



U.S. Perspectives on Consumer Protection in the Global Electronic Marketplace

JUNE 8-9, 1999





FEDERAL TRADE COMMISSION PUBLIC WORKSHOP:

US PERSPECTIVES ON CONSUMER PROTECTION IN THE GLOBAL ELECTRONIC MARKETPLACE

AGENDA

The Internet has the potential to offer consumers substantial benefits, including convenience and access to a wide range of goods, services, and information at lower costs. How can government, industry and consumers work together to facilitate the development of a global marketplace that offers adequate consumer protection and legal certainty?

Tuesday, June 8, 1999

8:15 a.m.

Registration and Breakfast

9:00 a.m.

Introductory Remarks

- Robert Pitofsky, Chairman, Federal Trade Commission
- William Daley, Secretary, Department of Commerce

9:45 a.m.

International Business-to-Consumer eCommerce: Four Perspectives

Moderator: Hugh Stevenson, Associate Director, Division of Planning & Information, Bureau of Consumer Protection, Federal Trade Commission

Technological Perspective (9:45 a.m. - 10:15 a.m.)

Presenters:

- Edward Frankenberg, Director Web Products, PSINet, for Commercial Internet eXchange
- Cory Eaves, Director, e-Commerce, Lycos

Consumers' Perspective (10:15 a.m. - 11:15 a.m.)

Presenters:

- Mark Silbergeld, Co-Director, Washington office, Consumers Union
 - Robert Mayer, Professor, Department of Family and Consumer Studies, University of Utah
- Presentation of Consumers International study of consumers' experiences with international Internet transactions*

11:15 a.m. - Break

Industry Perspective (11:30 a.m. - 12:30 p.m.)

Presenters:

- Brad Handler, Associate General Counsel, Director of Law and Public Policy, **eBay**
- Peter Harter, Vice President, Global Public Policy and Standards, **EMusic, Inc.**
- Charles Prescott, Vice President, International Business Development and Global Affairs, **Direct Marketing Association**

Law Enforcement Perspective (12:30 p.m. - 1:15 p.m.)

Presenters:

- Sally Gustafson, Senior Assistant Attorney General, Chief, Consumer Protection Division, **Washington State Attorney General's Office**
- Eileen Harrington, Associate Director, Division of Marketing Practices, Bureau of Consumer Protection, **Federal Trade Commission**
- Elizabeth Jacobs, Assistant Director for International Affairs, **Securities & Exchange Commission**

1:15 p.m. - Lunch

2:15 p.m.

Breakout Sessions

Breakout Session 1 (Room 432):

Core Protections for eConsumers

Do the characteristics of e-commerce warrant consumer protections or fair business practices different from those available in traditional commerce?

To what extent do the characteristics of e-commerce warrant additional protections?

To what extent do the characteristics of e-commerce render traditional protections unnecessary?

Moderator: Hugh Stevenson, Associate Director, Division of Planning & Information, Bureau of Consumer Protection, **Federal Trade Commission**

Panelists:

- Alan Anderson, Senior Vice President for Assurance Services, **American Institute of Certified Public Accountants**
- Kaye Caldwell, Public Policy Director, **CommerceNet**
- Dave Clauson, Executive Vice President, World Wide Marketing, **iXL for American Association of Advertising Agencies**
- JeanAnn Fox, Director of Consumer Protection, **Consumer Federation of America**
- Linda Golodner, President, **National Consumers League**
- Peter Gray, Co-founder, **Internet Consumers Organization**
- Caitlin Halligan, Bureau Chief, Internet Bureau, **New York State Attorney General's Office**
- Jill Lesser, Vice President for Domestic Policy, **America Online**
- Solveig Singleton, Director of Information Studies, **Cato Institute**
- Frances Smith, Executive Director, **Consumer Alert**
- Haywood Torrence, Government Relations Director, Issue Analysis, **Bell Atlantic**

- Michelle Turner, Director, Assistant General Counsel, Dell Computer Corporation for Information Technology Industry Council

Online Disclosures

Presenter:

- Lisa Rosenthal, Legal Advisor for International Consumer Protection, Division of Planning & Information, Bureau of Consumer Protection, **Federal Trade Commission**
Presentation on FTC survey of online disclosures on foreign and domestic websites

General Disclosures

What general information should online businesses disclose?

What purposes are served by such general disclosures?

To what extent do the circumstances of e-commerce warrant disclosure requirements different from those in traditional commerce?

To what extent should such disclosures be mandated by law?

Contract-Related Disclosures

What contract-related information should online businesses disclose?

What disclosures/processes are necessary to confirm that a consumer is entering into a contract?

To what extent should such disclosures be mandated by law?

3:45 p.m. - Break

Fair Business Practices and Contractual Protections (4:00 p.m. - 4:45 p.m.)

What fair business practices and consumer protections, other than disclosures, are necessary to build and maintain consumer confidence in conducting international e-commerce?

To what extent should contractual agreements be able to override such consumer protections?

Breakout Session 2 (Rm. 332):

Consumer Concerns about Authentication in International Transactions

Moderator: David Medine, Associate Director, Division of Financial Practices, Bureau of Consumer Protection, **Federal Trade Commission**

Technological Solutions Now Available (2:15 p.m. - 3:15 p.m.)

Overview of authentication technologies (digital signatures, SSL/SET, biometrics, smartcards, and other verification systems)

What are consumers' experiences with these technologies?

What level of consumer protection do these technologies provide?

Presenters:

- Michael Baum, Vice President, Practices & External Affairs, Verisign
- Carl Ellison, Senior Security Architect, Intel Corporation
- Russell Schrader, Senior Vice President and Assistant General Counsel, VISA
- Jim Wayman, Director, U.S. National Biometric Center

3:15 p.m. - Break

Benefits and Risks Associated with Current Technology (3:30 p.m. - 4:15 p.m.)

What are the proper roles for consumers, merchants, and technology providers in ensuring secure transactions?

What allocation of costs/risks will best facilitate e-commerce and provide consumers with adequate protection?

How great is the risk of online identity theft?

International Transactions (4:15 p.m. - 4:45 p.m.)

Will third party verification be a viable system for international transactions?

Panelists:

- Michael Baum, Vice President, Practices & External Affairs, Verisign
- Mark Bohannon, Chief Counsel for Technology, Department of Commerce
- Carl Ellison, Senior Security Architect, Intel Corporation
- Margot Saunders, Managing Attorney, National Consumers Law Center
- Russell Schrader, Senior Vice President and Assistant General Counsel, VISA
- Frank Torres, Legislative Counsel, Consumers Union
- Jim Wayman, Director, U.S. National Biometric Center

4:45 p.m. - Break

Room 432

5:00 p.m.

Working Toward International Consensus for Online Consumer Protection

- David Aaron, Undersecretary, International Trade Administration, Department of Commerce

5:15 p.m.

Overview Remarks

- Orson Swindle, Commissioner, Federal Trade Commission
- Mozelle Thompson, Commissioner, Federal Trade Commission

5:45 p.m.

Summary of Breakout Sessions

- Hugh Stevenson, Associate Director, Division of Planning & Information, Bureau of Consumer Protection, Federal Trade Commission
- David Medine, Associate Director, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission

Wednesday, June 9, 1999

8:15 a.m.

Registration and Breakfast

9:00 a.m.

Consumer Protection Frameworks in the Global Electronic Marketplace: Introduction

• Mozelle Thompson, Commissioner, Federal Trade Commission

9:15 a.m.

Electronic Commerce and US Trade Policy

• Charlene Barshefsky, United States Trade Representative

9:40 a.m.

Overview of Current Legal Framework for Choice of Law and Jurisdiction for Internet Transactions

• Jack Goldsmith, Professor, University of Chicago School of Law

10:00 a.m.

Overview of the History and Future of the Internet

• Vint Cerf, Senior Vice President for Internet Architecture and Technology, MCI WorldCom

10:30 a.m.

Jurisdiction and Choice of Law for Consumer Protection in eCommerce: US Perspectives (10:30 a.m. -12:30 p.m.)

Discussion, using hypotheticals, addressing fairness concerns, practical constraints, and the effects on the market.

Moderator: Teresa Schwartz, Deputy Director, Bureau of Consumer Protection, Federal Trade Commission

Panelists:

- David Fares, Director of Electronic Commerce, United States Council for International Business
- JeanAnn Fox, Director of Consumer Protection, Consumer Federation of America
- Jack Goldsmith, Professor, University of Chicago School of Law
- Caitlin Halligan, Bureau Chief, Internet Bureau, New York State Attorney General's Office
- Peter Harter, Vice President, International Business Development and Government Affairs, EMusic, Inc.
- David Johnson, Attorney, Wilmer, Cutler & Pickering
- Carla Michelotti, Executive Vice President, Associate General Counsel, Director of Government Affairs, Leo Burnett Company, Inc. for American Advertising Federation
- Tim Phillips, Tennessee Attorney General's Office for National Association of Consumer Agency

Administrators

- Andrew Pincus, General Counsel, **Department of Commerce**
- Jonathan Rusch, Senior Litigation Counsel, Fraud Section, Criminal Division, **Department of Justice**
- Mark Silbergeld, Co-Director, Washington office, **Consumers Union**

12:30 p.m. - Lunch

1:30 p.m.

Breakout Sessions

Breakout Session 1 (Rm. 432):

Alternative Frameworks:

Role and Efficacy of Private Sector Initiatives

How can private sector initiatives facilitate informed decision-making?

How can private sector initiatives facilitate dispute resolution?

Moderators: Orson Swindle, Commissioner, **Federal Trade Commission**
David Medine, Associate Director, Division of Financial Practices, Bureau of
Consumer Protection, **Federal Trade Commission**

Panelists:

- Becky Burr, Associate Administrator, National Telecommunications and Information Administration,
Department of Commerce
- Roger Cochetti, Program Director, Internet Policy and Business Planning, **IBM**
- Steven Cole, Senior Vice President and General Counsel, **Council of Better Business Bureaus and
BBBOnline**
- Sally Cowan, Group Counsel, **American Express**
- Caroline Crawford, Chair, Internet Working Group, **European Advertising Standards Alliance**
- Llewellyn Gibbons, Assistant Professor, **University of Toledo College of Law**
- Everett Johnson, Senior Partner, **Deloitte and Touche for American Institute of Certified Public
Accountants**
- Ethan Katsh, Professor of Legal Studies and Director, Center for Information Technology and
Dispute Resolution, **University of Massachusetts at Amherst**
- Farhad Mohit, President and Chief Executive Officer, **BizRate.com**
- Malla Pollack, Associate Professor, **Florida Coastal School of Law**
- Russell Schrader, Senior Vice President and Assistant General Counsel, **VISA**
- Frank Torres, Legislative Counsel, **Consumers Union**
- Christine Varney, Attorney, **Hogan & Hartson, LLP**
- Eric Wenger, Assistant Attorney General, Internet Bureau, **New York State Attorney
General's Office**

Breakout Session 2 (Rm. 332):
Alternative Frameworks:
Role and Efficacy of International Bodies and Agreements

Moderator: Hugh Stevenson, Associate Director, Division of Planning & Information, Bureau of Consumer Protection, **Federal Trade Commission**

Presenter:
• Henry Perritt, Dean, **Chicago-Kent College of Law**

- Panelists:**
- Robert Kramer, Vice President and Manager, International Government Relations, **Bank of America for Coalition of Service Industries**
 - James Love, Director, **Consumer Project on Technology**
 - Jonathan McHale, Director for Communications and Electronic Commerce, **United States Trade Representative**
 - Harris Miller, President, **Information Technology Association of America**
 - Henry Perritt, Dean, **Chicago-Kent College of Law**
 - Marc Rotenberg, Executive Director, **Electronic Privacy Information Center**
 - Michael Sussman, Attorney, Computer Crimes Section, **Department of Justice**
 - Barbara Wellbery, Counselor to the Undersecretary for Electronic Commerce, International Trade Administration, **Department of Commerce**

2:45 p.m. - Break

Room 432

3:00 p.m.
Jurisdiction and Choice of Law for Consumer Protection in eCommerce:
International Perspectives

Moderator: Mozelle Thompson, Commissioner, **Federal Trade Commission**

Presenter:
• Marina Manfredi, Director, Consumer Policy, Directorate General 24, **European Commission**
Overview of European Union's Approach to Consumer Protection in eCommerce

- Panelists:**
- Martin Bond, Assistant Director, Consumer Affairs Directorate, **Department of Trade and Industry, United Kingdom**
 - Morten Foss, Research Fellow, **Norwegian Research Center for Computers and Law**
 - Hanns Glatz, Delegate of the Board of Managers, **Daimler-Chrysler for Global Business Dialogue**
 - Michael Jenkin, Director General, Office of Consumer Affairs, **Industry Canada**
 - Marina Manfredi, Director, Consumer Policy, Directorate General 24, **European Commission**
 - Tsuneo Matsumoto, Professor of Law, **Hitotsubashi University, Tokyo, Japan**

- Jacqueline Pearce, International Liaison Officer, **Australian Competition and Consumer Commission**
- Louise Sylvan, Vice President, **Consumers International**
- Debra Valentine, General Counsel, **Federal Trade Commission**

4:30 p.m. - Break

4:40 p.m.

Report on June 9 Breakout Sessions

- David Medine, Associate Director, Division of Financial Practices, Bureau of Consumer Protection, **Federal Trade Commission**
- Hugh Stevenson, Associate Director, Division of Planning & Information, Bureau of Consumer Protection, **Federal Trade Commission**

5:00 p.m.

Next Steps:

What Should Government, Industry, and Consumers Do Now?

Moderator: Jodie Bernstein, Director, Bureau of Consumer Protection, **Federal Trade Commission**

Panelists:

- Scott Charney, Chief, Computer Crimes and Intellectual Property Section, Criminal Division, **Department of Justice**
- Roger Cochetti, Director, Internet Policy and Business Planning, **IBM**
- Jack Goldsmith, Professor, **University of Chicago School of Law**
- Sally Gustafson, Senior Assistant Attorney General, Chief, Consumer Protection Division, **Washington State Attorney General's Office**
- Jill Lesser, Vice President for Domestic Policy, **America Online**
- James Love, Director, **Consumer Project on Technology**
- Henry Perritt, Dean, **Chicago-Kent College of Law**
- Andrew Pincus, General Counsel, **Department of Commerce**
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ADDENDUM TO PROGRAM

June 8, 1999

10:15 a.m.

Presentation on Consumers' Perspective

Substitute Presenter:

- Will Clurman, Manager of Electronic Commerce, Lycos, will be substituting for Cory Eaves, Director, e-Commerce, Lycos

Will Clurman is Manager of Electronic Commerce Services for Lycos. He has worked on the Internet since 1993 when he led development of one of the Internet's first job-search engines, CareerMag.com. He designed the first online magazines for Times Mirror Magazines in New York, worked on the team that developed Netscape 4.0, and completed graduate studies at MIT's Entrepreneurship Center at the MIT Sloan School. In his role today at Lycos, he is building the Electronic Commerce team and bringing to market the next generation of online services for Commerce, Community and Content.

2:15 p.m.

Breakout Session One

Core Protections for e-Consumers

Additional Panelist:

- Ed Mierzwinski, Consumer Program Director, U.S. Public Interest Research Group

Ed Mierzwinski is Consumer Program Director for U.S. Public Interest Research Group (PIRG), a non-profit, non-partisan advocacy group that serves as the national lobbying office for state PIRGs. His work involves financial, banking, credit reporting and privacy issues. He is a member of the Trans Atlantic Consumer Dialogue's (TACD) working group on Electronic Commerce.

Substitute Panelist:

- Anthony Pugliese, Director of Assurances Services, **American Institute of Certified Public Accountants** will be substituting for Alan Anderson, Senior Vice President for Assurances Services, **American Institute of Certified Public Accountants**

Anthony Pugliese has been Director of Assurance Services for the American Institute of Certified Public Accountants (AICPA) since September 1998. He has worked with the AICPA Assurance Services Executive Committee and its various task forces to develop and implement new services opportunities for CPAs. CPA WebTrust, the first in a family of assurance services, was launched in late 1997. Prior to joining AICPA in May, 1997, Mr. Pugliese served as Senior Audit Manager at the accounting firm of Deloitte & Touche, LLP, in New York from 1989 to 1997.

June 9, 1999

1:30 p.m.

Breakout Session Two

Role and Efficacy of International Bodies and Agreements

Additional Panelist:

- Bruno Ristau, Attorney, **Law Offices of Bruno Ristau**

Bruno Ristau practices law in Washington, D.C. From 1963-1981 he was the Director of the Office of Foreign Litigation at the U.S. Department of Justice, and in that position he supervised all suits by or against the United States in foreign courts. While in government service, he was the Attorney General's representative on a committee that drafted the Foreign Sovereign Immunities Act of 1976, and he testified in support of the Act. He also served as the U.S. Delegate to The Hague Conference on Private International Law in 1977-1978. Mr. Ristau has been an adjunct professor of law at The American University and the George Washington University, where he has taught courses on international judicial assistance and conflicts of laws. He is the author of a two-volume treatise entitled *International Judicial Assistance, Civil and Commercial*.