FTC FinTech Series: Crowdfunding & Peer-to-Peer Payments
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Segment 2
Transcript

[SIDE CONVERSATIONS]

EVAN ZULLOW: All right. Welcome back, everyone. This is going to be our second panel of the day on crowdfunding. Again, my name is Evan Zullow. I'm with the FTC's Division of Financial Practices, and I and Elizabeth Kwok, who's an investigator with the Division of Financial Practices, will be co-moderating this panel. We'd like to really thank our six panelists for coming here today from other parts of the country, in part.

And so I wanted to just go ahead and introduce them briefly, starting from our right to left. First we have Andrew Dix, who's the CEO and founder of Crowdfund Insider, a news and information site covering disruptive finance, including crowdfunding, for us, peer-to-peer and online lending, and other forms of FinTech.

Next to Andrew is Joe Magee, the co-founder and Chief Operating Officer of RallyBound, which is a fundraising platform that does work with nonprofit organizations. Next to Joe is Ira Rheingold, the Executive Director of the National Association of Consumer Advocates, an organization dedicated to protecting consumers from unfair and deceptive business practices. Next to Ira is Michal Rosenn. She's the General Counsel at Kickstarter, the very well-known crowdfunding platform for funding projects.

Next to Michal is Tom Selz, who's a founding partner of Frankfurt, Kurnit, Klein and Selz. And he's worked on behalf of clients in the crowdfunding space. And last, but not least, is our own Helen Wong, who's currently serving as counsel to the FTC's Director of the Bureau of Consumer Protection. And she's worked extensively on FinTech issues, both there and in our own Division of Financial Practices. So again, thank you all so much for coming here today.

And we thought we'd just kick off with some fundamentals for those in our audience who might be less familiar with this marketplace as to, really, what even defines crowdfunding. And so I guess I'd just put it to our panel and, perhaps, start with Andrew as to when, in your view, does what people might have thought of as fundraising a decade ago become crowdfunding in today's marketplace?

ANDREW DIX: Well, I think that crowdfunding has become a popular term, but it's really-- the internet is the innovation here. The internet is allowing many people to fund a single project or to invest in a startup or some other type of asset class. And so, really, I think the Chinese have it right in calling it internet finance.

But crowdfunding has become a popular term to reference rewards-based donations, investment-based. But at the same time, there remains an off-site element to that, as well. And I think that's fine. I think that's part of the conversation.

EVAN ZULLOW: How about Michal? Do you have any thoughts about--

MICHAL ROSENN: Yeah. I think Andrew is completely right in noticing that crowdfunding is really this old idea, a combination of old ideas just applied to the internet. So whether it's patronage-- the centuries-old model of patronage-- or going out to your community and raising funds, these things have existed for a very long time, in a lot of different forms. And they're just coalescing on the internet, and certain platforms are bringing these things together.

THOMAS D. SELZ: Speaking as a lawyer, let me just add that I think it is still important to make distinctions in terms of the type of crowdfunding that a company or an entity or a contributor is looking at because there are different rules and regulations that apply, for example, to equity crowdfunding, where people expect to get their money back.

Equity crowdfunding could be broad enough to include market lending or online lending, where people hope to get their money back with an interest factor, as opposed to what we're going to be talking about today, which are donation model crowdfunding or reward model crowdfunding, each of which has its own peculiar rules and regulations which apply to it.

HELEN WONG: And I will just add that-- because I'm with the FTC-- consumer protection always applies. As everyone else has mentioned, crowdfunding is very broad. It can be as simple as fundraising for a bake sale or, today, as we know crowdfunding, you're using these new platforms that consumers can really gather together and raise funds for a cause or support a project they really like. But basic consumer protection principles of don't deceive consumers, don't defraud them, and don't make unfair promises still apply.

EVAN ZULLOW: Thank you. And you've already started to pivot into it to the next question, which is, if we could, it would be helpful to just walk through what now exists as the major ecosystems or categories of crowdfunding in the modern marketplace. I know Tina briefly touched upon the two that we're most likely to want to talk about on this panel, rewards-based and donations-based, but could someone offer a little bit more of a detailed description as to what those are, how those differ, and then some of the other categories, like equity, which Tom mentioned?

JOE MAGEE: So I can address the donation side. So we work with nonprofits to help them raise more money online. And crowdfunding really comes into play when the individual is asking for the funds, as opposed to the organization's brand-- so whether a cancer survivor is asking for a donation on behalf of, say, Susan G. Komen. So that's really what defines crowdfunding in the nonprofit and donation-based space.

And those can also be applied to things like personal fundraising, peer-to-peer fund raising. The terminology is pretty consistent, where the individual supporter is getting the network effect for the organization.

EVAN ZULLOW: How about the models? Rewards-based-- I think, Michal's a natural fit to address that.

MICHAL ROSENN: Yeah. So Kickstarter is a rewards-based crowdfunding platform. And what that means is that a project creator comes and presents a project on the platform. It's a finite project, looking to create something new. And backers can come take a look at it and pledge to it if they want to see the creator try to make this thing or do a dance performance or put on a music festival or something like that.

And in exchange for backing the project, they receive a reward. They can elect to receive a reward. They can also pledge without receiving one. But in contrast to equity-based crowdfunding, which we can discuss next, the backer doesn't receive any interest in the project or in the company or anything like that. All they get is the reward.

EVAN ZULLOW: All right. And, actually, on the equity front-- Tom, you mentioned it for a moment. Would you be willing to describe the equity crowdfunding ecosystem?

THOMAS D. SELZ: Yeah. I mean, we're really not here to talk about equity crowdfunding today. I could go on all day just about that. But let me just say in passing that's the domain of the SEC rather than the FTC. The SEC has come out with a series of regulations addressing different types of equity model crowdfunding where, people, basically are putting funds into a project with the hope that they will get their money back and something beyond that. It may be interest. It may be equity. It may be a percentage of the profits.

And there are very interesting rules and regulations around that. I think the most interesting thing that the SEC has come up with is Regulation A, where you can raise up to $20 million a year in a Tier 1 or up to $50 million in a Tier 2. Different rules and regulations apply to the different tiers. But I think that really will open up the gates to people being able to raise a lot of money in a very short period of time using the power of the internet in order to reach out to people who are interested in their particular project.

Let me just add one quick thing in response to what Joe said about donation model crowdfunding. Donation model crowdfunding-- you have to be very careful, particularly if you're trying to do something, what you think of, as a charitable donation, that donation model crowdfunding suggests that it may be something where you get a charitable deduction for the donation because donations are associated with charitable giving. 501(c)(3)-- you get a charitable deduction.

That's not always true, depending on whether you're giving money to a nonprofit or to an individual. So from a consumer point of view, asking for money from a donation model, making a donation raises all sorts of interesting issues in terms of what disclosure has to be made.

HELEN WONG: I will note one thing, though. The FTC protects all consumers. So to the extent that there is an equity crowdfunding campaign that is just completely fraudulent, that would be a problem with us, too.

ANDREW DIX: That's good to know.

THOMAS D. SELZ: You'll have both agencies after you.

ANDREW DIX: Yeah. I'd like to add one thing there. And I agree with everything that was said down there. But what you are seeing, within the investment-based crowdfunding sector or the securities-based sector-- debt equity, preferred, or convertibles-- you're seeing the merging of a perk and an investment. And I think you're going to see that evolve over the coming months and years.

You can look at BrewDog, which is one of the largest equity crowdfunding campaigns ever, globally. Any time you invest in that company, you also get some perks-- free beer, membership. And I think you're going to see some more creative utilizations of the combining of rewards and securities.

ELIZABETH KWOK: So Joe, as we talk about the differences between donations-based and rewards-based and talk about how consumers are interacting with these platforms, I wanted to give a chance for you to describe a little bit about what RallyBound is and how you interact with both the campaigns and consumers.

JOE MAGEE: Yeah. So our platform's a little different in that we power the philanthropy that's going online. We don't necessarily sell it or purport to give rewards or process the donation, necessarily. It's completely white labeled. It's completely customized for the organization. So supporters, donors, fundraisers might not even see the brand of RallyBound. What they're really going to see is, say, the Michael J Fox Foundation or Sierra Club.

So our terms and conditions, our exposure as it relates to consumer and privacy, is really different in that we work with the client to make sure that their privacy policy is clearly displayed on our campaign pages, that in donation confirmation auto responders, that the necessary information is available to the donor so there can be a tax deductible receipt if it's a 501(c)(3). So it's really on the onus of the organization to use the tool in a manner which is making sure that their donors understand where the money is going, the fundraisers understand why they're raising money, and that the organization is actually processing the money directly through their merchant accounts.

ELIZABETH KWOK: Great. Thank you. So as Commissioner McSweeney mentioned at the beginning of these events, both rewards- and donations-based crowdfunding is only continuing to grow and expand into different markets. So Andrew, would you mind talking a little bit about what this continued growth could look like and any important trends that our audience should be aware of?

ANDREW DIX: Well, I think that we are going to continue to see it grow and evolve and mature over time. Kickstarter has raised several billion-- you can correct me on the exact amount. Indiegogo is not quite as transparent as Kickstarter, but they have stated publicly that they've raised over a billion. And beyond that you have platforms like GoFundMe that has raised I think over 3 billion now. And so that's a pretty good amount of money.

I think the security space is going to be far, far larger. But we're really not talking about that here, right now. And also, I'd like to add that I think Indiegogo has made it clear that they are going to get into the security space, which will mix things up a little bit and make it more interesting for you guys at Kickstarter.

ELIZABETH KWOK: Michal, do you have any thoughts about what growth and other trends will look like?

MICHAL ROSENN: Yeah. I think that the direction these things are going to move is you're going to see a development of the different silos within crowdfunding. So as equity crowdfunding develops, and certain platforms move into that, I think you're going to see people developing an expertise and really move on from this initial stage of everyone kind of exploring crowdfunding in a more general sense and really stake out their ground of--

So Kickstarter, for example, is in creative projects. So we're going to, very much, expand our idea of what it means to be a crowdfunding platform for creative projects. Indiegogo, for example, is going to be moving into equity crowdfunding, and I think has developed in demand, for example, and exploring pre-sales and things like that. So I think you'll see an increase in specialization.

ELIZABETH KWOK: One of the trends that we have observed is this idea that crowdfunding is a space where you can get your initial round of funding. And then, after you've gotten some publicity and, perhaps, demonstrated a success, you can seek out more traditional forms of financing such as venture capital or other private equity. Does anyone on the panel have any thoughts about this development and, perhaps, where it's going to go?

THOMAS D. SELZ: I do think that people trying to raise money should think about it sequentially because, I think, even for something like Title III with the SEC confuse the matter even more by calling that regulation crowdfunding, whereas that's just merely one of the crowdfunding opportunities for raising money-- that, if you think about things sequentially, you can think about how much money do I need to get this project off the ground?

And if you can do that successfully, by setting a low enough goal that you're not trying to do all or nothing, you can then have a better shot at raising money in the next round because you have demonstrated success in the first round. You've demonstrated that there really is-- there are people out there who want to contribute to this cause, or there are people who want to give some money for this. There are people who think that the reward that you are going to be making available is something worth taking a look at.

And so you can have raised money for development, for example. You can raise money for an initial prototype. You can raise money to do a charitable event or charitable cause on a more limited basis before you go wider with it. So I think there's a variety of different ways to think about crowdfunding as a sequential opportunity, rather than just trying to raise all the money you need for what you're going to be doing.

ANDREW DIX: Yeah. So I'd like to add that rewards-based crowdfunding has clearly become a solid step in the capital ladder. It's a methodology for start-ups, early-stage products, or projects to prove the marketability or viability of what they're attempting to achieve. And that's pretty cool because it saves a heck of a lot of time in accomplishing your goal. You can fail fast or you can succeed quickly. So that's a good thing.

On the other side, you also have seen established companies utilize a rewards-based crowdfunding platform like Kickstarter or Indiegogo to market their product or their project. It really wasn't so much about raising the money. They didn't necessarily need that. But it was a way for them to push an initial product out to the market and gain feedback. And there's value to that.

JOE MAGEE: Yeah. As a co-founder of a tech company, you're able to provide product market fit and market it and validation much more quickly in launching a product that is to a smaller community, at a smaller price point, to get them in the door. As a consumer, I've been able to get sunglasses and t-shirts at first buys and early access, too, by supporting projects early, say, on Kickstarter or Indiegogo.

On the donation side, it also applies where we look at crowdfunding specific to nonprofits, as the first touch point in that donor or fundraiser journey. So if you're able to get, say, your mom and dad to reach out to their friends and family and get that initial $10 or $5, you're now in the database, the donor record database. And you're able to remarket to them about cause-based initiatives or programs or events in their local area. So for a national nonprofit, or even a smaller one that starting out, if you're able to gain that net effect through early supporters, you can provide a substantial launching off point to start your nonprofit.

MICHAL ROSENN: Yeah. And I think one small anecdote to support this idea, that this is increasingly becoming a unique and legitimate and recognized form of fund raising, is DHS recently put out a proposed rule called the International Entrepreneur Rule, which, basically, it's an immigration rule that will allow certain internationally based entrepreneurs to be granted what's called parole and be permitted into the country.

And we submitted a comment, but we were not the only one. And there were a number of people who made this point in their comments, not just from crowdfunding platforms or people interested in crowd funding. But part of the rule is a demonstration that you've received a certain amount of funding, and, as it was proposed, it said from certain qualified investors.

But we made the point, as did others, that success on a crowdfunding platform, whether rewards-based or whether equity, should be and is considered nowadays a legitimate form of demonstrating that you have financial support for your idea.

THOMAS D. SELZ: The downside to that-- and it's a very important downside to keep in mind-- is that, while the internet can be very useful in a way of proving your product or proving your concept, if it doesn't work, if you don't raise the money, if things change, and you don't keep the people who are involved advised of that, it can very quickly become a very big negative.

So while it may be very useful as a way of building a market, for example, or of demonstrating that you've got something that's really very good and that people want to donate to, if you do things that alienate the base, if you don't stay in contact with them-- I was very surprised at the presentation before, that most of the platforms at the top 20 that had been reviewed did not stay in touch with the people who had given money. There was, I think, only one or two that actually stayed in touch with people, and only then, if the people had already given money.

And I think from somebody's who's trying to raise money, it's very important to stay in touch with people because, if you don't, and either it takes too long, or they don't like what you're doing, you can very quickly have very negative buzz spreading. Just as much you can get positive buzz spreading, you can get negative buzz spreading. And if you don't spend time dealing with the people who you're reaching out to, it can come back to haunt you.

And just one other quick comment-- the international aspect of things also has to be kept in mind. A lot of the rules and regulations that we're dealing with here are in the U.S. or state by state. And there are different rules and regulations outside the U.S. The internet is world-wide, but just because you can reach out world-wide on the internet, doesn't mean you can accept money from world-wide.

ELIZABETH KWOK: So several of our panelists have already started touching upon the benefits of crowdfunding. But I was hoping that Michal could talk some more, specifically, about benefits for businesses as they enter this expanded realm of crowdfunding.

MICHAL ROSENN: Yeah. I think the way that we view the benefits of crowdfunding is as a counterbalance to a system where raising money-- so for us, specifically, for creative or cultural pursuits-- is dominated by incumbent corporate interests or financial institutions, where this not only is difficult to break into if you don't already have a foot in the door but also leads to the perpetuation of a monolithic culture, whether it's the same kind of movies or the same kind of music.

And so when we think about what kind of role our platform serves, it is to give a platform for diverse voices and to elevate those different kinds of voices and to provide opportunities for funding for people, for companies, who otherwise might not have found it in the existing market.

THOMAS D. SELZ: One quick comment-- I feel like, as a lawyer, I'm being very negative. And I don't mean to be. I think this is all a wonderful opportunity. But in terms of whether it's the rewards-based crowdfunding or even the charitable donation model, think about the costs that are associated with it. When you're trying to raise money, don't expect the money that you're listing as your goal to be money you're going to be able to use for the goal that you're setting.

In all of these different categories, there are costs that are associated with it. If you're doing a rewards-based crowdfunding model, think about the cost of the reward that you're going to be supplying. If somebody's supplying t-shirts, there's a cost to making the t-shirts. There's a cost to manufacturing it, to shipping it.

The taxes are an issue. From an IRS perspective, if you're doing a rewards-based crowdfunding where you're supplying a product or a service, that is a pre-sale of the product or service, which is taxable. The state tax authorities view that, as well. There was one situation in Washington where the person raising the money on a rewards-based model basically had people in multiple counties within the state and had to figure out what the local sales tax was in each of the counties. And the amount of money that they raised wasn't worth the effort that had to go in to figuring that out.

So you have to be aware of the tax consequences of what you're doing for rewards-based crowdfunding. You have to think of the costs that are involved and the time that goes into it, in terms of staying in touch with people.

EVAN ZULLOW: All right. And pivoting to potential benefits to consumers in addition to the campaigns-- does anyone have additional thoughts?

JOE MAGEE: I mean, for nonprofits, they're able to, having intrinsic motives to support causes or have philanthropic efforts-- I think, that for an individual to say that they've given money to a loved one or in memory of or in honor of-- I mean, I think, one, it just feels good. But, two, there's a really strong trend in our industry to really try to define tangible impacts of what, say, a $10 donation is going towards for a nonprofit organization.

So you're able to have a feedback loop in which you could see, I helped build that well in Africa, or I helped fund drug research in this specific disease. So for not only feeling good about it, but you actually get to see tangible results of where your money is going. It's one of the big draws for consumers to continuing support donation-based.

MICHAL ROSENN: Yeah. And I think that extends beyond donations-based, as well. And what we see is backers being just really thrilled to have the opportunity to be part of the creative process and to see the development of a film or a product that they really have always loved, a new project by a game producer that they've always loved.

I mean, one of the more famous projects that ran on Kickstarter was the Veronica Mars movie, which took-- I think it was a movie or a TV show. That's my ignorance about it. That had a cult following, and they created a movie about it. And just the excitement from everyone who had been a fan and being able to be part of this and, as a reward, being able to go and visit the set-- I think it speaks to that community.

ANDREW DIX: It's a creation of a community

MICHAL ROSENN: Exactly.

ANDREW DIX: It creates community.

THOMAS D. SELZ: I think there were 93,000 donors to that campaign.

MICHAL ROSENN: Yeah.

ANDREW DIX: And we're all digitally empowered now. So creating a virtual community, it has value.

MICHAL ROSENN: Absolutely.

ANDREW DIX: I mean, that's how we live today.

JOE MAGEE: I think there's also being the first one, being able to be in-the-know, being an early supporter as it relates to creative projects or, say, new technologies or even new apparel-- to be able to have the first one, to get it, or to be able to say that I contributed to the project, I think, is also pretty special and allows consumers to have that sense of feeling in crowdfunding.

ANDREW DIX: And I agree with that. I think there is an opportunity. There's some value there to get something that's unique or be early or at a lower price. But as Kickstarter likes to say, they're not a store. And I think that too frequently people just treat it like it's a trip to Amazon.

EVAN ZULLOW: Well, that was a nice little pivot into the next topic, that, of course, we would want to address, which is the potential risks. Of course, this is, as you saw on our first panel, it's across financial technologies. Some of the themes are somewhat similar. But we want to drill down a little bit as to what some of the challenges are in the consumer experience and also, of course, because we're the FTC, the potential for deceptive or unlawful conduct.

And so just to start things off, as a jumping off point, we're hoping that Helen-- who led the action that the agency took in the Forking Path matter-- we're hoping you could briefly describe the conduct that was at issue there for our panelists and the audience.

HELEN WONG: Yeah. Sure. Commissioner McSweeney talked about it briefly.

So the FTC's first crowdfunding case was FTC v. Eric Chevalier. And there, the concept was very simple. The campaign organizer promised his backers that, if the campaign raised $35,000, the backers would receive certain rewards like the board game and certain specialized pewter figurines. He ended up raising over $122,000, but, instead of using that money to create the board game, he used it on himself-- on rent, on moving fees, on licensing fees for another project. So that was deceptive because he didn't create the game, and he didn't provide refunds to consumers.

And that is an example of something that we would find to be deceptive and a problem. And I do want to note that deceptive conduct can apply across the board. It doesn't really matter whether it's the campaign organizer or the platform. At the FTC, we really are concerned about what representations are being made to consumers and whether those representations are true.

THOMAS D. SELZ: And the FTC should really be commended for this particular action. One of the things that Helen didn't mention is that, when the people who had been contributing for this board game, in fact, never got it, they went to the state attorney general where the person had moved. And the state attorney general declined to pursue it and said, I'm sorry. You're just out of luck.

And it was the FTC that stepped in and helped. I don't think they could get any money back, but they were able to fine. And they, really, gave some sense of closure to the people who had been misled by the person who was using this campaign. So the FTC should be commended for that. And it is another alternative where people can go if they feel that they haven't gotten what they're supposed to be getting.

HELEN WONG: I will just add that-- so thank you for that. And I don't know the background with the AG's office, but we really do partner with AG's offices. And we see them as partners. So to the extent that consumers see a problem, we tell them to complain to the FTC, complain to the AG's offices. We're always happy to work with different states.

IRA RHEINGOLD: Right. And one of the first actions, actually, was the Washington state AG who took an action against an actor who was engaged in deceptive practices. I've been doing consumer protection work for a long time. And so, while I think the whole notion of crowdfunding is a good one-- I fought with financial services companies for a long time. So any way you can get them out of the picture, in some ways, is never a bad thing. And finding new and creative ways to fund important projects is good.

But when there's large amounts of money involved, the danger of fraud grows. And I think that the question for me is, what kind of duties, what kind of due diligence, needs to be put in place for the platforms who are actually making money on this whole process. So where the FTC, what we've gone after-- and I think that's going to be the question as we move ahead because we talk about the potential for growth here. How much money is going to get involved?

And the more money becomes involved, and the more people have access to it, the greater the reputation grows. I mean, Kickstarter or Indiegogo, these companies, really-- their reputation is incredibly important for this stuff to work. You can go to these places and feel like this is a safe place where I can donate money to, that I'm going to be treated fairly, and the campaign I'm giving money to is something that's legitimate. Why? Because they're present on these platforms.

And for me the question not only is, how do we monitor the folks. Well, how do agencies, regulators, private consumers monitor the folks who are asking me for money? But then, what are the duties and obligations of those platforms? And I think that's going to be the big question as we move forward here-- is, how do we set up the rules of the road.

So the platforms are making money as part of this process. That's their business model. But then, the question is, what are their duties to investigate. What's the duty to make sure that the people who are using their platform to collect money from consumers are legitimate, are engaged in fair practice? So it's great that we go after the game maker. But then the question is, what was the duty. What initial investigation was done? How did we determine that this person was eligible to use our platform to make money? And I think that's a particularly interesting question that needs to be answered as we move forward here.

EVAN ZULLOW: Thank you, Ira.

THOMAS D. SELZ: Unfortunately, a court in Maryland answered that in the negative. Last year, there was a case involving GiveForward, where there was a fraudulent campaign that was run on it. And the people who donated, sued. And the court in Maryland said the platform did not have a responsibility for the content on its site, even though it was fraudulent. They cited the Communications Decency Act, the CDA, section 230, and said that precluded the platform from having liability for the fraudulent content.

That doesn't mean that the platforms themselves, in many cases, disclose any liability if they say on their sites, we are not responsible. I mean, Michal, you can talk about that.

ANDREW DIX: Well, I think that you're right because they say quite clearly on their sites that they're not responsible. They're just matching creator and contributor. That being said, I think many people who are backing these campaigns don't quite grasp that concept. And so I think it's a bit of a struggle and a challenge there.

I do think that both main platforms have continued to push forward and find better, more effective ways to effectively vet campaigns that may be fraudulent or bogus. And I think they're going to continue to do that. And I think they should. I think that's part of the evolutionary process. And I'm sure you can share your perspective.

EVAN ZULLOW: So just to take a quick step back. And these are the exact issues that we wanted to walk through step-by-step. But at even a more rudimentary level, when thinking about an egregious case of the sort that Helen described-- how common is this kind of thing, in your views, in the marketplace? How common has it been? How common is it now? And just how much of an issue is it and could it be?

IRA RHEINGOLD: I'm not sure it's that common yet. Again, as we've talked about before, there's nothing particularly new here. We're talking about fundraising. We're talking about money for investing in products. So whenever you see money being taken from one person for someone else, there will be scam artists. There will be people who will be looking to take advantage of it.

I think we're still in the early stages here. And I think the risk is, as the amount of money grows, as the opportunity grows, the risk becomes greater. And I think we're still early enough in this process that we can create the rules of the road to make sure that people aren't harmed because you can be damn sure, if there's an opportunity to collect money from a large group of people, there will be people looking to take advantage of it.

EVAN ZULLOW: So do you think that the platform should be creating those rules or the government entity stepping in and determining that?

IRA RHEINGOLD: Well, my personal opinion is that, while I'd like the industry to self-regulate to a certain extent, I'm always looking for a regulatory body to create some rules, as well. I've never been a great believer in self-regulation in and of itself. I'm never a big believer in disclosure as being sufficient, either. Again, that's my personal preference after working for decades in this area.

I think it's important. I think the industry should take the first step in really doing that self-regulation. And may, in fact, be sufficient. But I think, ultimately, there's got to be some sort of rules that everyone recognizes about what their duties are.

JOE MAGEE: From a platform perspective, as we are one, we have a little different benefits in that we sell the platform. It's not a free platform. It's a software that we sell to nonprofit organizations. So there's a higher barrier to entry for our clients, specifically. But just like technology has enabled crowdfunding, it is, in my opinion, that the volume and scale will be such that technology should help solve the issues that come up.

For instance, Stripe, one of the payment processors, just released some artificial intelligence and algorithms to start preventing fraud and fraudulent submissions through, say, hackers, using machine learning to start doing predictive analytics around submissions and transactions. So the volume and scale at which some of these projects are being created and funded at-- we're going to have to use a technological approach to address some of these issues as it relates to consumer protection.

EVAN ZULLOW: Thank you. And that leads to another interesting question, of course, which is, in the current environment and looking ahead, what's being done by the platforms, for example, and any of the other players in the industry to take steps before something bubbles up, a potential fraud or unlawful activity or even just problematic conduct that inconveniences or bothers consumers. What are some of those steps that take place? Michal?

MICHAL ROSENN: Yeah. To answer that as well as a few other questions-- so first, when we're talking about actual fraud of the type that occurred in the Chevalier case that Helen worked on, and, I think, what we're talking about here-- and Ira, I think you mentioned that this is very rare. And it is. It's extremely rare on our platform. It's happened, literally, maybe, a handful of times, potentially.

And there are all sorts of reasons for that. As a platform, we make it a high barrier to entry so that it's not a place where you can just come and get money. It is, as Tom mentioned, it's difficult to run a crowdfunding campaign on a platform like ours. It is not easy. We have an all-or-nothing platform so that you have to meet the goal that you set before you get any money.

But I want to take a step back and differentiate the two kinds of concerns we have when it comes to consumers. And one is that classic fraud, a scam artist coming on the platform to raise money for illegitimate purposes. And the other is the fulfillment risk that we see of a project not fulfilling on the rewards that were offered in the campaign.

And I think it's imperative that we think about these and address them in completely different ways. So a lot of times, when people in the press or consumers talk about the consumer issues around crowdfunding, what they're talking about is the latter. The fact that they pledged for a reward and didn't get it. And those are the majority of investigations that we've seen by regulators, by state AGs.

And I think this is where there is a lot of work to be done on the regulators and law enforcement side and on the consumer side, in terms of making clear what crowdfunding is and what it isn't. And making clear that, when you are backing a project on a site like Kickstarter, you are not going to Amazon. You are not buying a product. You're supporting an idea that doesn't exist yet. And, as with any sort of creative endeavor, there is a certain level of risk involved with that.

There was a study at the University of Pennsylvania that was done last year that looked at projects on Kickstarter over the course of the nine years we've been around and found an average failure rate of projects of about 9%. So about 9% of projects across the board did not end up fulfilling the rewards. And that's a failure rate that is important, that backers know when they come to our site. And, as a platform, and, I think, as regulators, our role is to ensure that people understand the risk and people know what they're doing when they're backing a project and what they're not doing.

ANDREW DIX: Yeah. I'd just like to jump in there because I agree with what you said. It's always buyer beware. And it's not a trip to Amazon. And I also will commend Kickstarter because I think they've made some changes to the platform that have improved the overall reliability of the projects that are offered on the site.

A basic one is they will not list a campaign without a working prototype. I think that's pretty big because Photoshop is pretty easy to use. And they have kicked off numerous campaigns that really didn't quite cut it. And I think that's a good thing. That's a starting point. Of course, those campaigns quickly go to another site and launch their campaign there, for better or for worse.

But I will commend Kickstarter on the degree of transparency they've attempted to achieve. You had that drone project, which was a huge failure to deliver, and they did some research. And they actually published a pretty detailed document as to what exactly happened. And I that's a good thing because people want to know. I mean, the worst thing you do is you leave people hanging there, and they have no idea what's going on.

When a campaign goes dark, that's a bad sign. When a creator goes on to the page and says, look, I screwed up, I can't do this-- some people are willing to cut you some slack. It doesn't make it easy to lose money, but that's part of the process.

IRA RHEINGOLD: I just want to respond to one thing I heard because-- I mean, it's a bunch of things. I mean, I agree with most of what you said. I really do. I think that, in fact, there has to be an awareness. I mean, I think part of the education process, part of teaching consumers when they're entering this process, is there's no guarantee, that we're trying to fund something that, otherwise, might not get funded, and it may fail. And that's fine because not every idea that's going to go forward is going to go forward and is going to succeed.

And that's not fraud. That's simply people doing their best, and things go wrong. And there's nothing wrong with that. And, in fact, I think that's what we're trying to accomplish here, in some ways. I don't buy the notion that it's a simply buyer beware notion. I don't think it is buyer beware. I think that, in fact, there are some responsibilities here.

And the fact is that, when people step up to give at Kickstarter, there's a certain base of trust there. There's certain responsibility for-- and I don't mean to pick on-- we're just sitting next to each other, and it keeps coming up, but it's any platform. There's a certain responsibility. And it's not simply, hey consumer, you're taking all the risk because you're entering into this process here-- and that, in fact, there is some responsibility.

We have a concept-- I mean, one Maryland court may have said that there is no platform responsibility. I'd make the argument in other instances where, depending upon the circumstances, I think we could probably find something else. I practiced law for many years in the state of Illinois, and we had a concept that we called "fruits of the fraud." And the notion was that, if you knew or should have known that someone was engaged in fraud, and you profited from it, then you were liable for it.

So again, it goes to the duty of what is the responsibility of the platform to determine whether or not this act was fraudulent. Now, we may have enough analytics at this point. We may have enough machine learning, enough data, and there are enough systems in place to make sure that we're going to knock out some of those frauds. But I think that's one of the essential pieces here-- is that the platforms that are engaged in this process have put systems in place that not everyone can get access to it, and they do some vetting before someone steps forward.

One other point I would just add-- I think, as we sit here today, we may be right that there is a higher point of access. My concern-- again, I bring the cynical consumer advocate perspective to this stuff-- I've been doing this for a long time-- is I'm not as concerned as we sit here today. What I am concerned about is what happens when the scope continues to grow, and there's this push to get more and more profits, and we try to grow bigger and bigger.

And we lose that oversight as we move along. We saw that in the financial services industry, where they just grew too big, too fast, and the oversight that needed to be put in place, the due diligence that needed to be necessary, really disappeared. So while we sit here today in an industry that is 9 years old-- the companies are 9 and 10 years old-- and things are in place, and they're working well-- what happens when the scale gets much more massive? Do we do we still have those systems in place to protect consumers? And I think that's the risk that we need to address now before we move forward.

JOE MAGEE: So no doubt this industry is only going to be growing and at a quick, faster rate.

IRA RHEINGOLD: Right.

JOE MAGEE: At least on the donation side, the nonprofit industry is quite highly regulated as it relates to disclosures and transparency. So we don't necessarily have some of the intricacies that, maybe, a rewards-based platform would have. But there's tons of watch dogs-- Charity Navigator, GuideStar-- out there that rate and rank nonprofits based on how much they spend on overhead, how much they spend on programs, and where their money goes to and how quickly, executive pay, and so on and so forth.

So we do have the benefit, at least on the donation side, of consumers being able to access information through other third parties to vet these projects and these organizations.

HELEN WONG: I'm sorry-- so I just want to note one thing. We're talking about fraud. And that's really important. But I do want to note that the consumer protection is not just about fraud. To the extent that we have these projects, whether it's issue fulfillment, or you just don't know whether or not something is fraud, other parts of consumer protection regulations do kick in.

So we talked a lot about disclosures in the first panel and today. And I think that's something that is everyone's responsibility. You have to disclose. And another aspect that I think is really important when you're not sure whether or not a project is fraud is dispute resolutions. Do consumers know where to go when something goes wrong? Is there a process in place, and is that disclosed?

And we talked a bit about fees. Are consumers aware how much fees are taken off the top when they make a donation? All these things are issues that we look at. And it's not just about fraud.

ANDREW DIX: So does that mean the FTC will pursue failures to deliver?

HELEN WONG: I can't comment on any investigations that we may or may not have, but, I mean, our law has been the same. It's Section 5. It's about deception. It's about unfairness. And to the extent that there are issues like that, and consumers are complaining about it, we are concerned about it. And obviously I can't comment on what investigations we have.

EVAN ZULLOW: And Helen raises a good point that a lot of this for us at the FTC-- we are using the word fraud, but it's really-- when you're dealing with potential representations, you have to look through the eyes of the reasonable consumer as to some of these distinctions. For example, we've had a good conversation here about lack of success of a project versus deception or fraud.

And so I'd just be curious to get a sense-- if anybody has, of you here-- what the current state of consumer understanding is when navigating these platforms. And then, maybe, also the sorts of information that's typically being provided to consumers about some of the risks.

MICHAL ROSENN: I think that it's a much better place than it was in the past. I think you are increasingly seeing consumers understanding the nature of what a crowdfunding campaign is and what that entails. But I still think there's a ways to go. I still think that there are a lot of consumers who read on a blog about a project on Kickstarter, on Indiegogo, for some product and follow the link and back the project, thinking they're buying something.

And I agree with Ira that I don't think that it's purely a buyer beware system here. I think that we, as a platform, do have a responsibility to help shape consumer understanding, as I mentioned, and to reduce the risk of not just fraud but of non-fulfillment. And so Andrew mentioned we require a prototype. And we don't allow photo realistic renderings for technology and hardware projects on our site.

Our integrity team is one of the largest teams at our company. And they are monitoring constantly for potential payment fraud that might be going on, networks of people trying to create fraudulent projects and fraudulent donations, as well as making sure that the guidelines of our site, which are meant to help to minimize the risk of non-fulfillment, are being met.

And we rely on our community to a great extent on that. In the presentation earlier, one of the things mentioned was an option to report a project. That's the source of most of our investigations, and we look into that. And we very, very much view our role as evolving and as leading the charge in how to make the platform and crowdfunding, generally, as safe as possible.

EVAN ZULLOW: Thank you. Helen?

THOMAS D. SELZ: I think Michal's point it is a very important one, which is the self-interest of the platform, that it may not be legally liable for what the content is, but it has a reputation to maintain. And that puts it back on the consumer to do a little bit of research, in terms of before they give money-- who is this platform? Is it somebody who has had any problems in the past? It may be that you can check with a local AG's office or with the FTC to see whether this particular platform has had any problems or any complaints lodged against it. So there is some work that the consumer has to do.

I think the discussion about disclosure and advising consumers is a difficult one because the technology is there that very few consumers will read the disclosure policies. You can say, have you read these disclosures? Have you read these warnings? Click here. And you click. Part of the problem with the internet is that people want it for speed. That's one of the benefits that was talked about earlier today in the panel about peer-to-peer donation, peer-to-peer giving, was the speed of the transaction, the speed with which the money would get there.

Speed is important. That's why people go to the internet. In some ways, the more protections you put in-- there was discussion at the earlier panel about the various means of verification and authentication. And those are all great, but the more layers of authentication you build in, the more steps the consumer has to go through, and the less likely they are to want to go through it in a way that's meaningful to protect them. So it's a very difficult issue here in terms of, how do you protect the consumer in a way that doesn't interfere with or, in fact, discourage them from the benefits of the speed that the internet offers.

EVAN ZULLOW: And Helen, did you have any thoughts?

HELEN WONG: Sorry?

EVAN ZULLOW: I saw your name tag turned.

HELEN WONG: Sorry, that was from earlier.

EVAN ZULLOW: Oh. Suppose a scenario does arise where you have, whether it's an unsuccessful campaign, one that was somehow unlawful, and a consumer is seeking recourse of some kind. And you're reacting after the fact, when something has been flagged, or bad things have happened, potentially. What are everyone's understanding as to the sorts of recourse that are available now for consumers in this ecosystem?

MICHAL ROSENN: So what we see is a variety of different paths backers follow when, let's say, an estimated delivery date has passed, or there hasn't been an update in a while. You see them interacting with each other on comments on the project, speculating, writing in to us, in to our community support team. And what we do is, first of all, clarify expectations, say that an estimated delivery date is only an estimate, that this isn't a product that was purchased, and also reach out to the creator and remind them, as Tom said earlier, the importance of communication.

I think that's the number one thing that we impress upon our community and make the core of the message behind our platform, which is open and honest and transparent communication. That's what people want to see, that, if you're running into problems, if you're being honest about them, there will always be people who are angry, but, at the end of the day, that's the important thing, is to keep communication open.

I think beyond that, there is absolutely a role for regulators and law enforcement to play, to pursue instances of actual fraud, perhaps to do some investigation to differentiate fraud from a creator who's gone silent but is working and is just scared to update. But where there is actual fraud, I think the kind of action that the FTC brought with the Forking Path game is a fantastic example of existing structures of law enforcement working to prevent fraud in a new space.

THOMAS D. SELZ: In the donation model area, each of the 50 states has a lot of different regulations dealing with raising money for donations, things like registration requirements of the organization which is trying to raise the money, possibly bonding requirements, reporting requirements, in terms of what they have to report, how they use the money that's been given, limits on the amounts that can be paid to third parties, in terms of helping to raise the money-- a whole host of different rules and regulations.

So from a consumer point of view, in terms of consumer protection, there is some duty on the consumer, if they are concerned about this, to check with the local AG's office of the organization which is raising this for these funds, and saying, is this something where they're offering a charitable donation, and, if so, have they complied with the state regulations? If they haven't, that's a warning sign.

JOE MAGEE: Yeah, nonprofits literally live and die by transparency and being open about communication of where their money is going. There isn't a one-for-one transaction reward in our space. So there's a whole lot of trust that a consumer has to have in an organization that they're going to do right by the money that they give them. But constant communication between the donor and the organization, as I mentioned before, it's sort of the first touch point to get them into your community, but being open and honest about what you're doing with that money, where it's going, and how quickly it's going to the program that they might be supporting is critical to a nonprofit's success in delivering on its mission.

EVAN ZULLOW: And just to touch upon it, if there's something to discuss-- in the nonprofit realm or the donations ecosystem, are any of the issues that have arisen, whether they be unlawful conduct or even just problematic practices-- are there any differences or distinctions worth fleshing out when compared to the rewards-based space?

JOE MAGEE: Well, I mean, I think around the industry, a lot of that stuff is pretty set in stone, as it relates to national and state regulations. But I mean, famously, there was a foundation in New York City that was recently shut down because they didn't have the proper licenses to be soliciting donations. So it's pretty well-defined, as it relates to what a foundation or nonprofit can do to solicit funds.

But I think it's pretty clear, as it relates to how an organization is going to solicit funds to a potential consumer. So a lot of the transparency and communication issues are the same across the board, but there's no fulfillment of duty upon that donation or obligation by the organization, frankly, to say, yes, your money went here, and this is what's happening. That's just going to be determined by the success of the organization.

IRA RHEINGOLD: And some of this has to do with whether or not, actually, a contract has been formed. Within the donation, we're not really thinking about a contract being formed. Although, if you give money to some place, and they turn out-- buying paintings of the person who runs the foundation, that might be a problem.

JOE MAGEE: Or football helmets.

IRA RHEINGOLD: Right-- or football helmets. When you're entering into some form of a contract, where you have an expectation that this money-- you will get something in return. Now, it gets a little fuzzy here. I think, in the equity funding, I think it's more clear. Then, you might actually have consumers with a private right of action, where an opportunity to actually pursue action by themselves for the entity who's not fulfilling the terms of the contract.

HELEN WONG: There could be more traditional types of fraud, too, in terms of charity crowdfunding. You could just say that you're raising money for someone and not be doing it. And that's also a concern.

THOMAS D. SELZ: One of my major concerns, Ira, going back to your point about scale, and what's going to happen as this whole crowdfunding area begins growing exponentially, is something that's not just about whether the campaign itself has a problem with it, it's the data of the people who are making the contributions, who are sending the money in.

I think there are going to be huge privacy and data protection issues that are going to arise. And I think that's something which is going to be very troubling. And I'm not exactly sure how we begin dealing with that. I'm not sure that anybody has really begun thinking about the fact that, when you're sending money in via the internet, from a smartphone, it's a two-way street. And the data that you're sending, as somebody said on the panel today, it may be publicly available.

Even if you're just going to the organization, and it's not publicly available, it is an aggregation of information, which is now available for hackers. And I think, as the value of this data becomes greater and greater, there's going to be greater and greater opportunities for hacks and other things to come into play. They're going to be very troubling.

ANDREW DIX: I think that's an opportunity for this sector of the industry, be it donations or rewards, to get together and establish some best practices and set some basic, actually, high standards in which the platforms operate. And I think that would be a plus for all platforms that are engaged in the space.

IRA RHEINGOLD: Yeah. I mean, I couldn't agree more. I mean, I think the way this is going to grow is based on reputation-- the ability to be a place where people feel comfortable going, that their information is going to be protected, that the people they do business with are going to be trustworthy. The only way this is going to-- where we have a boom, here, really, is going to be dependent-- I mean, regulators can do what regulators can do. I'm a consumer advocate, so we'll always be looking at it from that perspective.

But if this industry fulfills where it thinks it can go, it really has a duty on itself to make sure that its integrity is protected. So I think that's something that, as we're still relatively early on in this process, before we get the scale, that, if you're interested in actually having a growing company, it's really important to protect your reputation. And the way you're going to protect your reputation and your integrity is by addressing the things that we're talking about here tonight.

MICHAL ROSENN: Yeah. I think that's absolutely right. And what we try to do is to help to evolve and establish best practices. And we, not to toot our own horn, but I mean, we are very much guided by wanting to do the best, even at the expense of our profit. So as Andrew mentioned, we suspend projects fairly frequently that would reap a pretty substantial financial reward if we let them go on because we see that they are violating our guidelines, that they aren't following all the rules.

And they do go and set themselves up elsewhere. So we are motivated by reputation. I think most companies are. But I am not certain that that, alone, is enough. I think there are a lot of platforms that are a little more unscrupulous, and, maybe, the consumer who is aware of these things is not going to contribute on those platforms.

But a lot of people don't investigate. And so I absolutely do think there is a role for both self-regulation and work with traditional regulators. But I think the important thing is to base this off of the evolving best practices that we can identify together. And I think the risk that you're always trying to balance against is setting regulations or rules that stifle innovation that not only is answering consumers' desires but, also, innovation, in terms of protecting consumers.

EVAN ZULLOW: And speaking again of consumers, we've touched upon some of these things over the course of this conversation, but I wanted to see if we could crystallize some thoughts a little bit further now, which is-- what practical tips, right now, would you give a consumer, whether it be somebody who's pretty sophisticated and is backing or funding a lot of projects or causes or somebody that's somewhat newer to the space, as to how to navigate it and avoid unlawful conduct or even just problematic conduct in the marketplace?

THOMAS D. SELZ: I'm going to turn this question around on the FTC. Has the FTC considered having any kind of public outreach, of warning people about some of the dangers and best practices that consumers might want to think about if they get involved with these different kind of-- transferring money on the internet?

HELEN WONG: Actually, Tina brought that up during her presentation. When we brought out the FTC v. Chevalier case, we had a blog post. And in it, we gave specific tips on what consumers can do to protect themselves. Obviously, the blog post is about a year old now, but the ideas are the same. You have to do research. You have to research the campaign organizer.

And just using Kickstarter as an example because Michal is sitting right next to me, on Kickstarter, you can actually click on the campaign organizer's username and look at what other campaigns he's done before. You can see whether or not he's been successful. And that is an indicator to consumers about whether or not to donate to that specific campaign.

ANDREW DIX: Yeah. And I think there are some basic steps that anybody should take in backing a rewards-based campaign. Donations are little bit different. But I think, first of all, you want to verify that the person is actually a real person because there have been times in the past where bogus people have attempted to raise money online.

I agree with having a working prototype. I think that's very important. I think, if you want to back something that doesn't have a working prototype, you should consider it more of a donation. I think that, if you have an extensive delivery date for a hardware project, it's probably better to wait because there's people in Asia that are trolling the sites, and they're quick-cloning these products and turning around and selling them before the creator can get them out.

I think that, if you're looking at something, you say it's really cool, you may want to check and make certain that the person is actually creating it because I've seen projects where they'll just ship something over new from China, and they'll repackage it and sell it as their own. And I think, in the end, you really have to sit there and ask yourself, how badly do you need or want this perk or reward. Or maybe, it's better just to wait until it's on Amazon.

Now, that being said, I do think there's a lot of other projects and campaigns out there that are not just hardware or are product-based that do merit the support. And there have been some really cool hardware or design products that would not have been supported or funded without these platforms powering the way. I mean, Pebble watch is a great example of somebody who, I don't think, he had any funding before he launched on Kickstarter. And he's raised money on there, what? Three times now?

MICHAL ROSENN: Twice. Yeah. He'd gone to, I think, 20 VCs before coming to Kickstarter, and been rejected by all of them. And then--

ANDREW DIX: I think that's pretty cool. And that wouldn't have happened without a platform like Kickstarter. And I think that you're right in saying you don't want to crush innovation by saying, oh, it's time for the Feds to roll in and go hot and heavy because that's not the way to do it. You have to let the industry and the ecosystem evolve, watch, and be thoughtful in your approach to managing it going forward.

JOE MAGEE: From the nonprofit perspective, I think there's a number of things that consumers can do before they support a donation-based crowdfunding campaign. And that is you can look at various sites, as I mentioned earlier, of watchdogs that have rated some of these charities. There are charities that don't have ratings at all because, maybe, they're newer ones, and they're just starting up, in which case, at least, our platform allows the potential donor or fundraiser to reach out directly to that organization, figure out where their money is going in, and what's that supporting because there is an initial trust, whether it be an established nonprofit or one that's just starting out.

And then, secondly, if you're supporting a campaign, make sure that, if you expect to have a tax-deductible charitable contribution, that you're submitting a donation to a project that is eligible for those contributions and tax deductibility because nonprofits do sometimes solicit funds for projects that wouldn't necessarily be funded under or available for tax deductions. So there's a couple things that consumers can do diligence upfront before they submit a donation for crowdfunding.

THOMAS D. SELZ: And checking with the state AG where the organization is based to see if it has complied with those state regulations if they're trying to solicit donations.

EVAN ZULLOW: Thank you. And so I want to pose the same question, but this time for the campaigns of the businesses, the nonprofits, or the individuals seeking to raise funds. What would be some of the tips or rules of the road that you might give them as guidance to avoid doing something unlawful or just doing something problematic for the consumer?

JOE MAGEE: So on the nonprofit side, the terminology is fairly new, but, again, individual personal fundraising is not something new, arguably. That started with the March of Dimes in the early 70s. But a lot of nonprofits say, oh, I want to go out and raise $50,000, or I want to go out and raise a million dollars through crowdfunding.

I mean, there's some pretty tangible metrics that you can back into these numbers. Basically, if you have, say, an email file or a donor database in which you can start looking at individuals sending out so many emails, so many social media posts-- and back into a number of based on activity. But don't think it's necessarily a silver bullet where you're going to put up a campaign page and raise a million dollars. There's a ton of effort and corralling that goes into supporters and outreach, both online and offline to raise funds.

The organizations that do it to a larger extent have significant teams and significant strategies around how they're going to raise money online. So it's definitely not a silver bullet or one-size-fits-all. And it takes substantial effort to try to raise a lot of money online with a large network.

MICHAL ROSENN: And that's completely true on the rewards-based side, as well. It is, as Thomas said earlier, very difficult to run a crowdfunding campaign. You have to think about outreach and actually soliciting the funds, especially if you're on an all-or-nothing platform like ours. But you also have to think about the rewards. And you have to think about communication with backers, and how that is a job that's very, very difficult. It's time-consuming.

You have to think about what it's going to mean to manufacture and deliver rewards to your backers, whether it's a tote bag or if it's a natural product like a 3-D printer. And we do our best to help creators through this process, to give them the information that they need. A lot of creators will, if they reach their goal, do stretch goals and say, if we hit x amount, we'll give this extra reward.

And we've tried to do a lot to impress upon creators that it's not just more free money. These extra rewards cost money to manufacture and deliver, and to consider these things. And I think, coming back to the point that I keep saying, the number one thing is communication and transparency. Always, always, always communicate and be transparent with the backers, even-- and especially-- when it's most difficult, which is when you are encountering problems, when you have bad news to deliver, when, let's say, you've failed, or some people are not going to get their reward, or the reward isn't turning out exactly as you'd originally thought or described it.

It's communication and transparency. It's not going to make everybody happy, but it will placate a lot more people than you realize and, at the end of the day, will help maintain your reputation and the reputation of crowdfunding.

THOMAS D. SELZ: One of the things to think about from a point of view of somebody who's running a crowdfunding campaign-- I think a critical factor is, how do you tier the rewards-- that one of the things when you're doing a crowdfunding campaign for rewards is you tend to want to have different rewards given for different amounts of money that are being donated. And so the greater the amount of money that's being contributed, the greater the reward or rewards that you're going to be giving.

And how do you tier that, how you set what the amount, what the nature of the reward is going to be, take into account what the cost may be? What the reward is going to be compared to the amount that's being contributed is very, very important because you want to make the rewards greater, as people contribute more, in order to encourage greater contributions.

ANDREW DIX: One thing I'd like to add-- it's been interesting to watch the professionalization of rewards-based campaigns, where now you have this industry percolating up that helps these creators and projects really run a professional campaign and just knock it out of the park. And there are several marketing firms that actually do a really great job. And they will tell you out of the gate for hardware design type projects or pre-sale type of campaigns, whether or not they think it will be successful.

And some of them will front the money to actually verify, just assure that it's successful. And I found that interesting, as there's these third parties that have moved in to help support these projects. And then the platforms themselves, Kickstarter and Indiegogo and others, are working more cohesively with these different stakeholders in the process.

MICHAL ROSENN: Yeah. I'm glad you brought that up. There is absolutely a professionalization of the market. And we see marketers and campaign consultants on both sides popping up. And a lot of them are great. And we're in the process of having a program where we identify certain organizations that we know have been successful and are above-board.

But it's also a source of fraud and the kind of danger that we're discussing here. And unfortunately, unscrupulous actors are extremely prevalent in this field. We've seen, just recently, an organization-- and they're very difficult to pin down because they continue to change their names, they evade our attempts at blocking them, but they, basically, guarantee a certain level of funding of a campaign. And what they do is they take stolen credit cards and contribute to that and then file chargebacks.

So it's an evolving area. And it's one where, I think, both from the platform perspective, we're trying to do everything we can, but there's also a significant role for regulators to be stepping in here.

THOMAS D. SELZ: Of course, using a professional to help you raise the funds to reach your campaign, that's an additional cost you have to factor in when you're figuring out what is the net amount I'm trying to raise.

ELIZABETH KWOK: So we have just a couple of minutes left. And to go back to Michal's last point, I wanted to talk a little bit about regulation. Several of you have touched upon that during our conversation today. And I wanted to hear more directly what you all may think the role of regulators in this space is, at least with respect to helping consumers avoiding issues.

JOE MAGEE: I mean, from my perspective, I think it's awareness. To be frank, I didn't know that the FTC got involved in many cases and, at state levels, worked with AGs. So for me, as someone who operates a platform, it's helpful to understand that I can actually even go to a regulatory body if I, as an operator, have questions or issues that come up.

But from a consumer standpoint, I mean, I think just the fact that you keep promoting that cases are brought, that there are regulations and agencies that are working on behalf of consumers to protect them, as it relates to crowdfunding, I think, is hugely important for the success of this industry to keep growing-- to know that there are other stakeholders that have the best interests of this industry.

HELEN WONG: I'll just jump in here, and, sorry, I forgot to say my disclaimer earlier, but everything that I've said today does not necessarily represent that of the FTC.

[LAUGHTER]

They're my views alone. So with that, I'll give my closing thought.

Obviously, we think that there is a healthy role for regulators here. But here, at the FTC, we really support innovation. And I know it's cliche, but we really do think that innovation and consumer protections go hand in hand. And a lot of the laws that we enforce, we're saying very basic consumer protection principles. Keep your promises. Don't lie to consumers. And make adequate disclosures, especially if they are material to consumers.

ANDREW DIX: I'd just like to reaffirm what I said earlier, as I would really like to see-- personally I'd like to see-- industry participants to take a stand and create best practices, standards that they adhere to, and set them high. And if there are some platforms that won't abide by them, well, you know what? I mean, that's too bad for them because, then, they've been differentiated and because I think that you're right in saying that there's a lot of reputation at stake here.

And it's in the interest of these platforms to maintain a stellar and upstanding reputation for providing the best service possible and the transparency that's incumbent upon that. So I think that that is very important at this stage of the game.

IRA RHEINGOLD: And I think that's fair. I think that industry should have the first shot at creating some standards for themselves. I also think there's, obviously, a role, one, for enforcement. I think both AGs and the FTC are going to have to be vigorously enforcing this area and watching closely. I think standards are going to be important, what type of disclosures people get, what type of standards of due diligence are going to be necessary for a platform that's going to be doing business with people. I think those are all things that are going to be very important.

I'm actually not sure who that regulator is who will have to create it, whether it be--

ANDREW DIX: You have plenty to choose from.

IRA RHEINGOLD: Right. Although, not really because I'm not sure this fits into or under everybody's jurisdiction, except maybe on a state level. I'm not sure who the federal regulator would be in charge of creating some sort of standards. I think, again, I think, in some ways, the future is up to the industry. I don't think there's a gigantic rush for people to think about-- I mean, in FinTech, some of the regulators are fighting about how they can get in there, so they can regulate it or at least become part of-- to be able to collect the fees from the FinTech industry to register them and stuff like that.

JOE MAGEE: I mean, the fact of the matter is, if the platforms and operators of the technology solutions don't act in good faith, this won't be successful. The consumers won't trust this method of gaining access to products or causes.

IRA RHEINGOLD: I think that is absolutely right. But I also think, as long as you maintain control, as long as you maintain good standards, as long as we limit the amount of fraud and the unfair practices that exist, regulators will keep a light touch. I think the question becomes if, in fact, it grows at a point exponentially, without those protections in place, then you create the risk of regulators really stepping in with a heavier foot than otherwise might be necessary.

So I think, in some ways, the fate of this industry and regulation is going to be up to the folks who are sitting up here and the people in the industry to determine how much a role regulator is going to have to play.

EVAN ZULLOW: And speaking of a heavy foot, I apologize, but it looks like we've run out of time. So thank you so much, all of you, for coming here today and contributing to this discussion. I wish we actually had an additional hour for both this and our previous panel. So we'll need to have you back, maybe this time next year. So thank you again, and please thank our panelists. Thank you

[APPLAUSE]

And then, as we step down, I'd just like to have Malini Mithal, the acting Associate Director for the FTC's Division of Financial Practices, come up to deliver our closing remarks. Thank you.

MALINI MITHAL: I'm Malini Mithal, the acting Associate Director of DFP at the FTC's Bureau of Consumer Protection. We've had some great discussion today. I just want to take a minute or two to wrap up some of the key points that I heard.

On peer-to-peer payments, our first panels' experts described potential benefits of the platform, including convenience and speed. We heard that this is a payment method not just being used by millennials. It's being more widely adopted than that. And we also heard that the marketplace continues to evolve with small companies offering P2P payments and bigger players offering P2P payments as one of many services.

Of course, the added convenience of these type of payments must be balanced with protecting consumers. So our panelists today discussed, among other things, the opportunities for fraudsters that exist on these platforms. As one panelist commented, "The mode is new, but the scams are old."

So panelists discussed how platforms need to take steps to address potential fraud. We also discussed dispute resolution for consumers in the event that something goes wrong. Consumers should understand their rights and protections when choosing whether to use a P2P service and what funding mechanism to use for payment. And companies should develop clear policies about resolution of fraudulent and unauthorized charges and clearly convey those policies to consumers.

During the second half of our program, we delved into the crowdfunding marketplace. Our Office of Technology Research and Investigation highlighted the consumer experience when navigating crowdfunding platforms. And we looked closely at the ways in which platforms disclose fees as consumers check out and whether they provide an easy to find mechanism for reporting fraud or other problems.

Our panel on crowdfunding just now discussed many potential benefits. We know that crowdfunding may give small companies and entrepreneurs a chance to get off the ground. It can remove intermediaries, and it can enable consumers to quickly raise charitable donations if tragedy strikes. We also know, from our panelists and enforcement actions like the FTC's case against Forking Path, that crowdfunding campaigns can be used for fraud.

At the same time, there are differences between fraudulent projects and ones that have merely failed. So we encourage platforms to provide clear guidance to consumers regarding what to do if things go wrong and to give them the ability to flag potentially problematic practices. The more quickly that potential fraud is spotted, the more quickly the platform and consumers can prevent widespread abuses.

Finally, I want to take the opportunity to tout our next forum in the FinTech series. It's likely going to be early 2017. We're going to explore the consumer implications of blockchain technology. So please look for further announcements on the details of that event.

Thank you again for coming and contributing to our discussion. As one of the panelists-- who is from the FTC, but her remarks are not attributable to the FTC-- commented, "Consumer protection and innovation often go hand in hand and all the more so in the fast-moving realm of FinTech."

Thank you again.

[APPLAUSE]

[MUSIC PLAYING]