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CONSUMER CONTEXT

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ANDERSON COURT REPORTING
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1 P R O C E E D I N G S

2 MR. HERRIGAN: Hello, everybody. If we
3 could get people taking seats, we're going to get
4 underway here shortly.

5 Thank you very much. My name is John
6 Herrigan. I'm going to moderate this afternoon's
7 workshop called The Broadband Consumer Context. I
8 work with the National Broadband Task Force. I'm
9 the director of Consumer Research.

10 Before we get underway, let's do the
11 ritual we do before every workshop, which is ask
12 people to turn their cell phones to off or vibrate
13 so we don't get interruptions along the way.

14 Today we want to get a diverse and
15 fascinating group of experts before us to talk
16 about how broadband impacts consumer welfare and
17 the context for consumers doing things in an
18 increasingly broadband-connected world. We have a
19 couple of dimensions to this that we want to touch
20 on today.

21 One, we want to get on the table an
22 understanding of the evolving networks and network

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1 architectures that influences how people engage
2 with information gathering and transactions
3 online. We want to try to understand some of the
4 upsides to the possibility of empowered consumers.
5 I'm sure many of us have had the experience of
6 going online and maybe not executing a transaction
7 online using e-commerce, but gathering enough
8 information so you feel like you're in a stronger
9 bargaining position when you go to the store to
10 make a purchase. So we want to understand how
11 broadband may empower consumers further.

12 At the same time we want to also
13 understand some of the risks, either real or
14 perceived, of sharing information online. When
15 you get to a point where you're putting a lot of
16 your social life online in the course of doing
17 transactions or social networking, sharing data
18 can be problematic, at least in the minds of some
19 consumers.

20 Later we're going to turn to some
21 special issues that confront families when
22 children are going online. And then finally we're

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1 going to hear later in the afternoon from folks
2 from the private sector on tools and techniques
3 that have been developed for helping people manage
4 the broadband world when they're doing
5 transactions online.

6 So, we hope to get a lot of ideas on the
7 table today. By design, we've gathered a diverse
8 set of people with a range of different ideas, and
9 we hope this could result in a very interesting
10 mix and collision of thoughts as we proceed today.

11 So, the way we're going to proceed is as
12 follows: We're going to go down the dais here
13 with our panelists.

14 Each person is going to get five minutes
15 to make a statement. There'll be a timer there
16 for panelists to keep track of how they're doing
17 on time, and we'll go in sequence down the table,
18 five minutes apiece. And once we're done with
19 that we're going to open things up to questions.
20 If you have a question there's going to be
21 somebody in the room who will pass out cards. You
22 can write down your question and it'll be

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1 delivered to me. We have lots of people -- I
2 understand more than 200 people -- logging in on
3 cyberspace. They can e-mail questions and those
4 questions will find their way to me. Once we get
5 into Q&A, we hope to have a lot of rich
6 interaction among panelists on different points of
7 view.

8 We also have several questioners from
9 government agencies that will contribute with
10 questions when we get to the Q&A session. We have
11 to my left Bob Cannon from the Office of Strategic
12 Planning at the FCC. We have across the table
13 Marc Berejka from the Commerce Department. And
14 finally, and not least since he's a fellow
15 graduate of the University of Texas, Michael
16 Wroblewski from the Federal Trade Commission.

17 So, without further ado, we're going to
18 start with Mike Nelson from Georgetown University.
19 Just in terms of doing introductions, I'm going to
20 keep them about as long as they just were now for
21 Mike. Introductions -- introductory material and
22 biographies of each of our participants is in a

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1 packet that you can get at the table over there.
2 I'm not going to fill this time with lengthy
3 introductions. I'll just turn it over to Mike
4 Nelson.

5 Mike?

6 MR. NELSON: Thank you very much, John.
7 And thanks for the opportunity to be here.

8 I'm Michael Nelson. I'm a visiting
9 professor of Internet Studies at the
10 Communications, Culture, and Technology Program at
11 Georgetown. I've been there for about two years.
12 I do research and teach courses on the evolution
13 of the Internet, as well as doing consulting and
14 speaking on Internet technology and policy.

15 Prior to joining the Georgetown faculty,
16 I spent almost 20 years working in the U.S.
17 Senate, the White House, the FCC, and IBM, where I
18 spent most of my time trying to help shape the
19 policies and standards that are shaping the
20 Internet. I work with a lot of different groups
21 involved in telecommunications and the Internet,
22 including the Internet Society, the

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1 Internet-to-University Research Consortium, the
2 International Institute of Communication, the
3 IEEE, and FirstMile.US. And I'm the outgoing
4 chairman of the computing section of the AAAS.

5 But I'm here today not representing
6 Georgetown or any of these groups; instead, I'm
7 here to share a few suggestions based on lessons
8 I've learned in more than 20 years working on
9 Internet and telecom policy here in Washington.
10 Since I only have four minutes, I will be very
11 brief.

12 The first point is that it's crucial
13 that we have the right mental model for broadband
14 and the Internet. I frequently hear that the
15 Internet is mature technology, and since it
16 supports so many critical functions, we have to
17 regulate it like other critical infrastructures,
18 phone service or electricity. Nothing could be
19 further from the truth.

20 The transformation due to the Internet
21 is less than 15 percent complete. There's a lot
22 more to come, and in the next 10 years, unless we

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1 really screw things up, we're going to see an
2 increase in the amount of bandwidth of 50 or 100
3 times; we're going to see more than 100 billion
4 devices connected to the Internet of things; and
5 Internet video will become a totally immersive,
6 high definition, two-way experience, something
7 like IMAX movies are today.

8 So don't think of the Internet as a
9 mature adult; think of it as a tween, sort of like
10 my 12-year-old daughter.

11 Like the Internet, we don't know what my
12 daughter will grow up to become, but we do know
13 that the choices we're making today, both for her
14 and for the Internet, are going to shape the
15 future. And we know that the best way to ensure a
16 successful future is to provide as many different
17 options and opportunities for the Internet and for
18 Internet users.

19 My second point is that we need to focus
20 on a lot more than just telecommunications
21 regulation. Creating a clear, consistent
22 environment, both regulatory and business, that

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1 fosters growth of compelling services that will
2 spur usage and investment in broadband services is
3 more important than trying to regulate the
4 business plans or the network architecture of the
5 ISPs. It's the compelling services that will
6 drive the development of these broadband networks.

7 The growth of the computer industry over
8 the last years demonstrates what can happen when
9 the federal government makes wise research
10 investments and procurement divisions and imposes
11 a minimum amount of regulation. Few people
12 realize that the early success of the Internet in
13 the United States is due in large part to the
14 decision of the FCC not to regulate data networks
15 in the Computer 2 decision in the early 1980s.

16 When I was at the White House, I was
17 very involved in the Magazina report on
18 e-commerce. It's a unique report. Almost every
19 page has a promise of what the U.S. Government
20 will not do with regard to e-commerce services on
21 privacy, security, censorship, and the like. And
22 the certainty provided by that report really

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1 helped U.S. Companies plan their business plans
2 and make their investments. So I'd urge you to
3 look at that report as a model as you develop your
4 business plan. Tell us what you're not going to
5 do, what things business won't have to worry about
6 dealing with, and convince them they won't have to
7 hire as many lawyers as they might suspect.

8 The Internet is becoming something much
9 more than a communications network. With the
10 growth of cloud computing and software as a
11 service, the Internet is becoming a platform for
12 computing as well. In 10 years it is conceivable
13 that more than half of all the computing done
14 worldwide will not be done on desktop computers
15 and mainframes owned by companies or individuals,
16 but rather will be done in the cloud using other
17 companies' equipment scattered around the world --
18 around the country and around the world.

19 So, it's time to think of the Internet
20 -- and the broadband Internet, in particular -- as

21 a giant global virtual supercomputer and to adopt
22 the kind of regulatory approach that has worked so

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1 well for computers: A minimalist approach
2 focusing on ensuring health, safety, and
3 competition that will ensure the innovation and
4 consumer choice we need.

5 Taking the opposite approach and
6 regulating the cloud like the phone network or the
7 cable television network would be a disaster and
8 ensure that the U.S. falls behind other countries
9 as they develop new, exciting ways to use big
10 broadband cloud computing and the Internet of
11 things.

12 So we need to look first of all at those
13 regulations that are actually getting in the way
14 of development of broadband services and look at
15 places where we have to make the right decision so
16 that the new services built on the cloud will
17 succeed. In particular, I want to stress the
18 importance of liability. If we hold the cloud
19 service providers liable for everything that's
20 done on the platform they're building, that will
21 eliminate many of the players and will stymie a
22 lot of the developments. And I'll talk about that

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1 more in the Q&A if we have time.

2 So, thanks again for the opportunity to
3 be here.

4 MR. HERRIGAN: Thanks very much, Mike.
5 And we'll turn it right over to Sascha Meinrath.
6 Sascha?

7 MR. MEINRATH: Hello, everyone. Thank
8 you for having me here on this panel.

9 I oversee the technology arm of the New
10 America Foundation. And I direct the Foundation's
11 Open Technology Initiative, which is sort of a
12 tech tank inside a think tank.

13 And we formulate policy and regulatory
14 reforms focused on supporting open architectures
15 and open source innovations. I put that out there
16 right up front so you understand my biases as I am
17 here talking today.

18 OTI is committed very much so to
19 maximizing the potentials of innovative open
20 technologies by studying their social and economic
21 impacts. And in particular, we're looking at the
22 impacts on rural, poor, and other underserved

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1 on our networks today. So, much like a scanning
2 electron microscope is a critical tool for today's
3 modern physics laboratories, Internet researchers
4 need high-powered and extensive measurement suites
5 to keep pace with the Internet's increasing
6 complexity.

7 And unfortunately, as currently
8 conceptualized, our National Broadband Data
9 Mapping Initiative, a \$350 million endeavor, will
10 do far too little to actually enlighten
11 policymakers about what is happening on the
12 Internet's core. And since the privatization of
13 the Internet in the mid-1990s, we've embraced a
14 policy that has sacrificed transparency and public
15 data access, assuming that less regulation of the
16 Internet, the better. What is absolutely clear,
17 however, is that this data privatization has
18 created disastrous outcomes for network science,
19 basic research, policymaking, and the general
20 consumer welfare. And because of the
21 pervasiveness of nondisclosure agreements and the
22 practice of treating even mundane operational

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1 practices' trade secrets, today's policymakers
2 operate in a self- perpetuating fog of unknowing.
3 This, in turn, has led to massive market
4 distortions and inefficiencies that have come at
5 the literal expense of consumers across the
6 country.

7 In the United States today, consumers
8 pay more for slower connections containing more
9 limitations than a growing host of other countries
10 around the globe. And when it comes to our
11 international standing in broadband speeds,
12 pricing, and adoption, the United States is the
13 exact opposite of an Usain Bolt. The best that we
14 can say at this point in time is that the current
15 state of broadband in the United States is that
16 the speed of our deceleration is lessening and
17 that we're hoping to achieve stagnation in our
18 international year- to-year rankings in the very
19 near future.

20 A fundamental assumption of classic
21 economics -- this underlies all of the analyses
22 that happen out there -- is that the supply-demand

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1 curve will achieve equilibrium and optimal
2 balance. We just assume that that's going to
3 happen.

4 Unfortunately, this result is
5 predicated, absolutely, upon suppliers knowing the
6 demand and consumers having information about the
7 supply. In the United States, however, providers
8 have systematically kept consumers in the dark.
9 Today's ISPs diligently work to ensure that the
10 public has access to as little information as
11 possible, preventing consumers from making
12 informed decisions about their broadband options.
13 And unfortunately, the FCC has actively supported
14 this practice through its laissez-faire policies.

15 Today's FCC runs the risk of continuing
16 the current state of affairs through its inaction
17 on issues where the problems and solutions are
18 already well known. And furthermore, there are
19 areas where data collection is absolutely
20 necessary, but also areas where decisive
21 leadership is critically important. And through
22 its perseveration, the FCC continues to encourage

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1 business practices that directly harm the general
2 public and the deployment of infrastructure that
3 is guaranteed to cause further problems for
4 consumers down the road.

5 So I'm going to leave it there, but I'll
6 leave you with three quick examples. It's insane
7 that we have card or phone for wireline networks,
8 but not for wireless networks; that you're allowed
9 to connect whatever you wish to a wireline phone
10 system, but not to a wireless phone system. It's
11 crazy that the information that was publicly
12 accessible through NSF Net through the 1990s is
13 now privatized and not available. And it's insane
14 that consumers have to make decisions about their
15 broadband choices in the dark and without
16 information about what those choices actually are
17 and what's available.

18 So, I look forward to our continuing
19 debate on these issues and forthright action from
20 the FCC in the very near future. Thank you.

21 MR. HARRIGAN: Thank you very much,
22 Sascha. Joel?

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1 MR. KELSEY: Hello. My name is Joel
2 Kelsey. I work for Consumers Union. We are the
3 nonprofit publisher of Consumer Reports Magazine.
4 And through our magazine and through our online

5 web properties, Consumer Reports Online, we strive
6 to give consumers some access to the limited
7 information about the products out there in the
8 marketplace, everything from refrigerators to
9 Internet service providers.

10 And just by way of addressing the point
11 about empowering consumers, I would mention that
12 CRO -- Consumer Reports Online -- has just over 4
13 million online subscribers that access our site
14 all the time. And I would encourage all of you to
15 go and look at the great information they're able
16 to access there to empower their own choices in
17 the marketplace.

18 But I'm here to speak for the advocacy
19 side of the organization, which strives to stand
20 up for consumers' rights here in D.C. and in state
21 capitals all over the country. And since I only
22 have four minutes now, I'm going to focus my

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1 comments on three topics: first, cybercrime;
2 second, behavioral tracking and targeting; and
3 third, deep packet inspection.

4 Cybercrime. There's clearly a cost,
5 both perceived, but also very real, to consumers
6 going online. For example, in our latest Consumer
7 Reports survey, The State of the Net, we found
8 that one in five online subscribers this past year
9 were victims of a cybercrime. 1.2 million
10 consumers reported having to replace their
11 computers because of software infections,
12 contributing to what we estimate is close to a
13 cost of \$8 billion in 2009 to consumers because of
14 cybercrime online. Unfortunately, from our
15 perspective, as rising unemployment, mortgage
16 foreclosures, and the recession fuel what will --
17 unfortunately fuel the fire of online
18 recession-related scams. And so we think these
19 numbers may, in fact, increase in the next year.

20 Some of the responsibility to protect
21 against consumer crime -- excuse me, against
22 cybercrime certainly rests with the consumer. But

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1 we also believe the government and online
2 businesses that collect and store sensitive
3 consumer information bear some of that
4 responsibility. For example, according to a
5 security training institute, tens of thousands of
6 online business databases have been hacked in the
7 past year. The FTC has been vigorously going
8 after the criminals that they can catch; however,
9 we strongly believe that Congress needs to pass
10 standards that set at least a baseline of minimal
11 security measures that any company that's going to
12 collect sensitive consumer information must employ
13 to guard that information.

14 We also believe that Congress should act
15 to make sure that those companies must notify
16 consumers if a breach of that information occurs.
17 We also believe government could do a better job
18 of arming consumers with the information that they
19 need to protect themselves through public
20 education campaigns, and we urge the FCC to act --
21 to ask Congress to act in both of those arenas
22 when they submit their National Broadband Plan in

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1 February.
2 But it's not just malicious attacks that
3 give consumers concern. For example, CU conducted
4 a poll last year showing that 82 percent of
5 consumers were understandably concerned about
6 their credit cards being stolen online. However,
7 an overwhelming majority -- 72 percent -- were
8 also concerned that their information and online
9 behaviors were being tracked and profiled as they
10 moved across the web.

11 So, while consumers are increasingly
12 relying on the benefits that the Internet provides
13 -- a wide range of transaction services, social
14 networking -- they're also in their minds being
15 asked to pay a higher and higher price by turning
16 over sensitive data about themselves that they
17 then cannot control or have access to afterwards.
18 Without safeguards, this information can be used
19 for purposes, both commercial and otherwise, that
20 we feel will harm the consumers that data trackers
21 purport to help. For example, they could be used
22 to target vulnerable populations with the ads.

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1 Payday loans, subprime mortgage lenders, and other
2 dubious products could be targeted to people.
3 Also, they could use targeting to unfairly
4 discriminate, sort of online redlining where some
5 people are offered products and services at higher
6 costs or even less favorable rates than others
7 based on the use of personal information, like
8 address, race, sexual orientation, et cetera.

9 For four decades, the foundation of U.S.
10 privacy policies has been based on fair
11 information practices: collection limitation,
12 data quality, purpose specification, et cetera.
13 We believe that Congress needs to apply these
14 standards and give consumers more control over
15 what is being collected about them online, where
16 it's being kept, when it's being sold or used to
17 third parties, and how long it's being stored for.

18 Just recently, last week, we joined a
19 number of other consumer organizations and
20 released principles which can be found on our
21 website, hearusnow.org, for more information on
22 what we believe those principles should be.

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1 Lastly, with my remaining couple of
2 seconds, I'll just mention that depending on the
3 types of technology employed, tracking consumers
4 can go on just passive collection of information
5 and can actually actively affect the online
6 consumer experience. Deep packet inspection is an
7 example of that. We saw this through the
8 Comcast/BitTorrent case here at the FCC last year
9 where consumers actually had products and services
10 and software blocked from them through online
11 discrimination using DPI. We also see this
12 through NebuAd last year where they used DPI to
13 monitor what consumers were doing across the web,
14 every mouse click and site that they visited. And
15 to us, those are both unacceptable uses of deep
16 packet inspection. While it can be used for good
17 things to manage networks, there are certainly
18 unacceptable practices as well. And we urge the
19 FCC to act on those in a rulemaking coming up
20 after their Broadband Plan.

21 With that I'd like to conclude, and I'd
22 be happy to answer any questions.

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1 MR. HERRIGAN: Thanks very much, Joel.
2 Now to Ari Schwartz.

3 MR. SCHWARTZ: Yes. I'm Ari Schwartz
4 from the Center for Democracy and Technology. And
5 I'd really like to thank the FCC for holding this
6 workshop and for having CDT to present.

7 I'd like to focus on the use of data in
8 broadband services. One of the hallmarks of
9 broadband services has been interaction and user
10 control, and a lot of that comes from
11 personalization and tailoring tied directly to the
12 use of user information that users provide or
13 that's taken in other ways. And I think that
14 users generally want these services and are
15 willing to personalize and see the benefits of
16 personalizing, but they see it as a two-way
17 street: that they want to know exactly who is
18 getting their information and what's happening to
19 it. And that they have control over it is the
20 main point.

21 And you see that bear out in the data
22 that Joel just presented from Consumers Union on

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1 behavioral targeting, but we also generally see
2 this kind of market failure here of companies'
3 failure to realize the basic concerns of consumers
4 in this space. There is still a general feeling
5 when marketing to consumers that there's still an
6 '80s direct marketing kind of model out there,
7 that consumers' data belongs to the company that's
8 doing the marketing and that it's not actually --
9 it should not necessarily be in the control of the
10 user.

11 We're starting to see some changes in
12 them. A lot of that is brought from the
13 regulatory pressure and from efforts to try and
14 show some of the concerns with different business
15 models in this space. But the question is whether
16 we can really get to a user control model in this
17 space. But what it comes down to is the ISPs,
18 advertisers, marketers that are in this area that
19 are trying to deliver more personalized content,
20 more personalized ads, that they be more
21 transparent, that they give users more control.

22 We feel strongly at CDT that the

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1 Broadband Plan should call for general consumer
2 privacy legislation which would give consumers a
3 solid level of trust. Right now most of the
4 privacy laws that we see are based in certain
5 industry areas, are based on certain technologies,
6 and they're really set at a certain time and space
7 at the time that they're written. Rather than
8 having something that sets a baseline, is
9 flexible, where you can set stronger rules for
10 certain types of data, but really gives a set of
11 support so that we don't have to keep going back
12 to Congress or to regulatory agencies every time
13 there's a small change in technology or in
14 collection of information.

15 We also think that the plan should set
16 in motion a process for transparency of broadband
17 providers which is more specifically in the FCC's
18 bailiwick. And I'll just give an example in that
19 space that we've seen more recently of the kinds
20 of practices that we're concerned about. We've
21 noticed an increase in companies that collect
22 analytics data about what websites are being used

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1 and how they're being used, both in an interactive
2 way and in the old-fashioned, just to gather
3 information about individuals. And it seems that
4 a lot of smaller ISPs are working with these
5 analytics companies and literally selling the
6 entire set of data logs about their users and
7 doing it in the terms of -- and saying they're
8 doing it with consent by getting the consent in
9 the terms of service. So when the user signs up
10 for broadband service, buried on page 20 of the
11 terms of service is something saying that they may
12 share information with companies for analytics
13 purposes, when in reality they're taking all user
14 data of everyone that agrees, that becomes a user
15 of this service, and selling that data to an
16 analytics provider saying that's consent.

17 From our point of view, and I think from
18 basically any consumer point of view -- coming at
19 this from a consumer point of view -- that's
20 simply not consent. If you say no, you don't get
21 the service, first of all. And second of all, the
22 information about what is happening to your data

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1 is so vague and buried into the terms of service
2 that it's unclear to the average user what is
3 actually happening to their communications.

4 So that's just one example of an area.
5 And we're starting to see new business models that
6 allow for deep packet inspection, that allow for
7 other types of deep looks into what users do and
8 having that information sold along these same
9 lines of an agreement. And that just seems
10 completely unacceptable to the average user, and
11 we think that the FCC should stand up for
12 consumers in that space.

13 Thank you.

14 MR. HERRIGAN: Thank you. Debra Berlyn?

15 MS. BERLYN: Thank you, John. I'm here
16 today from Consumer Policy Solutions, and I also
17 chair the FCC's Consumer Advisory Committee.

18 Unfortunately, I don't have anything to
19 represent for Consumer Advisory Committee today
20 because we are meeting tomorrow after several
21 months. We just finished our task of working on
22 the digital television transition and now we are

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1 going to move our focus to the issue of the
2 National Broadband Plan. So we hope to bring some
3 of our recommendations to the staff and to the
4 Commission and work with you as you develop your
5 plan and also as the Commission implements the
6 plan in the coming year.

7 The issues that you raised on the
8 workshop today are of great importance to all
9 consumers, but I want to focus my remarks on one
10 particular group of consumers, and that's the
11 older adult population. John, as you have brought
12 very interesting data to this issue, we now know
13 that 30 percent of adults 65 and older have
14 broadband in their home. So put another way that
15 means that 70 percent of older adults do not have
16 broadband in their homes. And although we expect
17 that number to decrease in the next couple of
18 years, we know it will still lag considerably
19 behind the general population. Our goal is to get
20 everyone connected to broadband. We want to make
21 sure that our nation's older consumers don't get
22 left behind.

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1 members, and we need to enlist parents to help not
2 only their kids and teens with technology, but
3 also to help their parents. So I'm calling
4 parents the new digital sandwich generation -- to
5 help their parents adapt to the technology.

6 And that brings me to the important role
7 that parents have. And I think I'm going to
8 bridge the next panel. We need to address perhaps
9 one of the most important barriers, and that's
10 privacy and safety for all consumers, but
11 particularly older adults. It's a very important
12 issue when it comes to not only the adoption of
13 broadband, but also the retention of broadband
14 service for consumers.

15 Consumers need to feel safe and secure
16 about going online. And protecting personal
17 information is one major concern for consumers. I
18 did a survey about a year ago on Internet safety
19 and found that consumers of all generations were
20 concerned about protecting their personal privacy.
21 Older adults were certainly most concerned and
22 found that their actions most closely matched

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1 their concern. This is an important thing to bear
2 in mind: That while older individuals are not
3 comfortable with sharing information online, as we
4 move commerce online, medical records, government
5 forms, it may be a little too much to ask right
6 away to move all of this online while they're also
7 concerned about controlling technology and their
8 personal information.

9 So, what are some of the privacy
10 concerns that consumers, and particularly older
11 adults have? Concerns about scams and fraud; how
12 can I tell the difference between a genuine e-mail
13 inquiry and a phishing e-mail; too much
14 information shared online, both knowingly and
15 unknowingly; e-commerce, can I enter my credit
16 card information online and trust my information
17 is safe and secure? So we need to develop a
18 national plan that gets our older adults online.
19 Benefits are tremendous for both our seniors and
20 our nation.

21 And we need to focus on continuing to
22 show the value of broadband and addressing

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1 barriers to adoption/retention with particular
2 attention paid to personal privacy and safety.
3 Thank you.
4 MR. HARRIGAN: Thank you. And now we
5 have about minutes for Q&A. And as a reminder, if
6 you have a
7 question in the audience, somebody can
8 bring you a card so that you can write it down.
9 What I'd like to do since we have three
10 questioners here before us, go to our questioners
11 on the far left side. We'll start with Marc
12 Berejka, then we'll go to Michael Wroblewski, and
13 then we'll come back with Bob Cannon for some
14 questions.
15 So, Marc, you get the leadoff position
16 on questioning.
17 MR. BEREJKA: Thanks, John. I'd like to
18 open this up to all the panelists -- nobody in
19 particular, although I think Mike staked out a
20 position that was a little bit different from the
21 others. And so maybe he gets to share time with
22 the others.

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1 In my decade-plus interaction on
2 Internet policy issues, we've seen different
3 shapes and forms of privacy debates, security
4 debates, online safety debates. And nobody has
5 really seemed to crack the nut of what the right
6 regulatory or policy model ought to be. You know,
7 we can concede, I think, that the Internet is at
8 least a tween. In the tween years you want to
9 instill some values that are longstanding. I'm
10 curious as to the panelists' thoughts on what the
11 right regulatory model is.

12 And let me explain a little bit. We can
13 envision statute that gets into fine details of
14 micromanaging online sites or online behaviors,
15 and I think we'd all agree that that's the wrong
16 way to go about it. We can envision self-
17 regulatory models, and I think at least some folks
18 might question whether certain self-regulatory
19 models have been successful. So if at both
20 extremes we have doubts about efficacy, what's the
21 right middle ground in terms of a policy or
22 regulatory model?

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1 MS. MEINRATH: Well, I think what's
2 important to keep in mind to begin with is that
3 for the vast majority of the Internet's history
4 it's not so much that it was free from regulation
5 as it was government owned and operated. So until
6 NSF Net was privatized in the mid-1990s, you
7 really had an onus being placed on basic research
8 and analysis, and concomitant with that you then
9 had kind of this radical transparency of what was
10 happening. You had data information being made
11 available on what was happening on the Internet.
12 And that led to a flurry of research and
13 development and innovation, an unprecedented
14 flurry of that.

15 I think with the privatization of the
16 Internet we kind of threw out the bath and the
17 baby water -- sorry, bathwater and the baby when
18 it came to having information being made available
19 on what was happening online. And a lot of what
20 is being called for is a return to just making
21 information available so that people can make
22 informed decisions about what they want to do with

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1 their data, about where their privacy is and is
2 not; about, you know, what service provider
3 options are available; about what's happening on
4 the core of the Internet in terms of congestion or
5 bottlenecks or, you know, problem areas.

6 MR. BEREJKA: Let me take that as one
7 theoretical approach -- just massive transparency.
8 You know, I'll pick up on Ari's point though that,
9 you know, massive transparency about privacy
10 practices might not suite the average consumer
11 when certain disclosures are on page 23 and when,
12 you know, we know that, you know, 98 percent-plus
13 of consumers don't ever change default or even
14 change what the defaults are in their system.

15 So, I appreciate that massive
16 transparency can be helpful. I'm looking for
17 something that is maybe a little bit more tailored
18 to the typical consumer.

19 MR. SCHWARTZ: I think it depends on the
20 area that you're talking about. There's a reason
21 for that. Let me talk about four areas where I
22 think that you can always look at for when there's

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1 a social policy issue on the Internet that we
2 always look at in addressing some of the issues.

3 So there's the technology and whether we
4 can come up with technological solutions that
5 solve the problem. And I'd say at CDT we always
6 try and look there first. Can we come up with a
7 technology solution that solves this problem
8 alone? In a lot of cases you can, and in some
9 cases you simply can't.

10 Number two is the question of, you know,
11 self-- regulation and what industry can do with
12 its policy procedures to put in place along with
13 the technology to help to address some of these
14 issues. That's always kind of the second line of
15 defense because that allows the industry to --
16 because the industry can act quickly when there's
17 something that threatens its livelihood. So if
18 there is a direct threat to its livelihood it can
19 often act quickly and you can get to address some
20 of the problems directly with self regulation.

21 Third, though, is existing law and then
22 examination of existing law, enforcement of

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1 existing law. And then also kind of where does it
2 miss the boat? So, seeing if technology is
3 working; seeing if self-regulatory action is
4 working; seeing if you can get existing law to
5 work. And then the question of what else needs to
6 be done in law to address the bad actors who may
7 not be in the self-regulatory programs or if
8 there's a clear market failure, to address those
9 issues.

10 And I think fourth and the area where I
11 think we had a lot of hope, I think, at the
12 beginning of the Internet, and have probably less
13 hope now based on what we've seen, is user
14 education. We've seen the user education efforts
15 just trying to explain to users what's happening
16 out there really doesn't work as well as setting
17 up technologies and defaults for users where they
18 make better decisions that work across the board
19 and scale better.

20 MR. WROBLEWSKI: Can I ask a follow-up
21 question?

22 MR. SCHWARTZ: Still -- user education
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1 is still important I'm saying, but I'd just say I
2 think we have less faith in it than we used to.

3 MR. WROBLEWSKI: In your four responses
4 there or four answers, are there -- has technology
5 come up with new, innovative ways to inform people
6 about not only how a site or a provider is using
7 their information, but why it's important to them?

8 MR. SCHWARTZ: I think -- I'll give an
9 example of one. I really like Google's ad
10 preferences if you could find it without knowing
11 what it's exactly called, which is not very easy
12 to do today. But the idea of Google's ad
13 preferences is that as you're surfing they tell
14 you the categories that they're going to be
15 targeting ads to you. So, you see a list of all
16 the types of ads -- types of categories that
17 people are buying to get placed into that area.
18 Now -- and then when you go to opt out or to
19 manage your information you can see that
20 information and, you know, well, in fact, for
21 almost everyone in our office, a regulatory agent
22 -- a viewer of government regulatory agencies

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1 comes up as something that they target ads on. I
2 wonder what they're targeting on that, but I don't
3 feel the need to change that category. Right?
4 But that's an interesting fact. Right?

5 We also know that if someone were to
6 start targeting on something like cancer or some
7 sensitive category, that would have to come up
8 there as well. So, there is some major benefit to
9 users to seeing -- to having that kind of
10 transparency so that gets some of radical
11 transparency in that way. But also, I think that
12 people are less likely to hit that opt-out button
13 if they're willing -- if they can get the
14 information to change the categories and get a
15 kind of intuitive understanding of, oh, this is
16 why they want to try to target ads at me because
17 they can figure out what categories to put me in.
18 So there's some sense that they're not going to
19 target in tentative areas, but that you have some
20 control over it as well.

21 So, I think that's a major step forward,
22 but you have to be able to find it and it has to

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1 be put in the context of what this does, which
2 Google does not do a very good job of today.

3 MR. NELSON: If I can jump in there, a
4 couple of years ago, I wrote a paper on
5 technologies that might allow for more
6 transparency and trust in the cloud. The cloud is
7 going to be this incredibly valuable platform for
8 all sorts of new consumer applications and also to
9 new services, but we have to find some way to
10 build privacy into it. And one of the things that
11 we talked about in the paper was what are called
12 immutable audits that allows you to have an
13 immutable audit trail that will allow the customer
14 to know, okay, where has my data been, who has had
15 access to it, and for what reasons? If we have
16 competition in the marketplace, I think that's
17 going to be something that will be widely deployed
18 in this new infrastructure we're building because
19 the consumer is going to demand it. You're going
20 to want to know, okay, when has my data been here?
21 Who has seen it? And having an immutable
22 technology -- a technology that makes a record

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1 that cannot be changed, taken into court if need
2 be -- is really at the heart of that. This is
3 still under development, but I think it's one step
4 in the process.

5 There are other pieces of this, I think,
6 that can be built in, and I've heard a lot I agree
7 with here. I think Marc is maybe a false
8 dichotomy here. Radical transparency is something
9 we want. How we get there we might vary on. But
10 at the end of the day, if there's more data out
11 there on what the infrastructure is doing, we'll
12 have third parties who decipher that data for
13 individuals. We'll have competition between
14 players as they try to provide a better, more
15 trusted service.

16 And I also think Ari is right. If you
17 can build in the solution, have it in the
18 technology so we don't need the regulation or even
19 self-regulation, that's the best answer.

20 MS. BERLYN: And I --

21 MR. NELSON: And so far the Internet has
22 worked pretty well that way.

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1 MS. BERLYN: Thank you. I want to jump
2 in as well and say that I think we are seeing some
3 effort to try and explain some of this to
4 consumers from the industry, but I think we have a
5 long way to go to educate consumers and build
6 awareness about this. And I think that's one
7 thing that the government can help with. And, you
8 know, I know that the FTC has done a fantastic job
9 of educating consumers about safety, for example.
10 The On Guard Online site is a wonderful tool for
11 safety information for consumers. And we need to
12 do more to educate consumers about the privacy
13 elements of what their experience is online with
14 privacy issues. And so there's a long way to go
15 to educate consumers about those issues.

16 MR. KELSEY: And I guess I would just
17 back up a minute and take whatever editorial
18 license I have to reframe the question in a small
19 way. And that's that, you know, I think that
20 there's not necessarily anything that will crack
21 the nut. There's no silver bullet that, you know,
22 government policy -- whether passed by Congress or

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1 regulated by the FTC or the FCC -- that can end
2 all debates about what happens online, be it
3 around privacy issues as we've been talking about
4 here or around data collection about the
5 infrastructure at FCC which Sascha has been, I
6 think, alluding to.

7 You know, I think it's an ongoing
8 process and it has been an ongoing process, both
9 at each of those agencies and also within
10 Congress. But I think that we're now at a place
11 in the tween years where you're right, that we
12 need to distill values in a particular way. And I
13 think that there's certainly some bad behaviors
14 that we've seen out there that continue to crop
15 up. And at this point, from our perspective, I
16 think there needs to be broad standards not only
17 applied to the privacy arena, but also applied to
18 the types of technologies that are deployed within
19 the infrastructure in the network itself.

20 So at FCC, absolutely, I think we should
21 get back to the place where we're collecting more
22 data, more granular data, about where broadband is

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1 available, how much it costs consumers, how fast
2 the actual speeds not just the advertised speeds
3 are. I think we should, you know, look at -- with
4 the growth of deep packet inspection, you know,
5 how our network is using that technology. Is it
6 truly for network management purposes or is it for
7 monitoring and/or blocking and discriminating?
8 What's acceptable? What's not?

9 At FTC I think, you know, they've done
10 -- as Debra mentioned -- a great job of going
11 after the online criminals that they're able to
12 catch, but I think defining what is sensitive
13 information and then giving some guidance to
14 Congress about setting standards about how those
15 companies need to protect that sensitive
16 information is absolutely key and essential. And
17 then also requiring those companies to deliver
18 some kind of notice to consumers if that sensitive
19 information is ever breached.

20 A lot of states have already begun that
21 process. A lot of attorneys general have already
22 begun getting into that, so I think that there's

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1 precedent out there. It's an ongoing process and,
2 you know, each of the federal agencies, in
3 addition to Congress, has a role to play.

4 MR. WROBLEWSKI: Michael, you had
5 mentioned that -- I have two more questions.

6 MR. NELSON: Okay.

7 MR. WROBLEWSKI: You had mentioned that
8 you anticipated there would be competition over
9 kind of a race to the top, so to speak, on privacy
10 and data security. Is that happening now or why
11 isn't it happening now?

12 MR. NELSON: Well, I think the main
13 reason it's not happening is we don't see enough
14 competition in a lot of these areas. And my
15 biggest fear is we're kind of going in the wrong
16 direction at the network layer. We're not seeing
17 new players coming in with a lot of new
18 technologies. We're seeing too many places where
19 the regulatory process, particularly the state
20 regulatory process, is being used to block
21 potential competitors. This is very worrisome.

22 I go to France and my friends tell me or

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1 boast about the wonderful service they get. They
2 actually -- they all sign up for two services.
3 They've got the cable television broadband and
4 they've got the phone service broadband, and they
5 pay less for both services than I get for my
6 single service and their service is two or three
7 times faster. And they've got 6 -- in downtown
8 Paris you've got 20 or 25 different providers to
9 choose from. Even in the far suburbs and the
10 rural areas, most French consumers have a lot more
11 choice.

12 My biggest fear is the fact that we do
13 have a duopoly -- or at best three players in a
14 lot of markets -- will mean that those players are
15 going to control what services are built on top
16 and, particularly, as I say, the cloud.

17 I do see, in some consumer services, an
18 understanding of the needs of consumers. I'm a
19 big Amazon.com user and I like the transparency
20 they provide for me. I know exactly what data
21 they're collecting and I can go in and see what
22 I've purchased and what they know about me. And a

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1 lot of that is very sensitive information because
2 it reveals a huge amount about me, but I know what
3 they've got.

4 And I also can read their privacy policy
5 and I have some choices there. So that's a nice
6 example of where it's working.

7 I have a lot of other places where it's
8 not working and I really worry that a layer down
9 from those services, like Amazon, are these
10 middleware layers, these other services that will
11 be the foundation upon which the next generation
12 of applications are built. And if we don't have
13 competition in that platform, then I think we're
14 really going to be in trouble. And that means we
15 have to have competition in the broadband itself.

16 I'm sorry that was a very long answer to
17 a very complicated question.

18 MR. HARRIGAN: Michael, let me see if --
19 turn to Bob Cannon first.

20 MR. WROBLEWSKI: Sure.

21 MR. HARRIGAN: Then maybe questions from
22 the audience in cyberspace and then we'll, I hope,

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1 have time for any additional question you may
2 have.

3 So, Bob Cannon?

4 MR. CANNON: All right. I'll try to ask
5 this question very quickly.

6 What I want to do is I want to tie this
7 panel to the next panel. A lot of the next panel
8 will focus on online safety. Ari, I really liked
9 your analytics of, you know, how you approach a
10 question and what solution you get to. With
11 online privacy I hear a much more aggressive
12 approach to a solution. With online safety I hear
13 very much, you know, government stay out. Let's
14 focus on media literacy and consumer education.
15 And then you said -- which really, you know,
16 smacks me like cold water -- we have much less
17 faith in consumer education than we used to.

18 So I'd like you to sort of juxtapose the
19 two issues and tell me why you're coming out in
20 one place and maybe in a different place for the
21 other.

22 MR. SCHWARTZ: Sure. Well, I think it's
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1 clear in terms of the technology that there is
2 incentive to build user-controlled technologies
3 for safety. And they work. And they have been
4 working and they've been getting better. And
5 there's been competition in that space and it
6 continues to improve. Almost every product that
7 you see out there, every browser that's put out
8 there, has safety as, you know, the number one
9 selling point for it. All of the ISPs sell
10 safety. I mean, there is safety all over a lot of
11 these products. And it is something that
12 consumers are looking for and buying in the
13 marketplace today. And it is something that seems
14 to be working in that way.

15 I do think that in terms of education it
16 is difficult to figure out how to do education --
17 online education. And I do think that the FCC
18 should be -- and Commerce as well should be
19 focusing more resources on figuring out how to do
20 better education and how we educate parents,
21 especially new parents, whose kids are my kids'
22 age, who are, you know, using the Internet for the

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1 first time and using technology that could affect
2 them in the first time -- for the first time, how
3 to educate them about what they can do to protect
4 their kids. We have seen some good efforts on
5 that. I think more of it comes from in selling
6 the products than from the education that goes out
7 there.

8 In the privacy space, we've seen some
9 competition in the browser area for privacy, but
10 that's basically it in terms of real competition
11 in terms of privacy. We have seen less on -- but
12 we do see a lot of competition on data collection
13 and on use of data. Right? It's not like -- you
14 have that kind of parallel in the safety space
15 where there are large companies and organizations
16 that have to do both the protection and have to do
17 -- and are both collecting data. There's no
18 corollary in the safety space to that.

19 So, I do think that there is a lot that
20 can be done. We also have, you know, rules about
21 commercial data and regular speech, too, and
22 non-commercial speech. And that alone sets up a

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1 different dichotomy for the discussion about
2 safety versus commercial privacy issues that's
3 worth pointing out as well.

4 MR. KELSEY: I'd also mention just
5 quickly that I think the market incentives are a
6 little bit different there.

7 You know, with safety, you know, Ari is
8 absolutely right that there's a lot of products
9 out there. We rate them in the magazine about,
10 you know, how can they deliver -- how can they
11 ensure your safety when you're surfing online?

12 When it comes to privacy and the types
13 of kind of behavioral tracking and information
14 that's collected, the incentives are different.
15 The incentives are either, you know, with the
16 Internet service provider to buy and use different
17 types of technologies, including DPI, but many
18 others -- to track information and then sell it to
19 third parties or use it for their own advertising
20 purposes. The incentives are there for the
21 companies, you know, online companies at the edge
22 that are collecting information about consumers

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1 and using it to serve up ads. And in that area
2 where the market incentives are different is
3 where, you know, from our perspective at least, we
4 see a role for government to get involved to say,
5 hey, there needs to be at least some kind of basic
6 security standards out there for consumers because
7 this information can at some times be very
8 sensitive.

9 And if it's ever stolen or if it's used
10 in negative ways, there should be a baseline for
11 consumers to get some redress and some relief.

12 And I think that there's precedent out
13 there. Right? The way that credit cards are
14 approached, the way that health information is
15 approached, and other privacy policies out there,
16 I think, you know, set a baseline for FCC and FTC
17 and others to look at.

18 MS. MEINRATH: If I could maybe very
19 briefly come back to one of the original
20 questions.

21 In terms of what this regulatory
22 structure or framework might look like, I view it

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1 as sort of a reconceptualization that places the
2 locus of control with the edges of the network,
3 with the end-users or participants in this
4 network, so that you're looking for an environment
5 that enables maximum control over data, over your
6 privacy, over security at the edges of the network
7 and not endowing power in the center of the
8 network or over the, you know, the service
9 providers on that network.

10 MR. HERRIGAN: Empower the user.

11 MS. BERLYN: Can I just mention one
12 other quick thing? That privacy for consumers
13 means many different things. And it's not just --
14 doesn't just mean data protection, but it means
15 all sorts of other -- it's a wide spectrum of
16 issues. And so there are -- and it is in many
17 ways a subset of online safety as well. And there
18 are tools that consumers can utilize online to
19 protect other private information that they have.

20 So, you know, when we talk about online
21 privacy we have to look at it as perhaps a broader
22 issue. And so there are tools that they can use

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1 to protect certain information that they have
2 about themselves online that are available today.
3 And so we have to look at it perhaps as a big
4 picture because I think consumers, when they think
5 about privacy online, they think about a whole
6 host of issues.

7 MR. HERRIGAN: Just as an interjection
8 from my part. Is there a tension between what
9 Sascha just said about empowering or putting
10 control -- the locus of control at the edge of the
11 network and what Ari said earlier about it seeming
12 to be the case that user education is a less
13 effective tool as experiences taught in time? So
14 if you're going to empower the edge of the network
15 and the person -- the individual is the very edge
16 of the network -- and if that person seems less
17 amenable to user education on some of these issues
18 today than has been in the past, how do we
19 reconcile that? What mechanisms might we think
20 about? And how might that feed into the Broadband
21 Plan, as well?

22 MR. NELSON: Maybe you need a plug-in or
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1 a third- party service at the edge of the network
2 rather than focusing on the person in front of the
3 screen. And I think that gets to this fundamental
4 point that Ari said, let's build in some
5 solutions. That requires having this flexibility
6 at the edge. That requires having lots of
7 competition, allowing lots of thousands of players
8 to come to the marketplace with services that will
9 do different things for different people and do it
10 well.

11 I think this ties into the transparency
12 though, too. I mean, in order to make these
13 applications work -- in order to actually
14 understand what the privacy threats are to the
15 user, you have to have some sense of what data is
16 being collected. And I do agree that there is a
17 critical need for that.

18 MR. SCHWARTZ: I think -- I mean, one
19 way to think about it is that the technology -- I
20 mean, we've been successful in building
21 technologies that do this, but we haven't been as
22 successful in making them easy enough to use to

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1 give users the right set of choices. So you give
2 them two or three choices to be able to use from.
3 Then we can educate around those choices.

4 Today it's more about setting the right
5 defaults and about building it in from the
6 beginning. If we want to move towards giving
7 users a set of choices to use, we're going to have
8 to narrow down the number of choices and make it
9 so it's easy for users to use. And then we could
10 do education around that. And I think that then
11 -- so maybe if we get to the point of setting up
12 -- of building the solutions in and then we could
13 do education around that, it might be a way to
14 bring education back up toward the top of the
15 list.

16 MR. BEREJKA: Can I just add a comment?
17 Which is that in some ways this latter part of the
18 conversation answers my initial question because
19 you're describing a model. Right? You're
20 describing a model. Maybe it's at the 10,000 foot
21 level, but you're still describing a model that's
22 different from prescriptive legislation down to

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1 every website must do A, B, C, and D. And, you
2 know, it's different from self-regulation, too,
3 because somebody is going to have to simplify the
4 choices.

5 MR. NELSON: At lunch I was talking to
6 Mitch Kapor and Bob Frankston. We came up with
7 the term autonomic regulation, sort of built in.
8 It just happens, like the autonomic system of our
9 body ensures that we breathe and our heart beats.
10 That's the kind of thing I think we need to think
11 through.

12 MR. SCHWARTZ: That sounds better than
13 paternal libertarianism.

14 MR. NELSON: Cyber libertarianism.
15 We've got a Facebook for cyber libertarians.
16 We've got 75 of us so far.

17 MR. HERRIGAN: Well, we have probably 15
18 to 20 more minutes of Q&A time, notwithstanding
19 what the display says there.

20 I have some questions from the audience
21 and from cyberspace that I'm going to present to
22 the panelists. I'm going to try to do things in

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1 such a way that the questions are on point.
2 There's one question that came in that was very
3 much about mapping, which I'm sure people on this
4 panel could talk about, but it's not the topic of
5 the panel.

6 So, let me turn to a question that
7 reads, "How should we address the tradeoff between
8 privacy, that is controlling data flows, and free
9 speech online? Since publishers rely on
10 advertising to fund free content, services won't
11 be able to be provided." I'm having handwriting
12 issues.

13 Basically, if the business model of
14 providing content for free because of ads is no
15 longer viable, what are the consequences? And for
16 some of the policy initiatives that have been
17 raised, are there tradeoffs between free speech
18 and some of the policy notions propounded so far?

19 Does anybody want to take a crack at the
20 privacy free speech tradeoff as posited by the
21 questioner?

22 MS. MEINRATH: I'll take a stab at it.

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1 A lot of this comes down to -- you know, I feel
2 like I'm kind of maybe beating a dead horse, but
3 transparency of information about what data is
4 being collected and control over that information.
5 So, if I am knowingly providing personal
6 information and doing so, like, in return for
7 whatever -- the content or whatever else -- and I
8 have control over my information, et cetera, in
9 giving that away, that's entirely different than
10 deciding, hey, I want to watch this movie and the
11 next thing you know I'm getting, you know, all
12 sorts of other lists that I'm being signed up for.

13 A lot of this really comes down to just
14 making explicit to users of various services and
15 applications what happens with that information.
16 And giving the opportunity for people to opt out
17 of privacy invasive business techniques. And I
18 would say if your business model is predicated
19 upon sort of a nefarious privacy invasive, yet
20 hidden agenda, it's probably a bad business model.

21 MR. HARRIGAN: Others on this?

22 MR. KELSEY: Yeah, I mean, I would just

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1 say that absolutely consumers, you know, enjoy and
2 very much benefit from the use of free online
3 products: Everything from social networking sites
4 to search engines to, you know, all of the
5 wonderful free things that you can access online.
6 And that business model is predicated on the
7 ability to serve ads.

8 And contextual ads, from our perspective
9 -- I can speak on behalf of CU -- that don't
10 necessarily present a problem, real-time ads
11 served to people based on what they're looking at,
12 is different than tracking a consumer's behavior
13 over six months. And I think that there's a line
14 that needs to be drawn at some point when that
15 information is being used in ways that consumers
16 either (a) don't know about or (b) would actually
17 even feel is harmful.

18 So, I mean, I think we can all agree
19 that serving ads in order to give free content to
20 consumers online is a good thing. But if you're
21 using sensitive information -- race, age,
22 household income and other types of information --

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1 to serve up, you know, products and services that
2 might not be as good as products and services
3 you're serving up to other people, that's a bit of
4 a deceptive process that's going on there and that
5 should be stopped.

6 MR. HERRIGAN: Thank you. I'm going to
7 try to edit down a very densely packed question on
8 the card here.

9 We've talked a bit about measurement
10 today, specifically, actually, measuring activity
11 at the network level and the need for more of
12 that. This question has a different measurement
13 cast to it.

14 It reads, "What mechanisms exist or
15 should be developed to measure the secondary
16 consumer and societal benefits to broadband?" So
17 that could include the government saving money on
18 delivery of services. It could include additional

19 consumer surplus that accrues to consumers who
20 might be better informed.

21 And the other part of the question has
22 to do with whether those measurement techniques

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1 might be adapted to actually inform our national
2 income accounts as to whether this kind of
3 activity is improving or adding to economic
4 growth.

5 So, does anybody have perspectives on,
6 or proposals for, measuring some of the benefits
7 to individuals or institutions to broadband
8 delivery of various products or services?

9 MS. MEINRATH: Yes. This is absolutely
10 fundamentally important. You know, if we were to
11 look at, say, how much money do we make on primary
12 education or on our road system, you would find
13 that it's very little. In fact, it's a massive
14 cost center. And yet as a society, the benefits
15 of having, say, roads and education are massive
16 for their secondary and tertiary effects.

17 And broadband is very much the same way.
18 How one goes about measuring that, I mean, that's
19 -- there's, you know, the study of community
20 informatics does a lot of work in this space. And
21 there's a number of different folks that are
22 looking at this. We, as a country, I think, have

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1 this is an area where you could have the highest
2 impact for the fewest dollars. And the FCC should
3 really be out there collecting this data, putting
4 it in digestible form. It's not a matter of
5 trying to prove that broadband is good and that
6 there are economic benefits. We have a much
7 bigger challenge here, which is showing that
8 investing in broadband is more important than some
9 of the other things we could be investing in.
10 Whether it's public investment in bridges or
11 investment in state and local services. I mean,
12 there are a lot of different things that we need
13 to spend money on. And having more robust
14 statistics on where the value is is helpful.

15 And we're lucky. We have good datasets
16 from some other countries that are ahead of us in
17 broadband investment.

18 We can actually do state-to-state
19 comparisons because some states have much worse
20 policies than others and have not seen build out
21 as fast as they might. And you can actually start
22 looking -- doing econometric modeling and trying

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1 to make some sense of it. The estimates aren't
2 going to be perfect, but even getting within 30 or
3 40 percent will allow you to make a pretty
4 compelling argument that this is -- this broadband
5 investment that the public sector and the private
6 sector need to make is going to pay real benefits.
7 But the FCC, I don't think, has put enough
8 emphasis on this. And other agencies, of course,
9 have a role to play in funding some of this work.

10 MR. HERRIGAN: Thanks. Other questions?
11 Do our panel questioners, Marc or Michael, have
12 any additional questions? I have one remaining
13 from cyberspace and I hear another one being
14 printed out.

15 Did you have one, Michael?

16 MR. WROBLEWSKI: I just wanted to follow
17 up on a comment, I think, Sascha, you had made.
18 You had indicated that consumers are completely
19 kept in the dark about what choices there are in
20 -- I'm assuming you meant by it -- choosing a
21 provider. And I wanted to know from your
22 perspective what you thought. They were in the

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1 dark. What should be illuminated?

2 MS. MEINRATH: Right. Well, I view it
3 as kind of like imagine if every gas station in
4 the country didn't have a sign telling you how
5 much it costs and what the octane on it was and
6 you were told, look, just start pumping gas and
7 we'll tell you what you're going to pay for that
8 gas and, you know, we'll tell you what your octane
9 is post hoc. That's kind of the environment we're
10 in with broadband connectivity.

11 There's no place that I can go today and
12 say show me all of the providers at my house or
13 for my business and tell me what are the different
14 facets, like what is it that they're offering me
15 in terms of not just speeds, but like maybe
16 uptimes and service level guarantees. And in
17 terms of the contention ratio, how many people are
18 sharing the single line that comes into my
19 neighborhood.

20 All of that information -- you can't
21 make an informed decision about what your
22 broadband service options are if you don't have

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1 access to that information. And this has been an
2 entirely well thought out systematic effort to
3 keep us all in the dark about that information.
4 And that's before we even get into all this, like,
5 what's actually happening online? How many people
6 are sharing a line in the United States versus,
7 you know, elsewhere. In Europe, they just say,
8 look, as part of your service offering you have to
9 tell people what is the contention ratio on this
10 line. It's just that simple.

11 And I think these are mandates that
12 would be excruciatingly easy to implement. Maybe
13 unpopular, but easy to implement. Just say, look,
14 provide people with information so they can just
15 make a decision as to what providers are in their
16 area and what best fits their needs.

17 MR. KELSEY: That's a pretty
18 comprehensive and good answer. The only
19 sharpening point I would put on it is with
20 relation to the question of speed is, you know, we
21 have a pretty good sense of looking at
22 advertisements and seeing what broadband providers

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1 are advertising their speeds are, I think both
2 download and upload. But we don't know what those
3 actual speeds are, particularly at, you know, the
4 times -- the high traffic periods of the day. And
5 so I think providing more transparency to
6 consumers about what the speeds that they're
7 paying for actually are when they go online at 5
8 p.m. is something that consumers have a right to
9 be able to know because they're paying top dollar
10 every month for that connection.

11 MR. NELSON: I am glad to see Drew Clark
12 in the audience from Broadband Census. And he's
13 been doing a grassroots bottom up collection of
14 some of this data. And it's some of the best data
15 out there, and yet it's done very cheaply and not
16 by the carriers.

17 I do have to say we're in better shape
18 here than we are in the healthcare area where
19 there are at least three prices for every
20 procedure you might want.

21 MR. HERRIGAN: Let me go to another
22 question from the audience. This one is, "Are

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1 concerns about privacy and broadband limited to
2 how ISPs utilize private info or also to how
3 applications and service providers on the edge
4 utilize the same information? For example, is the
5 NebuAd model a greater concern than search engines
6 utilizing cookies that the vast majority of
7 consumers do not really know about and that are
8 buried somewhere in the terms of services that the
9 consumers don't read?"

10 So, does anybody want to tackle that?

11 MR. SCHWARTZ: I'd say, I mean, there's
12 more concern about the service provider using that
13 data in general than an application provider
14 because of the relationship of the service
15 provider. It's simply not expected that a ISP is
16 going to use that data in a way that may not be in
17 the user's interest. They're supposed to be
18 fulfilling that capability, whereas it's very
19 clear to someone that's using a search engine that
20 the results are being tailored for them directly
21 using that data.

22 So, just from a consumer expectations

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1 point of view, there is some -- there is greater
2 concern over the ISP.
3 Now, that's not saying that you couldn't
4 come up with a scenario where you could do notice
5 and consent and user control in a way that worked
6 better in the ISP than it does -- or some service
7 provider scenario than it does in the application
8 scenario. We haven't seen that yet, but I
9 wouldn't completely rule it out. I'm just saying
10 that the basic expectations of a user are that
11 that information is used to tailor services at the
12 application level. And that's certainly not the
13 expectation of the user at the ISP level.
14 One good thing about the Internet is it
15 does provide some counterbalance because when
16 people get upset about something they have a very
17 easy way to share their concerns with thousands of
18 other people and rally the troops.
19 The beacon case with Facebook a year and
20 a half ago was an interesting example of where
21 clearly the beacon service was a step over the
22 line that Facebook users weren't going to

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1 tolerate. And they felt violated and they got
2 online. They blogged. That got picked up in the
3 mainstream media. So that's a piece of good news
4 here. In this industry we have ways for users to
5 mobilize hundreds of thousands of customers and
6 really put some economic pressure as well as some
7 PR pressure on bad actors.

8 MR. KELSEY: There is also, I think, you
9 know, that's very much a perception issue there.
10 As Ari mentioned, the perception of consumers when
11 they sign up for service from the Internet isn't
12 that their service provider is going to look at
13 everything that they do. And the perception may
14 be different, although as the questioner points
15 out, sometimes pretty ambiguous. And consumers
16 have no idea what online companies are doing as
17 well, and content companies are doing as well.

18 But it's also -- I think, goes back to
19 the competition question in that there's a
20 switching cost there associated with consumers,
21 and even a choice in access costs associated with
22 consumers if they choose to leave a broadband

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1 service provider based on the information that
2 they're collecting rather than I choose not to use
3 a search engine or any type of content online or a
4 website. You know, there's different economic
5 models that we can debate forever about, you know,
6 how competitive the search marketplace is. But I
7 think there is a distinction to be made between
8 consumers choosing to switch providers versus
9 choosing to switch the types of websites that they
10 use online.

11 MR. HARRIGAN: Let me put out one final
12 question. This is a question that reads: "Are
13 any panelists familiar with a recent article,
14 'Broken Promises of Privacy: Responding to the
15 Surprising Failure of Anonymization,' by Paul Ohm
16 from the University of Colorado? The findings
17 were rather scary and, if true, have broader
18 implications for our privacy laws and, in
19 particular, to those that affect online activity."

20 Does anybody have a perspective on that?

21 MR. SCHWARTZ: Paul Ohm is actually a
22 fellow at TDT right now. So, I think it's an

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1 interesting article that people who are interested
2 in -- basically, it gets at the idea that it's
3 very difficult to actually anonymize information
4 today. That we think that we're anonymizing it,
5 but in reality it is almost impossible to do that
6 is his claim.

7 So, and there's been other work by other
8 people that have shown similar viewpoints, but
9 politics more from a legal analysis. So I would
10 recommend that to people that are interested in
11 that.

12 MR. NELSON: CMU did some similar
13 research. The idea of deanonymization is a very
14 scary one when you think that your data is
15 protected and your name isn't associated with it,
16 that someone can take three datasets that include
17 your data and reconstruct your address, your phone
18 number, maybe even your birthday just because they
19 have ways to combine the data. It's a fascinating
20 problem.

21 And I think it gets back to this earlier
22 discussion we had about the need for some kind of

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1 immutable audit, some way to be able to build
2 trust by showing to consumers that we've got an
3 infrastructure. It can track where your data has
4 been and who has had use of it and that will be a
5 competitive advantage for the players, both the
6 network providers and the application providers
7 who deploy that kind of thing.

8 But we're still early days and I would
9 be very concerned if in the plan or in any
10 approach to privacy we sort of mandate this is the
11 answer. The principal idea, I think, is the right
12 way to go and that's been the strength of the U.S.
13 regulatory system as opposed to the European
14 system for many years. We can't set up a system
15 where companies are trying to guess what's going

16 to be imposed on them next and worry that their
17 business plan is going to disappear because some
18 new requirement is added.

19 We saw that with VOIP and the FCC
20 requirements there. We've seen a lot of changes
21 over the last 10 years that have really upset the
22 marketplace. I didn't appreciate this when I was

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1 at the White House and the FCC. When I got into
2 business and understood just how, you know,
3 relatively small changes that seemed so minor when
4 I was at the FCC, could ripple through the entire
5 industry and just lead to investors backing out.
6 That's a very serious problem and we have to be
7 thinking about that as we develop this plan.
8 Think about the uncertainty that might be inserted

9 into the business environment if you don't make
10 clear what you really want or you change the rules
11 every two or three years.

12 MR. HERRIGAN: Thanks very much. We are
13 going to adjourn this first panel. Let me first
14 thank each of you for the time and thoughtfulness
15 that you've put into your presentations. I've
16 certainly learned a lot and what you said will
17 inform how we go about constructing the National
18 Broadband Plan.

19 So we're going to take a 10-minute
20 break. Reconvene for Panel 2, which is entitled
21 Meeting New Challenges: Tools and Techniques.

22 So, for now let me ask you to thank our

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1 panelists and take a 10-minute break. So thank
2 you very much.

3 (Recess)

4 MR. HERRIGAN: If I could ask panelists
5 -- if I could ask panelists to come to the table
6 and ask those gathered in the audience to come to
7 their seats, we're going to get underway with the
8 second portion of this afternoon's workshop.

9 And as people settle in I'll start to
10 talk a little bit about what we have in mind for

11 the second session that we have. The second
12 session is called Meeting New Challenges: Tools
13 and Techniques.

14 Often times you can get away with saying
15 stuff, like we operate at the 30,000 feet level in
16 the prior panel.

17 So we were talking about cloud
18 computing. I guess we're literally at the
19 30,000-foot level at some of what we were
20 discussing in the first panel.

21 So, we talked a lot about architectural
22 issues in the online world and its impact on

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1 consumer welfare and privacy. We talked a good
2 bit about policy frameworks in the first session.
3 And it was all very provocative and worthwhile,
4 and I think helps set the stage for the second
5 session this afternoon which does sort of bring
6 things back to the ground level a little bit more.
7 We will be talking a good bit about online child
8 safety in this panel. We're going to be hearing
9 from some companies who provide some of the
10 infrastructure and services for social networking
11 and other kinds of applications that are very
12 popular online for consumers. And we'll hear
13 about some of the tools and feedback they get from
14 some of their customers on some of the issues
15 we're talking about.

16 So, with that we're going to proceed for
17 the second session in the same way that we did in
18 the first. We're going to start to my immediate
19 left with Adam Thierer from the Progress and
20 Freedom Foundation. I will let you read the
21 distinguished biographies, backgrounds, and
22 credentials of each of these folks for this panel,

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1 so I will not take up time with that. I will
2 simply turn it over to Adam and then we'll proceed
3 down the table and then have a chance for active
4 Q&A and discussion.

5 So, Adam, the floor is yours.

6 MR. THIERER: Thank you so much, John.
7 I really appreciate the opportunity to speak here
8 today at this broadband workshop.

9 I've been asked to address a fairly
10 narrow issue in this space of whether or not
11 there's any relationship between online safety
12 concerns and broadband adoption in the United
13 States.

14 And hopefully, my laser pointer will
15 work. You need to go to full screen on that
16 PowerPoint, by the way.

17 MR. HARRIGAN: If whoever is running it
18 can hit the F5 key.

19 MR. THIERER: Hit the -- yeah, hit F5 or
20 the full screen. Thanks. And hopefully, my
21 clicker will work. There we go.

22 And most of what you'll see here today

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1 is from my book on Parental Controls and Online
2 Child Safety: A Survey of Tools and Methods.
3 It's available on the PFF website.

4 So, jump right to the punch line here of
5 the summary of my remarks. I've never in my
6 research -- my 15 years of doing child safety
7 research found any empirical evidence suggesting a
8 strong correlation or any correlation between
9 parental concerns about online activity or online
10 safety and overall household broadband uptake. I
11 believe -- and I'll talk a little bit about this
12 -- that there really are four explanations for
13 this, why child safety concerns haven't moved the
14 broadband needle very much, so to speak. And
15 that's because one, not every home has children
16 present; two, parents use a variety of household
17 media rules to control media and Internet usage;
18 three, a vibrant marketplace of parental control
19 technologies exist; and four, it's likely that
20 most parents now believe that the benefits of
21 broadband and the Internet far outweigh the costs
22 or potential downsides.

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1 So, really some quick data points really
2 quickly. I've aggregated all the Census Bureau
3 data on families and children and household access
4 to technology I can find. Here are some of those
5 numbers which just go right to the red line there.

6 Only 32 percent of homes in America have children
7 present.

8 And the next slide shows in a different
9 way how that number has been in a steady state of
10 decline. Since 19 -- well, for a long, long time,
11 many decades, but specifically since the 1970s,
12 we've seen a steady drop in the number of
13 households with children in them. And moreover,
14 not every home has children of a certain age where
15 they might be concerned about access to the
16 Internet. Very young children in a home, you
17 might be less concerned about it. You might not
18 allow your kids on as much when they're young.

19 Or very much older kids, older teens,
20 you might trust them more to do the right thing
21 online or to talk to you about online services.
22 That also unlocks the mystery as to why so few

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1 households use certain parental control
2 technologies, simply because they have other
3 methods of approaching it or their kids are of a
4 different age where they don't need it.
5 So bringing it all together, the picture
6 that emerges from looking at this is that if you
7 take it as sort of a subset of a subset of a
8 subset, you start to realize that far fewer homes
9 are concerned about online safety concerns than
10 you think. It's certainly smaller than the 32
11 percent of homes that have children in them. It's
12 probably somewhere at least in the neighborhood of
13 half of that.
14 And that's especially the case because
15 as I point out, number two, parents use a wide
16 variety of household media rules to control media
17 and Internet usage and content.
18 Poll after poll has suggested that
19 parents take a very hands-on active role in
20 monitoring what their kids do in the home. These
21 Kaiser numbers that I've put up here, as well as
22 the common sense media numbers in polls that have

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1 space continues at a very vibrant and impressive
2 pace. These tools are growing both increasingly
3 sophisticated and user friendly at the same time.
4 And perhaps most importantly, they are usually
5 absolutely free, or very, very cheap, or
6 cross-subsidized by some other service.

7 So, in summary, it's a well-functioning
8 marketplace. I can't possibly say it any better
9 than the FCC did just two weeks ago in its Child
10 Safe Viewing Act Final Order when it said studies
11 have found that Internet parental control tools on
12 the market are effective and that those who use
13 these tools are generally pleased with their
14 performance.

15 So, again, this is another reason that
16 these concerns about online safety are generally
17 lessened for parents who subscribe to broadband.

18 That's a mosaic of sort of everything
19 that's out there that parents have at their
20 disposal to deal with parental control concerns
21 before their kids get online or when they
22 subscribe to broadband services. From technology

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1 solutions in the upper left-hand corner to the
2 education methods that I haven't talked about much
3 here in the upper right-hand corner, or those
4 household media rules down at the bottom.

5 So, concluding thoughts. Basically,
6 it's likely that most parents believe the benefits
7 of broadband now outweigh the potential downsides.
8 I really do believe we're starting to see the same
9 pattern unfold on the privacy front.

10 And the best thing the FCC can do if
11 there are continuing concerns or problems that
12 parents have or others have about child safety or
13 privacy concerns is to educate, educate, educate
14 and alleviate those concerns through public
15 education and empowerment.

16 Thank you.

17 MR. HERRIGAN: Thank you. Alan. Thanks
18 very much, Adam.

19 MR. SIMPSON: Thank you, John. Thank
20 you for the opportunity to be here.

21 And Adam sort of teed this up pretty
22 well because I want to talk about that education

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1 component. And especially as we look really at
2 the Broadband Plan and a greater investment in
3 broadband, I think it's essential that we put
4 together the tools for parents and teachers that
5 help us ensure that kids have the knowledge and
6 skills and ethics to harness the educational and
7 economic power of broadband, but also avoid what
8 we all know are the potential negatives and
9 dangers.

10 And let's be very clear that there's a
11 lot of great opportunity and there are some real
12 negatives. Digital media offers opportunities for
13 kids to do amazing things in school and at home,
14 and it gives them new and exciting ways to get in
15 trouble and to find in appropriate things and
16 create inappropriate things. And we've got to be
17 able to manage both ends of that.

18 Five years from now if the general
19 conclusion out there is that a massive federal
20 investment in broadband was just a way to get
21 faster porn and hyper violence and e-mails from
22 banks in Nigeria to kids, we're not going to see

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1 this as a success. We really need -- and I would
2 agree with another part that Adam would say and
3 probably has said quite a few times, the best
4 solutions for this space are generally going to
5 come from industry. This environment changes so
6 fast that it's hard for anyone other than the
7 industry leaders to come up with the best tools.
8 Now, my colleagues here know that we've often
9 encouraged them to come up more, and we will
10 continue to do that. And there is a role for all
11 of us working together -- government and business
12 and advocates and parents and schools themselves
13 -- to do the things that are necessary to educate
14 and empower parents and teachers and protect kids
15 where necessary.

16 We do need to educate a lot of parents
17 and teachers about what's going on in this digital
18 space. In many cases, kids are really much more
19 native and much more experienced, and a lot of
20 their parents maybe are sticking their heads in
21 the sand about what kids can potentially do. At
22 the same time, we need to make sure that kids are

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1 prepared and are digitally literate so that
2 they're going to be able to use and understand the
3 digital technologies they have, and they're going
4 to be able to fill the high tech jobs that we're
5 all expecting them to be working in in 10 and 20
6 years.

7 We essentially believe that the
8 Broadband Plan should include a call for and
9 funding for digital literacy programs developed
10 with the FCC, with the Department of Education,
11 with other agencies. Not run by federal
12 government, not mandated by federal government,
13 certainly, but encouraged at all levels in our
14 schools and in afterschool programs and similar
15 locations. These programs should include funding
16 for professional development of educators. And
17 the work that we've done at Common Sense Media, we
18 have a Common Sense schools program that's now in
19 about 4,000 schools. These are early adopters,
20 and yet in many cases these educators are
21 volunteering to us that they don't know what's
22 going on in this space. So we know from that that

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1 a lot of educators need help and they need
2 something to help them catch up with what's going
3 on.
4 At the same time, these digital literacy
5 programs and this investment should include more
6 ed tech resources, especially in underserved
7 schools and communities. But media education and
8 digital literacy need to be essential components
9 for all kids in all schools. At the same time, we
10 need to be able to do more to empower parents to
11 make smart choices on behalf of kids. There are a
12 lot of great resources out there, but we know that
13 some families don't know about them or don't know
14 how they work. They need better information and
15 access to the tools and technologies that are
16 there.
17 We also know -- Common Sense Media's
18 website, which is primarily about reviews and
19 information about media, gets nearly 1 million
20 unique visitors a month. And in the feedback we
21 get from our users we also hear a lot of parents
22 who really don't want to just block content; they

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1 want to find the good stuff. So they need to be
2 empowered to do that just as well. And that will
3 include that they need access to independent third
4 party ratings and reviews from outside industries
5 so that they get information that they can build
6 on and feel they can trust.

7 And lastly, I would just say that there
8 obviously is a role for protection. There is a
9 role for the federal government. A lot of it is
10 already in place. There are areas where we still
11 believe government needs to take the lead in
12 protecting children, including prevention of
13 crimes and protection from adult content and from
14 things like behavioral advertising. But the best
15 form of protection really is education and
16 empowerment. The people who are best positioned
17 to protect kids are their families, followed by
18 their schools. And that's where the education and
19 empowerment needs to be central.

20 If we do it right, investing in
21 broadband is great news for kids. But our
22 Broadband Plan needs to include those empowerment

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1 tools for parents, and it needs to include
2 education programs in all our schools so that kids
3 and their parents and their teachers learn more
4 about how to prevent the potential negatives and
5 how to find the positives and really real the
6 benefits of broadband.

7 MR. HERRIGAN: Thanks very much, Alan.
8 Onto our next panelist, Burke Culligan from Yahoo!

9 MR. CULLIGAN: Is this on? There we go.
10 Hi, I run Global Product Development for Yahoo!'s
11 front doors. That includes the Yahoo! home pages
12 around the world, the My Yahoo! product, and
13 toolbar, among some other things.

14 So, it's a great privilege to come and
15 talk to you guys today about the National
16 Broadband Plan and the particular perspective that
17 we can give given the number of users that we
18 interface with every day. And just for a little
19 context with that, around the world about 150
20 million users come to some Yahoo! service every
21 day. In the U.S., we reach about 80 percent of
22 the online audience within a month.

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1 they kind of create what I call their personal
2 Internet. Their daily personal internet.
3 Everybody has their favorite sites, favorite ways,
4 favorite tools, favorite whatever it is, to manage
5 that on a daily basis.

6 At the same time, obviously openness and
7 social networks and all those things are kind of
8 infusing new ways to think about what is the
9 Internet and how do I engage with it every day as
10 a user. And then we've all become an incredibly
11 impatient society, particularly in the U.S., and
12 the fact that we need to be connected all the
13 time. If we're standing in line at Starbucks for
14 our coffee, we need to have that BlackBerry; we
15 need to check e-mail. So, we want access to the
16 Internet all the time, every way we can.

17 With all of that going on though, the
18 real core needs of what users want to get out of
19 the Internet really hasn't changed. They want to
20 find and connect to the information they're
21 looking for and to the people that matter to them
22 the most and stay in tune with what's going on in

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1 the world. Those are the two sort of spectrums of
2 this is why I use the Internet. This is what I'm
3 trying to get done. In the middle is a set of
4 products and services that help them do that in a
5 very simple, cohesive manner. And this is what we
6 think about every day at Yahoo!, is how do we give
7 them this set of products and services? And what
8 works for them and what doesn't across that vast
9 audience?

10 And so let me share a couple of quick
11 examples of how we're approaching this with some
12 new product launches at Yahoo!. And in particular
13 in how we've opened up Yahoo! to encompass the
14 entire Internet and give users choices so they can
15 craft and create that personal daily Internet that
16 I was talking about before.

17 So, this is a screen shot of our new
18 Yahoo! home page. It has been testing for a
19 number of months and is planning on being released
20 at the end of the month. The key things to notice
21 are we obviously continue to maintain and
22 emphasize the Yahoo! search. And searching, in

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1 general, on the Internet is one of the most
2 powerful tools people use every day to find what
3 they're looking for on the Internet.

4 On the left hand side you'll see a
5 section that's brand new to Yahoo! called My
6 Favorites. And what this is is it allows users to
7 add quick previews and navigation to any site on
8 the Internet that they want. It's based on the
9 new Yahoo! open platform where publishers and
10 developers can come build previews and advance
11 previews and offer these to the users as well, but
12 it also works for pretty much any site on the
13 Internet in general. We do -- using some search
14 technologies and some other technology we have,
15 we'll create at least a site summary and some
16 navigation to that site if there's no other
17 content available for that site.

18 But the real key attribute here is that
19 we've given users the ability to customize -- add,
20 edit, remove, personalize this page -- in any way
21 they want to make it work specifically for them.
22 And we've seen great increases in engagement

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1 usage, time spent with this product given the
2 openness and the user choices that we've provided
3 for them.

4 As you move forward you can look at --
5 here's an example of a new search results page
6 that we're also experimenting with, same sort of
7 concepts apply. On the left side here we've added
8 some applications to help them manage this. We've
9 added different filters to again help them manage
10 and really get out of this exactly what they want
11 to get out of this.

12 Let's see if this works on a build.
13 Yeah. So, what this does is you see there
14 somebody can click on the left side and filter the
15 results based on eHow or even on YouTube or that
16 sort of thing. So what we've found is by giving
17 users choices, embracing the entire Internet,
18 allowing them to craft their own personal
19 Internet, but with stronger tools, they really
20 adapt to it and strongly use it a lot more than
21 they did before.

22 And then another way we're meeting
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1 consumer needs is through consumer privacy. And
2 taking an approach -- at Yahoo! we've developed an
3 approach that combines both front end uses and
4 back end protection of the data, front end being
5 users' ability to manage and monitor their privacy
6 policy on their own; back end management of the
7 data to protect their privacy if they happen to
8 not do anything on their own.

9 We've recently announced some new
10 changes to our privacy policy that really sets us
11 apart from most of the other big industry players
12 in the sense that we've decreased the amount of
13 time that we store user identifiable data from
14 what used to be roughly 12 or 18 months down to 90
15 days. And we will delete that information after
16 90 days except for a few cases where we may for
17 legal obligations or where we use it for fraud or
18 security detection it may extend beyond the 90
19 days. But in general, we will decrease that
20 information down to 90 days.

21 At the same time, we've increased the
22 scope of what data encompasses these new policies.

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1 And that goes beyond just search results, but also
2 page views, page clicks, ad views, ad clicks, and
3 those kind of things. It's our belief at Yahoo!
4 that there's no way you can survive long- term in
5 this industry if you don't take trust and take
6 care of the user centric focus at the forefront.
7 There are too many competitors. The cost of
8 switching, as Joel sort of mentioned in the early
9 one, is too great and too fast that if you don't
10 protect that user and take care of them, it's very
11 easy for them to choose somebody else to use. And
12 so we look at the forefront and we look for ways
13 that we can do that.

14 And that's that.

15 MR. HERRIGAN: Thanks very much.
16 Michael McKeehan?

17 MR. McKEEHAN: Okay. My slides up,
18 please. Don't start the clock. Thank you.

19 Okay. Full screen, somehow.

20 MR. HERRIGAN: F5.

21 MR. McKEEHAN: Are we going to have a
22 slide show?

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1 MR. HERRIGAN: Can you hit full screen?

2 MR. McKEEHAN: Full screen, please.

3 MR. HERRIGAN: Hit the F5 key.

4 MR. McKEEHAN: Thank you.

5 MR. HERRIGAN: Thanks.

6 MR. McKEEHAN: Hi. Mike McKeehan from
7 Verizon. I'd like to thank both commissions for
8 inviting Verizon to be a part of today's
9 discussion.

10 I'm going to focus my remarks today on
11 protecting consumers and online safety.

12 First, let me talk about what the
13 industry is doing. We're actually doing a lot,
14 and I think we're not tooting our own horn enough
15 when it comes to letting people know what industry
16 is up to. There are several coalitions, the
17 Family Online Safety Institute being one, but
18 there have also been a number of task forces over
19 the last couple of years: The so-called MySpace
20 AG Task Force where we looked at age verification;
21 the NCTA Blue Ribbon Task Force, which I thought
22 was a great thing because it brought together

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1 companies from on the cable side, the telco side,
2 the ISPs, the web content providers as well; and
3 also we have the NTIA Online Safety and Technology
4 Working Group, which is ongoing.

5 And I see several of my fellow committee
6 members here today that work -- the report to
7 Congress is due for that next June. So that
8 should be an interesting snapshot, if you will, of
9 what's happening in the online safety world.

10 Now let me talk a little bit about
11 Verizon's position and our approach to online
12 safety. We basically look at online safety as
13 kind of a three-legged stool, if you will. The
14 first aspect -- the first element of it is tools.

15 And as Adam mentioned, we believe in
16 offering our customers a strong set of cyber
17 security tools, including firewall, anti-spam,
18 anti-virus stuff. The parental controls part of
19 those tools are free and then there are
20 subscription-based things like the virus
21 protection where you get updated virus controls
22 that are a for-pay product.

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1 The second element is education and
2 awareness. And that's a key aspect of online
3 safety as you've heard today. In particular, we
4 reach out to kids, parents, and community
5 organizations, and increasingly to seniors who
6 we're finding is a very vulnerable segment of our
7 population, especially to phishing scams and
8 online fraud.

9 And the third element is support for law
10 enforcement and everything law enforcement does,
11 especially when it comes to stopping the
12 propagation of child pornography and to help catch
13 online predators.

14 So, on the consumer awareness and
15 education aspect of it, we've done 12 or 13
16 different events in different states,
17 collaborating with state and civic leaders in
18 terms of helping to educate parents and kids about
19 how to keep themselves safe online. We do grants
20 to libraries, schools, and public broadcasting
21 stations, all with the goal of empowering people
22 to help themselves.

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1 news article -- I'm sure some of you saw it now --
2 out of Australia where two girls, 10 and 12, fell
3 down a well. Fortunately, they had their cell
4 phones with them. So what did they do? They
5 didn't call 000, which is the Australian
6 equivalent of 911; they updated their Facebook
7 profiles. Basically, called for help on Facebook
8 and then a friend, who happened to be online, saw
9 the update, called emergency services, and the
10 kids were pulled from the well safely.
11 Thankfully.

12 So, we have a lot of room to do in the
13 education area when it comes to these kids. You
14 know, just when you think they get it, they do
15 something really wacky. So we can do more there.

16 But I think the thing that the
17 Commissions should take away here is that there
18 are no quick fixes. Online safety is a society
19 issue, and we need a broad-based response
20 involving everyone in the dialogue across the
21 board.

22 So, that's it, Mr. Chairman.

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1 MR. HERRIGAN: Thank you. Perfect segue
2 to our Facebook representative, Tim, on whether
3 kids get it or not.

4 MR. SPARAPANI: Thank you. That is a
5 fantastic segue, Mike. Thank you so much. I
6 appreciate it.

7 I was about to say that much depends on
8 Facebook. And that's a perfect example, although
9 not one I was expecting to hear about today.
10 There are miracles that happen every day.

11 Thank you very much for inviting
12 Facebook to come and talk about what's good about
13 Facebook, and also what's important about the
14 Internet.

15 I'm here today, primarily, to push the
16 FCC to really get forward on broadband and to do
17 so forcefully. We really, at Facebook, believe
18 that the Internet will -- the Internet ecosystem
19 in the United States has come to rely on fast,
20 reliable service. And we experience that at
21 Facebook every single day.

22 This weekend we had a bit of latency

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1 from some service that went down on the East
2 Coast. It just happened for a little while, and
3 yet we saw people who would normally be online
4 drop off quickly. And I think every company that
5 is on the Internet will explain to you that people
6 get really quite impatient if they don't have
7 reliable, consistent, speedy access to their
8 services that they have come to rely on. So we
9 want affordable broadband to be everywhere. We
10 want broadband to be priced at a point where every
11 consumer can have access to it and can have
12 reliable access to it. And they won't be priced
13 out of it by tiers of services. We think everyone
14 should have -- this is sort of a right. We really
15 treat it as a critical infrastructure piece
16 because in modern life -- in order to engage in
17 modern life in the United States, we really think
18 that most people are going to have to be on the
19 Internet.

20 One important point. With respect to
21 mobile services, we think mobile services are just
22 as critical. Facebook announced last week that we

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1 have 65 million people who are already accessing
2 Facebook through their mobile devices, and that's
3 just in the last 9 months that we've had that
4 capability. And the scale is pretty wild if you
5 were to chart it out.

6 So, the second important point is that
7 it's not just that, you know, kids are on
8 Facebook; it's that consumers and businesses are
9 really -- have come to rely on Facebook. And
10 people tend to think of Facebook as maybe a place
11 where kids go. But, in fact, what we've found is
12 that there are already over a million developers
13 worldwide who have built over 250,000 applications
14 that are up and running currently. So, Facebook,
15 in and of itself, is a successful company, but
16 it's an engine for an economic growth and
17 innovation that is providing enormous numbers of
18 new goods and services for the marketplace.

19 So, what do consumers want? They want
20 new goods and services to be brought to bare. And
21 that, of course, relies on there being fast,
22 efficient broadband service through which they can

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1 access Facebook because we become the platform for
2 other opportunities for individuals to succeed.

3 It's not just businesses. It's also
4 charitable institutions and not-for-profits. One
5 good example is a company called Causes, which, in
6 fact, is helping currently 300,000 not-for-profits
7 around the country grow their membership, share
8 their message, improve on their work, and resolve
9 the problems that they have been created to work
10 on.

11 They've already raised, in fact, \$10
12 million online through causes and more is yet to
13 come.

14 So, it's not just business. It's not
15 just consumers. It's not just not-for-profits.
16 It's also the place where the American public goes
17 to reach their loved ones abroad who are stationed
18 and serving the country in an American military
19 capacity. It turns out that Facebook is now the
20 letter home from the front to family and back
21 again.

22 And it's happening in almost instant

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1 time. So we have seen extraordinary boosts in
2 morale for troops and their families who are
3 stationed abroad -- their families at home. I get
4 e-mails every day thanking me, which is really
5 quite an honor because I just happen to be the
6 recipient of them, thanking Facebook for making
7 this a capability where folks in the military,
8 folks at the State Department, can keep in touch
9 with those people they love and miss back at home
10 here in the United States.

11 Last point, and I think it's an
12 important one for consumers, Facebook is also a
13 place where the public has come to engage in true
14 civic discourse. And that works in a couple of
15 really interesting ways. Not only are friends, of
16 course, sharing news about what they're
17 experiencing and what their opinions are --
18 they're clipping articles and they're posting them
19 with friends, et cetera -- but it turns out that
20 the government has become increasingly reliant on
21 Facebook to have an ongoing conversation with the
22 public. So, it is true that everyone here in

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1 Washington will begin, I think, to engage more
2 deeply with constituents around the country by
3 providing goods and services directly from your
4 agencies down to consumers and then back again.
5 You're going to be engaging in more efficient
6 conversations.

7 So, we're pleased to announced that
8 already we have 23 federal agencies which are
9 using Facebook. Just today we launched
10 Facebook.com/government, a place for best
11 practices for government agencies to go and learn
12 about how other agencies are utilizing these tools
13 in innovative fashions in order to share this new
14 social environment and to interact directly with
15 the people in the public who are there to serve.

16 So, it turns out that much relies on
17 Facebook. But even so, even more relies on the
18 FCC making sure that broadband, which is the
19 lifeblood for Facebook, is open, accessible,
20 affordable, and consistent.

21 Thank you.

22 MR. HERRIGAN: Thanks very much. We're

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1 going to proceed on this panel as we did on our
2 prior panel and start with questions. If you have
3 a question from the audience, please find somebody
4 with a card.

5 You can jot it down and it will get to
6 me. People from cyberspace will no doubt weigh
7 in.

8 I'd like to start off with our agency
9 questioners. First off will be Bob Cannon from
10 the Office of Strategic Planning, who has done a
11 whole lot of work on, particularly, the issue of
12 online child safety. So, Bob?

13 MR. CANNON: I want to try to hit you
14 with two quick questions. One of them,
15 particularly, I'm very grateful -- one thing is I
16 get to tie in our two last representatives. I'm
17 very impressed with what industry is doing.

18 This last weekend I got to crack into my
19 Verizon router because I wanted to block the Mac
20 address of my son because my son is up all night
21 on Facebook and I want him to go to bed so he will
22 go to school. And I was really impressed at how

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1 easy it is to do this because previously I've
2 cracked into routers and looked at the interfaces
3 and I'm like, "Oh, my god. Even I don't
4 understand these things." So, I was very
5 impressed.

6 One of the questions I wanted to ask is
7 in your experience with providing the online tools
8 to consumers with your network packages, do you
9 have a sense of what percentage of consumers are
10 using these products that you're providing?

11 MR. MCKEEHAN: Well, no, I don't have a
12 specific number that I can give you. Sorry.

13 MR. CANNON: That's okay. I'll give you
14 the next question.

15 One of the things I'm very curious --

16 MR. MCKEEHAN: They're free so it's real
17 hard to track.

18 MR. CANNON: One of the things I'm very
19 curious about is how much that lines up with
20 Adam's numbers of, well, these are households,
21 these are households with children, these are
22 households with children who would want to use

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1 these tools, and whether those numbers are lining
2 up at all.

3 So if there's any answer to that, that
4 would be interesting. The other question I wanted
5 to ask is to try --

6 The information you're providing is
7 really information -- very informative. I want to
8 tie this specifically into the Broadband Plan. As
9 we're developing the Broadband Plan and looking
10 forward, what's necessary for a successful
11 Broadband Plan? I want to ask you, what I keep
12 hearing is media literacy, media literacy, media
13 literacy. What does the government need to do?
14 And as part of that question, what data do we need
15 to make that decision? Do we need to be looking
16 at certain things to be going forward with how
17 this fits into an appropriate Broadband Plan?

18 MR. SIMPSON: I wish I had better data
19 for you other than, you know, we launched our
20 first step in a media literacy program, Our Common
21 Sense Schools Program, in November of last year.
22 And as I mention, we're now in more than 4,000

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1 schools.

2 What we also know is despite -- even
3 with our efforts to market those programs to
4 schools in underserved communities, rural and
5 urban, most of the quick uptake, the early
6 adopters for this sort of thing are in private
7 schools and well-funded public schools. That's
8 not surprising to me.

9 But it means that, you know, those late
10 adopters, who are going to be some of those same
11 educators who are admitting to us that I don't
12 really understand how most of this works and I
13 don't go into the computer center in my school,
14 and I'm not well-prepared to do this personally,
15 they're going to be in the places where the kids
16 probably need this most. I mean, you have these
17 resources. Kids need these in all schools. And
18 without help and prodding from their school
19 districts, without -- one of the things that we
20 want to start doing is creating more resources so
21 that it's easy for schools to patch things in to
22 their own program. We are not trying to design a

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1 curriculum; we are not trying to have a -- we do
2 not -- no one wants a mandated curriculum from the
3 federal government or from their state
4 governments. But they do need resources and they
5 need teacher training or -- especially in those
6 most needed communities, it's going to be really
7 slow to pick this sort of thing up.

8 MR. HERRIGAN: Others on that topic?

9 MR. McKEEHAN: Yes. I think we're
10 seeing the same thing. One of the mistakes that
11 we see made, unfortunately, is that school
12 districts will not make time or space in their
13 curriculum for these activities or it becomes an
14 unfunded mandate and the school has to make a
15 tradeoff. You know, do we give up biology or phys
16 ed in order to wedge this Internet training into
17 our curriculum?

18 And like Alan said, the other thing is a
19 need to train the trainers, if you will, the
20 teachers themselves. You know, it's tough in the
21 home when the most Internet- literate person is
22 the 14-year-old boy, the very person you're trying

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1 to protect. So, in schools, imagine that problem
2 exacerbated by 30. You know, the poor teacher is
3 up there trying to outsmart her students, if you
4 will. And that's a real challenge for a lot of
5 school districts.

6 MR. HERRIGAN: If I could try to connect
7 this back to something that was raised in the
8 prior panel, which was this notion that education
9 is an important part of the equation, yet it seems
10 to be in certain contexts, as Ari Schwartz said,
11 less effective today than it was a few years ago,
12 meaning that people seem to be taking less
13 advantage of tools online that might help them be
14 better problems solvers for whatever issue may
15 confront them.

16 And as we now turn to talk about schools
17 -- and particularly, as you say, that the early
18 adopters tend to be the private schools or the
19 wealthier public schools -- have tools been
20 developed or is it on the radar screen to think of
21 how to deal with people whose attention is
22 extremely scarce?

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1 You hear a lot these days that in the
2 digital world and digital economy there's a
3 scarcity of attention more than anything else in

4 trying to get people engaged with various digital
5 goods or products. Has anybody thought of how to
6 sort of tie these kinds of empowerment tools to
7 actual task solving in a world where people's
8 attention is scarce?

9 For instance, you raised the issue of a
10 tradeoff in some people's minds between biology
11 and digital literacy tools. Can't they be in the
12 same sentence in a lot of respects? And have
13 there been efforts that anybody on this panel is
14 aware of to try to tie those two things together
15 to really integrate that stuff into what people
16 are doing so that this attention versus acquiring
17 very useful information tradeoff is less severe?

18 MR. SIMPSON: It's a huge question for
19 this because this is new territory, especially for
20 educators. And so one of their questions is --
21 even if it's not a matter of cutting time into
22 biology -- is where do we fit this media literacy

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1 program? Is this part of a language arts program?
2 Is this something that goes -- is this run through
3 our school library?

4 And in many ways you're probably getting
5 at the smarter edge of it, which is how do we make
6 these lessons in media literacy fit into a lot of
7 different classes. Because, in part -- we did a
8 poll earlier this summer about kids' behavior
9 online and with digital tools. And one of the
10 questions we asked about was how much they cheat,
11 how much they download a paper and submit it as
12 their own. And if you ever poll teens you know
13 you need to ask them sort of the friend question,
14 like how many of your classmates do this, and you
15 get maybe a more reliable number. And the numbers
16 were pretty high. They weren't shocking, but it's
17 consistently something that's going on.

18 So how do you make media literacy for
19 that example connected to something about research
20 literacy? And what do you teach kids about how
21 they get information and how they cite and what
22 the purpose of authorship and authority are? But

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1 that's only one particular lesson.

2 I mean, one of the things -- listening
3 to the earlier panel and Ari's point -- which I
4 think is very valid, especially for some of the
5 adult issues, but the thought that crossed my mind
6 was the first panel was primarily focused on kind
7 of adult commercial privacy issues. And what made
8 me sort of cringe is how are we teaching privacy
9 in that same frame -- commercial, protect your own
10 financial identity and information -- to kids
11 today who are seemingly quite willing to put
12 pictures of themselves half naked doing beer chugs
13 on Facebook or anywhere else.

14 I mean, their sense of privacy is so
15 drastically changing. And that's something that
16 we, as adults -- their parents and teachers and
17 mentors -- need to address. Not in a mandate of
18 you can't do this, because anyone who has worked
19 with kids has to respect that there's a
20 negotiation there. And for younger kids maybe
21 there's mandating and then later it's a little bit
22 more let's figure out the best middle ground. But

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1 their lives are changing because of this
2 technology, and they're going to continue to
3 change. And the way we educate them needs to
4 continue to change.

5 MR. HERRIGAN: Other comments?
6 MR. THIERER: I just briefly want to add
7 onto that that what we're talking about here is
8 privacy and media content expectations and how
9 they've changed broadly throughout society. And
10 this is something that there is a serious
11 generation gap problem in both debates about
12 privacy and online child safety. And we have a
13 disconnect between older generations and parents,
14 particularly in kids, and that's what Alan is
15 getting at. Knowing, therefore, how to message to
16 kids when they look at some of the messages that
17 we old farts send and say that's laughable, you
18 know, is a real problem.

19 So, you need to boil down the messages
20 in terms of media literacy to sort of core
21 principles about what's really most important and
22 what the kids can get and understand and

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1 appreciate, and what's really changing in society.
2 And I think there are changing expectations,
3 especially about privacy. And a lot of people
4 suggest it's all about we want more and more
5 privacy, but, as Alan just suggested, that's not
6 necessarily what everybody wants. Some people
7 actually are willing to give a lot of information
8 away online on everything they visit and every
9 site they go to. And there's a changing
10 expectation about that.

11 And I think the same is true for child
12 safety, and specifically for media content more
13 generally. There are types of content that would
14 have been found far more objectionable 10, 20
15 years ago that are now more routine to find on
16 YouTube every day of the week. And, you know, we
17 as a society have to adapt -- and I think we do
18 adapt -- but we have to understand that there's no
19 way to handle this through a Broadband Plan, I
20 don't think. I don't think you can manage all
21 those expectations. There are many diverse
22 expectations on that spectrum.

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1 MR. HERRIGAN: Yes. I think for the
2 purposes of the Broadband Plan we're trying to
3 understand the issue and how and whether norms are
4 changing. And that's really what is coming across
5 to us in this discussion today.

6 Tim has a comment, then I'm going --

7 MR. CANNON: Real quick.

8 MR. HERRIGAN: We'll let Bob follow and
9 then we'll get to Tim.

10 MR. CANNON: I wanted to put it all
11 together. What I'm hearing in terms of the
12 Broadband Plan is that the big ticket item is
13 media literacy. If we talk about online safety,
14 where are we going forward? What's the plan?
15 What should be the policy? It's not maybe
16 different solutions, but it's maybe looking at the
17 schools, looking at the localities, empowering the
18 educators. And media literacy is really the big
19 ticket next step.

20 MR. THIERER: Agreed.

21 MR. CANNON: I mean, we're looking for
22 areas of consensus and areas of nonconsensus, and

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1 that's the consensus I'm hearing.

2 MR. THIERER: Right.

3 MR. SIMPSON: And what I would add to
4 that is when we talk about online safety, which is
5 very much a reasonable concern, I tend to try to
6 move the conversation quickly to online smarts as
7 the first principle of that.

8 MR. HERRIGAN: Tim?

9 MR. SPARAPANI: So, without being a
10 contrarian, I want to wrestle with the premise of
11 the question.

12 We tend to hear about sensationalized
13 events when sharing of a piece of data or a piece
14 of information, particularly where a child is
15 involved, becomes a national story. And we hear
16 about them periodically. But what we don't hear
17 about is that, at least on Facebook, every day
18 people are sharing more than 1 billion pieces of
19 information about themselves and they're doing it
20 without incident. And that's the other part of
21 the equation.

22 And so what we are finding is that

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1 people are quickly adapting to the opportunity to
2 share information about themselves, and they fall
3 across a huge spectrum of attitudes about privacy
4 and speech and security. And even the kids
5 understand when you talk to them -- we talk to our
6 users quite frequently and ask them about their
7 expectations and their understandings. Kids get
8 it a lot more than adults suspect that they might.
9 Like, they would say, I would never put that
10 picture up because I know that that idiot in my
11 class did that and, gosh, that picture is going to
12 come back to hurt that person later on.

13 And they understand this in a way that I
14 don't think we give kids credit for because
15 they're used to these technologies. They grew up
16 with them. They know where they're good and bad
17 and where they can cause trouble. But it's really
18 important to get a perspective on how much data is
19 shared without incident and without consequence
20 that's negative in order to help the FCC
21 understand the broader issue.

22 MR. HERRIGAN: Which doesn't stop
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1 somebody from the audience from asking you, Tim,
2 about what's with all the strange quizzes on
3 Facebook, like What Extinct Reptile Are You?

4 But there's a serious dimension to this,
5 which is where does this information go that
6 people put into these quizzes? Is it shared?
7 What is the consequence of taking those quizzes
8 when you do share information? Where does this
9 stuff go?

10 MR. SPARAPANI: So it's an important
11 question. And what a lot of people don't
12 understand is that when you initialize an
13 application on Facebook or on Google or through
14 Microsoft or any other platform that's out there,
15 including your iPhone if you have one, you
16 actually are leaving that particular company's
17 domain and you are traveling to an entirely
18 separate company. And those applications have
19 special rules which are spelled out, which you --
20 you know, when you initialize that application and
21 launch it you have agreed to the terms and
22 services and the privacy policy of that

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1 application.

2 So, our answer is as a consumer you have
3 to know where you're going and why and what you
4 expect to get from it. And before you say yes,
5 you should read the fine print because Facebook
6 nor Google nor Microsoft can be in the position of
7 policing the million applications that are
8 launched through Facebook. Certainly, you know,
9 that would take an army of people to do the work
10 for you, so consumers have to be aware and they
11 have to read the fine print, and they have to have
12 a little bit of common sense when they launch an
13 application. If they do that, I think they're
14 going to find that although they might find out
15 what reptile they are, they may also be able to
16 access an extraordinary number of new services and
17 goods which had never been created before, which
18 will make their lives faster, more efficient, more
19 rich.

20 So, there's a lot of balance to that
21 question as well that needs to be brought back in,
22 I think.

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1 MR. HARRIGAN: Let me see if either Marc
2 Berejka or Michael Wroblewski have any questions
3 for our panelists or reactions to any discussion
4 thus far.

5 MR. WROBLEWSKI: I have two. Tim,
6 following up on your advice to when you go to a
7 third-party application to read the fine print,
8 has Facebook experimented with novel ways to
9 provide that to the 12-year-old who is on
10 Facebook, who is very savvy, but may not
11 understand what the fine print is or can't read
12 the legal -- you know, because it's not written at
13 their level -- to advise them as to what the
14 consequences of going to this third party
15 application? Because they may just think they're
16 on Facebook.

17 MR. SPARAPANI: We would disagree that
18 that's their understanding. And what's important,
19 though, to know is that, yes, Facebook does care
20 about this because, you know, even the questions
21 from this room suggest that somehow anything that
22 happens on an application might rebound against

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1 Facebook's good name, even though, again, this is
2 happening from a separate company. We would say,
3 you know, the FTC has to go out there and do some
4 hard work and look at the applications. We would
5 say the Justice Department has to go and look,
6 that state AGs need to police third-party sites.

7 But what Facebook does is that we
8 provide a really obvious popup interstitial when
9 somebody is about to launch an application. It's
10 written in plain English, a really important
11 pro-consumer choice that we make. It's got a doom
12 and gloom message to it, and I can't recount it
13 for you directly here, but it says beware, pay
14 attention, here's what may happen and you need to
15 be aware as a consumer. So, we definitely let
16 people know, including the 12-year-old, in ways
17 that, you know, any kid could understand, that
18 this is a choice you are making and that you'll
19 have to live with those consequences.

20 More importantly, we allow people to go
21 back and disable applications at any point, so
22 there's directly relevant privacy tools that we

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1 are giving our consumers in order to -- if they
2 feel like they've made the wrong choice about an
3 application, go ahead and disable that
4 application.

5 And that's a really important,
6 innovative tool that we have given people, and we
7 hope that the rest of the industry follows our
8 lead on that.

9 MR. WROBLEWSKI: The second question I
10 had was we were talking about media literacy and
11 I'm assuming we're using the term media literacy
12 to mean we're going to use the media to educate
13 people about privacy or data security or whatever.
14 I'm assuming that's what you're meaning and not
15 media literacy the way we would think about it
16 maybe in another context in terms of understanding
17 what you're even just receiving from the media.

18 But assuming it's that context -- using
19 the media to help educate people about changes in
20 technology and how to protect themselves -- are
21 there examples in your experience as to which
22 media literacy outreaches have been successful for

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1 a technology product? And why have they been
2 successful?

3 MR. THIERER: I actually have a couple
4 of examples that I've used in my work.

5 But first, to answer your other
6 question, what do we mean by media literacy?
7 Media literacy can mean a lot of different things
8 to a lot of different people. What you're really
9 talking about there in the way you described it
10 was sort of media awareness building or using
11 media platforms to build awareness about a
12 problem. And I can give you some very concrete
13 examples of how our government has very
14 successfully used media platforms in the past to
15 build awareness about a serious societal problem.

16 My favorite example is Smokey the Bear.
17 I mean, we all remember Smokey the Bear and it
18 built awareness about a serious problem with
19 forest fires. How about Hoot the Owl; "Woodsy the
20 Owl"?XXX and the problem of littering?

21 How about the campaign we did around
22 seatbelt safety? How about the awareness that was

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1 built about public health and so on and so forth
2 through the Presidential Commission on Physical
3 Fitness? So in each of these cases government
4 agencies worked together to use resources and
5 deploy resources through media platforms to build
6 awareness about problems in our society that
7 needed to be addressed. I would argue that each
8 of those have been very, very successful in
9 raising awareness about the problems.

10 Now, we need a metric for success, and
11 that's hard in some of these cases. And, of
12 course, there are other things that did come into
13 play. With seatbelts it wasn't purely education.
14 There was a Click It or Ticket part of it.

15 There was also a regulatory part. We

16 can't discount that as being part of it. But with
17 these other cases, I think the awareness had
18 profound -- I mean, we had a serious problem with
19 littering in this country back in the '60s and
20 '70s when I was growing up. Nobody throws garbage
21 out the window of their car anymore, for the most
22 part, when they're riding down the highway.

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1 a variety of these tools.

2 I'd like to see all the government
3 agencies really start to put a lot of resources in
4 that. We have to remember -- I think it was John
5 that brought it up -- the scarcity of attention
6 problem. You only have -- you have very few
7 chances to get people and find a teachable moment.
8 And when you get them, you want to drive them to
9 something really quick and get it done.

10 We learned a lot of lessons in this
11 regard from the DTV education and transition
12 process. You really have to have a single site,
13 single messaging, and really drive people to it
14 and hammer it home. That really, really is
15 helpful. Because, I'll tell you, ironically,
16 right now I think the biggest problem we have on
17 this front is we actually have too many competing
18 voices. We have so many good plans and ideas and
19 policies and approaches and groups that there's
20 almost sort of a little bit of information
21 overload about online safety and privacy. We're
22 directing people so many different ways. So I try

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1 not to ever pick favorites -- Common Sense Media
2 is among my favorite -- but, you know, there are
3 many, many great groups doing many great things.
4 But the government has a way of focusing resources
5 and messages in a constructive fashion.

6 MR. SIMPSON: And just to pick up on
7 that, we published a white paper on what we're
8 calling "Digital Literacy and Citizenship" in
9 June. And it's on our website, but I'll bring you
10 a copy, so not to go into too much detail on that.
11 It does pick up -- as Adam said, it builds on the
12 work of a lot of other organizations and a lot of
13 good folks out there.

14 I want to focus on one piece of it
15 because we haven't yet. The citizenship part of
16 that -- digital literacy addresses kind of all
17 those things, but it's more about the content that
18 kids see and share. Citizenship is more about
19 what they do and their behavior, which is, I
20 think, kind of the growing front of this issue:
21 The way they behave to each other, the way they
22 manage their own privacy, the rules of the road

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1 for their own conduct and ethics, if you will,
2 which is going to be another important part of
3 this and another important reason why this really
4 needs to be localized down to each family, down to
5 each school, according to local standards and
6 customs. And so that's a big growing area of
7 this.

8 I also want to come back to one of the
9 things that Tim said. I would agree that a lot of
10 the negatives that we hear about in this space are
11 sensationalized by the news media and others. I'd
12 agree with that completely. But I'd also say for
13 the purpose of your Broadband Plan and for the
14 administration's goal of getting people to adopt
15 broadband and make sure that they benefit from the
16 educational and economic opportunities created by
17 broadband, those same late adopters may be the
18 most worried about the sensationalized stories
19 that they've seen in the media.

20 And your research, John, from earlier in
21 terms of relevance, that may be a big chunk of
22 that. If those families are looking -- if all

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1 they know about broadband is, well, yeah, you
2 know, the terrible story this, terrible story
3 that, even if it's sensational, it's going to have
4 an impact on them. And they need tools and
5 resources that reassure them not only about
6 managing the negatives, but about getting out
7 there and finding the positives that they want.
8 And that's a big part of this as well.

9 MR. HERRIGAN: Michael, you had --

10 MR. McKEEHAN: Well, Alan kind of stole
11 my thunder, but I'll say it anyway.

12 I think on media literacy, we --
13 sometimes when we talk about child online safety
14 or online safety in general, we lose site of the
15 fact that the Internet and broadband access to the
16 Internet is overwhelmingly a good thing for
17 society. There's a tremendous amount of good
18 information out there.

19 So I think when we talk about online
20 safety, we talk about filtering tools, we talk
21 about rating content and those kinds of things,
22 what we're really talking about is helping people

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1 find the good stuff. Okay? And so I'd like -- I
2 would hope that the plan would take that kind of
3 approach, that, you know, broadband is good, the
4 Internet is a good place, and there are these
5 tools that help you find the good stuff out there.
6 And I think this is -- the media literacy aspect
7 of this, I think, is now that we have broadband --
8 and it's a two-way street -- we see a lot more
9 end-users creating their own content.

10 I think it's especially important for
11 the kids that are creating content and posting it
12 online to understand the rules of the road. So
13 that kind of rules of the road, in my mind, is the
14 media literacy. It's, you know, the persistence
15 of information that you post to the Internet. And
16 guess what? Some day a college admission officer
17 may look at your Facebook page and try to decide
18 do I take Student A or Student B. Kids get that
19 and they understand that. So, that's kind of our
20 view of media literacy.

21 MR. BEREJKA: So I started off or have
22 sat through this panel -- except for the last

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1 couple of minutes -- having almost the complete
2 opposite reaction to the otherwise positive
3 feeling I had about the first panel. Because in
4 the first panel I felt like we were driving
5 towards a common understanding of data privacy
6 issues and potential solutions, even if we just
7 saw solutions at a 30,000- to 100,000-foot level.
8 Whereas up until about three minutes ago, I felt
9 like this panel was kind of all over the map.

10 And it's come to me as to why this panel
11 seemed to me to be all over the map. And it is
12 because we didn't have that same consensus sort of

13 definition of the issues. But let me offer one up
14 and get you guys to react to it.

15 My reaction to this panel has been very
16 similar to my reaction to a homeowners'
17 association meeting I went to about four years
18 ago. I had just moved into my neighborhood of 100
19 homes and there were a few folks in that
20 neighborhood who were very, very concerned about
21 speeding in the neighborhood. And so I went to
22 the homeowners' association meeting and I learned

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1 from the board that they had spent all this money
2 getting the police department to come through with
3 their speedometers or their traffic cameras and
4 what have you. And guess what? They found that
5 90 percent of the people driving through the

6 neighborhood were going the speed limit. And that
7 was pretty good, so we should be pretty happy. We
8 actually don't have a speeding problem because 90
9 percent of the people are going the speed limit or
10 below.

11 And I thought to myself, you're looking
12 at exactly the wrong part of the problem. Right?
13 When a kid is crossing the street in our
14 neighborhood, yeah, the folks who live in our
15 neighborhood who are going the speed limit are not
16 going to hit that kid. It's the 10 percent. It's
17 the 10 percent who are zipping through the
18 neighborhood, right, and who aren't going to see
19 that kid who are going to create the sensational
20 problem. Sure. But it's also a real problem when
21 a kid gets hit by the car.

22 And so my concern about the panel at the

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1 were starting to come together around this notion
2 that there remains a vulnerable population, and
3 something needs to be done to improve our ability
4 to reach that vulnerable population.

5 Taking off my government hat for a
6 second and talking as a parent, I'm not going to
7 acquiesce to the notion that norms just change and
8 that somehow adult content or really violent
9 content at some point in time will be appropriate
10 for small children who have nightmares. Right?
11 So, putting back my government hat on, you know,
12 what can industry do to help reach this vulnerable
13 population? Instead of spending, you know, dollar
14 after dollar after dollar or millions of dollars
15 on this, that, or the other educational campaign
16 that just adds to the avalanche of information,
17 how do you come together to sort through the
18 information and crystallize it in a way that's
19 easier for the uneducated teacher to then educate
20 the students with. I put that challenge out to
21 you and I also ask whether that's a useful
22 reframing of the issue.

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1 about are a huge part of that as well. But what
2 we're really getting at is a way to give each
3 family and each household a chance to dictate for
4 themselves what their household standard looks
5 like so that we don't have to have the HOA
6 necessarily applying it to all. Now, that doesn't
7 mean there aren't any community rules. There is
8 still going to be a percentage of bad buys or
9 problems out there that need to be addressed
10 through a collective community solution, but if we
11 can get a long way towards educating and
12 empowering the households to make the decisions
13 for themselves, then we've narrowed the problem
14 and we can decide what's the really, really big
15 problem here and decide what that is.

16 Now, I happen to believe we can't even
17 agree on that right now in this country. I mean,
18 I've spent the last five years trying to debunk
19 myths about online predation. Again, it is a
20 legitimate problem, but it is not the problem that
21 policymakers have painted it out to be. And it
22 took two task forces to address this and

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1 officially say this is not the problem you should
2 be focusing all your time and attention on. It's
3 not online predation; it's online child- on-child
4 or peer-on-peer cyber bullying that's probably the
5 bigger online safety problem today. And we're
6 finally starting to turn that corner. We've spent
7 five years arguing about the fact that there's a
8 bad guy lurking on every corner in this cyber
9 world. It's just not true.

10 So, defining problems is hard and then
11 figuring out how we solve them is the other hard
12 part. But I would say empower and educate gets us
13 a long way there. And then we decide what's that
14 10, 20 percent -- what's the speeding problem in
15 our neighborhood online that we all have to decide
16 on?

17 MR. BEREJKA: Yes. I should clarify
18 because I get the sense you might have
19 misunderstood my comment a little bit.

20 I personally believe -- and you know, I
21 haven't read your papers in detail, but know
22 you're quite good at articulating data and

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1 pointing people to data -- I do have comfort. And
2 this is based on my own experience, you know, as a
3 parent, but also observing other parents, I do
4 believe that the hump on this content question --
5 many, many, many, many Americans have gotten over
6 the hump, by hook or by crook. And so my question
7 comes back to what about those who have not gotten
8 over that hump? And that's how I refine the
9 problem.

10 I think the task is, frankly, more
11 challenging in this space than for the privacy
12 folks because on the privacy front we haven't even
13 gotten over the hump, you know. And where I was
14 comforted by the first panel was in that I started
15 to sense, among the panelists at least, you know,
16 a path forward to getting to the 80 percent
17 solution. Whereas what I'm suggesting is that
18 maybe here industry, government, just common
19 sense, has gotten most people comfortable doing
20 the right thing for their kids in their home. And
21 now it's the 20 percent challenge and that's a
22 tough nut.

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1 of the things that got lost in the noise of the
2 so-called MySpace AG Task Force was some of the
3 research that Dana Boyd at Harvard did where they
4 found that the number of kids engaging in
5 risk-taking behaviors online was actually
6 vanishingly small.

7 Okay? A very small number of kids. But
8 nevertheless, having said that, if it's your kid,
9 it's a real problem. And this cohort of kids that
10 was taking -- that was engaging in risky behavior
11 online was also the same cohort that was engaging
12 in risky behavior offline, that is in the physical
13 world.

14 And so she posed the question and didn't
15 really have an answer -- which I didn't expect her
16 to -- that is how do we get those kids together
17 with the social workers to get them the help that
18 they need? I mean, that's really the population
19 that you need to reach to, the so-called 20
20 percent. The number is really not that high.

21 MR. BEREJKA: Right.

22 MR. MCKEEHAN: But when you talk about

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1 the 20 percent, that's the cohort that you're
2 talking about. It is that small group of kids
3 that are engaging in risky behavior online and
4 offline.

5 MR. BEREJKA: I agree.

6 MR. HERRIGAN: Tim, did you have a
7 comment? Or we can field other questions.

8 MR. SPARAPANI: I was just going to say,
9 Marc, in response -- you asked how companies could
10 operationalize -- at least this is how I
11 understood the question -- how companies could
12 operationalize resolving the difficulties of
13 dealing with those people who had difficulty.

14 MR. BEREJKA: Well, actually, I don't
15 know if I had a question to any specific company.
16 Having been on the private sector side, I know
17 what each individual company tries to do, you
18 know, in order to be able to put up slides like
19 have been put up today or have a conversation like
20 you've had. But I do think the challenge for
21 industry is how do you facilitate a coming
22 together, you know, or simplifying the dialogue

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1 with these vulnerable populations.

2 MR. SPARAPANI: So, I can't facilitate a
3 coming together, but I can facilitate a
4 conversation, which is the approach that Facebook
5 is taking. Very shortly, we will be rolling out
6 for all of our existing users and any new user an
7 interstitial with a popup which will force a
8 conversation about settings. So they will say,
9 you know, do you want to share this type of
10 information with this category of person or this
11 category of person or this category of person, so
12 that we will have a moment when a user will have
13 to confront the questions about how their data
14 will be shared, with whom, and how.

15 And in addition to that, we are creating
16 something called "per object privacy," which will
17 allow people at any moment to change the settings
18 just before they share a piece of data. So they
19 can make it completely granular with whom they
20 share data, when, and how. So we are forcing that
21 conversation, at least with our own user base,
22 because we think it's an important question to try

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1 to get at the small, very tiny fraction of a
2 percent of people, as Mike said, who really need
3 to have the conversation forced upon them.

4 MR. HERRIGAN: Do we have other
5 questions or comments?

6 Well, let me try to bring a few themes
7 together as we conclude today, both from this
8 panel and our first one today.

9 One thing that comes across is, you
10 know, people love this stuff. People love the
11 Internet. We heard Tim talking about 65 million
12 Facebook users on the mobile platform, 9 months
13 old. Burke noted, what, 150 million people come
14 to Yahoo! every day. So, clearly people have
15 embraced the Internet as a tool for information
16 exchange, social interaction, commerce, the whole
17 bit.

18 We also heard that there are some real
19 risks. Joel Kelsey from Consumers Union put out
20 the figure that there's an \$8 billion cost, I
21 think, annually on computer crime. And I think
22 that's just talking about invasive software or

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1 malware. That means that people have to get new
2 computers and there's a real economic cost to
3 that.

4 There are also other kinds of risks to
5 being online. We were just talking about how the
6 incidence of that among children might be low in
7 fact, yet, if it's your kid it's a real issue.
8 And 1 percent of 300 million people, if that's the
9 small incidence, adds up to a lot of people
10 perhaps having some issues and encountering real
11 risks while they're online.

12 So we heard about some of these
13 benefits, some of these risks, and talked a good
14 bit about the tools that are out there and what
15 the nature of those tools are. We heard about
16 user control being a good thing, a good value,
17 from Ari Schwartz. He also noted that technical
18 tools often are very effective. And we heard
19 today on the second panel how there are a number
20 of different tools that enable users to take steps
21 on their own behalf to mitigate whatever problems
22 that they may encounter, either for themselves or

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1 their kids.

2 But then I think we hit upon sort of the
3 friction or the sticking point here which is not
4 everybody avails themselves of these tools. Not
5 everybody knows that they are there. So, we get
6 to the issue of media and digital literacy as a
7 way to try to empower users more, empower
8 consumers more to take action so that they have an
9 online environment that is safe and welcoming and
10 appropriate for them.

11 That gets into, I think, an issue that
12 the FCC and other agencies have to think of. But
13 for the FCC, particularly as we develop the
14 Broadband Plan, how do we get people in an era
15 when attention is increasingly scarce for people
16 to really engage with some of these media and
17 digital literacy tools, when increasingly it can
18 be just challenging to find the time to do those
19 things? Whether it's the parent in the household
20 trying to embrace those media tools or, as Alan
21 said, trying to reach out to educators who have a
22 host of responsibilities placed upon them in

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1 addition to developing media literacy.
2 So, that's certainly a lot for us to
3 chew on as we develop the Broadband Plan, but this
4 panel and our first panel today has certainly
5 given us a lot of information with which to go
6 back and continue our deliberations. It's
7 probably not the last you've heard from us at the
8 FCC as we develop this plan. We hope we can rely
9 on each of you today who have spent time in
10 preparing your remarks for additional queries that
11 we may have going forward.

12 I want to close by thanking Michael
13 Wroblewski, Mike Berejka, and Bob Cannon for
14 serving as questioners. I also want everybody to
15 thank Rachel Kazan on the FCC staff in the
16 Consumer Bureau who did a lot of work to help
17 bring this together. Lastly, I want to thank the
18 panelists for coming today. It was really
19 illuminating for us, and we appreciate it. So
20 thank you very much.

21 (Whereupon, the PROCEEDINGS were
22 adjourned.)

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