

FEDERAL TRADE COMMISSION

FOLLOW THE LEAD:

AN FTC WORKSHOP ON LEAD GENERATION

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1 PANEL 3: CASE STUDY ON LEAD GENERATION IN EDUCATION

2 MR. SHULL: All right, let's get started with Panel
3 3. So, my name is Brian Shull. I'm an attorney at the FTC's
4 Bureau of Consumer Protection, and I'm going to be moderating
5 this panel on lead generation in the education marketplace.

6 I just wanted to give a chance for each of our
7 panelists to just give a brief introduction for themselves,
8 so we'll start here with Jeff.

9 MR. APPEL: Hi, I'm Jeff Appel. I'm the Deputy
10 Under Secretary at the U.S. Department of Education, and at
11 the Department I help oversee policies and the development of
12 policies related to student financial aid and other matters
13 considered post-secondary education.

14 MR. BLAKE: I'm Nathan Blake. I'm with the Iowa
15 Department of Justice. I'm an Assistant Attorney General in
16 Consumer Protection, where we've been very active in
17 investigating unfair and deceptive acts and practices,
18 especially in recruiting by for-profit colleges and
19 universities over the last few years and have run into quite
20 a few of those practices in lead generators.

21 MR. COLWELL: Hi, there. My name is Daryl Colwell,
22 Senior Vice President from Matomy Media Group. Matomy Media
23 Group is one of the world's largest digital performance
24 marketing companies. Education is one of the main verticals
25 that we operate in. I'm very happy to be here. Thanks for

1 including me in the panel.

2 MR. GILLMAN: Jon Gillman, CEO of Omniangle
3 Technologies. We are an intelligence firm that audits online
4 marketing activities, and education is one of the areas where
5 we have a number of school clients.

6 MR. HALPERIN: My name is David Halperin. I'm a
7 lawyer in Washington, and I spend a couple of days a week
8 with support from some nonprofit groups and foundations
9 working on the issue of for-profit colleges. And in that
10 connection, I have looked into the lead generation industry,
11 spoken with many operators, employees of these companies,
12 lead generation companies, and a lot of students who've been
13 on the receiving end of pitches, have had a lot of online
14 chats with them, as well. I've never given them as a
15 consumer my phone number, and I do not advise you to give out
16 yours to them.

17 MS. SHERIDAN: Hello. My name is Amy Sheridan, and
18 I'm the Founder and CEO of Blue Phoenix Media. We've been in
19 business for a decade. Our heaviest vertical that we work on
20 is online education. I've been in that space for the last 12
21 years, and I want to say thank you to the FTC for having us
22 be on this panel.

23 MR. SHULL: Great. Thank you, everyone. And, so,
24 just an administrative item, so for questions, at about 15
25 minutes until the end of the panel, I'm going to ask for any

1 questions from the audience. So, to the extent that you have
2 one, at that point, you can raise them up and our timekeeper
3 or somebody will collect them for us.

4 So, we've heard multiple times this morning and
5 especially in the lead-up to this workshop, we were told
6 multiple times that education is one of the main verticals
7 for lead generation. So, I just wanted to -- the first
8 question for our panel is why do you think education is such
9 a major market for lead generation.

10 MR. COLWELL: I'd say -- if I could jump in? Two
11 kind of sides of the coin, one from the consumer standpoint.
12 So, as you heard earlier, along with home improvement,
13 financial services, insurance, et cetera, education is a very
14 high consideration purchase that a consumer or prospective
15 student is going to make. It's very expensive. It's very
16 important for them to gather as much information as they
17 possibly can before making a decision as to which institution
18 they're going to attend.

19 From a business perspective, selling is the wrong
20 word, but attracting a student to your institution, it's
21 quite a bit of money. And it's not a decision that the
22 students can make overnight or, you know, at the drop of a
23 hat. So, it's certainly very important to educate them on
24 all the benefits, the opportunities that they would have by
25 attending your institution.

1 MR. SHULL: David? Sorry.

2 MR. APPEL: The other -- I was going to say the
3 other, I think, obvious reason is money. There's about \$30
4 billion a year in Pell grants that are made available to
5 students who qualify, as well as over \$100 billion a year in
6 student loans that are made that are largely construed as --
7 under the law as entitlements to students, which is great.
8 Post-secondary education is important, and we certainly have
9 been encouraging everyone to seek higher education.

10 So, unlike -- I would say on some of the other
11 verticals that we talked about this morning in terms of
12 mortgaging, a distinct difference in education is the lack of
13 underwriting with respect to student loans.

14 MS. SHERIDAN: I also think it's because of money;
15 however, I think it's money based on the student. Our
16 country tells us if we -- if we get a college education that
17 that person can make more money and do better for their
18 family. So, on the other side of it, I think the reason is
19 money; but I think from the student level the reason is
20 money. They want to make money, and they want to be more
21 educated and do better for their family.

22 MR. HALPERIN: I would say that much of lead
23 generation activity in higher ed relates to for-profit
24 colleges, and I want to be clear that I don't think all for-
25 profit colleges are bad and I don't think all lead generators

1 are bad. But many for-profit college products are, in my
2 view, defective products. They are high-priced, low-quality,
3 and often leave the student worse off than when they started.
4 They can owe, \$10-, \$20-, even \$100,000 in debt.

5 That kind of a product is often marketed to people
6 who are first in their family to go to college: low-income
7 people, people of color, our returning veterans, immigrants.
8 And in my view, there's a lot of lead generation activity
9 that is devoted to trying to figure out how to get those
10 people to buy something that is not in their interest to buy.
11 That involves deceptive marketing and aggressive marketing,
12 and that is -- that attracts a lot of bad actors.

13 MR. GILLMAN: I have a slightly different take on
14 it. Based on what we see, the reason why education is so
15 popular in online lead generation is because of the balance
16 between cost of traffic, cost of placing ads out there, with
17 the expense that, as many have said, is subsidized by the
18 government of the payout. So, if the government is going to
19 underwrite the student loans and promote, you know, financing
20 programs for students to pursue higher education, that money
21 does and will trickle down through the lead generation
22 ecosystem, and the ability of savvy marketers and lead
23 generators to match up that subsidy, which ultimately starts
24 with the government, down to extremely inexpensive sources of
25 traffic, such as websites that offer people jobs or websites

1 that look to offer people government assistance, is one
2 reason why from a lead generation standpoint I think
3 education is so popular. There's simply so much margin to be
4 made by so many companies as it stands right now.

5 MR. SHULL: So, I wanted to follow up on one of the
6 points that David mentioned, is that I do get a sense that
7 there is a view that lead generation that's used in industry
8 is really a for-profit school thing. Amy, how would you
9 respond to that, to that view?

10 MS. SHERIDAN: I think that -- I think that it's
11 pretty evenly split, to be honest. I think the not-for-
12 profit institutions are coming out gangbusters, and I'll say
13 the last three years. Reputable institutions that are, you
14 know, anything from Yale to UCLA to Notre Dame are some of
15 our clients. So, I think that is making a huge push,
16 especially in the last three years, but, I mean, there's
17 something to say about the for-profit institutions and the
18 fact that you don't have -- you can hold the job; you could
19 be a mother; you could do a lot of things as well as go to
20 school at the same time. And there's definitely something to
21 say about that.

22 My business is probably 60 for-profit -- 60 percent
23 for-profit and 40 percent not-for-profit at this juncture.
24 However, if you want to go 12 years back to when I started,
25 it was probably 80 percent for-profit and 20 percent not-for-

1 profit.

2 MR. SHULL: So, we are going to spend some time
3 talking about potential risks and harms to consumers, but I
4 also wanted to give a chance about potential benefits. So,
5 what are some of the benefits to consumers of education -- of
6 lead generation being so widely used in education?

7 MR. COLWELL: Yeah, I would say it's an
8 opportunity. I think, you know, LendingTree is an example
9 mentioned that, you know, if and when, you know, you sign up
10 on one of those sites you have the opportunity to connect
11 with up to five lenders. We at Matomy are not an aggregator,
12 but certainly there's a number of good aggregators that are
13 out there. With a few clicks and entering some relatively
14 basic contact information, it gives the potential student an
15 opportunity to learn quite a bit about a number of different
16 institutions. So, it's a relatively quick way to get a fair
17 amount of information.

18 MR. SHULL: Any other thoughts on potential
19 benefits to consumers?

20 MR. GILLMAN: Well, I can tell you what the pitch
21 is that's made to schools, which is, listen, you guys are
22 educators; you might work with inefficient and somewhat
23 outdated marketing agencies; let us connect your brand with
24 users who would otherwise not be exposed to it.

25 So, what the lead generation industry will tell

1 you, whether they sell clicks or they sell leads or they sell
2 warm transfers from one call center into a school's call
3 center, is that the function that they serve is to connect
4 school brands with consumers that otherwise would not have
5 interacted with those school brands. And that certainly is
6 the case and does happen sometimes, but obviously whenever
7 you inject those intermediaries it does bring with it other
8 challenges.

9 MR. SHULL: So, let's turn now to the mechanics of
10 an education lead. Amy, would you walk us through how an
11 education lead, in your experience, travels from the consumer
12 to the school?

13 MS. SHERIDAN: Sure. I can only speak in our
14 instance. We'll use email traffic for an example. So, I
15 have multiple clients in the EDU space, probably a hundred
16 different schools. I have a back-end data base that all the
17 offerors or the schools sleep in the data base. I send out
18 an email marketing campaign, compliant with canned spam.
19 Someone gets this in their email, clicks on the link, and it
20 brings you to my landing page.

21 On my landing page, we ask name, email, date of
22 birth, gender, what your prospective major is, and how much
23 college you've done, if any. And it goes back to the offeror
24 sleeping in the data base. My back end comes -- my back end
25 figures out exactly who the perfect person would be matched

1 with the perfect school. For an example, an 18-year-old male
2 would get something like a technical college, where a 30-
3 year-old woman with children, a work-at-home mom, would get a
4 different type of university and a different type of match.

5 All these universities know who their bread-and-
6 butter students are, and a lot of them actually target
7 towards that and don't accept anything outside of that. So,
8 all these offerors kind of sleep in the data base, and then
9 once the person walks through, they are matched with, A, a
10 campus base or, as you folks call it, not-for-profit. So,
11 for example, I live in New York City, I would get NYU,
12 something along that example, as well as the second option,
13 which is a for-profit institution and something that you
14 could do completely online.

15 So, for example, Walden is looking for 30-plus
16 females -- age 30-plus and women. So, I would be -- I would
17 fit into their demographic; therefore, they would see that
18 offer. All of the other schools that are in the data base
19 do not get shown to a person that's not applicable to. So,
20 there's no brand degradation; there's no confusion. I can't
21 speak to how everybody does it. This is how we do it.

22 So, we show two different schools: an online one
23 and a campus-based, depending on age, geo, gender, that kind
24 of thing.

25 MR. BLAKE: There's another experience that some

1 consumers have, of course, and that is they plug in a search
2 engine that they are interested in Medicaid benefits or they
3 are interested in SNAP food stamps or they would like a job.
4 And then they're sent to a landing page, and they put in
5 their information, and there's maybe some small disclaimer at
6 the bottom. And then pretty soon, Jonathan's helpful chart
7 this morning shows, you know, they start getting hundreds and
8 hundreds of calls bombarding them to start up at various
9 colleges and universities.

10 MR. COLWELL: What Amy had described is kind of the
11 aggregator model. Us at Matomy, the vast, vast, vast
12 majority of the clients that we work with in the education
13 space, we actually push the traffic directly to their
14 website, whether it be via display marketing, search engine
15 marketing, email marketing, et cetera. It's a one-to-one
16 relationship that we create with the consumer and the school.

17 So, there's no -- yeah, in the example that
18 Jonathan used this morning, you know, we don't partake in
19 marketing techniques like that. Pushing it directly to
20 schools seems, for us, to be, you know, kind of the safest
21 method to do it. It provides the best results both for the
22 school and as a really clear way for a perspective student to
23 get a clear message and not bombard it, as has been said, you
24 know, with a variety of, you know, marketing touches, whether
25 it's calls, emails, et cetera.

1 MS. SHERIDAN: I should be clear, too. Everything
2 we do is on a singular branded basis, so every -- the person,
3 the user, the prospective student that walks through any of
4 my websites is very clear that whether it's University of
5 Phoenix or ITT or Walden, who is going to be calling them.
6 So, there's no confusion there that some other person could
7 get sold this lead. There's a branded page approved by the
8 schools, and that's what we show to the consumers.

9 MR. SHULL: So, I wanted to talk about the
10 interaction between the schools and lead generators for a
11 little bit. Nathan, maybe you get us started off on this,
12 but in the relationship between the schools and lead
13 generators, who in your experience is setting the terms of
14 that relationship?

15 MR. BLAKE: Sure. So, we've had a lot of
16 discussions with schools, both informal and more formal. And
17 what they consistently tell us is that, in the sector, they
18 are somewhat at the mercy of the lead generators. Assuming
19 they want to get leads, they're at the mercy of lead
20 generators. And that's because once they pull out of -- if
21 they make their restrictions too strict or too harsh they
22 just get pulled out of the lines of the funnels that send
23 leads to different schools. And either the lead generator or
24 aggregator just refuses to work with them, or they pull them
25 out of something that's pretty -- that would be normally

1 pretty beneficial to them and just essentially streamline
2 them in some other -- something else that's not nearly as
3 effective.

4 So, from at least what we've been told and from
5 their perspective, there is kind of this -- the more kind of
6 -- the more they adhere to what we view at least as good
7 consumer protection standards, the worse they can kind of
8 leverage themselves in the marketplace.

9 MR. SHERIDAN: That's interesting because I have
10 never in the history of my business ever, ever used my own
11 paperwork with any school. They mandate that I use theirs,
12 and there's never been one exception in probably 250 schools
13 I've worked with.

14 MR. COLWELL: Yeah, and for us, in any instance
15 where we've used Matomy paperwork it starts as our
16 boilerplate terms and conditions, but certainly there's a
17 pretty healthy back-and-forth between our attorney and the
18 school's attorneys, as well. I think in general with any
19 kind of like negotiations or business deal, you know, one
20 side always thinks that the other side is getting the better
21 of them. I think that's just human or business nature.

22 MR. HALPERIN: Or when they're being questioned by
23 an attorney general's office.

24 MR. BLAKE: Fair enough.

25 MR. GILLMAN: Well, on the issue of the

1 relationship between schools and the intermediaries that are
2 often in between them and consumers, one of the big problems
3 is the lack of clarity around the types of consumers that
4 it's okay to target. So, if you look at consumers who are
5 online looking for jobs, is it a bad thing to show someone
6 who's looking for a job online information about educational
7 opportunities? I'm not a policymaker, but the policymakers
8 or maker on this table and the law enforcement representative
9 up here probably have some thoughts on that.

10 But the question is if generally we think as a
11 country that furthering your education will help you in your
12 career and furthering your education might actually get you
13 out of a short-term financial or medium-term or long-term
14 financial predicament, then in the absence of clear guidance
15 around what you can say to those consumers, a lot of schools
16 have become skittish around which consumers you can target;
17 because in online marketing if you tell an online marketer,
18 maybe not Matomy or Amy's company, but if you tell an online
19 marketer, listen, I'm looking for people who are looking for
20 jobs, not only from a messaging standpoint, will that open
21 things up in a very wide fashion, but the cost of targeting a
22 user who's looking for a job or, better yet, targeting a user
23 who's looking for what they think is food stamps or
24 government benefits is minuscule.

25 So, again, it's difficult to address the

1 relationships or the problems in the relationships between
2 schools and these intermediaries if you don't, from a policy
3 standpoint, address how is it okay to target advertisements
4 for education to users who are looking for jobs so we don't
5 end up with endless scenarios that were, I think, very
6 accurately portrayed in some of the articles that David put
7 out there in the last couple of years.

8 MS. SHERIDAN: Personally, I've never done it. I
9 don't think a job site is the place to advertise online
10 schools. That's me personally.

11 MR. SHULL: So, let's take Jon's comment and, you
12 know, Nathan, if you or Jeff want to discuss. So, I mean, is
13 it okay for lead generators to combine education offers with
14 job -- on job sites?

15 MR. BLAKE: I'm actually not a policymaker. Other
16 people write the policy and we try to, you know, enforce the
17 law. But I think, you know, in our experience, I think there
18 is a place for advertising education if you're up-front about
19 it. The difficulty comes with -- you know, we've seen and
20 you've heard where people kind of check the boxes with the
21 disclosure, but those disclosures are not getting through to
22 students. Or if you just have some sort of just rampant -- I
23 mean, if you're misrepresenting what you're actually
24 advertising, I think that's where we normally have the
25 problem.

1 MR. APPEL: I'd say certainly we're -- you know,
2 we'd be supportive of any avenue or mechanism where the goal
3 is to provide access to education and not be in support of
4 where the goal is to exploit students for the sake of student
5 aid programs. And that's kind of hard to do, frankly. It's
6 not an easy distinction to always make.

7 But we certainly, and I think David has written
8 about this in the past, where, you know, we've heard of cases
9 where, you know, some schools have sent recruiters to
10 homeless shelters. At one level, that -- one can kind of
11 make a case that in terms of providing a holistic support to
12 a person that's in transition, maybe that makes sense, but it
13 doesn't really necessarily strike me first off that it does.

14 MR. HALPERIN: You didn't mention that the
15 recruiters were often strippers.

16 MS. SHERIDAN: I think as far as online lead
17 generation and the online schools, I mean, I've been doing
18 this for over a decade, so, you know, as even you folks are,
19 you know, going into your processes with these, you know,
20 for-profit institutions, I have to say, it was even a shock
21 to me what the situation was. I mean, we don't know, you
22 know, how well the students are doing, I mean, until we find
23 something like this out. So, I mean, way back in the old
24 days, 10 years ago, there was -- we had no notion that people
25 weren't being treated fairly; they weren't getting the

1 education that they were promised; that they were promised
2 jobs. I mean, it's hard to sit where we sat and not realize
3 that, but obviously now that it's brought to light, you know,
4 we react as such.

5 MR. SHULL: So, let's talk about some of the
6 potentially deceptive ways that, you know, schools or lead
7 generators attract students. And, David, some of your
8 articles have already been mentioned today, so why don't you
9 get us started on that.

10 MR. HALPERIN: Well, let me just say in response to
11 what Amy said, that we have learned a lot about this
12 industry. Here's a good example. The market leader in for-
13 profit education, University of Phoenix, has gotten as much
14 as \$3.7 billion in a single year of our tax money and reports
15 of graduation rate of 15 percent for its students. Phoenix
16 and most of the big for-profit colleges are now under
17 investigation by multiple federal and state law enforcement
18 agencies. So, that is what's being sold to considerable
19 extent through lead generation online.

20 Here's one example, and I would love to go through
21 a few of them. I got some calls from some folks who work in
22 Salt Lake City, Utah for two different companies: one called
23 Neutron Interactive and one called EdSoup. Neutron
24 Interactive, although its principals later denied it, but its
25 employees then kept calling me up and saying the principals

1 were not telling the truth; the way they would start a
2 relationship with a consumer was to put a job ad on
3 Monster.com or another legitimate job site until it got
4 kicked off of them, and then they'd go to another one. And
5 that would say "jobs in your area" or some kind of, you know,
6 "restaurant jobs in your area" or "plumbing jobs in your
7 area."

8 But if you clicked on or if you followed that ad,
9 it would take you to a website called
10 localemploymentnetwork.com or some other name. That site had
11 no jobs, had no legitimate or original job listings, maybe
12 some recycled ones. In order to get to those listings or
13 what you thought would be those listings, you had to fill out
14 all your information. And there might be a disclaimer saying
15 the word "education" in kind of a vague way.

16 And then what would happen is Neutron would take
17 your information -- this was Neutron so far that I'm
18 describing -- and sell it to a call center such as EdSoup,
19 maybe for a dollar, because it wasn't that valuable a lead at
20 that point. EdSoup had a call center, and what they did was
21 call these people and try to pitch them on education. And
22 the people who called me from there, who were the original
23 people who called me, said they were ashamed at what they
24 were doing, which was misleading people about the cost of
25 education, steering them to programs that they knew wouldn't

1 help them, steering them to programs that they knew had a
2 high loan default rate and very poor graduation rate.

3 And then if the student, one out of every 20, said,
4 yes, okay, I'm willing to think about education, I'm willing
5 to talk with this program you mentioned might be interesting
6 to me; then they would sell that lead to the college perhaps
7 for \$80, \$100. That was suddenly a valuable lead. That's
8 the way they described it to me.

9 They said that they would call a single student as
10 much as 20 times in a day. In addition to using deceptive
11 information, they would use a tactic which has been
12 illustrated in congressional hearings, the pain funnel. They
13 try to use the shame and the pain of the student and say you
14 -- you're not really worth anything, isn't your life a
15 failure, don't you need education to get yourself on track.
16 And, you know, all of that is bad, but what's worse is again
17 what they're selling is often a product that, in fact, didn't
18 help the student.

19 Could I go through just a couple more while I'm
20 here?

21 MR. SHULL: Why don't we just keep it to that one
22 so that I can --

23 MR. HALPERIN: Okay.

24 MR. GILLMAN: Let me just jump in on this. One of
25 the really challenging things that happened is when the

1 regulators first started telling the schools that they were
2 concerned about marketing that was centered around job
3 messaging, effectively the schools in mass pulled out their
4 own creatives from job websites.

5 So, instead of having an ad on Monster.com that
6 said "Click here to get more information about criminal
7 justice degrees in your area," there was an ad about
8 something random instead. And what that forced was in the
9 actual job postings themselves, because these sites, not
10 Monster.com but a lot of fake ones that copy Monster's
11 business model, still had to monetize that traffic when
12 they're thinking about the synergy between job messaging and
13 education offers.

14 So, what you ended up having is the government
15 scaring schools out of putting ads for school that said they
16 were ads for school out of job sites, which were replaced
17 with advertisements that actually looked and functioned like
18 a job application instead to still funnel those users through
19 the system.

20 So, I think whether it's the Department of
21 Education or the FTC or the multistate group that's
22 represented up here, it's critically important to provide
23 guidance to the industry, not just the lead generators but
24 the schools as well to say, listen, if you're going to offer
25 people who are looking for jobs an education opportunity,

1 here's how we think that can be done in a manner that's okay.

2 And I know some folks, you know, on the law
3 enforcement side are hesitant to get into that level of
4 specificity, but having experience in consumer protection,
5 one of the reasons it's so hard is not to just identify the
6 bad practices, but when you're sitting at the table and your
7 job is to actually say how are we going to make this better
8 on a going-forward basis, that's the real hard work that in
9 education really needs to be done.

10 And it needs to be addressed right away because I
11 don't think there's any policymaker in the United States that
12 would say offering people education who are looking to better
13 their career or looking to better their financial situation
14 is a bad idea.

15 MS. SHERIDAN: I couldn't agree with you more.
16 There needs to be a code of conduct, white pages, all sorts
17 of things like that. I mean, canned spam has been very
18 successful for email issues. TCPA has been really successful
19 for the phone call issues. And I think that if you laid out
20 a policy for this type of situation, I think that it would be
21 successful there, too.

22 MR. GILLMAN: Hopefully this event is the first
23 step in the right direction, certainly for all of us.

24 MS. SHERIDAN: Certainly.

25 MR. SHULL: So, I'd like to get some other opinions

1 on this question about who should be responsible for ensuring
2 that the industry engages in best practices. Is it the lead
3 generators? Is it the schools? Is it the government? Or is
4 it some other party?

5 MS. SHERIDAN: I think we've done a pretty good job
6 self-regulating up until this point, you know? But now that
7 the for-college -- you know, the information's coming to
8 fruition like, you know, if it's true that all these, you
9 know, for-profit colleges are really under inspection and
10 under the watch of, you know, people like the FTC, I really
11 feel like, yeah, it's their job to really legislate it. I
12 mean, they have to step out and say something at this point.

13 MR. BLAKE: I mean, I think the opportunity is
14 there at each of those levels. The difficulty at the
15 government level, I think, is getting into a regulatory space
16 that's new and, you know, inherently will be challenged
17 repeatedly for a long time, before you get any sort of
18 assurance that what you're going to be implementing is going
19 to be accepted.

20 And the difficulty, I think, at our level of
21 government is that we're essentially going piecemeal, and,
22 you know, we had a good settlement with QuinStreet; I think
23 it's been three or four years ago now that laid out some
24 prohibitions, some disclosures, which kind of had various
25 levels of efficacy, but, you know, that's one area that

1 QuinStreet was, in particular, marketing -- you know, they
2 owned GIBill.com, which we felt was inherently deceptive and
3 ultimately they had to give it up.

4 But, then, there's also these other types of
5 misrepresentations that they were making, and what we've
6 heard is that some of those kind of prohibitions that we laid
7 out in that agreement, you know, that did give some direction
8 to industry, and I think, hopefully, that was helpful. But
9 it is difficult when you're essentially going kind of one-
10 off, and you can kind of address the problems that whatever
11 instance that you're -- you know, whether it's a school or a
12 lead generator, whatever, however they were, in our view,
13 breaking the law, you can address those, but it's not a way
14 to get widespread industry practice changed.

15 MR. HALPERIN: May I follow up on that?

16 MR. SHULL: Yeah, sure.

17 MR. HALPERIN: The Attorneys General, what Nathan's
18 talking about, came to town and stood with a bunch of
19 Senators and shut down GIBill.com, which QuinStreet operated
20 and turned it over to the government because there was the
21 concern that our veterans and active-duty service members
22 might have thought that was an official government site and
23 relied on its judgments, and that site was turning students
24 over to colleges, and it was giving a seal of approval that
25 didn't exist. And that was a good thing, and it produced

1 changes, I think, with QuinStreet.

2 On the other hand, you can go today to Army.com.
3 Army.com is a lead generation site. The first thing that
4 will pop up is an ad for a for-profit college. I think a lot
5 of people might think that Army.com might have something to
6 do with the Army. That is owned by a company called
7 Fanmail.com. Victory Media owns Gijobs.com. That has a
8 school matchmaker tool for military-friendly schools, and the
9 schools that pop up, the first four -- four out of the first
10 five, the first four are all for-profit colleges, some of
11 whom are under investigation for fraud by law enforcement
12 again.

13 So, it's like a game of Whack-a-Mole. You know,
14 you get one, but there -- I think there needs to be some way
15 to try to create broader enforcement and more adherence to
16 standards. And if you do these cases one at a time, it still
17 looks to me like a lot of operators think there isn't a lot
18 of cost for continuing to behave in ways that law enforcement
19 or policymakers have shut down with respect to other actors.

20 MR. GILLMAN: I think Nathan and Jeff bring up an
21 important resource constraint and logistics issue when you're
22 talking about trying to enforce nationwide but in some cases
23 state-specific laws against companies that operate nationwide
24 and worldwide and in somewhat confusing circumstances. It
25 doesn't have to be a law-enforcement-only solution, though.

1 Again, one way that you would knock off G.I. Jobs' ability to
2 generate any traffic was to give the schools clear guidance
3 on how can you market to people who are looking for jobs,
4 because they would spend hundreds of millions of dollars as
5 an industry per year wiping out a lot of these third-party
6 record-generating and lead-generating sites' ability to
7 generate any traffic to their own site.

8 So, again, getting back to why it's so critically
9 important to have more clarity around two areas -- job
10 messaging and ads that are sort of targeted towards users
11 looking for jobs is one -- and then the second one, which is
12 equally important and from a consumer advocacy standpoint
13 more disturbing, websites that are put up to look like
14 they're offering people government assistance, government
15 food stamps, housing assistance, et cetera. Those two areas
16 right now represent both the lowest cost sources of traffic
17 for education lead generators, but of average quality leads
18 when you work them through the system of call centers and
19 third parties that these intermediaries have built for
20 education.

21 So, if you really want to tackle, you know, these
22 websites that some might argue are deceptive, their ability
23 to get eyeballs literally, one way to do it would be to
24 unleash the schools to use their own advertisements and their
25 own advertising budgets to generate traffic through folks

1 like Matomy directly to their own pages as opposed to the
2 schools being so afraid to go anywhere near a job site or a
3 fake job site that the territory is completely ceded to third
4 parties who are under much less regulatory and law
5 enforcement pressure and perceive themselves, by the way, to
6 be basically untouchable by federal and state authorities,
7 many of which are overseas.

8 MR. COLWELL: I also -- I think someone on the last
9 panel might have mentioned that Facebook effectively cut out
10 advertising from all, quote, unquote, payday lending lead-gen
11 marketers. You know, certainly there's Google; certainly
12 there's Facebook; there's a few other search engines which
13 make up the vast majority of -- which make up a significant
14 majority of the traffic that happens on the internet,
15 potentially going to those big media sources where consumers
16 are searching for this information, working with them to
17 remove fraudulent or unscrupulous types of sites and
18 marketers like G.I. Jobs or Army.com or whoever it might be.
19 That's certainly another angle that could be taken.

20 MR. SHULL: So, to what extent do the schools see
21 where the lead originated from?

22 MS. SHERIDAN: Every single thing I send over to
23 them has, at minimum, name, email, postal, data of birth,
24 gender, date, time, IP, and the source or the website that it
25 came from.

1 MR. SHULL: Is that typically what -- something
2 that the school requires, or is that something that --

3 MS. SHERIDAN: That's mandatory for canned spam and
4 TCPA. Yeah, every school requires a minimum of that.

5 MR. GILLMAN: That might be how Amy's company
6 operates, but that, by no means, is the norm in terms of
7 visibility in any lead-gen sector, including education. The
8 more appropriate question isn't what do the schools know
9 about where the leads are coming from but what do the
10 companies that the schools are buying leads from know about
11 those traffic sources, because I do think one of the
12 interesting trends in education is you don't have these rogue
13 affiliates out there operating and popping up, living in
14 their parents' basement and shutting down. It's not really a
15 rogue-affiliate situation in education.

16 What you have are very large companies who are
17 using messaging and knowingly working with and in some cases
18 creating the websites themselves to funnel that traffic to
19 the school. So, from where we sit as an intelligence firm, I
20 can tell you that our school clients do not have very strong
21 visibility into where their lead aggregator partners generate
22 traffic from. One of the questions we get asked often is
23 tell us who's doing -- you know, who's doing things the right
24 way out there, and we have to throw up our hands and say,
25 listen, there's probably a lot of folks doing things the

1 right way.

2 We can't audit the internet. That's not, you know,
3 a technology that I'm aware of is possible. We can just show
4 you the things that we've found that you've told us are
5 outside of your guidelines. But it's a very difficult
6 problem, the problem of lack of transparency in the
7 ecosystem. And, again, forcing schools to back away from
8 certain segments of the population entirely, that vacuum has
9 been filled by intermediaries where in any online marketing
10 context transparency beyond one server adjacent is virtually
11 nonexistent.

12 MS. SHERIDAN: I think Daryl would agree with me
13 that as, you know, probably in the last five years our
14 industry as a whole is really pushing towards transparency.
15 I mean, it's not perfect, and technology-wise, it's not the
16 easiest thing to do, and I think that also is a limitation
17 outside this whole discussion, but I do -- I mean, I applaud
18 our industry for really moving towards transparency as quick
19 as possible.

20 MR. COLWELL: Yeah, we certainly employ no shortage
21 of third-party tools to certainly keep an eye and regulate
22 the type of traffic that we offer. And as a business, we
23 make money when we deliver a value for our clients, and our
24 clients require it to do business with us. So, yeah,
25 certainly, it's something that -- yeah, it's been much more

1 of a focus on it over the last couple of years, like you
2 said.

3 MR. SHULL: So, switching from transparency to the
4 schools or to, I guess, the aggregators, I want to switch now
5 to transparency to the consumers. So, as I read online news
6 articles and online consumer complaints, one thing that often
7 pops up are consumers saying I don't understand how School X
8 got my phone number and are calling me.

9 So, Jon, I think your presentation this morning
10 touched a little briefly in that, but maybe you can get us
11 started on, you know, why does that happen to consumers,
12 what's going on.

13 MR. GILLMAN: So, one of the interesting things is
14 when you sit at the Better Business Bureau or at the consumer
15 hotline at the FTC, consumers only remember certain aspects
16 of their experience. So, if you fill out a form on
17 Section8Help.net and you get a call from EdSoup, which is a
18 company you've never heard of, and then you get transferred
19 to ITT Tech, and you get upset about that process, you're
20 going to call the BBB and say, why is ITT Tech selling me
21 food stamps. The consumer, even if they are exposed to a lot
22 of these intermediaries either over the phone or in writing
23 throughout the course of their flow, will often just sort of
24 revert to the names that they can remember, that they can
25 think of, which is usually the largest company in the chain.

1 So, the reason why you get a lot of these consumers who are
2 often confused as to why a school or an insurance company or
3 lender is calling them is they filled out a form.

4 And now David will tell you, and he's absolutely
5 right, that there are also, you know, a whole segment of
6 basically cyber criminals out there that force through stolen
7 or repurposed data through the ecosystem that are just
8 selling fraudulent leads. But outside of that context, most
9 of these consumers actually did provide their information to
10 someone, but whether it was for a \$1,500 Dunkin Donuts gift
11 card or it was for a sweepstakes for single mothers to win
12 \$10,000, you're right, you know, they did fill out the form
13 at one point, and there is no understanding -- basic
14 understanding at a consumer level that filling out a form for
15 a sweepstakes or a job application or government assistance
16 will result in your information being sold to so many folks.

17 So, there is a real danger from a brand integrity
18 standpoint and a risk management standpoint for schools who
19 will be, if not the person who calls you after you filled out
20 a form for food stamps, certainly you will be the most
21 memorable person or company that the consumer interacts with
22 after they fill out that form. So, that's really, I think,
23 the crux of that confusion.

24 MR. HALPERIN: Could I give another example of a
25 consumer experience?

1 MR. SHULL: Okay.

2 MR. HALPERIN: Edvisors.com, it describes itself as
3 a trusted source of information for people trying to figure
4 out how to pay for college. It has affiliated with it -- it
5 has had some of the top most trusted experts in student
6 financial aid. Well, it's also, as it used to admit on its
7 page, a lead generation company. I pointed that out in a
8 filing with the Department of Education. It doesn't say that
9 anymore. They have a site called HowToGetIn.com,
10 HowToGetIn.com. Before matching you with colleges, and
11 you're trying to figure out how to get in, it collects your
12 information. So, that's where your information got
13 collected.

14 It also then recommends schools. What schools does
15 it recommend? ITT, Kaplan, the Art Institutes, Westwood are
16 the first four that came up when I put in some information
17 suggesting I wanted to have a -- get an online degree or part
18 online and part on campus, I actually said. All of those
19 schools are under investigation by federal and state law
20 enforcement for fraud. That's Edvisors, that is -- there are
21 many other sites that do college rankings, college advice.
22 It looks like a benign experience. You don't necessarily
23 know you're entering into a consumer relationship as much as
24 just getting advice, and then you get the call and you don't
25 -- and, again, you don't know why.

1 MR. SHULL: So, Amy or Daryl, what would you guys
2 say would be the best practice for the industry of what
3 should consumers be told at that initial point of contact
4 with a lead generator?

5 MS. SHERIDAN: You want to answer?

6 MR. COLWELL: Yeah. I think one thing in
7 particular, somebody mentioned earlier that, you know, you
8 could be contacted, you know, X number of times. I think
9 it's extremely important for -- if a consumer is going
10 through an aggregated education flow, I think it's extremely
11 important for, you know, either the aggregator or the school
12 to be extremely transparent with that consumer to let them
13 know what the information that they're entering is going to
14 be used for and if and how they're going to be contacted, you
15 know, as specific as they possibly can.

16 MS. SHERIDAN: Yeah, I think really clear
17 information about what is going to happen after you hit the
18 "submit" button, okay? There's an opportunity after anyone
19 hits the "submit" button to have a "thank you" page and let
20 the user or prospective student know what is going to happen.
21 I think it's important to keep, you know, exclusive leads and
22 branded pages so you know whether it's University of Phoenix
23 or Westwood or whomever is going to contact you. So, I think
24 those are the two most important things from our side is
25 really showing the process of what is going to happen after

1 this moment and then who is going to contact you.

2 MR. SHULL: So, just a quick -- so we are at the
3 15-minute mark, so to the extent there are questions from the
4 audience, if you want to hold them up, then someone from the
5 event staff will come and collect them.

6 So, I wanted to also talk about the data that is
7 collected. And, Amy, you talked about the data that you
8 collect on your sites. So, is there a reason why an
9 education lead generator should be collecting sensitive
10 financial data such as bank account numbers or Social
11 Security numbers?

12 MS. SHERIDAN: In no situation ever should that be
13 collected from anyone on our side dealing with any education
14 lead generation, at least not from the lead generation side
15 of things. I can't speak for the schools or anybody else,
16 but from our side, that is -- I've never actually seen it
17 happen. I've never seen a request, never, ever. They've
18 never even tried it as far as I can see.

19 MR. COLWELL: Yeah, and if you visit any school's
20 website, the initial contact with the consumer, the request-
21 more-information or request-to-be-contacted form, it's all,
22 again, relatively vanilla contact information: a name, an
23 email address, maybe physical address, a phone number, and
24 some basic drop-down questions typically around the type of
25 degree and timing, about when they want to go back to school.

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So, you know, neither from like a lead generator's point of view nor a school's point of view is any sensitive financial information required.

MS. SHERIDAN: But that's also not to say that there aren't large data bases like the credit companies, like other companies -- Axiom, Experian. I mean, if you wanted to get this information and pay for this information, the school has the ability to go hit it up against any of these data bases and get that credit information, you know, but it wouldn't be anything to do with the lead generator.

Our job is to generate the lead for the school. Once we send it to them, I mean, you know, it's on them what's going to happen after that. But, I mean, I think there are -- I haven't heard much precedent, but, you know, it is like technologically possible to, in realtime, find out the credit score of this person or, you know, find out whether they have debt or open room on their credit card. It's possible, but that really, like after we send the data to these schools, that's when that would occur.

MR. SHULL: So, to the extent that education lead generators aren't collecting kind of the sensitive financial information, but they are still collecting, you know, PII, personally identifiable information. What are some potential risks of that information being misused?

1 MR. GILLMAN: Well, the simplest concern that
2 should be out there is if I'm a school and I'm working with a
3 lead generator and the lead generator, theoretically has
4 their own form and collects the consumer's data, then I have
5 some contractual and legal mechanisms to try and make sure
6 that that company is being a good partner and good steward of
7 that customer's data.

8 The network of intermediaries, though, that really
9 do feed into the companies that directly contract with the
10 schools also collect that consumer's information. And one of
11 the most dangerous things, and from a law-enforcement or
12 investigative standpoint, one of the most difficult things to
13 figure out sometimes is how did this user's data actually
14 make this hop from a bunch of schools calling to now a debt
15 consolidation firm calling them or a payday loan offer
16 calling.

17 And that's really where it gets to consumer -- the
18 protection advocates and regulators and law enforcement folks
19 being very clear and asking the question: What do you do in
20 the revenue chain? Do you host a form that a consumer fills
21 out, or do you pay people like Matomy to send people to your
22 form, or do you pay people like Amy to host a form for
23 themselves and then do you buy data from them, recognizing
24 that in all cases, even in the affiliate model where you're
25 getting traffic directly to a school page, there is the

1 option that three steps before an affiliate network sent the
2 user to a school's landing page, they also filled out the
3 form for sweepstakes.

4 And the real risk there is the consumer might think
5 it was that school that sold my information to the debt
6 consolidation firm and the payday lenders, when, in reality,
7 it was the downstream intermediary that was collecting that
8 information to try and increase their conversion for other
9 types of offers that are unrelated that ultimately sold their
10 data. So, the data market out there is very healthy, and I
11 think the source of this issue.

12 MR. SHULL: Any other risks or potential harms that
13 could come from having this data, collecting this data?

14 So, I did want to turn now to the Department of
15 Education. So, kind of somewhat unique among lead generation
16 customers, I think schools face a complicated scheme of both
17 state and federal statutes and regulations. So, I guess,
18 what should schools be aware of when they're using lead
19 generators?

20 MR. APPEL: So, in terms of looking at the
21 regulations and the requirements for institutions under the
22 Departments' purview, obviously, we have rules against
23 institutions misrepresenting their educational programs, the
24 financial charges of the programs, or the employment
25 prospects or outcomes of their programs. So, they need to be

1 concerned about, you know, what their -- what they or their
2 agents are representing about their educational programs.

3 The other potential implication is with the
4 prohibition -- the statutory prohibition against incentive
5 compensation, which prohibits schools or other entities from
6 paying firms or individuals on the basis of securing
7 enrollments or financial aid for students.

8 It's a little unclear, though, to what extent
9 that's going to be implicated based on whatever the
10 particular, I think, relationship is between an institution
11 and a third party, the lead generator. If an institution is
12 just purchasing names from a lead generator, then there's
13 probably little in the way of our regulatory reach in those
14 cases.

15 If a lead generator is doing more than that and is
16 performing some function on behalf of the institution, like
17 making "admit" decisions or doing more to process student
18 financial aid, then that would be -- that would be a case
19 where the institution would have to be concerned about
20 complying with our rules.

21 MS. SHERIDAN: I think that we reached a really
22 great point, actually, with TCPI coming out almost a year
23 ago. It now is mandatory if you are going to call someone
24 that where they opt in or put their information in, there is
25 a list of companies that could possibly be calling you. So,

1 now that's mandatory for the last year, so they have to have
2 some disclosure in a -- on an unchecked box, and they have to
3 check the box to say that they know that they are going to be
4 hearing from X, Y, and Z.

5 So, I think in the last year, with the TCPI and the
6 new changes to it, luckily we've gotten to a point where the
7 consumers are going to know who's going to call them. And
8 it's mandatory. So, that's great.

9 MR. SHULL: So, at this point -- so, there's a
10 couple of audience questions. Two of them are fairly
11 similar, so I'll just combine them. So, other than, you
12 know, the consumer protection laws that are enforced by the
13 different federal and state agencies and the rules and
14 regulations promulgated by the Department of Education, what
15 specific rule or statute would you want to see the government
16 pass? David?

17 MR. HALPERIN: You know, when Corinthian Colleges,
18 one of the worst behaving for-profits collapsed, there was a
19 big discussion among policymakers in Washington about what to
20 do. And I work with a coalition of organizations --
21 veterans, civil rights, consumer, student -- and we looked,
22 and in our view, I mean, it would be difficult, frankly, to
23 enact any laws because many of the -- this industry has a lot
24 of sway over policymakers in Washington, the for-profit
25 college industry.

1 But in our view, if you enforce the existing
2 regulations, the ones particularly that Jeff mentioned --
3 prohibition on misrepresentation and the prohibition on
4 paying a commission for selling admissions to college, and
5 you also require the institutions to be financially
6 responsible, then that would play -- that would make a big
7 difference in the schools behaving properly and forcing their
8 agents going down to the lead generation industry to do the
9 same.

10 So, I'm not -- I think the laws are pretty good in
11 this area, and, you know, I think there's room for creativity
12 to try to figure out how to create more enforcement and
13 adherence to them through reforms, but I think that we've --
14 actually, a lot of this has been thought of and covered.
15 It's just not being enforced.

16 MR. SHULL: Any other thoughts on additional rules
17 or regulations that you would like to see implemented?

18 MS. SHERIDAN: I think it would be interesting to
19 figure out, like, who is ultimately, you know, at fault when
20 a situation arises. You know, there are many people in the
21 chain, you know. Is it the person that sent out the email?
22 Is it the lead generator? Is it the school? You know, is it
23 the -- even down to the government giving student loans, like
24 whether responsibly or not, you know?

25 I mean, there's --it's just unclear to me who

1 exactly, you know, is the onus for making these decisions.
2 And it goes all the way down the line. It's kind of like a
3 hot potato, you know, and I think that until there's some
4 sort of decision on it, it's going to continue to be that way
5 once, you know, there's better code of conduct and best
6 practices and other ideas put out there. In an environment
7 like this exactly, you know, people are going to have to be
8 responsible, whomever we decide. But I think that it's time
9 for a decision.

10 MR. GILLMAN: You know, I know we're in Washington,
11 DC, and, you know, there's a little bit of a bias here
12 towards what new law or regulation can fix the problem. I
13 would ask the question a little bit differently: Why is
14 there a self-imposed industry regulation to prohibit schools
15 from promoting on job websites? And what can the government
16 do to perhaps clarify their position that, at least to my
17 knowledge, there is no statute at a state level or federal
18 level, not like there is with regard to the use of the word
19 "free" or with incentive comp.

20 But the damage that has been done to consumers over
21 the last five years because schools have been too afraid of
22 the government to place their own very transparent
23 advertisements on job websites, I think, is a relevant one to
24 be asked, as well, in addition to the question about what new
25 laws and regulations should come up. Sometimes, the industry

1 makes its own laws and regulations in an odd sort of way, and
2 that's one that I think is a very bad one that's basically
3 being enforced now much more stringently than any of the
4 other current laws on the books regarding marketing for
5 higher education.

6 MS. SHERIDAN: I also think transparency, if we
7 like really gave a thought to transparency and being
8 transparent, I mean, I don't know what would happen, but I'm
9 pretty sure that that would clear up a decent amount of the
10 issues, you know. The schools are saying that they can't be
11 transparent, but really, they could, if they asked and if
12 they mandated that.

13 So, you know, something along the lines of
14 transparency as far as self-regulation, without having to go
15 to a lettered, you know, governmental agency, I think that
16 would be a great first step.

17 MR. APPEL: I think I might add to that a few
18 things. I think there are a lot of current requirements that
19 are on the books that are good. And the Department has
20 certainly been working towards improving its oversight and
21 will continue to do so. The one thing I think it's worth
22 keeping in mind at the same time is that there's almost 6,000
23 institutions of higher education that participate in the
24 federal student aid programs, and fewer than 300 federal
25 staff that on a day-to-day basis kind of oversee

1 institutions, as well as other -- as well as other job
2 duties.

3 But in addition to the -- and we have some of the
4 state AGs represented here and several others have been doing
5 a lot of important work. At a state level, the AGs have come
6 in kind of at the back end when there are problems
7 identified. States also have a role at the front end in
8 terms of authorizing institutions to participate in federal
9 student aid programs. So, to the extent that states can kind
10 of help screen schools at the front end, that might actually
11 help longer run, as well.

12 MR. SHULL: All right, our time is up, so I'd just
13 like to take a chance to thank our panel for being here and
14 for sharing their thoughts with us, and give them applause.

15 (Applause.)

16 MR. SHULL: So, we are going to take the lunch
17 break now, and we will reconvene at 1:30 for the afternoon
18 panels.

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