posting leads to these lenders in that ping tree process, we'll also create leads that are not intended to be purchased. They're essentially leads that are -- use the information that we've provided that shouldn't be underwritten and approved by a lender but for the purpose of checking and watching their marketing status.

And that's where we're watching quickly to see if there's somebody that's sitting in there who is looking at a lead, not coming back and saying, hey, I want to work with that lender -- or, I'm sorry, with that consumer, but then continuing on with a process of their own. And that will help you catch whether or not, one, they're trying to offer a loan at the same time and actually not let the consumer -- or let us know that they were wanting to work with the consumer.

And in addition to that, it also lets us know if they're taking that information and then they're pushing out to one of these third-parties that were mentioned earlier in the first panel. I will say that because of the way that we monitor this and more importantly because of the way that we vet our lenders and the different partners, both on the marketing side and on the lending side, we don't see this as an issue because we're very careful in identifying who we're working with, making sure that anybody that sees this information that you're speaking of has permissible purpose to do something with it. We're not working with somebody who's not in the lending industry and providing a service that is specific to the offeror or the marketing product that we're proposing to the consumer.

MS. WORTHMAN: Aaron, you have a comment?

MR. RIEKE: Yeah. You know, so, as the data plumbing for lots and lots and lots of payday lenders, the lead generation plays an important role in practically circumventing states' protective lending laws. If you look at a map that the Pew Charitable Trust recently put up, there's 15 states that don't allow payday lending storefronts at all, and an additional nine that have pretty stringent requirements on loan terms and such.

Payday lead generators are very capable of filtering these leads efficiently out into different geographic markets. What we've seen play out over the last five years is that they just simply choose not to until they're forced to do so by a state. In New York, over the course of four years, Selling Source collected 800,000 payday leads from residents of that state. The state regulators looked through those leads and couldn't find a single loan made by a network lender that complied with state law out of the 800,000 leads.

And today, Money Mutual is under a consent order with New York not to collect leads from New York, not to advertise to New York, similar for the State of Pennsylvania. Of the 15 states I mentioned earlier, Money Mutual still allows 13 of those states to submit leads through their website. If you go to Google or Bing and you type in a search term like I mentioned earlier, "I need money to pay my rent," you're going to see payday lead generators of all shapes and sizes advertising at you despite the fact that they have the option not to reach into those states.

So, there are really complex state law questions behind this. There are really complex choice-of-law questions about how tribal and out-of-state lenders are allowed to lend. But what I want to highlight here is that as a practical matter on the ground today, and certainly online, states don't have very much power to effectuate their lending laws until they can find a really big company to push into a consent order, and I think that's a problem.

MS. DIXON: You know, there's the -- there's a real intriguing corollary issue of people who are turned down for lending in the lead generation space in this particular vertical. Very often, when an individual is turned down for lending or if their sum score, they've, you know, defaulted on the score, a lot of times they become fodder as a member of the vulnerable person who now can't get a loan. They become fodder for debt consolidation leads, and some of these leads are very unattractive and very, very -- they really skirt ethical boundaries. And this is -- this is not specifically a lending product; however, a lot of the debt consolidation companies are offering, I would say, a lending service, and I think are a important consideration in the lending vertical because the debt consolidation lead generations are just -- if there is a scale of aggression, they're very aggressive.

MS. WORTHMAN: I think -- let's -- I definitely want to touch on what happens to -- I want to use the term "remnant leads," sort of the leads that are what happens when a consumer, after they have gone through a process to get a loan, whether it's not they've been funded or they've been denied each time. But I just want to take a brief moment and actually ask John just a couple of questions about LendingTree's model, because I think we spent some time on the small-dollar lending, and just go briefly into just describing what types of information -- you touched on it briefly, just how LendingTree is a licensed mortgage broker, but what types of consumer information do you collect from consumers, how do you determine what client lenders to display on your website, what your relationships are, how you police --

MR. HENSON: Sure.

MS. WORTHMAN: -- folks that you do things with.

MR. HENSON: So, as I said, we're an online loan marketplace and in several verticals. We are not in the payday lending vertical. We are in personal -- unsecured personal loans, but our primary business is mortgage. So, the forms we take, the questions we take, are based off the vertical. We take certain questions in mortgage, and we take certain questions in personal, and we take certain questions in auto. And there's a couple reasons for those. The main reason is because we are licensed, RESPA requires us to either take an application or not take an application. And since we're not a creditor, we don't take an application, so we don't take enough information as defined under RESPA to be an application.

So, when we sell those leads to our mortgage partners, the consumer can reach out to them or be reached out to by the lender and can provide that information and complete the application with the lenders.

For you non-lending-compliance nerds, that means we don't send out adverse action notices like you would get from a lender because we're not making a credit decision; the lenders are making those credit decisions. So, on the auto side and personal side, we also vary the form, and that's mostly due to the filters that the lenders are looking for. Certain lenders are in certain states. Like Aaron mentioned we limit our lenders to the states in which they're licensed. So, if you're not licensed in Virginia, you're not getting Virginia leads.

And, then, the -- also, certain lenders don't make used car loans; certain lenders don't make new car loans; certain lenders do make debt consolidation personal loans, but they don't make personal loans for, you know, renovating your home or whatever. And, so, these are all different filters that we use and that our lenders can then select which filters they want to use to get those particular leads that match their preselected set.

When that happens, again, shaking the lenders out, and then we match with five lenders that have said we want customers that look like X. The customer comes in, goes through the flow, and they look like X, they get matched with those lenders.

Each lender generally displays either the rates or a banner-type ad, and then we'll reach out and contact the consumer, as well. So, there's multiple touch points for the consumers, and there's also -- they know who to be expecting calls from. So, if you're matched with lender A, lender B, and lender C, and lender Z calls you, that is a compliance problem for us, and we do have consumers who reach out to us.

But that touches another point that I think has not been mentioned yet, in that, yes, consumer data is sold many times. And one of the things that I think that fails to take into account is especially in the personal loan space, in the payday loan space, is that these are people who need money. And they're not filling out one form. They're filling out several forms on several different websites. So, yes, you're only matched with -- you're matched with up to five lenders on our website, but if you've gone to another website, you could get six more lenders or five more lenders or whatever.

So -- and I think that needs to be taken into consideration, too, when we say that consumers are inundated with contact from lenders. Well, that's because they're also inundating lenders with the applications and request. So, there's -- I do think that gets lost significantly.

MS. DIXON: That's actually true. When people call us and they're complaining about this, we ask them how many -- how many forms have you filled out online and do you have screenshots of your forms. And people will fill out a lot of forms online. And, unfortunately, not all the forms are from, you know, LendingTree or other ethical companies; they're sometimes forms that identity thieves have put up. And it's -- this is obviously not the topic of what we're talking about here, but Jessica Rich referred to the bad actors in this space. There are just some really scammy, fraudulent, nasty bad actors, who will take brand names and then just put, you know, normal looking forms and collect that data and commit fraud. And it's -- that is a significant problem. I don't think we can tackle that here, but it's frustrating.

MR. RIEKE: Can I add on the fraud point? I mean, there is a drumbeat of cases by the FTC and the CFPB of, you know, as has been alluded to already of huge fraud cases involving payday leads. Payday leads are the source of this fraud. And the most recent one from the FTC involved more than 500,000 consumer payday loan applications and millions of dollars of money withdrawn from bank accounts that shouldn't have been.

You know, I go on to internet relay chat and go to payday affiliate channels just to see what's going on periodically, and people are selling enormous lists of things of old leads. And that's -- it's hard to know where that's coming from or what the source of that problem is, but there is a fraud problem here. And that's -- the reason is obvious; it's because people are giving all the information needed to commit identity theft or withdraw money from bank accounts.

MS. DIXON: It's not just payday loan leads, though. It's also -- it's also debt consolidation and just plain old "I really want a house" kind of things. I think it really crosses the spectrum. It's -- there's a lot of people online, and it's very difficult. Consumer education is just profoundly difficult. And it's just really hard to educate the entire public when the fraudsters are as clever as they are.

And it's also really difficult with all of the sensitive data that goes into these forms. I really -- if I could change something, I'd really curtail the sensitive data. And even zip code gets sensitive if an aggregate or a statistical credit score is added to it. And then, certainly, national origin, religion, these sorts of factors, these are -- these are difficult questions, but I'm glad that we're at least starting to address them or at least surface them.

MR. MCKAY: Yeah, from our perspective, we applaud the FTC for their successes in this area. I think of all the companies in our industry that are, you know, stand-up OLA members, display the OLA seal on their websites, are not the problem. And we work very diligently within our organization to -- when we find something wrong to communicate with you directly and make sure that you're helping out, but we do really need to weed out the people that are the bad actors.

Just a couple of other things quickly. Really, payday lending has become installment lending. The only payday lenders left are the ones that are where there are states that have specifically licensing for the payday product. Most of the products now have evolved into an installment, which is a preset monthly term with a set amount of money.

The second thing is just commenting on what Aaron was saying about states and laws. It is a real complicated patchwork at the moment, and something that I know the CFPB and states are working on together. Internet jurisdiction is still a complicated matter, not just in our space, but in many others, too, in banking and others. It's not settled yet. We make sure that we are dealing with licensed lenders, and I want to make that clear. And each has -- each of our lenders has a legal basis for their operations.

MR. RIEKE: Can I add one thing? I mean, so, my colleagues would kill me if I didn't mention a lot of what I'm talking about with respect to the data security issues and the state issues and the advertising issues is in a report that we just put out earlier this week called Led Astray, and that report is at LedAstray.org.

And, you know, Glenn's exactly right. There's an incredible complexity in these state laws, and there's incredible complexity in the court cases trying to figure out when it is or is not legal for an out-of-state lender to reach into a state and make a loan. The problem is, is that all of that complexity yields in reality what looks like a national online payday lending market online today. And that's kind of the bottom line.

MS. WORTHMAN: Aaron, what were some of the -- when we touched on remnant leads previously, in your report, could you talk about some of the things that you discovered in looking at what happened to consumers after they had entered information online?

MR. RIEKE: Yeah, I mean, so what's -- you know, and, again, it's very hard. I want to be frank and say it's very hard to know exactly who's doing what here, so I've been giving Money Mutual a hard time up here, but I want to be clear that what I'm saying now doesn't necessarily pertain to them. What starts out as payday leads that have tons of information and bank account information in them for the purpose of connecting a consumer with a lender, once the lenders use those people up, there are still these leads sitting there, and there's a desire to find a way to monetize those leads again.

And, so, what you see is payday leads generating marketing lists of financially vulnerable people. So, you can go online today and buy a list of Spanish-speaking payday loan responders that looked for a payday loan six months ago. They might be ready for another one; they might be ready for another sub-prime financial product. And, so, those marketing lists can, in turn, be used to target consumer all over again for a whole 'nother -- for a whole new range of products. And, so, I think that the remnant lead problems are fraud; remnant lead problems are after-market lists that kind of start off the whole cycle over again.

And my point about privacy policies is not just to harp on privacy in the abstract. My point on privacy policies is there's nothing in virtually any payday lead generator's privacy policy that would prohibit the building and sale of such lists. And, so, even if that's not happening today by major payday lead generation companies, I think there's a lot of room to be clear about that.

MR. MCKAY: Aaron, I think I agree with you there.

MR. RIEKE: Yeah.

MR. MCKAY: It's something that we work very closely on, as I said before, in our trade association, and we welcome working with, you know, your company, FTC, to tighten this up.

MS. WORTHMAN: Mm-hmm. Do you think consumers know when they enter the information online that it is going to pass through multiple hands, before ending --

MR. RIEKE: Oh, absolutely not. Oh, absolutely not. There's no question the answer is no. And that's not because it's -- I mean, it may be disclosed on the page. That's -- you know, I'm not questioning whether or not a disclosure is made here, but it is unfathomable to me that any consumer would understand how many steps there are in this process.

And, you know, most consumers probably don't even understand that Money Mutual is not a lender and that Montel Williams is not, you know, a member of a bank called Money Mutual that's going to lend them money. I'm not sure that there's a way to fix that, honestly, and so I don't want to -- you know, I'm not trying to be critical about that, but it's very complex, and I don't think they understand that.

MS. DIXON: Can I talk about the frame of this vertical, just very briefly? I think another thing that would surprise most consumers is that before they see a lead, that lead has generally been scored. And we haven't really talked about the impact of what the data augmentation does to the scoring of the actual leads.

This is a very hard-to-pinpoint area, but basically, I mean, if you look at, you know, a bucket of 100,000 leads, those leads are not all going to see the same ads or, you know, final marketing product, whatever it might be. And the scoring of those leads itself is very nontransparent and completely unknown to consumers.

When consumers see different leads in the financial vertical, they are, in essence, given different financial opportunities. I know the argument that they are going to apply and then be subject to the Fair Credit Reporting Act, but what about the initial scoring of hundreds and millions of thousands of leads based on data augmentation or data append? This is something unexpected; it's nontransparent; and it can induce a lot -- introduce a lot of unfairness into the process.

MR. MCKAY: And just to be clear, the lead generators do not score.

MS. DIXON: Right.

MR. MCKAY: I mean, we'll filter.

MR. DIXON: Right, it -- right, it happens before. It happens, you know, before it ever hits the lead generation folks. That's what I'm saying. The industry has so many layers in it, but this is all happening.

MR. RIEKE: Can I -- so, there's a point I want to make on the layers, and there are many different layers that can be helpful here. It's worth mentioning that just two months ago Facebook announced an update to its advertising policy and said we're not allowing payday loan ads on Facebook anymore, period.

The fact that you can go -- you know, companies like Google and Bing, they have sophisticated ways to label and organize and target ads, and one thing that we point out in our report is opportunities for them to take a step up here where the law is really fuzzy and put a pro-consumer thumb on the scale.

There's room for the lead generators and their trade groups, I think, to tighten up what today are these vacuum privacy policies into something that might more closely reflect what's actually happening in the best-case scenarios. And then I think that, you know, in some cases, there's roles for regulators like the FTC, and I think there's an honest question for lead -- payday lead generation companies that are selling the sensitive data without clear contractual limits, regardless of whether or not they know they're selling to a fraudster when that crosses the line into unfairness.

So, I just want to say, like, I think there's many different points of intervention and ways to tighten up the ecosystem. That's it, yeah.

MR. MADSEN: Well, and real quick on -- to Aaron's point there. You know, there are bad actors our there. And as Pam mentioned, it doesn't -- it goes well beyond just the short-term road or the payday road as Aaron uses the term. But I think the most important thing here is remarketing to the consumer, giving the consumer additional options isn't necessarily a bad thing.

The marketers themselves, by presenting the consumer with a choice to engage in something else, Mr. Customer, we're not able to match you with a lender, if you're looking for ways to potentially help out your credit, would you be interested in hearing more about that. And if the customer takes an affirmative action and moves in that direction, that's not a bad thing. Where it becomes a problem is when it happens automatically and, the next thing you know, the customer is getting 15 or 20 emails saying, hey, we've got your information and you're signed up for a credit monitoring service. That's what we're all trying to stop.

And, then, Pam when you were mentioning the scoring and whatnot, I think there may be some definitions out there that we need to work through, because if you're looking at the way that marketers will try to put an ad in front of the consumer, then that may be for very particular purposes that if I'm working with a storefront lender and they don't have a storefront in Missouri, then I'm not going to put an ad in front of a consumer in Missouri.

So, I think we need to look at the definitions, and then when we find places where there are opportunities to work together to weed out these bad actors, we definitely need to be very proactive on it.

MS. DIXON: Yeah, I think the underlying -- there's a lot of levels in the industry, and there are certain mid and surface-level protections that we've talked about today, but we really -- in the first panel, there was, you know, the tech providers. Well, the tech providers are often data brokers. And this is an unregulated space. So, it's the back-end channels where we really haven't addressed any fixes yet. And I do think that we need to look at those fixes. I do think that there are opportunities for making those fixes. For example, what information is collected when, what information is displayed to which lenders. I think we'd go far in beginning to help.

And, also, has there been the application of a statistical credit score, which could introduce fairness issues later on. So, I think that there are definite steps that could be taken to address the underlying issues.

MS. WORTHMAN: And I think that let's now segue just a little bit in talking to what happens to this consumer information, because there is very valuable information that has been given. And, actually, even just when -- after a consumer's experience whether they have been funded or whether they haven't been, how long do you maintain that information, that personal information, and sometimes very sensitive information?

MR. MADSEN: Yeah, so, most companies will have a data retention policy in place, and the application of that may or may not be affected either by a litigation hold or different things that that company may be dealing with, you know, in our case --

MS. WORTHMAN: And by "that company" do you mean the lender or do you mean your own -- specifically the --

MR. MADSEN: In the context of what I was speaking to, anybody that is presented with that information, whether it's the marketing person who's collecting that information on the website, whether it's the aggregator who has that information presented to them and then passed along to the lender, the same thing. Anybody that is given that information to make a decision off of, any amount of information that they're holding onto will typically have some type of a policy related to it.

I don't know that there's a general policy that most people engage in. And it's probably changing as we speak right now, just with all the changes in the regulatory environment.

MS. WORTHMAN: And how do you ensure that a consumer's information is protected, as you said, if they are not funded with a loan, if they're given another opportunity; how do you ensure that that's the only way that their information will be given?

MR. MADSEN: Yeah, so, again, in our case, we do put different automated things in place, and then in addition to that, we've given customers a very visible way to contact us with any type of concerns that they've had. And we don't have it only related to our products themselves as far as any marketing interfaces that we have, but as well as our lenders. So, if they've had any kind of problem with their lender, we encourage them to reach back out to us, and then we will help work with them to rectify any situation.

MS. WORTHMAN: And your contractual relationships with your lenders, do you have certain policies that they have to adhere to in order to receive the confidential information?

MR. MADSEN: Yes.

MS. WORTHMAN: Okay. And, John, you wanted to speak.

MR. HENSON: Yes. I think to piggyback off what Tim said there, we, as well, have contractual relationships with our lenders. And because we are considered a covered entity under the CFPB, we have -- if you're coming into our site and you're giving us information, that is our consumers' information. Those are our consumers. We then share some information with the five lenders, okay, and -- but that's still our consumer information, that the lender has.

Now, when the borrower chooses to work with Lender A and then move forward with the process, that becomes Lender's A consumer. And that's their consumer information. But Lenders B, C, and D are not allowed to remarket to those consumers. So, they get the shot at the apple; the borrower chooses which one they want to work with; and then the other ones fall to the side.

And, then -- so you don't get credit card offerings from Lender B that you didn't choose. You don't get other mortgage information from that that you didn't choose. So, that's one way, anything just contractually. And, again, and I said this before -- since we are licensed -- we have to keep up with that and make sure that we are containing that that consumer's information.

MR. MCKAY: I would also say there is -- sorry, go ahead.

MR. HENSON: Go ahead.

MR. MCKAY: There's a list of best practices that OLA has published around data -- movement of data and data storage, and as an OLA member, we're required to follow those policies.

MS. WORTHMAN: Now, Aaron, when I asked if consumers know about -- that their information is passing through multiple hands, you said no, and you said I don't think that there is a way for consumers to know that. Is that right? I mean, is there a way to make it -- to make it more transparent, that consumers are aware that their information will be going through multiple hands until their search for their product is satisfied?

MR. HENSON: So, we have -- we use affiliates, okay, but the majority of our affiliates are display ads only. So, you have a website and you have mortgage articles, and you can have a display ad to LendingTree that you -- it's a click-out. So, you click on the ad; it goes to LendingTree; then you fill out the form there.

We do have affiliate partners that are host-and-post partners, which they have a form on their site; they collect the data; we limit what data they can collect; and it's always cobranded. So, the consumer knows I'm getting the LendingTree experience or LendingTree is going to end up with my information. So, that's one way that we've protected it. And those host-and-post partners are very, very few, and they're partners that we've had for a long time that we -- and we diligently monitor fraud and all that information, so...

MS. WORTHMAN: And, Aaron, do you --

MR. RIEKE: You know, I spent years working as a privacy advocate, so I don't want to sound like I'm down on transparency. I think that's really important. And I think that certainly a consumer that reads a website closely would notice that, oh, okay, this website is going to take my information and go to its network of lenders to find me a loan.

I think what's very, very hard for a consumer to see and understand is in the last panel we heard the term sub-sub-sub-sub-affiliate, right? And I think it's very hard for a consumer to picture and understand, okay, I might be putting in my bank account information which is going to be sold to Party A, which will sell to Party B, which will sell to Party C, which will sell to Party D, and then D will actually have the network of lenders. And who knows what happened along the way and the scoring that happened along the way and the enrichment that happened along the way.

I don't think that transparency is a very realistic option for explaining that system. And, frankly, I think there is, you know, one of the things to be thinking about when we come to what role do affiliates play in any lending market is how early in that chain do you need to collect the really sensitive information.

MS. WORTHMAN: Well, that's actually how early do you need to collect the really sensitive information, and that's sort of a question I have for the small-dollar lending. How important is it for -- to not have a two-step process that's a little more similar to LendingTree? Why does this confidential information -- the bank account information, the Social Security -- have to be collected right at the first communication with the consumer?

MR. MADSEN: Yeah, so, you know, it's there to facilitate that efficient process in the short-term lending world that they've created over the last, you know, 15 years or so. They do a realtime underwriting from the point that the customer fills out the form and provides their information; then within seconds, they're receiving back an answer that they've been -- they've been placed with a lender who's going to be able to help them further.

So, to add the different steps in there, not only does it make it almost impossible for these lenders to continue to engage in the way that they have in that very efficient and realtime manner, but then it also creates opportunities for the consumer to fall off due to whether it's technical issues, you know; computers lock up and then all of a sudden they're starting over the process.

So, for the consumer experience, it's typically done that way, also, to make it as efficient and painless as possible.

MS. DIXON: I'm worried that we've trained consumers, though, in some of the -- especially the more short-term loans -- that we've trained them to fill out this sensitive information. I would love to see a more negotiated process, just as a cultural norm. I think it would make a lot of sense in terms of slowing down some of the knee-jerk reflexivity that one can see online in filling out of forms because, I mean, one thread in this tangle of yarn is certainly the filling out of forms.

It's not everything, though; it really isn't. It's just one -- one narrow thread. There's actually -- there's lead generation that happens without ever having a consumer fill out a form.

MS. WORTHMAN: I would like to thank my panelists, or the panelists, not my panelists, for a very lively discussion. And we have now a break until 11:30.

(Applause.)

PANEL 3: CASE STUDY ON LEAD GENERATION IN EDUCATION

MR. SHULL: All right, let's get started with Panel 3. So, my name is Brian Shull. I'm an attorney at the FTC's Bureau of Consumer Protection, and I'm going to be moderating this panel on lead generation in the education marketplace.

I just wanted to give a chance for each of our panelists to just give a brief introduction for themselves, so we'll start here with Jeff.

MR. APPEL: Hi, I'm Jeff Appel. I'm the Deputy Under Secretary at the U.S. Department of Education, and at the Department I help oversee policies and the development of policies related to student financial aid and other matters considered post-secondary education.

MR. BLAKE: I'm Nathan Blake. I'm with the Iowa Department of Justice. I'm an Assistant Attorney General in Consumer Protection, where we've been very active in investigating unfair and deceptive acts and practices, especially in recruiting by for-profit colleges and universities over the last few years and have run into quite a few of those practices in lead generators.

MR. COLWELL: Hi, there. My name is Daryl Colwell, Senior Vice President from Matomy Media Group. Matomy Media Group is one of the world's largest digital performance marketing companies. Education is one of the main verticals that we operate in. I'm very happy to be here. Thanks for including me in the panel.

MR. GILLMAN: Jon Gillman, CEO of Omniangle Technologies. We are an intelligence firm that audits online marketing activities, and education is one of the areas where we have a number of school clients.

MR. HALPERIN: My name is David Halperin. I'm a lawyer in Washington, and I spend a couple of days a week with support from some nonprofit groups and foundations working on the issue of for-profit colleges. And in that connection, I have looked into the lead generation industry, spoken with many operators, employees of these companies, lead generation companies, and a lot of students who've been on the receiving end of pitches, have had a lot of online chats with them, as well. I've never given them as a consumer my phone number, and I do not advise you to give out yours to them.

MS. SHERIDAN: Hello. My name is Amy Sheridan, and I'm the Founder and CEO of Blue Phoenix Media. We've been in business for a decade. Our heaviest vertical that we work on is online education. I've been in that space for the last 12 years, and I want to say thank you to the FTC for having us be on this panel.

MR. SHULL: Great. Thank you, everyone. And, so, just an administrative item, so for questions, at about 15 minutes until the end of the panel, I'm going to ask for any questions from the audience. So, to the extent that you have one, at that point, you can raise them up and our timekeeper or somebody will collect them for us.

So, we've heard multiple times this morning and especially in the lead-up to this workshop, we were told multiple times that education is one of the main verticals for lead generation. So, I just wanted to -- the first question for our panel is why do you think education is such a major market for lead generation.

MR. COLWELL: I'd say -- if I could jump in? Two kind of sides of the coin, one from the consumer standpoint. So, as you heard earlier, along with home improvement, financial services, insurance, et cetera, education is a very high consideration purchase that a consumer or prospective student is going to make. It's very expensive. It's very important for them to gather as much information as they possibly can before making a decision as to which institution they're going to attend.

From a business perspective, selling is the wrong word, but attracting a student to your institution, it's quite a bit of money. And it's not a decision that the students can make overnight or, you know, at the drop of a hat. So, it's certainly very important to educate them on all the benefits, the opportunities that they would have by attending your institution.

MR. SHULL: David? Sorry.

MR. APPEL: The other -- I was going to say the other, I think, obvious reason is money. There's about $30 billion a year in Pell grants that are made available to students who qualify, as well as over $100 billion a year in student loans that are made that are largely construed as -- under the law as entitlements to students, which is great. Post-secondary education is important, and we certainly have been encouraging everyone to seek higher education.

So, unlike -- I would say on some of the other verticals that we talked about this morning in terms of mortgaging, a distinct difference in education is the lack of underwriting with respect to student loans.

MS. SHERIDAN: I also think it's because of money; however, I think it's money based on the student. Our country tells us if we -- if we get a college education that that person can make more money and do better for their family. So, on the other side of it, I think the reason is money; but I think from the student level the reason is money. They want to make money, and they want to be more educated and do better for their family.

MR. HALPERIN: I would say that much of lead generation activity in higher ed relates to for-profit colleges, and I want to be clear that I don't think all for-profit colleges are bad and I don't think all lead generators are bad. But many for-profit college products are, in my view, defective products. They are high-priced, low-quality, and often leave the student worse off than when they started. They can owe, $10-, $20-, even $100,000 in debt.

That kind of a product is often marketed to people who are first in their family to go to college: low-income people, people of color, our returning veterans, immigrants. And in my view, there's a lot of lead generation activity that is devoted to trying to figure out how to get those people to buy something that is not in their interest to buy. That involves deceptive marketing and aggressive marketing, and that is -- that attracts a lot of bad actors.

MR. GILLMAN: I have a slightly different take on it. Based on what we see, the reason why education is so popular in online lead generation is because of the balance between cost of traffic, cost of placing ads out there, with the expense that, as many have said, is subsidized by the government of the payout. So, if the government is going to underwrite the student loans and promote, you know, financing programs for students to pursue higher education, that money does and will trickle down through the lead generation ecosystem, and the ability of savvy marketers and lead generators to match up that subsidy, which ultimately starts with the government, down to extremely inexpensive sources of traffic, such as websites that offer people jobs or websites that look to offer people government assistance, is one reason why from a lead generation standpoint I think education is so popular. There's simply so much margin to be made by so many companies as it stands right now.

MR. SHULL: So, I wanted to follow up on one of the points that David mentioned, is that I do get a sense that there is a view that lead generation that's used in industry is really a for-profit school thing. Amy, how would you respond to that, to that view?

MS. SHERIDAN: I think that -- I think that it's pretty evenly split, to be honest. I think the not-for-profit institutions are coming out gangbusters, and I'll say the last three years. Reputable institutions that are, you know, anything from Yale to UCLA to Notre Dame are some of our clients. So, I think that is making a huge push, especially in the last three years, but, I mean, there's something to say about the for-profit institutions and the fact that you don't have -- you can hold the job; you could be a mother; you could do a lot of things as well as go to school at the same time. And there's definitely something to say about that.

My business is probably 60 for-profit -- 60 percent for-profit and 40 percent not-for-profit at this juncture. However, if you want to go 12 years back to when I started, it was probably 80 percent for-profit and 20 percent not-for-profit.

MR. SHULL: So, we are going to spend some time talking about potential risks and harms to consumers, but I also wanted to give a chance about potential benefits. So, what are some of the benefits to consumers of education -- of lead generation being so widely used in education?

MR. COLWELL: Yeah, I would say it's an opportunity. I think, you know, LendingTree is an example mentioned that, you know, if and when, you know, you sign up on one of those sites you have the opportunity to connect with up to five lenders. We at Matomy are not an aggregator, but certainly there's a number of good aggregators that are out there. With a few clicks and entering some relatively basic contact information, it gives the potential student an opportunity to learn quite a bit about a number of different institutions. So, it's a relatively quick way to get a fair amount of information.

MR. SHULL: Any other thoughts on potential benefits to consumers?

MR. GILLMAN: Well, I can tell you what the pitch is that's made to schools, which is, listen, you guys are educators; you might work with inefficient and somewhat outdated marketing agencies; let us connect your brand with users who would otherwise not be exposed to it.

So, what the lead generation industry will tell you, whether they sell clicks or they sell leads or they sell warm transfers from one call center into a school's call center, is that the function that they serve is to connect school brands with consumers that otherwise would not have interacted with those school brands. And that certainly is the case and does happen sometimes, but obviously whenever you inject those intermediaries it does bring with it other challenges.

MR. SHULL: So, let's turn now to the mechanics of an education lead. Amy, would you walk us through how an education lead, in your experience, travels from the consumer to the school?

MS. SHERIDAN: Sure. I can only speak in our instance. We'll use email traffic for an example. So, I have multiple clients in the EDU space, probably a hundred different schools. I have a back-end data base that all the offerors or the schools sleep in the data base. I send out an email marketing campaign, compliant with canned spam. Someone gets this in their email, clicks on the link, and it brings you to my landing page.

On my landing page, we ask name, email, date of birth, gender, what your prospective major is, and how much college you've done, if any. And it goes back to the offeror sleeping in the data base. My back end comes -- my back end figures out exactly who the perfect person would be matched with the perfect school. For an example, an 18-year-old male would get something like a technical college, where a 30-year-old woman with children, a work-at-home mom, would get a different type of university and a different type of match.

All these universities know who their bread-and-butter students are, and a lot of them actually target towards that and don't accept anything outside of that. So, all these offerors kind of sleep in the data base, and then once the person walks through, they are matched with, A, a campus base or, as you folks call it, not-for-profit. So, for example, I live in New York City, I would get NYU, something along that example, as well as the second option, which is a for-profit institution and something that you could do completely online.

So, for example, Walden is looking for 30-plus females -- age 30-plus and women. So, I would be -- I would fit into their demographic; therefore, they would see that offer. All of the other schools that are in the data base do not get shown to a person that's not applicable to. So, there's no brand degradation; there's no confusion. I can't speak to how everybody does it. This is how we do it.

So, we show two different schools: an online one and a campus-based, depending on age, geo, gender, that kind of thing.

MR. BLAKE: There's another experience that some consumers have, of course, and that is they plug in a search engine that they are interested in Medicaid benefits or they are interested in SNAP food stamps or they would like a job. And then they're sent to a landing page, and they put in their information, and there's maybe some small disclaimer at the bottom. And then pretty soon, Jonathan's helpful chart this morning shows, you know, they start getting hundreds and hundreds of calls bombarding them to start up at various colleges and universities.

MR. COLWELL: What Amy had described is kind of the aggregator model. Us at Matomy, the vast, vast, vast majority of the clients that we work with in the education space, we actually push the traffic directly to their website, whether it be via display marketing, search engine marketing, email marketing, et cetera. It's a one-to-one relationship that we create with the consumer and the school.

So, there's no -- yeah, in the example that Jonathan used this morning, you know, we don't partake in marketing techniques like that. Pushing it directly to schools seems, for us, to be, you know, kind of the safest method to do it. It provides the best results both for the school and as a really clear way for a perspective student to get a clear message and not bombard it, as has been said, you know, with a variety of, you know, marketing touches, whether it's calls, emails, et cetera.

MS. SHERIDAN: I should be clear, too. Everything we do is on a singular branded basis, so every -- the person, the user, the prospective student that walks through any of my websites is very clear that whether it's University of Phoenix or ITT or Walden, who is going to be calling them. So, there's no confusion there that some other person could get sold this lead. There's a branded page approved by the schools, and that's what we show to the consumers.

MR. SHULL: So, I wanted to talk about the interaction between the schools and lead generators for a little bit. Nathan, maybe you get us started off on this, but in the relationship between the schools and lead generators, who in your experience is setting the terms of that relationship?

MR. BLAKE: Sure. So, we've had a lot of discussions with schools, both informal and more formal. And what they consistently tell us is that, in the sector, they are somewhat at the mercy of the lead generators. Assuming they want to get leads, they're at the mercy of lead generators. And that's because once they pull out of -- if they make their restrictions too strict or too harsh they just get pulled out of the lines of the funnels that send leads to different schools. And either the lead generator or aggregator just refuses to work with them, or they pull them out of something that's pretty -- that would be normally pretty beneficial to them and just essentially streamline them in some other -- something else that's not nearly as effective.

So, from at least what we've been told and from their perspective, there is kind of this -- the more kind of -- the more they adhere to what we view at least as good consumer protection standards, the worse they can kind of leverage themselves in the marketplace.

MR. SHERIDAN: That's interesting because I have never in the history of my business ever, ever used my own paperwork with any school. They mandate that I use theirs, and there's never been one exception in probably 250 schools I've worked with.

MR. COLWELL: Yeah, and for us, in any instance where we've used Matomy paperwork it starts as our boilerplate terms and conditions, but certainly there's a pretty healthy back-and-forth between our attorney and the school's attorneys, as well. I think in general with any kind of like negotiations or business deal, you know, one side always thinks that the other side is getting the better of them. I think that's just human or business nature.

MR. HALPERIN: Or when they're being questioned by an attorney general's office.

MR. BLAKE: Fair enough.

MR. GILLMAN: Well, on the issue of the

relationship between schools and the intermediaries that are often in between them and consumers, one of the big problems is the lack of clarity around the types of consumers that it's okay to target. So, if you look at consumers who are online looking for jobs, is it a bad thing to show someone who's looking for a job online information about educational opportunities? I'm not a policymaker, but the policymakers or maker on this table and the law enforcement representative up here probably have some thoughts on that.

But the question is if generally we think as a country that furthering your education will help you in your career and furthering your education might actually get you out of a short-term financial or medium-term or long-term financial predicament, then in the absence of clear guidance around what you can say to those consumers, a lot of schools have become skittish around which consumers you can target; because in online marketing if you tell an online marketer, maybe not Matomy or Amy's company, but if you tell an online marketer, listen, I'm looking for people who are looking for jobs, not only from a messaging standpoint, will that open things up in a very wide fashion, but the cost of targeting a user who's looking for a job or, better yet, targeting a user who's looking for what they think is food stamps or government benefits is minuscule.

So, again, it's difficult to address the relationships or the problems in the relationships between schools and these intermediaries if you don't, from a policy standpoint, address how is it okay to target advertisements for education to users who are looking for jobs so we don't end up with endless scenarios that were, I think, very accurately portrayed in some of the articles that David put out there in the last couple of years.

MS. SHERIDAN: Personally, I've never done it. I don't think a job site is the place to advertise online schools. That's me personally.

MR. SHULL: So, let's take Jon's comment and, you know, Nathan, if you or Jeff want to discuss. So, I mean, is it okay for lead generators to combine education offers with job -- on job sites?

MR. BLAKE: I'm actually not a policymaker. Other people write the policy and we try to, you know, enforce the law. But I think, you know, in our experience, I think there is a place for advertising education if you're up-front about it. The difficulty comes with -- you know, we've seen and you've heard where people kind of check the boxes with the disclosure, but those disclosures are not getting through to students. Or if you just have some sort of just rampant -- I mean, if you're misrepresenting what you're actually advertising, I think that's where we normally have the problem.

MR. APPEL: I'd say certainly we're -- you know, we'd be supportive of any avenue or mechanism where the goal is to provide access to education and not be in support of where the goal is to exploit students for the sake of student aid programs. And that's kind of hard to do, frankly. It's not an easy distinction to always make.

But we certainly, and I think David has written about this in the past, where, you know, we've heard of cases where, you know, some schools have sent recruiters to homeless shelters. At one level, that -- one can kind of make a case that in terms of providing a holistic support to a person that's in transition, maybe that makes sense, but it doesn't really necessarily strike me first off that it does.

MR. HALPERIN: You didn't mention that the recruiters were often strippers.

MS. SHERIDAN: I think as far as online lead generation and the online schools, I mean, I've been doing this for over a decade, so, you know, as even you folks are, you know, going into your processes with these, you know, for-profit institutions, I have to say, it was even a shock to me what the situation was. I mean, we don't know, you know, how well the students are doing, I mean, until we find something like this out. So, I mean, way back in the old days, 10 years ago, there was -- we had no notion that people weren't being treated fairly; they weren't getting the education that they were promised; that they were promised jobs. I mean, it's hard to sit where we sat and not realize that, but obviously now that it's brought to light, you know, we react as such.

MR. SHULL: So, let's talk about some of the potentially deceptive ways that, you know, schools or lead generators attract students. And, David, some of your articles have already been mentioned today, so why don't you get us started on that.

MR. HALPERIN: Well, let me just say in response to what Amy said, that we have learned a lot about this industry. Here's a good example. The market leader in for-profit education, University of Phoenix, has gotten as much as $3.7 billion in a single year of our tax money and reports of graduation rate of 15 percent for its students. Phoenix and most of the big for-profit colleges are now under investigation by multiple federal and state law enforcement agencies. So, that is what's being sold to considerable extent through lead generation online.

Here's one example, and I would love to go through a few of them. I got some calls from some folks who work in Salt Lake City, Utah for two different companies: one called Neutron Interactive and one called EdSoup. Neutron Interactive, although its principals later denied it, but its employees then kept calling me up and saying the principals were not telling the truth; the way they would start a relationship with a consumer was to put a job ad on Monster.com or another legitimate job site until it got kicked off of them, and then they'd go to another one. And that would say "jobs in your area" or some kind of, you know, "restaurant jobs in your area" or "plumbing jobs in your area."

But if you clicked on or if you followed that ad, it would take you to a website called localemploymentnetwork.com or some other name. That site had no jobs, had no legitimate or original job listings, maybe some recycled ones. In order to get to those listings or what you thought would be those listings, you had to fill out all your information. And there might be a disclaimer saying the word "education" in kind of a vague way.

And then what would happen is Neutron would take your information -- this was Neutron so far that I'm describing -- and sell it to a call center such as EdSoup, maybe for a dollar, because it wasn't that valuable a lead at that point. EdSoup had a call center, and what they did was call these people and try to pitch them on education. And the people who called me from there, who were the original people who called me, said they were ashamed at what they were doing, which was misleading people about the cost of education, steering them to programs that they knew wouldn't help them, steering them to programs that they knew had a high loan default rate and very poor graduation rate.

And then if the student, one out of every 20, said, yes, okay, I'm willing to think about education, I'm willing to talk with this program you mentioned might be interesting to me; then they would sell that lead to the college perhaps for $80, $100. That was suddenly a valuable lead. That's the way they described it to me.

They said that they would call a single student as much as 20 times in a day. In addition to using deceptive information, they would use a tactic which has been illustrated in congressional hearings, the pain funnel. They try to use the shame and the pain of the student and say you -- you're not really worth anything, isn't your life a failure, don't you need education to get yourself on track. And, you know, all of that is bad, but what's worse is again what they're selling is often a product that, in fact, didn't help the student.

Could I go through just a couple more while I'm here?

MR. SHULL: Why don't we just keep it to that one so that I can --

MR. HALPERIN: Okay.

MR. GILLMAN: Let me just jump in on this. One of the really challenging things that happened is when the regulators first started telling the schools that they were concerned about marketing that was centered around job messaging, effectively the schools in mass pulled out their own creatives from job websites.

So, instead of having an ad on Monster.com that said "Click here to get more information about criminal justice degrees in your area," there was an ad about something random instead. And what that forced was in the actual job postings themselves, because these sites, not Monster.com but a lot of fake ones that copy Monster's business model, still had to monetize that traffic when they're thinking about the synergy between job messaging and education offers.

So, what you ended up having is the government scaring schools out of putting ads for school that said they were ads for school out of job sites, which were replaced with advertisements that actually looked and functioned like a job application instead to still funnel those users through the system.

So, I think whether it's the Department of Education or the FTC or the multistate group that's represented up here, it's critically important to provide guidance to the industry, not just the lead generators but the schools as well to say, listen, if you're going to offer people who are looking for jobs an education opportunity, here's how we think that can be done in a manner that's okay.

And I know some folks, you know, on the law enforcement side are hesitant to get into that level of specificity, but having experience in consumer protection, one of the reasons it's so hard is not to just identify the bad practices, but when you're sitting at the table and your job is to actually say how are we going to make this better on a going-forward basis, that's the real hard work that in education really needs to be done.

And it needs to be addressed right away because I don't think there's any policymaker in the United States that would say offering people education who are looking to better their career or looking to better their financial situation is a bad idea.

MS. SHERIDAN: I couldn't agree with you more. There needs to be a code of conduct, white pages, all sorts of things like that. I mean, canned spam has been very successful for email issues. TCPA has been really successful for the phone call issues. And I think that if you laid out a policy for this type of situation, I think that it would be successful there, too.

MR. GILLMAN: Hopefully this event is the first step in the right direction, certainly for all of us.

MS. SHERIDAN: Certainly.

MR. SHULL: So, I'd like to get some other opinions on this question about who should be responsible for ensuring that the industry engages in best practices. Is it the lead generators? Is it the schools? Is it the government? Or is it some other party?

MS. SHERIDAN: I think we've done a pretty good job self-regulating up until this point, you know? But now that the for-college -- you know, the information's coming to fruition like, you know, if it's true that all these, you know, for-profit colleges are really under inspection and under the watch of, you know, people like the FTC, I really feel like, yeah, it's their job to really legislate it. I mean, they have to step out and say something at this point.

MR. BLAKE: I mean, I think the opportunity is there at each of those levels. The difficulty at the government level, I think, is getting into a regulatory space that's new and, you know, inherently will be challenged repeatedly for a long time, before you get any sort of assurance that what you're going to be implementing is going to be accepted.

And the difficulty, I think, at our level of government is that we're essentially going piecemeal, and, you know, we had a good settlement with QuinStreet; I think it's been three or four years ago now that laid out some prohibitions, some disclosures, which kind of had various levels of efficacy, but, you know, that's one area that

QuinStreet was, in particular, marketing -- you know, they owned GIBill.com, which we felt was inherently deceptive and ultimately they had to give it up.

But, then, there's also these other types of misrepresentations that they were making, and what we've heard is that some of those kind of prohibitions that we laid out in that agreement, you know, that did give some direction to industry, and I think, hopefully, that was helpful. But it is difficult when you're essentially going kind of one-off, and you can kind of address the problems that whatever instance that you're -- you know, whether it's a school or a lead generator, whatever, however they were, in our view, breaking the law, you can address those, but it's not a way to get widespread industry practice changed.

MR. HALPERIN: May I follow up on that?

MR. SHULL: Yeah, sure.

MR. HALPERIN: The Attorneys General, what Nathan's talking about, came to town and stood with a bunch of Senators and shut down GIBill.com, which QuinStreet operated and turned it over to the government because there was the concern that our veterans and active-duty service members might have thought that was an official government site and relied on its judgments, and that site was turning students over to colleges, and it was giving a seal of approval that didn't exist. And that was a good thing, and it produced changes, I think, with QuinStreet.

On the other hand, you can go today to Army.com. Army.com is a lead generation site. The first thing that will pop up is an ad for a for-profit college. I think a lot of people might think that Army.com might have something to do with the Army. That is owned by a company called Fanmail.com. Victory Media owns Gijobs.com. That has a school matchmaker tool for military-friendly schools, and the schools that pop up, the first four -- four out of the first five, the first four are all for-profit colleges, some of whom are under investigation for fraud by law enforcement again.

So, it's like a game of Whack-a-Mole. You know, you get one, but there -- I think there needs to be some way to try to create broader enforcement and more adherence to standards. And if you do these cases one at a time, it still looks to me like a lot of operators think there isn't a lot of cost for continuing to behave in ways that law enforcement or policymakers have shut down with respect to other actors.

MR. GILLMAN: I think Nathan and Jeff bring up an important resource constraint and logistics issue when you're talking about trying to enforce nationwide but in some cases state-specific laws against companies that operate nationwide and worldwide and in somewhat confusing circumstances. It doesn't have to be a law-enforcement-only solution, though.

Again, one way that you would knock off G.I. Jobs' ability to generate any traffic was to give the schools clear guidance on how can you market to people who are looking for jobs, because they would spend hundreds of millions of dollars as an industry per year wiping out a lot of these third-party record-generating and lead-generating sites' ability to generate any traffic to their own site.

So, again, getting back to why it's so critically important to have more clarity around two areas -- job messaging and ads that are sort of targeted towards users looking for jobs is one -- and then the second one, which is equally important and from a consumer advocacy standpoint more disturbing, websites that are put up to look like they're offering people government assistance, government food stamps, housing assistance, et cetera. Those two areas right now represent both the lowest cost sources of traffic for education lead generators, but of average quality leads when you work them through the system of call centers and third parties that these intermediaries have built for education.

So, if you really want to tackle, you know, these websites that some might argue are deceptive, their ability to get eyeballs literally, one way to do it would be to unleash the schools to use their own advertisements and their own advertising budgets to generate traffic through folks like Matomy directly to their own pages as opposed to the schools being so afraid to go anywhere near a job site or a fake job site that the territory is completely ceded to third parties who are under much less regulatory and law enforcement pressure and perceive themselves, by the way, to be basically untouchable by federal and state authorities, many of which are overseas.

MR. COLWELL: I also -- I think someone on the last panel might have mentioned that Facebook effectively cut out advertising from all, quote, unquote, payday lending lead-gen marketers. You know, certainly there's Google; certainly there's Facebook; there's a few other search engines which make up the vast majority of -- which make up a significant majority of the traffic that happens on the internet, potentially going to those big media sources where consumers are searching for this information, working with them to remove fraudulent or unscrupulous types of sites and marketers like G.I. Jobs or Army.com or whoever it might be. That's certainly another angle that could be taken.

MR. SHULL: So, to what extent do the schools see where the lead originated from?

MS. SHERIDAN: Every single thing I send over to them has, at minimum, name, email, postal, data of birth, gender, date, time, IP, and the source or the website that it came from.

MR. SHULL: Is that typically what -- something that the school requires, or is that something that --

MS. SHERIDAN: That's mandatory for canned spam and TCPA. Yeah, every school requires a minimum of that.

MR. GILLMAN: That might be how Amy's company operates, but that, by no means, is the norm in terms of visibility in any lead-gen sector, including education. The more appropriate question isn't what do the schools know about where the leads are coming from but what do the companies that the schools are buying leads from know about those traffic sources, because I do think one of the interesting trends in education is you don't have these rogue affiliates out there operating and popping up, living in their parents' basement and shutting down. It's not really a rogue-affiliate situation in education.

What you have are very large companies who are using messaging and knowingly working with and in some cases creating the websites themselves to funnel that traffic to the school. So, from where we sit as an intelligence firm, I can tell you that our school clients do not have very strong visibility into where their lead aggregator partners generate traffic from. One of the questions we get asked often is tell us who's doing -- you know, who's doing things the right way out there, and we have to throw up our hands and say, listen, there's probably a lot of folks doing things the right way.

We can't audit the internet. That's not, you know, a technology that I'm aware of is possible. We can just show you the things that we've found that you've told us are outside of your guidelines. But it's a very difficult problem, the problem of lack of transparency in the ecosystem. And, again, forcing schools to back away from certain segments of the population entirely, that vacuum has been filled by intermediaries where in any online marketing context transparency beyond one server adjacent is virtually nonexistent.

MS. SHERIDAN: I think Daryl would agree with me that as, you know, probably in the last five years our industry as a whole is really pushing towards transparency. I mean, it's not perfect, and technology-wise, it's not the easiest thing to do, and I think that also is a limitation outside this whole discussion, but I do -- I mean, I applaud our industry for really moving towards transparency as quick as possible.

MR. COLWELL: Yeah, we certainly employ no shortage of third-party tools to certainly keep an eye and regulate the type of traffic that we offer. And as a business, we make money when we deliver a value for our clients, and our clients require it to do business with us. So, yeah, certainly, it's something that -- yeah, it's been much more of a focus on it over the last couple of years, like you said.

MR. SHULL: So, switching from transparency to the schools or to, I guess, the aggregators, I want to switch now to transparency to the consumers. So, as I read online news articles and online consumer complaints, one thing that often pops up are consumers saying I don't understand how School X got my phone number and are calling me.

So, Jon, I think your presentation this morning touched a little briefly in that, but maybe you can get us started on, you know, why does that happen to consumers, what's going on.

MR. GILLMAN: So, one of the interesting things is when you sit at the Better Business Bureau or at the consumer hotline at the FTC, consumers only remember certain aspects of their experience. So, if you fill out a form on Section8Help.net and you get a call from EdSoup, which is a company you've never heard of, and then you get transferred to ITT Tech, and you get upset about that process, you're going to call the BBB and say, why is ITT Tech selling me food stamps. The consumer, even if they are exposed to a lot of these intermediaries either over the phone or in writing throughout the course of their flow, will often just sort of revert to the names that they can remember, that they can think of, which is usually the largest company in the chain.

So, the reason why you get a lot of these consumers who are often confused as to why a school or an insurance company or lender is calling them is they filled out a form.

And now David will tell you, and he's absolutely right, that there are also, you know, a whole segment of basically cyber criminals out there that force through stolen or repurposed data through the ecosystem that are just selling fraudulent leads. But outside of that context, most of these consumers actually did provide their information to someone, but whether it was for a $1,500 Dunkin Donuts gift card or it was for a sweepstakes for single mothers to win $10,000, you're right, you know, they did fill out the form at one point, and there is no understanding -- basic understanding at a consumer level that filling out a form for a sweepstakes or a job application or government assistance will result in your information being sold to so many folks.

So, there is a real danger from a brand integrity standpoint and a risk management standpoint for schools who will be, if not the person who calls you after you filled out a form for food stamps, certainly you will be the most memorable person or company that the consumer interacts with after they fill out that form. So, that's really, I think, the crux of that confusion.

MR. HALPERIN: Could I give another example of a consumer experience?

MR. SHULL: Okay.

MR. HALPERIN: Edvisors.com, it describes itself as a trusted source of information for people trying to figure out how to pay for college. It has affiliated with it -- it has had some of the top most trusted experts in student financial aid. Well, it's also, as it used to admit on its page, a lead generation company. I pointed that out in a filing with the Department of Education. It doesn't say that anymore. They have a site called HowToGetIn.com, HowToGetIn.com. Before matching you with colleges, and you're trying to figure out how to get in, it collects your information. So, that's where your information got collected.

It also then recommends schools. What schools does it recommend? ITT, Kaplan, the Art Institutes, Westwood are the first four that came up when I put in some information suggesting I wanted to have a -- get an online degree or part online and part on campus, I actually said. All of those schools are under investigation by federal and state law enforcement for fraud. That's Edvisors, that is -- there are many other sites that do college rankings, college advice. It looks like a benign experience. You don't necessarily know you're entering into a consumer relationship as much as just getting advice, and then you get the call and you don't -- and, again, you don't know why.

MR. SHULL: So, Amy or Daryl, what would you guys say would be the best practice for the industry of what should consumers be told at that initial point of contact with a lead generator?

MS. SHERIDAN: You want to answer?

MR. COLWELL: Yeah. I think one thing in particular, somebody mentioned earlier that, you know, you could be contacted, you know, X number of times. I think it's extremely important for -- if a consumer is going through an aggregated education flow, I think it's extremely important for, you know, either the aggregator or the school to be extremely transparent with that consumer to let them know what the information that they're entering is going to be used for and if and how they're going to be contacted, you know, as specific as they possibly can.

MS. SHERIDAN: Yeah, I think really clear information about what is going to happen after you hit the "submit" button, okay? There's an opportunity after anyone hits the "submit" button to have a "thank you" page and let the user or prospective student know what is going to happen. I think it's important to keep, you know, exclusive leads and branded pages so you know whether it's University of Phoenix or Westwood or whomever is going to contact you. So, I think those are the two most important things from our side is really showing the process of what is going to happen after this moment and then who is going to contact you.

MR. SHULL: So, just a quick -- so we are at the 15-minute mark, so to the extent there are questions from the audience, if you want to hold them up, then someone from the event staff will come and collect them.

So, I wanted to also talk about the data that is collected. And, Amy, you talked about the data that you collect on your sites. So, is there a reason why an education lead generator should be collecting sensitive financial data such as bank account numbers or Social Security numbers?

MS. SHERIDAN: In no situation ever should that be collected from anyone on our side dealing with any education lead generation, at least not from the lead generation side of things. I can't speak for the schools or anybody else, but from our side, that is -- I've never actually seen it happen. I've never seen a request, never, ever. They've never even tried it as far as I can see.

MR. COLWELL: Yeah, and if you visit any school's website, the initial contact with the consumer, the request-more-information or request-to-be-contacted form, it's all, again, relatively vanilla contact information: a name, an email address, maybe physical address, a phone number, and some basic drop-down questions typically around the type of degree and timing, about when they want to go back to school.

So, you know, neither from like a lead generator's point of view nor a school's point of view is any sensitive financial information required.

MS. SHERIDAN: But that's also not to say that there aren't large data bases like the credit companies, like other companies -- Axiom, Experian. I mean, if you wanted to get this information and pay for this information, the school has the ability to go hit it up against any of these data bases and get that credit information, you know, but it wouldn't be anything to do with the lead generator.

Our job is to generate the lead for the school. Once we send it to them, I mean, you know, it's on them what's going to happen after that. But, I mean, I think there are -- I haven't heard much precedent, but, you know, it is like technologically possible to, in realtime, find out the credit score of this person or, you know, find out whether they have debt or open room on their credit card. It's possible, but that really, like after we send the data to these schools, that's when that would occur.

MR. SHULL: So, to the extent that education lead generators aren't collecting kind of the sensitive financial information, but they are still collecting, you know, PII, personally identifiable information. What are some potential risks of that information being misused?

MR. GILLMAN: Well, the simplest concern that should be out there is if I'm a school and I'm working with a lead generator and the lead generator, theoretically has their own form and collects the consumer's data, then I have some contractual and legal mechanisms to try and make sure that that company is being a good partner and good steward of that customer's data.

The network of intermediaries, though, that really do feed into the companies that directly contract with the schools also collect that consumer's information. And one of the most dangerous things, and from a law-enforcement or investigative standpoint, one of the most difficult things to figure out sometimes is how did this user's data actually make this hop from a bunch of schools calling to now a debt consolidation firm calling them or a payday loan offer calling.

And that's really where it gets to consumer -- the protection advocates and regulators and law enforcement folks being very clear and asking the question: What do you do in the revenue chain? Do you host a form that a consumer fills out, or do you pay people like Matomy to send people to your form, or do you pay people like Amy to host a form for themselves and then do you buy data from them, recognizing that in all cases, even in the affiliate model where you're getting traffic directly to a school page, there is the option that three steps before an affiliate network sent the user to a school's landing page, they also filled out the form for sweepstakes.

And the real risk there is the consumer might think it was that school that sold my information to the debt consolidation firm and the payday lenders, when, in reality, it was the downstream intermediary that was collecting that information to try and increase their conversion for other types of offers that are unrelated that ultimately sold their data. So, the data market out there is very healthy, and I think the source of this issue.

MR. SHULL: Any other risks or potential harms that could come from having this data, collecting this data?

So, I did want to turn now to the Department of Education. So, kind of somewhat unique among lead generation customers, I think schools face a complicated scheme of both state and federal statutes and regulations. So, I guess, what should schools be aware of when they're using lead generators?

MR. APPEL: So, in terms of looking at the regulations and the requirements for institutions under the Departments' purview, obviously, we have rules against institutions misrepresenting their educational programs, the financial charges of the programs, or the employment prospects or outcomes of their programs. So, they need to be concerned about, you know, what their -- what they or their agents are representing about their educational programs.

The other potential implication is with the prohibition -- the statutory prohibition against incentive compensation, which prohibits schools or other entities from paying firms or individuals on the basis of securing enrollments or financial aid for students.

It's a little unclear, though, to what extent that's going to be implicated based on whatever the particular, I think, relationship is between an institution and a third party, the lead generator. If an institution is just purchasing names from a lead generator, then there's probably little in the way of our regulatory reach in those cases.

If a lead generator is doing more than that and is performing some function on behalf of the institution, like making "admit" decisions or doing more to process student financial aid, then that would be -- that would be a case where the institution would have to be concerned about complying with our rules.

MS. SHERIDAN: I think that we reached a really great point, actually, with TCPI coming out almost a year ago. It now is mandatory if you are going to call someone that where they opt in or put their information in, there is a list of companies that could possibly be calling you. So, now that's mandatory for the last year, so they have to have some disclosure in a -- on an unchecked box, and they have to check the box to say that they know that they are going to be hearing from X, Y, and Z.

So, I think in the last year, with the TCPI and the new changes to it, luckily we've gotten to a point where the consumers are going to know who's going to call them. And it's mandatory. So, that's great.

MR. SHULL: So, at this point -- so, there's a couple of audience questions. Two of them are fairly similar, so I'll just combine them. So, other than, you know, the consumer protection laws that are enforced by the different federal and state agencies and the rules and regulations promulgated by the Department of Education, what specific rule or statute would you want to see the government pass? David?

MR. HALPERIN: You know, when Corinthian Colleges, one of the worst behaving for-profits collapsed, there was a big discussion among policymakers in Washington about what to do. And I work with a coalition of organizations -- veterans, civil rights, consumer, student -- and we looked, and in our view, I mean, it would be difficult, frankly, to enact any laws because many of the -- this industry has a lot of sway over policymakers in Washington, the for-profit college industry.

But in our view, if you enforce the existing regulations, the ones particularly that Jeff mentioned -- prohibition on misrepresentation and the prohibition on paying a commission for selling admissions to college, and you also require the institutions to be financially responsible, then that would play -- that would make a big difference in the schools behaving properly and forcing their agents going down to the lead generation industry to do the same.

So, I'm not -- I think the laws are pretty good in this area, and, you know, I think there's room for creativity to try to figure out how to create more enforcement and adherence to them through reforms, but I think that we've -- actually, a lot of this has been thought of and covered. It's just not being enforced.

MR. SHULL: Any other thoughts on additional rules or regulations that you would like to see implemented?

MS. SHERIDAN: I think it would be interesting to figure out, like, who is ultimately, you know, at fault when a situation arises. You know, there are many people in the chain, you know. Is it the person that sent out the email? Is it the lead generator? Is it the school? You know, is it the -- even down to the government giving student loans, like whether responsibly or not, you know?

I mean, there's --it's just unclear to me who exactly, you know, is the onus for making these decisions. And it goes all the way down the line. It's kind of like a hot potato, you know, and I think that until there's some sort of decision on it, it's going to continue to be that way once, you know, there's better code of conduct and best practices and other ideas put out there. In an environment like this exactly, you know, people are going to have to be responsible, whomever we decide. But I think that it's time for a decision.

MR. GILLMAN: You know, I know we're in Washington, DC, and, you know, there's a little bit of a bias here towards what new law or regulation can fix the problem. I would ask the question a little bit differently: Why is there a self-imposed industry regulation to prohibit schools from promoting on job websites? And what can the government do to perhaps clarify their position that, at least to my knowledge, there is no statute at a state level or federal level, not like there is with regard to the use of the word "free" or with incentive comp.

But the damage that has been done to consumers over the last five years because schools have been too afraid of the government to place their own very transparent advertisements on job websites, I think, is a relevant one to be asked, as well, in addition to the question about what new laws and regulations should come up. Sometimes, the industry makes its own laws and regulations in an odd sort of way, and that's one that I think is a very bad one that's basically being enforced now much more stringently than any of the other current laws on the books regarding marketing for higher education.

MS. SHERIDAN: I also think transparency, if we like really gave a thought to transparency and being transparent, I mean, I don't know what would happen, but I'm pretty sure that that would clear up a decent amount of the issues, you know. The schools are saying that they can't be transparent, but really, they could, if they asked and if they mandated that.

So, you know, something along the lines of transparency as far as self-regulation, without having to go to a lettered, you know, governmental agency, I think that would be a great first step.

MR. APPEL: I think I might add to that a few things. I think there are a lot of current requirements that are on the books that are good. And the Department has certainly been working towards improving its oversight and will continue to do so. The one thing I think it's worth keeping in mind at the same time is that there's almost 6,000 institutions of higher education that participate in the federal student aid programs, and fewer than 300 federal staff that on a day-to-day basis kind of oversee institutions, as well as other -- as well as other job duties.

But in addition to the -- and we have some of the state AGs represented here and several others have been doing a lot of important work. At a state level, the AGs have come in kind of at the back end when there are problems identified. States also have a role at the front end in terms of authorizing institutions to participate in federal student aid programs. So, to the extent that states can kind of help screen schools at the front end, that might actually help longer run, as well.

MR. SHULL: All right, our time is up, so I'd just like to take a chance to thank our panel for being here and for sharing their thoughts with us, and give them applause.

(Applause.)

MR. SHULL: So, we are going to take the lunch break now, and we will reconvene at 1:30 for the afternoon panels.

PANEL 4: OVERVIEW OF CONSUMER PROTECTION CONCERNS AND THE LEGAL LANDSCAPE

MS. BROWN: Hello, everyone. Thank you for joining us after lunch. I know that's a challenge, so we appreciate that we still have a showing. Okay, so, I'm Sandhya Brown. I'm an Assistant Director in the Division of Financial Practices here at the FTC, and I have the pleasure of moderating our fourth panel, which is going to be addressing consumer protection concerns and the legal landscape.

I think we see this as an opportunity to identify some of the specific practices that may pose a risk to consumers and to consider the legal principles that apply to lead generation activity. And as the government agency that's responsible for enforcing the FTC Act, of specific concern to us here at the FTC are the legal principles of deception and unfairness. And, so, we'll likely spend quite a bit of our time with this panel discussing those issues in particular.

Just a quick note on format. We intend this discussion to be very much a discussion, and so while I will, of course, be posing specific questions and perhaps calling on some of the panelists specifically, I've invited them to chime in at any time or if there's just such hot conversation going on and they can't get in, they're going to signal to me that they'd like to be called upon by turning their table tents on end. So, we really hope to have a very engaging discussion on these important issues.

So, we have a great group of panelists, and I would like to introduce them all to you. And, so, how we'll do that is I'll just go down the line. I'll ask each of them to introduce themselves, their organization, and give you maybe just 30 seconds or so on how their work relates to lead generation.

MR. MIERZWINSKI: Ed Mierzwinski. I'm with the U.S. Public Interest Research Group, and when I came to Washington 25 years ago, I started investigating privacy and the Fair Credit Reporting Act. I've been fighting the credit bureau wars all that time. We've made progress, but it's like -- I hope it's not the Hundred Years War, but it has been a long battle, and as part of that, I obviously morphed into big data, data brokers, and the use of lead generation. And I have a project on big data and financial opportunity.

MS. BROWN: Thanks, Ed.

Next, Jonathan Pompan.

MR. POMPAN: Thanks, Sandy. Good afternoon. My name is Jonathan Pompan, and it's my privilege and honor to represent online advertisers and lead generators and companies in the consumer financial services space. I'm at the law firm of Venable here in Washington, DC. And I just would like to just note, of course, that my comments today are purely mine and don't represent the views of my clients or of the firm Venable. Thank you.

MS. BROWN: Next we have Pam Dixon.

MS. DIXON: Hi, I'm Pam Dixon. I'm the Founder and Executive Director of the World Privacy Forum. We're a nonprofit public interest research group, and our work has focused on a lot of issues. If you scratch underneath the surface of all of them, you'll find a focus on data flows and how those data flows impact the consumer. And lead generation came up in a report we wrote approximately three years in its research called The Scoring of America.

MS. BROWN: Thank you, Pam.

Next to Pam, we have the FTC's own Michael Waller.

MR. WALLER: My name's Michael Waller, and I, a few years ago, was fortunate enough to be on a team that investigated a scam run by a series of companies. One was called Ideal Financial Solutions, and we filed a case and discovered that the scam had bought consumer information -- very sensitive consumer information and used that information to take money directly from consumer accounts.

And in that investigation, later on in the litigation that followed, we discovered some of the organizations that sold that information to Ideal Financial Solutions were lead generators or data brokers. And, so, now I've been lucky to be a part of a couple of investigations and a lawsuit that we have filed now and are litigating called FTC vs. Sitesearch that involves such a data broker.

MS. BROWN: Thanks, Michael.

And at the end of the table, we have Marty Collins from QuinStreet.

MR. COLLINS: Thanks, Sandy. Marty Collins, I'm the Senior Vice President of Corporate Development, Legal and Compliance at QuinStreet. QuinStreet is a publicly traded company that does online performance marketing, including in lending and the education space. And per my titles, in that capacity, I'm involved in both negotiating agreements with clients, with publishers, trying to make sure that there's compliance throughout our network, and having a keen understanding of the regulation that comes not only from the FTC across industry but within each of our highly regulated industry verticals.

MS. BROWN: Great, thank you. I think we can be prepared for a really discussion with all of you. So, let's begin. The first question I have is for the whole panel, and it's this. Based on your experience and what you've heard today about lead generation practices, what single consumer protection concern strikes you as the most important and deserving of our attention? I'll start with you, Ed, and anyone else can chime in, but I'll probably call on all of you.

MR. MIERZWINSKI: Well, thank you for the question, and I find the entire online ecosystem that is designed to track consumers and then to place them in boxes based on their e-score or their lead score and then to target them for products that are to the benefit primarily of the company buying the lead rather than necessarily to their own benefit, I find the entire process too opaque and too under-regulated. So, I think the entire online marketing and advertising and lead generation system is a consumer protection problem, of both deception and unfairness and maybe abuse, as well.

MR. POMPAN: Well, Ed, I think I beg to differ. I think it's -- before we go any farther, I think we need to make one thing clear, and that really is, is that lead generation, particularly for financial products and services aimed at consumer, but also other highly regulated verticals, some of which we've heard about today, some of which we have not, exist in a marketplace that is multilayered, that is, is that lead generation exists in a marketplace that has both legal and regulatory requirements that do apply and clearly apparently are enforced because the two panels this morning discussed that.

And then on top of that, you also have the layer of regulation and requirements that come through the customer, the end purchase of the lead, who in the case of a consumer financial product or service is regulated not just by the

Federal Trade Commission but also in most cases going to be the Consumer Financial Protection Bureau, state attorneys general offices, state regulatory agencies, and the list goes on.

So, I think from a consumer protection standpoint, there are robust protections in place clearly for industry, guidance and education is always appreciated. And the guidance and education that can come both from the FTC and other agencies, as well as other groups. And that guidance and education is, of course, not just for the benefit of industry but, of course -- at the end of the day for the benefit of the consumer.

And, so, from a consumer protection standpoint, the ability to have a clear set of understandings of what the expectations are for the advertising and marketing that is legitimate and without question not fraudulent, should be able to be able to move forward. Thank you.

MS. BROWN: Thanks, Jonathan. Pam, should I go down the line?

MS. DIXON: Why not? We started this way. So, thank you. The question actually -- it's a great question. Identity has always been a double-edged sword. On one hand, we need a lot of pieces of information to confirm identify and authenticity and to prevent fraud. On the other hand, those same data bits can create privacy issues when unconstrained or used out of context.

So, it strikes me that if you look across the verticals, and a vertical that was not discussed here but that is very important in lead generation, is health. And that is a profoundly troubling vertical with a lot of unfairness and deception issues, all sorts of issues. But each vertical has a slightly different flavor, but what they have in common is what I call the fraud loophole issue.

So, there is absolutely no chance that educational verticals and financial verticals will not require, for example, a zip code or gender or marital status and other bits of data. So, I believe that the challenge before us how do we -- how do we address the fraud issues and the authentication and identification issues while at the same time protecting an individual's privacy and ensure that that information is used in a compliant way and in a way that does not, you know, have downstream use that harms the consumer.

I believe that each vertical may have a different response to that question, and that's fine, because this area is quite complex. So, there's not necessarily going to be one solution, but it would be a great problem to target.

MR. WALLER: Obviously, my exposure to this is much narrower than the other folks on the panel, so I can only talk about what I've had experience with in the last few years. I first also want to add that obviously my views are just my own; I can't speak for the Commission or any other FTC staff.

But what I'll say is there's an issue that concerns me greatly, and that is still down to sort of two larger concepts: the availability and the longevity of the data. So, what happens -- and I'll give you an example what we have seen in talking to folks in the industry and doing interviews, and in our cases is that in some shops you'll have consumers that through the processes that we heard about earlier today will apply online with a variety of different publishers or different sources online, but a very small percentage of those folks are actually qualified for a loan.

And, so, the vast majority -- 95 percent of those applications, which means 95 percent of the folks, those Social Security numbers and bank account numbers, fall to the cutting room floor and are referred to in the industry as remnants. So, from the consumer's perspective and maybe my perspective, you would think, well, that data is useless; it would just go away or be deleted or something like that.

But, of course, that's not the case. Data brokers, publishers, folks who have this information -- and a lot of people have access to this information along the chain because it's shared freely, even if it isn't purchased -- they have -- there's a lot of pressure on them to use, to monetize what they consider an asset, which is just a big pile of data, a big pile of data points.

And, so, that information is sold and resold, and essentially what's created is over a period of time the consumers just become suckers. It's just a sucker list. And people buy that information for all different kinds of reasons. And our situation was most concerning, at the FTC; what we've seen, is that fraudsters buy this data. It's easy to access, easy to buy, easy to find, and they use it sometimes for really shocking outright fraud and theft. And sometimes it's a little more subtle than that, but I think that's the thing that most concerns me.

MR. COLLINS: Thanks, Michael. Michael and I were talking on the -- in the green room, which is not that grand, don't get the wrong idea, on the way in, though, the -- so, part of my job is to make sure that I'm not buying data from the fraudsters, because that's the commitment that I've made to my clients, which is kind of a minimum condition for doing business.

And, so, the way we think about it is that we have a responsibility for context. We have a responsibility for the context in which data is acquired. We always have the responsibility to delivery data securely. And we have the responsibility for knowing how that data is used. You can't go online and become my client. Whatever vertical you're in, you have to be licensed; you have to prove that you're licensed; you have to prove that you're licensed in the appropriate states, something that came up earlier.

So, we feel, at least in our part of the business, that we have a responsibility to know the sources, to know the clients, to provide transparency to the sources. Jonathan would tell you that that's hard. We agree. We think it takes technology; it takes scale. The PerformLine and LeadiD and other people that you saw earlier today, their outbox to the client, issues that they see in the network, that's my inbox in compliance.

So, I have to scour my network every day to keep people that are not being transparent, they might not be varsity fraudsters that Michael sees, but I have to keep borderline misleading people out of my network every day because that's a fundamental commitment that we make, and we're a public company, so we're easy to find if we don't deliver on that commitment.

MS. BROWN: Thank you to everyone. I'd like to open it up for anyone to react to what they've heard from one another, but I'd also like to throw out a couple issues that have come up throughout the day to get our reaction to whether or not these things might also be concerning, because other panelists seem to raise them in a way that struck me as a potential concern.

So, on the lending panel, an issue that came up was the collection by lead generators of information that's really sensitive, that may be used by the lender that ultimately purchases the lead -- the Social Security number, the bank account information -- but it's unclear whether or not the lead generators need to collect that information or possess that information, be able to resell it. Is that a concern? Does anyone here want to react to that issue that was raised?

MS. DIXON: So, that is a concern. As I mentioned on that panel, I'll reiterate, I do think we're training consumers inappropriately to give up a lot of information to nonprimary sources. And that's a larger problem, and I think we can address that by installing some procedural steps that would, you know, perhaps add a step or two, and I think there are some other procedural protections that could be installed there that would not be onerous and yet would be highly protective. So, that seems like a really good potential area for exploration and further work.

MS. BROWN: Anyone else on that issue?

MR. MIERZWINSKI: Well, I would simply agree with Pam. I think that ubiquity of PII on the internet and that is shared and sold through a web and network of companies and maintained for a very long time also raises the threat of more data breaches. I mean, we're fixing the credit card data breach problem by putting chips on credit cards, but we don't have a chip that protects our Social Security number anywhere. And once it's out there, you can use it as a really quick link for data append. And what people -- consumers might opt into the collection of data if they're even asked, but they're usually not really asked. They want a loan today, so they're going to fill out the form. They don't realize that the company is collecting ten pieces of information about them and using it to aggregate another 100 pieces that they'll keep forever and that they'll sell and resell, including, as Michael said, even to bad guys.

MS. BROWN: Thanks, Ed. I'm going to raise another issue, unless anyone wants to chime in on that one. I thought it was interesting on the very first panel, I think it was our first speaker, who described leads as consumers raising their hand. And, so, the question I have for you guys is whether or not there is a concern about whether consumers are, in fact, raising their hand for their information to be used in all the ways in which it is actually used. Michael.

MR. WALLER: So, I'll say that, you know, in my limited experience, I've talked to consumers and seen consumers who certainly didn't raise their hand for what ended up happening to them. And I'm not trying to be, you know, sort of cute about that. They obviously didn't raise their hand to be defrauded, but they also didn't raise their hand to have their information shared with text messagers, email marketers, for products completely unrelated to the payday loans that they applied for.

Now, I've been to some payday loan websites and seen the disclosure statements on the websites, and they are breathtakingly -- I don't know what the right word is, but they do say we're going to sell your information to basically anybody who we want to. But even so, I find it hard to believe -- in fact, it's I think virtually impossible for any of those consumers to have fully anticipated what they might be raising their hand for.

So, I don't think that is what -- I certainly don't think of a lead that way. I'll just put it that way, which I think begs a question, which is what happens to this data or what should happen to this data. If it's just being collected and hanging out and it's just sitting in servers waiting for people to repackage it and sell it, it is, in my mind, extremely dangerous.

And this is highly sensitive information that can do a lot of harm. And, so, I haven't heard today someone say, well, this is -- you should just delete the stuff, you know, after you see it. I'll give you a brief example. I have -- and we talked earlier about ping trees here, and I've talked to some people in the industry who've described the ping trees to me and said, oh, well, you know, as we're showing this data to a potential buyer, we show them the complete data so the potential buyer sees the Social Security number, sees the bank account number, sees all of that.

And they choose not to buy it, perhaps, but this isn't like -- you know, I imagine someone showing me a sheet of paper and me saying, no, no, no, I won't take that. But, no, they transfer the data over to the potential buyer, who -- and we know this because we saw this in some of the investigations -- that some of those buyers keep that data. So, now the data has been -- it's kept. It hasn't been purchased, and maybe the person who has it and that extra person, the potential buyer, doesn't use it. Maybe they just keep it for their own purposes. But, nonetheless, it's been copied and spread. And, so, the data is in more hands.

And I'm curious to know if anybody in the industry can tell me if they're -- what the best practices are for that data; is it just hung onto or is it just a promise not to use, but then there's the danger that at some point in time the business model will change; the business will be in trouble and need to monetize that asset. So, that's a question I have.

MS. BROWN: Michael, it's a nice segue. It allows people to stick around for Panel 5, which is going to be talking about best practices. I'm sorry, it looks like a few people want to chime in. Marty, I'll start with you, and then Pam.

MR. COLLINS: Yeah, I mean, I can't speak to the industry practices all the way down the food chain, including, you know, people that are less transparent, but from where we sit, I would agree -- I definitely agree with Pam and Ed and others that financial information, that Social Security number that unlocks the credit report, exposing that data, and really, I think Pam's direction is let's really reduce the amount of time that's generated by using context, and then I think Michael's point is what are the responsibilities of the people that get that data.

I mean, that part of the data stream is downstream from us. We're generally at the phone book, the white pages level of data. There's a lot of intentionality in that data. There's a lot of intentionality in click streams, and the business that we're in is indicating quality is intent, is one of the signals that we're looking.

So, the answer to your question, in our part of the industry, we don't have that much data; we get rid of it as quickly as possible. I think McConville pointed out earlier today it ages out. Leads become old. Remnants are not part of our business, but we get rid of it unless the federal or state government says we're supposed to hang onto it. But I think perhaps in the financial sector and certainly with fraud, they're not really operating under those strictures.

MS. BROWN: I think Pam wanted to make a point, and then I might have us move on to our next question.

MS. DIXON: Just a really quick point. One of the really strange factors in this area is the newly available amount of data from a variety of mortgage applications and whatnot. It's not immediately identifiable but it doesn't take much to identify that data and add it to other consumer data.

So, I do think that this is a -- this is a regulatory gap that does need to be addressed in terms of what do you do with data that you have on hand and that you have gotten. And this will not be transparent to consumers. It doesn't matter how wonderful the privacy policy is; there's just no way they could read this into the situation.

And this goes back to the original question, you know, has a consumer raised their hand for this. And the answer is no, so what do we do. And I don't think it's -- transparency is great, but it won't fix this problem. We're going to need some protections, very specific to this problem.

MS. BROWN: Thank you. Okay, so I think it makes sense now, having heard so much from you guys about concerns and having heard them throughout the day, for us to shift now to talking a little bit about the legal frameworks that might address some of these concerns.

I foreshadow that we might be spending a fair amount of our time on concepts of unfairness and deception, but before we get there, I would like to hear from a few of you just briefly about what other types of laws and regulations apply to lead generation practices that industry members should be aware of.

Marty, perhaps I'll start with you as leading a group that actually deals in multiple verticals and probably has to engage with a lot of different laws and regulations.

MR. COLLINS: Yeah, I mean, pick a vertical, pick a geo, pick a subcategory. There's multiple layers of regulation that we're responsible for. You know, again, context not being misleading, but the federal and state regulation of mortgage, the state-by-state regulation in insurance, and then subcategories of our society that we owe a higher duty to service members. You know, pick a vertical, pick a geo, and I've got a matrix and I probably have an outside counsel that's reminding me of what our responsibilities are.

MS. BROWN: Ed, do you have more to add on that?

MR. MIERZWINSKI: Well, I mean, I could talk for the entire time, but I'll try to be brief, on some of the things. But take for example payday loan lead generation, which was talked about a lot earlier today. I believe that if I logged on to my computer today in Washington, DC, where payday loans are illegal, I would be led to a number of payday lending lead generation sites.

So, are they legal? Will they actually offer me a loan? I haven't tested it that far, but I bet some of them would. My biggest concern has historically been if you have had the unfortunate task of reading some of my long papers, has been the concern that we used to have the Fair Credit Reporting Act, and almost every transaction involved the decision that involved the credit relationship between the lender and the consumer.

Now, before we get to a lending transaction, we've got this marketing transaction where the consumers are boxed into different lead categories. And, so, my biggest concern is that we're losing the protection of the Fair Credit Reporting Act when we're making all of these decisions and creating all of these scores for marketing purposes before we even get to the lender. So, the lender is getting essentially a set of people that he should or she should be able to have to comply with the Fair Credit Reporting Act, but they may be getting around it. They may be using proxies to avoid the Equal Credit Opportunity Act.

So, I think both of those laws are laws that I would like looked at more closely in this context.

MS. BROWN: Appreciate that. I'd like to now turn us to the concepts of unfairness and deception, and to perhaps give us some context, I'm going to ask Michael specifically to just briefly describe how the FTC has applied those principles to the lead generation context to date.

MR. WALLER: Sure. I'll give you, again, sort of a very high level, but the FTC Act, you know, prohibits unfair deceptive trade practices. And both the concept of unfairness and deception have played a role in the lead generation area in terms of our interpreting its behavior -- the behaviors in that area.

But quickly, deception is an act, omission, practice, something that's likely to mislead a consumer who's acting reasonably under the circumstances. So, it's from the perspective of that reasonable consumer, and it's from the perspective, if that reasonable consumer is part of a targeted group, of a reasonable consumer in that targeted group. That's important to understand because if you're targeting as a marketer certain groups like the terminally ill or something like that, then you'll need to, you know, think about what a reasonable consumer in that group, how they would be interpreting a statement. And, then, of course, it needs to be material.

And unfairness, it's any act or practice that causes or is likely to cause substantial consumer injury, which a consumer could not reasonably avoid and that is not weighed by countervailing benefits to consumers or competition. We've applied both those concepts in a variety of different contexts. I'll just go through a couple different sort of frameworks or fact patterns.

We had a case against a service provider, this is FTC v. LeadClick and LeanSpa, the LeanSpa litigation. And what was happening is a service provider was providing a platform and a network for marketers to put content, but helped develop some of that content; purchased ads for -- they were weight loss products and that sort of thing. So, there was liability there. There were deceptive claims made by the marketer, the person developing the content, but the network provider was liable. That was under a deception theory.

We've also gone after publishers directly, you know, and there's one case, the GoLoansOnline.com, and in that case there was a -- operating a mortgage website, which was to link consumers with lenders, but the website itself made all kinds of claims about interest rates and that sort of thing that violated a number of laws. We also brought an FTC Act deception count in that case.

And, also, and against a lead generator, the lead generator didn't tell the truth about where the offer came from, so the lead generator -- this is the FTC vs. Mallett, and the lead generator said that the Federal Government was making claims about relief that could be granted to people, and that, of course, wasn't true. And, so, the case there was a deception case, but the lead generator was making a claim about where the claim itself came from.

In the unfairness context, we've also brought a number of cases. Often, they have to do with the use or sale of the -- so the use of the information and more specifically sometimes the sale of the information. So, for example, there was the FTC vs. Accusearch, and this was a -- Accusearch provided a platform for consumers to come and purchase phone records that could only be obtained, you know, via some violation of the Telecommunications Act. Accusearch itself didn't necessarily perform illegal activities, but it took the consumer request and found an investigator, effectively, who would do the dirty work, and then posted that information for the buyer of the information on the website. And we brought an unfairness case, and there was liability there.

In another unfair use case, it was a recent case, FTC vs. Cornerstone and the Bayview case, in which the debt -- these are debt brokers. They used consumer -- sensitive consumer information for marketing purposes, effectively posting large quantities of SPII, consumer account numbers and other sensitive information, to show the kind of information they had for sale. And, by the way, that information was up on line for anyone and everyone to see, unprotected.

And then there are the cases that I have personal experience with. So, for example, the LeapLab case, and this is a case where there was a data broker who did some of their own lead generation, and we alleged that they bought payday loans -- full-form payday loans from many, many different sources and then sold that information to known fraudsters, to a non-lender who had no legitimate need for the data and who, in fact, used the data to steal from consumers.

MS. BROWN: Thanks, Michael. I'm being given the 30-minute warning, and I think this is a good opportunity to remind everyone that if you have any questions to please write them on your cards and they'll be collected and hopefully we'll have some time at the end to bring some of those into the mix.

Okay, so, now I'd like to ground -- now we've had that sort of nice framing from Michael -- ground some of the concerns we've heard about lead generation practices into how they intersect with these legal principles. So, we've heard a lot about the nontransparency of lead generation. And, so, my first question for the group is a fairly fundamental one. I'd like to hear from you whether or not you think it's deceptive to collect information from consumers without disclosing all the ways in which that information might be used and without disclosing that it may be sold to multiple parties. Could that be deception?

MR. MIERZWINSKI: Well, I'd say yes, and I think it's very, very clear that the entire lead generation and the broader ecosystem that it's part of rely on the fact that the consumer doesn't really know what he or she -- what the rabbit hole is that they're falling into, because they're really falling into a rabbit hole with a lot of mirrors and a lot of tricks.

And it's not just the information that they're collecting about you. You might think, oh, this is okay; I'm only giving a little bit of information so they can make a quote to me. But they are data appending everything else they can find out about from you, from every other website. And they're not being clear that they're doing any of this.

And, so, I'll just take this opportunity to give a commercial for the FTC. I think that their cases that they've brought that Michael has described a few of the most important ones, but over the years to develop a law of privacy, have been very important using only their Section 5 authority. They've done some tremendous work.

MS. BROWN: Does anyone else want to speak to that? Jonathan?

MR. POMPAN: Sandy, I think there's a tendency here to paint everything with a very broad brush, and I think we should take a step back. You know, ultimately from the consumer perspective, lead generation is about connecting the consumer to a product or service -- or produce and services.

And, you know, we've talked a lot about context today that's come up a couple times on this panel and some others. And I think context is really going to be important here. You know, the consumer's reasonable expectation regarding the process that they're going to go through or the process that's going to be used is going to be important and taken into -- it has to be taken into account what they're seeing, what the overall net impression of the website or the ad or the telephone call, whatever it might be, has to be taken into consideration.

And I think we're sort of -- there's a tendency to categorically assume that everything has data appended to it, that it's all one sort of common format, and in some cases I think alleged lack of disclosure. But the reality is is that there's a lot of websites out there that have disclosure; they have context; and, you know, that the consumer will reasonably expect to be connected to products or services and they're reasonably connected to products and services, that they're looking for and that they've been searching for.

And, ultimately, if that's working and that's their expectation, there's a lot of guidance out there that suggests that that's a completely reasonable and appropriate level of disclosure, what the consumer's expectation is. And one only has to go back -- there's a commission staff letter back in 2006 about the reasonable expectation of the consumer in the telemarketing context. There's many other situations like that, too.

And I think even some of the cases that are out there that Michael discussed, you know, in that situation, I think the issues were the reasonable expectation of the consumer may have been something else than what actually happened, but one has to take that into account.

MS. BROWN: Pam.

MS. DIXON: So, some very interesting -- first off, we have to remember that the ecosystem, the entire ball of wax that we're talking about, is tremendously complex. But I do think that the general principle here is that after an initial unfairness, as that initial unfairness or initial deception percolates through all of the layers, it just gets worse. And, so, pinpointing where that initial deception or unfairness happens is important.

So, ways of getting that done include what the consumer knows when they're going in and how they know it. Privacy policies are incredibly important, but they are not sufficient for this purpose in the really rapid online marketplace. If someone's at a payday loan site, or if someone's at an educational, you know, "fund your education" site and they see that and they've been drawn in, there's just no way that a consumer that's in impulsivity mode is going to stop and read 7,000 words of detailed privacy policy.

So, how do we remedy that? There are any number of things that we could potentially do to remedy that. It could be a short form notice; it could be a "just in time" notice. If this is being done on a mobile application or a mobile phone, what could be done there? So, I do think there are remedies that need to be explored, and I'd love to see further work in that area.

But in general, I think if we can focus our efforts on identifying when the unfairness was introduced into the system, I think it would be very helpful and to have robust yet specific guidelines as to when that's happened.

MS. BROWN: Does anyone else want to speak to this one? Marty.

MR. COLLINS: Yeah, I'll try. I learned a lot before I took this job from reading Ed's work, and I commend all of you to take a look at it. It's not a polemic; it's well thought through. One of the points I disagree with him on, though, is that I don't think the average user cares whether Google or Bing is powering Yahoo's search this week. I don't think they care. And I think it's okay that they don't care as long as what -- whoever's powering it, whatever data they're gathering, it's clear how it's being used.

And I think one of the functions that the FTC serves, including in the scrutiny of apps and otherwise, is sometimes people will -- even big people will change their privacy policies or terms of use, and people like Ed and others and Pam will identify it and take up the cause and maybe nip a bad approach in the bud.

But I don't -- lead generation is -- it's a matching engine. And I don't think people care that much whose code runs the matching engine. I think they care deeply about whether that matching engine can be trusted and what commitments that matching engine says it's going to do with respect to data and then actually what happens with that data.

MS. BROWN: So, I'd like to press people a little more specifically on this question of deception. There's perhaps a little bit of disagreement about whether or not in the abstract lead generation is a deceptive exercise. You know, when we analyze deception, the first question for us is is there something that's being misrepresented to consumers. So, as a first question when we're analyzing deception, where is the misrepresentation?

MS. DIXON: I think it varies depending on the vertical you're looking at, I really do. I think it's really difficult to paint it, you know, uniformly. But that being said, I think, in general, if you are using consumer data in a way -- if you're applying, for example, in the financial vertical and all of a sudden your data is being used to market you something that had nothing to do with what you applied for, I think that we can call foul on that pretty easily. And I think that holds true if there is not a -- if the data is being applied unreasonably, that's a foul.

MS. BROWN: Does anyone else have thoughts on that?

MR. COLLINS: I mean, I would agree. I would tell you that in my experience looking into data, it's actually -- I mean, that's not something that we do, but it's actually not that valuable because data only exists in context. I mean, you could photocopy the white pages and then ship it to my clients. That wouldn't make it a lead. It would have a lot of PII, but it wouldn't have any value.

And, so, gathering information in one context, in the context of getting an education, in the context of taking out a mortgage, and then attempting to resell that data to any kind of intelligent client that's going to be around, it actually doesn't have that much value. You have to know the context in which it was gathered. You have to know the context in which it was gathered, not for compliance purposes, but for math purposes, for pricing purposes.

And, so, legitimate gatherers of information, frankly, are not gathering information, A, and selling it, B, because it doesn't have value in B because it's out of context.

MR. WALLER: I want to say something. I'm not going to talk about whether or not I think something would be deceptive or not. We have to obviously look at the particular fact pattern, but, you know, this idea that -- I'm going to disagree a little bit with Marty -- that information doesn't always necessarily need context. There are types of information and groupings of information that in and of themselves can be used in a variety of contexts in dangerous ways.

MR. COLLINS: Financial, Social Security, absolutely.

MR. WALLER: And that's what we see, financial fraud. And I -- we're talking a lot about what responsible players in the industry should or shouldn't be doing, but the fact of the matter is what we see, too, is that there are windows through which the irresponsible and fraudsters can climb to get this information, and it doesn't matter where the information came from to them.

So, that also sort of indirectly links to this idea of disclosure. I wonder, you know, how you would disclose to someone effectively what the dangers were. And I'm reminded of we have some guidance on disclosures in the mobile area -- that's our dot-com disclosure guide, which has been updated not that long ago for mobile -- giving guidance about advertising in the mobile space, but, you know, there is a point made in there that said, you know, when you have a disclosure but in the disclosure the ideas in the disclosure are very different from, you know, the language in the ad itself. So, if, in other words, if I go to a payday loan website and I click on a disclosure, a privacy disclosure or information use disclosure, and it says some things about sharing with affiliates, you know, the context can inform how I interpret that. This is just me speaking, by the way. But it's going to inform how I interpret that disclosure.

So, I don't know what you've have to do to get -- to break the frame that people have in those quick interactions to make them realize that no, by selling it to other people, I mean literally everybody, anybody that will pay me for it, anybody for whatever use they want. And, so, I -- again, I question the panel, sort of what would that look like, how would you effectively do that, especially in the fast-flowing environment that this is.

MS. DIXON: Right.

MS. BROWN: And I would like to introduce the notion of mobile technology to the extent a lot of lead generation is occurring on mobile devices, i.e., limited screen real estate. You know, I think it was raised on an earlier panel, are disclosures effective? Do they cure deception such that, as Jonathan was saying, consumers have a specific expectation about what's happening to their information.

MS. DIXON: I don't think that -- we can't lay all of this on disclosure. We can't. Disclosure is really important, but we cannot expect a consumer to make all of these choices correctly every single time without sounding like, you know, Nanny state. We do have to anticipate where this fails and figure out where the great harms are.

And this is not a black-and-white situation. There's a lot of gray here. There should be a continuum of responses, not just one or two. And it's always easy on a panel to say, yes, we need to do this, but the truth is is when the rubber meets the road, there's a lot of different situations. So, we're going to have to find a way that provides adequate notice but at the same time protects the use of that information and penalizes bad actors when they take in information and use it in unexpected an unwanted ways.

MS. BROWN: Yes, Ed.

MR. MIERZWINSKI: Just a couple of quick points. My friends at Epic used to have a button. I don't know if they still have it. Epic.org, the privacy group, and the button said, "notice is not enough." And that's -- they had that button 20 years ago. I think it's even worse on a phone. It's just -- there's not enough real estate. You're exactly right. And the disclosures are happening in realtime.

But the other quick point I'll make about mobile, I think that the switch to the mobile marketplace, I hate to say that, but the mobile world, I'll say, because I don't want consumers to just be buyers; I want them to be citizens and everything else that they can be. But the use of mobile ads locational information, which I think is a quantum leap above the other information that companies have already been collecting, and we're still not sure how much of a -- anyway, more work needs to be done to study by layering locational information on top of all the other information that's being collected and used, not only by lead generators but by publishers and apps and everybody else. When is the consumer's interest being protected? I just think mobile is a whole 'nother problem.

MS. BROWN: Anyone else want to speak to that?

Okay, I'm going to use that opportunity to move on to make sure we have a broad coverage of topics. I'd like to talk a little bit now about unfairness specifically. I want to make sure we get that in because it's an area in which the FTC has been somewhat active recently.

So, the question I have for the panel is under what circumstances should lead generators and sellers be liable for the practices of their buyers and their potential misuse of consumer data? That is something that the FTC in very specific context has alleged is unfair in the past. Does that unfairness extend in other ways? Perhaps I will turn it to Pam to start.

MS. DIXON: Oh, I have something else on my mind, so do you mind --

MS. BROWN: Sure.

MS. DIXON: Okay.

MS. BROWN: I'll let you say what's on your mind.

MS. DIXON: I still really have a problem with how some sensitive pieces of information are used to make decisions about consumers that if they were in other circumstances would be regulated, but in the lead generation space they are not. They, nevertheless, still have the very, very close impact of having a deleterious profiling effect on consumers in some cases. This is not across the board, but it is too pervasive to ignore.

So, I'm really concerned about that. It is a gap in all of the regulation. So, if you have an unregulated situation and there is a fundamental unfairness there, there has to be something done about it. Right now, if there's a consumer who lives in the wrong zip code and combines that with the wrong gender or, you know, national origin, how do we police or should we police the opportunities that consumer sees? That's a very, very sticky, tough question.

I don't have the answers, other than to say that we have to take a long, hard look at that. We have to have a much more meaningful and serious and consequential public dialogue about that and come to some conclusions. While the existing laws leave that gap, I don't know that it should be left. I do think we need to address it. It's a fundamental unfairness.

MS. BROWN: Marty?

MR. COLLINS: Maybe I can just touch on yours and Pam's at the same time. Again, we have multiple verticals and multiple rays of regulations, so social media marketing and search marketing give you an ethnicity knob. They give you a gender knob. You can turn that knob if you're selling shoes. You cannot turn that knob if you're selling loans, or at least not mortgages.

So, I think the thing to remember is that -- so, unfairness, hallmark, FTC, got it. And people not seeing ads that maybe they would otherwise see, got it. But in the regulated spaces, it's -- I would submit to you that it's clear to regulated clients what knobs they can and can't turn. And that's going to vary by industry, and, again, it's going to vary by geography.

MS. DIXON: I don't think that those knobs are always being turned.

MR. COLLINS: Good. Well, in many cases, it's illegal to turn them.

MS. BROWN: And do we think consumers are aware that knobs can be turned?

MS. DIXON: I don't know about that. I think lead generators are in a space apart. I mean, they -- if you are just seeing an ad for a product, you are not applying for a firm offer of credit or for a home loan. And, so, ergo, I mean, the regulation does not apply the same way. So, I do think that there is a very subtle but important gap there.

MR. COLLINS: Well, I would just tell you, having highly regulated lending clients and running campaigns for them, including click campaigns, there's no confusion about which knobs you can and can't turn. You can't cleanse a violation by giving it to an agent. The law doesn't work like that. And commerce definitely doesn't work like that. You have to remember, in the regulated space, these laws are great and overlapping and we're happy to comply with them, but there's also this thing called headline risk.

And whether or not it complies with the law, if it's even close to the edge and you're in these regulated spaces or spaces that have, you know, well, people that publish and are not huge fans of the space, if you're -- you know, I think Jon made that point earlier. If you get close to some line that's going to cause a headline, you're not going to touch that knob. And you can't ask me or anybody else to touch it for you.

MS. BROWN: I'm curious to hear from the panel about whether or not they think there should be responsibility on a buyer's part for vetting what's being said upstream that was used to bring leads into them, as well as vetting on the part of sellers as to what's going on downstream with the leads that they're selling. I'd like Jonathan to start.

MR. POMPAN: Sandy, I mean, I can touch this. You know, from the standpoint of wearing a compliance hat, you know, we regularly are working with folks that are trying to structure compliance programs because they're going to be purchasing, working with advertisers that have lead generation flow and have, therefore, a need to impose their service-level requirements downstream.

And I'm sure that, you know, there's no secret, there's a big push amongst many government agencies, in Washington and elsewhere, to encourage buyers to have very strong vendor management programs. And those vendor management programs are up and running at very large lenders and in other verticals, where the reality is is that if you're in the space doing the advertising work on the advertising side, you may be visited, you may be audited, monitored, not just by these software services, but by the actual companies themselves that are purchasing.

And, so, there is a big effort in that regard, and it's happening at a company level; it's also happening by government agencies such as, for instance, the Consumer Financial Protection Bureau when they do examinations; the second module in their exam manuals oftentimes is advertising and lead generation. So, it is happening at a very high level and very robust level of security and particularly in the consumer financial services space, but also in other spaces.

MR. MIERZWINSKI: I would say on that one Jonathan and I actually agree, and I think that the liability has to go both ways. I think that companies that are selling information need to audit the companies that are buying information. There needs to be strong supply chain management. The ultimate seller to a consumer needs to know that he's not buying toxic toys from China, which is another issue my organization works on. And the same thing in all of these verticals, as well.

MR. POMPAN: And I just agree. And that's our existence already today. I mean, whether that exists as a matter of law -- we talked a little bit about it. It's not something you can disclaim as a matter of contract. You've got -- you have responsibility when you gather information, and you've got responsibility of who you hand it off to.

That's just the way it works.

MS. BROWN: That sort of segues -- and I'm going to ask a question, and, Michael, you can just ignore the question and say whatever you were going to say or answer my question.

The question I would like to ask is whether or not our panelists think a company can contract around liability. So, for example, I'm a lead purchaser; is it sufficient for me to put into a contract with whatever entity I'm buying leads from to say, well, you're not allowed to use deception or misrepresentations when you get these leads? And, so, once that's in the contract, I don't have to worry about whether or not there was actual deception or misrepresentations that occurred.

MR. COLLINS: Are you regulated? Like, do you have a website? I mean, just -- you could write that. I mean, I think Nathan referred to earlier these clients that are out-negotiated by the intermediaries. But, I mean, the reality is you have that liability. You can attempt to disclaim it, but if your brand -- you know, something that David was talking about earlier -- if your brand is affiliated with, not part of the stream, but adjacent to a stream of bad activity, that has consequences. That has consequences to your market cap. That's not $1,000 a phone call.

So, I think you have that. You can put things in the contracts, but when the regulators come to the GC's office, you can't pull out the contracts and say I disclaimed responsibility. That works for search engines, but it doesn't really work in our part of the market.

MS. BROWN: Does anyone else have thoughts on that?

MR. MIERZWINSKI: Disclaimers are not enough either.

MR. POMPAN: I'd just note that there's a big difference between contractual negotiations about contractual liability between private parties and liability with respect to government and laws and regulations. So, there's a high degree of difference. Oftentimes, the two don't meet. Contracts are negotiated by procurement offices looking to insulate companies from indemnity and reps and warranty risk, and government risk is compliance.

MS. BROWN: Michael, I want to return to you. I know you had a comment.

MR. WALLER: Well, I wanted to -- this is related to that, of course, but talk about the responsibility for vetting. It's just my view, but, yeah, I think that you are responsible for vetting your buyers and also the people you're buying from because often there's a lot of -- we've seen very sloppy or no vetting. There's often a lot of information that's easily available, inexpensive to do some basic vetting.

And, again, the trouble here is that the data is so potentially toxic and dangerous. So much can be done with it. So, we're talking a lot about sort of the -- what folks are calling the regulator, the responsible parties, but, you know, there's a lot of danger with the irresponsible ones, and they're getting that information from somewhere, and it's not a secret, you know, secret network of evildoers. The information is coming from all kinds of different sources and getting to them. And, so, responsible players are likely in the chain.

And here's why I'll say that that's probably true, because as we heard before, the publishers, there are thousands and thousands and thousands of publishers who are sending their data up the chain. It's going through many data brokers. Data brokers sell to each other and back and forth. So, when a buyer gets that remnant lead, for example, they likely have no idea where it came from. In fact, it will be impossible for them to ever find out where it came from.

So, this idea of vetting is just the tip of the iceberg in terms of, you know, providing some protection for the consumers, because, also as a related topic we talked about earlier, is once you've got the data you're going to want to do something with it. And I don't know how we address that. I mean, people might suggest things like taxing data so that there's a disincentive to hold onto it, some kind of elaborate tracking mechanism like they use with, you know, certain chemicals and pharmaceuticals, but the idea is that there is this pressure that the business is feeling to do something to monetize that data, and that's a big problem in my view.

MS. DIXON: I really agree with that. And I just -- despite regulation, not all companies are acting correctly. And a lot of times it's the companies who are, you know, smaller, don't have good legal representation, and they're doing all sorts of wild west things with the data, and they may not be correctly turning the knobs, as it were.

MS. BROWN: So, I'm going to -- I know we haven't left a ton of time for it. We have a few minutes, and so I'm going to pick a question that I hope will give everyone an opportunity to kind of take their angle at it. So, we've heard both on this panel and other panels that everyone is sort of yearning for guidance. Guidance, how do we do it right, guidance? So, what kind of -- you know, I know I think an earlier panel asked the question of what kind of law or regulation, I think that gives people some nervousness sometimes, but what kind of guidance and in what areas, on what specific types of practices would you think it would be helpful to provide guidance?

MR. MIERZWINSKI: Well, I know we're running out of time, so I'll be very brief, but I also want to plug in an ad. I appreciate Marty's comments on my work. I've got a couple of copies of one of my reports here if anybody wants them, but I wanted to, especially for our viewing audience, encourage people to read books by Frank Pasquale, The Black Box Society, and Joe Turow, T U R O W, The Daily You, which are books that talk about the real impact of these practices on consumers.

But the short answer now to the question is the Fair Credit Reporting Act is based on the fair information practices. A similar law should be extended to data brokers and lead generators and the rest of the internet.

MS. BROWN: Thanks. Pam, Jonathan, do you have --

MR. POMPAN: I think what's important is to take into account the vertical-specific regulation that already exists and the self-regulatory programs that exist in best practices guidelines that trade associations have in all of these different verticals. You know, there's a very big difference between home services and mortgage lending. And the mortgage lending space is extremely regulated from both the federal government, state, local, et cetera.

You have situations there that are unique to that space, and there's unique business practices. You also heard today about practices in the education space, which, again, are very different than the lending space. So, I think ultimately the type of education and work that the Commission can do is to collect all of that information and understand it on a vertical-specific basis, rather than do the broad-brush-stroke approach.

MS. BROWN: Thanks, Jonathan. Pam?

MS. DIXON: I do agree with that. I would also say the work that we did in the Scoring of America report is really important to consider because there's a lot of data flow that gets combined and is used to create scores about consumers that puts them into boxes, that puts them into a lead generation space that just simply may limit their possibilities in life, not always, but certainly some of the time. So, I would encourage work in that area. And, again, on the fraud area, I think it's very important.

MS. BROWN: Thanks, Pam. Michael and Marty?

MR. WALLER: You go ahead, Marty. We're out of time, so you can --

MR. COLLINS: I mean, as industry involved, and we think the FTC's been clear, we'll continue to help people comply.

MR. WALLER: And, I mean, obviously, just as an individual, like a lawyer working on these things, guidance is always helpful. It's a good place to start. And there's certainly -- the more information, the more that we talk about it, I think the more -- it's possible that a consensus might emerge on how we might -- we might-- the kind of guidance we might offer.

MS. BROWN: Thank you. I think that was a very fitting closing to our panel. I really appreciate everyone's time, and I will now call on our final group of panelists in the Looking Ahead Panel, Panel Number 5, to come up here and join us.

(Applause.)

PANEL 5: LOOKING AHEAD -- PROTECTING AND EDUCATING CONSUMERS

MS. MITHAL: Good afternoon and welcome to the last panel of the day: Looking Ahead -- Protecting and Educating Consumers. I'm Malini Mithal, an Associate Director with the Division of Financial Practices at the Federal Trade Commission. And this is Patrick Eagan-Van Meter. He's a Financial Technology Program Specialist, also in the Division of Financial Practices.

Before Patrick introduces everyone else, I just wanted to tell you briefly what our panel is about. This panel will focus on the steps both industry members and regulators can take to better protect consumers and information strategies for improving consumer understanding of lead generation and avoiding problematic practices.

So, with that, I will turn it over to Patrick.

MR. EAGAN-VAN METER: Thank you. And we have a few more -- you know, this is a bigger, fuller table than we've had so far today, but we're going to try and make sure to call on everybody so that everybody has their time. But we're going to start with Joseph Chambers. If you could just introduce yourself briefly.

MR. CHAMBERS: Joseph Chambers. I'm an Assistant Attorney General with the Connecticut Office of the Attorney General. I represent Attorney General George Jepsen on multistate investigations, including I worked on the national mortgage settlement and am working on the subsequent mortgage servicing settlements. I worked on a recent credit card collection settlement; I worked on debt buyer investigations; cases dealing with various scams related to debt relief; and now I'm working on an ongoing multistate investigation of for-profit schools.

MR. EAGAN-VAN METER: Thank you. And Kim Taylor.

MS. TAYLOR: My name is Kim Taylor. I'm the CEO of Ranku. We're a technology startup in Seattle backed by Microsoft and Mark Cuban, and we help traditional nonprofit universities enroll more online degree students. So, we help them run their dot-edu and become more efficient. Before that, my background was in higher ed lead generation, so I worked on hundreds of schools, big for-profits, small schools just going online, and then all the major lead aggregators.

MR. EAGAN-VAN METER: Thank you. David Morgan?

MR. MORGAN: David Morgan. I'm the Chief Revenue Officer for PerformLine. We're a cloud-based marketing compliance monitoring, discovery, reporting and analytics platform. We work with clients to monitor their brand presence, both directly and through lead generators on the internet, as well as through contact center monitoring.

MR. EAGAN-VAN METER: Thank you. And Peter Marinello.

MR. MARINELLO: Yeah, hi, I'm Pete Marinello. I'm a VP of the Council of Better Business Bureaus. First of all, thank you very much for the invitation to be on this panel. What a great morning/afternoon of terrific content and things to think about. I will say this, though. It's a little unsettling. I'm a Mets fan, I have a Kansas City Royal season-ticket-holder to my --

MR. GRAGG: Go Royals. Go Royals.

MR. MARINELLO: It's a -- you know, it's a little disconcerting at the moment, but that's okay. I just want to say, it is my great privilege to direct a self-regulatory program called the Electronic Retailing Self-Regulation Program. And it's this really great partnership between the trade association, the Electronic Retailing Association, who deals as the preeminent trade association for direct response marketers and the Council of Better Business Bureaus. And it's a really good example about how industry can be very responsive through self-regulation to address a lot of topical issues.

MR. EAGAN-VAN METER: Thank you. And, Lisa?

MS. MCGREEVY: Good morning and good afternoon, everybody. I'm Lisa McGreevy. I'm the President and CEO of the Online Lenders Alliance. And my principal job here is to talk to you about our best practices, which I'm very proud of. I'm the steward of these. These were developed by the industry, and I'm looking forward to having that conversation.

And just to Peter's point, I think today has been incredibly informative, and I really want to thank the FTC for putting this program on and including us to be here today.

MR. GRAGG: Hi, I'm Gregory Gragg. I am CEO of Blue Chair. We own a variety of different companies in the lead gen space. We own not only lead-gen companies, but we also own compliance software, that's SAS software that goes out and hunts down violators. Someone said earlier that the internet can't be audited. It's untrue; it can be audited. We figured out how to do it, and we can track criminals down and stop them, and we've been doing it for the last three years.

We also own Gragg Advertising, which is a client-side aggregator. We protect the client; we protect the consumer. Our focus is on that. I was recently named Chairman of the Board for LeadsCouncil. We are retooling LeadsCouncil right now to give it a little more teeth in the space to make sure that we work with other organizations such as Lisa's to provide information to lead generators to make sure they understand good standards, good code of ethics, good practices in the space. We feel it's important as this space matures.

MS. MITHAL: Great. Okay, thank you so much. With that, we'll get started with our questions. I just want to remind our presenters that if you want to answer a particular question, you can just turn your table tent up sideways, since we do have so many people on the panel.

Okay, so, let's start off with industry efforts. So, today, we've heard a lot about potential problems, consumer protection issues that can arise in the lead generation industry. So, let's talk a little bit about what some industry efforts have been to address these problems. And I can go ahead and start -- everyone is welcome to answer the question, but why don't I start with Peter.

MR. MARINELLO: Sure. You see my tent is up vertically now?

MS. MITHAL: Yes.

MR. MARINELLO: Theirs are horizontally. You know what, self-regulation really has been such kind of a vital part of the global economy through the years. You know, we've heard a lot about it this morning in higher education, in healthcare, in finance. You know, the private sector relies on a lot of different types of codes of conduct, whether they be ethical codes of conduct, best business practices, things like that. But you know what, no industry really has embraced self-regulation quite like the advertising industry. And it's kind of an interesting little backdrop, really quickly. You know, it started way back with the great consumer advocate, Ralph Nader, who back in the late '60s, him and there was Nader's Raiders, actually were storming the steps of Capitol Hill, kind of yelling that, you know, that advertising had fallen into this great abyss and that the government lacked adequate resources to address some of the prevailing issues like price fixing, comparative advertising, bait and switch, stuff like that.

So, the advertising industry, the four main trade associations, the Council of Better Business Bureaus being one, kind of banded together and put together this really effective system of self-regulation to, again, address some of the prevailing issues of the day. And, you know, one of the really nice things that we've seen through the subsequent decades is that it's a very flexible and nimble system.

A few years later, we saw a self-regulatory mechanism set up to address children's advertising, advertising targeted to kids 12 years of age or younger. My program began in 2004 to address direct issues in the direct response advertising. Elaine Kolish, who used to work at the FTC enforcement division over here put together in 2007 this great program to address childhood obesity and nutrition claims.

Genie Barton put together this great accountability program to address -- to data collection and targeted advertising really and cross-platform data eligibility and things like that. So, self-regulation is such a terrific alternative that businesses can work with, and it's been so effective through the years, yeah.

MS. MITHAL: Okay. Thank you, Peter. So, it sounds like you're a big fan of the idea of self-regulation.

Greg, do you have anything to add to that?

MR. GRAGG: Well, I think we've got to understand where lead gen came from. I mean, I've been in lead gen for 25 years before it was lead gen. It was direct marketing before that. And, so, we've been creating leads for companies for three decades now. And, so, I think what we've seen is the industry evolve. I think in the beginning, in the '90s, we saw a lot of lead gen, and leads were being sent, and there were a lot of bad actors in the space.

What's happened recently is clients have gotten a lot smarter. They're using metrics; they're using analytics to figure out whether those leads are good leads or they're bad leads. They pay money for those leads, and if they don't convert into sales for those organizations, they eliminate that channel. And, so, I think consumers or buyers are doing a really good job of eliminating a lot of the bad actors that are out there.

In addition, there are products like IntegriShield, PerformLine, Omniangle, LeadiD, that came into the space in the 2000s that really focus on finding those bad actors and eliminating those bad actors. I know that we spent an inordinate amount of time tracking criminals down and eliminating them from the system.

In just the last four to five years, we've eliminated over 100 vendors off of our buy list. We buy from over 200 vendors right now. They have to meet very stringent guidelines in terms of disclosure, in terms of following what we feel are good practices in the space that are generated from the FCC/FTC/CFPB/States Attorneys Generals. We're following those guidelines on a regular basis, and I can tell you right now the majority of the clients that are out there want to follow those guidelines, as well. They want to do the right thing.

In addition to that, we work with LeadsCouncil. LeadsCouncil, again, wants to be a centralized hub where people can get good standards, good ethics to follow in the space as it matures. And, so, I think in terms of benefitting the consumer, we're doing those things right now that are cleaning up and maturing the system, and the consumers are benefitting from it.

MS. MITHAL: Okay. And then Kim, and then I'll ask another question.

MS. TAYLOR: Okay. I think it's important to kind of take a step back. Obviously, the industry has taken -- and I'm speaking on behalf of the education vertical. That's kind of my domain expertise. The industry has taken great measures at self-regulation. I don't think it's working very well, and a lot of the self-regulation is protecting the vendors from each other and the fraudulent way that data could move between them or things that -- you know, things that weren't great. What I think got lost in self-regulation is we haven't yet heard anything about the consumer, like how are we self-regulating to protect the consumer, to make sure that they see the best options, the most transparent option, are they being matched to the best school.

Something interesting back when -- you know, back when Obama first got elected, one of the major issues in lead gen was everyone realized the search campaign, Obama wants single moms to go back to school would convert really high. It would convert and it had very high application rates and enrollment rates. And, so, we started seeing, you know, a lot of regulation around the types of things that you could say, the types of job outcomes that you could do, but it still, I don't think, was doing enough to protect consumers. And I don't -- and I think that's who we need to keep forefront of this conversation.

And I think a lot of the -- you know, a lot of the regulation has come from all these new ways that we can look at data, we can now verify it, we can score it, we can make sure it's compliant, we make sure that it's coming from the channel that the -- you know, that that vendor said it was coming from. And that's all great, but like I said, it goes -- to me, that just goes back to protecting the vendors from each other, and I think we should focus more on the consumer.

MS. MITHAL: Okay. So, I wanted to ask Lisa, actually in particular, this question, since I know OLA has codes of conduct. Could you talk a little bit about that, Lisa?

MS. MCGREEVY: Sure. Thank you so much for having us here. I think you're exactly right -- it all starts with the consumer, because at the end of the day, everybody in our space wants to ensure that the customer has the best possible experience. And, so, our code of conduct starts with treating consumers with -- treating consumers fairly and with respect. And it starts at the top, and then we go through 50 pages of all kinds of things related to overarching guidelines, advertising and marketing, application and origination, and it goes on and on and on, particularly focused on mobile best practices, as well as security of information.

And I think at the end of the day it works in our industry really well because we are self-policing. And we're self-policing on behalf of the consumer. Any bad consumer experience reflects poorly on everybody in our industry, and I am really proud of the members of the Online Lenders

Alliance who have come together for the last 10 years to ensure that we have a vibrant industry, because at the end of the day, any affiliate or sub-publisher or whatever you want to call them who puts a black mark on our industry puts a black mark on everybody. And we all accept that responsibility.

A big tenet of our best practices is the self-policing. It's up and down the chain, which was talked about on the last panel. Everybody that our members do business with must comply with our best practices; whether you're a member of the association or not, by contract and by constant verification and monitoring, you have to comply with best practices, and we have a very strong policing effort.

When we find somebody out there who's doing something that's not right, we go after them, and we go after them as an industry. We work with each other; we do mystery shopping. If we don't -- if I don't know who somebody is and I get a complaint, I put it out there to our members, and we find those people, and we stop them.

MS. MITHAL: Okay. So, it sounds like mystery shopping, that's one of the ways that you identify violations. What are other ways that you would identify violations of any kind of codes of conduct?

MS. MCGREEVY: So, we find violations through our members, saying, hey, we saw this website out there because we have a very active seeding program. Our members seed sites because we want to know where customer data goes. We want to follow the trail. And, so, in fact, I'm working on one right now where somebody made a complaint; there is a site out there that's got some stuff on it that's not right, and we're in the process of trying to get them to correct that.

I think that's the most effective thing that can be done is for members -- people who are in the industry looking and policing themselves to identify things that aren't right and then try to get them corrected.

MR. EAGAN-VAN METER: And then one last thing for Lisa, and then we'll move on to David. So, when you talk about, I guess, either stopping somebody or getting somebody to correct the disclosures, what -- to what -- what makes your decision in terms of which path you're going to take with, you know, a particular bad actor?

MS. MCGREEVY: So, we have a laid-out published set of how the process and procedure works and how the complaint process works. And it turns out that because people really want to be successful businesspeople, they don't want their name put out there as a bad actor. And that's what's really effective at keeping the industry going, because they know that I can publish their name in my newsletter. And people say to me, oh, why would you do that? You're going to take on legal risk. I'm like, whatever, go ahead, sue me, I don't really care. If you're doing something bad, I'm going to put you out there.

And what we've found over the last number of years as we've done the self-policing is that most people when they've done something on their websites that isn't right, they're happy to know that it's wrong and they want to correct it, because they really don't want the FTC or the CFPB or a state attorney general knocking on their door. So, that's the goal of trying to set a high standard and then trying to help everybody meet that standard.

MS. MITHAL: And David?

MR. MORGAN: I was just going to say it's a big challenge because, you know, when you try to set up self-regulation in highly competitive markets there's a lot of -- there's a lot at stake. People aren't making tens of thousands of dollars or millions of dollars; people are making hundreds of millions and billions of dollars. So, getting a -- kudos to the OLA for having done it, because getting companies that are making billions of dollars in a room and to basically say how they do business and which parts of it they're willing to potentially pull back on that may be highly profitable for them so that they'll agree on some basic tenets for a program, again, kudos to you because I've also seen all those people sit in rooms for potentially years and not even agree on 10 bullet points.

So, strong regulation in the space and strong enforcement and strong action and the threat of strong and evenly enforced penalties is probably the best way you can motivate people toward self-regulation. I think that there are obviously, the way Lisa just described, putting items out there to let people know who the bad actors are; the CFPB has taken the step in this direction with the CFPB consumer complaint data base. Right, so if you're a consumer and you're having a bad issue with someone, go on CFPB.gov and you can very easily find their complaint data base.

Well, you can also look at the entire complaint data base. So, we did a study that we just announced Tuesday, and as of the end of September, there are 464,000 complaints in the CFPB complaint data base. They started aggregating those complaints back in 2011, and we did an analysis to see what the aggregation points or connective tissue were between the number of complaints you would get and the probability of getting fined and what your average fine size would be.

So, if you're a company that's a big brand, it's worth taking a look at. If you have less than 2,000 complaints, your likelihood of getting a fine is 6 percent, and the average fine is $60 million. If you get over 2,000 complaints in that data base, your probability of getting fined is 58 percent, and the average fine is $134 million.

If you have over 10,000 complaints in that data base, your likelihood of getting fined is 60 percent, and the average fine is $758 million. So, when you look at the value chain of how you receive leads, who your marketing partners are, the size company you are, the reach you have, the number of consumers you have and what your trajectory is looking forward, keep some of those numbers in mind.

And also if you're a new company or a startup or in the disruptive financial space or things of that nature and you haven't been around for that many years, you should be looking at that complaint data base and see how you or the clients that you work with are trending and know whether you're approaching a run rate that would get you there very quickly, because I don't know very many companies where they can just take $134 million out of the general fund and be really okay with it.

MS. MITHAL: Great. And then Greg, and then we'll go to Joseph.

MR. GRAGG: Well, applauding Lisa again, she's done a great job. Do I think it's far enough? No. I think that you have to use technology to your side. I think you need to go on the offensive and not the defensive and not wait for people within the industry to complain. We've done so. We're aggressively going after people and searching and spidering the internet for our clients to find violators. They're hard to find. We're cutting through 2,000 violations a week with a remediation rate of 90 percent. And, so, there are bad actors out there. Are we trying to limit them? Yes.

Most of the violations we find out there, 60 percent of the violations, are the clients themselves. They built URLs or they have 400, 500 URLs out there and they forget that they're out there. They get out of compliance. They don't even remember that they're there. And, so, we correct the data on those landing pages, the information on those landing pages. And that's in 60 percent of the cases.

Another 15 percent is offshore, and we can't touch offshore. I can't do anything about anybody in Russia. I can't do anything about anybody in South America right now and go after those people. The rest of the statistics that are there, the 25 percent are people who are trying to game the system. And then we work to send them cease-and-desist, to make sure that they're not taking advantage of the consumer, number one, and not taking advantage of the client, number two, which is very important, again, as this space matures.

MS. MITHAL: Joseph?

MR. CHAMBERS: Just a comment, and a question for my fellow panelists. It seems from what we've heard today that a lot of the reputational risk and the regulatory risk that is inherent in purchasing leads really comes from or arises from the stream, right, that there are several layers of affiliate. And in thinking about what sorts of components should be in a code of conduct, some panelists have mentioned auditing on the up front before you engage with a particular vendor, monitoring on the back end to know what the vendors are doing, contractual terms, but what -- what opportunity is there to enshrine a protocol for adverse action, right, against the lead generators who engage in bad practices? And what about including restrictions on the sale or the way that the different affiliates interact and to somehow restrict that stream?

If that's where the risk comes from, it seems that that's where the code of conduct or the best practices should be addressed.

MR. MORGAN: I think in many discussions that I've seen, and before I worked for PerformLine I worked in the lead generation space for 12 years and sold -- bought hundreds of millions of dollars of leads and have both felt the direct impact of bad actors and also been a regulated entity ourselves when we did mortgage lead generation and had 23 mortgage banking licenses.

So, I think the issues are -- there has been a lot of discussion about -- you would hear the conversation about N-plus-one or N-plus-two, like how many layers below a direct relationship is acceptable, but it was always looked at as an approach of risk mitigation because there was little technology out there, but for every discussion that we seem to have like that, there was someone else who would game it or there was another way of hiding sub-affiliate codes so that it would still get passed along.

I will say that in lieu of self-regulation a lot of the companies that we have the privilege to have as clients are really taking a more aggressive stance towards monitoring and enforcement of their own marketing practices than is even required by the law because not only does the law probably not go far enough, it's not really specific. The ambiguity of it doesn't really help the marketplace. Adding disclaimers, I refinanced my house; 200 pages of clear and conspicuous disclaimers didn't really help me much.

So, when you're looking at that, I mean, Greg has some great sets there. I mean, we alone, just for our clients, do 50 million data observations a day, just trying to keep things in check, and not just monitoring the things that fail or are violations but monitoring the things that pass and having that audit trail, too.

So, when you think about that, having those penalties for folks, pushing the bad actors out, is definitely something that has to be done, but there's also other things to consider, too, like how -- when we talk about data and flushing data or getting rid of data and the data that passes through hands has been a common theme today. Well, there's also other laws that say you have to hold on to to business records. Right, so if I sell this data to you and I'm held by the statute of limitations, and you're telling me to flush it, and I'm thinking I need to hold it for seven years, what do I do.

MR. MARINELLO: You know, I just want to jump in, because, you know, we've talked a lot, not just this panel about self-regulation, we've heard about it all morning. You know something, if self-regulation, if it's done for purely cosmetic reasons, if it's done to protect, you know, a company or an industry as a whole, it's not going to work. You know what, there are a couple of real significant hallmarks to what makes a good self-regulatory program. You know, there's a perception out there is the fox watching the henhouse is the old kind of cliche, but there are a couple of things that I can tell you will make a good self-regulation program. There's got to be the transparency piece, and we've heard about transparency. It's another word we heard all day. Every panel talks about transparency, okay?

But transparency and self-regulation means telling the public what you're doing, okay? Communicating the activity of the self-regulatory mechanism. The credibility piece is also another significant factor. Having an outside independent forum, certainly in the eyes of the public, brings some credibility to a good self-regulatory system. Accountability, okay. What happens if somebody doesn't participate in a self-regulatory mechanism? What happens? I know what happens in our program. We report it and we send it to the government so they know that somebody's not willing to participate in self-regulation.

And, finally, there's got to be some objective standard of review. You know, I've looked at OLA's code of ethics. It's this fabulous 80-page document. It's so comprehensive, it's so thorough, okay? With us, it's about communicating claims truthfully and accuracy and making sure that advertisers have a reasonable basis, okay, for the claims that they're communicating.

And, so, those are the critical elements, and, Kim, it breaks my heart when I hear self-regulation doesn't work in a particular segment, but I can help you out.

MS. MCGREEVY: And I would just like to say that the self-regulation program and the codes of conduct where industries come together is part of a larger partnership with the government. And it isn't effective if there isn't a government and a private sector effort together. We have been so grateful for the work that the FTC has done on things like phantom debt collectors. You know, we went out and hired Louie Freeh and his firm to try to help us figure out this problem when it really hit five years ago. And we spent a lot of money and a lot of time, and so did they, and they came back to us and said, you know, it's kind of like the Nigerian bank scams that have been going on for 30 years. Like, really? How in the world could those still go on?

The fact of the matter is there are fraudsters out there, and they're really smart. Look at how they've infiltrated OPM and some of these healthcare companies, stealing information. But it's got to be a partnership between the government and the private sector to do the best job that we can for the customer, not for companies, but for the customers.

MS. MITHAL: And, by the way, since Joseph brought it up, is there any existing self-regulatory code of conduct where there is a prohibition on the sale of information to certain companies? I think we've talked a lot about people having these codes of conduct, but, you know, in terms of drilling down onto what the codes of conduct actually say, is there anything about restricting the sale of data? And did you want to answer that or another question, Greg?

Go ahead, Lisa.

MS. MCGREEVY: I'll say that the whole data -- the whole data effort is something that continues to be a struggle for everybody, right, because you're trying to balance the needs of your customers who want speed and convenience, who come to you because they're looking for products and services. You need to balance that with the privacy concerns and how data is used.

Our code of conduct and our best practices are a living document. Glenn mentioned earlier that we had a regular review last month, and we took a new step and, as of January 1, no member of the Online Lenders Alliance, any of the vendors, anybody who participates in our association, will be able to sell, pass, whatever word you want to use, Social Security information or bank account information for any purpose other than for a loan.

Now, that's the standard that people in our industry already comply with, but we've gone ahead and put it now into writing in our best practices. We also in order to enforce those kinds of things, we continue to have discussions about, you know, where is it, how is it appropriate that we let customers know what's happening. So, it's an ongoing discussion, and I think with the passage of ROSCA, and other measures and discussions like this raise the awareness of the importance of keeping people's data secure, and we have a whole lot of security measures in our best practices. And it's something that we all ought to continue to talk about.

MS. MITHAL: Okay. And then, Greg, I want to return to the thought you had earlier.

MR. GRAGG: Well, I'm going to jump on that. I think, again, in the lead-gen space there's never been a centralized hub and never standards, never a code of ethics that centralized. Lisa's done a great job creating it for the OLA, but is it in the mortgage space, is it in the education space, is it in the retirement home space, is it in the funeral space?

I mean, these are all categories that generate inquiries and drive traffic. It's not there. And that's why I got involved in LeadsCouncil and we're trying to retool it. We do need a centralized hub, and beyond that, we do need to work with third-party auditors to figure out, hey, the fox is not guarding the henhouse here. We do want that type of scrutiny or the good providers do. They do want that type of scrutiny out there.

And, so, I agree with both of what you guys are doing, but I believe at the end of the day, and I believe it's going to happen through LeadsCouncil, we need one centralized place where all of this data resides, where everyone can come and get these standards and get these code of ethics and utilize them and build their own programs within their own verticals.

MR. EAGAN-VAN METER: All right. And if we can take a couple minutes now to talk about some of the technological solutions that are kind of starting to come to the forefront as ways to deal with problems in the lead-gen industry. I know that some of them have already been mentioned today, but I guess if we could start with David and then Greg.

MR. MORGAN: Sure. So, I won't go back over some of the ground that we've covered already, but to pick up on what I said earlier and something that Greg reinforced, too, is you cannot throw people at this. This is not a people-based solution. The depth and breadth of the internet, whether it's direct advertising that you do or advertising that you partner with either massive agencies like WPP or OmniComm-type agencies or direct marketing agencies, your reach can be very broad and very big, and that's good.

This is a free market economy. You should be able to get your message and value proposition out to folks, but ensuring that you're doing it in a way that is clear and there's fair balance of information and there's truth in there and you're not trying to deceive folks is very critical.

If you intend to deceive folks in the beginning, it's not a good premise for business. So, technologies do exist to be able to go out there and not only find things that are bad but also reinforce and reconfirm and re-audit the things past and are monitored on a daily basis, and then also using technology to track all the items that are identified so that you can have reporting on issues from when they're identified all the way through to when they're closed and whether that occurs on a website, on your website, someone else's website, whether it's click-based traffic, contact-center based traffic, your own contact center, someone else's contact center, all of that technology exists right now.

We've built a platform that does all of that, and I will say that some of the discussion today has been about -- well, a lot of it's been about lead generation, but a lot of what the direct advertisers do also has caused a lot of questions.

So, when you're looking at the marketing and the outreach that others do for you, it is very important that that finger not only point out but that finger point back, too, and that you judge your own marketing and the efforts that are done by you yourself as an advertiser in all of your channels under the same standards. A lot of what has really caused massive fines and massive consumer harm in the space has been lead generation activity coupled with very aggressive, much, much larger engines on the -- for conversion on the part of -- on the part of actual brands out there. So, there's a lot of technology that can be leveraged. The best companies are looking at it to do it and get ahead of the regulations, so, I'm not sure if you agree, Greg.

MR. GRAGG: Yeah, I mean, I do agree 100 percent. I give the analogy. I mean, our product's a really good product out there, and we only -- we only crawl a 50-mile by 50-mile section of the Pacific Ocean at one time. That's how far our net goes, 50 by 50 in the Pacific Ocean. And the whole Pacific is the internet. Well, 50 by 50 isn't enough. And, I mean, we're netting so many fish right now in violations -- a lot of them, again, are client-based -- but the fact of the matter is we have to remediate all of those, which takes a ton of time: cease-and-desist, contact with those vendors. Most vendors don't even know that they've made a violation, so we have to educate them in the process. And, so, this process of going 50 by 50 through the Pacific Ocean is nonstop.

Is the technology strong enough right now to cast, you know, a 5,000-by-5,000 mile net? I don't know of it. It might be out there. We don't have it, but we're doing our best at 50/50 right now to make sure that we clean up those vendors that are bad actors.

The other thing I'd like to say is in the space, we tend to tier providers and vendors, and so there are certain types of vendors out there, and we analyze their performance. And clients analyze their performance. And this is a performance-based system. And, so, if you're providing leads that don't convert, clients aren't interested in them. What happens is they eliminate that process now or they eliminate that vendor or they eliminate that channel. And, so, what's happened over the last four or five years is we've tiered vendors.

And, so, when you look at Alloy Media or you look at Ampush, we tier those people. They're a two or three provider that's out there. We know how they perform, and we know what their tactics are. Will we tell the client about it? Definitely. Are we protecting the consumer in the process? Definitely. And, so, we know those tactics that are out there, and we know what they're employing, and we know how they're selling those inquiries to the people that are in the marketplace. Will it educate not only -- not only the vendors on how to do it properly, but we're also going to educate the buyers on what those vendors are doing out there. And through those processes and self-auditing and third-party auditing, you know, we're going to clean up this space. We're maturing, and it moves at a rapid pace. It moves so fast.

MR. MARINELLO: Greg, can I ask one quick question? You know, yeah, the technology is great in terms of identifying where bad claims and nefarious claims may be, but you just mentioned the education piece. Does technology serve some kind of function where you're not only identifying, hey, this is a bad claim, but here's why it's a bad claim? Here's why maybe a disclosure doesn't -- isn't effective. Can technology address those types of issues?

MR. GRAGG: Not really. I mean, don't get me started on the disclosure thing because that's a long conversation, and I certainly have an opinion. It's my opinion the consumer is never going to really read any disclosure. You guys don't read your iTune contract; you just click through it and move on. And that's just the basis of the situation. We don't read any contracts online, whether it's me or anybody else. I'm sure 3 percent of the population does, but I certainly don't. I just click through and get what I want, and the consumer does that at the end of the day.

And, so, will disclaimers ever work? Well, not 100 percent. Do we need to provide them in the hopes that consumers will read them and understand them? Definitely, definitely we need to do that for the consumer. Do we have to protect the consumer from themselves? Sometimes, yes. Yes, unfortunately we do have to protect the consumer from themself sometimes and spoon feed that information.

If you ask me about disclaimers, I think that, you know, a criteria of a double popup, if somebody submits a landing page, a popup that says, hey, to read our disclaimers click here. You know, that may suffice in the process, to give them a verification of what they've just done, to kind of knock them over the head a little bit and say, hey, wait a minute, this is what you just did; you may want to look into this before you move any further.

And, so, those types of strategies, you know, are being looked at right now, along with, again, do I feel that there's a need for auditing, do I feel that there's a need for some form of self-auditing? Yeah, I believe so. Are things already being done in this space that are good and are most of the providers bad out there? Definitely not. Definitely not. I work with them.

Are the schools bad out there? No, the majority of them aren't. You know, are the admissions reps all strippers? No, they're not. You know, I've met over probably 5,000 admissions representatives, and they're not strippers; they're good people and they work 8:00 to 5:00.

MR. EAGAN-VAN METER: Let's move over to Kim.

MS. TAYLOR: Thank you. First, I think it's important to challenge the assumption that schools should even buy leads. Everyone up here has a seat at the table because these are people that are spending a lot of -- you know, that are spending a lot of money. Lead gens, it's a big-money business, those, you know, for-profit, non-profit education whole sector is real big.

But I think it's important to know, like, a lot of this money is coming from online degree recruitment, and when you actually look at the market, it's a market that's still in its infancy. And most of those schools aren't buying leads. And I would challenge the assumption that they even should. Many of them shouldn't because their tuition is too low to justify the costs, so they'll just start bleeding money.

And, so, also, it's important to note when you talk about things like LeadsCouncil, while that's really great, most of the schools aren't going to be a part of that because they don't buy leads. And, so, in a perfect -- you know, in a perfect market, everyone would contribute and they'd all, you know, buy their $800 ticket, whatever, to go to LeadsCon, and that would be great.

But the truth is, especially, you know, when I'm up here as the voice of the -- you know, as the nonprofit university sector, these are people that aren't -- you know, they're not buying leads. They're not sophisticated data marketers. So, I think we shouldn't just come to the conclusion that everyone should buy leads, and we should do it better and we should self-regulate.

Actually having a dialogue with the consumer -- you know what's better than buying leads? People coming to your own website. So, I think we need to have that conversation with the schools on how do we create more transparency between us and the consumer so we might not need a lead aggregator. I think if you talk to any for-profit college exec, the one thing they wish they could get out of is doing a lot of third-party lead generation from a compliance perspective, from an operations perspective. It's -- you know, it's incredibly expensive, and most of the schools that are going to go online aren't going to try to get 200,000 students.

So, I don't think it's an industry we should necessarily push someone in. Does that mean that it's bad? No, it doesn't mean that it's -- it doesn't mean that it's bad, but I think it's -- you know, I think it's important to note that there's a lot of people with no seat at the table right now, and the people that are concerned with -- you know, are concerned with the compliance are really sophisticated marketers, and so, you know, when Upper Iowa University goes online, they're not going to be -- they're not going to be at LeadsCouncil; they're not going to be, you know, using all of these services.

And I think also when you get into lead generation and you become a sophisticated lead buyer, you also have to support an entire ecosystem of products because you have a whole new set of problems. You've got to verify data and phone numbers and addresses and how that data moves. And then you got to track where it's coming from. And then you got to know if the copy is compliant.

So, now, you're asking all these schools that were never even buying leads, not only, oh, you should go buy leads, but now you've got to buy these five new products to be able to even operate in the industry. So, you know, I'm going to take the contrarian tech founder approach and be like maybe they shouldn't buy leads at all, and maybe that's a conversation we should have. And I think if you look at something like the college score card, which is -- which is amazing, something -- you know, something really critical is missing from it that you can't filter for schools that actually have online degrees.

So, how do we create that transparency in the marketplace so someone doesn't have to go to BestDegreeEver.org, you know, they can go -- they can go to, you know, Online.Texas.edu or whatever, you know, whatever that is. And how do we -- I don't think it's our job to necessarily even educate consumers on how lead generation works. I think it's our job to educate consumers how to look for a school, should they even go to school, do they need a degree.

And the best conversation they will have with that school isn't going to be through, you know, a third party auto-dialing them; it's going to be by interacting directly with the school. And, you know, there's -- you know, I think there's plenty of blame to go around for everyone. And I think, also, I would put that on the universities to be -- you know, to be more transparent and to also, you know, improve your consumer experience for prospective students. It's hard, you know, especially on the nonprofit side. It's hard to create a great consumer experience if you're in denial you're serving a consumer.

And, so, I think that's something, you know, that's shifting right now, but, also, you know, those brands, they don't necessarily need to buy leads. They have lots and lots of demand, very bad technology. A lot of the major -- on the nonprofit side, a lot of the major education companies have applications for admission that don't even work in Chrome yet, so forget buying -- forget buying leads, like, let's -- you know, let's help them crawl before they can walk.

And, Peter, I'm sorry. I'm sorry I broke your heart.

MR. MARINELLO: Oh, well.

MR. EAGAN-VAN METER: Okay, so, moving on. On our first panel today, we heard from a company that says it can assign every lead an ID that would allow a buyer to keep track of the URL the lead came from and everybody who has bought and sold it previously. Is this a feasible solution, a feasible approach that could be applied more widely?

MR. GRAGG: If everyone uses it. The deal with

LeadiD is you've got to participate for them to catch you. And, so, you have to submit your URLs. Is it a good system? Yes, if everybody participates. Will everybody participate? No. Is everybody participating now? No.

Another analogy in the lead space that I use is a tree, and the trunk of a tree is where it goes into the funnel for the client. The rest of the tree, all the branches are interconnected and each branch is a lead provider. And, so, if you start at the top of the tree where the lead starts and start bouncing branch by branch down through the process, you can kind of get an idea of how many branches it actually goes through to get to the trunk. Well, if not all of those are participating in LeadiD, you won't catch all of them, and you don't know how far upstream it actually goes.

So, you need to employ LeadiD, yes, and then you need to employ PerformLine and Omniangle or some sort of tools. And then you do need some sort of self-regulation associated with that. And, so, by doing all of those or self-auditing, by doing all of those together, you kind of squeeze out all of those bad providers. No one solution will ever get you there. There's never a panacea, and I've learned that. What you do is you use the best tools that you have possible, the best technology that you have possible to track down these gamers or these crooks that are out there.

MR. MORGAN: I would just add one thing. I would say most of our clients that we work with use a few different items across their -- their businesses in a few different manners. It's strange when you do start to look at compliance, that may be one of the most important parts of a brand's business, and they have analytics on almost every part of their business except compliance.

So, the type of analytics that LeadiD can provide or other companies can provide around this part of the business is really critical and deserves the same seat at the table and, quite frankly, the same capital investment. We spend so much time talking with companies that spend hundreds of millions of dollars a year on marketing and are challenged with the thought of investing anything more than they unequivocally have to in compliance.

And when you want to talk about protecting the consumer, that's obviously the things where you know you are, the things that you can control and affect. And I do believe that if a company has a good pro-consumer outlook that them policing themselves and there being strong penalties if they don't do have the downstream effect of protecting the consumer, but the truly bad actors, the truly bad actors out there are probably people who are using a well known brand for ill-gotten gains that the brand may not even know about.

So, technologies that track about come to your website, the conversion rates of your leads on your website and how they connected with you is great, but if someone saw your brand and didn't go to your website, was sent to another website, using your brand or your assets where there's brand infringement and things of that nature, that's where we see a lot of consumer harm being done. And that's really a blindspot to most companies that we're helping some companies solve because that is someplace where they have massive reputational exposure.

The consumers have the opportunity to be victim to a massive bad, and when you start looking at things like the CFPB consumer complaint data base, not every complaint in there about a company is triggered off stuff that they did. So, I'll stop.

MS. MITHAL: Great. So, we have less than 25 minutes left, so if you have any questions, I think Spencer is walking around and is available to take your cards.

We've talked a little bit about industry solutions, technology solutions for the kind of consumer protection issues we see in the lead-gen space. What about law enforcement? Is that necessary? When is regulatory action necessary? I'm going to start with you, Joseph.

MR. CHAMBERS: Well, I think that law enforcement is going to be necessary given the limits -- the competitive nature of the industry, given the vast sums of money that are available, and given the risk to consumers, law enforcement is going to have to be part of it. I think, you know, from our perspective, we in the AG community have a few different models that we can employ. One path is to identify and investigate a particular bad actor, and it may be a bad actor that is using the brand of another company without permission as has been mentioned; or it could be a lead vendor that is not being sufficiently monitored and is putting out a solicitation that is rife with misrepresentations.

If that company is operating in my state, and it's soliciting consumers in my state, that's a relatively easy case for me to bring. But in the online space, it doesn't always work like that, right? So -- and it's not like a home improvement contractor in your state that you can identify and bring an action against if they're harming consumers.

You have to be able to find the people, and I think an earlier panel described the Whack-a-Mole problem; that even if we are able to successfully bring that case, we have only addressed a small part of the marketplace and the bad actor. So, you know, moving up the model to the next best scenario is engaging with an individual company, perhaps a lead buyer, within a vertical, and engaging either informally or through an enforcement action in seeking either terms, negotiated terms, or injunctive terms of a judgment where the company would have to comply with a set of principles that might be somewhat similar to a best practices or a code of conduct. But that would address what that specific company is doing in the space.

I think the next best thing beyond that is to engage an entire industry of lead buyers within a vertical, because then you're driving the marketplace in lead generators. You're capturing a broad swath of one industry, engaging in a conversation with them about a set of best practices that they all can agree to for when they interact with lead vendors and put restrictions on the lead affiliates and enshrine adverse actions to lead vendors and their subaffiliates that don't comply with the contractual terms and put in place, you know, lots of other specific prohibitions.

And, you know, I think that there are lots of examples where the attorneys general in partnering, of course, with the FTC and our other federal partners, the CFPB, where we made progress within an industry. I think my Attorney General, George Jepsen, has been pretty active in the privacy and data security space. He created, for example, a new unit within our office that's done this informal engagement with a company -- companies, and have gotten traction. And I think like just like in that context, our offices need to develop the technical expertise and the experience and the strategic partnerships with other government agencies and those in the industry to really figure out a multi-prong approach that will include enforcement actions but hopefully goes beyond that.

MS. MITHAL: And let me turn it over to the rest of the panel, too. I see the rest of the panelists are interested already. Okay, let me start with you, Peter.

MR. MARINELLO: I am ready to go. You know, those are some good salient comments, Joseph. You know, from the prism of self-regulation, a good robust self-regulatory program really has to work hand-in-hand with law enforcement. I think we all are pretty much smart enough to know that self-regulation can't be viewed as a replacement to law enforcement, but should really serve to complement it.

The important thing that self-regulation, I think, does, it allows the allocation of some very limited resources of the government to really concentrate and focus on the egregious, nefarious players. And, generally, again, because it's a voluntary process, self-regulation can work and collaborate with industry members; however, again, because of the resource issue that always goes on in government, that always goes on in the state AG's office, they need to focus their attention on the bad players. And I think that's where self-regulation really can assist.

The one last thing about self-regulation in a law enforcement context, it shouldn't be viewed by any means as a free pass if you're participating in self-regulation, okay? You know, state AG, FTC, FDA, CFPB, anybody still it's up to them to figure out which guys they want to pursue and who the bad actors are. And just because you participate in -- or with the CBB, you're not getting a free pass. So, let me just make that point.

MS. MITHAL: And, Greg?

MR. GRAGG: I think Lisa was up before me.

MS. MITHAL: Okay.

MS. MCGREEVY: Well, I just want to add on to what everybody has been saying here, and that is it is all mutually reinforcing. We are all partners in this together. Government, federal government, state government, local government, and the industry have to work hand-in-hand. And I think the discussion today shows the different parts of the ecosystem that we all have to bring together here.

We have this wonderful thing out there called the internet that has brought incredible changes to our lives, many of them and most of them are incredibly beneficial. In our industry, the democratization of credit is unbelievable of what's happened. But we know what the dangers are. We've cleaned up the advertising in our industry.

I was amused to see the ad that you put up this morning for short-term loans using our best practices. You know, you used to go out there, three, four years ago, and you could see all kinds of ads out there saying, oh, $5,000 in your checking account tomorrow, no credit checks. You don't see that anymore.

Why? Because we went out and said, you know what, that's not right. And we put in place the best practices and we've held the industry accountable, and I would venture to say that you see virtually no ads. And if you see one, let me know, because I'll go after it and take it down.

MR. GRAGG: I think there are enough rules and regulations out there from the FTC to the CFPB to the Department of Ed to the states attorneys generals. I mean, they've all outlined guidelines or process or procedures that we can follow. And, so, I think the rules are out there. And I liken it to parenting. I've got three kids. If I tell my son not to go outside but he still goes outside and I don't ground him for going outside, will he stop going outside? No.

I think the rules and regulations are there; we're just not implementing, we're not executing on those, and we're not going after those bad actors. And you're right, we need to work as a partnership here. We need to share information with each other. By doing that, we'll come to the best solution.

The problem with more regulations is you're going to push the good actors out of the space. You're going to regulate the good actors out of the space. And that's not what you want to do for a good ecosystem.

MR. MORGAN: I actually have a question, I think, for Joseph and for the FTC and anyone else. One thing I don't think I've heard brought up today is the concept of hidden domain registration. So, I don't know if anyone else knows this, but I don't know of any other type of business you can run in the United States where if someone wants to find out who owns the business they can't find out.

And if you go onto a site like Whois or a domain registry company like GoDaddy.com and you want to find out who owns Army.com, a site that was brought up earlier today, you can find out that the domain registry and the ownership is hidden -- hidden. So, you don't know if one person owns that one website or if that one person owns a million websites.

And when you look at rooting out the bad actors, stopping guys who own 100,000 websites from just stamping Army2.com on that website and launching it again, unless there is something that's done about the hidden domain ownership, it's going to be almost impossible for anything to really take root, because you won't know when the person's actually gone. And even when there are injunctions against people from operating in industries, if the domain registry is hidden, how do you know that they're not?

MR. MARINELLO: Yeah, it's a big challenge for us, too, when companies are registering by proxy, trying to figure out exactly where the source of the advertising is coming from, and then all of a sudden, you go to Whois, and you register by proxy to try to follow up and, my God, that's just this endless, endless aggravating loop, so...

MS. MITHAL: And I think Kim had a thought earlier.

MS. TAYLOR: Yeah. I think we can all agree on bad actors and there's people doing outrageously bad things, and we want to, you know, stop them and blacklist them. And that's fine, but I think it's important to look at the industry, even when it's, quote, unquote, working well. Even when it's working well and there isn't anything fraudulent, is it the right thing, is it fair to the consumer. And I think right now, the answer is no.

Like -- and obviously I'm speaking for the education vertical here. You have someone that is trying to make a major life decision about where to go to school. They tend to be low-income; they tend to be first-generation college students, which is why they're clicking on a banner ad on a lead-gen site in the first place.

And, so, I think even when everything's been compliant and it's run through the five different technologies that they sell that accompany lead-gen -- you're telling a user that you're matching them to the best school.

And we're not; we're selling people at a live auction to the highest bidder for one of the most important decisions that they're going to make in their life. And the people that buy leads are the highest priced schools. It's not the community college down the street.

And, so, when we tell someone -- we put them through a funnel and we collect all this info from them, I think we're misrepresenting their actual options. And they don't know, so just challenging the assumption of how the industry even works today, that it's a good thing, think of -- you know, think of all these low-cost options people never found out about, and there are many, many schools -- in fact, most will never buy leads.

So, right now, we're just talking, you know, the people that can afford to buy leads. And I think it's also important to note this. It's not about for-profits are bad and nonprofits are good, but generally the cost of traffic is set in Google. Google doesn't adjust their cost per click based on your tuition, so let's say a lead costs $50 and you have a 1.5 percent enrollment rate. It costs you $5,000 to enroll a student. If you are a community college, you can't afford to buy leads, which is why none of those people are here, and they probably never will be here, and they're not going to be represented, you know, at the table or by anyone, you know, in these discussions. And most of them will probably never even understand the lead-gen industry. I think half of us here don't understand it because it's a confusing thing to understand, but we throw the consumer into it and just expect them to -- you know, expect them to figure this out. And, so, I think -- you know, I think we should just challenge the assumption of how it even works today and how do we create more visibility for options for the -- for all these great schools out there that are never going to buy leads.

MR. EAGAN-VAN METER: That's a very appropriate transition to our last, I guess, topic of discussion, which is the consumer themselves, and to what extent -- you know, how can we educate consumers about this space. And we'll start with do consumers know when they search for education opportunities that they may be -- that they may be matched with the highest bidder and not potentially the most appropriate option?

MR. GRAGG: Generally, it's not the highest bidder. There's a set price out there for those inquiries. And, so, nobody's bidding on any inquiries. Those prices are already set.

MS. TAYLOR: That's not -- that's not necessarily true. I think one of the -- I think one of the -- one of the main reasons --

MR. GRAGG: There's not a ping tree in the system.

I haven't seen one, and I've looked in the industry for 25 years.

MS. TAYLOR: Well, I think --

MR. GRAGG: I think, you know --

MS. TAYLOR: Well, it was only invented a few years ago, so that wouldn't have mattered.

MR. GRAGG: Well, I've been around for 20 years and I haven't seen it, Kim.

MS. TAYLOR: I think when you -- I think when you look at lead --

MS. MITHAL: Let's let Kim finish, and then we'll move on to you, Greg.

MS. TAYLOR: I think when you look at something like lead scoring and also having worked in the industry and having worked on this specific thing, when you look at something like lead scoring, you have certain schools that have so much data that they can assign a score on someone's likelihood to enroll. Ten -- let's call it one to ten: ten really likely; one not going to enroll. And, so, when the school buys leads, they'll be, like, I don't want any of the ones to threes, like, send those over to Peter; we don't want them, whatever.

But the tens, we'll actually -- we'll pay more for the tens. So, once someone has filled out the form, you ping that against the data base and you get the score. And this is pretty much how every, you know, large school with over 50,000 online students is going to operate. So, it is -- you know, I disagree with you. It doesn't mean everyone's doing it, but it is, in fact, a live auction, and I did, in fact, work on it. Otherwise, I spent years in doing God knows what.

And, so, I think it's important. You know, I think it's important to note that. And it's not necessarily always the highest bidder, but the effective CPL is one of the most important metrics in lead gen that you do rope people off because you have to make money. You're fronting the cost to buy the traffic. You bought the lead.

You know, if you guys bought traffic to your website for $25, you know, you're trying to sell it at $50. And then one of those schools is going to come back and say, we used all this technology; we're not paying for 20 percent of the leads. That's why the lead-gen industry is operating on these really thin margins.

If I went into a venture capitalist, I can't tell them I work in lead gen. They would never fund me if I said that I was in this business, because they just -- they hate the business because they think -- yeah, they think it's dying. But, yes, and so I think price is very important. The consumer has no clue, and someone needs to help them.

MR. EAGAN-VAN METER: All right, Greg, yeah, if you want to respond to that, and then Lisa. I believe we have some slides of yours to show after.

MR. GRAGG: Sure, I can understand that's how Alloy and Ampush ran things when you worked there, but, you know, the majority of the lead providers that are out there don't do that. You know, and the majority of the buyers out there --

MS. TAYLOR: The majority of schools don't use lead scoring to price leads? Are you joking?

MR. GRAGG: I work with mids and smalls and, you know, we work with over 150 schools, 700 campuses. And I can tell you right now, we have price set on everything. And, so, you know, I think again where you came from, you're basing it --

MS. TAYLOR: It's not where I came from; it's how -- it's how all the major -- it's how all the major schools work. So, I don't know if you don't have the technology to implement it, but it's not about where I came from. That's just the --

MR. GRAGG: Well, you're looking at publicly traded companies that have a bottom line to push. Those people aren't necessarily interested in everything that we're interested in. We're interested in different things. The people who have been around the space in the EDU certainly are concerned about it. Certain companies aren't concerned.

Certain companies take advantage. The majority of the clients and the people that we work with are concerned.

I've been to graduations. I've seen students. I've seen students cry at their graduation because they're the first ones graduating. I think consumers will always have a choice and should have a choice to pick their channel on how to reach a school or to get a loan. How we regulate that, how we manage that is up to us, but I certainly won't restrict the pipeline if it's fair game.

MS. MITHAL: Okay. And, Lisa, I know you had those slides to show.

MS. MCGREEVY: Yeah. One of the things we, you know, in our world that's important to us is to make sure that consumers know which sites to go to for companies that abide by OLA's best practices. So, we created this "Look for the Seal" campaign, and this really came out of the FTC, an enforcement action about a year ago, where the FTC went into some companies and found some really bad practices. And we were so upset that those companies were doing those things and we didn't know about it. And, so, we created this "Look for the Seal" campaign, which is embedded on over 700 member company websites.

And, then, not just do we have the campaign, but then we put advertising dollars behind it, where we went out and did our own advertising campaign last fall. We're doing it again now because this is the heaviest time of the year, where we've been able to advertise so consumers know when they go on sites, look for the OLA seal, because they know that they're dealing with companies who abide by our best practices.

MR. MARINELLO: If I hover the seal, do I get additional information? Just out of curiosity.

MS. MCGREEVY: Yes. If you go over the seal and you click on it, it takes you to our website.

MR. MARINELLO: We didn't prepare this, by the way.

MS. MCGREEVY: Thank you for that, Peter. It takes you to our website, where there's all kinds of consumer tips about how to ensure that you have -- that you are an informed borrower when you go online, what you should expect, what you should look for, and how to make sure that you are protecting yourself against fraud. I think that's very important for us, and that's why we put our advertising dollars -- we will have spent over $100,000 on our advertising effort on these banner ads to get it out there because we think it's so important that borrowers know who to borrow from.

MR. EAGAN-VAN METER: Thank you.

On an earlier panel, Pam Dixon brought up the fact that a number of -- your consumers may enter their information in a number of different places when seeking out different either loan, education, or other opportunities. Is there a way, perhaps -- and then, you know, it results in maybe five times as many calls for the number of forms they entered. Is there, perhaps, a way to curtail this information at all? There may not be, but --

MR. MORGAN: I think that folks like LeadiD have been doing a lot of work in that space. A lot of what's tracked is information sets, so they're able to tell how old something is, whether it's come in as a duplicate before. Obviously bad practices of people buying old leads and reselling them get affected by this, but also there are certain types of products and there are certain socioeconomic classes where -- and certain time-based needs where if someone wants something they are going to try and get it in as many ways as they can.

So, part of that is is there technology that can help, and there's technology that can help to a certain extent, but, again, that's a consumer education challenge, too. But you can't stop a demand curve. If I have to pay rent on Friday and I just crashed my car and I need a payday loan and no one is calling me back for a small-dollar loan and I have an extreme sense of urgency, I'm very motivated to fill out many, many things. And it's probably that impulse, that the opportunity to have a solution, the extreme need you may be under that can sometimes compel people to put their information in far more places than they would ever want to, whether they knew it was going to get bought and sold or not.

MR. CHAMBERS: One quick point on consumer education and, you know, obviously it's not a panacea, it's a complex market, it's difficult for many people to understand. But I think that consumer education does have a place, and whenever we do an enforcement action, we try to couple that with consumer education.

And I think, you know, one example is scams around FAFSA, which I think the CFPB had a press release yesterday about their action, but just as a coincidence, we put out about a year ago because of a complaint regarding the same entity, we put out a press release warning people about FAFSA scams and trying to direct them to the good sites where they can get other information. And I think that's obviously not a -- not a panacea, but something that we need to continue to do and continue to think about.

MR. MARINELLO: Can I just jump in really quick on consumer awareness? You know, it's funny, because everybody in this room is very cognizant of the good work that the FTC does regarding consumer awareness, whether it's the dot-com disclosure guide, the update of the FTC testimonial and endorsement guide. Leslie Fair has this great business center blog, as well, but I'm not sure it's on the radar of consumers, actually, though.

BBB steps in here. You know, the BBB, there are

116 different bureaus throughout the United States. They send out these scam alerts about certain things. As a matter of fact, they just unveiled this new scam tracker website that I think there are already 5,500 complaints, and it's only been a couple of months old. As a matter of fact, you know, Ed had mentioned on the previous panel about the credit cards with the chip in it now for security.

Of course, the fraudsters were all over that right away, and there was a BBB alert on Monday, actually, talking about emails that have been going out saying, hey, you may have received a credit card from your bank with the new chip in it. Do me a favor, confirm the information, your personal information and your bank information. And these are the emails that are going around.

So, anyway, the BBB, obviously consumer trust, as you had mentioned, is such an important commodity. BBB's been in this business for a hundred years of advocating consumer trust. So, I'm going to leave you with that.

MS. MITHAL: And Patrick has woven in some audience questions with his questions. I just want to ask a few more of the audience questions with the couple of minutes we have remaining.

There's a question about bad actors. How many of the panelists report information to regulators for enforcement of bad actors, and if not, why not?

MR. MARINELLO: I'll start. You know that we do. So, I'll leave it there.

MS. MITHAL: Excellent, Peter.

MS. MCGREEVY: We do, and we want to continue to do it.

MS. MITHAL: Okay, great. Another audience question: Shouldn't every lead buyer demand use of LeadiD and only buy leads that were witnessed by LeadiD? Doesn't this force out bad actors?

MR. MORGAN: I would say that that would be a very strong position to take. Some companies do. It's -- but, you know, it's a multi-prong solution. And, again, as we said before, that can solve a vast majority of the session-based information that's out there, but you have to couple that with the content that's out there. So, you can't just look at did I get a real human being to my website; you also need to be able to see what was the content that human being saw.

So, LeadiD is a great tool. You have to couple it with tools like other ones that we've mentioned -- I'm obviously fairly biased towards the company I work for -- that can actually show you the content in a way that you can remediate that. You have to be able to use it and there's -- the pushback that you sometimes hear, the companies implementing LeadiD is they don't want to put code on their website and they can't get their affiliates or their lead generation partners to put the code on the website. That's something that they've invested a lot of money, time, and energy to try and combat.

Our approach is very different, where there's no code that anyone puts on the website. Everything we monitor is in the public domain, so there's no way to prevent our crawler from looking at your site. And once we're monitoring you, there's no way for you to prevent us monitoring you. So, we can also monitor to make sure that companies have been removed from websites.

MR. GRAGG: David is right. LeadiD will stop the process, where the lead came from, but then you also need to monitor the content. And, so, the content could be in violation, and so you need to go out there and look at that hard content on the site, not only where the lead came from, but what the information on the site is actually saying. And, so, again, a multi-prong strategy is really your best strategy at the end of the day.

MS. TAYLOR: Sorry, just to add on to that. LeadiD, great, you know, a great company, friends that work there. I thought it was a little bit of a self-serving question. And then also I think whenever you get into that --

MS. MITHAL: Do you think LeadiD asked it?

MS. TAYLOR: I think whenever you get into that territory where you're kind of forcing something like that -- like not LeadiD, but anything on people, it's kind of -- you know, it's kind of hard. And, also, it's the type of technology you'd use if you're doing really big volume of leads.

I think a lot of the -- you know, a lot of the compliance technologies, that's who they're -- that's who they're for, these people that are trying to, you know, validate information or make sure people are who they -- are who they say they are, but it's not something you could, like, force on an entire industry, especially if you look at like smaller schools that might not even use something like Google Analytics, let alone put some code into their -- you know, into their website.

MS. MITHAL: Okay, great.

MR. EAGAN-VAN METER: Thank you all for participating in our panel today. And thank you to everybody. We're going to have a few closing remarks from Malini.

CLOSING REMARKS

MS. MITHAL: That's right. Okay, so, having concluded this final panel, I wanted to add a few brief closing thoughts, and in case there are any Halloween costume parties everyone has to get to, I'm going to keep this very short.

MR. EAGAN-VAN METER: Or already missed.

MS. MITHAL: So, I think we would all agree that we've learned a great deal today from the panelists sitting up here right now and from the other panelists that participated today. Thank you so much for doing that.

We've heard that lead generation can offer a wide variety of consumer benefits, consolidating a lot of information and offers for consumers. We've heard that in the mortgage market lead generation has allowed firms to access more information, which, in turn, has led to an increase in mortgages being denied but may have led to lower mortgage rates and reduced foreclosures. This raises questions about whether good lead generation practices can help lead to more accurate decisions.

But we've also heard about risks that come with lead generation. We heard about a recent study showing the risks of payday lending lead generators sharing consumers' sensitive data widely, including with fraudulent companies. We heard that in the education marketplace consumers think they're applying for jobs or learning more about government benefits, but instead, the information they supplied is being sold to places consumers wouldn't have expected.

Industry groups are taking some steps to combat these practices, but what else needs to be done? What are the next steps? So, again, in the spirit of Halloween, I'm going to look into my crystal ball, and I'll make some predictions for the near future.

So, I predict many people in this room will be submitting public comments to the FTC by December 20th, which is our comment deadline. I also predict that we will read them closely to figure out what the most important steps are next for us, whether they involve guidance, enforcement, or other measures. I also predict that on the law enforcement front, I think it's likely we'll continue to look at unlawful practices involving lead generators, and we'll bring enforcement actions where appropriate.

So, I'd like to close by again thanking our panelists for participating today and thank you all in the audience for attending and asking some great questions.

(Applause.)

(Whereupon, the workshop concluded at 3:46 p.m.)

C E R T I F I C A T I O N O F R E P O R T E R

MATTER NUMBER: P134809

CASE TITLE: LEAD GENERATOR TARGETING PROJECT

DATE: OCTOBER 30, 2015

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the Federal Trade Commission to the best of my knowledge and belief.

DATED: NOVEMBER 12, 2015

JENNIFER METCALF

C E R T I F I C A T I O N O F P R O O F R E A D E R

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

SARA J. VANCE