WE SHOULD LOOK AT IT AS AN INNOVATION POLICY BECAUSE REALLY VIRTUALLY ALL OF THE INNOVATION ON THE INTERNET DEPENDS ONE WAY OR THE OTHER OF COLLECTION OF INFORMATION, DEVELOP A PRODUCT, IMPROVE THE PRODUCT OR PROVIDE FUNDING FOR IT.
I THINK IT REALLY NEEDS TO BE LOOKED AT THAT IN CONTEXT.
I APPROACH THE SUBJECT BASICALLY IN TERMS OF NONSENSITIVE INFORMATION, I'M NOT -- NOT TALKING ABOUT MEDICAL INFORMATION OR FINANCIAL INFORMATION TALKING ABOUT USE OF INFORMATION FOR OTHER COMMERCIAL PURPOSES ONLINE.
THERE IT HAS TO BE HARM BASED. UNLESS -- I THINK NEED TO BE SOMETHING MORE THAN JUST A SELECTION OF THE INFORMATION, PER SE IS A HARM.
BECAUSE I GUESS I THINK IT NEEDS TO TO BE SOMETHING MORE THAN THAT.
LISTENING TO THE DISCUSSION TODAY I THINK PEOPLE GET A LOT OF MILEAGE OUT OF THE TARGET EXAMPLE ABOUT THE PREGNANT WOMAN I'M SURE WE'LL HEAR THAT EXAMPLE THE NEXT FIVE YEARS. BUT IT IS AN ANECDOTE. IT'S SOMEWHAT OF A NOVEL SITUATION, I THINK THERE NEEDS TO BE MORE SYSTEM AT A I CAN EVIDENCE OF HARMs.
I'm kind of thinking along the same lines as Alissa. I don't really have any sort of prescriptive advice I want to dig in to this why this is a Dutch hard thing to reason about and go back about tweeting the fact that I'm wearing a tie and other panelists may or may not be. One of the big problems is that people's mental models of how they interact with other entities, other people in physical world doesn't map directly to the online world. Because a lot of the actors in the online world are invisible, users don't perceive them. So there's this gap between what people think is going on and what is going on, that causes surprises, that causes angst and the creepiness factor. There's this concept of civil inattention that I heard Dana Boyd talk about, the idea that I'm walking down the street, latch on to a bunch of people just start writing down everything that they do, right? Part of the reason is that's impractical to do that. It waists a lot of my time. The other part of the reason is it's kind of creepy. I party in civil inattention, I don't remember the things that they are doing or wearing. This doesn't occur as a frequently online but people expect it to happen because this is how they interact with others in the real world. This is one of the reasons it's so hard to reason about what's actually wrong here.
IT MAY NOT BE, I CAN NO LONGER
BUY TIES BECAUSE I DIDN’T WEAR
ONE ON A SPECIFIC DAY OR
SOMETHING LIKE THAT.
BUT THE PROBLEMS ARE MAYBE NOT
AS EASY TO QUANTIFY AS A HARM.

>> CAN I FOLLOW UP ON THE HARM
POINT.
IT WAS MENTIONED THIS MORNING A
HYPOTHETICAL EXAMPLE OF A HOTEL
THAT HOSTED VERY SCANDALOUS ARC
AUTISTS.
AND THERE WAS A HARM DISCUSSION
ABOUT THAT.
WE ACTUALLY HAVE A REAL WORLD
EXAMPLE, NOT OF THE HOTEL I
THINK YOU'RE LAUGH ABOUT THE
HOTEL.
THERE'S A HOTEL IN NEW YORK THAT
FITS THAT MODEL.
BUT WE HAD A --

>> A COMPUTER COMPANY.

>> WE HAD A CASE INVOLVING A
COMPANY THAT RENTED COMPUTERS.
RINGTONE STORES RENT THE
COMPUTERS, THE COMPUTE HE IS
WERE CAPABLE OF REMOTELY
ACTIVATING THE REMEMBER CAMS.
RENT TO OWN STORES CAN ACTIVATE
THE WEBCAMS, COULD TRACE THE
LOCATION OF THE COMPUTERS,
OSTENSIBLE TO RECOVER THE
COMPUTERS IN CASE PAYMENT WAS
NOT FORTHCOMING.
AND THE CONSUMERS WERE NOT TOLD
ABOUT REMOTE ACTIVATION
CAPABILITIES.
THE WEBCAMS WERE IN FACT
REMOTELY ACTIVATED AND PEOPLE
WERE OBSERVED IN VERY SENSITIVE,
DELICATE SITUATIONS.
I THINK EVERYBODY IN THE ROOM
WOULD HAVE A REAL PROBLEM WITH
THAT.
The question, though, becomes is there harm in a legal test.
I guess there are two questions. One, is there harm if people know about it if the consumers themselves find out that they have been videotaped. Or is there only harm if consumers are not aware of it at all.
If the tree falls in the forest and no one hears it, does it make a sound.
If the web came is activated, data is not used at all.
Individual are observed by the rent to own stores, data not being sold or shared, consumers never hear about it.
Is there harm?
Anybody can jump in.

>> Why is this a useful question?

>> I think it gets at a the point of, is there actually a debate about harm.
Shouldn't we accept the fact that harm can occur merely by the collection of sensitive data in certain circumstances, not by uses alone.
Not by sharing of data.
Not by actual measurable impacts on individuals.

>> I'll respond to that from a legal perspective but also from a common sense perspective.
There is an extensive body of state law about what constitutes an invasive use of videoing technology.
And places like changing rooms,
BEDROOMS AND BATHROOMS ARE ALL TRADITIONALLY CONSIDERED TO BE ZONES, TRUE ZONES OF PRIVACY. THE EXAMPLE OF A COMPUTER BEING PLACED IN SOMEBODY’S HOME WITHOUT THE INDIVIDUAL KNOWING, IN SOME CASES PEOPLE ACTUALLY HAVING BEEN VIDEOED NAKED WITHOUT THEIR KNOWLEDGE, IS A VERY TRADITIONAL NOTION OF A PRIVACY HARM. IT’S AN INTRUSION UPON SECLUSION.

I DON’T THINK THIS HYPOTHETICAL IS APPLICABLE TO MORE COMPLICATED WORLD OF USERS GOING TO -- GETTING VERY VALUABLE WEB CONTENT FOR FREE ESSENTIALLY ON THE INTERNET IN THIS MARKETPLACE THAT LISA DESCRIBED WHERE THERE’S FAIR AMOUNT THAT’S GOING ON, AT LEAST THAT’S BEING MADE PUBLIC TO FAIR NUMBER OF PEOPLE. AND I DON’T THINK THAT THIS HYPOTHETICAL REALLY ADDRESSES THE MORE COMPLICATED -- I’M NOT SAYING UNCOMPLICATED, THE MUCH MORE COMPLICATED WORLD OF DATA COLLECTION AND TRACKING THAT’S OCCURRING ON THE INTERNET IN AREAS THAT ARE ESSENTIALLY PUBLIC MOST OF THEM.

>> CHRIS, DO YOU WANT TO WEIGH IN ON THIS POTENTIAL ANALOGY IF PERNICIOUS OR COMPREHENSIVE DATA COLLECTION CAN MAKE US UNWITTINGLY NAKED ONLINE.

>> NOT EXACTLY. WHAT I WANT TO SAY THAT CHRIS’ QUESTION, AND ASHKAN’S DISCUSSION OF THIS IS PROFOUND THAT IT’S INTERESTING US WHY DO WE THINK THIS IS A PRIVACY PROBLEM. THINKING ABOUT THAT WE CAN
ELUCIDATE OTHER ACTIVITIES THAT WE ALSO THINK IS PRIVACY INVASIVE BUT THIS IS A LARGER POINT. BUT THE FOCUS ON HARM IS TAKING AWAY OUR DECISIONS -- OUR DECISION-MAKING ABILITY TO DETERMINE THE SOCIETY WE WANT TO LIVE IN. IT'S UNDEMOCRATIC. WE'RE BASICALLY MOVING THE GOAL POST TO THE POINT UNLESS YOU CAN SHOW ECONOMIC INJURY, THAT IS THE ARGUMENT THAT THESE COMPANIES MAKE IN LITIGATION THERE IS NO STAPPING, YOU CAN'T GO TO COURT. THIS HARM DISCUSSION IS ROBBING US OF THE CHOICE IS DEMOCRATICALLY SAY THAT WE FIND IT OBJECTIONABLE TO PUT A CAMERA IN OUR BEDROOM OR TO SPY ON US AS WE TRAVERSE THE WEB.

>> LET ME BUILD ON THAT AND TAKE IT OUT OF THIS DESIGNER WEAR WHICH THE NAME OF THE CASE.

>> IT'S AN IRONIC NAME.

>> TALK ABOUT MORE ABOUT THE INFORMATION ASYMMETRY I THINK THAT'S IN PART THE QUESTION THAT I WAS GETTING AT, PART OF THE ISSUE THAT CASE RAISED. THERE ARE MORE AND MORE COMPANIES ABLE TO COLLECT DIFFERENT DATA POINTS, IT SEEMS LIKE THAT IS THE WAY THE COMPETITION IS MOVING. AN A ELAND GOOGLE AND MICROSOFT ARE ATTEMPTING TO CAPTURE MULTIPLE DIFFERENT DATA POINTS THROUGH TABLETS, THROUGH MOBILE DEVICES, THROUGH THE DESKTOP. AND ATTEMPTING TO -- DO
CONSUMERS KNOW ABOUT THE SCOPE THAT HAVE DATA COLLECTION SO THAT THEY'RE ABLE TO MAKE THE SORT OF CHOICES THAT SID TALKED ABOUT, THE INFORMED CHOICES AND THEY UNDERSTAND THE BARGAIN. THAT'S REALLY THE QUESTION. NO POSSIBILITY FOR CONSUMERS AND DESIGNERWARE TO MAKE THOSE CHOICES.

IS THERE A POSSIBILITY FOR CONSUMERS TO MAKE THAT IN OTHER CONTEXT.

I THINK STU TALKED ABOUT THE DAA ICON. THAT INVOLVED BECAUSE -- PEOPLE DID NOT UNDERSTAND ONLINE BEHAVIORAL ADVERTISING. IS THERE A SIMILAR ASYMMETRY IN CORPORATION DIFFERENT DATA POINTS.

>> I THINK THE QUESTION IS, TO WHAT EXTENT YOU WANT THE GOVERNMENT TO ENGAGE IN REGULATION OF DESIGN OF THESE PRODUCTS.

WHAT I THINK I HEARD ALISSA SAY THAT SHE THINKS SHE SHOULD HAVE THE RIGHT TO USE FIREFOX IN A PARTICULAR MODE, I DON'T WANT TO PUT WORDS IN YOUR MOUTH, TRY GOGGLE. GOGGLE OBVIOUSLY OFFERS AN INTERESTING RANGE OF PRODUCTS WHERE THEY TRY TO INDUCE YOU PROVIDING IDENTITY. SHOULD WE REGULATE THAT. WHEN MY COMPUTER IS ON, GOOGLE HAS MY I'D TIE. WHY, BECAUSE I USE GOOGLE READER, RSS FEEDS THAT'S ONLY WAY TO MAKE THAT SYSTEM WORK. I ACCEPT WHAT GOES WITH THAT. I COULD OPT OUT OF THAT.

SHOULD WE REQUIRE THEM TO
ORGANIZE SOMEHOW DIFFERENTLY. THAT'S QUESTION WITH REGARD TO REGULATION OR WHETHER YOU THINK WE'RE GOING TO HAVE DOZEN BROWSERS, THAT'S WHAT THE EU THINKS IS OUT THERE, A DOZEN BROWSERS WE'LL LET MARKET CHOOSE.

>> I THINK 'SIS LA YOU WANTED TO RESPOND?

>> I'LL GIVE YOU THE COUNTER EXAMPLE WHICH IS MY FIX LINE BROADBAND PROVIDER. SHOULD I AB ABLE TO USE THE INTERNET IN MY HOME OVER A FIXED CONNECTION. WITHOUT HAVING EVERY -- THE URL OF EVERY WEBSITE THAT I VISIT RETAINED INDEFINITELY.

>> WHAT IS YOUR NUMBER, THAT'S MY QUESTION. WHAT I MEAN BY THAT HOW MANY COMPETITORS DO YOU THINK YOU NEED TO HAVE IN THE MARKETPLACE BEFORE YOU DECIDE YOU SAY IT'S NOT AN ISSUEF 12 IS GOOD ON BROWSERS AND TWO IS INSUFFICIENT ON LAND LINE WHAT'S YOUR NUMBER?

>> THERE'S NO PROSPECT OF REACHING REASONABLE NUMBER IN THE U.S. ANY TIME SOON. IT'S GOOD THAT WE'RE HAVING THIS CONVERSATION RIGHT NOW.

>> TURNING TO REALITY, ISB --

>> I DON'T KNOW WHAT THAT MEANS.

>> JUST THE FACTS OF ISPs RETENTION OF WEB LOGS, ISPs HAVE KEPT WEB LOGS FOR MORE THAN -- THE ISP INDUSTRY AROSE
IN THE UNITED STATES.
IT WAS NEVER CONSIDERED
COMPREHENSIVE DATA COLLECTION
UNTIL THE -- THESE TRIALS RAISED
CONCERNS.
IT'S IMPORTANT TO KNOW THAT MOST
ISPs DECIDED, I ADVISED NUMBER
OF THEM, DECIDED NOT TO DO THOSE
TRIALS BECAUSE OF THE IMPORTANCE
OF THEIR CUSTOMER RELATIONSHIPS
AND BECAUSE OF VARIETY OF
DIFFERENT LEGAL ISSUES THAT ARE
RAISED BY FORM AND NEVER WENT TO
THE POINT OF BEING THE SUBJECT
OF THIS HEARING, IT'S IMPORTANT
TO KNOW THAT ONE SERVICE
PROVIDER THAT WAS MENTIONED
EARLIER WAS NEVER ACTUALLY RAN
THE TRIAL, THERE WAS
ANNOUNCEMENT THEY ANNOUNCED IT
ED MARKEY'S CONGRESSIONAL
DISTRICT.
THEY IMMEDIATELY TURNED TAIL.
MANY ISPs DECIDED NOT TO GO
FORWARD WITH THESE SORTS OF
MODELS FINALLY, IN TERMS OF HOW
LONG THE INFORMATION IS KEPT
THERE HAVE BEEN CONGRESSIONAL
HEARINGS WHERE MEMBERS OF
CONGRESS DEMANDING THAT THEY
KEEP LOGS LONGER IN ORDER TO
FACILITATE INVESTIGATION OF
CHILD PORNOGRAPHY.
WE'RE IN WORLD WHERE THE ISP
BEING PUSHED BACK AND FORTH, NOT
THAT THEY'RE CONSCIOUSLY
DECIDING TO KEEP THIS
INFORMATION FOR AS LONG AS THEY
POSSIBLY CAN IN ORDER TO
INNOVATE OR MARKET, THEY ARE IN
THE MIDDLE AND THEIR CORE
BUSINESS PROVIDING SERVICE TO
CONSUMERS.
THEY NEED TO KEEP CERTAIN
INFORMATION IN ORDER TO SECURE
THEIR NETWORKS AGAINST MALWARE
AND HACKING THEN THEY HAVE THESE PRESSURES FROM LAW ENFORCEMENT. ON -- TO BE SHOT AT FROM BOTH SIDES I GUESS MAY MEAN THAT THEY'RE DOING THE RIGHT THING. THIS IS NOT A SITUATION WHERE WEB LOGS ARE THE FUTURE OF COMPREHENSIVE DATA COLLECTION, THEY'RE VERY MUCH LONG STANDING PRACTICE.

ISPES NETWORKS ARE CONFIGURED IN DIFFERENT WAYS SOMETIMES THEY CAN HAVE MORE INFORMATION FLOWING THEM OR LESS. TO SINGLE OUT THE ISPs THAT ARE DOING FAR, FAR LESS OF THIS THAN HOST OF PLAYERS ON THE INTERNET AND MOST OF ENTITIES OFF LINE THAT ARE IN THE BUSINESS OF SELLING INFORMATION ABOUT CONSUMERS TO THIRD PARTIES, DOESN'T MAKE A LOT OF SENSE TO ME.

>> YOU WANTED TO WEIGH IN.

>> JUST TWO POINTS AROUND CONSUMER CHOICE. THE MOST COMMON MODEL IS NOTICE AND CHOICE BUT GENERAL IS THAT NOTICES AREN'T READ. THEY GIVE REGULATORS CHANCE FOR OVERSIGHT OF EMERGING MARKETS AND COMPANIES THE OPTION TO LOOK LIKE THEY'RE COMPLYING BUT IN REALITY I THINK WE ALL AGREE THAT IT FAILS TO PROTECT CONSULARS BECAUSE IT RELIES ON THAT THEORETICAL KNOWLEDGE AS OWE POSITIVESSED TO PRACTICAL KNOWLEDGE. I SUGGEST THAT WE PROBABLY HAVEN'T DONE ENOUGH TO EXPLORE POTENTIAL OF NOTICE ESPECIALLY IN THE MOBILE ENVIRONMENT, WHAT WE HAVE DONE TAKEN THE WRITTEN
FORM OF LENGTHY NOTICES JUST TRIED TO CONTINUOUSLY ADAPT IT TO THE MOBILE ENVIRONMENT EVEN A LOT OF TWITTER NOTICES YOU'LL SEE RELY ON THE WRITTEN WORD. WHAT NOTICES COULD BE TO BE MORE EFFECTIVE IS MORE EXPERIENCE SHALL.

SOME SCHOLARS HAVE TALKED ABOUT THE USE OF SHUTTER SOUND WHEN YOU HAVE APP THAT TAKES YOUR PICTURE. USING SOUND TOUCH, WELL RECOGNIZED IMAGES COULD BE MORE EFFECTIVE QUICKER THAT IS SOMETHING THAT COULD BE EXPLORED MORE.
SECOND POINT AROUND CHOICE, PERHAPS BEYOND THAT, PRIVACY REGULATORS IN THE MAIN WHO HAVE ADOPTED SORT OF EXHORTATION OF BEST PRACTICES OR ALTERNATIVELY SHAME AND BLAME APPROACH WITH COMPANIES THAT VIOLATE PRIVACY REGULATIONS PERHAPS THEY NEED TO CONSIDER BETTER PROMOTION, EDUCATION OF TOOLS TO REGAIN CONTROL OVER ONE'S PERSONAL INFORMATION AND STEPS. EMPOWERING PEOPLE TO ACTUALLY MAKE REAL CHOICES.

SO THAT THE QUESTION FOR POLICY MAKERS, IS ACCESS TO VIABLE CRYPTOGRAPHIC SOFTWARE, THAT THEY JUST WANT TO BE ABLE TO PARTICIPATE ONLINE WITH PRIVACY.

>> TOM THEN CHRIS.

>> THIS DISCUSSION OF ISPs I THINK SOMewhat ALONG THE LINES OF EARLIER DISCUSSIONS WHERE THERE SEEMS TO BE THIS ASSUMPTION THAT COMPANIES DON'T CARE WHAT THEIR CUSTOMERS THINK. ACTUAL PERCENT DO CARE, EVEN BIG
COMPANIES CARE WHAT THEIR CUSTOMERS THINK.
PEOPLE SWITCH ISPs ALL THE TIME FOR REASONS OF PRICE, SPEED, ISPs.
EVEN WITH TWO, THIS IS NOT THE PLACE TO GET IN TO A DETAILED -- IT'S MORE COMPETITIVE THAN THAT.
IF THESE COMPANIES THEY CAN GET A COMPETITIVE -- THEY WOULD.
I THINK THE REASON THAT WE DON'T OBSERVE IT IS BECAUSE MOST OF THEIR CUSTOMERS JUST DON'T CARE THEY DON'T SEE ANY HARM IN WHAT IS GOING ON.

>> ISN'T THAT -- DOESN'T THAT GO BACK TO THE INFORMATION ASYMMETRY.
IF THEY'RE NOT AWARE OF WHAT IS GOING ON ARE THEY ABLE TO MAKE THE --

>> CONSUMERS ARE NOT GOING TO UNDERSTAND WHAT DAN WALLACH SAID.
I THINK CONSUMERS UNDERSTAND THE ROUGH BARGAIN THEY'RE MAKING IN TERMS MUCH TRADING THEIR INFORMATION FOR CONTENT, USEFUL ADVERTISING, FRAUD PROTECTION, WHOLE BUNCH OF SERVICES.
THEY DON'T UNDERSTAND HOW IT WORKS.
IT'S PRETTY COMPLICATED HOW IT WORKS.

>> IT'S HARD TO COME TO THE CONCLUSION THAT PEOPLE DON'T CARE, WE HAVE TO KEEP IN MIND THAT PEOPLE ARE SOCIAL BUT AS SID POINTED OUT THE WEB IS ANOA SOCIAL PLACE.
WE BRING TO IT OUR ASSUMPTIONS ABOUT THE WORLD, THAT PEOPLE WILL ACT IN CERTAIN WAYS.
ONE OF THE INTERESTING THINGS ABOUT ALAN WESTON’S RESEARCH OVER DECADES THAT HE ASKED CONSUMERS WHETHER THEY THOUGHT THAT BUSINESSES HANDLED INFORMATION AND ARE RESPONSIBLE AND CONFIDENTIAL WAY. YEAR STAFF TORE YEAR YOU FOUND THAT MORE THAN 50% OF AMERICANS BELIEVE THIS. MY RESEARCH, WE’VE DONE THREE LARGE SURVEY OF SURVEYS ON PRIVACY SUGGEST SOMETHING VERY SIMILAR. PEOPLE THINK THAT THE COMPANIES THEY DO BUSINESS WITH ARE ACTUALLY ACTING IN A FIDUCIARY ROLE. THEY BELIEVE THAT THOSE COMPANIES CANNOT SELL DATA TO THIRD PARTIES. PERVERSELY THEY BELIEVE THAT IF A PRIVACY POLICY, MERELY HAS A PRIVACY POLICY IT MEANS THAT THE -- IT MEANS THAT ONE HAS RIGHT TO DELETE DATA AND IT MEANS THAT CAN SUE THAT WEBSITE. YOU SAY PEOPLE DON’T CARE. I WOULD ASK US TO REMEMBER, REMIND YOU OF THE DO NOT CALL SITUATION HERE. THE DMA RAN A DO NOT -- TELEMARKETING DO-NOT-CALL LIST A TELEPHONE PREFERENCE SERVICE FOR A LONG TIME. IN ITS HEIGHT IT HAD ABOUT FOUR MILLION ENROLLMENTS IN IT. YOU MIGHT HAVE BEEN ABLE TO SAY, PEOPLE JUST DON’T CARE THEY DON’T ENROLL IN THIS THING. WHEN THE FEDERAL TRADE COMMISSION GAVE PEOPLE AN EASY TO USE SIMPLE CHOICE TO OPT OUT OF TELEMARKETING. PEOPLE RUSHED TO IT. THERE ARE 217 MILLION
ENROLLMENTS IN THE FTCs DO NOT CALL DATABASE.
IF WE GIVE PEOPLE INFORMATION AND ABILITY TO MAKE CHOICES I THINK THEY'RE GOING TO RUN TO THEM.
WHAT THIS DEBATE IS ABOUT IF YOU REALLY DIG DEEPLY IS THE FEAR OF GIVING PEOPLE SUCH CHOICES.

>> I REJECT THAT ASSUMPTION THAT -- I THINK IT WAS -- ASSUMED IN TOM'S STATEMENT THAT PEOPLE RESPONDING TO IT. FIRST PARTY CUSTOMER RELATIONSHIP KNOWS THAT IT'S CUSTOMERS CARE. THINKS CAREFULLY AND VETS ITS USES OF PERSONAL INFORMATION AS WE'VE HEADED TOWARD THE END OF THE LAST DECADE IN TO THIS DECADE CAREFULLY. ARE NOT GOING TO RUN SELLING INFORMATION IN WILD WAYS THAT USERS WOULDN'T EX EXACT. I'D ALSO POINT OUT THAT THERE IS A HUGE COTTAGE INDUSTRY. GENERALLY THE COMPANIES THAT GET SUED, COMPANIES THAT ARE SUBJECT OF FTC ENFORCEMENT ACTIONS ARE COMPANIES THAT DO -- HIGHLY UNEXPECTED THINGS WITH REGARD TO CONSUMER DATA OFTEN MORE SENSITIVE CONSUMER DATA. THE WHOLE SERIES WATCH THEY KNOW SERIES IN THE "WALL STREET JOURNAL" IT'S BEEN REMARKABLY SUCCESSFUL IN BRINGING TO LIGHT UNEXPECTED USES OF CONSUMER DATA WITH SIGNIFICANT CONSEQUENCES. LOOKING AT THIS YOU CAN POINT TO SMALL PLAYERS THAT EXTENDS BEYOND FIRST PARTY ENTITIES, BECAUSE FIRST PARTY ENTITIES HAVE CONTRACTS WITH THIRD PARTIES ARE STARTING TO REQUIRE
THEM TO TAKE STRONG PRIVACY
MEASURES.
I THINK WE'RE SEEING SIGNIFICANT
CULTURE CHANGE ON THE INTERNET
AND GREATER THOUGHT HOW
INFORMATION IS BEING USED.
YES, YOU CAN POINT TO INCIDENTS
LIKE THE PREGNANCY INCIDENT TO
SHOW THAT COMPANIES ARE MAKING
MISTAKES.
BUT THIS IS -- FIRST PARTY
CONSTRAINTS HERE THAT THIS
DISCUSSION REALLY NOT
RECOGNIZED.

>> LET ME JUMP IN -- GO AHEAD,
CHRIS.

>> WHY WAS IT A MISTAKE?
WE HEARD FROM HOWARD BEALE, IS
THAT KNOWING CAN'T BE THE HARM.
WHAT WAS THE MISTAKE THAT TARGET
ENGAGED IN BY KNOWING THAT THIS
WOMAN WAS PREGNANT?

>> IT'S INFORMATION THAT ONE
INFERS ABOUT PEOPLE'S HEALTH
CONDITIONS, I THINK IN SOMEWHAT
DIFFERENT CATEGORY THAN WHAT
SOMEBODY IS WILLING TO PAY TO
BUY A CAR.
OR WHETHER THEY'RE LIKELY TO
WANT A CAR.

>> I DIDN'T REALLY MEAN TO SAY
THAT THESE BIG COMPANIES, THAT
NOBODY CARES.
I THINK THESE BIG COMPANIES CARE
ABOUT THEIR CUSTOMERS AND CARE
ABOUT THEIR REPUTATIONS IF THERE
IS PRIVACY GLITCH THEY WANT TO
AVOID IT.

>> LET'S TALK ABOUT THAT A BIT.
BECAUSE THAT RAISES THE POINT OF
TRANSACTION COSTS AND POTENTIAL
MARCEL IMBALANCE.
OBVIOUSLY THERE ARE CONSUMER BENEFITS WITH BEING ABLE TO HAVE YOUR SERVICES PROVIDED ACROSS DIFFERENT DEVICES AND IN DIFFERENT PLACES. BUT DOES THAT ALSO NOT CREATE TRANSITION COSTS IN TERMS OF YOUR ABILITY TO SWITCH SERVICES. DOES IT CREATE AN OPPORTUNITY FOR LARGE FIRST PARTY TO PUSH THE ENVELOPE TO INNOVATE, TO DO THINGS LIKE THE TARGET SCENARIO THAT IS PERHAPS IN A MURKY AREA AND NOT RISK LOSING CUSTOMERS BECAUSE THERE IS A LOCKED IN EFFECT.

>> IF NOTICE AND CHOICE IS OFFERED AND NOTICE IS REASONABLY CLEAR SO CONSUMERS UNDERSTAND THEN THERE IS NO ASYMMETRY OF POWER AND USERS HAVE A CHOICE AS TO WHAT IS OCCURRING. ONE CAN GO TO OPT OUT CENTERS AND OPT OUT, ONE CAN DECIDE WHETHER OR NOT TO USE A SIGNED IN -- TO SIGN IN ON GOGGLE HAVE ALL ONE'S SURFING ARC AUTISTS BE RUN THROUGH THE GOOGLE SIGN IN. ONE CAN DECIDE WHETHER OR NOT TO DOWNLOAD DIFFERENT APPS ON DIFFERENT DEVICES. THERE ARE SERIES OF CHOICES AVAILABLE. WE CAN TALK ABOUT INFORMATION SHOULD BE CLEARER TO CONSUMERS AND CHOICES TO OPT OUT SHOULD BE CLEARER. THE NOTION THERE IS A WORLD WHERE CONSUMERS POWERFUL TODAY MARKET POWER BY THESE PLAYERS THAT ARE DIVERSE FILING AND OFFERING DIFFERENT SERVICES TO CONSUMERS ALSO USING DATA IN ORDER TO INNOVATE MORE.
I THINK IS AN OVER SIMPLIFICATION OF WHAT IS GOING ON.

>> SID, DID YOU WANT TO JUMP IN HERE?

>> I THINK THERE IS A WHAT-IF THERE THAT IS IMPORTANT WHETHER OR NOT THIS NOTICE IS EFFECTIVE, RIGHT? THAT'S REALLY THE DISCUSSION. IS THERE AN ASYMMETRY OF POWER, THERE MAY BE ISSUES HOW CLEAR NOTICE SHOULD BE AND I'M ALL -- MOST OF MY LAW PRACTICE INVOLVES COUNSELING CLIENTS ON PRIVACY COMPLIANCE. BUT I THINK THAT IS AN ISSUE HOW TO WRITE NOTICES BETTER. THERE IS RESEARCH THAT I THINK WAS AIRED TODAY THAT CAN SIGNIFICANTLY HELP WITH THAT. BUT THAT'S THE ISSUE. OR FACE OVERWHELMING COERCION.

>> I THINK THERE IS ALSO A SITUATION WHERE I MAY BE INTERACTING WITH ONE COMPANY ONLINE AND SO ARE ALL OF THE PEOPLE THAT I WANT TO COMMUNICATE WITH. THE ONLY WAY THAT I CAN COMMUNICATE WITH THEM IS THROUGH THAT ONE COMPANY. AND I MAY NOT LIKE THIS COMPANY BUT I HAVE A CHOICE TO MAKE AND IT'S NOT WHETHER OR NOT TO USE THIS COMPANY IT'S WHETHER OR NOT TO PARTICIPATE WITH MY FRIENDS.

>> I ACTUALLY THINK IF ONE DOESN'T LIKE A PARTICULAR SERVICE THERE ARE VARIETY OF TECHNOLOGY TOOLS. ONE CAN ALSO FIND E-MAIL
ADDRESSES OF YOUR FRIENDS OR SUGGEST THAT YOU MOVE TO A DIFFERENT SOCIAL NETWORKING SITE THAT IS MORE TO YOUR LIKING.
I DON'T THINK YOU'RE WITHOUT WAYS, I KNOW PEOPLE THAT BREAK -- THEY CREATE FICTIONAL IDENTITY THEN CREATE -- VIOLATES THE TERMS OF USE BUT PEOPLE FIND WAYS TO DO THAT.

>> I WANT TO BE GOOD WEB CITIZEN NOT VIOLATE TERMS OF USE AND COMMUNICATE WITH MY FRIENDS WHO ONLY SPEND TIME.

>> IF THEY'RE YOUR GOOD FRIENDS YOU CAN TALK ABOUT GOING SOME OTHER PLACES.

>> I THINK JUST ONE THOUGHT THERE THAT I THINK THIS CONVERSATION REALLY NEEDS TO GEL WITH WHAT A ALESSANDRO WAS TALKING ABOUT, NOT NECESSARILY MATCHING TO YOUR EX-POST FEELINGS ABOUT YOUR CHOICE AND I THINK NETWORK AFFECTS ARE ONE WAY THAT THROWS WRENCH IN THERE, I THINK THERE IS OTHER SORT OF ASPECTS OF LOCK IN THAT CAN BE REALLY IMPORTANT IF YOU SIGN CONTRACT FOR TWO YEARS OR YOU BUY A DEVICE THAT YOU CAN'T TAKE TO A DIFFERENT NETWORK, RIGHT, OR JUST HAVE YOUR RUN OF THE MILL STATUS QUO BIAS REASONS WHY YOU DON'T WANT TO LEAVE A PARTICULAR SERVICE THEN COUNTER VAILING SERVICE THAT YOU BOUGHT IN THAT MAKE YOU FEEL LIKE YOU DO.
THEN -- TO ME THAT'S WHY FULL SET OF FITS ARE SO IMPORTANT YOU HAVE TO ASK, WHAT ARE THE OTHER PROTECTIONS THERE THAT ARE
HELPING TO SERVE YOU.
IS DATA BEING IDENTIFIED.
IS IT NOT BEING SHARED BROADLY,
IS IT BEING DELETED AFTER PERIOD
OF USE THAT'S WHY ALL OF THOSE
AFTER THE FACT PROTECTIONS ARE
SO IMPORTANT BECAUSE YOU'LL GET
PLENTY OF CONSUMERS.
THEY FEEL LIKE THEY CAN'T LEAVE
FOR OTHER REASONS EVEN THOUGH
PRIVACY ASPECT MAKES THEM
UNCOMFORTABLE.
JUST RELYING ON NOTICE AND
CHOICE -- IF YOU DON'T HAVE A
CHOICE IT'S NOT REALLY ADEQUATE.

I AGREE THAT THERE ARE OTHER
INFORMATION PRACTICES THAT CAN
BE HELPFUL HERE.
THE SITUATION THAT INVOLVES USE
OF DATA, IDENTIFIED TO THE
EXTENT THAT IT'S DIFFICULT IF
NOT TECHNICALLY IMPOSSIBLE TO
REIDENTIFY, IT CAN BE USED FOR
INNOVATIVE PURPOSES AND TALKING
ABOUT THE MOST IMPORTANT PART OF
THE ECONOMY THAT OFFERS
CONSUMERS 'NORM MUSS AMOUNTS OF
SERVICES AND A CONTENT AT NO
CHARGE AND IT'S IMPORTANT TO
BALANCE THE INNOVATION AND
SOCIAL GOODS WITH THE PRIVACY --
LEGITIMATE PRIVACY CONCERNS OF
CONSUMERS.
BUT NOT TO ASSUME THAT THE
DEFAULT HAS TO BE NEVER SHARE.
DEFAULT HAS TO BE ALL DATA IF
IT'S TECHNICALLY -- TO
REIDENTIFY IT.
THERE ARE VERY IMPORTANT
ECONOMIC IMPLICATIONS OF HOW ONE
REGULATES PRIVACY ON THE
INTERNET TODAY AND IT'S
IMPORTANT TO PROCEED CAUTIOUSLY
AND TO PROCEED WHERE POSSIBLE
THROUGH SELF REGULATION AND
THROUGH HIGHER LEVEL PRINCIPLES RATHER THAN HIGHLY SPECIFIC STATUTORY REGULATIONS.

>> I WANT TO FOLLOW UP ON THE POINT ABOUT pHIPPS. THIS IS AN ISSUE THAT COMES UP IN TERMS OF COMPETITION, THERE ALREADY SECTORAL LAWS IN PLACE THAT GOVERN CERTAIN INDUSTRIES IN TERMS OF PRIVACY. SO ARGUABLY THERE'S ALREADY A POTENTIAL IMPAL, THERE'S THE CABLE PRIVACY ACT, THE CPMI LAWS. THERE ARE COMPANIES WHO WILL ARGUE THAT THEY'RE NOT ABLE TO DO WHAT OTHER COMPANIES IN THE SPACE ARE ABLE TO DO. THAT BEGS THE QUESTION, IS THE ANSWER TO THAT PROBLEM A MORE GENERAL SET OF RULES OR PRINCIPLES OR STANDARDS THAT WOULD APPLY ACROSS THE BOARD. ALISSA, DO YOU WANT TO ADDRESS THAT?

>> YES. [Laughter]

>> YOU FIND THIS A RELEVANT QUESTION.

>> THIS IS A VERY RELEVANT QUESTION. I THINK IF WE CAN GO BACK TO THE BEGINNING HAVE BASELINE LAW INSTEAD OF SEC MATERIAL LAW.

>> I'M GLAD YOU ASKED THAT QUESTION BECAUSE IF YOU LOOK WHAT IS GOING ON IN JURISDICTIONS AROUND THE WORLD, BANKS AND MOBILE NETWORK OPERATORS ARE ENTERING INTO PARTNERSHIPS TO CREATE MOBILE
PAYMENT SYSTEM.
THAT ISSUE, THAT DEVELOPMENT
WILL CRYSTALLIZE A LOT OF WHAT
WE’VE TALKED ABOUT TODAY.
IN OTHER JURISDICTIONS, FINDING
BUYING TELECOMMUNICATION
COMPANIES TO BE PART OF THE GAME
OF MOBILE PAYMENTS.
AND TWO TRENDS ARE FORGING AS
LINK BETWEEN COMPETITION OR
ANTI-TRUST ISSUES, FIRST IS WHAT
WE’VE TALKED ABOUT ON THIS
PANEL.
ECONOMICS OF ONLINE ADVERTISING
WAY INTERNET GOODS AND SERVICES
ARE MONETIZED THEN SECONDLY, THE
RISE IN WHAT YOU CAN LARGELY
CALL INTERNET INTERMEDIARY,
SEARCH ENGINE, SOCIAL MEDIA
COMPANIES, ISPs USE OF
INFORMATION ABOUT CONSUMERS THAT
FLOWS TO THEM AS PART OF THE
SERVICES THEY RENDER.
JUST PICK UP ON WHAT WE’VE
TALKED ABOUT EVERYBODY KNOWS OR
HEARD OF SQUARE WALL APP FOR
STARBUCKS.
IT’S A HUGE CONVENIENCE FACTOR
to paying for a latte with your
phone.
SOMETHING ELSE IN PLAY.
MOBILE PAYMENTS IF YOU LOOK HOW
THEY HAVE BEEN DEPLOYED IN
DEVELOPING ECONOMIES HAVE BEEN
REALLY ECONOMIC DRIVERS FOR THE
CASH LIGHTENED ECONOMIES THAT
THEY CREATE A.
BUT IN MORE DEVELOPED ECONOMIES
WITH GREATER ACCESS TO BANKS
WHAT HAPPENS ALMOST IMMEDIATELY
WITH THE INTRODUCTION OF MOBILE
PAYMENTS IS MOVE TO COUPONING,
ALSO YOUR LOYALTY CARD.
THE APP KEEPS TRACK OF HOW MANY
TIMES YOU VISITED THAT STORE,
WHAT YOU PURCHASED, INFORMATION
THEN USED TO GENERATE OFFERS, DISCOUNTS, COUPON THAT KEEP YOU COMING IN TO STARBUCKS. IT'S THIS EASE OF COUPONING, REDEEMING REWARDS THAT ARE DRIVING ACCEPTANCE OF THIS BUT ALSO REALLY RICH TERRAIN FOR BEHAVIORAL ADVERTISING.

>> TOM?

>> I DON'T THINK -- I DON'T SEE ANY RATIONAL TO HAVE SEPARATE PRIVATE REGIME. A FUNCTION OF THE LEGACY REGULATORY SYSTEM THAT IS OUT OF DATE MANY CHARACTERISTICS. I DON'T THINK THAT NECESSARILY IMPLIES THAT WE SHOULD HAVE GENERAL PRIVACY LAW.

>> ANYONE ELSE WANT TO WEIGH IN HERE?

>> THE INTERNET COMMERCE COALITION INCLUDES BOTH E-COMMERCE COMPANIES THAT ARE NOT ISPs, IT INCLUDES ADVERTISING COMPANIES INCLUDES JOB SEARCH SITES AND IT INCLUDES ISPs. THAT INCLUDES NOT JUST ISPs WHO ARE TELECO AND CABLE OPERATORS BUT E-COMMERCE COMPANIES. THE REGULATORY SYSTEM IS OUT OF DATE AND IDEALLY IF THERE IS A CODE OF CONDUCT THAT'S IMPLEMENTED IN THIS AREA IT WOULD BE GREAT IF IT SUPERSEDED EXISTING SEC MATERIAL REGULATION BECAUSE IT DOESN'T MAKE SENSE TO HAVE TWO DIFFERENT OVERLAYS OF REQUIREMENTS THAT IN SOME CASES CAN CONFLICT AT THE VERY LEAST CAN BE CONFUSING.
SHOULD THERE BE OVERARCHING THEN PRIVACY LAW IF WE REMOVE THE SEC MATERIAL APPROACH DO REGULATORS AND LAWMAKERS -- I GUESS THE FCC ACKNOWLEDGING THAT NOT PARTICULARLY PRODUCTIVE FOR IT TO BE VERY ARC ATIVELY INVOLVED IN PRIVACY WHEN THE FTC IS LEADING AGENCY TO BE ENGAGED INMENT ISSUE. BUT IN TERMS OF WHETHER LEGISLATION -- DEPENDS WHAT IT SAYS RIGHT NOW LOOKING AT A CONGRESS IT APPEARS UNLIKELY THAT CONGRESS WILL MOVE A BASELINE PRIVACY LAW BUT AS WITH ALL PROPOSALS THERE CAN BE WAYS TO IMPROVE THE LAW JUST I'M NOT HOLDING MY BREATH FOR LEGISLATION TO PASS CONGRESS THAT WOULD SUPERSEDE THE EXISTING SECTORAL COMMUNICATIONS LAWS. I THINK THAT IS PROBABLY A WAYS OFF.

PART OF HOW YOU ASSESS IT HAS TO BE, I'D ASK YOU THOUGH I DON'T EXPECT AN ANSWER, WHICH IS HOW DO YOU FEEL ABOUT THE SCHEME YOU'RE RUNNING RIGHT NOW. THE SCHEME YOU'RE RUNNING RIGHT NOW IS A SCHEME WHERE WHAT HAPPENS IS, SOMEONE MAKES A MISTAKE, IT'S NOT CLEAR THAT CONSUMERS HAVE SEEN THAT MISTAKE, HAVE ENGAGED WITH THAT MISTAKE, YOU LABEL THAT A DECEPTIVE PRACTICE. YOU THEN ASK FOR CONSENT DEGREE, YOU THEN REGULATE THEM FOR 20 YEARS, MYSPACE MUST BE DELIGHTED TO KNOW THEY WILL BE AROUND FOR 20 YEARS, THAT SEEMED OPTIMISTIC. THAT'S THE SCHEME WE'RE RUNNING.
IS THAT A SCHEME YOU LIKE?

>> WE DO LIKE THAT SCHEME. [Laughter] THAT SCHEME IS NECESSARY BUT PERHAPS NOT SUFFICIENT.

>> RANDOM AND EPISODIC.

>> THE QUESTION MAY BE ALSO WHETHER THE BASELINE PRIVACY REGULATIONS PASSES WITHOUT ANY FTC REGULATORY DISCUSSION. FEDERAL TRAIT COMMISSION NEEDS TO THINK ABOUT WHETHER THAT SORT OF MODIFIED VERSION OF SECTION FIVE NOW WITH MUCH CLEARER OR OVERARCHING BUT MORE SPECIFIC REQUIREMENTS IS A GOOD REPLACEMENT FOR THE FTC EXISTING AUTHORITY. I DOUBT THAT RESULTING PRIVACY LEGISLATION WOULD GIVE FTC BROAD RULE MAKING AUTHORITY OVER PRIVACY IN THE END.

>> BUT ALL WITH OUR ENFORCEMENT AUTHORITY.

>> CERTAINLY WOULD HAVE ENFORCEMENT AUTHORITY.

>> THERE IS AN INTERESTING NARRATIVE HERE WRITTEN BY TWO PEOPLE AT A BERKELEY DISCUSSING ADVANTAGES OF OUR EPISODIC FTC ENFORCEMENT. THEY ARGUE THAT THE INDETERMINE NANCY OF ENFORCE SYSTEM CAUSING COMPANIES TO ACT MORE RESPONSIBLY THAN THEY WOULD IF THEY HAD CLEAR SINGLE LAW THAT CAUSE COMPLIANCE ONLY.

>> THIS IS A VISION THAT THE FTC CAN OCCASIONALLY --
This is actually what the Congress gave FTC. Congress was wise in its gift if you will -- can't levy huge fines against these companies. It can negotiate agreements that get worked out, that deals with some of the due process concerns but at the turn of the century throughout that -- it's very difficult to motivate Congress to pass a single law to deal with these different predations.

You would think that democratic thing would be for Congress to do something that's where democracy should take place not just at the FTC.

Sid, I want to ask you this question as a well, you're in the tech innovation space. You're all about technological solutions to give consumers control. And you're with a company that is competing on privacy in many respects. Is it your view that the competitive efforts to provide consumers with privacy are going -- are likely to prevail and are likely to be sufficient or do you think that additional measures might be necessary to address some of the issues that have been teed up today.

I wish I had an easy answer to that question. I think that's tough. I think people that know best how to optimize, the balance between privacy and
FUNCTIONALITY AND OF THINGS, ARE THE PEOPLE MAKING THE THINGS. THE PEOPLE IN KNOW RATING. THE PEOPLE WHO BEST KNOW HOW TO COMPETE FOR CONSUMERS' INTERESTS ARE THE ONES IN THAT MARKETPLACE COMPETING FOR IT. AND CERTAIN EXTENT AS FAR AS ONLINE GOES YOU CAN GO CROSS SECTOR TO PEP PEOPLE PROTECT THEIR PRIVACY. IT GETS FUZZY BECAUSE WE CAN -- WE CAN MAKES WEB LESS ATTRACTIVE THERE IS LESS INNOVATION. THERE'S NO REAL EASY TECH SOLUTION TO SAY, THIS IS GOING TO SOLVE ITSELF. AND I CAN'T PREDICT THE FUTURE, I WISH I COULD, I REALLY DO, I'D BE INVESTING HEAVILY RIGHT NOW. I THINK THERE'S SOMETHING TO BE SAID ABOUT COMPETITION IS AFFECTING PRIVACY IN A POSITIVE WAY. SOME COMPANIES ARE COMPETING ON PRIVACY, IT'S NOT ENOUGH. TAKE IT AS A YOU WELL THAT'S COMING FROM MOZILLA. TECHNOLOGY CROSS SECTOR CAN HELP OUT A BIT BUT I DON'T KNOW WHAT WE NEED.

>> LET ME ASK YOU A DIFFERENT QUESTION. IN YOUR VIEW TO ENGAGE IN ADDITIONAL INTEGRATED DATA COLLECTION OR IS THERE STRONGER INCENTIVE FOR COMPANIES TO COMPETE ON PRIVACY. JUST YOUR OUTLOOK ON THE LOAN. WHERE IS THE INCENTIVE STRUCTURE WHERE DO YOU SEE COMPANIES MOVING.

>> THOSE ARE APPLES AND ORANGES, RIGHT, COMPANIES ARE
GOING TO COMPETE ON PRIVACY IF THEY WANT TO AND COLLECT DATA IF THEY WANT TO USE THE DATA.

>> SO HOW MANY -- QUANTIFY IT. DO YOU SEE MORE AN A ELSE THAN ORANGES? APPLES BEING COMPANIES WANTING TO INNOVATE BY COLLECTING MORE --

>> I SEE A LOT OF MAC BOOKS IN HERE. I CAN'T QUANTIFY IT. I DON'T KNOW. I'M SORRY.

>> REAL QUICK.

>> I WOULD SAY THAT COMPANIES THAT HAVE STRONG RELATIONSHIPS WITH CONSUMERS, FIRST PARTY RELATIONSHIPS BALANCE THOSE INTERESTS VERY CAREFULLY AND DO PRIVACY REVIEWS BEFORE DECIDING WHETHER TO MOVE FORWARD WITH G.O.P. RATIONS OF CHANNELS. THE FIRST PARTY RELATIONSHIP DOES VERY MUCH COME IN TO PLAY HOW CONSUMERS ARE GOING TO RESPOND IS VERY IMPORTANT FACTOR AND THERE ARE MANY MORE MARKETING NEWS THAT ARE REJECTED. THEY'RE REJECTED VERY OFTEN FOR PRIVACY REASONS.

>> IF I MAY SHARPEN YOUR POINT. YOU OFTEN SEE BETTER BEHAVIOR FROM FIRST PARTIES BUT SEE BEST BEHAVIOR FROM PARTIES THAT YOU ACTUALLY PAY. THE COMPANIES WHOSE BUSINESS MODEL IS FREE ARE OFTEN HIDING PRIVACY AS PART OF THE PRICE IF YOU LOOK AT LET'S SAY DIFFERENCE
BETWEEN AN A ELAND GOOGLE. VERY DIFFERENT INCENTIVE STRUCTURE FOR COLLECTION OF NOBODY AND TREATMENT OF CONSUMERS. WE RECENTLY HAD A SPEAKER AT BERKELEY DISCUSS GOOGLE FROM THE INDUSTRY, HE SAID, GOOGLE WANTS INTERNET TO BE FREE SO IT CAN TELL ADVERTISING. WHICH I THOUGHT WAS ACTUALLY IS A PRETTY PROFOUND POINT. ONE OF THE POINTS I'VE MADE IN A RECENT ARTICLE WITH JAN IS WE NEED TO THINK ABOUT PAYING FOR MORE ITEMS, MORE SERVICES, ET CETERA. BECAUSE IF WE WERE ACTUALLY PAYING THESE COMPANIES THERE WOULD BE BETTER INCENTIVE ALIGNMENT. THAT MIGHT BE A WAY OF AVOID CAN REGULATION HAVING THE MARKET SHAPE THESE PROBLEMS IN A WAY THAT IS MORE PRIVACY FRIENDLY.

>> DID YOU WANT TO WEIGH IN ON THIS ANY MORE THEN WE'RE GOING TO FINAL --

>> I WAS JUST GOING TO JUMP IN. I'M AN ENGINEER I WAS GOING TO ANSWER LIKE AN ENGINEER TO SAY 20% OR 40% THAT'S WHY I CAN'T QUANTIFY IT. WHAT'S BEEN SAID SINCE I ADMITTED LACK OF KNOWLEDGE THERE WAS THAT THE TRUST DOES PLAY IN TO THIS A LOT. COMPANIES CAN COMPETE ON TRUST, PRIVACY AND SECURITY INPUTS IN TO HOW MUCH PEOPLE WILL TRUST THE COMPANIES. IF YOU HAVE CONSUMERS WHO AREN'T GOING TO LEAVE YOU FOR ANY REASON YOU DON'T NEED THE TRUST
AS MUCH AS YOU DO IF YOU'RE COMPETING.
AND I THINK A LOT OF COMPANIES ARE COMPETING ON TRUST NOW AND PRIVACY IS PART OF THAT.
I DON'T KNOW HOW MUCH BUT I'D LIKE TO SEE IT MORE.

>> WE ARE RUNNING OUT OF TIME.
I'M GOING TO GIVE EACH OF YOU AN OPPORTUNITY, 30 SECONDS TO A MINUTE TO WRAP UP YOUR THOUGHTS ON THIS VERY BROAD TOPIC. WE'LL JUST GO STRAIGHT DOWN THE LINE.

>> I'VE BEEN HERE THE WHOLE DAY ONE THING THAT STRUCK ME WAS HOW DIFFERENT INDIVIDUALS' ASSUMPTION ARE ABOUT THE MARKETPLACE AND HOW THINGS WORK. ON ONE HAND WE'RE SEEING SOME ARGUMENTS THAT ARE VERY RATIONAL WITH THE IDEA THAT WE'RE ALL AUTONOMOUS INDIVIDUALS JUST BEHAVING IN THE MARKET. THAT WHAT APPEARS IS GOOD. VERSUS PEOPLE WHO WANT TO LOOK MORE AT THE ENVIRONMENT AND STUDY HOW THE ENVIRONMENT SHAPES OUR UNDERSTANDING OF POSSIBILITIES HOW THE ENVIRONMENT SHAPES OUR DECISIONS.
I WAS AT A THE ZOO THE OTHER DAY WITH MY TWO-YEAR-OLD AND WE SAW SANTA CLAUS, MAYBE WE'LL GO TALK TO SALT LAKE CITY, ASKED DO YOU WANT FOR CHRISTMAS MY SON SAID, GRILLED CHEESE.
WE WERE ACTUALLY IN A RESTAURANT.
THERE IS -- I THINK THE CONTEXT TOLD HIM TO ASK FOR THAT.

>> SOUNDS LIKE A GOOD DEAL FOR
MOM AND DAD.

>> THAT'S MY REACTION, TOO.

>> MY POINT IS IN THINKING ABOUT CONSUMERISM AND EXPECTATIONS WE DON'T KNOW ABOUT ALL THE POSSIBILITIES. THERE ARE VERY PRIVACY PROTECTIVE ALTERNATIVES BUSINESS MODELS TO THIS MASSIVE COLLECTION OF DATA BY THIRD PARTIES. BUT WE'RE TREATING THE CURRENT PATH AS THE ONLY ONE. WHEN I HEAR ABOUT ALL A THE RICHES AT A THE END OF THE OBA PATH I'M REMINDED OF THE MIRACLE OF INSTANT CREDIT. ALL THE PROMISES AND HOPE THAT WERE UNSUBSTANTIATED THERE.

>> I'VE BEEN SAYING IT'S AN INTERESTING DAY. WE SEEM TO HAVE SPENT MOST OF THE DAY ON THE FAILURE OF THE MARKETPLACE WHICH IS NOT MY AVERAGE DAY'S TAKE. THAT'S BEEN INTERESTING. I THINK IT'S IMPORTANT TO FOCUS ON POTENTIAL HARMs. I THINK IT'S IMPORTANT NOT TO LOSE THE EYE ON ALL THE BENEFITS THAT THE SYSTEM GENERATED FOR US. I DON'T THINK WE SHOULD TREAT THE GOVERNMENT AS BEING FREE. IT NEVER IS.

>> I'D CLOSE WITH POINT ON INTERSECT BETWEEN ANTI-TRUST AND PRIVACY. GIVING USERS BACK CONTROL OVER THEIR OWN INFORMATION AND PRESSING FOR THINGS SUCH AS GREATER USER CONTROL OVER IT,
THE RIGHT TO BE FORGOTTEN ON THE INTERNET.
RIGHT TO ANONYMOUS ACCESS MORE GENERALLY EMBEDDING ACCEPTED FIT PRINCIPLES IN TO EMERGING TECHNOLOGIES, PICKING UP ON WHAT CHRIS SAID PERHAPS OPTIONS TO PAY WITH MONEY OR PERSONAL INFORMATION.
DOING THOSE THINGS MAY ACTUALLY SERVE TO INCREASE COMPETITION WHICH COULD INTERN LEAD TO GREATER INNOVATION.

>> I CONCLUDE BY SAYING THAT THE POINT -- THE OVERALL PURPOSE OF THIS WORKSHOP WAS TO LOOK AT WHETHER THE FTC’S NOTICE AND CHOICE FAIR INFORMATION PRACTICES MODEL THAT WAS DEVELOPED THROUGH THE STAFF DRAFT THEN THE REPORT WAS ISSUED IN MARCH SHOULD BE CHANGED DUE TO THIS MODEL OF -- COMPREHENSIVE DATA COLLECTION IS THE WRONG WORD THIS DEFINITION SHOULD NOT -- WHOLE TOPIC SHOULD NOT BE COMPREHENSIVE. A LOT OF DATA COLLECTION. AND I THINK OVERALL MY TAKE AWAY FROM THIS IS THAT THERE SHOULD BE CERTAIN USES OF INFORMATION THAT ARE COLLECTED IN THIS MANNER THAT SHOULD BE PROHIBITED AND THAT IT’S IMPORTANT FOR BUSINESSES THAT ENGAGE IN COLLECTING A LOT OF INFORMATION LOOK CAREFULLY AT THE TRANSPARENCY THAT THEY PROVIDE TO CONSUMERS THAT THEY’RE OVERALL DATA PRACTICES, HOW LONG THEY’RE KEEPING DATA, WHAT SORT OF NOTICE THEY’RE PROVIDING CONSUMER CHOICE, THOSE ARE THE SORTS OF TAKE AWAY, IS THAT I THINK WE SHOULD DRAW FROM THIS
I think that lot of speak he is
were very different points of
view all well expressed.
In terms of an action item I
continue education and to look
at barring certain uses if
they're not add aequatly barred
by self regulatory frame works
today.
I'll conclude with that.

>> The first is that think
reflecting everybody was that
not really privacy framework
that I know of or any particular
regime and any sector that
allows for unjustified,
unexplained limitless collection
and indefinite retention.
I do this there is something to
be said for the fact that
historically that framing has
been accepted as a risk.
And a reason to try and build in
some limits.
So I think that's an acceptable
framing for this conversation.
The second point is that getting
to topic that was raised earlier
today which is about technology
and neutrality I think we heard
a lot, DPI and we didn't hear
very much at all about content
delivery networks or anyone who
operates domain name server or
anyone who operates a web proxy
and there's all kinds of
technologies that can be used
for essentially very similar
purposes not just on sector by
sector what can a network
operator use, operating system
use what can device -- we should
stay away from trying to
evaluate these practices on the
BASIS OF WHICH TECHNOLOGIES IS
BEING USED IN PART BECAUSE I
THINK DPI DOES HAVE A BAD NAME
NOW NOR VARIOUS REASONS AND ONE
THING THAT ENCOURAGES IS
COMPANIES TO CALL WHAT THEY'RE
DOING SOMETHING ELSE.
SO THAT IT DOESN'T ATTRACT THE
ATTENTION THAT DPI WOULD
ATTRACT.
I'M NOT SAYING THAT'S HAPPENING.
BUT CERTAINLY SOMETHING THAT
DOES HAPPEN I THINK EXTREME
CAUTION NECESSARY ON TRYING TO
BE TECHNOLOGY SPECIFIC.

>> DON'T BEAT A DEAD HORSE IS
THE OTHER RULE.

>> I WOULD LIKE TO JUST RETURN
BRIEFLY TO THE COMPETITION ISSUE
WHICH IS OBVIOUSLY IMPORTANT TO
THE FTC AN I DON'T THINK
PROBABLY HAS BEEN DISCUSSED
ENOUGH TODAY.
WHEN -- IF YOU LOOK AT SOMEHOW
APPLYING SPECIAL RULES TO A
SUBSET OF ENTITIES, HOWEVER IT'S
DEFINED BUILT WHO ARE PRESUMABLY
ALL MAJOR PLAYERS IN THE
INTERNET ECO SYSTEM.
I DON'T THINK WE WANT TO MAKE
MORE DIFFICULT OR PERHAPS EVEN
IMPOSSIBLE FOR THOSE ENTITIES TO
USE INFORMATION IN ORDER TO
INNOVATE AND COMPETE AND
PARTICULARLY COMPETE IN AREAS
LIKE ONLINE ADVERTISING.
SEEMS TO ME YOU WANT ALL THESE
COMPANIES TO BE COMPETING WITH
EACH OTHER.

>> THIS IS DANGEROUS GIVING THE
COMPUTER SCIENTIST THE LAST
WORD.
AND SECOND TO -- THIRD TO LAST
WORD.
THIS HAS BEEN REALLY INTERESTING
DAY FOR ME.
I'VE LEARNED A LOT, I LEARN A
LOT EVERY TIME I ATTEND ONE OF
THESE.
WHAT I'M TAKING AWAY FROM IT IS
THAT FIRST PROBLEM WE SHOULD
SOLVE IS THIS GAP BETWEEN WHAT
PEOPLE THINK IS GOING ONLINE AND
WHAT'S ACTUALLY HAPPENING.
BECAUSE WE NEED TO GET CONSUMERS
BACK IN TO THE PICTURE AND
CONNECTED WITH WHAT IS GOING ON
SO THAT THEY CAN VOICE THEIR
CONCERNS.
AFTER ALL THAT'S WHAT WE NEED 20
DEAL WITH, RIGHT?
THEIR CONCERNS.
AND IN FACT THERE'S NO WEB
WITHOUT THEM, THERE'S NOTHING
EXCEPT BUNCH OF COMPANIES TRYING
TO SELL TO EACH OTHER.
WE NEED THOSE INDIVIDUALS TO
PARTICIPATE, WE NEED THEIR TRUST
FOR INNOVATION AND FOR ACCURATE
EVERYTHING ONLINE.
THERE'S NO SILVER BULLET YET TO
MAKE THIS HAPPEN.
WE NEED TO WORK ON THAT.
ULTIMATELY LIKE LISA SAID, FIRST
STEP IS GIVING CONSUMERS BACK
CONTROL OVER THEIR DATA.
THE INTERNET IS COMPLEX.
THIS COMPREHENSIVE DATA
COLLECTION PROBLEM IS NOT
TRIVIAL, NOT IN THE LEAST,
THAT'S WHY WE'RE SPENDING SO
MUCH TIME ON THIS.
THAT'S WHY WE'RE HERE TODAY WE
NEED MORE DATA TO FIGURE IT OUT.

>> THANKS.
I WANT TO THANK EVERYONE.
I HOPE THAT PEOPLE DID NOT
APPROACH THIS THIRD PANEL WITH
THE EXPECTATION THAT WE WERE GOING TO RESOLVE BY CONSENSUS THE PROBLEMS OF EITHER COMPREHENSIVE DATA COLLECTION OR A LOT OF DATA COLLECTION. BUT HOPEFULLY WE DID EXPLORE SOME OF THE ISSUES IN ENOUGH DETAIL AND I DO EXPECT WE'LL BE ELICITING COMMENTS. THERE MAY BE CONSENSUS IS ISSUE OF PROHIBITED USES, THERE SEEMS TO BE SOME CONSENSUS THAT THERE ARE SOME USES THAT OUGHT TO BE PROHIBITED. WE DIDN'T GET A CHANCE TO REALLY EXAMINE WHAT THOSE ARE. HOPEFULLY THAT WILL BE SOMETHING THAT WE CAN GET VIA COMMENT. I WANT TO THANK EVERYBODY ON THE PANEL, TURN IT OVER TO THE ASSOCIATE DIRECTOR OF THE PRIVACY DIVISION GOING TO GIVE SOME BRIEF CLOSING REMARKS. [ Applause ]

>> SINCE I'M THE OPTIMIST IN THE GROUP I THOUGHT I'D CLOSE BY KIND OF OWE LITING SOME OF THE CONSENSUS POINTS THAT I HEARD TODAY. BEFORE I DO THAT I JUST WANT TO THANK EVERYBODY IN THE AUDIENCE FOR BEING WITH US TODAY, STICKING IT OUT TO THE LAST PANEL, THOSE ON WEBCAST WHO HAVE BEEN WATCHING ALL DAY I ESPECIALLY WANT TO THANK ALL OF OUR PANELISTS WHO TOOK TIME FROM THEIR BUSY SCHEDULES TO ENGAGE IN THE DISCUSSIONS, ROLL UP THEIR SLEEVES, I THOUGHT THE DISCUSSIONS HAVE BEEN REALLY LIVELY. I ESPECIALLY THINK THEIR CONTRIBUTIONS ARE IMPORTANT BECAUSE WE DID INVITE A LOT OF
THE COMPANIES TO SPEAK TODAY WHO
HAVE CAPABILITY TO ENGAGE IN
ONLINE COMPREHENSIVE DATA
COLLECTION.
MANY DECLINED TO PARTICIPATE.
BUT WE DO WANT TO HEAR FROM YOU
WE'RE GOING TO KEEP THE RECORD
OPEN FOR THIS WORKSHOP WE'RE
GOING TO ARC A SEPTEMBER WRITTEN
COMMENTS SO YOU CAN TO GO OUR
WEBSITE FOR THE WORKSHOP WHICH
IS FTC.GOV FIND INSTRUCTIONS HOW
TO COMMIT WRITTEN COMMENTS.
I WOULD ENCOURAGE TO YOU SUBMIT
COMMENTS.
WHAT DO I SEE IS THE AREAS OF
CONSENSUS THAT HAVE EMERGED
TODAY.
LET ME JUST POINT TO FIVE OF
THEM.
FIRST, I THINK THAT WE TALKED
ABOUT HERE COMPREHENSIVE DATA
COLLECTION VERSUS LOT OF DATA
COLLECTION.
WE ALL AGREE THAT BUSINESS
MODEL, IS THAT ARE OUT THERE
THAT CAN PERMIT ENTITY TO GET A
PRETTY COMPREHENSIVE WINDOW IN
TO CONSUMER BROWSING BEHAVIOR.
SOME DISAGREEMENT HOW
COMPREHENSIVE THAT DATA
COLLECTION IS.
WE HEARD FROM ASHKAN THAT
GOOGLE, FOR EXAMPLE, CAN GET 88%
OF YOUR BROWSING BEHAVIOR.
ANOTHER PANELIST, EMPHASIZED
CONSUMERS THAT ACCESSING THROUGH
ALL SORTS OF DIFFERENT CHANNEL
AT WORK, AT HOME, THROUGH THEIR
MOBILE DEVICES YOU DON'T
NECESSARILY HAVE ONE ENTITY WITH
COMPREHENSIVE PICTURE OF
PEOPLE'S BROWSING BEHAVIOR.
YOU CAN GET PRETTY
COMPREHENSIVE.
SECOND AREA OF CONSENSUS THAT
THERE ARE NUMEROUS BENEFITS OF TRACKING. WE HEARD A LOT TODAY, GOOGLE ANTICIPATING FLU TRENDS, CITIES USING TRAFFIC FLOW DATA TO FIGURE OUT WHERE TO PUT TRAFFIC LIGHTS. WE HEARD THAT PEOPLE CAN GET MORE ACCURATE PERFORMANCE INFORMATION AND OF COURSE WE HEARD ABOUT THE FREE CONTHEN ADVERTISING FUELS.

THIRD CONSENSUS POINT, ALONG WITH THE BENEFITS THERE ARE ALSO RISKS TO COMPREHENSIVE TRACKING. THIS IS WHERE I'M GOING OUT ON A LIMB. I HEARD FROM HOWARD BEALES NOT ONLY POTENTIAL -- FINANCIAL PHYSICAL HARMs ARE NOT NECESSARILY ONLY HARMs THAT WE MIGHT WANT TO CONSIDER LOOKING AT THIS AREA. THERE'S ALSO REPUTATION FALL HARM. WE HEARD PORn HOTEL EXAMPLE, WE HEARD LOT OF OTHER EXAMPLES OF REP COMPUTATIONAL HARM. WHERE THE CONSENSUS TENDS TO BREAKS DOWN THAT THERE SEEMS TO BE DISAGREEMENT OVER WHETHER COLLECTION ITSELF IS A HARM. WE'VE HEARD FROM SOME PEOPLE, CHRIS HOOFNAGLE TALKED ABOUT THE CONCEPT OF INTELLECTUAL PRIVACY AND IDEA THAT I SHOULD BE ABLE TO ASK A QUESTION ON THE INTERNET WITHOUT -- TO MY FRIENDS WITHOUT THAT QUESTION BEING BROADCAST ALL OVER TOWN. THERe WAS SOME LACK OF CONSENSUS ON THE ISSUE OF WHETHER COLLECTION ITSELF IS A HARM. FOURTH AREA OF CONSENSUS IS NEED FOR TECH NEUTRALITY, WE CAN'T PICK WINNERS OR LOSERS.
WE HEARD LOT ABOUT FACT THAT COMPETITION ON PRIVACY SHOULD BE A GOAL, MAYBE WE'RE NOT THERE YET. BUT THAT'S SOMETHING THAT WE SHOULD BE STRIVING FOR. ENCLOSING I THINK MOST IMPORTANT PART OF WHAT I WANTED TO DO AND MY CLOSING REMARKS IS THANK THE FTC STAFF WHO MADE THIS WORKSHOP SUCH A SUCCESS, I WANT TO START CAN DAVID WHO IS IN THE CORNER THERE WHO SPEARHEADED THIS WHOLE WORKSHOP. [APPLAUSE] ALONG WITH KATIE, CANDY, PAUL, CHRIS, DOUG, CHERYL. ALSO THANKS TO SAMANTHA, T.J., WAYNE, OUR PARA HEELS AND MEDIA TEAM. THANK YOU AGAIN FOR COMING.