

1 FEDERAL TRADE COMMISSION

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PUBLIC WORKSHOP:

4

TECHNOLOGIES FOR PROTECTING PERSONAL INFORMATION:

5

THE BUSINESS EXPERIENCE

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Wednesday, June 4, 2003

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8:30 a.m.

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Conference Center

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Washington, D.C.

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FEDERAL TRADE COMMISSION

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1 Panel 2: Business Tools for Protecting
2 Consumer Information

3 Moderator: James Silver, Staff Attorney, FTC 116

4 Panelists:

5 Joseph Alhadeff, Vice President, Oracle
6 Corp.; Christopher Klaus, Internet
7 Security Systems; Gary Clayton, Chairman,
8 Privacy Council; Christine Varney, Partner,
9 Hogan & Hartson; Ari Schwartz, Center for
10 Democracy and Technology; Michael Weider,
11 Chief Technology Officer, Watchfire; Craig
12 Lowery, Dell Computer Corp.; Steven Adler,
13 Market Manager, IBM Tivoli Security &
14 Privacy Software; Robert Gratchner, Intel
15 Corp.

16

17 Panel 3: Current and Emerging Frameworks for
18 Protecting Consumer Information

19 Moderator: Loretta Garrison, Staff Attorney,
20 FTC 197

21 Panelists:

22 Larry Clinton, Internet Security Alliance;
23 David Fares, U.S. Council for International
24 Business; Laura Lundin, BITS, the Technology
25 Group for the Financial Services Roundtable;

1 Mark MacCarthy, Senior Vice-President, Visa;
2 Fran Maier, President, TRUSTe; Frank Reeder,
3 Chairman, Center for Internet Security;
4 Laura Berger, Staff Attorney, FTC

5

6 Panel 4: Designing Technologies to Protect
7 Consumer Information

8 Moderator: James Silver, Staff Attorney, FTC 262

9 Panelists:

10 Edward Felten, Associate Professor of
11 Computer Sciences, Princeton University;
12 Alan Paller, The SANS Institute; Richard
13 Purcell, CEO, Corporate Privacy Group;
14 Howard Schmidt, Vice-President for Security,
15 eBay; Ari Schwartz, Center for Democracy
16 and Technology; Tony Stanco, George
17 Washington University; Vic Winkler, Sun
18 Microsystems; Kathy Bohrer, Engineer, IBM
19 Research; Peter Neumann, Principal
20 Scientist, SRI International

21

22 Closing Remarks - Joel Winston, Director,
23 Division of Financial Practices, FTC 359

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P R O C E E D I N G S

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MS. LEVIN: I hope all of you have had a chance to enjoy some of the delicious refreshments out front. They were provided by some terrific companies -- Comcast, Ernst & Young, Internet Security Systems, Microsoft, The SANS Institute, and Trustee -- and we thank them for providing them to us today.

Good morning, and welcome to the second session of the Federal Trade Commission's public workshop, Technologies for Protecting Personal Information: The Business Experience.

Some of you were here a few weeks ago at our consumer experience workshop. We learned an awful lot through that workshop, and I'm sure we will also learn a great deal today.

It's been my pleasure to work with Loretta Garrison and James Silver and Jessica Rich, our assistant director, to prepare for these workshops.

We look forward to having our panelists share their expertise and insights with all of you today.

Before we begin, I have just a few housekeeping announcements.

First, in the unlikely event of an emergency, we will be given specific instructions by our building security officer. So, I ask you please to wait for those

1 instructions, even though you might instinctively dash
2 for the exits.

3 Secondly, please wear your badges throughout
4 the day while attending the workshop, because if you take
5 them off, you'll have to go through security again. If
6 you do leave the building, you will still have to come
7 back in through security, even though you have your
8 badges, but we ask you please to keep them on.

9 And now, if you haven't already done so, please
10 turn off your cell phone, the ubiquitous technology in
11 the room today.

12 It's my pleasure now to introduce Commissioner
13 Orson Swindle of the Federal Trade Commission.

14 (Applause.)

15 COMMISSIONER SWINDLE: Thank you, Toby.

16 I'm from a small town in south Georgia, and I'm
17 a Methodist. We used to note that every time we went to
18 the Baptist church that the real skinflints in the
19 Baptist congregation always sat in the outlier seats and
20 in the back, because at the Baptist church, it's
21 absolutely habitual, they do ask for money.

22 Now, we are going to pass the plate here later
23 on this afternoon, and during the next break. If I could
24 encourage everybody to move inward as much as we can. I
25 realize we're just about full here in the middle, and

1 that's great, but come on in. I think it helps the
2 speakers, and I think you would be able to enjoy it a
3 little bit more.

4 Speaking of being from south Georgia, it's very
5 hot in south Georgia and dry during the summer. I have
6 good news and bad news. The good news is the rain's
7 going to stop, and the bad news is that is reported to be
8 in September. It reminds me of when I first moved to
9 Hawaii.

10 I married my wife in December of '89, and I
11 moved to Hawaii. January and February are the rainy
12 months in Hawaii. Having grown up in south Georgia, a
13 little town where we would have the occasional rain
14 shower, it was our challenge as kids to know whose front
15 porch we could run to to hop in.

16 We'd sprint home from school and hide from the
17 rain and get under the trees -- this is one of those
18 habits you pick up as a kid. When I got to Hawaii, we
19 lived about eight or 10 blocks away from a place where we
20 had our car fixed. I took the car down one morning right
21 after I'd gotten there, and as I'm walking back, it
22 starts raining, and I immediately revert to the Camilla,
23 Georgia, strategy of keeping dry. I'm running from door
24 stoop to door stoop and finding a tree and hiding, and
25 after I get about halfway home, I look around and not

1 another soul is doing this.

2 I mean in Hawaii, it's natural that it would
3 rain. So, from the look of things the past couple of
4 months, we're going to have to adopt the Hawaii
5 philosophy and just ignore it and walk through it.

6 I want to welcome you today to our workshop,
7 Technologies for Protecting Personal Information: The
8 Business Experience. We're very pleased that you can be
9 here and we thank you for coming and sharing this
10 discussion with us.

11 Today's workshop is the second in our series
12 that started on May 18th, when we spent the day examining
13 the consumer experience with technology for protecting
14 personal information.

15 I think we're in for a real treat today, since
16 many of the same participants are with us again today to
17 share their knowledge about how businesses are protecting
18 privacy and security.

19 As I often say, solving problems of privacy and
20 security and protecting the security of information
21 systems and networks will require a new way of thinking,
22 a culture of security.

23 I suggest that, to achieve the best possible
24 results -- not the perfect results, because they don't
25 exist, but the best possible results -- we need to keep

1 the dialogue going.

2 We need all sides of the debate at the table
3 with us.

4 The FTC is pleased to facilitate that dialogue,
5 and we thank you for being active participants in our
6 search for solutions to these very complex problems.

7 Shocking as it may seem, we in government do
8 not have all the answers.

9 All of us -- you, the government, regulators,
10 businesses, Congress -- we must all keep working together
11 to promote market-based solutions as rational and
12 effective alternatives to more and more government
13 regulations that are too often characterized by having
14 troublesome, unintended, and ineffective consequences on
15 innovation. I believe this to be the best path to
16 follow, and we really do need your help to make the
17 journey.

18 I see a number of my old friends at the table
19 up here, led by Joe Alhadeff. They're raring to go. But
20 before I give them control of our first discussion panel,
21 I have the pleasure of introducing Nuala O'Connor Kelly,
22 the chief privacy officer at the Department of Homeland
23 Security.

24 Before joining DHS, Nuala was the Chief Counsel
25 for Technology in the Commerce Department. Prior to

1 that, Nuala was the chief privacy officer for
2 DoubleClick.

3 So, having a long experience working with the
4 FTC, she knows about difficult duties. She's willingly
5 taken on one of the toughest jobs in government,
6 certainly in this town.

7 We're glad she's with us this morning to give
8 us the view from the DHS perspective, if she can figure
9 out exactly what DHS is.

10 She is a dear friend, she's a delightful
11 person, she's beautiful, and she's up to the challenge.

12 Nuala, please come and enlighten us.

13 Thank you.

14 (Applause.)

15 MS. KELLY: Well, good morning, and thank you,
16 Orson, for your warm welcome.

17 I think it's well-known that I am the chief
18 member of the Orson Swindle fan club. I have long been
19 one of Orson's many admirers, and I'm thrilled to be here
20 at his request today. It's my great pleasure to be with
21 all of you today for this important discussion of the
22 business experience of developing and using technologies
23 to protect personal information. I'd also like to
24 recognize the entire FTC team which under Chairman Muris'
25 leadership has become a leader not only in enforcement

1 activities on security and privacy but also which, as an
2 organization, has been a thought leader on the issues
3 confronting both consumers and industry in cyberspace.

4 I've had the privilege of working with the FTC
5 staff, as Orson mentioned, both on the opposite side of
6 the table and also on the same side of the table, and I
7 must confess, I much prefer to be on the same side. But
8 either way, I'm always impressed by the depth of
9 knowledge and the commitment that the Commission's team
10 has brought to both of these issues of privacy and
11 security for industry.

12 I'd like to thank Orson not only personally but
13 on behalf of those of us who share in the
14 administration's vision and goals on privacy and
15 security, and Orson, as many of you know, has been a
16 tireless advocate of common sense practical approaches to
17 privacy and security.

18 His work in cajoling, encouraging, and even
19 brow-beating industry when necessary -- those of us in
20 the privacy and security community are very grateful for
21 that work. It has served to open a dialogue between
22 industry and consumers and enrich both public policy and
23 industry space.

24 Many of you, I'm sure, know of Orson's work as
25 an ambassador for the United States and as an emissary

1 for America. He travels endlessly around the world to
2 represent the United States in conversations, in
3 negotiations, in debates over the evolution of privacy
4 and security protocols. He's often the lone voice for
5 the United States, and when I am lucky enough to join
6 him, I'm always impressed by the grace and eloquence he
7 brings to bear on behalf of the United States and her
8 citizens.

9 But we should also take a moment to thank both
10 Toby Levin and Dan Caprio for their work on this workshop
11 and the many other conversations that have happened and
12 continue to happen with industry and the advocacy
13 community. We are very grateful for their work.

14 And I'm grateful, also, for the opportunity to
15 talk with you this morning.

16 As Orson mentioned, I have a new job. Many of
17 you know about it. It's a new job with a fairly large
18 organization -- not a business organization but one with
19 an important governmental mission, to protect the people
20 and the places of our homeland. I can think of few more
21 important tasks for the Federal Government or any federal
22 government to engage in than to keep a country and its
23 citizens safe.

24 I'm tremendously honored and humbled to be part
25 of that mission, and as it's constantly pointed out to me

1 by family and friends, this is almost an impossible
2 mission -- to protect millions of people, thousands of
3 miles of border, hundreds of airports and seaports and
4 other ports of entry. But, as was pointed out to me
5 recently by my boss, the mission of the Department of
6 Homeland Security is not only to protect the people and
7 the places of our country.

8 Fully central to the mission of this department
9 is to protect the liberties and the way of life that have
10 made this country a symbol of freedom and of opportunity
11 for people around the world.

12 Both Governor Ridge and Deputy Secretary
13 England have consistently articulated within the
14 organization their belief that the dignity of the
15 individual is central to our vision of successfully
16 achieving the mission of protecting the homeland. So,
17 while safeguarding the people and places of our country,
18 we must also safeguard the lives and liberties, the
19 dignity, the uniqueness, and the privacy of the
20 individual.

21 The protection of privacy is neither an adjunct
22 nor an antithesis to the mission of our department.
23 Privacy protection is central to the core of our mission.

24 But homeland security cannot simply be the
25 domain of one Federal agency, large in numbers though it

1 may be. The defense of our homeland is a part of all of
2 our mission as government servants, as individual
3 citizens, and as corporate actors.

4 As both Commissioner Swindle and my former
5 boss, Commerce Secretary Don Evans, have said on numerous
6 occasions, corporate America can and should be playing a
7 role in creating a culture of security, that it is part
8 of everyone's civic duty, as well as simply good
9 management of your businesses. I will take that even a
10 step further. We must leverage good old American
11 ingenuity towards creating a culture of security and a
12 culture of privacy in the development of our corporate
13 and governmental resources, both in our technological
14 system and in the richness of our policy debate.

15 And so, I ask for your partnership and your
16 leadership as we develop together technologies that
17 achieve whatever our missions may be, whether it's
18 selling widgets in Wichita, providing mortgages in
19 Montana, or securing borders near Buffalo. Let us be
20 cognizant that building privacy and security into systems
21 is essential, as these systems are increasingly the
22 backbone of this country.

23 A recent report said that almost 90 percent of
24 the critical infrastructures of the United States are in
25 private hands. We need those hands to be custodians of

1 the public trust, just as we need our government entities
2 to uphold this public trust.

3 Many of you in the room represent industry
4 sectors that deal with personal information in one form
5 or another. Achieving good customer services, in many
6 cases, requires, even demands that your companies know
7 how to best serve their customers by knowing who their
8 customers are. But good privacy and security practices
9 further demand that you serve your customers responsibly
10 and with respect for the sanctity of their personal data.

11 Similarly, achieving our mission at the
12 Homeland Security Department will require the use of
13 personal information about citizens and non-citizens
14 alike. Our challenge at the department is to ensure that
15 such data is used only in a manner that is limited,
16 respectful, and responsible.

17 Having partners in the private sector who can
18 both demonstrate and demand the responsible treatment of
19 data, both by themselves and by their government, is
20 essential to our successfully achieving the department's
21 goals.

22 It has been said that the department is
23 engaging in unprecedented uses of technology to achieve
24 its mission.

25 This is said by people who are both happy about

1 this and unhappy about this. As a former member of the
2 technology sector, while I'm certainly very pleased to
3 see technology leveraged and used and I'm increasingly
4 confident it will be used wisely over time, the
5 department must seek to leverage the best, the most
6 efficient, and the most cost-effective tools to achieve
7 our mission. The department must seek to be agile,
8 perhaps more agile than one would ordinarily expect from
9 a government organization of 180,000 people, but such
10 agility is required for the war on terrorism.

11 And in this mission of securing our homeland
12 with speed, with effectiveness, with agility, we must
13 leverage the brilliance of our private sector's
14 technological prowess. We must also learn from and
15 leverage the private sector's awareness of the importance
16 of both privacy and security and their willingness to
17 embed these values into new technologies.

18 It is certainly an important challenge to
19 achieve security, which we need to flourish as a country,
20 as an economy, as a community, while simultaneously
21 protecting the rights and the privacy of the individual.
22 But I am confident that we will have your help in this
23 mission, and there is more than one way to serve and to
24 engage.

25 Beyond building good and secure and respectful

1 systems that allow the country to grow and allow your
2 enterprises to grow, we must also engage responsibly and
3 civilly in the debate over how best to achieve security
4 for these systems and for our country, while still
5 protecting individual privacy.

6 In fact, our ability to have this free and open
7 debate is a direct result of the freedoms which are the
8 bedrock of our society and which we seek to protect.

9 Our willingness to engage in this conversation
10 is again a sign of support and respect for our country,
11 our colleagues, and our citizens, and I want to recognize
12 each of you who are present today and who will
13 participate on the various panels, people like Larry
14 Ponemon of the Ponemon Institute -- I'm sure you'll be
15 hearing frequently in the future about Larry's recent
16 ground-breaking benchmark study that analyzes trust
17 issues relating to how organizations collect, use, and
18 maintain data.

19 The privacy trust survey provides information
20 to industry and to government on the comparison of
21 individuals' trust.

22 And people like Gary Clayton, whose Privacy
23 Council has worked assiduously to create bridges and open
24 lines of communication among government, industry, and
25 advocacy communities.

1 And of course, thinkers like Marty Abrams,
2 whose work on identity and notice and pattern analysis
3 has been instrumental in developing governmental and
4 industry awareness of these issues.

5 We've got representatives of our many corporate
6 leaders -- IBM and Dell and Oracle and Visa and more --
7 and, importantly, we have representatives of the advocacy
8 and policy communities -- people like Ari Schwartz of CDT
9 -- whose organizations play a crucial role in
10 representing the interests of the individual in these
11 discussions on the use of personal information.

12 So, I challenge each of you today to question
13 the limitations of technologies, as well as laud the
14 opportunities, and to remain vigilant to what we're now
15 calling -- and here I give Marc Rotenberg of EPIC some
16 credit -- P4T, the need to integrate people, policy,
17 practices, and procedures with technology towards our
18 goal of respecting the sanctity of the individual.

19 I encourage you to think beyond the ordinary
20 framework.

21 There has been much conventional wisdom about
22 privacy and security that has been more convention than
23 it has been wisdom.

24 Privacy and security are not an either/or
25 proposition.

1 Those who seek to make this country secure need
2 not be heedless of privacy, and those who seek to ensure
3 privacy do not necessarily seek to make this country less
4 secure.

5 Let us remember and let us heed Franklin's
6 words that those who would give up essential liberty to
7 purchase a little temporary safety deserve neither
8 liberty nor safety. Let us strive to deserve both.

9 Thank you.

10 (Applause.)

11 **PANEL 1:** The Process of Protecting Consumer Information:

12 Creating a Business Plan Using a Hypothetical

13 MS. LEVIN: Thank you, Nuala, for your remarks.

14 They're very inspiring.

15 I just have a couple of other announcements
16 before we get on with our first panel.

17 First, in your folders are the bios of the
18 people that you'll be hearing from today, so our
19 introductions are going to be very brief.

20 There are also hand-outs for the slide
21 presentations, at least most of them, so you'll be able
22 to take them home and not have to worry about jotting
23 down lots of notes during the panels themselves.

24 All of this will be posted on our website,
25 ftc.gov/techworkshop, so that you'll be able to view the