

**OFFICIAL TRANSCRIPT  
PROCEEDINGS BEFORE**

**FEDERAL TRADE COMMISSION**

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DKT/CASE NO.: P954807

TITLE: PUBLIC WORKSHOP ON CONSUMER PRIVACY ON  
THE GLOBAL INFORMATION INFRASTRUCTURE

PLACE: Washington, D.C.

DATE: June 5, 1996

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C O R R E C T E D C O P Y

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Date: June 5, 1996  
Docket No: P954807

FEDERAL TRADE COMMISSION

I N D E X

WITNESS:

EXAMINATION

(None)

E X H I B I T S

FOR IDENTIFICATION

(None)

## FEDERAL TRADE COMMISSION

In the Matter of: )  
 ) Docket No.: P-954807  
 PUBLIC WORKSHOP ON CONSUMER )  
 PRIVACY ON THE GLOBAL )  
 INFORMATION INFRASTRUCTURE )

Wednesday,  
 May 5, 1996

Room 432  
 Federal Trade Commission  
 601 Pennsylvania Avenue, N.W.  
 Washington, D.C.

The above-entitled matter came on for hearing,  
 pursuant to notice, at 9:03 a.m.

BEFORE: ROBERT PITOFSKY, Chairman  
 JANET D. STEIGER, Commissioner  
 CHRISTINE A. VARNEY, Commissioner  
 C. LEE PEELER, Moderator  
 JODIE BERNSTEIN, Director  
 Bureau of Consumer Protection

## APPEARANCES:

SESSION 1

REPRESENTATIVE BOB FRANKS, New Jersey  
 REPRESENTATIVE EDWARD J. MARKEY, Massachusetts  
 PAUL PETRUCCELLI, Senior Food and Drug Council,  
 Kraft Food, American Advertising Federation  
 JOHN KAMP, Senior Vice President, Washington  
 Office, American Association of Advertising  
 Agents  
 DANIEL L. JAFFE, Executive Vice President,  
 Government Relations, Association of  
 National Advertisers, Inc.  
 KATHRYN MONTGOMERY, President and Co-Founder,  
 Center for Media Education  
 CELESTE A. CLARK, Vice President, Kellogg Company

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## APPEARANCES: (Continued)

SESSION 1

KATHRYN MONTGOMERY, President and Co-Founder,  
Center for Media Education  
CELESTE A. CLARK, Vice President,  
Kellogg Company  
BILL NIELSEN, Associate General Counsel,  
Kellogg Company  
PATRICIA FALEY, Vice President, Consumer  
Affairs, Direct Marketing Association, Inc.  
BRIAN R. EK, Vice President, Government Affairs,  
Prodigy Services Company  
MARY ELLEN R. FISE, General Counsel, Consumer  
Federation of America  
PETER HARTER, Public Policy Counsel, Netscape  
Communications Corporation  
LUCY LIEBERMAN, Magnet Studios  
GERALD O'CONNELL, Managing Partner, Modem Media  
CRAIG STEVENS, Director of Research, Digital  
Marketing Services, Inc.  
BRYAN WATERS, Vice President, Technology and  
Production, McGraw-Hill Home Interactive  
VICTOR ZIMMERMANN, Ingenius  
ALAN WESTIN, Privacy and American Business  
JOHN KAMP, Senior Vice President, Washington  
Office, American Association of Advertising  
Agencies  
DANIEL L. JAFFE, Executive Vice President,  
Executive Vice President, Government  
Relations, Association of National  
Advertisers, Inc.

SESSION 2

ROBERT PITOFISKY, Chairman,  
Federal Trade Commission  
KATHRYN MONTGOMERY, President and Co-Founder,  
Center for Media Education  
PAUL PETRUCCELLI, Senior Food and Drug Council,  
Kraft Foods  
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## APPEARANCES: (Continued)

CHARLOTTE BAECHER, Director of Education  
Services, Consumers Union  
MICHAEL BRODY, American Academy of Child and  
Adolescent Psychiatry  
BRIAN R. EK, Vice President, Government Affairs,  
Prodigy Services Company  
MARY ELLEN R. FISE, General Counsel, Consumer  
Federation of America  
EVAN HENDRICKS, Editor/Publisher, Privacy Times  
ELIZABETH LASCOUTX, Director, Children's  
Advertising Review Unit  
DOUG BLANKE, National Association of Attorneys  
General  
VICKI RAFEL, Member of the Board of Directors,  
Media Liaison, The National PTA  
ROBERT ELLIS SMITH, Publisher, Privacy Journal  
DANIEL WEITZNER, Deputy Director, Center for  
Democracy and Technology  
ALAN WESTIN, Privacy & American Business  
JORI CLARKE, SpectroCom

SESSION 3

SUSAN J. GETGOOD, Director of Marketing,  
Microsystems Software, Inc.  
JAMES HOWARD, President, PrivNet, Inc.  
GORDON A. ROSS, CEO and President, TROVE  
Investment Corporation and Net Nanny Ltd.  
CHUCK RUNGE, Vice President Business  
Development, New View Communications  
WENDY SIMPSON, Co-Founder and President,  
SafeSurf  
PAUL PETRUCCELLI, Senior Food and Drug Council,  
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Center for Media Education

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Democracy and Technology  
VICTOR ZIMMERMANN, Ingenius  
ALAN WESTIN, Privacy and American Business

P R O C E E D I N G S

1  
2           COMMISSIONER VARNEY: Thank you very much for  
3 those of you who were here yesterday for coming back today.  
4 For those of you that are joining us today, welcome to the  
5 second day of our privacy workshop. This morning we will be  
6 focusing on children's issues and privacy, and we are very  
7 fortunate to have with us this morning two members of  
8 Congress who have demonstrated commitment and a long history  
9 of work in both the privacy area and the children in privacy  
10 area.

11           Both Congressman Ed Markey and Congressman Bob  
12 Franks are going to give us a few of their thoughts this  
13 morning. I am going to introduce them both, and then  
14 Congressman Markey will speak to us for a few minutes, then  
15 Congressman Franks.

16           Congressman Markey is in his tenth term from  
17 Massachusetts. He is the ranking member of the  
18 Telecommunication and Finance Subcommittee of the House  
19 Commerce Committee. He has actively worked on a wide range  
20 of communications issues. Congressman Markey has most  
21 recently proposed establishing a minimum of three hours of  
22 children's programming per week on the major television  
23 networks.

24           Those of us with small children particularly  
25 appreciate that, Congressman.

1           Congressman Bob Franks is in his second term from  
2 New Jersey. He is serving on the Budget and Transportation  
3 Infrastructure Committees in the House.

4           Congressman Franks is the sponsor of the Children's  
5 Privacy Protection and Parental Empowerment Act of 1996,  
6 which he recently introduced. The bill has the backing of  
7 consumer, religious and privacy groups from across the  
8 political spectrum, including several of today's panelists.  
9 Congressman Franks has brought together an unusual array of  
10 supporters for his bill, not the usual coalitions that we  
11 see.

12           First, we would like to hear from Congressman  
13 Markey, and it's a particular pleasure to welcome you,  
14 having worked with you on several issues over the years.  
15 Thank you for coming.

16           CONGRESSMAN MARKEY: Thank you, Christine, very  
17 much. Mr. Chairman, and all who are gathered, and to my  
18 colleague, Congressman Franks. My congratulations for all  
19 of the great work which he is doing on these very important  
20 issues.

21           Good morning. Thank you very much for inviting me  
22 to be with you here today. The issue of privacy in the  
23 information age and in particular, children's privacy  
24 protection, is quite timely as the nation becomes ever more  
25 linked to the Internet. It is important that we tackle

1 these issues now before we travel down the information  
2 superhighway too far and realize perhaps that we have made a  
3 wrong turn.

4           Yesterday, I had the privilege of addressing a  
5 conference at MIT, with Katheryn Montgomery and others, on  
6 how the Internet and other telecommunications technologies  
7 can enhance the educational experience for millions of  
8 school kids.

9           Yet the "wire" -- and I use the term "wire" as  
10 shorthand for any telecommunications infrastructure such as  
11 phone, cable, computer or wireless networks -- the wondrous  
12 wire that brings new services to homes, businesses and  
13 school will have a certain Dickensian quality to it; it will  
14 be the best of wires and the worst of wires. It can uplift  
15 society as well as debase it. It can allow people to  
16 telecommute to work and obtain distant learning classes.  
17 New digital technologies and other innovations allow  
18 corporations to become more efficient, workers more  
19 productive, and businesses to conduct commerce almost  
20 effortlessly in digital dollars.

21           The same technology, however, will avail corporate  
22 America of the opportunity to track the clicksteam of a  
23 citizen of the net, to sneak corporate hands into a personal  
24 information cookie jar, and use this database to compile  
25 sophisticated, highly personal consumer profiles of people's

1 hobbies, buying habits, financial information, health  
2 information, who they contact and converse with, when and  
3 for how long.

4 In short, that wondrous wire may also allow  
5 digital desperadoes to roam the electronic frontier  
6 unchecked by any high tech sheriff or adherence to any code  
7 of electronic ethics.

8 It is this issue of personal information hijacking  
9 that we are concerned about, and we are obviously concerned  
10 with kids are the target.

11 As many of you know, I have long battled to  
12 establish privacy protections in the telecommunications  
13 arena. I fought successfully to include privacy provisions  
14 in the recently signed Telecommunications Act that was based  
15 upon legislation that I previously passed through the House  
16 of Representatives in 1994.

17 In fact, in the Telecommunications Act, I was able  
18 to convince my colleagues to greatly expand the privacy  
19 protections traditionally accorded consumers of telephone  
20 services.

21 In short, the Telecommunications Act recognizes  
22 that many additional players in the telecommunications  
23 industry will now be privy to personal information similar  
24 to what telephone companies can obtain. For this reason,  
25 the Act extends privacy protections to residential consumer

1 and ensures that all telecommunications carriers -- rather  
2 than simply local phone companies -- are prohibited from  
3 utilizing personal consumer information except in narrowly  
4 tailored circumstances, such as to render and bill service,  
5 or with the approval of the user.

6           It is becoming increasingly apparent, however,  
7 that the existing privacy protections granted to consumers  
8 with respect to information gathered by telecommunications  
9 carriers are not alone sufficient to protect consumer  
10 privacy rights. Further protections are needed to ensure  
11 that privacy rights are retained and respected in cyberspace  
12 by other entities doing business there as well.

13           In addition to my work on telecommunications  
14 privacy, I also have spent considerable time fighting to  
15 maximize the benefits of the information revolution for  
16 children. Last week, I sent a letter to the Federal  
17 Communications Commission with the signature of 220 members  
18 of the House of Representatives -- a majority of the  
19 House -- requesting that the agency adopt a minimum standard  
20 as part of the Children's Television Act. This minimum  
21 standard would require America's television broadcasters to  
22 air at least three hours per week of educational and  
23 informational programming directed at the children of the  
24 United States.

1           In addition, I have advocated establishing  
2 learning links to schools and libraries. I believe that the  
3 very telecommunications companies to whom so much  
4 opportunity has been given in the Telecommunications Act  
5 have an obligation to harness a small portion of their  
6 economic activity to do something noble and necessary to  
7 prepare the next generation of Americans for the fiercely  
8 competitive global economy of the future.

9           Thirdly, I fought over a number of years to get  
10 the TV industry to adopt the V-chip, and finally won its  
11 approval as part of the Telecommunications Act. The V-chip  
12 will allow parents, in a First Amendment friendly way, to  
13 exercise the marketplace option of turning off TV content  
14 that they believe is inappropriate for their young daughter  
15 or son.

16           Yet, the V-chip will only work because the  
17 television industry decided earlier this year that, rather  
18 than further opposing it as a concept and litigating it ad  
19 infinitum, that they would work with parents to give them  
20 the information and tools they needed to make informed  
21 decisions. I think that model is quite instructive in this  
22 situation.

23           The issue of children's privacy, and indeed,  
24 adults' privacy in an electronic environment, must find its  
25 ultimate solution in technology, industry action, government

1 oversight or regulation, or some combination of any or all  
2 of the above.

3           Without question, the issues posed here today are  
4 tremendously complex. The ever-evolving nature of the  
5 Internet does not lend itself to easy solutions. My  
6 colleague, Congressman Bob Franks, has recently introduced  
7 legislation to help protect kids from harm and deceptive  
8 marketing practices. I want to commend him and congratulate  
9 him for his work, and I agree 100 percent with the goals of  
10 his bill. It's application, however, to the Internet, as  
11 distinct from other electronic media, is problematic in  
12 certain ways.

13           Being able to distinguish, for instance, a child  
14 from an adult in an online environment is quite difficult.  
15 Determining the age of the user behind the model is tough to  
16 do as well. Imposing criminal penalties for the  
17 distribution or receipt of personal information where the  
18 recipient of that information has reason to believe that it  
19 will be used to abuse a child is commendable. I would note,  
20 however, that it is hard to enforce because no standard  
21 exist in the bill to ascertain the level of knowledge  
22 necessary to meet this requirement.

23           This leaves the citizenry of the Net not knowing  
24 their obligations. Many World Wide Web sites collect  
25 information for distributing content electronically and

1 often exchange such E-mailing lists. Do they have reason to  
2 believe when they exchange such lists that this data may end  
3 up in the hands of unscrupulous people?

4 Again, how best to protect kids is a complex  
5 issue. How to put teeth into privacy protections is also  
6 important to figure out. What may have worked for privacy  
7 protections or parental empowerment in the phone or cable or  
8 TV industry may not adequately serve as the model when these  
9 technologies converge. Therefore I believe we must pursue  
10 other alternatives.

11 I suggest that we step back from all the  
12 complexity for a moment and focus instead on the core  
13 principles that we want to advance.

14 We must recognize that children's privacy is a  
15 subset of a parent's privacy rights. I believe that  
16 regardless of the technology that consumers use, their  
17 privacy rights and expectations remain a constant. Whether  
18 they are using a phone, a TV clicker, a satellite dish, or a  
19 modem, every consumer should enjoy a privacy Bill of Rights  
20 for the information age. These core rights are embodied in  
21 a proposal I have advocated for many years and I call it  
22 "Knowledge, Notice and No."

23 In short, irrespective of the telecommunications  
24 medium that consumers use, they should get the following  
25 three basic rights.

1           (1) Knowledge that information is being collected  
2 about them. This is very important because digital  
3 technologies increasingly allow people to electronically  
4 glean personal information about users surreptitiously.

5           (2) Adequate and conspicuous notice that any  
6 personal information collected is intended by the recipient  
7 for reuse or resale.

8           And (3) the right of a consumer to say "no and to  
9 curtail or prohibit such reuse or resale of their personal  
10 information.

11           I will introduce legislation before the end of the  
12 week that will canvass privacy policies governing the  
13 telecommunications universe -- from NYNEX to Netscape -- to  
14 figure out whether consumers are able to obtain and exercise  
15 these rights. And secondly, in the case of children, to see  
16 whether these rights can be exercised adequately by their  
17 parents.

18           We should see if there are technological tools  
19 that can empower consumers. Where they don't exist, or  
20 where a particular industry refuses to embrace this code of  
21 electronic ethics in a way that solves the problem, then the  
22 government is obliged to step in and to do something.

23           Pilfering personal information from kids online,  
24 under the guise of giving them prizes or letting them play a

1 game, is wrong, just plain wrong. We must say it is wrong  
2 and the industry itself should condemn such practices.

3 The telecommunications industry is full of  
4 talented individuals and they can clearly help to find  
5 solutions and thereby limit the need for government action.  
6 For instance, in my congressional district in Massachusetts  
7 a company called Microsystems has developed Cyber Patrol to  
8 help parents better supervise their kids' activities online.  
9 Software that helps establish privacy preference on the  
10 Internet that adequately gives consumers the tools they need  
11 to prevent the unwanted dissemination of their personal data  
12 is clearly needed.

13 I implore the industry to act swiftly because the  
14 current situation is utterly unacceptable. At risk is  
15 consumer confidence in the medium itself. When consumer  
16 confidence plummets so will economic activity on the  
17 Internet.

18 My legislation will establish "Knowledge, Notice,  
19 and No" as the goal and will require government action where  
20 the technology or the industry fail to protect consumers and  
21 kids.

22 I look forward to working with the Commission on  
23 finding a solution. I welcome as well consumer as well as  
24 industry input into further developing my legislative  
25 proposal. And I want to work with my colleagues in Congress

1 to ensure that we work together in a way that respects the  
2 First Amendment and the new issues raised by the Internet.

3 And, of course, I want to work with and support  
4 Congressman Franks for all the excellent work which he is  
5 doing as well. I think that if we all work together we have  
6 an excellent chance of putting together a comprehensive  
7 package of legislation and regulation, working cooperatively  
8 with the private sector, that will give the parents the  
9 tools they need to protect their children of our country in  
10 this era that we are entering oh so quickly without fully  
11 understanding the consequences for the young people in our  
12 country.

13 I thank you so much, Christine, for the  
14 opportunity to come here today. Thank you very much.

15 (Applause.)

16 COMMISSIONER VARNEY: Thank you, Congressman  
17 Markey. We know you both have busy schedules, but as long  
18 as you can stay this morning I am delighted to have you. We  
19 will certainly report to you on the rest of the day.

20 Congressman Franks.

21 CONGRESSMAN FRANKS: Thank you. That's a tough act  
22 to follow. Let me first congratulate Congressman Markey for  
23 the leadership that he has provided over the years to both  
24 protect and advance the interests of children as well as to

1 promote the privacy issues that I think all of us recognize  
2 as a democracy are absolutely essential.

3 His leadership in this area has been unmatched and  
4 I am delighted to hear that he too believes, as so many of  
5 us do, that action needs to be taken.

6 Let me further recognize the leadership of the  
7 Federal Trade Commission by convening a group like this,  
8 made up of both industry groups and concerned citizens who  
9 recognize that there are challenges and opportunities ahead,  
10 that if we work together we can serve everyone's interest.  
11 This is not an instance where it appears to me that the  
12 industry is denying that there are not potential problems  
13 out there. This is an instance where industry is talking to  
14 other concerned groups, looking to try to find a mutually  
15 agreeable way to navigate some very challenging waters.

16 But I do particularly want to congratulate the FTC  
17 for yesterday and today's hearings on this issue, which is a  
18 growing concern to parents throughout our country.

19 While the information age has opened up exciting  
20 opportunities for all Americans, it is indeed exposing our  
21 children to some new and unique neighbors. One of the risks  
22 that's been made painfully clear in recent weeks is the risk  
23 that comes from the sale of personal and sensitive  
24 information about our children by various list vendors.

1 Commercial list brokers have compiled elaborate databases on  
2 virtually every child in America.

3 And as Congressman Markey noted, they gathered  
4 children's names, their ages, their addresses, their  
5 telephone numbers, and sometimes even information about  
6 their favorite product, their personal likes, their  
7 dislikes.

8 What is important to understand is that parents  
9 don't realize when they sign up to have their child become s  
10 member of a fast food chain's birthday club, or have their  
11 children's photos snapped at a local child photography  
12 studio, or when a child enters a contest on the Internet,  
13 all of the information that that child provides can and  
14 often does wind up in the hands of list brokers.

15 All of this personal information about our  
16 children is for sale to anyone at virtually anytime. The  
17 potential threat to our children from the wholly unregulated  
18 and ready access to personal and sensitive information about  
19 children was dramatically demonstrated last month when a Los  
20 Angeles television reporter purchased a list of the  
21 addresses and phone numbers for some 5,000 children living  
22 in the Los Angeles area. The order was placed in the name  
23 of a man currently today on trial for the kidnapping and  
24 murder of 12-year-old Polly Klaas.

1           We must act now to protect our children before a  
2 real murderer or child molester buys a list of potential  
3 victims.

4           Last month, I introduced legislation that would  
5 ensure that personal information about a child could no  
6 longer be bought and sold without a parent's consent. The  
7 bill is enjoying broad bipartisan support, and it's been  
8 introduced in the United States Senate by Senator Diane  
9 Feinstein from California.

10           The Children's Privacy, Detection and Parental  
11 Empowerment Act would give parents the right to compel list  
12 brokers to release to them all the information that has been  
13 compiled about their child. Moreover, the list vendor would  
14 have to turn over to the parents the name of anyone to whom  
15 they have distributed personal information about their  
16 child.

17           In addition, the bill would require list vendors  
18 to be more diligent about verifying the identity of those  
19 seeking to buy lists of children. Specifically, it would  
20 be a criminal offense for a list vendor to provide personal  
21 information about children to anyone that it has reason to  
22 believe would use that information to harm a child.

23           In today's high tech information age when access  
24 about information on our personal lives is just a key stroke  
25 or a telephone call away we have an ongoing obligation to

1 make sure that safeguards are in place to protect the most  
2 vulnerable members of our society, our children.

3 I look forward to working with the Commission,  
4 with Congressman Markey, and with the groups that are in  
5 attendance here to make sure we strike the appropriate  
6 balance.

7 Let me say that nobody in my short term in  
8 Congress has introduced a perfect bill the first time out,  
9 and I am certain that that could be said about the  
10 legislation that we have put forward. But I do believe that  
11 it is essential to obtain the goals that I think Congressman  
12 Markey and I have spelled out today. How best to do that is  
13 an area where we are certainly happy to talk with any  
14 affected party, and look forward to the outcome of this  
15 session this morning.

16 Thank you.

17 (Applause.)

18 MS. BERNSTEIN: Thank you very much both members  
19 of Congress. It has been just great pleasure for us to have  
20 had you here to open this session.

21 I am Jodie Bernstein, Director of the Bureau of  
22 Consumer Protection. I just want to say a few words from  
23 the staff of the Bureau, which I think all of you who have  
24 been with us would agree have done an absolutely outstanding

1 job of constructing an agenda and working with all affected  
2 parties to bring them together.

3 We are particularly pleased to have had this  
4 introduction to this important topic this morning, which, as  
5 you know, is focusing on collecting information from and  
6 about children in cyberspace. The topic was raised first in  
7 our November hearings on Consumer Protection in the New High  
8 Tech Global Marketplace, but we did not explore it in depth.

9 Since that time we have learned much more and we  
10 have especially benefitted from the research of others, most  
11 notably the Center for Media Education. With this morning's  
12 workshop, it is our purpose, the staff, to continue to  
13 learn.

14 A few words about the workshop format. It's not  
15 new at the Commission. We have used it on several occasions  
16 to explore important and sometimes very controversial policy  
17 issues. What we found, and I hope you will find that today  
18 again, it leads almost inevitably to greater understanding  
19 of the issues by those of us who participate,

20 Commission staff members, the Commission itself  
21 and the audience.

22 It provides an opportunity to not only hear the  
23 views of experts, but for them to talk to one another around  
24 the table. It can help sort out where people differ and why  
25 and where they agree.

1           A few words about the scope this morning of  
2 today's workshop. First of all, we want to focus on the  
3 collection of information from children in the online  
4 marketplace. Although all information collection from  
5 children raises issues, as you have heard today, we believe  
6 the Internet environment raises special concerns for several  
7 reasons, and let me just briefly describe them.

8           First, there may be less parental involvement in  
9 the online environment than in more traditional marketplaces  
10 where data may be gathered from children. For example, it  
11 is different than inviting them to mail in an application  
12 for a kid's club. Second, data can be collected in a more  
13 interactive way than traditional data are gathered. Third,  
14 the technology lends itself to detailed data collection. A  
15 marketer can know not only what children bought, but what  
16 else they looked at and how long they looked at it.

17           Again, there are questions about the security of  
18 the collected data and, finally, the data can be easily  
19 manipulated and sold.

20           Keeping in mind this focus on children in  
21 cyberspace, our questions today are at learning what is  
22 happening. We also want to explore with you what should  
23 happen in the future. Here are the questions on our mind:  
24 What information is being collected now from children in the  
25 online marketplace? How is it being used? What safeguards

1 exist today? What types of safeguards do industry and  
2 consumer groups believe should be fashioned to deal with  
3 such collection in the future in ways that the public and  
4 private sector can work together in this area?

5 By the end of this workshop we hope we will have  
6 had a full discussion of these and related questions and to  
7 have developed a better understanding of the issue. We are  
8 not looking to prosecute, but to educate and report.

9 Again, I want to thank all of you for  
10 participating. We could not have even proceeded this far  
11 without your tremendous cooperation. We thank you again,  
12 and now Lee Peeler will commence our discussion for this  
13 morning.

14 Thank you.

15 MR. PEELER: Thank you. I am Lee Peeler and I am  
16 going to moderate the discussion today. Let me mention a  
17 few housekeeping details before we get started.

18 First off, there is an overflow room, 332, for  
19 those of you who are standing in the back. And secondly, we  
20 will have three sessions today. And at the end of the day  
21 we will take comments from the audience. Many have asked  
22 whether there will be a transcript available for both today  
23 and yesterday's proceedings. The answer is yes, there will  
24 be a transcript. We expect to put that on our Web site, and  
25 it will probably be about 30 days before it's up.

1           At the beginning of each session I am going to ask  
2 for comments from several participants, and then after that  
3 I'm going to open the table for discussion. Because of the  
4 number of extremely qualified participants today, I would  
5 really like to ask everyone to try and limit their remarks  
6 to no more than three minutes.

7           If you want to be recognized for the discussion,  
8 just signal me or put your card up on its side. I will try  
9 and recognize you all in order. The reporter has asked me  
10 to remind you to please identify yourself at the beginning  
11 of your comments, and to please speak into the mike. If you  
12 don't speak into the mike, he will not be able to pick up  
13 your comments.

14           The first session today really is designed to set  
15 the background for the rest of the discussion. We want to  
16 talk about what information is being collected from and  
17 about children on the Internet right now, and how that  
18 information is being used. And I would like to ask the  
19 following people to address that issue in this order.

20           First, I would like Celeste Clark from Kellogg and  
21 Brian Waters from McGraw-Hill to tell us a little bit from  
22 the company's perspective about what information is being  
23 collected.

24           Then we have a number of people here who have  
25 actually designed Web sites for children. I would like to

1 ask Victor Zimmermann to talk to us a little bit about what  
2 information they have designed at Web sites to collect.

3 We have representatives here from the online  
4 systems. I would like to ask Brian Ek to talk to us a  
5 little bit about their online systems and policies in terms  
6 of collection of information.

7 And then I would like the Center for Media  
8 Education to tell us a little bit about the information that  
9 they have collected in their study of information on the  
10 online system.

11 So with that, I would like to ask Celeste Clark to  
12 start.

13 MS. CLARK: Thank you, Lee. And thank you, Mr.  
14 chairman, members of the Commission and members of the staff  
15 for organizing this workshop. I think it's a tremendous  
16 opportunity for us to be able to have dialogue on a very  
17 important topic.

18 I am Celeste Clark, Vice President of Worldwide  
19 Nutrition Marketing for Kellogg Company, and I am pleased to  
20 be here with you to share with you our experiences in using  
21 the Internet.

22 We are in the very embryonic stages of this  
23 experience, and I want to say up front that my comments may  
24 or may not reflect the action of the entire industry at  
25 large.

1 Kellogg's interest in establishing a Web site in  
2 1995 was to test new ways of communicating and interacting  
3 with consumers, including child consumers. It is important  
4 to stress that the Internet facilitates interaction with  
5 users of our products and services in a manner fundamentally  
6 very similar to the products and other means of contacting  
7 those consumers, such as the 800 number, focus groups, and  
8 other interactive means.

9 As background, the Web page was designed to  
10 provide a very efficient and effective consumer service. In  
11 fact, what we did was to take an inventory of the subject  
12 matter that consumers would call in on the 800 number and  
13 the letters that they sent in. And based on that subject  
14 matter we designed our Web site.

15 In addition to that, when our Web page early on  
16 was started we conducted focus groups to get a gauge from  
17 consumers as to how much we were on target. That feedback  
18 was tremendously valuable, and I would encourage you as part  
19 of this process to include consumer input in whatever  
20 information is gained and utilized.

21 Our Web site has four units or areas. We have a  
22 clubhouse, and in that clubhouse there is information that's  
23 provided to consumers in a very entertaining and educational  
24 format. It consists of nutrition information, recipes,  
25 there are coloring books, crossword puzzles, history of our

1 characters, and boxes from our different locations from  
2 around the world.

3 In addition to that we have the Kellogg store,  
4 clearly designated as a store, in which consumers are  
5 offered Kellogg character merchandise. And I am going to  
6 talk a little bit more later about that.

7 The next area is the Kellogg University that's  
8 under construction. The intent there is to be able to ask  
9 an expert more in depth questions about nutrition and our  
10 products and the contribution that they make to a healthy  
11 lifestyle.

12 The last area, the brand-specific promotions, is  
13 also under construction, and we are busy working on that to  
14 have that up and running very soon, and that's an area I am  
15 sure that is of a lot of interest.

16 Regarding data collection, we collect data in both  
17 the clubhouse and the store. In the clubhouse, there is a  
18 general online market research questionnaire. Providing a  
19 response to this questionnaire is optional and does not  
20 limit access to the clubhouse. All of the information  
21 gathered from the questionnaire is secured by various  
22 computer codes and is not available to the public or to  
23 anyone else except our online agency, who will probably be  
24 talking a little bit more about what we do to provide  
25 security.

1           To date, the only uses of the information are:  
2     (1) to determine an aggregate demographic profile of our  
3     online users; (2) to provide evaluative information for  
4     purposes of improving the Web site; and (3) we also collect  
5     E-mail addresses of only those who indicate they wish to  
6     receive information on the changes that we make to that Web  
7     page.

8           In the Kellogg store, in bold lettering, there is  
9     a reminder that reads: "Remember kids, if you are under 18  
10    years old, you need to get your parent's or guardian's  
11    permission to order."

12           There are no transactions currently made online,  
13    and as you can imagine, much to the dismay of the consumers  
14    who are online, they are very frustrated about that, because  
15    in order for them to go into the store and complete a  
16    transaction they have to complete a form, and either mail it  
17    in or fax it, or use the 800 number to do that. So we are  
18    looking at how to conduct these transactions on line, and  
19    basically exploring what the best practices that are being  
20    followed right now on online to get a best gauge of how to  
21    do this.

22           MR. PEELER: Could I ask you to summarize?

23           MS. CLARK: Okay. I want to make this point, two  
24    points I want to make if I can finish up.

1           One is that we have always held our consumer  
2 information in the strictest confidence. We have for years  
3 collected personal information from consumers via the  
4 letters, the 800 numbers, in response to premium and  
5 commercial offers. We do not disclose consumer names nor  
6 addresses to anyone, even in situations where a government  
7 entity is involved. We have to have informed consent from  
8 the consumer in order to release that information. So we  
9 definitely respect consumer's privacy, not only for adults  
10 but for kids as well.

11           And then the last thing that I would close in  
12 mentioning is that we very much are a supporter of the self-  
13 regulatory process, particularly the guidelines that are  
14 established by the Children's Advertising Review Unit of the  
15 Council of the Better Business Bureau. We support self-  
16 regulation, and believe that we need to work together in  
17 fostering ways to address issues that are raised by the  
18 Internet in order for this to be a global competitive  
19 environment.

20           MR. PEELER: Thank you, Celeste.

21           Bryan.

22           MR. WATERS: My name is Bryan Waters. I am the  
23 Vice President of Technology and Production for McGraw-Hill  
24 Home Interactive, a publisher of high quality products for  
25 children.

1           We currently do not have any products for children  
2 or that are targeted to children on the Web. And as we move  
3 into that area we have a number of products in progress. We  
4 are trying to make an effort to take a proactive and  
5 responsible stance and action in terms of making sure that  
6 we provide a safe online experience for children.

7           The key issues seems to be not the fact that data  
8 is collected, since that seems to be necessary in an  
9 interactive environment such as the Web, the key issue seems  
10 to be intent in what data is collected and the uses that  
11 it's for, and we are here to take a stance in making sure  
12 that we know what that is, and that we contribute to a  
13 responsible use of that data.

14           Thank you.

15           MR. PEELER: Thank you. Victor.

16           MR. ZIMMERMANN: My name is Victor Zimmermann. I  
17 am the Senior Vice President of the consumer business unit  
18 for Ingenius. Ingenius is a joint venture between PCI and  
19 Reuters Media, and we produce interactive multimedia content  
20 for children which is delivered to both the school  
21 marketplace as well as the consumer marketplace.

22           We deliver through several different platforms,  
23 including cable TV, direct broadcast satellites on TV as  
24 well as the Web environment.

1           Our mission at Ingenius is to produce content that  
2 is both educational as well as entertaining. And in order  
3 to do that and to create guidelines internally in reaching  
4 that objective, we looked at our content through kind of a  
5 self-monitoring precedent, and that is looking at three  
6 things that we call the 3Ps. We look at precedent, another  
7 industry's magazine area and computer gaming, as well as in  
8 the television arena.

9           Secondly, we look at what we call a paradigm. And  
10 in this business it's a new paradigm. We see multimedia  
11 entertainment as a vehicle through which children can  
12 actually think and act in relation to character and story.  
13 And it's a very powerful medium indeed, and we use our  
14 characters that we create to reach that objective.

15           For example, we have characters such as one called  
16 Fred Fiscal, which is used to explain through news content  
17 complicated financial issues. For example, the recent  
18 gasoline price increases. Those characters lend something  
19 to children in that children don't typically identify with  
20 adults as moderators in our content. So we use adults  
21 through our characters to deliver the message to kids in  
22 both an entertaining and educational bent with a flair.

23           The data that we collect, for example, on a site  
24 which we launched this month called "Jamz", which is  
25 moderated chat for children, that is delivered along the

1 context of current events. We use avatars in that content  
2 to relate to the children. We collect certain data such as  
3 the child's name, their E-mail address, the city and state  
4 where they live in, and their online password, which we ask  
5 them to make up in order that they can be a part of our  
6 moderated chat sessions.

7 That concept, that information is used so that we  
8 can, one, know what market we are really targeting so that  
9 we know when we are targeting an 8 to 14-year-old age group  
10 that we are actually hitting that age group through their  
11 feedback.

12 Number two, the data is in an aggregate form when  
13 it is used for advertisers so that we can quantify basically  
14 just the number of eyeballs that reach our site. Again,  
15 advertising is used to support the production of that  
16 content.

17 Thirdly, we look at the purpose of what we are  
18 trying to accomplish with children, and that is that the  
19 purpose of the product should be to provide both an  
20 educational balance as well as an entertainment balance and  
21 vice-versa, and our mission is to do just that: to  
22 entertain with a twist and to educate in an entertainment  
23 Web.

24 Some of the issues that we see as far as our  
25 characters that we have developed, we see those characters

1 as a way for kids to interact and engage in the content. We  
2 think that there is a fine line with that. If we cross the  
3 line and a character says, "Come to the store and buy a T-  
4 shirt," we see that as inappropriate.

5 MR. PEELER: Could you summarize?

6 MR. ZIMMERMANN: Sure, sure.

7 To summarize the questions that we see in the  
8 industry we use as a self-regulating guideline. We look to  
9 television, we look at magazines, we look at, I think,  
10 consumer software, where we are in the gaming area, for  
11 example, kids' addresses are collected as a way to target  
12 them according to their individual needs and desires.

13 We support self-regulation as a company, and we  
14 certainly support the direction and focus that these  
15 hearings have highlighted, and we look forward to working  
16 with the members of the FTC and other industry individuals  
17 in pursuing the correct way to explore this new media.

18 MR. PEELER: Thank you.

19 Brian.

20 MR. EK: Thank you very much.

21 I want to begin by saying that Prodigy for years  
22 has followed what Congressman Markey suggested. "Knowledge,  
23 Notice, and No" has been part of our operating practices and  
24 part of a formal privacy policy, which I signed as a  
25 condition of employment at Prodigy for a number of years.

1           In the case of marketing to children, in Prodigy's  
2 perspective, we were the first company essentially to deal  
3 with the issue. We were the first family service. We were  
4 the first with advertisements. We were the first to have  
5 child-specific content, and we were the first to mass an  
6 audience of almost 400,000 under 18 members.

7           I can tell you that in practice very little, if  
8 any information, is collected by Prodigy about children. I  
9 want to go into a little history as far as why that's the  
10 case, why the industry is changing, and what we need to look  
11 at in the future.

12           When Prodigy began in mid 1980s, we were very  
13 conservative in our approach to advertising to children. I  
14 can attribute this to several factors: our corporate  
15 parents, our own management, our very stringent approach to  
16 consumer privacy, but perhaps most important of all, in the  
17 early days of online services in the Internet, the medium  
18 from its advertising perspective and marketing perspective  
19 was transactionally driven.

20           What marketers were most interested in doing was  
21 getting the consumer to actually make the purchase online  
22 right then and there. I mean, that was the benefit of the  
23 medium. Image-based advertising, especially considering the  
24 fact that the Internet market was so small back in the late

1 eighties, image-based advertising had really not taken hold  
2 as had data collection.

3           So consequently that's why very little of the  
4 advertising that you would see and the marketing that you  
5 would see done through Prodigy there was little, if any,  
6 done specifically related to children. In fact, I went and  
7 polled a number of Prodigy employees and I found that in our  
8 11-year history we ran one advertisement that was targeted  
9 to children, and that was for Power Rangers.

10           We also ran only one data collection vehicle which  
11 was a chat session that was done in cooperation with Sagy,  
12 and in fact the way we did that is we sent E-mail to the  
13 parents first, asking if the children could participate.

14           I think it's important to say that we don't  
15 discourage advertisement or marketing when it relates to  
16 children. However, Prodigy also has some very stringent  
17 guidelines which marketers are required to comply with.  
18 Some of those are, and I would just like to read them off  
19 Prodigy's policy:

20           The advertisement cannot urge children to buy  
21 anything, or ask their parents to go and buy it for them.  
22 It cannot use exhortative language. It cannot imply that the  
23 product will make them better than their peers or less so if  
24 they don't have it.

1           Now, with the widening popularity of the Internet  
2 we have more kids online. Indirect advertising for  
3 purchasing offline is starting to gain steam. So is the  
4 practice of using the Net guard to gather market  
5 intelligence.

6           We believe that marketers should not try to go  
7 around parents in soliciting information from children. We  
8 believe that advertising in marketing should not in anyway  
9 masquerade as editorial. It should be clearly marked in a  
10 way that children could distinguish. We fully support  
11 technologies and technology-based solutions that will give  
12 households control over the data collection and use as it  
13 pertains to children.

14           I thought it was particularly interesting though  
15 that there is a balance that I would like to give to the  
16 group that we consider today. When I was preparing to come  
17 down here my 14-year-old daughter said that she would very  
18 much like to talk to the children on the panel.

19           That perhaps may be an idea for a focus group as  
20 we go forward. But the fact of the matter is, that children  
21 are consumers too. From the day they get their very first  
22 allowance, they are marketed to in school yards, in schools,  
23 at home, and at recreation. It's a fact of life; they are  
24 consumers. And as we ponder what to do here, granted there  
25 need to be some very careful solutions and some very

1 thoughtful solutions to deal with privacy as it relates to  
2 children, but we have to do it in a way that does not  
3 eliminate children's rights as consumers as well.

4 MR. PEELER: Thank you.

5 Now, Katheryn, could you tell us a little bit  
6 about what you found when you reviewed this?

7 MS. MONTGOMERY: What I would actually prefer to  
8 do is to make a more general statement now and talk just  
9 briefly about the kinds of practices.

10 In the second session, I will have a good more to say  
11 about the specific things that we identified in our report.

12 But first I would like to thank the Federal Trade  
13 Commission for holding this meeting and for taking seriously  
14 the report that we released two months ago. The report  
15 really was designed to serve as a warning system by  
16 identifying some of the practices that were already  
17 beginning to emerge in this new online medium, and to  
18 identify some of the problems raised by those practices.

19 We were particularly concerned about the detailed  
20 personal information that was being collected in a number of  
21 Web sites -- and as I mentioned, I will talk about that in  
22 more detail in the next session -- and the manner in which  
23 these data were being collected from children.

24 I want to say that I think it's very important  
25 that we understand that this is a medium in its infancy, and

1 precisely because of that this creates an opportunity to  
2 develop standards and guidelines for how the marketing  
3 practices to children are designed and how they evolve. Our  
4 interest here is not to eliminate advertising and marketing  
5 to children, but rather, to identify some rules of the game  
6 and to come to some agreement about that. IENDFIELD

7 believe it's important that the FTC play the leadership  
8 role that it is playing, in having a dialogue and in setting  
9 the guidelines for how you market children in this new  
10 environment.

11 We talked a little bit about paradigms; we have  
12 mentioned paradigms here. This is a new medium, it's a  
13 different medium, it's a more colorful medium and a more  
14 intrusive medium. It's one that children relate to  
15 personally in ways that they have not related to other  
16 media.

17 As it becomes more sophisticated in its ability to  
18 have real promotion video and audio and other kinds of  
19 technological capabilities, it most likely will surpass  
20 television as the most influential medium in children's  
21 lives.

22 And in terms of the marketing paradigm, the  
23 marketing paradigm that is developing through this medium,  
24 and of which the children's marketing practices are a part,  
25 is known as "one to one marketing." The idea is that you

1 market to an individual rather than to a group of people,  
2 and that you develop a personal relationship with that  
3 individual. This is a practice that we believe holds some  
4 potential problems for children in the way that it's  
5 evolving, and I think we need to understand the context in  
6 which this is being designed.

7           This new medium is also one that does not have a  
8 regular structure or a set of safeguards as we have in, for  
9 example, television where you weren't allowed to have a host  
10 of a television program pitch directly to a child viewer,  
11 and that there is clear separation of editorial, program,  
12 and of advertising, and there are rules about that.

13           This is a medium that has unprecedented ability to  
14 collect information from children both in a voluntary way --  
15 we will describe later -- and in a way that is done through  
16 the technology, and most of you know that the technology  
17 that's developing is very sophisticated and will be able to  
18 collect rather enormous amounts of information.

19           So I am looking forward to the discussion and the  
20 dialogue today. I think it's going to be very, very  
21 important that we have a candid discussion of the practices  
22 that are taking place, and a thoughtful discussion of the  
23 kinds of safeguards that need to be developed in order to  
24 ensure that children's privacy is really meaningfully  
25 protected in this new environment.

1           MR. PEELER: Thank you.

2           One of the issues that keeps coming up repeatedly  
3 is the fact that in this new environment it is possible for  
4 the marketer to collect not only information about what a  
5 consumer buys but also what a consumer looks at.

6           And Peter Harter addressed briefly yesterday on  
7 the privacy panel, the cookie technology. I wonder if you  
8 could talk for a few minutes about what the implications of  
9 the cookie technology are for concern about children's  
10 privacy on the Internet.

11           MR. HARTER: Good morning. I am Peter Harter from  
12 Netscape Communications. I am happy to be back here for the  
13 second day. I was pleased to read this morning in today's  
14 Washington Post, "Curbs on cyberspace as proposed," and the  
15 first line, "Should SPAM be jammed and cookies be crumbled  
16 on the Internet?"

17           (Laughter.)

18           I guess all this Internet stuff is really an  
19 industry because we are the subject of hyperbole, either by  
20 journalists or Paul Fishen, so I guess we have arrived.

21           I was also pleased to read something of a mantra  
22 back in California that typical issues, including potential  
23 new regulations, are a snake or an opportunity. And I said  
24 yesterday that "Privacy is somewhat of a snake, but a snake  
25 can be an opportunity. And if a company can offer better

1 privacy to customers than others do, they will benefit in  
2 the long run."

3 I repeat that today because I think it's an  
4 important consideration. People back in Mountain View are  
5 very young. Arthur Greisen, when he put Mosaic together a  
6 few years ago, was only 23. The engineers I work with are  
7 figuring out how to deal with new regulatory issues and new  
8 legislation, a legislative code, if you will. They are my  
9 age or younger, and they are having kids. So they identify  
10 with those issues.

11 But the code they write, even though some people  
12 hold that the computer creates de facto policy, there always  
13 has been rules on Internet. You can look at this month's  
14 Harvard Business Review, and they talk about rules on the  
15 Net, Neticat SPAMming, and not changing the discussion, Fred  
16 Lisser and his group, the last line in the Harvard Business  
17 Review, "In cyberspace, the real power will lie with those  
18 who make the rules."

19 Hopefully industry will realize that competitive  
20 advantage is by de facto rulemaking, and I think we have  
21 already seen that take place with traditional companies  
22 shifting over to Internet technologies. You read about  
23 these headlines in the business papers.

1           But it really is an important factor in looking at  
2 these difficult issues of how to protect the interests of  
3 children in cyberspace.

4           And I want to comment on a few points made by our  
5 speakers who kicked off this morning's panel before we run  
6 out of time. I will be brief.

7           MR. PEELER: Very brief.

8           MR. HARTER: Senator Markey said that children's  
9 rights are a subset of the parent's rights. And when a  
10 child goes to a site and wants to transact or get asked this  
11 information, if their rights are presented to the Web site  
12 in advance through a certificate or a particular I.D. that's  
13 encrypted, I think that parental consent would be given in  
14 advance and the Web site operator would know whether or not  
15 the child is authorized to do what the Web site offers to a  
16 child.

17           And with reference to Mr. Franks and his remarks,  
18 I think that we have to look at verification of the identity  
19 of those persons that are reflected -- that the list brokers  
20 have information about. Is he talking about U.S. children,  
21 Canadian children, and how many children there are in the  
22 world?

23           Verification will depend upon authenticity, data  
24 integrity which also needs encryption. And those of you who  
25 were here yesterday heard me talk about encryption. And I

1 bring it up again today because I believe that if industry  
2 is to play a part as members of Congress asked us to do --  
3 invited us to do, rather, I think the encryption issue is  
4 going to be integral to privacy.

5 But getting back to the question I was given,  
6 cookies, I will state again cookies are a very simple  
7 technology, a temporary fix for technology that will have to  
8 be overhauled for the commercialization of the Internet. I  
9 really think we need to look beyond cookies and to the real  
10 solutions for privacy issues. Cookies only contain  
11 information that a user submits to a Web site, and the Web  
12 sites puts back on the user's computer to facilitate the  
13 user's ongoing activity with the Web site, whether it's a  
14 transaction for buying from a merchant, or telling the  
15 server how to provide a magazine in Spanish in a certain  
16 font. I think cookies are not the issue, rather the ongoing  
17 issue is what is available to meet the demands of the  
18 privacy interest and regulatory interest that come up as we  
19 see the Internet grow into a beneficial medium for  
20 everybody.

21 Thank you.

22 MR. PEELER: Craig Stevens, in terms of collecting  
23 information for marketing purposes, could you talk a little  
24 bit about what Digital Marketing is doing?

1           MR. STEVENS: Sure. First of all, I would like to  
2 take the opportunity to thank the FTC. I don't want to miss  
3 that opportunity. And will cut to the chase due to the  
4 time limits.

5           Basically, we think that marketing research with  
6 children is a good thing. That is what is necessary to  
7 provide the products and services that children desire, the  
8 color of bikes that they want and the styles that they want;  
9 the TV programming that they want to view.

10           What we have basically done is we have taken, --  
11 if you are familiar with CTI research, computer telephone  
12 interviewing, we have taken the most sophisticated research  
13 engine in the United States, and integrated that into the  
14 online environment. That's not a simple thing to do, but we  
15 have done that.

16           And what that does is it gives you a lot of edit  
17 controls, a lot of checks, a lot of skip pattern that enable  
18 you to find out who is entering your system and treat that  
19 appropriately.

20           We are researching children for clients in the  
21 entertainment industry and consumer goods, packaged goods,  
22 et cetera. The process is that we go through parents first.  
23 We recruit children to interview through the parents period.  
24 We fully disclose the information, who we are, what we are  
25 doing, the industry that our client is representing, as well

1 as what will be done with the information. We do not ask  
2 sensitive questions of children such as marital status of  
3 their parents, also income, E-mail addresses, address, phone  
4 numbers. We just don't see a need for that. We look at the  
5 data in an aggregate sense. We do ask their age because I  
6 do think that is important because marketing to an 8-year-  
7 old is different from marketing to a 13-year-old.

8           If a child does come into our area, we have pre-  
9 screen capabilities in which we ask a series -- what we have  
10 is called a Dynamic Screener, in which we ask a series of  
11 non-sensitive to demographically qualifying questions for  
12 the client surveys that we have. If a child comes into the  
13 area indicating that he is 13 years old, he is automatically  
14 routed to a content area which contains information about  
15 marketing research, to learn more about marketing research.

16           That could include transcripts from this  
17 conference about marketing research and some of the  
18 governmental concerns and regulations that the industry is  
19 faced with. It could also have something called current  
20 events, things that you see on CNN, for instance, about  
21 current events or what things that are going on. You can go  
22 in and see previous results from previous services, another  
23 fun area, favorite travel destinations, things like that.

24           We will not allow -- we communicate this very  
25 strongly to our clients -- we will not allow surveys that we

1 deem as inappropriate for children, and we are very  
2 steadfast in that. Our clients not only respect that, they  
3 back us in that. I think your Fortune 100 clients, who are  
4 the companies that we deal mostly with, are very conscious  
5 about staying within the expectations, ethical and moral  
6 expectations that corporate America has taken upon itself,  
7 rightly so.

8 I think that this conference and the leadership of  
9 the FTC is going to help that.

10 In closing, staying within my time limit, I would  
11 just like to say that we consider ourselves a very moral and  
12 ethical company. We would like to see other companies  
13 provide extremely high standards such as going through  
14 parents first, getting parental permission to have a child  
15 participate in a survey, asking the parent to observe, but  
16 not necessarily to sway the opinions of the responding  
17 child, but to observe as to the questions that they are  
18 dealing with. I think this would also help to deal with the  
19 cookie issue. If companies, clients, are allowed better  
20 quality alternatives to gathering the type of research  
21 information we are looking for to market to these private  
22 markets, I think that they would essentially be able to set  
23 the cookie issue aside, because they have a better, more  
24 quality option in the research department.

25 Thank you.

1           MR. PEELER: Craig, very quickly, how do you get  
2 consent from the parent if the child is coming to your area?

3           MR. STEVENS: If a child comes into the area, we  
4 have what I was describing as our Dynamics Screen, a pre-  
5 screener, in which one of the first questions that we do ask  
6 is age. If they indicate that they are between the ages of  
7 whatever we have established in the que, under 18 years old,  
8 then they are automatically routed. They do not get a  
9 survey period. They go to this font called content, current  
10 event area, which is completely safe for children.

11           MR. PEELER: And no information is collected  
12 there?

13           MR. STEVENS: No. That is correct.

14           MR. PEELER: Lucy Lieberman and Gerald O'Connell,  
15 also design Web sites. Would you like to tell us a little  
16 bit about what process is used?

17           MS. LIEBERMAN: Hi. I am Lucy Lieberman, and I  
18 work with Magnet, which is in town actually.

19           I guess one of the distinctions I want to make up  
20 front is the difference between actually asking for  
21 information and collecting, and that sort of information  
22 collected through surveys or questions, that sort of thing,  
23 which we do as purely optional activity.

24           Then there is also the information about what we  
25 can sort of track behind the scenes, tracking how long

1 people spend on pages, what sections people go to and just  
2 what general habits people have online and how much time  
3 they are spending.

4 I think the idea of collecting information  
5 voluntarily is something that does need to be enforced on a  
6 pretty much voluntary basis.

7 COMMISSIONER VARNEY: Lucy, tell us a little bit  
8 about the information that you collect behind the scenes.  
9 What do you collect behind the scenes, and how do you do it,  
10 and what do you do with that information?

11 MS. LIEBERMAN: I guess the most direct  
12 information that we get behind the scenes is just how many,  
13 just how many pages are accessed how many times. And by  
14 comparing that to the structure of the site, you can see how  
15 many go to the front page, and then you can see how many  
16 people have gone to the pages that branch off of that, and  
17 then branches from that. And then we can also track how  
18 many times someone who is involved in a certain activity, or  
19 how many times someone downloads a screen saver, or plays a  
20 game, or won a game, or lost a game.

21 COMMISSIONER VARNEY: And you can track that by  
22 individuals, so you know the person or you know the person's  
23 password that is used?

24 MS. LIEBERMAN: Yes and no.

25 Tracking it on an individual basis --

1                   COMMISSIONER VARNEY: Yes.

2                   MS. LIEBERMAN: -- results in huge, enormous,  
3 complicated files that are very difficult to actually  
4 produce information with, and that's one thing that then we  
5 talk about as not really being that possible right now to  
6 track -- to track someone in a way that's so efficient that  
7 you can really break it down to an individual and then  
8 actually be able to produce a profile based on that. I  
9 definitely think that that's where things are headed. I  
10 would like to see a computer that can do that now.

11

12                   COMMISSIONER VARNEY: And when you collect the  
13 information behind the scenes it sounds like you are  
14 collecting it in a non-personally identifiable aggregate  
15 way.

16                   MS. LIEBERMAN: Yes.

17                   COMMISSIONER VARNEY: And what do you do with that  
18 information?

19                   MS. LIEBERMAN: We don't distribute it. We use it  
20 for determining how -- determining what people are  
21 interested in, and then taking that information and give it  
22 back to the site. If people are really into online  
23 activities, are really into children-like things, then we  
24 are going to do more of that to encourage people to spend  
25 more time on Web sites.

1           COMMISSIONER VARNEY: And do you design sites for  
2 various companies and manufacturers?

3           MS. LIEBERMAN: Yes.

4           COMMISSIONER VARNEY: I see. So you give the  
5 information back to them about what looks like it's working  
6 and what doesn't look like it's working, or do you just take  
7 it and modify the sites?

8           MS. LIEBERMAN: That depends. Yeah, it's -- it's  
9 so up in the air, but we definitely are encouraging clients  
10 to -- to play it safe in a lot of ways. I mean, we don't  
11 want to push anybody over the edge, but at the same time we  
12 want to maintain a real competitiveness.

13           If we have more information that we have  
14 collected, then we can find out what works and what doesn't,  
15 and then reapply that back to the site, then that's going to  
16 make us have a better product, get us more business, and,  
17 you know, it's all business.

18           COMMISSIONER VARNEY: Thank you.

19           MR. PEELER: Mr. O'Connell, would you like to  
20 comment on that further?

21           MR. O'CONNELL: I'll make two comments.

22           I think the first thing is that's probably  
23 important to recognize what this medium is and what it  
24 isn't. And I think we are approaching this medium as one

1 that is strictly a broadcast medium, and it's really a point  
2 of communications medium.

3 And I think when we approach the development of a  
4 site we want to encourage as much ability on the part of the  
5 user, whether it is a child or an adult, and we work mostly  
6 with advertisers who are advertising to adults, to be able  
7 to allow them to participate in some way or express  
8 themselves in some way.

9 This is not to be -- this is really not a  
10 publishing or broadcast medium, and I think most of what we  
11 are talking about here is very much -- it's making an  
12 assumption that this is all really just one way from sender  
13 to user. It's partly true but it's not fully true.

14 More importantly, if you don't care about your  
15 efforts in this world as a marketer, your efforts, to borrow  
16 a phrase, will crumble, strictly because of the nature of  
17 this medium as a two-way medium in which people can speak  
18 back, and you have to encourage them to speak back. If you  
19 don't demonstrate that you care, if you abuse the privilege  
20 to communicate with them, you will fail in the long run, and  
21 it's very important to recognize that.

22 The more services you can offer that are  
23 personalized the better off you will be. If you utilize it  
24 in some way to try to take advantage of your customer, you  
25 will lose in the long run. And if there is one thing we

1 advocate to our clients is the ability and the intention to  
2 establish relationships that work more for the user. And if  
3 it works to the user, and if it works for the user it's  
4 going to work for them.

5 That's really about it. If you want me to answer  
6 any questions about the use of information, I would be happy  
7 to.

8 MR. PEELER: Well, I think sort of the same  
9 questions that Commissioner Varney asked earlier.

10 Do you collect individually identifiable  
11 information at your site, and what do you do with it?

12 MR. O'CONNELL: Well, there is two ways you can  
13 look at this, or there is two types of information that you  
14 can collect. One is based on the specific response of the  
15 individual, i.e., I am filling out a -- I am sending you a  
16 letter, such as an E-mail. I am filling out a survey. I am  
17 completing an order form.

18 Now, you collect that information. We do not  
19 advise any of our clients to resell that information in any  
20 way. But to the extent that you can use it to create a  
21 better service for your customer the next time they contact  
22 you the better.

23 In terms of aggregate -- in terms of click stream-  
24 type information that is collected in the background, that  
25 information is not in any of our sites of information

1 tracked back to specific users and then used in some way to  
2 solicit some information down the line. And, in fact, as  
3 Lucy said, it is infinitely more difficult to do that than  
4 probably most people who aren't practitioners realize. It's  
5 extremely difficult to do that, and on an aggregate basis it  
6 works if you want to aggregate information that you get back  
7 to be able to say there is a better way of doing this. But  
8 in terms of sticking your hand in somebody's personal  
9 information, cookie jar, to target that person further down  
10 the line based on their click stream that you have captured  
11 is extremely difficult, and not warranted at this point  
12 anyway.

13 MR. PEELER: And what about the actual transaction  
14 data, do you use that to follow up with solicitations, and  
15 do you use that to follow up the solicitations to children?

16 MR. O'CONNELL: Only -- well, first of all, any  
17 site that we do will have an opt out type of thing in  
18 response to -- so that -- and I think that's critical. I  
19 would agree with everything that Congressman Markey said  
20 earlier about who knows. In fact, they are followed by some  
21 of the guidelines that I helped author.

22 But transactional data can be -- first of all, you  
23 want to use the transactional data that you collect to make  
24 sure that you do a good job in terms of getting either the  
25 information or the product that somebody has ordered from

1 you to that person as quickly and as effectively as  
2 possible.

3 To the extent that you might follow up to say did  
4 you get it, did you enjoy it, are we doing a good job for  
5 you? Of course you want to use that transaction as any good  
6 marketer would in terms of whether that's -- if I came into  
7 a store tomorrow and I bought something from you today, you  
8 would ask me how is the product working out for you. So you  
9 use information that way. But beyond that, right now we are  
10 not.

11 MR. PEELER: Pat?

12 MS. FALEY: Well, I think it's important to  
13 address what information is collected is also why it is  
14 collected. And in talking to our members I am finding that  
15 the reason that they are collecting the limited amount of  
16 information they are collecting is to improve the site  
17 content, to provide things of value to the people who are  
18 accessing the net and to find out who is, frankly,  
19 interested in the project and who is interested in the site,  
20 who is coming there.

21 Our members are very highly respected companies,  
22 as you know, and, you know, Marketing 101 is -- marketing is  
23 all about reaching consumers in ways in which they are  
24 comfortable and certainly our members know it's in their  
25 interest to do that.

1           We have a long history of providing products and  
2 services to children. Frankly, there has never been an  
3 instance of a child harmed by the -- you know, the inclusion  
4 of their name on a commercial mailing list, and I think  
5 that's very important to note. Nevertheless, we know this  
6 is a new medium. It's an issue we are very concerned about.

7           A recent study we did showed that about half of  
8 our members right now are using Internet for marketing. Of  
9 that half only 84 percent of them have been on the medium  
10 for less than one year. So I agree with Katherine that this  
11 is exactly the opportunity, exactly the time when we should  
12 be addressing these issues, and we are.

13           Just one more point. Someone spoke about asking a  
14 child their age online, and while, you know, children always  
15 tell the truth, we are concerned about that. And one of the  
16 things that we think is important is to put the choice and  
17 the control in the hands of the parents, and we believe that  
18 the best way to do that is to use the empowering  
19 technologies which you are going to see a little later on  
20 today where the parent gets the ultimate say in what that  
21 child does.

22           And so I just wanted to make those two points.

23           MR. PEELER: John and then Mary Ellen.

24           MR. KAMP: As we reach the end of this, I am John  
25 Kamp from the American Association of Advertising Agencies.

1 As we reach the end of this, I thought that there were a  
2 couple of things that -- the impressions that seem to be  
3 left with a couple of matters Congressman Markey, I believe,  
4 said we need to address.

5 One of them was the implication, at least, in the  
6 Congressman's remarks that this entirely unique medium left  
7 law enforcement agencies without any powers. I think we are  
8 all convinced that the Internet is a fascinating new medium,  
9 but whether it's unique in its power is something, I think,  
10 we still don't know. The amount of commerce on it is  
11 relatively minimal compared to other media.

12 But the idea that there are -- that the existing  
13 law enforcement agencies are left impotent, I think is just  
14 one that we certainly cannot let go without a response.

15 This agency, for example, and Commissioner Varney,  
16 particularly, has made it very clear that in the appropriate  
17 cases that this agency will act using the enforcement  
18 mechanisms that it has now.

19 I see a representative of the Attorney Generals  
20 here today, and I am certain that none of them feel that if  
21 there are inappropriate activities going on there, that they  
22 are impotent. I am sure that they are going to act. And I  
23 don't think we should accept sort of all the hype that we  
24 have such a strange, new, absolutely unregulated media.

1 I also want to just respond, and I think Brian has  
2 already said this, the CASIE guidelines are among those of  
3 several here that we have been talking about yesterday and  
4 today, and we will talk more about the guidelines today, but  
5 his basic notion about the three things, the notice,  
6 "Knowledge, Notice, and No" are something that I think that  
7 virtually everyone at this table of both days have  
8 essentially agreed are good things to do and essentially are  
9 the paradigms under which we intend to work.

10 COMMISSIONER VARNEY: Lee, can I just in here for  
11 a second?

12 John, you have I have talked about this before. I  
13 think we all do agree that "Knowledge, Notice, and No" is  
14 the right paradigm. However, it's, in my view, relatively  
15 meaningless to expect an 8-year-old to exercise knowledge,  
16 notice or no.

17 And my question to the panel is, because I think  
18 it only goes into what is described here as session two, and  
19 that is everybody here, it seems to me, wants to be very  
20 responsible when it comes to the collection of information  
21 from children and what they do with it.

22 But at what point do you need the parents consent  
23 to collect information from children? Kellogg has  
24 identified they won't do transactions, can't order  
25 merchandise. The gentleman at the end of the table

1 recruited through parents, right. You clearly get parental  
2 consent for survey data.

3 But what about the kid's clubhouse? What about  
4 the other sites that you are running where you do collect  
5 information from kids? Should you get parental consent?  
6 Should it depend on what use you put it to whether or not  
7 you get parental consent? What age should trigger parental  
8 consent?

9 I mean, that seems to me to be one of the things  
10 that we have got to address here, because an 8-year-old, I  
11 can tell you my 8-year-old will not making a meaningful  
12 exercise of knowledge, notice, and no.

13 MR. PEELER: Mary Ellen, and then Dan.

14 MS. FISE: Well, that's not -- that's a nice kind  
15 of segue into what I wanted to talk about. And it relates  
16 also back to Jodie's original comment that this is a  
17 different medium. And we recently looked at use of  
18 information collected from children offline, because I think  
19 that's a -- it helps us understand at least what parents are  
20 accustomed to. And if you look at the types of information  
21 that is collected, in 14 examples, with the exception of  
22 one, it all required something from the child be sent back  
23 in, in some respect.

24 And so that contemplates the use of an envelope  
25 and a stamp, but it also in almost every case required some

1 type of small payment for whatever the free thing that the  
2 child is getting. And so that involves a parent. If not a  
3 formal consent, it's at least implied consent. And we  
4 believe that if you are collecting personal identifiable  
5 information that's the most critical area. You always need  
6 parental consent, and you need it up front before the  
7 release of information. You can't allow children to be  
8 saying, "Yeah, mom said it was okay."

9 MR. PEELER: Dan.

10 MR. JAFFE: Two things. I don't think we can give  
11 you the final answer today because we are working with the  
12 Children's Advertising Review Unit on the role of trying to  
13 come up with policies to protect kids that have placed in  
14 other medium to this medium, and not just merely transfer  
15 it.

16 MR. PEELER: Dan, use the mike.

17 MR. JAFFE: I apologize. What I just said is that  
18 we are going to have to wait for the Children's Advertising  
19 Review Unit which is working on these issues to develop a  
20 definitive answer to these questions. It has always been  
21 the organization that the advertising community has used to  
22 develop policies for protection of children, and we intend  
23 to do so in this medium as well.

24 But I think that what we said yesterday is  
25 relevant to today. The desire for written parental consent

1 as some people have asked for. Some people are saying that  
2 you just cannot collect this information at all. In fact,  
3 the fortunate aspect of this medium is that there is more  
4 power to control what your kid does on this medium than  
5 virtually any other. Parents can control access to the  
6 computer, access to the Internet. They can control where  
7 the kids can and cannot go. They can track where their kids  
8 have gone so that they can apply their values to the  
9 children's activities. And to an increasing extent, and I  
10 am sure we will be hearing about this shortly, they can  
11 control what information can come into the home as well as  
12 what information can go out.

13 So if you don't want your kid to give personal  
14 information, name, address, any kind of numbers including  
15 credit card numbers, you can stop that. You can stop that.

16 It's not like on the phone where you find out long  
17 after the fact where your kid has been or whether they have  
18 been on the phone or who they have been talking to.

19 COMMISSIONER VARNEY: Let's talk about that for a  
20 minute, Dan, because, you know, as you all know I have  
21 children, and my children don't always do what they are  
22 told. I must be the only person in America that has that  
23 problem, but I do not believe that parents have absolute  
24 control over the Internet when they are not home.

1           My 9-year-old is very sophisticated on the  
2 computer. Knows precisely how to get onto the computer. He  
3 knows precisely how to get where he wants to go. I don't  
4 really worry about pornography. He thinks naked people are  
5 so disgusting, so that's not my problem.

6           (Laughter.)

7           Yeah, right. But, you know, there are blocking  
8 technologies right now. They are mostly focused on  
9 obscenity, as far as I know, and some other things. It's  
10 not clear to me that there is anything that I can buy, that  
11 I can put on my computer that will keep my son out of spots  
12 that solicit personal information.

13           So I do accept that parents have responsibilities  
14 and parental control, but I think you need, if there is an  
15 agreement that you've got to get consent at some point when  
16 you are collecting personal identifiable information from  
17 minors, maybe depending on the use it's going to be put to,  
18 there may be -- there ought to be a technological solution.

19           To me the underlying question is at what point do  
20 you need parental consent? When does it get triggered? And  
21 then let's look at the technology that can assist in the  
22 solution.

23           Am I -- I mean, is there --

24           MR. JAFFE: I understand what you are saying, and  
25 my child is 10, and I would love to say that he's totally

1 compliant, but I assure that that would be false and  
2 deceptive.

3 COMMISSIONER VARNEY: And then I would have to  
4 prosecute.

5 (Laughter.)

6 MR. JAFFE: So I won't say that because of the  
7 high norms of the advertising community.

8 (Laughter.)

9 But the facts are that there increasingly will be,  
10 and I believe in the very near future, parents will be able  
11 to have technology which will give them much greater  
12 control, whether your kid will want it or not; whether they  
13 are compliant or not; more than you will have over your  
14 telephone or whether somebody knocks on the door, or  
15 whatever else.

16 If the parent is not home, as I say, I believe  
17 it's all of the things that I am talking about are either in  
18 existence now or will shortly be in existence that parents  
19 will be able to exercise and control.

20 And while I think it would be nice if you could  
21 get written consent for every time a kid is going to give  
22 information, I think you are going to run into massive  
23 problems.

24 COMMISSIONER VARNEY: Written consent, I mean,  
25 from my view is not the issue. The issue is sort of should

1 consent be required and what should trigger it. And if the  
2 demonstrations that we saw yesterday, the technological  
3 solutions on privacy generally, if they incorporate a kid-  
4 safe privacy area, however, yeah, then the parents have the  
5 ability to block the kids.

6 But, you know, you have seen stuff that is coming  
7 out of the pipeline. You have tremendous confidence of what  
8 we saw yesterday, and it rolled out quickly. It's still not  
9 here and it still doesn't go to the underlying policy  
10 question: At what point, if any, should parental consent,  
11 no matter how you get it, written or not, or encrypted or,  
12 you know, by blocking technology, what should trigger  
13 parental consent for minor transactions or minors giving  
14 personal information?

15 MR. PEELER: That's a perfect segue to the next  
16 panel.

17 We are going to take a very brief five-minute  
18 break. We are about 10 minutes behind schedule. We will  
19 take a five-minute break and get set to go.

20 (Whereupon, a recess was taken.)

21 MR. PEELER: Thank you. We will begin our second  
22 panel, and this panel is designed to discuss the special  
23 considerations that arise in collection of information from  
24 and about children in cyberspace, including parental consent  
25 and risk of disclosure.

1           I want to follow the same format that we followed  
2           on the first panel. And I would like to ask Kathryn  
3           Montgomery, followed by Professor Westin, and then followed  
4           by Elizabeth Lascoux, and Dr. Michael Brody, to sort of  
5           give some opening comments. Then I will open it up for  
6           panel discussion.

7           MS. MONTGOMERY: Thank you.

8           How much time do I have here? I am going to try  
9           to be brief and succinct and to the point.

10          I do want to make one brief statement about  
11          parental software controls, and I will say more about that  
12          later. I think they are a very important tool. We look  
13          forward to the development of effective tools to help  
14          parents. However, I want to reiterate what I said earlier.

15          We're not talking here about trying to protect  
16          children from having access to content that is not for them  
17          or not appropriate for them. We are really talking about  
18          setting standards for the development of services  
19          specifically designed for and targeted at children. And I  
20          believe that at this point it's important to set some  
21          guidelines, to come to some agreements about what is  
22          appropriate and what is not appropriate, what is ethical and  
23          what isn't ethical, and that's where we are coming from.

24          I want to just share with you very briefly some of  
25          the findings from our report which was released in March,

1 and let me know, if you want copies please contact the  
2 Center for Media Education. We will be glad to make them  
3 available to you so that you can get the full report.

4 We really look at online sites for children, Web  
5 sites designed for children. We have been examining them  
6 now for nearly a year, and we looked very closely at them  
7 systematically for a six months period. And we found  
8 basically two major problems.

9 One is the collection of a great deal of  
10 personally identifiable information from children in these  
11 sites, and the second is that the way the information is  
12 collected in many ways is not made clear; that is, there is  
13 no disclosure. Parents often cannot tell that that's what  
14 is happening here.

15 Often the way the information is collected from  
16 children is it's integrated into these brand new  
17 environments into games, or into surveys, or contests, and  
18 there are all kinds of incentives which sort of addresses  
19 the issue of whether it's voluntary or not. Yes, it's  
20 voluntary but they are very enticing incentives to children.  
21 You can win a prize, you can enter a contest, or in some  
22 cases you have to do it just to come on the site.

23 The other thing that we found which goes to the  
24 issue I talked about earlier, which is this notion of  
25 personalized advertising, and micro-targeting and one to one

1 marketing, is that in a number of these sites after a child  
2 went on the site, a couple of days after, a piece of  
3 unsolicited E-mail would arrive in that child's mailbox from  
4 one of the product's spokes characters, inviting the child  
5 to come back again. So it's sort of the first step in  
6 setting up some kind of interaction between that advertising  
7 site and the child, and inviting that child to come back to  
8 the site.

9           Now, the representatives from the industry did not  
10 bring examples of their sites, so I thought I would just  
11 show a few that we have collected, and these are from the  
12 report that we released in March, so they are from the data  
13 collection period prior to that report.

14           Now, I am just going to show you four just to give  
15 you some highlights.

16           Are you ready? Lights down. It's easier to show  
17 slides because doing it online is more complicated in this  
18 setting, and they might collect data from us if we do that.

19           One thing I want to make clear is that we looked  
20 at the sites that were obviously clearly targeted to actual  
21 children, where there was little ambiguity that these  
22 playgrounds and other kinds of sites that are developed for  
23 online were for kids. And within them there are various  
24 ways that data are collected, but personal information is  
25 solicited from children.

1           Let me show you one example of how that is done.

2       Next slide.

3           This is an example of a registration site where a  
4       child is asked to fill out a fair amount of detailed  
5       information in order to enter the site and in order to play  
6       in the online playground, and that's the second part of it.  
7       It may be difficult to see, but you can see sort of the  
8       extent of the questions. And this kind of questioning is  
9       somewhat typical of what we are finding online in a  
10      substantial number of the sites created for children.

11           We're ready for the next one.

12           This is an example of a site where you are  
13      encouraged to join -- sign up, rather, for a contest, and so  
14      there is this very, very appealing incentive. Every kid  
15      that I know would like to win something. I certainly did as  
16      a kid. And in order to do so, you provide detailed  
17      personalized information.

18           Again, I want to point out that in none of the  
19      cases that we looked at was there disclosure about what they  
20      were collecting, why they were collecting it, how it would  
21      be used, nor was there any attempt to get parental consent  
22      before the child filled out the information.

23           The final one I am going to show you is an example  
24      of the kind of unsolicited E-mail that children were sent

1 and are being sent in response to their filling out these  
2 survey forms and registrations.

3 And also, again, we are seeing this medium in its  
4 early stages. We have got kind of a boring text thing here  
5 in terms of E-mail. If you can imagine an animated spokes  
6 character that has developed a relationship with the kid  
7 being able to come back to the kid, and it may not be that  
8 many years, and say, "Hi, Billy. How are you today? I am  
9 glad you enjoyed coming to visit with us yesterday. I hope  
10 you come back today, and why don't you buy this product."  
11 Maybe they don't even need to say that because the  
12 techniques will be so sophisticated.

13 Those are the examples I have. I have probably  
14 run out of time for my presentation, but I want to just make  
15 it clear here that this -- that these techniques that are  
16 being developed are just the very beginning of what could  
17 become a much more sophisticated and much more intrusive set  
18 of practices for personal data collection.

19 MR. PEELER: Thank you, Kathryn.

20 Dr. Westin.

21 MR. WESTIN: Alan Westin, Columbia University and  
22 Privacy in American Business.

23 An interesting topic we have got today. It used  
24 to be that when parents knocked on a closed door and said,

1 "What are you doing in there" to their child, it was not a  
2 worry that they were online.

3 (Laughter.)

4 One of the things about academics is that they  
5 know a lot of literature that has been built up in the  
6 social sciences, and let me assure you there is very rich  
7 literature in the social sciences, in psychology, sociology,  
8 psychiatry, anthropology about children, parents and  
9 privacy, and I think if we don't have a framework with which  
10 we start we are going to try to reinvent a wheel that has  
11 been worked on very hard by some very gifted people who  
12 understand child development, family relations and so on.

13 For example, already we know that there is a  
14 tension between children and parents over setting the  
15 boundaries on what information is sought and how it's used  
16 by children, and this tends to follow some life cycle stages  
17 that we ought to be aware of.

18 You know, from birth to age 6 or 7, there is very  
19 high parental oversight and control; 8 to 12, children begin  
20 a quest for independence and autonomy and personal  
21 development; and 13 to 18, the teen years, there's a high  
22 assertion of independence and testing of parental control,  
23 generally with a sign on the teenager's door that says,  
24 "Keep Out" that means first mom and dad, and then everybody  
25 else.

1           At the same time that -- in the latter teenage  
2 stage, kids see efforts of parental control as surveillance  
3 and the world to them of "Big Brother" is big mother and big  
4 father in terms of intervention in their sense of freedom.  
5 So be very careful if you assume that with children 8 to 12  
6 and then 13 to 18 you expect parents to have a meaningful,  
7 effective, supervisory control over the child.

8           At the same time let's keep in mind that although  
9 with the type of marketing today there is a lot of these  
10 children and privacy issues, they are going to involve the  
11 need of young people to experiment about what to reveal  
12 about themselves and what to withhold and to whom, in the  
13 context of communication, chat, interaction of information  
14 children want about health and the world and sexuality, and  
15 a variety of other things. And anything you think of in the  
16 "marketing to children" domain also needs to be thought of  
17 in terms of children's communication and exchange of  
18 information about themselves and others.

19

20           If you turn to policy, the first point I think we  
21 have to be very careful with is that yesterday there was a  
22 lot of proper talk about anonymity as a major way of  
23 protecting privacy in the online and Internet world. Now,  
24 typically for our society we are focusing on greater

1 personal identification of the online user in order to  
2 enforce a social policy.

3           So to the extent that you want to identify how old  
4 a child is, and that it is a child, you are running up  
5 against the discussion yesterday about wanting to preserve  
6 the greatest possible anonymity and absence of requirements  
7 of giving identity and characteristics in order to be able  
8 to use the media. So how you balance the anonymity and the  
9 identification is very important.

10           It seems to me that what we should be looking for  
11 here is how to translate the way we have worked at standards  
12 for children, parents and privacy in the broad past in the  
13 print media, over the past 10, 15, 20 or more years, to the  
14 online world, but recognize what's different and see where  
15 new policies are needed.

16           My own approach, very briefly, would be first to  
17 say how do we adopt the fair information practices concepts  
18 that we have used in the adult world into the world of  
19 children, recognizing these tensions over the nature of  
20 protecting children from harm, the role that you can  
21 reasonably expect parents to follow and so forth.

22           And so we might very well say that, you know, a  
23 child's fair information practices code, we want to  
24 distinguish between a child being able to respond to a  
25 marketer that they have a relationship with for products and

1 services but not to have that used to compile lists and to  
2 use for third parties because that exposes the child to  
3 risks of third party use of the information where you are  
4 not sure that the third parties are following the same fair  
5 information practices as the organization that has presented  
6 in the Web site, explicitly what its policies are and what  
7 it would do with it.

8           If you follow this then, I think you would link  
9 yesterday's discussion that if we had a PIC system with the  
10 filters and screens that were described we could have a  
11 children's privacy fair information practices filter system,  
12 so that the parents, and to some extent, the older children,  
13 would be able to have the same kind of choices that we  
14 described yesterday as the choices for adults, and that  
15 there could be any number of ways of trying to make that  
16 operational in terms of the good housekeeping seal, that is,  
17 "we abide by privacy fair information practices," which the  
18 marketer who wants to get information to children or get  
19 information from children would be able to display and we  
20 could use the PIC system approach, that if the seal of  
21 approval was not on the screen, in effect, the warning would  
22 go out "this is an uncertified site, enter at your peril,"  
23 and others are watching it to see what happens here, which  
24 can be the FTC watching in its tradition role in terms of

1 fraud and misrepresentation and other kinds of standards  
2 that can be woven along with the PIC system.

3 But I think that today's topic tells us that there  
4 are some different dimensions in the relationship with  
5 children to the medium that are going to take a lot of very  
6 careful and hard thought to work on.

7 MR. PEELER: Thank you.

8 COMMISSIONER VARNEY: Before you go, let me ask  
9 Alan just one question.

10 Going beyond parental empowerment and choice and  
11 technological solutions, should there be a flat out  
12 prohibition on collecting highly detailed personal  
13 information from minors under a certain age absent parental  
14 consent?

15 MR. WESTIN: My personal answer would be that I  
16 don't see that that ban is even necessary or makes sense.  
17 For example, kids read comic books, and you send in a coupon  
18 and you get information. In other words, all of the media  
19 together offer to children products and services if they  
20 will write in and describe themselves in various kinds of  
21 ways.

22 I don't myself see that putting it online and  
23 getting the information from a child online, if it's done  
24 with the kind of safeguards that I describe, really supports  
25 the necessity for or the effectiveness of a "total ban."

1 MR. PEELER: Elizabeth.

2 MS. LASCOUTX: Thanks, Lee.

3 Well, privacy is a brand new issue for CARU. We  
4 have -- some people may think we should have, but we never  
5 really examined the issue in the traditional media in the 23  
6 years that we have existed. The rationale for that, I  
7 suppose, is that there is an assumption of an opportunity  
8 for parental mediation where you have, as other people have  
9 said, whether you have a postcard or a phone call. I mean,  
10 if it's my child receiving or sending mail, I have a few  
11 opportunities to look at the postcard or the letter and say,  
12 hey, I really don't want you to send it at out or to let you  
13 get this mail.

14 So we are now looking at privacy issues in  
15 development of new guidelines. It's the immediacy of the  
16 medium that makes it different to us, and I suppose one way  
17 of looking at it is in the past parents have been able to be  
18 reactive to each situation as it arises, each marketing  
19 opportunity or information gathering opportunity that kids  
20 come up against. When you have got your child sitting at a  
21 computer screen, you can't be reactive to each situation.  
22 So you need to up front have a policy.

23 One of the fortunate things about our process is  
24 that right now draft guidelines are out to our advisory  
25 board, we have an academic and business advisory board. So

1 we are necessarily stopped in our process, and this workshop  
2 and other opportunities to see what technological fixes may  
3 be available is very fortuitous for us, because I agree with  
4 Dr. Westin that the PICs type filter where a parent can  
5 preselect privacy preferences with the child may go a long  
6 way to answering some of the problems for children. CARU  
7 gets to deal with a lot of other issues also, but in terms  
8 of the privacy one, that is a very hopeful opportunity.

9 So we certainly are excited about those  
10 possibilities when we are looking at the privacy issues, but  
11 it is the immediacy that makes it critically different for  
12 us.

13 MR. PEELER: Dr. Brody.

14 DR. BRODY: Yes. I am Dr. Michael Brody. I am a  
15 child psychiatrist representing the American Academy of  
16 Child and Adolescent Psychiatry.

17 My primary focus and interest in this has to do  
18 with child development, and there has been a lot of written,  
19 and just the way there is marketing theory and computer  
20 science there is also a developmental theory. And I could  
21 look towards Piaget or Freud or Gizzel for guidance about  
22 this, but a couple of nights ago I was watching Nick at  
23 Night and I was watching Taxi. And I think that Louie  
24 DePalma, Danny DeVeto said it best. They all lost their  
25 jobs in the garage, and Danny DeVeto became a stockbroker,

1 and you see him, you see him on the phone, you know, in his  
2 office and he is talking on phones, "That's right. Go over  
3 to your piggy bank, knock it open, send it in to me." This  
4 is the issue of consent as far as I am concerned.

5 Children are not small adults. Piaget has shown  
6 this and this has been shown over and over again by other  
7 theorists. They go through stages of positive development  
8 just the way they develop physically, from the pre-logical  
9 state before 5 years old, to a state of concrete operations  
10 where they can participate in classes, to a time where they  
11 can go hopefully into a state of formal operations where  
12 they can make judgments.

13 Seven-year-olds, 8-year-olds cannot make judgment.  
14 We don't let them drive. We don't let them buy liquor.  
15 Unfortunately, there is no laws about them flying, okay.  
16 But there are standards in our society about the age of  
17 consent.

18 Now, also as children develop cognitively they  
19 also develop morally, and Cal Gillian and Lawrence Coleberg  
20 have done much work about this, about what kids listen to,  
21 who they listen to. In that book that Kathryn and Shelly  
22 put together, that wonderful booklet, "The Web of  
23 Deception," one of the pages they have that unfortunately  
24 was not presented a slide was a page where Commissioner  
25 Gordon is telling the kid to enter certain information onto

1 their computer about the family, about what the kids  
2 purchase, and so forth and so on. This is a tremendous  
3 invasion.

4           You know, you could say to kids, "Don't buy. You  
5 can't use a credit card." That's where it seems to be the  
6 block in the value. But when a kid gives out information  
7 the kid is buying. The kid is buying something. And the  
8 sense of morality, the kid cannot make that judgment of 7 or  
9 8 years old. A kid does what they are told to do by a  
10 figure, whether it's Alfred the Butler, or whether it's  
11 Commissioner Gordon.

12           Now, my feeling about this is that this is just  
13 one of several harms involved in this kind of process, and  
14 it's been brought up over and over again here. This is more  
15 immediate. This is more immediate. This is more seductive.  
16 To get a card from one of the Power Rangers is very, very  
17 seductive to a child. This is different than blanket  
18 advertising as in the adult's world we're familiar with it.  
19 If we get a call from a political candidate, rather than  
20 just seeing him being advertised on television, that means a  
21 great deal to us. Kids become disillusioned by the  
22 advertising, they become manipulated by the advertising.

23           But one point that was made earlier in the earlier  
24 hour is really my interest and my interest here representing  
25 the Academy. People have brought up issues about their own

1 children. I am not worried about anybody's children.  
2 Everybody here is interested in their children. They are  
3 going to see that these things happen or that they don't  
4 happen. And even if they do happen, and they are seduced,  
5 they will be able to explain it to their child about what  
6 advertising is, what being a consumer is, the truth in it  
7 and so forth.

8 I am worried that this is a new medium, just like  
9 television was at one time, and that at some time every kid  
10 is going to have access to Internet or Prodigy or  
11 CompuServe, and so forth and so on. And in many of those,  
12 just the way there are families that watch television, that  
13 have no idea what their kids are watching, nor do they care.  
14 In our society, kids that aren't possibly being represented  
15 here, those are the kids that I am worried about.

16 And in some way, in some way, some safeguards have  
17 to be put in effect. And I don't like to use the word  
18 "ban," which was raised, but I don't see any other approach.

19 MR. PEELER: In terms of historical facts that  
20 Alan Westin referred to, Bob, would you like to talk about  
21 what's been out there in terms of children's privacy issues  
22 before?

23 MR. SMITH: I am Robert Ellis Smith. I publish  
24 Privacy Journal. It's the one with the green ink.

1           The most concerns about children and privacy have  
2       been, as Alan Westin alluded to, physical privacy, I would  
3       say, and privacy within the family. And privacy of children  
4       vis-a-vis the marketing community is a fairly new issue.

5           I would like to address a couple of things that  
6       have come to mind. First, I would like to remind everybody  
7       that the Federal Trade Commission guidelines currently say  
8       that whether a practice is deceptive or unfair must be  
9       viewed from the viewpoint of the target of that pitch.  
10      That's very important.

11          If the pitch is aimed at children, it's the  
12      reasonable child that they are looking at, not the  
13      reasonable adult. And in a way our focus group is not  
14      focused is because we grown ups are kind of speculating  
15      about what is the subject to children.

16          I would like to pose also -- have us think that if  
17      Kellogg were to go door to door, or go to the school and  
18      gather the information they are gathering into big manuals,  
19      would any of us doubt that that's a deceptive practice?

20          I think with Dr. Brody's testimony and a few  
21      statements from children themselves, the FTC would have no  
22      difficulty building a case of deceptive or unfair  
23      advertising practices based on what we have seen already.

1 What we are talking about today, I think, is quite different  
2 from yesterday because here there already is ample precedent  
3 in this area, and ample jurisdiction on the part of the FTC.

4 I would like to echo something that Alan Westin  
5 said too though; that if we are trying to deny access to  
6 children into certain elements of the Internet, we really  
7 have to be careful about a whiplash approach.

8 One of the most chilling things I heard Senator  
9 Exxon say in promoting his legislation was that one way we  
10 could determine whether children are not getting access to  
11 indecent material is that we could require adults to insert  
12 some sort of an I.D. mechanism that would determine what  
13 their age is.

14 And to me, if we went in that direction, that  
15 would only accelerate the trend towards requiring a national  
16 I.D. card of all Americans. Among other things, one  
17 application would be, I guess, to activate access to the  
18 Internet. So I think it would be very unfortunate if we try  
19 to deny access to certain sites based on age, because  
20 probably the only way you can do that is to have some sort  
21 of I.D. mechanism.

22 A last thought, which doesn't answer your question  
23 at all, I'm sorry, is that as Representative Franks was  
24 giving his list of the types of demographic information on  
25 marketing lists. I had a great sense of reassurance because

1 my kids are not on those lists. Information about my kids  
2 you will not find on those lists.

3 There are precautions parents can take. Many of  
4 them I took before they were even born. It's a strategy you  
5 really have to develop over the years. But it occurs to me  
6 that parents should know ways of keeping their kids out --  
7 opting out, I mean, in a meaningful way keeping their kids  
8 off these lists, and having their kids not be subjected to  
9 some of these coercive and very attractive techniques.

10 I think that's a role for the U.S. Government too.  
11 I think that the Federal Trade Commission could well develop  
12 Web sites of its own which children could go to, and be told  
13 the pitfalls of marketing and be given techniques and advice  
14 for how they can participate on these Web sites without  
15 providing any information at all.

16 I think that's the way the Canadians and the  
17 Europeans would approach this problem. They would regard  
18 the government as a countervailing force to private  
19 businesses. I would suggest also that, as a price of not  
20 being regulated, private business be obligated to provide  
21 the expertise and technology and graphics and the like to  
22 produce these, but they would not touch the content. The  
23 content, I would say, would be completely driven by the  
24 Center for Media Education and privacy people,

1           And then you have the government acting as a  
2           countervailing force to private business, and competing, in  
3           fact, with private business. And I don't see how private  
4           business could object to that.

5           MR. PEELER: Dan.

6           MR. WEITZNER: I just want to make a couple of  
7           comments about approaching this issue. I think that all of  
8           the commissioners have recognized that there are special  
9           problems, special issues that come up in dealing with this  
10          general question on the Internet. Congressman Markey, I  
11          think, pointed that out quite eloquently. And I just want  
12          to highlight really what I think are the important  
13          considerations.

14          The first being the point that both Professor  
15          Westin and Robert Ellis Smith made, that it is in fact very  
16          hard to tell, or it is essentially impossible to tell the  
17          age of people who visit your Web site. Age does not travel  
18          along with the person's E-mail address. We have no central  
19          repository of people's names and ages, luckily, available on  
20          the Internet, nor should we look for solutions that would  
21          require that.

22          Secondly, we have all heard that everyone is a  
23          publisher. That from a First Amendment standpoint is a  
24          great thing. It allows -- I am speaking selfishly now -- it  
25          allows a lot of us who have things to get off our chests to

1 do that in a really unprecedented way on the Internet. But  
2 part of the implication of everyone being a publisher is  
3 that through one way or another a lot of us are also  
4 collectors of personal information.

5 I think that we have a unique kind of situation  
6 here as compared to traditional regulatory approaches to  
7 advertising and marketing, which is that the number of  
8 potential targets of any regulation, I think, are  
9 dramatically expanded.

10 The Center for Democracy and Technology for a  
11 variety of reasons has a lot of personal information about a  
12 lot of people. And I think we -- we do that for purposes  
13 that we at least think are important. We do have a privacy  
14 policy that is very clearly stated, but the activities that  
15 we are involved with, which entail collection of personal  
16 information, are political activities. They are more often  
17 than not, frankly, activities which are in some tension with  
18 the federal government or with state governments, and I  
19 think that that's a very important consideration.

20 Finally, unlike a medium like television, which is  
21 largely a commercial medium, the Internet is truly a mixed  
22 medium. It has both commercial and noncommercial functions.  
23 And I think that because of that it's very important that  
24 any sort of regulation or policy adopted ought to recognize  
25 that while it may be appropriate to target commercial

1 activities in a certain way, that same sort of targeting of  
2 noncommercial activities or the spillover to noncommercial  
3 activities would be quite unfortunate.

4           Finally, I just want to address this whole issue  
5 of intrusiveness which I think was -- Kathryn said  
6 intrusiveness and Elizabeth said something else. I think it  
7 was pervasiveness or immediacy. All of which I think is --  
8 well, I don't want to quite say I think it's all true.  
9 Intrusiveness is a complicated word. I think certainly that  
10 it is a medium that is palliative, and has a palliative effect  
11 on people, and for the most part that is a good thing.  
12 Whether it is as palliative as television, I don't know, and  
13 I wouldn't have the expertise to evaluate that.

14           But I think that what we ought to be looking at is  
15 a way to balance out, whether it's the intrusiveness or the  
16 immediacy or whatever else, with additions to this medium  
17 with ways that we can change this medium so that users,  
18 particularly parents, can be part of that countervailing  
19 force, at least.

20           And I think that the experience from working on  
21 the PICS process in the area of restricting access to  
22 indecent material or other inappropriate material, is that  
23 it worked because there was a very broad range of interests  
24 represented in the creation of that process, and I think  
25 that that's very, very important to people here, and I think

1 that we need the expertise of groups like CME to talk about  
2 how to shape these technologies so that they can be a tool  
3 for good policy.

4 I do not think that the technologies, number one,  
5 are either self-executed, and I do not think that technology  
6 will solve all problems. But I think that it seems that we  
7 all agree that this is a medium in development. We ought to  
8 help it to develop in directions that we all think serve  
9 privacy goals.

10 COMMISSIONER VARNEY: Dan, let me ask you before  
11 you move on, for just a brief comment on what I think is the  
12 privacy question here. Yes, we don't want to develop a  
13 national I.D. system so you can track ages. Granted. Yes,  
14 there are lot of various uses of the Net, educational,  
15 informational, and marketing.

16 Go back to those sites that are absolutely clearly  
17 without question targeted at children, whether it's 6 to 8,  
18 8 to 10, 10 to 12, whatever the age limits, let's keep it  
19 under the 12, targeted at children, and collecting extensive  
20 personal information.

21 Is that okay, or should parental consent be  
22 required?

23 MR. WEITZNER: Well, I don't think that collecting  
24 personal information without notice and an opportunity for  
25 choice is appropriate in any circumstances. And I think

1 that certainly we have heard that there are those kids who  
2 cannot meaningfully consent. So obviously something else  
3 was necessary.

4 MR. PEELER: Okay, I would like to recognize the  
5 Chairman.

6 CHAIRMAN PITOFSKY: I'm beginning to see an  
7 outline here of possible approaches to this. Let me just  
8 suggest it and then ask a question of all of you.

9 One possibility is that the remedy would be some  
10 sort of disclosure to children, but just as American law  
11 says they are supposed to treat the children specially in  
12 the advertising context, it also says that affirmative  
13 disclosure remedies with children often do not work.

14 The other -- forgive me for calling it the other  
15 extreme -- would be some kind of ban. But whether a ban  
16 eventually will turn out to be what's required here, I think  
17 we also all know that it's a last resort, and we ought to be  
18 exploring other possibilities before you go to something  
19 like a ban.

20 What I have been hearing over the last two days is  
21 that an approach that seems to have considerable support  
22 already is this issue of parental consent, and that many of  
23 these commercial transactions with children already require  
24 parental consent.

1           My question is a very specific one. Is there any  
2 commercial transaction where you believe that the seller to  
3 be in touch with children, however children are defined,  
4 where parental consent is not required?

5           Where it is so burdensome or so ineffective or  
6 unnecessary, that you can go ahead and deal with whatever we  
7 define as children without parental consent, is there any  
8 example of that?

9           MR. SMITH: Well, I can think of two.

10           One, where there is no demand for personal  
11 information; and secondly, where there are no parental  
12 credit card accounts already on line that could be used if  
13 the children order products. In other words, some sort of  
14 interactive Web page where children, even if they are  
15 getting a combination of editorial and advertising content,  
16 at least there is no danger that they will inadvertently  
17 charge products that they don't want; and secondly, they are  
18 not being asked for personal information.

19           And I think we can distinguish between personal  
20 information about themselves and about the family. I mean,  
21 I would like to know why Frito-Lay thinks that asking for  
22 daddy's employment was really relevant to the transaction  
23 that the kids are involved in.

24           MR. PEELER: Anyone else? Evan?

1           MR. HENDRICKS: Yes, I think that Bob hit it, and  
2 Commissioner Varney did to. The issue is about the  
3 collection of information from children which they are not  
4 capable of consenting to. And that yes, the answer to your  
5 question is parental consent should be required. As to the  
6 so-called thorny issue of creating in I.D. system, I think  
7 Commissioner Varney said it well.

8           There are some Web sites that you have a  
9 reasonable expectation that the people using them are  
10 children, because they are aimed at children and therefore I  
11 think we have an easy way to require in those circumstances  
12 that parental consent be required before information is  
13 collected. I think that's a key privacy movement here.

14           I think another key solution here is Congressman  
15 Franks legislation. I think, you know, no rule that the FTC  
16 can do, and no legislation that hopefully Congressman Franks  
17 can pass can take care of the whole problem.

18           But what it can do is move us in a direction and  
19 get the industry sensitized to these problems. And so, you  
20 know, I have been called many things, the son of this or  
21 that, but in reality, I am a son of a pediatrician.

22           (Laughter.)

23           And so I grew up with some -- I grew up with some  
24 sensitivity to children's issues. And that's why I think --  
25 first of all, I want to thank Dr. Brody. Your statement was

1 a real breath of fresh air from yesterday and today. But I  
2 think what was really shocking was so far I have not heard a  
3 commitment from the industry people on this panel that this  
4 is a problem requiring some sort of binding guidelines. You  
5 can't just make it so.

6 You know, it's either you let them hve the  
7 information if your children use the computer. Or, if you  
8 care about any of this stuff, you can't let them use the  
9 computer. That's not a way to set national policies. And I  
10 want to hear industry say that, yes, this is where we start  
11 the protection for personal information.

12 MR. PEELER: Evan, I would say that's the issue  
13 that we are going to discuss in the next panel, and so I  
14 think it's understandable that we haven't heard that yet.  
15 But I actually have a little queue here.

16 Kathryn, then Dan, and then Charlotte.

17 VOICE: I think you missed Doug before, put Doug.

18 MR. BLANKE: I have never had so many folks rally  
19 to the defense of the Attorney General before. It's  
20 heartening.

21 (Laughter.)

22 What has been most striking to me in all of the  
23 discussions so far this morning is that so little has been  
24 articulated by way of throwing out what the objections would

1 be to a parental consent requirement. Really very little  
2 has been said.

3 The one thing that I recall was Professor Westin,  
4 in response to Commissioner Varney's question, suggesting  
5 that, well, perhaps the differences between this medium and  
6 traditional media were not qualitative; that we have comic  
7 books with coupons that children can send in, and we don't  
8 restrict that kind of data collection.

9 I have a 5-year-old who enjoys watching the Disney  
10 Channel, who is as enthralled with Disney films and all the  
11 attentive merchandise as the rest of her generation. She  
12 knows that those characters are film characters, cartoon  
13 characters. She knows they are not real, but she is taken  
14 with them.

15 Last week I had the opportunity to take her to the  
16 Magic Kingdom in Orlando where I got an immersion course in  
17 blurring between real life and merchandising. And we also  
18 had the opportunity to have lunch with Mickey Mouse. And I  
19 can tell you, at least in my experience, there is a  
20 qualitative difference when that interaction becomes  
21 personal, immediate, interactive. There was a suspension of  
22 belief that the transformation for me is very, very  
23 different from the traditional kinds of media.

24 MR. PEELER: Kathryn.

1 MS. MONTGOMERY: Yes, I just want to respond to a  
2 couple of things that I have heard.

3 One, to what Dan said about how sometimes it's  
4 difficult to tell the age of a computer user who might be  
5 accessing a site.

6 I just want to reiterate, we are talking about the  
7 collection of very detailed personally identifiable  
8 information. Generally, in virtually every case that  
9 includes age. I mean, you are talking to kids. You want to  
10 know the age. I mean, that's one of the key things that  
11 marketers want to know about their market.

12 The second point is we are also talking about  
13 commercial marketing here. We are not talking about non-  
14 commercial uses of the medium. And I think we want to keep  
15 the focus here. This is what we looked at in our study.  
16 This is where our concerns come from. And then finally, I  
17 just want to underscore what was just said, that I really  
18 have not heard a strong argument for, one, why this amount  
19 of personally identifiable information, detailed  
20 information, is necessary if you are going to be marketing  
21 to children; and secondly, what is wrong if you get parental  
22 consent.

23 MS. FISE: I want to specifically address Chairman  
24 Pitofsky's question, is there any transaction in which  
25 parental consent would not be required. And I think the

1 answer is yes, but it's a very qualified yes. And I think  
2 that relates to anonymous information where there has been  
3 very full and effective disclosure. And I think that we can  
4 get into that in much greater detail, probably in the next  
5 session when we talk about solutions. But I think it's  
6 important to at least acknowledge that there might be some  
7 areas in the commercial interest field where we wouldn't  
8 have to have a blanket ban, if ban merely means parental  
9 consent.

10 DR. BRODY: Could I say something about that?

11 MR. PEELER: We have a number of people that  
12 wanted to say something, so let me just put you in. And I  
13 want to ask everyone to keep their comments as brief as  
14 possible right now. We do need to finish up.

15 But Dan Weitzner, then Charlotte, then Dan Jaffe,  
16 then Bryan.

17 MR. WEITZNER: I want to make sure that I  
18 understood Chairman Pitofsky's question. I think the  
19 question was is there any commercial transaction with a kid  
20 on the Net that doesn't require parental consent.

21 And I would say absolutely. If a transaction is  
22 you somehow pay five cents to read some sort of material, I  
23 would say absolutely. I would hope that we are not going to  
24 require parental consent to those kind of things.

1           When I was under the age of 18, I certainly bought  
2 magazines, books, lots of things without my parents'  
3 consent. Again, there is obviously a definitional question  
4 about who is a kid here. I think the answer is probably  
5 different if a kid is under 8 or if the kid is under 16. So  
6 I think that there is a possible area where parental consent  
7 really raises some very serious issues.

8           And I would add that that would be the case even  
9 where there is collection of personal information. I do not  
10 think that we ought to say that any collection of personal  
11 information from anyone under 18 requires parental consent.  
12 I just think that goes much farther than any kind of  
13 practice we ever had in any other part of our society. So I  
14 think that there is an important --

15           COMMISSIONER VARNEY: Well, then, Dan what about  
16 collection of extensive personal information off of sites  
17 that are targeted at children under 12?

18           MR. WEITZNER: Well, I think that becomes a very  
19 different issue, and I think it's because of the consent  
20 problem, because you can give a kid under 12 all the notice  
21 you want, and I think we have heard that that just doesn't  
22 mean anything. There is a role to make sure that the parent  
23 can consent and provide that consent. So I think that  
24 becomes a very different kind of --

25

1           COMMISSIONER VARNEY: And, again, I keep asking  
2 the question, because -- maybe we will get into this in the  
3 next panel -- in terms of personally identifiable  
4 information. I am not sure that it's a problem if you  
5 collect information anonymously and use it for product  
6 development. But it presents the same issues as if you  
7 collected and use it for individual target marketing.

8           MR. PEELER: Charlotte.

9           MS. BAECHER: I'm Charlotte Baecher. I am the  
10 Director of Education Services, and I am also, and that's  
11 what I am speaking as now, editor of "Zillions," which is  
12 our Consumer Reports magazine for kids. And I have been  
13 dealing with kids now for -- this is probably my seventeenth  
14 year. And I am just concerned that their interests and that  
15 their very unique nature be represented in this discussion.

16           As Dr. Brody pointed out, I thought it was very,  
17 very to the point, they are not mini-adults. And this whole  
18 Internet is an opportunity for these kids to get out there,  
19 to explore, to learn. And, to rely on negative things like  
20 parental supervision and whatever to remedy problems gives  
21 me concern. I think we also have to take into consideration  
22 the kids -- you can't expect kids to react the way you are  
23 going to react to things. And I think anything that  
24 requires parental supervision or parental consent, and that  
25 doesn't get it becomes more attractive to kids.

1           I mean, I have learned, trying to do articles for  
2 kids on everything from wearing bike helmets to not smoking,  
3 that a warning equals an invitation. All of a sudden  
4 something becomes very, very alluring. It's a reality. And  
5 I think that we are really in a position to take a much more  
6 proactive response to problems that we really see looming on  
7 the horizon without penalizing the kids and their  
8 opportunities and basically what they really deserve in a  
9 positive way.

10           MR. PEELER: Dan.

11           MR. JAFFE: Well, I guess the bottom line of all  
12 this is how complicated this issue is. I think the -- I  
13 want to be very clear -- the advertising community  
14 understands that kids are different, and we are going to try  
15 to do all that we can to see that they get all the  
16 protection they need. We are going to try to do it  
17 carefully and thoughtfully so that we don't kill off what we  
18 think is a tremendous medium that's going to help kids as  
19 well as going to help the rest of society.

20           Having this commitment, we then come to the issue  
21 with the whole question of parental consent. All I am  
22 saying at this point is that it's probably more complicated  
23 than people think. We already talked about the problem of  
24 knowing when you have a kid. Now, that can be solved to  
25 some extent by saying if it's clearly targeted to kids and

1 it's very obvious that you are trying to target kids, there  
2 are a lot of sites on the marketplace that will be  
3 attractive to kids -- books, records, all sorts of things.  
4 And also how you define kids, you are going to find a lot of  
5 hybrid situations where it's not going to be that easy for  
6 the advertisers to know who is there.

7           Then to get that commitment and be able to trust  
8 that you have gotten the parents' consent may be a little  
9 harder than people are saying in a technological sense. How  
10 do you know that you have actually gotten some verification  
11 that you are talking to the parent and not the kid  
12 pretending to be the parent. You are going to have to set  
13 up some system to do that, and the companies are going to  
14 have to be able to rely on that, and that may be harder than  
15 people are saying.

16           I think that people are often looking at this as  
17 if, well, you know, places people are going to go are  
18 simple. A lot of sites, the Girl Scouts, the Boy Scouts,  
19 the Little League, are also doing this kind of information  
20 gathering, and maybe people would think that that kind of  
21 information gathering is more benign, and that they would  
22 have useful things to do with information because they will  
23 be trying to tell the kids about the programs that they are  
24 developing and the safety equipment that they would need and

1 all of those things. It's a question of what context this  
2 information is being collected as to how people define it.

3 I think it is very important how you define kids,  
4 because if you start defining kids too broadly, you really  
5 do sweep into all of these areas where the ability to have  
6 some personal information is really very important.

7 COMMISSIONER VARNEY: Well, if that's the case  
8 then, if it is right now too difficult to ascertain the age  
9 of the children and to get the parental consent and all  
10 that, should responsible companies forego the collection of  
11 extensive personally identifiable information from sites  
12 that are marketed for children?

13 And again, I want to emphasize, I am not right now  
14 talking about collecting anonymous data and aggregating it  
15 for product development purposes, but I am talking about  
16 personally identifiable information that can be used for any  
17 number of purposes, including targeted marketing, list  
18 development, resale, reuse.

19 If we are not there technologically, then should  
20 companies be doing it?

21 MR. JAFFE: Well, we were talking about earlier,  
22 and I believe we will have a presentation about how you can  
23 set up technological protections for kids which I think, to  
24 some extent, may help cut the Gordian knot here, but maybe  
25 not. We all need to become more educated on this.

1           But if a parent could really control what  
2 information comes out of his house, and where the kid goes,  
3 that may make it more alluring, I guess. As a parent I just  
4 don't feel that because I say no, and that may make the kid  
5 really want to have the answer to be yes, that we stop using  
6 our parental control.

7           But I am saying if we can do that I think that  
8 that may be the best way to solve it. If you're talking  
9 about setting up systems that are going to really cut off a  
10 lot of our ability to effectively market, which we think is  
11 useful for kids, not harmful for kids. It's not just  
12 digital desperadoes out there. There are people who are  
13 trying to get lots of useful information to kids. And if  
14 they know more, they will be able to do a much better job.

15

16           COMMISSIONER VARNEY: If we agree that it is not  
17 okay for children to provide extensive personal --  
18 information that is personally identifiable, if we would  
19 agree on that as a premise, at what point is there some  
20 corporate responsibility to not collect that information  
21 from sites that are target marketed at children? Not  
22 collect it in a personally identifiable way. Is there none?

23           MR. JAFFE: Well, first of all, I think we have  
24 got to step back here, and I can't -- I would like to, and I  
25 think everybody else from the business community would like

1 to be able to say there is a business position that we can  
2 just present. I would like to present my views. But when  
3 you start saying what does the business community decide,  
4 you are saying that it is clear -- no, you can not. But you  
5 say that it should be clear that you shouldn't get detailed  
6 information about kids.

7 I am not sure that that is clear, that that is  
8 self-evident, that in all instances getting detailed  
9 information about a kid is bad. Getting the name of the  
10 kid, and getting his age, and getting where he is may be  
11 very useful information for him to get all sorts of useful  
12 things that will be very valuable to him and that his parent  
13 will want.

14 The question is who is the parent here? Does the  
15 government supervene here and decide that they know best,  
16 and therefore this information shouldn't be collected at  
17 all? Or should the parent have that responsibility? Or do  
18 we say there are lots of parents who are just not  
19 responsible enough, and so the government is going to step  
20 in and supervene because of the dangers in this area?

21 I don't know the answer. Those are exactly the  
22 kinds of issues that --

23 COMMISSIONER VARNEY: Well, with all respect, I  
24 know that we want to move on, I don't accept that that's a  
25 choice. I mean, it's not either does the government control

1 or does the parent control. I think that we are all here  
2 because we all think there is some mutual responsibilities  
3 between government, business, and private citizens. And  
4 it's sort of how we strike the balance is what we have got  
5 to find.

6 MR. JAFFE: What I am saying it's not, at least to  
7 me, self-evident that in all instances and in all  
8 circumstances that finding out the name of a kid, where he  
9 lives, his age, is something that is clearly a wrong thing,  
10 a bad thing, and therefore it shouldn't be allowed under any  
11 circumstances.

12 Now, certainly some parents may feel that it is a  
13 bad thing. That I think is also clear. Many people in this  
14 group think it is always a bad thing. Technology would  
15 certainly allow parents, and I think you will hear about  
16 that, to make sure that that information isn't given.

17 Now the question is, it seems to me in that  
18 circumstance, do we say, no, we don't allow technology and  
19 parents using that technology to make that determination.  
20 We make a societal determination as to whether this is a  
21 good or a bad thing. I think that's a very legitimate  
22 issue, very important issue, one the business community is  
23 going to have to sit down and wrestle with, and we will. I  
24 don't think that you are at this session going to get that  
25 answer.

1           And one of the things I was going to say in my  
2 statement earlier is I think it would be very useful to have  
3 this session again in a year when all of us have a lot more  
4 experience to be able to give you business' agreed-upon  
5 consensus positions, and I think we are not quite at that  
6 point yet.

7           MR. PEELER: Okay. We have three people who wish  
8 to speak so I would like to ask you to be very brief in your  
9 comments, and then we are going to conclude this session.  
10 We are a little bit ahead of ourselves in terms of  
11 addressing the issues we want to address in the third  
12 session, so that's good, and we do have some very important  
13 demonstrations about technology that we want to follow up  
14 on.

15           So, Brian?

16           MR. EK: I believe that, first of all, that the  
17 next session is going to provide some very interesting  
18 demonstrations that actually may provide a very simple and  
19 effective answer to this question, but I would like to add  
20 some information to the process at this point.

21           I don't think that the question can be seen  
22 straight, straight as in black and white, because what we  
23 are actually dealing with here are two different types of  
24 data. And for simplification purposes I am going to call one  
25 the click stream, and that's the data that is potentially

1 collected without the consumer's knowledge; and the second  
2 is the more detailed Q&As that are solicited.

3           There is technology in place today and additional  
4 technology that is being added to address the click stream.  
5 I mentioned yesterday that all of the commercial online  
6 services utilize proxy servers. And basically what happens  
7 is as consumers, all consumers go out to the Web (when they  
8 do so) through a commercial online server, and the  
9 personally identifiable information about them that could be  
10 gathered through the click stream process is eliminated and  
11 substituted simply by an identifier that someone from  
12 Prodigy is visiting your site, or someone from America  
13 Online or CompuServe or whatever is visiting that site.

14           That does not prohibit the marketer from  
15 continuing to track that click stream. But the information  
16 they get during that visit becomes aggregate information  
17 about how that site is being responded to, and it is not  
18 personally identifiable.

19           I think an argument could be made that in this  
20 case there really isn't a problem, whether it is an adult or  
21 a child, because the individual is in no way identified, and  
22 also the CDT has announced that they are offering a product,  
23 that they will have a product called the anomizer, which  
24 does the same thing that's being done by the commercial  
25 services today.

1           So in terms of click stream, there is technology  
2 in place today.

3           Now, let's move on to the second issue because I  
4 think this is thornier, and that is the Q&As. There is no  
5 surprise that Q&As have popped up. They have popped up  
6 because you have the Internet access today. The site  
7 operators are only getting this masked information because  
8 the individuals are coming out through the online services.

9           There are additional technologies which you are  
10 going to see demonstrated in the next session that will give  
11 parents and will give families and individuals the choice of  
12 doing some additional masking of personally identifiable  
13 information and possibly prevent children from entering data  
14 that parents don't feel that they should be entering.

15           I personally, in all cases when I can, I would  
16 favor control and choice on the part of the parents as  
17 opposed to any concrete ban. But I think that the next  
18 session is going to be very informative in terms of what the  
19 possibilities are for the future.

20           MR. WEITZNER: Could I just correct the record for  
21 one second?

22           We have provided from our Web page a link to a  
23 service called the anomizer. We actually don't offer that  
24 as a product, for better or for worse.

25           MR. PEELER: Dr. Brody.

1 DR. BRODY: I just want to get back to one or two  
2 points here. The hardest thing about being a parent, I  
3 think the hardest thing to be placed in one's senses is the  
4 realization that your child's ego is in your hands. And  
5 what I mean by ego is his or her ability in dealing with the  
6 world. And the hardest thing as a parent is when to let  
7 this go and when for the child to take over more of the  
8 responsibility of their own ego, because the more practice  
9 they have the better adults they are going to become.

10 But we as parents and we as the government and we  
11 as other authorities, we as psychiatrists and corporations,  
12 have that child's ego in our hands. They are not small  
13 adults. This issue of consent is very, very interesting.  
14 As a parent we would not allow our children to do anything,  
15 whether it's a class trip or staying home from school,  
16 without our consent, and that has to do with the dyadic  
17 relationships.

18 Sure, our kids could watch television because they  
19 see what's going on in television. These online services in  
20 many ways are dyadic relationships. There is an interaction  
21 with another person in many, many ways, and I think that  
22 that really cuts to the argument here of consent. And we  
23 would not allow our children to be involved with any adult  
24 without our permission, whether it's the baby sitter, the  
25 doctor, our kids don't make their own dental appointments,

1 and in the same way there is this dyadic relationship that  
2 we are allowing. And I think that this should be brought up  
3 when considering the idea of consent.

4 MR. PEELER: Vicki.

5 MS. RAFEL: Vicki Rafel, of The National PTA. And  
6 essentially I am a token parent here today. I appreciate  
7 the fact that many of us here have children and are parents,  
8 but we are also wearing the work hat. I am here as a parent  
9 to remind you that the spectrum of parents, parent opinion,  
10 parent expectations, parent assumptions, is incredibly wide.  
11 We are not all alike. Some of us can barely get into the  
12 Internet and others of us program it.

13 But I do need to remind you that parent  
14 expectations about what is going to happen for our children  
15 are very high. As parents we are used to schools asking us  
16 for permission to do surveys with our children, asking us  
17 for permission to provide family life and human development  
18 education. We would never want our pediatricians or our  
19 public libraries or our government or our banks to ask our  
20 children for information in the kind of detail that we may  
21 be talking about asking children on these sites.

22 I can't say that we should ban those  
23 questionnaires, but I do think some real strong principles  
24 have got to be spelled out for the approach that's taken  
25 with children to these activities.

1 MR. PEELER: Thank you very much.

2 Now, before we conclude we had one request by an  
3 Internet site provider who has been mentioned in some of the  
4 reports to make a brief statement for the record at the end  
5 of this session.

6 So is Jori Clarke here? Jori, there is a  
7 microphone right back there.

8 MS. CLARKE: We represents "KidsCom," one of the  
9 sites that has been brought up and talked about. And I  
10 think one of the issues that needs to be addressed here is  
11 what is the actual intent for collection of the personal  
12 data.

13 In an electronic playground it's more difficult  
14 than a physical playground to actually determine if the  
15 person on the site is a kid or is an adult. And as you have  
16 heard already, as more adults are trying to find kids in  
17 inappropriate ways it's important to be able to determine  
18 that, and collecting information on the person on the  
19 playground is important for that purpose.

20 Now, also, an electronic playground is not a  
21 library where users are discouraged from interacting with  
22 each other. On sites that only publish their own ideas  
23 there would not be any reason to collect personal  
24 information on the people that are there, but on sites that  
25 actually allow people to interact with each other, like our

1 site where we have kids from over 74 different countries, it  
2 is important to try and find a way to determine who is  
3 talking with who.

4 It's also important to realize that kids are using  
5 the Internet like adults are, both for expert knowledge  
6 sourcing as well as experiential knowledge, which is where  
7 they are going to find other kids to help cope with problems  
8 much like we heard from Dr. Brody, I believe, earlier where  
9 the 13 and older no longer have the ability to have a  
10 dialogue with their parents, and so now they are looking for  
11 other ways to source recommendations. And that's why it's  
12 important, in fact, on our site where we have asked adults  
13 and teachers to get involved on the site by not only asking  
14 for them to preview the site and be involved, but also  
15 offering areas for them to learn about content and encourage  
16 them to come.

17 MR. PEELER: Thank you, Jori.

18 Now, we are going to take a brief 10-minute break  
19 again. We are going to come back and have five  
20 demonstrations of technology that's available to address the  
21 issues that we are talking about, and then have a final  
22 panel to discuss remedies.

23 Thank you.

24 (Whereupon, a recess was taken.)

1           MR. PEELER: Thank you. We are ready to start the  
2 third and final session. We are going to try to wrap up as  
3 close to one o'clock as we can.

4           We are very lucky today to have demonstrations of  
5 five different possible technological approaches to this  
6 issue, and the first demonstration will be by Susan Getgood  
7 called Cyber Patrol.

8           Susan, are you --

9           MS. GETGOOD: I'm all set.

10          I am Susan Getgood from Microsystems Software.

11          Commissioner Varney asked what kind of technology  
12 is available to control the children's access to the  
13 Internet, and what kind of information they can give out  
14 online. And I am here to demonstrate a product that can  
15 actually do much of what she has asked. It's the beginning  
16 of what we need to do, but it solves the problem of children  
17 both for access to the Internet, what kind of content they  
18 can see, but most importantly for the context of this  
19 gathering here, what kind of personal information they can  
20 give out online.

21          This is the Cyber Patrol which is passive  
22 protection. This is what the parent sees to set the setting  
23 for their child or their children, because you can have  
24 different settings for different children.

1           The bottom area is a time grid that actually lets  
2 the parents say what hours of the day their kids can and  
3 can't be on Internet. So if part of the concern is what the  
4 kid does when they come home from school, you can actually  
5 keep them from going online while you are not home. They  
6 can still have access to their computer to do their  
7 homework, but they can't go do something that you might be  
8 worried about.

9           The top area is the various areas of the Internet  
10 that we control based on our Cyber Yes and Cyber Not List.  
11 But the most important piece of information is this little  
12 utility called Chat Guard. What Chat Guard allows you to do  
13 is specify what information you don't want your children  
14 giving out online. Specific types of information like the  
15 first and last name, what your street address is, where you  
16 live, what school they go to, their E-mail address, so that  
17 when they are in a chat room or in a Web site filling out a  
18 questionnaire they can't enter this information.

19           So if I was to go over to, since we showed Nabisco  
20 earlier, I have got Nabisco here. This is the actual front  
21 screen of "Tell us about yourself." And I am just going to  
22 sit down for a minute to type.

23           My name is Susan, whoops, if I spelled it right it  
24 would be. My name is Susan and my parents decide it's okay  
25 if I give out my name Susan. It doesn't want me to say what

1 my last name is. So it's going to X out information that I  
2 am not allowed to give out online, and that would go for any  
3 information that I have put in that screen.

4 It's a beginning to what we need to do, but  
5 technology has a way of coming up with speedy solutions to  
6 the problem once we define what the problem is. We like to  
7 look at our technology as pieces of technology that solve  
8 problems that need to be solved so we can come up with rapid  
9 solutions to the next step of the problem. It's easy to  
10 use. I showed you the screen. The settings are real easy  
11 to set. It's available now. Both CompuServe and Prodigy  
12 give Cyber Patrol away free to their members. So within the  
13 next three to four months you can expect to see all of their  
14 users having access to this technology at no charge.

15 It's hard for the kids to get around it. It's  
16 tamper resistant. I wouldn't say tamper proof, because I'm  
17 asking for trouble. And that is Cyber Patrol if anybody has  
18 any questions.

19 COMMISSIONER VARNEY: Does that mean that the  
20 child then can't go on and play the games there because they  
21 haven't given the information?

22 MS. GETGOOD: That's the responsibility of the Web  
23 site to decide how they are going to use and be a  
24 responsible marketer. That's why -- the point of control  
25 almost has to be at home, the parent, because they are the

1 ones who have the responsibility and really care. But the  
2 responsibility for what kinds of information they gather and  
3 how they use the combination of technology and what  
4 technology can do to protect privacy and the marketer, what  
5 they need to do to allow the kid to play the game is -- I  
6 think you referred to it earlier -- it's that three-tier  
7 thing, the parent, the government and the actual industry  
8 working together to make this kind of thing work.

9 COMMISSIONER VARNEY: Well, in your experience  
10 then, in Cyber Patrol's experience, do most of the sites  
11 that offer games that have information that they request or  
12 require first, in your experience if you don't give the  
13 information do you generally then play the game or not play  
14 the game or don't you know?

15 MS. GETGOOD: Actually, I believe the way we work  
16 this, and I have to test it to be sure, because we are  
17 actually returning the information, we're just Xing out the  
18 bits that the parent doesn't want to get by, when that Web  
19 site gets the answer, they are going to get this, and the  
20 kid is going to be allowed to play the game. But I would  
21 have to test that.

22 COMMISSIONER VARNEY: And what does Cyber Patrol  
23 do with all the information it gets from the families on,  
24 their children's names, and what their preferences are?

1 MS. GETGOOD: We don't get any information on the  
2 children's names or their preferences or anything like that.  
3 We sell a piece of software that the parent then uses to  
4 decide what they want to do. It's all from the client's  
5 side.

6 COMMISSIONER VARNEY: Thank you.

7 MR. PEELER: Susan, have you completed your  
8 demonstration?

9 MS. GETGOOD: Yes.

10 Does anyone have any questions?

11 MR. PEELER: I guess the one other question I had  
12 was would your software also keep the receiving Web page  
13 from getting the E-mail address of the child?

14 MS. GETGOOD: If the parents had decided that they  
15 wanted to restrict the E-mail address from being sent out,  
16 yes, you wouldn't get it -- for example, if my E-mail  
17 address was Susan G at Microsys.com., I could block that.

18 We have started looking at some of the other kind  
19 of permissions. We support PICS, for example. We are  
20 looking at the very sorts of permissions that we might be  
21 able to incorporate in future versions of Cyber Patrol so  
22 the parents could give more ideas of what consents they give  
23 without giving out personal information about their  
24 children, because the key here is, in our opinion, to give

1 the parent the tool they need to control without giving  
2 additional information about their kids.

3 MR. PEELER: Thank you.

4 MS. GETGOOD: And I think I said that we support  
5 PICS, and we have supported PICS. We were the first  
6 software to support PICS, and right now we implement two of  
7 the PIC Systems that are available, SafeSurf and Arc Serve  
8 which we saw yesterday.

9 And the other thing is as we go along how we use  
10 all of these tools, Cyber Patrol, the other people here, and  
11 PICS to solve the issue that at the end of this session you  
12 guys decide you want solve, because that's the key, what  
13 problem you solve, whether you come up with the right  
14 solution.

15 MR. PEELER: The next presentation is by James  
16 Howard of PrivNet.

17 MR. HOWARD: I'm James Howard of PrivNet, and we  
18 write Internet Fast Forward, a kind of global filtering  
19 program for Netscape, and we were invited to speak about one  
20 of those controversial features, cookie blocking.

21 Okay, you will notice in the upper right-hand  
22 corner of Netscape we have two little graphic icons, and the  
23 one on the far right tells you the number of cookies that it  
24 has blocked. You will notice there are an unbelievable  
25 number of cookies out there on the Web, a lot of which we

1 really don't even know what they do. Many of them do --  
2 allow you to purchase items on commercial Web sites. Some  
3 of them allow you to save settings. Some of them allow you  
4 to store passwords so you can log in easily, although that's  
5 quickly changing because people realized that when you do  
6 that anybody at your terminal can log into your service  
7 because the cookie is saving the password.

8           Basically, the program allows you to select which  
9 sites you want to allow cookies to pass through on, so your  
10 preference menu is right here.

11           Basically, you can have a drop down menu that  
12 comes from Netscape, and it allows you to pick which sites  
13 you want cookies to be processed at and which sites you  
14 don't want cookies to be processed at. And basically if  
15 it's a reputable site, like the Wall Street Journal wants to  
16 set a cookie to save your preferences, you can allow it to  
17 happen. At a site that you are not so sure about writing a  
18 lot of cookies, you can, you know, tell it no way.

19           But the main thing is the Netscape 3.04, the last  
20 screen. There is a per instance blocking of cookies that go  
21 out. When a cookie is to be set, you can say, no, I don't  
22 want it to be set. The problem is on most sites they try to  
23 set multiple cookies per page so you have to hit cancel,  
24 cancel, cancel, cancel over and over again, and in fact with  
25 the current implementation of cookies, it attempts to resend

1 the cookie until it's successful or all the objects on the  
2 page has been drawn, which on many sites, like Hot Wild, or  
3 even Netscape's home page, can account for you hitting the  
4 button 14 or 15 times.

5 And it's kind of like per call blocking or per  
6 line blocking, and we provide per line blocking. Maybe they  
7 will do that in the next release version, but right now they  
8 don't.

9 That's pretty much it.

10 Are there questions?

11 MR. PEELER: So the relevance of this to what we  
12 are discussing is that a parent could use this technology  
13 themselves, on an individual site by site basis, to decide  
14 whether or not to leave basically the visiting card?

15 MR. HOWARD: Exactly. Parents or any user at all.  
16 I mean, there are 50 controversials, kind of getting going,  
17 but some sites, you know, they can conceivably use them for  
18 various purposes. The standard is so broad that they can  
19 store almost any personal information. If you fill out a  
20 line at a certain site, cookies can then be used to allow  
21 the site owner to track where you go on that site, and then  
22 they can link it to the form data that you filled out  
23 earlier, so they have not only, you know, your name and  
24 address, but they know exactly where you went on that site.

1           Cookies blocking just allows you to completely  
2 take the control back in your hands and makes it harder to  
3 track where you have been and what you have done.

4           MR. PEELER: Thank you.

5           The next presenter will be Gordon Ross from Net  
6 Nanny.

7           MR. ROSS: I always get a snicker on that one.

8           First of all, I would like to thank the Commission  
9 for inviting me here. It's quite an experience for me to  
10 come from a foreign country down here. I am actually from  
11 Vancouver, Canada.

12           We at TROVE Investment Corporation focused on  
13 security issues, and we looked at the Web two or three years  
14 ago to look at the security issues. And what we do is  
15 really define what you can type or receive on a terminal.  
16 So we take care of all the screening within the terminal,  
17 either on the Net or off the Net.

18           Okay, this is the illustration demonstration  
19 information screen of the Net and I will leave it right now  
20 and disable it. The reason being I am bringing up the  
21 dictionary to show you what would happen here.

22           If a child tried to do this, Net Nanny is always  
23 abled when you are online. If the child tried to bring it  
24 up, it would terminate this application, so they wouldn't be  
25 able to see what's going on.

1           There is a complete audit trail in Net Nanny so it  
2 shows you what was accessed and what time, and whether you  
3 shut down or just audit. So you can see the different  
4 applications. Like Netscape, they tried to do a search, we  
5 will terminate that search. You can terminate any  
6 application in Windows or Dos that violates the dictionary  
7 of Net Nanny. And that dictionary is totally definable by  
8 the user.

9           Are there any questions on that?

10          MR. PEELER: The question is --

11          COMMISSIONER VARNEY: It's fine if you don't want  
12 your kids visiting certain sites, I guess, and you pick  
13 those sites out of the dictionary.

14                 How do you keep your kids from going to areas that  
15 solicit personal information if you don't want them to give  
16 it out?

17          MR. ROSS: Okay, if you get into a site like, I  
18 think one of the ones is Kellogg, and there is a screen  
19 there that asks for their name, address, telephone number,  
20 the child's age, what we recommend to customers is to start  
21 off with household confidential information, put that in  
22 your dictionary: name, address, telephone number,  
23 children's names, credit cards, et cetera.

24                 When that is on the terminal Net Nanny will take  
25 the appropriate action, either terminate the application,

1 even if you are offline writing an E-mail that may be  
2 inappropriate, it will terminate any application on that  
3 machine.

4 If the incoming E-mails comes into your daughter,  
5 there is an E-mail read to say that, well, this address is  
6 changed to that. As soon as the violation appears, it will  
7 terminate the E-mail, read and audit it into the record.

8 We feel that the parents have to get involved. I  
9 would say today that most parents are members of the last  
10 generation. They have to be educated on this technology.  
11 The wire is coming into the house today. The databases are  
12 at home today. Security measure that operate today that we  
13 can control is at home. The processing power is at home  
14 today to do that.

15 Like I said, we come from a security background  
16 with a security aspect, but give that right to the  
17 individual to control the information flow.

18 COMMISSIONER VARNEY: Can you show us your  
19 dictionary?

20 MR. ROSS: Certainly. There is a lot of stuff in  
21 there, but certainly I will bring it up.

22 This is some of the various information that's in  
23 the dictionary right now. Up here is covered addresses so  
24 you can't jump from one system to another. Children go onto  
25 the Net, there are two systems, so they say, well, I am

1 going to come over here and get the information. So if you  
2 know the address of these machines, and they are available  
3 in the back of many PC magazines, put them in the  
4 dictionary. The child cannot search for the inappropriate  
5 material. This is a light version that's up here, and it's  
6 available free on the Net. This was updated recently, and  
7 that's where you can download for anybody that owns Net  
8 Nanny.

9 We understand that parents do not know the  
10 mnemonics of the Internet, so we, along with organization,  
11 surf the Net and grab these addresses and put them in the  
12 list, and we offer these lists free of charge to any  
13 customer out there. We don't feel it's right to charge the  
14 customer for something that they don't know how to get in  
15 the first place.

16 I myself personally believe that the Internet is  
17 probably the best thing that ever happened in society.

18 COMMISSIONER VARNEY: Presumably, if there was a  
19 market demand, your company could create a list of sites  
20 that solicit information from children without parental  
21 consent?

22 MR. ROSS: You bet. With telecommunication  
23 technology out there, such as monitoring TTCIP, which is the  
24 protocol on the Net, all the information is in there of  
25 what's happening with that message. So it just takes

1 software and some re-engineering to really monitor where it  
2 is going.

3           Somebody mentioned about being anonymous. In a  
4 digital world today you are not anonymous no matter how much  
5 you think you are. They continue to monitor you every day.  
6 You use a Master Card, they know exactly where you have been  
7 around the world, that information is given out. So we  
8 believe that you have to start taking control of your own  
9 information. We believe in developing technology to look  
10 after that.

11           Any other questions? Yes, sir.

12           DR. WESTIN: Do you market this under another  
13 name?

14           MR. ROSS: Not at this moment in time. At the end  
15 of this month, yes, there will be another version to that.

16           DR. WESTIN: What will you call it?

17           MR. ROSS: We are debating that right now. We are  
18 thinking PC Nanny, but then some corporations may not like  
19 that. We don't want to do the Big Brother approach either  
20 because that's not likely to happen. There is one product  
21 out there called Big Brother right now.

22           VOICE: How much does it cost?

23           MR. ROSS: This program on an electronic download  
24 from Internet Shopping Network is \$18.95. I am not sure how

1 they are priced. I think most of the products in the market  
2 are between 20 to 50 dollars, depending on the product.

3 COMMISSIONER VARNEY: What is the security on the  
4 dictionary so the kids can't get in and change the  
5 dictionary?

6 MR. ROSS: Well, I will show you that. If the  
7 child -- there is an administration module on here if I  
8 decide to go in here and bring that list up, that list  
9 violates the rules for turning on the system. It will  
10 terminate the administration program.

11 The version that is being released at the end of  
12 this month has passwords in it. I'll bring that up. And  
13 what we have tried to do is make it simple for parents,  
14 because most parents don't understand how to turn a computer  
15 on. This is my marketing manager. He has access. So if he  
16 violates the system we can still -- I'll restart the  
17 application or override the shutdown. When the system boots  
18 up there is also a record of when that system started up.  
19 So when you tell your children to stay off the Net, you go  
20 to a movie, you come home, you look at the audit record to  
21 see if they were on the system. You will know.

22 So we are saying the technology is here to allow  
23 you to have controls. We are also a PICS client. We follow  
24 the PICS standard. We also work very closely with SafeSurf.  
25 We currently have 40,000 pages read, which I think is

1 commendable. It's a huge task to read Internet. There are  
2 about 2 million pages out there right now. And to read a  
3 thousand a day, it doesn't take a mathematician to figure  
4 out that it's going to take about two years to read what's  
5 there today.

6 MS. FISE: I have two questions.

7 First, in response to what you just said, which  
8 is, you know, how do you deal with the rapidly proliferating  
9 sites and to make certain that they are on the list of those  
10 that you don't want kids to have access to?

11 The second is, in addition to blocking access to  
12 sites, I want to understand if I heard you correctly, does  
13 your system also -- once you have gone to a site that you do  
14 want to go to -- make it possible to block out what can be  
15 gathered from you technologically. Did you say that?

16 MR. ROSS: You mean within the site.

17 MS. FISE: Let's say you want to go to a site but  
18 you don't want them knowing everything about you.

19 MR. ROSS: Yes. If you get into -- there was a  
20 home page brought up here earlier. I'm not sure which  
21 company that was, but it had name, address, telephone  
22 number, et cetera, that they are requesting from you once  
23 they access the home page?

24 MS. FISE: Not Q&A. I am talking about  
25 involuntary technological clickstream data. Can your

1 service block the collection of clickstream data to the  
2 sites you do go to?

3 MR. ROSS: Not at this point in time, but  
4 technology is there that you can do that with. There is a  
5 command within the Internet community called Finger. When  
6 you use that to get an E-mail address, it will go back to a  
7 machine and tell you who owns that address, but it does not  
8 give out the personal information on the individual. Most  
9 of that individual information is confidential by the  
10 information provider. The only thing that is usually sent  
11 forward is the E-mail owner, his name and where his address  
12 is on that machine, but most of that data is in databases.

13 MR. PEELER: Okay, thank you very much.

14 MR. ROSS: Thank you.

15 MR. PEELER: The next presenter is Chuck Runge of  
16 Specs for Kids.

17 MR. RUNGE: I'm Chuck Runge. I am with New View,  
18 Inc.

19 (Pause.)

20 MR. RUNGE: We have a broad range of computer  
21 technologies for Internet access, and what I want to focus  
22 on today are those that are more germane to this meeting,  
23 which have to do with parents and their children. And I use  
24 the word "parent" a little bit loosely here to include

1 educational experiences also, because children do get  
2 Internet experiences at schools.

3           So we are going to concentrate at the 90,000 foot  
4 level in the brief time we have about the tools and  
5 technologies we are providing to our parents to allow them  
6 to make clearly informed choices about the kind of content  
7 that children can see or not see.

8           Because I am going to go through this fairly  
9 quickly, I would encourage you to take a look at our Web  
10 site. It has a lot more information out there about the  
11 things that I am going to gloss over fairly quickly.

12           We introduced Specs for Kids recently. It's a  
13 screening product. Some of you may have seen it previously  
14 as IScreen. Somebody identified yesterday the difficulties  
15 of naming products on the Internet these days. All the good  
16 names are really gone, it seems.

17           But one of the goals we have for Specs for Kids  
18 because if it's going to be a truly safe environment for  
19 kids we wanted to pick out part of that universe on the  
20 Internet where we would be fairly assured that objectionable  
21 sites would not slip through.

22           And objectionable in this context means as defined  
23 by the parent or the educator. We are not trying to put our  
24 own value system on this.

1           We also wanted to come up with a labeling system  
2 that did not censor, and we wanted to have a fun educational  
3 experience with the kids. And more importantly, we wanted a  
4 wide range of viewing options for parents or educators.  
5 It's been identified that even when you look at the K  
6 through 12 segment of the market that we want to cater to,  
7 we come up with highly different conclusions for 8-year-olds  
8 than we do 13-year-olds or 18-year-olds, and we figured we  
9 had to cover that range.

10           So Specs for Kids, we think, accomplishes a lot of  
11 that. It has the largest database right now of sites that  
12 have been rated and labeled for kids. It has a very  
13 appealing kid's directory for navigating to that information  
14 once it's located. And we have a labeling standard, a set  
15 of conventions and a set of software that allows parents to  
16 match the profiles of their children to the kind of content  
17 that's on the Internet. So they can make decisions about  
18 what categories of information they will see, and it's  
19 boiler plate. It's easy to use.

20           If you go to the home page, you will find a page  
21 which is a Specs for Kids product. That's generally what  
22 their experience is. I am not going to bore you with a lot  
23 of that detail.

24           This is a product that has a lot of components to  
25 it. It's not just the viewing technology. You have a

1 content labeling convention, which I will describe to you  
2 very briefly, and, again, you can see all the details on the  
3 Web site. We have a system for labeling and indexing that  
4 content. The output of that system is a database of  
5 labeling sites. We have a directory and search aids to  
6 allow the children to navigate around within that database  
7 to find things of topical interest. We have a wide range of  
8 viewing options to cover the different age groups we want to  
9 cater to, and then there are various products and Specs for  
10 Kids is just one of those.

11 The labeling conventions that we have established  
12 for labeling Internet content are covered up here. There is  
13 a lot more detail at the Web site. Yesterday, when the PICS  
14 discussion was carried on a couple of comments were made  
15 that PICS was a labeling standard. It's a protocol. It's a  
16 labeling technology. It's a protocol, and it's view is  
17 independent. That means it's a means to an end to give the  
18 kind of controls that we think are necessary. It's  
19 necessary but it's not sufficient. This product starts to  
20 address the sufficiency issue.

21 We don't believe that this is necessarily  
22 exhaustive. It will probably be modified, extended over  
23 time, and maybe some of the work that's going on within this  
24 group will even make suggestions of new categories to label  
25 content against.

1           Labeling content for us also means we have to  
2 index it. Once you have this the pages or Web sites that  
3 you are looking at, it's difficult to find context. So we  
4 indexed in these 36 categories as we go through the label  
5 process so that we can do a simple application for people to  
6 find content.

7           The Specs labeling system that I alluded to a  
8 minute ago consists of people and technologies. We have a  
9 large staff presently of about -- it averages about 120  
10 people who are rating Internet content against that labeling  
11 standard. They work -- it's a pretty much around the clock  
12 operation, and we have a large investment in tools to help  
13 that process, both in what kind of content filters into the  
14 labeling process, as well as trying to automate as much as  
15 we can the labeling process itself. It is an expensive  
16 process.

17           MR. PEELER: Mr. Runge, we need to finish up.

18           MR. RUNGE: Oh, okay.

19           Presently, we have a database of 125,000 sites.  
20 We expect it to be 500,000 by the end of the year. We have  
21 all the tools so you can profile the people who are going to  
22 access this database to assure that they match and you can  
23 then eliminate or include as much content as you want. You  
24 can override it. And those are the access controls that  
25 know the various systems that we apply to. This screen is

1 an internal control screen. It's all password protected.  
2 The software itself is protected against tampering and  
3 removal. There is override capability so you can modify  
4 what you see. And that is kind of a summary of it.

5 Last week we got word that the Magellan people had  
6 given this site a four star rating, which is the highest  
7 rating they will give a site that's out there.

8 MR. PEELER: Thank you very much.

9 And our last presenter will be Wendy Simpson of  
10 SafeSurf.

11 MS. SIMPSON: Good afternoon. I'm Wendy Simpson,  
12 the President and Co-Founder of SafeSurf.

13 Thanks to the Federal Trade Commission for having  
14 us all here today. We think it's very necessary for you to  
15 know who we are, for us to know what you want, because the  
16 technology is out there to create these standards that  
17 industry, all industry needs and wants.

18 SafeSurf started about a year and a half ago. My  
19 partner, Ray Solar, and I were the first online organization  
20 to protect children and the rights of free speech on the  
21 Internet. We also undertook two major tasks, and one being  
22 to educate parents, walk them through Internet application's  
23 software, walk them through the process of protecting their  
24 children online.

1           We also designed the Internet SafeSurf Rating  
2 System, and we will just take you through that really  
3 quickly. These are the products that support the Internet  
4 SafeSurf Rating System, and we also have the pleasure of  
5 serving on the technical committee for the PICS standards.  
6 The SafeSurf Rating System is completely PICS compliant, and  
7 we will have a lot of technical input on the standard  
8 itself.

9           It allows the user of the Web page or the content  
10 publisher to go to the SafeSurf site. We start with the  
11 recommended age range, and then we also have quite a few  
12 adult things that can be identified. We have an extensive  
13 system for the parent, it all comes down to parent's choice,  
14 and this is a global system.

15           We have to always keep in mind, all of us, in  
16 developing this technology and all the industry seeking  
17 standards that this is a global medium, and we have to make  
18 sure that it's adaptable to parents all over the world.

19           Ray and I took the liberty of creating a new  
20 category just for this presentation to give you an idea of  
21 what we can implement. We have seen sites like this. This  
22 is one we just created. The same type of information that  
23 is concerning the industry and the parents out there.

24           So basically -- so this is our new category. The  
25 SafeSurf system is completely expandable to handle Internet

1 information, all information. It's expandable up to three  
2 trillion classification categories, and we have just added  
3 an advertising category as you can see.

4 And as a parent, okay, it's fine if you give out a  
5 first name, or it's fine for whatever purpose, age. Other  
6 information that you as a parent want to block out. The  
7 technology is there to give the parent the control of what  
8 they want to block out and what they do not want to block  
9 out.

10 The SafeSurf system works in that the publisher  
11 voluntarily rates their site. That's how it's entered into  
12 the Web document, and then the software and the companies  
13 that we showed on the screen before, they support that  
14 standard, and it's a voluntary standard. I think it's going  
15 to be necessary at this point for, as Gordon said before, to  
16 educate the parents, educate all of you who are not familiar  
17 with the technology, and definitely work together.

18 I think as people said yesterday and we are  
19 hearing today, we can develop it. The possibilities are  
20 endless. If you need something, we can definitely develop  
21 it.

22 Are there any questions?

23 COMMISSIONER VARNEY: On your current rating  
24 system, it is self-rating, is there any rating for privacy?

1 Does it comprise part of the rating or not, or could you do  
2 it, would you do it?

3 MS. SIMPSON: Oh, definitely. This category that  
4 we just added to the system, we can add any category or  
5 specification that the user industry might come to an  
6 agreement on. It can be implemented into the rating system.

7 And also I just want to say that even though this  
8 is a self-rating system, obviously the ratings are verified  
9 by a human factor to make sure that they are exactly what  
10 they say they are.

11 MR. PEELER: Thank you very much.

12 Now, I wanted to ask Brian Ek to just comment very  
13 briefly on the relationship of this technology to the PIC  
14 System.

15 MR. EK: Thank you.

16 I would like to begin by saying that what we have  
17 here is kind of a PICS alumni meeting. You just saw several  
18 presentations: Net Nanny, New View, SafeSurf, Microsystems.  
19 They have all been involved right from the start with the  
20 PICS development effort. And I think it just goes to show  
21 just how quickly the industry is working and how much we can  
22 work together.

23 One of the questions at the end that I would like  
24 to ask this group is, there was a question posed yesterday  
25 about the development of identifying categories that could

1 be added for privacy and for marketing practices. In order  
2 to do that it would require not only the labels to be  
3 created, but it would also need the access control systems  
4 to implement those. And you are looking at the group that  
5 would play a large role in actually implementing the reading  
6 piece of this.

7 And I would be curious to hear their thoughts  
8 about their willingness to work with the industry and the  
9 marketers to do that. I think I know the answer, but I  
10 think it's worth mentioning.

11 Actually, PICS and what you have just seen are two  
12 different approaches that give parents choice, but they are  
13 actually getting at the same thing. And, in fact, the  
14 companies that you see represented here are in many cases  
15 offering both solutions.

16 What the companies showed you as far as being able  
17 to prevent children from inputting certain information,  
18 essentially what that is saying is one approach, and it's  
19 saying. "It's okay for my kids to go out to these sites. I  
20 just don't want under any circumstances for them to be able  
21 to share that particular information."

22 Where the PICS approach that was discussed  
23 yesterday is a bit different. It basically says, "if the  
24 Web site operator's privacy practices are to collect this  
25 data, I do or do not want the user to actually have access

1 to that site." The approach you see today is essentially  
2 giving access to the site, to an individual or a monitor,  
3 but preventing the sharing of certain data, whereas the PICS  
4 approach mentioned yesterday, which will also be offered, is  
5 an option of simply not allowing access to the site unless  
6 certain practices are accepted and complied with.

7 MR. PEELER: Thank you.

8 The focus of the next panel will be to continue  
9 the discussion about what the appropriate responses to  
10 privacy concerns are. And I think that the demonstrations  
11 helped put in context possible approaches to that. But I  
12 would like to start the panel off by having first Pat Faley  
13 talk about DMA's policy paper, and then the Center for Media  
14 Education has recently distributed a proposal of their own.

15 MS. FALEY: Okay. Thanks, Lee.

16 DMA has made a commitment toward -- have made a  
17 resolution to this issue, and we have taken three steps.  
18 The first of which is the support for technology, which is  
19 why I came out so strong earlier in terms of putting  
20 parental control and choice foremost.

21 What DMA has done is that we have hyper-linked the  
22 DMA Web site to all of the parental control technologies  
23 that we are aware of as of yesterday, and I see we have one  
24 more to add today. So if people want to access the DMA Web  
25 site, D-DMA.Word, you can hyper-link to these child

1 protective technologies, and in many instances get a free  
2 demo, so parents can actually demo these sites.

3           Secondly, we did work with the ISA, Interactive  
4 Services Association, to develop principles, and I am going  
5 to go very briefly over the seven principles that we agreed  
6 on. We believe that, in making decisions whether to collect  
7 data from a child or to communicate with the child,  
8 marketers operating online should, first of all, take into  
9 account the age, knowledge, maturity of their intended  
10 audience; secondly, be sensitive to the parents' concerns  
11 about the collection of data, and that includes the support  
12 for the ability of parents to limit the collection of data  
13 for marketing purposes. Do we do this through notice and  
14 opt out or through technology? That's not in writing, but  
15 that's implied.

16           Also, to limit the use of data collected from  
17 children to marketing purposes only, and so that  
18 information is not used for other purposes.

19           Also, to effectively explain that the information  
20 is being requested for marketing purposes when that is the  
21 case. Six, to implement strict security measures; and,  
22 seven, to encourage parents to share in and monitor their  
23 children's online experience. Again, these technologies are  
24 an example of that.

1           A third prong is an educational piece, and we will  
2 be developing a campaign with third parties to educate  
3 parents about these technologies, about our principles; also  
4 to educate our industry members. We are better suited than  
5 anyone to reach the entire direct marketing industry, make  
6 them aware of our guidelines and of these technologies.

7           MR. PEELER: Thank you.

8           Kathryn.

9           MS. MONTGOMERY: Yes. First of all, I want to say  
10 that it was helpful -- oh, Kathryn Montgomery, Center for  
11 Media Education.

12           It was helpful to see the demonstration of the  
13 various technological devices that have been developed to  
14 address some of the issues that we have raised here. I  
15 think it's very noteworthy that most of the systems were  
16 developed in response to concerns about access that children  
17 might have to inappropriate content, content not designed  
18 for them. And I want to just reiterate that we are  
19 concerned with the content that is being developed for  
20 children. And I think that we are at a point where the  
21 design and function and use of this new online children's  
22 media culture is being determined right now by many of the  
23 important people right here in this room.

24           And we are hopeful that the leaders of the  
25 children's content enterprise that are moving online will be

1 responsible in the kinds of systems that they develop for  
2 children.

3 I believe it will take a combination of  
4 technological solutions, industry self-regulation, parental  
5 involvement and government guidelines and government  
6 regulation. For that reason the Center for Media Education  
7 and the Consumer Federation of America are formally  
8 submitting today a set of proposed guidelines. We are  
9 dealing with Prodigy for protections for children online.

10 I want to say that these are a draft proposal. It  
11 does not deal with a number of the other issues that we  
12 raised in our report, which have to do with deceptive  
13 advertising and marketing practices in addition to privacy  
14 concerns. But it does address the concerns -- some of the  
15 concerns, at least, that we raised about privacy.

16 I think what we have seen here is a sort of model  
17 or paradigm of opt out. We want to propose a paradigm for  
18 opting in, and I would like to turn to Mary Ellen Fise from  
19 Consumer Federation of America to share some of the  
20 highlights of our proposal.

21 MS. FISE: Basically, we have a system of  
22 guidelines that would apply to commercial marketing  
23 practices for children under age 16, and all information  
24 collectors or trackers under this guideline will have to  
25 comply with two requirements.

1           Personally identifiable information being  
2 collected or traced from children for commercial marketing  
3 purposes, that would be allowed only if those practices are  
4 not deceptive, they are fully and effectively disclosed, and  
5 valid parental consent is obtained; and that aggregate  
6 anonymous information would be allowed to be collected and  
7 tracked only when the collection tracking practices are not  
8 deceptive, and, again, they would have to be fully and  
9 effectively disclosed.

10           In order to put a lot more specifics on this, the  
11 disclosure, whether it's anonymous data being collected or  
12 personally identifiable, will have to include what type of  
13 information is being collected or trapped, how the  
14 information is being collected and trapped, how the  
15 information will be used, who is collecting the information  
16 and who will have access to the information.

17           And then in terms of parental consent, we believe  
18 that for that type of consent to be valid to deal with the  
19 question that keeps coming up, "How do you know who the  
20 child is," we believe that the child must understand that  
21 they would need to get the parental consent before  
22 proceeding, and that the parent must receive complete  
23 disclosure.

24           Access to the areas of the site where information  
25 is collected or trapped would then be conditioned upon

1 receipt from the parent of that knowledgeable consent. And  
2 we believe the burden then should be on the collector or  
3 trapper to obtain that parental consent either through  
4 writing or electronic means.

5           And then, finally, we think that there needs to be  
6 two additional requirements: that parents would be able to  
7 correct information that was already collected from the  
8 children, and then, finally, the parents must be able to  
9 prevent the further use of their children's information  
10 after it has been collected.

11           So that's in a very, very quick nutshell the  
12 substance of our proposal to the Commission. Everybody know  
13 how this technology and industry is just changing so  
14 quickly, and people say, well, let's do this a year from  
15 now. A year from now all of our children will have been  
16 exposed to a lot more Web sites and a lot more personal  
17 information will already have been collected. And so we put  
18 this proposal forward today to very seriously address what  
19 guidelines. These would be guidelines and not regulations  
20 so they would set a level playing field for what information  
21 is deemed to be unfair trade practices.

22           COMMISSIONER VARNEY: Have you got copies of this  
23 available outside for everybody?

24           MS. FISE: Yes.

1           COMMISSIONER VARNEY: I would ask that the  
2 panelists and others interested, remember our record is  
3 staying open, please provide us with some comments on these  
4 proposals from CME and CFA. Thank you very much for taking  
5 the time and effort to provide us with something to look at.

6           MR. PEELER: Okay. We have a couple of requests  
7 for comments.

8           MR. WATERS: Bryan Waters from McGraw-Hill Home  
9 Interactive which you will remember from earlier.

10           Everything that I am hearing here today seems to  
11 be driven by what could happen with information that could  
12 be collected and might be used somehow to harm our children.  
13 And I would like to talk about the two types of information  
14 that are collected from click stream data and explicit  
15 information that you might fill out in forms and surveys and  
16 so on and so forth, and try -- I am trying to understand  
17 where the boundaries are, and I don't think they have been  
18 clearly delineated today.

19           For example, collecting of click stream data right  
20 now happens in almost every Web site that you go to, whether  
21 it's a children's Web site, whether it's an adult Web site.  
22 It's simply the fact that when you go to a Web hosting  
23 service asking to put up their page one of the services that  
24 we provide is the ability to tell you how active your site  
25 is, how interesting some portions of the site are, what

1 pages are frequented, what pages are stale, and, you know,  
2 where people go, what people do.

3 And I am not sure there is a difference between  
4 doing that and having a Toys R Us at the end of the day  
5 determine how many super sets of water guns have been sold  
6 so they know they need to stock more of those.

7 That seems to go towards improving product quality  
8 and seems to be a valid reason to collect click stream data,  
9 and, you know, I would like to understand that issue, and  
10 understand how it's different online than in different  
11 offline businesses where they do exactly the same thing in  
12 an aggregate and non-personally identified manner.

13 But that is exactly what click stream data is used  
14 for today. It's very hard to personally identify that.  
15 There are good strong -- they are using it for market  
16 targeting and for advertising, and there is potential for  
17 abuse. I am not denying that. But the challenge was put  
18 out earlier asking, "Give me a valid reason you would want  
19 to do this." Okay, well, there is a valid reason.

20 Second, because the data is actually aggregate and  
21 collected in a non-personally identifiable way, I don't see  
22 that there is any violation of knowledge, notice, and no.  
23 Regarding the notice part, you are requesting that you need  
24 to tell people that you are tracking the number of super

1 sets of water guns sold. I also don't see any invasion of  
2 privacy in that particular area either.

3           Also, for explicit information in terms of filling  
4 out forms, there is another issue, and it has to do with  
5 what technology is doing today. Most of the technology has  
6 been on the client side. When you buy a program, you bring  
7 it home, you put it on your computer, that's where it was at.  
8 It's in your home, it's safe and it's protected. However,  
9 most of those programs, whether they are children oriented  
10 or adult oriented, allow you to set options, allow you to  
11 set preferences, allows you to customize your experience  
12 with that product, and that's really an important feature of  
13 interactive products. It's that intimacy, that ability to  
14 make it deliver what you want that's important. That's  
15 important to adults and it's important to children.

16           On the Internet, and, you know, the technology and  
17 information highway, as it becomes more and more mainstream  
18 the significant thing that's happening is a lot of the  
19 actual code, a lot of the technology is moving to servers  
20 out of the client's - you know, out of the -- you know, out  
21 of the customers' and the users' control, and that seems to  
22 be when people start getting nervous, okay.

23           Are you using it as a simple program on the client  
24 side and now you've got these programs on the master servers  
25 that are reflecting all sorts of information that will help

1 you have an interactive experience. Now, that's got good  
2 and bad. Your interactive experience means that you can now  
3 interact with anybody and everybody out there on the Net.  
4 It's truly interactive. That's where it -- you know, that's  
5 the promise, and the Holy Grail of this technology is now  
6 you can participate in the same way that you participate on  
7 the playground with other kids, okay, games. And research  
8 experiments in schools are using this sort of interactivity  
9 to do joint research experiments between local schools.

10 To do that, the technology requires tracking and  
11 keeping track of personal identification and information to  
12 be able to know how to provide the information, okay.  
13 Again, there is potential for abuse, but the act of doing it  
14 does not mean you are abusing it, okay. And we need to  
15 define what that is.

16 So, for example, on a Web site where the Web site  
17 is not a product-based, a marketing-based Web site, the  
18 ability to track a customer or user preferences by  
19 explicitly asking them to select those preferences means  
20 that you have to provide some explicitly and personally  
21 identifiable information that has to be trapped somewhere,  
22 and chances are that it's going to be trapped in a clicking  
23 or it's going to be trapped on the server side in the  
24 database. That still is not an abuse of that information.  
25 When you start using it for marketing and for ads, and for

1 market targeting and mailing lists and, you know, direct  
2 response and all of those things, that's where the questions  
3 start coming in. But if you sell a product that allows you  
4 to customize preferences, that's where -- that's where I am  
5 starting to come unclear as to where the boundaries are.  
6 And these are things that I would like to help understand  
7 and also put out on the table to make sure that we consider  
8 them when we are considering the issues.

9 MR. PEELER: Thank you. I have a queue here. I  
10 have Evan, Daniel, Kathryn.

11 Evan.

12 MR. HENDRICKS: Thanks, Lee.

13 I think, in fact, I want to emphasize how good it  
14 is that organizations develop their own policies, and some,  
15 I think businesses fear, when they listen to privacy  
16 advocates, that we want to have the kind of protection  
17 that's going to create another OSHA, another EEOC, or there  
18 are all sorts of organizations associated with that. And  
19 that's not true.

20 What privacy advocates want is for you to  
21 understand that privacy is a personal matter. It has to  
22 start with the individual. Individuals have to be given a  
23 legal interest in their own information so they have a say  
24 in how that information is used. And this is the goal that

1 we need to strive for. This is what will solve the problem  
2 of privacy in this country.

3           What I don't like is that I hear so many of the  
4 industry people say that voluntary policies are working and  
5 that that's all that we need. We need a very comprehensive  
6 approach. We need -- for instance, we have a wonderful  
7 Freedom of Information Act, a great law, but our federal  
8 agencies have lousy organizational policies to comply with  
9 it, so they don't. And so people have to wait years to get  
10 documents they are entitled to under law so it's not a  
11 comprehensive approach.

12           On the voluntary policy side we have had many  
13 disappointments over the years because the voluntary policy  
14 parade that's been going on since the late seventies -- I  
15 remember in early 1980s, for instance, a couple quick  
16 examples. An Equitable Life Insurance executive testified  
17 in favor of their voluntary privacy policy, it brought tears  
18 to my eyes, he was very eloquent, but a year later their own  
19 organization of claims processors could not get access to  
20 their own personnel records to see how they were doing, in  
21 violation of this policy. Nothing was done.

22           IBM had one of the better policies, including "We  
23 won't judge what you do in your private life." But they  
24 fired someone for dating a salesman in another computer  
25 company.

1           We always see that these guidelines were endorsed  
2 by 100 American companies in the early eighties, but when  
3 Business International Magazine did a survey of those  
4 companies they found that the people that they talked with  
5 at those companies weren't aware that they had endorsed the  
6 guidelines.

7           In the nineties, I think it's gotten more serious.  
8 Metro Mail was mentioned yesterday. I think this is a  
9 seminal example because Metro Mail, according to the Wall  
10 Street Journal, took information from voter registration  
11 records in violation of some state laws, and was using it  
12 for non-voter purposes.

13           Metro Mail is a member of the DMA. I have yet to  
14 hear DMA condemn this practice. And one of the excuses I  
15 have heard is that there is no government agency that's  
16 taken an action against Metro Mail. Well, you can't have it  
17 both ways. If you are going to have voluntary, you know,  
18 you have to do something so you know that the other members  
19 know that's not permissible use of information.

20           MR. PEELER: Evan, you need to finish up.

21           MR. HENDRICKS: I will. I have two quick examples  
22 to give. One is tomorrow there is a hearing in the Rom  
23 Abrahami's case. He sued U.S. News & World Report because  
24 he doesn't like them selling his information, his name  
25 without his consent. One of U.S. News' comment was,

1 "Instead of being a victim, Rom Abrahami is a trickster who  
2 carefully engineered this lawsuit."

3 And the last example I give is this woman who  
4 brought a class action suit against Metro Mail because she  
5 found out that prisoners were processing the data. She  
6 received an obscene letter from a Texas prisoner because  
7 they subcontracted it out, and prisoners were inputting data  
8 on people, including convicted sex offenders. And this  
9 woman received a letter from this prisoner who said he was  
10 going to come by her house, very obscene, very graphic, and  
11 he was going to engage in a sexual act with her.

12 One of Metro Mail's responses in this lawsuit is  
13 that Beverly Dent has voluntarily disclosed her personal  
14 information on this consumer survey. Thereby, negating any  
15 reasonable expectation of privacy.

16 I'm sorry. I just don't see -- in most cases  
17 there are not privacy problems, 99.5 percent of the cases.  
18 But when there are privacy problems, voluntary policies  
19 don't work, and that's why we need to move on.

20 MR. PEELER: Okay, Daniel.

21 MR. WEITZNER: Thanks.

22 I just want to pick up on Mr. Waters' comments,  
23 that indeed the way that people are using the Web sites, the  
24 way the people are using access logs, they are changing

1 daily, mostly because people don't know what they could do,  
2 and they are now discovering that.

3 I think because of that it is tremendously  
4 important to get a jump on this issue, so that when people  
5 want to use an access log for marketing purposes they have  
6 got a way to know did that person who was the subject of the  
7 log mind whether that happened, did they have a way of  
8 telling you please don't remarket to me just cause I clicked  
9 on to your site, and one of 15 sites, you know, in a five-  
10 minute surfing expedition?

11 We should be building in ways up front to address  
12 these problems without waiting for, you know, another item  
13 to put on Evan's list, and so that people can make  
14 innovative uses of this technology. But we should provide  
15 ways up front for people to express their preferences.

16 I just want to pick up on Bryan's comments, which  
17 I think are in some ways the most important, that the role  
18 of standards in the Internet is so central. The Internet  
19 itself is based on standards. It only works because people  
20 comply with standards.

21 And the Internet has changed, has been able to  
22 change in dramatic ways because there is a general  
23 acceptance of the technical and operational standards that  
24 make the net work.

1           All of the companies that are not the PICS alumni,  
2     (they haven't graduated yet, we are still working, so they  
3     are not alumni, but they have all made incredibly important  
4     contributions), I would say are successful in some part  
5     because we have a standard called PICS, because SafeSurf can  
6     put information out and Microsystems can they say we can  
7     block based on that information. That is the way that  
8     standards work, number one, to give users easy to use and  
9     operability, but they don't have to wonder am I using  
10    SafeSurf, or am I using some other standard, or am I using  
11    Microsystems, or am I using another product, that all these  
12    things work together seamlessly.

13           And number two, the standards work -- we need a  
14    standard for that. Number two, the standards have made  
15    possible all these people out here to compete with each  
16    other and provide better products for people, hopefully at  
17    lower prices. So I think that the standards, the role of  
18    standards here is just critical to get a jump on the kinds  
19    of issues that we see here.

20           MR. PEELER: Kathryn.

21           MS. MONTGOMERY: Well, I do think that the points  
22    -- Kathryn Montgomery, Center for Media Education. I do  
23    believe that the point that Bryan Waters made are good, but  
24    they precisely are emblematic of the problem we do face  
25    here. This technology and this medium is capable of

1       unprecedented amounts, and degree and quality of data  
2       collection, personal data collection.

3               We have never had a medium before that could  
4       collect this data, that could really follow every move that  
5       you make. And then what we are seeing on top of that,  
6       certainly in the children's sites, are in the very early  
7       stages of this new medium, incredible detailed data  
8       collection being built at the very early stages of the  
9       system and to the design of the system.

10              Now, what we are saying is that if it's aggregate,  
11       anonymous information, while we have problems with, you  
12       know, a lot of detailed questions being asked, but if it's  
13       aggregate, anonymous, at the very least parents need to know  
14       how it's being used, what's being collected. You don't know  
15       that information. We want to know what it is that's being  
16       collected, how it's being used. I think parents have a  
17       right to know that.

18              If it's personalized, personally identifiable  
19       information, and we're dealing with kids here, that's  
20       another matter, and that's why I believe very strongly that  
21       we do need some mechanism for effective parental  
22       involvement, and that's what we are calling for.

23              MR. PEELER: Okay. It's Doug, Paul, Pat Faley,  
24       Brian, and Vicki.

25              Doug, would you identify yourself?

1           MR. BLANKE: Doug Blanke from the Attorney  
2 General's Office in Minnesota.

3           The demonstrations were fascinating but I am still  
4 left with the question of why, regardless of the  
5 technologies available, why we would not want to operate in  
6 a system in which the default setting, if you will, the  
7 starting premise is one that is to respect the privacy of  
8 our children as proposed by CME and CFA.

9           I heard Dan Jaffe earlier say that we ought to put  
10 the parents in control, and it seems to me a parental  
11 consent requirement does exactly that.

12           If we started from that point, we could then look  
13 to the technologies that are available as tools that parents  
14 could use if they chose to do so, to automate the expression  
15 of their consent, where they wanted to give it or in what  
16 forms they wanted to give it. Why not start at least from  
17 the premise that privacy should be respected in the first  
18 instance?

19           MR. PEELER: Paul. Please keep your comments  
20 brief.

21           MR. PETRUCCELLI: Yes, Paul Petrucelli with Kraft  
22 Foods, and the American Advertising Federation.

23           I think advertisers should -- I just want to  
24 emphasize a few points that have kind of come up on the  
25 edges at various points today.

1           Advertisers have recognized for many, many years  
2           that children are a special group and have, you know,  
3           engaged a variety of protections through CARU and elsewhere  
4           in that respect. I think it's reasonable to say that, you  
5           know, the industry wants to move toward a system, a regime  
6           where there is better indicia of parental control, parental  
7           supervision, at least with respect to personally  
8           identifiable information.

9           I think the question is sort of how do you handle  
10          it, and we are moving in that direction. There are some  
11          tools that are available now to parents. There are some  
12          tools that are on the way, PICS. The question is what gets  
13          done in the interim. And I think the answer is that we all  
14          kind of have to keep working on it. It's not like falling  
15          off a log. If it were, we wouldn't all be in this room  
16          expressing all of these various opinions about it.

17          We have to continue to work with CARU. We have to  
18          examine the CME proposal and determine what's in there  
19          that's workable. I do think you see responsible movement by  
20          responsible companies. In fact, I think you have seen  
21          responsible movement by some responsible companies already,  
22          and I can raise my hand as one of those.

23          We did have a site where we asked for information  
24          from children. We no longer ask for that information.

1           I think you have to wait for this process to  
2           unfold both the marriage of the technology and of people's  
3           good will to resolve these problems, but it can't happen  
4           overnight.

5           One final point worth mentioning, people have  
6           mentioned various ways in which they think existing legal  
7           restrictions or self-regulatory guidelines are being  
8           violated. I think my answer to that is then let's enforce  
9           them. We have CARU guidelines that apply to a variety of  
10          practices. People believe that there are sites that are  
11          engaged in deceptions of children today. I'm sure that's  
12          inconsistent with CARU guidelines, and I am sure that all  
13          the advertising groups would say let's enforce this  
14          guideline.

15          MR. PEELER: We have a number of cards up, but we  
16          really only have time for the first four on the list, which  
17          is Pat Faley, Brian Ek, Vicki, and Dan Jaffe, and then we  
18          really need to go to get audience comments. And I apologize  
19          to the rest of the panel.

20          But, Pat, keep those comments brief.

21          MS. FALEY: Sure. I am responding to Evan's  
22          comments, and I was to assure everyone that DMA's self-  
23          regulatory program is quite effective. The DMA -- I do want  
24          to respond specifically to the Metro Mail incident.

1           The DMA efforts review process has historically  
2           been kept confidential in order to get cooperation from our  
3           industry members, bringing them back into compliance with  
4           our guidelines. Because of the high profile nature of this  
5           case, what I am about to discuss is with Metro Mail's  
6           permission.

7           Simultaneously with the complaint that was made  
8           public, there was one filed with the Direct Marketing  
9           Association on the issue of abusing marketing information  
10          for reference services. In this instance, look up purposes.  
11          DMA's process was thorough. And in addition to DMA's  
12          regular elaborate procedure, which involves multiple written  
13          communications, there was an outside visit by DMA staff, on-  
14          site visit to Metro Mail, to observe their procedures, and  
15          subsequently a representative of Metro Mail came to New York  
16          and appeared before the ethics operating committee.

17          During that process additional causes for concern  
18          came to the attention of the committee, including that KCBS  
19          was able to obtain a history of households in Los Angeles  
20          that had children, and misrepresented the use of information  
21          gained from surveys.

22          As a result of the self-regulatory process, it was  
23          determined that Metro Mail was not misusing marketing or  
24          survey data, but that although it had policies in place, in  
25          the KCBS situation it had failed to review and approve a

1 mailing piece before releasing the name, which is in  
2 violation of DMA guidelines.

3 In discussions with DMA, Metro Mail has assured  
4 DMA that such a failure would not occur in the future and  
5 has taken several corrective actions in writing to us. They  
6 have created -- they have taken disciplinary action against  
7 the employees involved. They have taken expensive new steps  
8 to verify the authenticity of new customers. They have  
9 instituted a training program for their employees. They  
10 have created a secret shopper program to test their  
11 procedures. To me, this is the way that an effective self-  
12 regulation works that has been confidential all these years,  
13 and now this is a concrete example of how it does work.

14 And that's all I wanted to say. Thank you.

15 MR. PEELER: Thank you. Brian?

16 MR. EK: I just wanted to take a minute and step  
17 above the issue of whether we should have one form of  
18 guidelines over another, government/no government. I think  
19 what we saw today is really historic from a number of  
20 perspectives.

21 What we saw was a demonstration of technology that  
22 is much more powerful than other solutions that we could  
23 think of. Government regulations, no matter what they are,  
24 we're still going to have bad actors. National laws don't

1 touch the international sector, and this is a global medium  
2 we are dealing with.

3 The technology solutions presented today gives  
4 consumers real control, control over your life, control over  
5 your information. In particular with children, it provides  
6 you with tools, tools that you don't have when they walk out  
7 your front door into the real world.

8 And I think the best part is that these solutions,  
9 these technology solutions, means that the consumer has  
10 control and the consumer is reliant on no government, no  
11 company. The consumer is reliant on on one except  
12 themselves, and they have the control, which I think is  
13 extremely powerful.

14 MR. PEELER: Thank you, Brian.

15 Vicki, and then Dan.

16 MS. RAFEL: Thank you. Vicki Rafel, National PTA.

17 And I do want to thank you for the opportunity to  
18 be here today and be part of this discussion on behalf of  
19 National PTA. We are the oldest and the largest child  
20 advocacy organization, and it is very easy in this kind of  
21 discussion to get away from children and get into the  
22 technology piece of it.

23 But I keep having to say we have got to talk about  
24 what this technology means for children and what it means  
25 for parents. It's going to take not only parental control,

1 parental consent, parental participation, but also some  
2 government support and some industry self-regulation in  
3 order to protect those children. It can't be done by just  
4 expecting parents to sign off on a line for their children  
5 to be surveyed for commercial data. It has to be a mix, and  
6 we all have to come together in some additional way, like  
7 this that's going on here today, to talk about how we are  
8 going to protect those children, not only from commercial  
9 exploitation but potentially criminal and other kinds of  
10 exploitation.

11           Cyberspace is a wonderful opportunity for  
12 children, but the parents have to worry about how much time  
13 they have to spend protecting their children from what might  
14 happen to them out there on the Web. That undermines a lot  
15 of the good that could come from it.

16           Thank you.

17           MR. PEELER: Thank you.

18           Dan.

19           MR. JAFFE: I'm Dan Jaffe with the Association of  
20 National Advertisers.

21           I just want to make a couple of -- try and dot a  
22 couple of "i's" from earlier statements. This discussion  
23 about coming back in one year, it should be made clear that  
24 all the business community that's here today have come up  
25 with policy statements that they feel apply across the

1 board, and the issue is whether we need to refine it in any  
2 way to deal with the particular special problems of  
3 children.

4 Also, I am noticing a very large convergence  
5 across this group, although it may not sound that way, and  
6 that everybody believes that there needs to be parental  
7 control. And the only question is how best to do it and how  
8 best you demonstrate and set up a system that will work so  
9 that people will actually know that they have gotten the  
10 verification, or know that the parents are accepting it, and  
11 whether the technological solution is the way to go. I  
12 think it clearly shows that you have very powerful tools  
13 already there. Those are likely to increase.

14 But that's where the debate should be, is how best  
15 to do this. It's not whether there needs to be parental  
16 control, or whether kids should be allowed to run free in  
17 this environment. That's not the issue. Business believes  
18 kids need to be protected, and that the parents have to have  
19 the power to protect their kids.

20 COMMISSIONER VARNEY: Dan, just me interject one  
21 second. I think yesterday, at the end of the day, I said  
22 that I was going to recommend to my colleagues that we  
23 reconvene in six months, not a year. So if the technology  
24 is moving quickly and business is clearly ready to move, I  
25 would say six months.

1           MR. JAFFE: We intend to try and meet the  
2 challenge and obviously our interest is to have answers to  
3 you as quickly as we possibly can, and we will. So we  
4 appreciate that challenge and we will take it.

5           MR. PEELER: Thank you.

6           Now, we have a brief period, if there is anyone on  
7 the audience that wanted to make a comment for the record,  
8 if you could just come up to the microphone. I see two  
9 hands.

10           And if you could keep them brief.

11           MS. CLARKE: One thing I would make sure to get on  
12 record is that in this --

13           MR. PEELER: Identify yourself for the record.

14           MS. CLARKE: Oh, I'm sorry. Jori Clarke of  
15 SpectraCom, developer of KidsCom.

16           It's important to involve and educate Web site  
17 developers about what needs to be done to resolve privacy  
18 issues and security issues, because I think you will find  
19 that in this industry the developers that are in it often  
20 tend to be in their twenties and have not run into these  
21 issues in other areas.

22           So as I look around the room and see very few of  
23 our peers here, it's important to make sure that we are  
24 included because I think a lot of the things that you will  
25 find that have been done have not been done maliciously, but

1 have been done out of ignorance. And as we get educated, we  
2 will make sure that the work that we are doing includes  
3 privacy concerns.

4 It is also important as a developer of a kids site  
5 to realize that the medium is better understood by the next  
6 generation than those of us who are boomers or busters or  
7 anything like that. And it's important, we find, to find  
8 ways to reach parents and teachers that help close that gap  
9 of understanding and bring families together in front of the  
10 computer instead of replacing the TV baby sitter with the  
11 Internet baby sitter. And we have already run into some of  
12 those problems as we try to get parental permission.  
13 Because we don't know who is behind the keyboard, it is  
14 often difficult to understand if it's just the kid who has  
15 signed on as a parent thing, yes, let my Johnnie do whatever  
16 he wants, versus if it's the parents themselves. And we  
17 have been trying to explore ways of finding out to reach out  
18 to those parents and teachers (because kids are learning  
19 this in the classroom) to make sure they understand this  
20 medium.

21 Also, the last thing that I would like to do is  
22 suggest that in this realm of policy that KidsCom -- as an  
23 important site for kids is -- as it has been from the very  
24 beginning -- we have always had feedback on issues of

1 concern and recommendations. We would like to courage  
2 policymakers to use that.

3 And if anyone is interested, we also will be  
4 placing on the KidsCom our commentary, showing the changes  
5 that we have made as we become aware of this issue.

6 MR. PEELER: Thank you.

7 MS. DEFALCO: I am Julie DeFalco from the  
8 Competitive Enterprise Institute.

9 I think that the argument that I have been hearing  
10 for the last two sessions basically come down to how you  
11 view marketing and advertising. I think that a lot of  
12 people have expressed a faint distaste for -- or at least in  
13 some cases more than faint -- distaste for advertising and,  
14 I think, a defensiveness about advertising. The purpose of  
15 advertising is to give out information on products, and I  
16 think the bulk of advertising literature has shown that  
17 children develop a more sophisticated view of advertising  
18 than people are giving them credit for. Most children by  
19 the age of 7 understand the purposes and techniques in  
20 advertising, and they grow more skeptical -- teenagers, in  
21 fact, are more skeptical than adults about advertising.

22 One of the other commentators earlier was saying the  
23 FTC should setup a Web page to, you know, have warnings and  
24 everything. I think -- I actually don't understand why  
25 children should trust the government anymore than they

1 should trust business. I mean, I think that's pretty  
2 manipulative. I think that children may not have the  
3 sophistication to understand the citizens' relationship to  
4 the government in the way that they understand the citizens'  
5 relationship to advertising.

6 It was also said because because it's a new medium  
7 it's a great time to regulate. I think that's exactly why  
8 they shouldn't start regulating it, because as someone said,  
9 we don't know how things will be in six months.

10 So I would just like to see a little more  
11 skepticism towards regulation from the government, the same  
12 kind of skepticism that's been shown towards voluntary  
13 regulation.

14 Thank you.

15 MR. AWERDICK: Hi, I'm John Awerdick. I am a  
16 lawyer with Stryker, Tams & Dill in Newark, New Jersey. I  
17 represent a number of direct marketing companies. I wrote a  
18 chapter for the Computer Law Association online privacy for  
19 a book they recently published. I have written a number of  
20 places on the issues.

21 I want to suggest first that the FTC on its home  
22 page put links to all the various sites that have been  
23 discussed here so that we can go take a look at them, both  
24 the ones that were shown earlier, some of the children sites  
25 that have been viewed as problematic. I think that would be

1 helpful to everyone who has attended to be able to look  
2 around them and see them.

3 In addition to all my other qualifications, I am  
4 the father of a 16-year-old. Other people who have talked  
5 have little kids. I have a kid who grew up in a how who  
6 does not remember not having a computer, and who has been  
7 online for eight or 10 years. She sees very real privacy  
8 problems online, almost none of which were discussed today.  
9 There are people grabbing her name out of a chat room, 40-  
10 year-olds grabbing her name out of a chat room to send her  
11 mail. She sees no difference between the chain letter  
12 that's send by a bunch of other kids and a piece of  
13 commercial mail, both of things that she didn't really want  
14 to get in her mailbox. She finds them equally offensive.  
15 She is very concerned that her father can figure out a way  
16 to get in and take a look at her mail, and she wants to set  
17 up passwords that are father-proof, and that's a major  
18 privacy issue.

19 I think dealing with some of the issues talked  
20 about today, I am very taken with Anne Branstrom's point of  
21 view that privacy is a lot more complicated than just being  
22 the simple word "privacy." There is a difference between  
23 secrecy and confidentiality. I think a lot of things the  
24 psychologist was talking about this morning are not really  
25 privacy issues. The kid's name is not that private. The

1 kid's age is not that private. You see them walking down  
2 the street you know what their age is.

3 The issue really is, is that child capable of  
4 making decisions to give information away to strangers.  
5 That's a very traditional issue, and it's not really a  
6 privacy issue. I think we ought to think about some other  
7 words to use for privacy in this kind of context. Maybe one  
8 of them is responsibility, and it struck me as I was  
9 thinking, gee, what's the right word, but maybe the word is  
10 unfairness. And I realized that there are people who don't  
11 want to deal with that word. And if the FTC is not at this  
12 point talking about any regulations, that maybe that's a  
13 body of law we ought to be thinking about and talking about  
14 here instead of something that's as murky as privacy.

15 Thanks.

16 MR. PEELER: Last comment.

17 MR. COE: I am going to be very, very short.  
18 I think it's five sentences.

19 My name is George Coe, I am from the South Sebold  
20 Communications, and I just wanted to leave you with three  
21 pleases and a statement.

22 Please, as you begin to get the point where you  
23 are making decisions, ask the kids and bring them into  
24 whatever issues you are dealing with.

1           Please, are you are getting to the point where you  
2 are going to be making decisions, ask parents and get them  
3 into the decision-making process.

4           Please, think about how to educate kids and how to  
5 educate parents, and remember that guidelines won't work  
6 unless you put some kind of a public information aspect into  
7 whatever it is that you are doing, and that this aspect be  
8 much broader than just computers. You are not going to get  
9 to a lot of people you want to get to if you just think  
10 about putting something on the Web. You have got use all  
11 the other more traditional means too.

12           Thank you.

13           MR. PEELER: Thank you. Now I would like to turn  
14 it over to Chairman Pitofsky.

15           CHAIRMAN PITOFSKY: The hour is late and I will be  
16 brief. We started off by thanking the staff for putting  
17 together this wonderful set of hearings. I would like to  
18 thank with equal enthusiasm the participants in these  
19 programs, and the audience, for playing a part in such an  
20 informed and thoughtful way.

21           This agency has a history of bringing people  
22 together, exchanging views, gathering facts, framing issues.  
23 And I can't think of a more appropriate area to do that in  
24 than where the commercial world meets the future. And  
25 that's the way I felt about these two days of hearings.

1           I am extremely encouraged by the efforts that have  
2 already taken place by people who are drafting guidelines,  
3 and I share Dan Jaffe's thought that there is some  
4 convergence here. At least there is a convergence in the  
5 sense that all participants think this is an important  
6 problem that needs to be addressed.

7           There has been some talk, especially in the last  
8 hour or so, about whether voluntary guidelines ever work. I  
9 don't think it's appropriate to go into a project like this  
10 with the assumption that voluntary guidelines will not work.

11           This agency has been burned in the past by groups  
12 who suggested voluntary guidelines and then they weren't  
13 worth the paper they were written on. On the other hand,  
14 there are other voluntary groups that developed self-  
15 regulatory programs that worked very well. And were  
16 supplemented, in some instances, by agency enforcement  
17 behind those guidelines.

18           It's one thing to be skeptical, and to be  
19 demanding and rigorous about what the guidelines are. But I  
20 just don't see any -- I don't think it's appropriate to  
21 start off with the assumption that they won't work and that  
22 we have to have government regulation.

23           Believe it or not, there are some people who think  
24 government regulation doesn't work all that well either.  
25 And in an era in which all of government must do more with

1 less, we cannot afford to ignore the possibility that  
2 cooperation and collaboration will lead to the appropriate  
3 result.

4 We will prepare a report on these sessions. The  
5 report will, I hope, reflect all, or most, of the views that  
6 were expressed here. I think that several people have  
7 suggested focus groups on some of these subjects, and I  
8 gather there is already some interest on the part of  
9 independent groups of doing exactly that sort of thing.

10 There is too much information, too many issues  
11 have been explored here to try to digest them at this point,  
12 but we will have a report. And with that report, we will  
13 see where we go from there.

14 I want to thank all of you for your excellent  
15 participation in these sessions.

16 (Whereupon, at 1:12 p.m., the workshop was  
17 adjourned.)

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## C E R T I F I C A T E

DOCKET/CASE NUMBER: P954807

CASE TITLE: PUBLIC WORKSHOP ON CONSUMER PRIVACY ON  
THE GLOBAL INFORMATION INFRASTRUCTURE

HEARING DATE: June 5, 1996

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: June 5, 1996

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SIGNATURE OF REPORTER

Peter Knight Shonerd  
(NAME OF REPORTER - TYPED)