

>> ELLA KRAINSKY: All right, everyone. Thank you and welcome back. Just a few house keeping things I wanted to mention. There's some seats up here in the front. All the reserved seats are free now, so if anybody needs additional seats, come on up here. Another thing I wanted to mention is our comments page is now open, so if anybody has comments after the workshop, we really welcome your feedback. Please, go ahead and long on to our Webpage and you'll see a link to submit comments. All right. And now it is time for our second panel which is Social Media Advertising Disclosures.

>> RICH CLELAND: Hey. Good morning. My name is Rich Cleland. I work in the Division of Advertising Practices at the Federal Trade Commission. And this panel is gonna discuss disclosures in social media. And, you know, to make it clear up front when we talk about social media we're talking about consumers talking to consumers and not necessarily the platforms on which those discussions happen. And we're going to be focusing on how disclosures should be made in that medium, in that area, and not necessarily on, you know, whether a disclosure is required or what's actually required in that disclosure. That's a discussion for a different time. So, we're going to assume for the purposes of our discussions this morning that a disclosure needs to be made, and the question we're going to try to respond to is what is the best way to make that disclosure. We're going to be covering three general issues. The first issue -- and it's totally arbitrary, but I made it up -- we're going to be covering disclosures in sort of nonrestricted space where you've got plenty of space to make disclosures. And the question is, "What's the best way?" And then we're gonna talk about -- and as an example, blogs, your blog, personal blogs. And then we're gonna talk about disclosures in restricted space media -- in Twitter and things like that. And then finally we're gonna talk about how disclosures should be made or can be made on social media platforms that allow only for a single sign of approval or check in. And there is some materiality disclosure that needs to be made in that context. We have a highly qualified panel here to discuss these issues. We crossed a lot of spectrums. We have from both from in terms of users and sponsors of various social media. I'm gonna ask the panelists now to introduce themselves. And also, I'd like to give you an opportunity at this point when you introduce yourself -- If you could,

briefly identify what you think is the most critical issue in the area of disclosures in social media. We'll start with you, Susan.

>> SUSAN COOPER: Hi. I'm Susan Cooper. I'm Advertising Counsel at Facebook. I think that there are a few challenges with respect to social media disclosures. I think social media is an umbrella term, and it's used to signify a number of different platforms that are actually very different that function differently and that users use for different purposes and in different ways. So, trying to accommodate -- and this is something that came up in the last panel -- a lot of different platforms where one solution doesn't necessarily work on all platforms. I think the other thing that we need to keep in mind and that's another challenge is that the way that users are consuming social media is very different from the way they consume traditional media. And so, that in turn effects the way that offers are communicated and that marketers and advertisers communicate with users on social media platforms. And so, I think generally whatever solutions are arrived at just need to be flexible sort of from a conceptual standpoint so that they can accommodate the differences in platforms and also what's likely to become, you know, future, new technologies that are different from even what we're seeing today.

>> JIM DUDUKOVICH: I'm Jim Dudukovich. I may or may not work for a large company, but I'm here on behalf of word of the Word of Mouth Marketing Association, a member of the Legal Affairs Committee. You know, in terms of what I see as the biggest challenge, to me it's really understanding today's consumer and trying to modernize and adapt and evolve the way that we look at consumers and how they think, what they know, what their expectations are. And I think we're at a place where -- You know, when you think about it, we're still really in the infancy of the digital age. And I think in, you know, 5, 10, 20 years we're gonna look back and probably laugh at some of the modes of thinking that we're in right now. I don't know who's responsible for solving this problem and figuring out what the reasonable consumer is today. But I think it needs to be done because, you know, the only way to solve the problem is to identify the problem. And identifying the problem in this space to me is identifying what consumer expectations are, and where there are gaps and where consumers may be harmed rather than making assumptions that they are being harmed.

>> MALCOLM FAULDS: Hi. I'm Malcolm Faulds. I'm the Senior Vice President of Marketing at BzzAgent. I'm also affiliated with WOMMA, as well. I'm on the Member Ethics Advisory Panel, and we work on some of the disclosure guidance that we give to our member companies. The biggest issue that I see for us is in an earned media space, which is what word of mouth marketing is. It's a people-based media. You need to have authenticity. It needs to be personal. It needs to be relevant. It needs to be trusted between people, or else it doesn't work. And I think these disclosure guides, when done right, support that idea of creating authentic communications between people. If they're too sponsored, or, God forbid, if they feel like they're shill conversations, they won't be effective. So, we're very supportive of any initiatives that give better guidance to companies on how to do this in a way that supports people having authentic and transparent conversations among each other.

>> STACEY FERGUSON: HI. I'm Stacey Ferguson. I am here as a blogger, and a co-founder of the Blogalicious Community and Conferences. And I may or may not have worked here for seven years prior to that. [Laughter] From a blogger perspective, I would say the biggest issue is wanting to make the proper disclosures but not wanting to detract from your message and from the look and feel of your blog. Because a blogger, your primary goal is to appeal to your readers. And if that's clouded with a lot of legal jargon or and unattractive disclosure, that makes the message not authentic -- it seems forced. Then you are at risk of losing your readers, which is your sole purpose for being. So, I see that as the major challenge for us.

>> SUSAN SHOOK: Hi. I'm Susan Shook. I'm an Associate General Counsel-Associate Director with the Procter & Gamble Company. I lead a global privacy and digital law group who's dealing with these things every day. I think our biggest challenges is keeping pace with the new platforms or significant changes in the platforms that affect how we go about making our commercial and marketing messages and effectively how consumers are engaging in those platforms. That's part of why I think having a flexible approach is important. It's not, to what Susan said earlier, a one-size-fits-all. And, you know, despite what other lawyers or our clients might think, we're not playing around at our desks just catching up with our Facebook contacts, but we're actually trying to figure out how these platforms or nuances to them work and how the consumers are engaging with it in a way that we can make appropriate disclosures and read our compliance requirements.

>> ROBERT WEISSMAN: Hi. I'm Robert Weissman. I'm President of Public Citizen. I'll do three points to offer a little counterbalance. The first point I think is that advertising on the new platforms has to adapt to the existing law, not the other way around. So, there can be flexibility, but the principals underlying the law are there for sound, consumer-protection reasons. And if advertising in a new social platform can't be responsive and meet the duties of those old principals, then the advertising shouldn't exist, or the platform has to be modified through some new technology. Second point is to be, from our point of view, very cautious of the idea that consumers are different in the new era of new social media. So, consumers may be very sophisticated -- even young consumers, particularly -- may be very sophisticated about using new technologies. It does not mean that they're very sophisticated about how their being advertised to. And I don't think there's any empirical data to suggest that they are, even though it's sort of a common assumption that if you're really comfortable with using Twitter, for example, you know when you're being marketed to. The third principal is I think, with some very important exceptions, links aren't worth too much when it comes to disclosures. And it's particularly in the area we're talking about where the material issue at hand relays very directly to the impression that the consumer is receiving at the moment they're being advertised to. So, there are some really significant caveats with that last point. But, I think that's a third piece to take forward.

>> RICH CLELAND: Okay. Thank you. We're gonna continue the custom of the last panel. I'm gonna ask some questions based on some examples, and then if you want to respond to it first, go ahead and turn your tent up here, and I'll call on you. If nobody -- [Laughter] If nobody -- this is practice time.

>> JIM DUDUKOVICH: Oh.

>> RICH CLELAND: [Laughs] If nobody turns their tent up, then I have a list of victims here already planned. Okay. We've got two really fairly sim-- I think fairly simple examples we're gonna go through. The first one deals with sort of the unlimited space, and the second one is a Twitter example. So, Let's move into our first example. This is a blog. Katie's blogs about her home repairs and her home and the different types of products that she uses. And in this particular

blog, she's talking about remodeling her bathroom. And in the middle of the blog here she says, "but I finally ended up using Paint World's amazing Just-One-Coat paint in canary sunrise. Paint World sent me two gallons to try out, and this paint is amazing. Stacey, any problems with that example that you see?"

>> STACEY FERGUSON: No problems for me.

>> RICH CLELAND: [Chuckles] What do you think are the strengths of this?

>> STACEY FERGUSON: I like this -- again, speaking as a blogger -- because it's in her own voice. It's part of her message that she's already trying to communicate, and she's making the reader aware that she did not pay for the paint. So, that should satisfy the disclosure requirement. And yet, it doesn't take away from her story. So, from that perspective I like the way that she's done it there.

>> RICH CLELAND: Okay. Malcolm?

>> MALCOLM FAULDS: Oh. Was this the example that actually had the in-line disclosure? Sorry. The one that was on top here.

>> RICH CLELAND: Oh. [Laughs]

>> STACEY FERGUSON: Yeah, here.

>> MALCOLM FAULDS: Okay.

>> RICH CLELAND: Yes, this is the one with the in-line disclosure.

>> MALCOLM FAULDS: Okay, good. No, I agree then. I think that that's best practice when it has in-line disclosure. So, in the text of the post itself. Why that's so important is that in social media and so much digital technology now, the content doesn't reside in one place. It gets shared

many places. So, someone might be reading this blog on an RSS reader through a feed that would be outside the design of the site. So, while she has a nice disclosure and disclaimer page over to the side, that wouldn't show up to someone who's reading this blog on an RSS reader. So, having an in-line disclosure like this is really good. And if she can get color around that -- who gave it to her and in what context -- so much the better.

>> RICH CLELAND: Jim.

>> JIM DUDUKOVICH: I mean, I think this is absolutely fine. But the question I have is do we have all the facts? And I may with skipping ahead to some of the later examples, but I think it's fair for us to think about this in the context of did Paint World -- did they send two gallons of paint to everybody that blogs about home repairs and just send them out? Or did they send them to selected bloggers and say, "Hey, you got to try our new paint, and we'd love it if you blog about it." And I don't know -- Do you think those facts are material?

>> RICH CLELAND: Well, I -- Let's assume for the purposes of this discussion that Paint World regularly follows blogs that promote, you know, home repair products. And so, they've identified who the influencers are in this particular space, and that's who they want to reach. So, they have now sent this sample paint to Katie to try out wherever she wants to try it out. So, does that change the analysis?

>> JIM DUDUKOVICH: Well, I mean, the question is did Katie get just a cardboard box with two gallons of paint out of nowhere with no instructions, no requests, no anything? Or did she get a box of paint that said, "Hey. We know you're a blogger and you do home repairs. We'd love for you to try our pant and tell your readers what you think of it."

>> RICH CLELAND: Stacey, do you review products? And how do you get the products?

>> STACEY FERGUSON: I do. Both ways. So, as of late, more directly targeted. Like, "We see you blog about this. We'd like you to try "X." Write about it if you'd like, or we'll give you \$200 to write about what you think." Either way, as long as the disclosure's there, I don't know how

much it will matter to the reader if Katie was randomly selected to get the paint or paid to talk about it because you know that she didn't go buy this paint on her own and she does have some relationship with Paint World. I have seen a lot of bloggers -- And, you know, contrary to popular belief, most bloggers want to do the right thing and want to disclose. And I've seen a lot of over-disclosing. SO, there's a long paragraph at the end, and it says, you know, "Paint World contacted me. They offered me \$99 to write two posts for them on these months." And it goes on and on and on. And I really don't like those type of disclosures because then it seems forced. Then it seems like they are just the mouthpiece for Paint World. Whereas this seems more organic, natural, and you get the point. So, I don't know if it makes that much of a difference how Katie was contacted as long as she makes the disclosure at the end of the day.

>> RICH CLELAND: And you'll notice here -- The question here is if this disclosure is here, which seems to be the core disclosure in this particular example, then the rest of the details could be put in under disclosures and disclaimers if she felt that more information was necessary?

>> STACEY FERGUSON: She could, but, as Malcolm said, almost no one is gonna read that link.
[Laughs]

>> RICH CLELAND: Well, we're gonna get to that issue. [Laughs] Okay. Let's move on to our second example. And in this example, the disclaimer is still in the text. And it is at the bottom down there, and it says, "By the way, Paint World gave me the paint just to try out, but this paint is so terrific, I'll buy it myself next time." And in the text there's a link to Paint World's Website. Is this -- Do you see this as different than our first example? Anybody? Malcolm?

>> MALCOLM FAULDS: No. I don't really see a material difference in it. I think that she's disclosing that she got the paint for free. She's giving her opinion on the product efficacy. So, you know, to me -- What I would look for as a reader but also as someone who organizes these kind of programs, is she offering her opinion based on actual experience with the product, is she disclosing that she got the product for free? And it looks like she's doing that in this case.

>> RICH CLELAND: Does anyone have a contrary view? Stacey?

>> STACEY FERGUSON: I was just gonna say I agree. If she really wanted to go the extra mile, she might have put the disclosure before she linked to Paint World. Because if I'm just looking for a great paint and I come upon her blog, I might just click on it and go and buy it. And I'll never know that she actually got it for free, and that might have influenced my decision whether or not to purchase it. But I think it's fine the way it is.

>> RICH CLELAND: Okay, I think Jen had mentioned earlier in her presentation about consumers not reading the full page. And if you focus for a second in this example and compare it to the other one, the disclosure sentence in the first example is right next to her statement about getting the paint and the paint being amazing. This one is separated out. And how do we know that consumers are gonna read to the bottom to the last sentence on this Web log and see this disclosure? Robert?

>> ROBERT WEISSMAN: Well, I think that's right. This is not as good as the other one. And I don't think you were intimating, but in case you were, that in some of the other material the link to Paint World is not a disclosure. It's an ad. But, you know, this seems to me to be on the margin, and it's a judgment call. It's all within the same paragraph. It's not that far down. This does not seem to be sort of pushing it too far in terms of the disclosure for me. The other one is clearly better.

>> RICH CLELAND: Any contrary view? Malcolm -- Or, Jim?

>> JIM DUDUKOVICH: I mean, I'll just -- I'll throw it out for discussion. I'm not advocating one particular viewpoint on this, but going back to my comment earlier about sort of starting from the finish line and working our way back and looking at what the harm or the potential injury is here, if Katie is a home improvement blogger, do her readers think that she gets products to try out for free, and does that materially influence them? I mean, it's just sort of a, "Gosh, I would have bought that canary sunrise, but they gave it to her for free. And so, I'm very suspicious of the praise she's giving it." So, I know that I'm going off topic a little bit 'cause I'm getting into more of the

substance of the disclosure whether it's required versus how best to make it. But, in this example, I can't help but wonder -- Yeah. I think the first one is better than the second one.

>> RICH CLELAND: Mm-hmm.

>> JIM DUDUKOVICH: But do I think anyone is going to get harmed by the second one?

>> RICH CLELAND: But that's primarily because you don't necessarily see it as material.

>> JIM DUDUKOVICH: You're right.

>> RICH CLELAND: That's off topic. [Chuckles]

>> JIM DUDUKOVICH: Right.

>> RICH CLELAND: Uh, okay --

>> JIM DUDUKOVICH: That's probably not the last time for me.

>> RICH CLELAND: No, no, no, no. And that's fine. I don't mind being off topic as long as you don't expect a response.

>> JIM DUDUKOVICH: [Laughs]

>> MALCOLM FAULDS: [Speaking indistinctly]

>> RICH CLELAND: All right. Is this the third exam-- Did that? Okay. I can't see it from up here. Okay. And our third example is the disclosure of the information that's in the disclosure. She's taken it out of the text. She's -- It's now under the disclosures and disclaimers, and what it says is that Katie regularly receives products to review and that Paint World gave her the two gallons of paint. Comments on this particular form of disclosure?

>> MALCOLM FAULDS: I'll just reiterate my point from before. I think that this is the bare minimum for someone who would be disclosing something. We wouldn't consider it sufficient in our program just because it's not in-line with the review text itself, which is really important as content gets syndicated out to so many places these days. Those kind of disclosure and disclaimer pages don't always go with the content where it gets displayed.

>> RICH CLELAND: Stacey, is it clear and conspicuous?

>> STACEY FERGUSON: Not at all. [Chuckles]

>> RICH CLELAND: [Chuckles]

>> STACEY FERGUSON: And I would agree. This doesn't even meet the bare minimum for me because I don't treat the separate disclosure and disclaimers page as sufficient in any case. So, it would have to be where the endorsement is in order for it to be sufficient.

>> RICH CLELAND: Susan?

>> SUSAN COOPER: I -- Sorry. I think I'd just make the point that while I agree with the other commenters here, I think that we're talking about a blog and a Web page. And if somebody's accessing it via a mobile device or via a desk top computer, there's obviously a lot of text here and a lot of space. And so, given, perhaps, a lack of space constraint here that makes this type of disclosure maybe less effective. But if we were talking about something else, like a tweet, and the same type of information were being communicated where space constraints might be an issue, then this type of disclosure might be effective. And it's really just an example of how for one type of social media platform a disclosure might not be effective, but the same type of disclosure could in fact be effective in another platform.

>> STACEY FERGUSON: The only thing I would add to that is that there should be some clue that the reader needs to click somewhere else. And there's not that clue here. On Twitter, where

there is less space, the clue is right there because the link is right there. But here I could read her entire post and go my day and never realize that I should have read something on her disclosure page. So, I think there's a little bit of a difference.

>> RICH CLELAND: Okay. Robert?

>> ROBERT WEISSMAN: I agree with everything except sort of the Twitter application, but we can get to that later. I wanted to just add that, you know, I think one thing -- It's not about the materiality 'cause we're assuming that. But the first hypothetical has just two gallons of paint, and I think that colors the way we think about it 'cause it seems kind of di minimis. If the giveaway had been, "Yeah, they gave me all the paint I needed to paint my house," then, you know, we would have been more attentive to it. So, I think it's just the hypotheticals tend to just sort of prime us -- to use a pun there.

>> STACEY FERGUSON: [Laughs]

>> ROBERT WEISSMAN: Thank you. [Laughter]

>> ROBERT WEISSMAN: I was hanging for a minute. [Laughter] Prime us to how we're thinking about it, and I think maybe that's one -- maybe we're a little bit worked up than we would be if the consideration had been larger.

>> RICH CLELAND: Okay, let's assume for this example then that instead of saying disclosures and disclaimers it says something like "my financial relationships." Would that be an adequate disclosure?

>> ROBERT WEISSMAN: No.

>> RICH CLELAND: Anybody want to --

>> MALCOLM FAULDS: I agree it would not be adequate. I think the same technical problem still exists that that disclosure would not be accompanying the text wherever the text goes, and I don't think that label -- even that label for someone who's looking at the content on this page would be sufficient to communicate the experience with the marketer in that instance.

>> RICH CLELAND: Let me pose this question. Let's assume that we have another form of disclosure. Well, let's take our first two examples since we did get some positive response on the second example that, "Well, that might be an acceptable type of disclosure." So, we have one disclosure form that's clearly superior, and we have one disclosure form that might be acceptable. Do we -- how do we treat those two in terms of picking -- do we say, "Okay, it's your option. Both of these might be okay, just pick the one that you like, the one that seems to be least offensive or more consistence with your marketing message"? Or do we say the practice should be to be go with the disclosure that's most likely to be seen?

>> MALCOLM FAULDS: I think provided you give standards for what's required -- so, an in-line disclosure -- and then it would be nice to have a disclosures and disclaimers page or something on those lines. That's good, but you need to give the blogger in this case flexibility to put this in their own voice or else it's not going to be authentic. It's not going to feel like them writing. And really what we're talking about here is that peer-to-peer conversation. And if we make it too formulaic, give them too many guidelines, it's gonna lose that authenticity and people will stop doing it. Or they'll stop paying attention to the requirements.

>> RICH CLELAND: Jim, WOMMA has self-regulatory guidelines on social media. What is their advice on disclosures in blogs?

>> JIM DUDUKOVICH: Well, the advice is in-line with what I think everybody has already said today, which is it's got to be in proximity of the message, and it's got to be clear. The challenge with this one to me is are we focusing on Paint World or are we focusing on the blogger? Because I think that -- I'm sorry if I keep going back to my early points, but my company, as an example, in our social media principals, we say that you have to use the 10 magic worlds. "My name is 'blank' and I work for 'blank.'" And in a vacuum, it sounds like you're supposed to do that with every post

or message or communication regarding the company or its products or programs. And I think that's probably too strict. I think the point here is if consumers might be influenced by this blogger, is it material for them to know that she received this point for free.

>> RICH CLELAND: Mm-hmm.

>> JIM DUDUKOVICH: And I think we -- assuming the answer is yes -- I think example one and example two both are sufficient and comply with what WOMMA's guidelines would say, which, for those of you who don't know, they're under review and revision. And I think those have been shared with you, Rich.

>> RICH CLELAND: Mm-hmm.

>> JIM DUDUKOVICH: And those will be available to the public for comment. You know, as the space evolves, I think WOMMA recognize that it's time to re-look at the disclosure guides and try to modernize them and update them. But not to say the old ones were wrong.

>> RICH CLELAND: Mm-hmm. No, we'd never say that.

>> JIM DUDUKOVICH: We'd never say that. But under either set of guidelines, one and two would both be sufficient. I think example three would not be.

>> RICH CLELAND: Okay. Susan, I'm going to let you answer this question, but I'm going to throw another question in here on top of it. I know a lot of companies out there have policies that govern their social media marketing, and many of those sort of cover when you have to make a disclosure. Do they generally also cover how the disclosure must be made, or do you generally leave that up to the individual influencer?

>> SUSAN SHOOK: I can speak for my company and say that we generally would give some general guidelines on let's say in-line. But we try to keep the flexibility in terms of maintaining authenticity. Otherwise if you get so prescriptive, then the consumer is gonna be turned off, and it

doesn't come across as, "This truly was the experience of the blogger with your product," which is the underlying, fundamental purpose or nature of going out to the bloggers in the first place. I was going to say with regard to the two examples, I don't think either is wrong, and at the end of the day, as Robert said, it's all judgment.

>> RICH CLELAND: Mm-hmm.

>> SUSAN SHOOK: So, what kind of claims is the blogger making? You know, are they making extreme claims? Many of them? Should it be up front more or associated with the claim -- that disclosure. I think the nature of the underlying relationship is someone also said, you know, "Did she get enough paint for the whole house or did she just get a couple gallons to play around with?" And also, how does this information travel? So, a lot of these blogger spaces have all kinds of sharing links. If it's not in the context, is that disclosure going to travel with the endorsement?

>> RICH CLELAND: Mm-hmm.

>> SUSAN SHOOK: If it's off in a link to the side that's not likely. But there may be links placed within here that do a good job of disclosing within the link itself that there's some kind of relationship, and that may travel with the endorsement.

>> RICH CLELAND: Okay. Stacey?

>> STACEY FERGUSON: I just wanted to add one thing. For the most part, the contracts I see, the company tells you exactly what to say in the disclosure, and they want you to cut and paste it. It makes them more comfortable as for their legal team and the whole thing. So -- and a lot of times it's easier for the blogger. All I have to do is cut and paste it. What happens then though is that it's at the very end, so it's kind of more like the second example where I might be talking about Paint World in my text, but it's not till the very bottom where I have my disclosure that was given to me by the brand to put in there. So, if that's gonna change, then there will have to be a lot of education both to the companies and to the bloggers because we're kind of getting trained to take

that cut-and-paste language and put it at the end and not necessarily in the text where the endorsement is.

>> RICH CLELAND: Okay. Okay, let's move on to our next example. All right. This is our Twitter example. And in the first, you can all read it -- it's short. Limited space, you know? I'm gonna start with -- Stacey, with you again. Would you like to comment on this disclosure?

>> STACEY FERGUSON: [Laughs] [Sighs] So, if I saw something like this in my Twitter stream, I would just ignore it, to be 100%... [Laughter] It looks like an ad. It seems seedy and gross. And I would know exactly where it's coming from. If it's in my mother's Twitter stream, who actually is on Twitter -- scary -- then it could be more confusing. The fact that it says "ad" at the end -- I don't know if that would communicate enough to the novice or average Twitter user that that is, in fact, an ad. I don't know if that was helpful.

>> RICH CLELAND: Yeah. Anybody have a different view?

>> MALCOLM FAULDS: I agree that it's seedy and gross. [Laughter] But when I look at this, this brings up another issue that, I think, has caused some confusion among the WOMMA membership, which is around celebrity endorsements. Is Julie here a celebrity, or is she just an everyday person?

>> STACEY FERGUSON: Right.

>> MALCOLM FAULDS: And in the U.K., they make no distinction. They hold celebrities to the same disclosure requirements as everyday people, and so I think addressing that issue, again, or revisiting that would be helpful for the FTC to do -- what is that policy and why would celebrities not be held to the same standard on that?

>> STACEY FERGUSON: I just wanted to jump back in. It would be better if you took the plain-language approach and said, "Shooting the movie beach scene, Fat Away gave me pills to try out to

make it easy.” I think putting it in plain English is always going to be better than adding a little "ad" or whatever else is at the end if she's gonna say that in the tweet.

>> RICH CLELAND: Mm-hmm. Just to point out -- there's two disclosures here. There's a typicality disclosure, given that she's giving an endorsement for the product, as well as the -- she's being paid to do it. One of the questions I had after this example was drafted was whether or not this would be more effective if "ad" came first in the Twitter, in the feed. Robert?

>> ROBERT WEISSMAN: I don't think so. We're gonna talk about this more in the next one, but I think -- this is a big challenge. I don't think "ad" is gonna meet the standard. In fact, I think the "typical loss -- 1 to 2 pounds a week is probably a better indicator that it's a paid ad than the word "ad" is. [Laughter]

>> RICH CLELAND: Yeah.

>> STACEY FERGUSON: Yeah.

>> RICH CLELAND: Okay, let's move to the next example, then. This has -- the disclosure here is #spon. Malcolm or Jim, does that -- how does that fair up to the disclosure guidelines?

>> JIM DUDUKOVICH: Well, I was gonna ask you if that was okay.

>> RICH CLELAND: Well, let me ask this -- Let me put the question a different way. I don't think #spon is in the English dictionary anywhere. I'm not aware that anybody has conducted any surveys of consumer understanding, even among Twitter users, as to their understanding of #spon. Now, having set the question up that way, what -- does anybody have a reaction to this disclosure?

>> JIM DUDUKOVICH: That's a great question.

>> JIM DUDUKOVICH: I think that, as an industry, we would love for there to be a universally adopted and understood methodology for, you know, platforms with character limitations like

Twitter, and #spon is sort of what's been offered up and adopted. And you know, quite frankly, when I look at this, I think it's clearly a paid endorsement. I don't think there's any question in my mind.

>> RICH CLELAND: Yeah, but we could change the example, so that's not the driving part of this example.

>> JIM DUDUKOVICH: Right.

>> RICH CLELAND: The driving part is, do consumers understand #spon? It's something that's become quite common.

>> JIM DUDUKOVICH: Right.

>> RICH CLELAND: Is it common enough that we can assume that enough consumers are gonna understand it that it's gonna convey the message it was intended to convey?

>> I don't think anybody has the data to demonstrate that. I think, you know, just for kicks and grins, I would go back to what I'd said before, which is let's start at the end. Can we find a situation where consumers were harmed because they purchased a product based on a tweet that had #spon and they didn't realize that it was a paid endorsement. You know, I don't know if we have data on that, either.

>> FEMALE SPEAKER: Can you say what it does mean?

>> RICH CLELAND: Oh, I'm sorry.

>> JIM DUDUKOVICH: You are not helping. [Laughter]

>> FEMALE SPEAKER: Sponsored.

>> MALE SPEAKER: Game over.

>> RICH CLELAND: That's right.

>> MALE SPEAKER: Next.

>> RICH CLELAND: Okay. It means "sponsored." It's supposed to mean "sponsored message," I believe. Is that...

>> MALCOLM FAULDS: Yep, and this actually is one of the hashtags that WOMMA includes in its guidance for members that -- this actually would be compliant with the WOMMA guidelines right now.

>> STACEY FERGUSON: And I always say, "Why not just go the extra mile and write 'sponsored'?"

>> MALCOLM FAULDS: Yep.

>> STACEY FERGUSON: It's only a few more characters, and it would be that much more clear.

>> RICH CLELAND: Robert.

>> STACEY FERGUSON: And even then...

>> ROBERT WEISSMAN: Yeah, even then, probably not enough.

>> STACEY FERGUSON: Right. [Laughter]

>> ROBERT WEISSMAN: I mean, and the harm -- to the question, the harm is the act itself. You've been deceived if you bought -- I mean, why was the ad taken out? The ad was taken out because the advertiser believes that the association with the celebrity is a beneficial marketing

technique. And the core principle of advertising is you've got a right to know when you're being advertised to. If you don't know you're being advertised to, you were tricked, and that itself is the harm. It's -- You know, in some nontrivial number of cases, people are buying things they wouldn't have otherwise bought. But even without that, that thing itself is the harm. And I don't think that needs revisiting. That's not a new principle for the new media -- that's an old principle for the old media, goes back to before TV. I mean, that's just basic stuff, and it's right. And so -- And that's -- You know, to go to my opening comment, I think that's why -- okay, Twitter is a big challenge for this kind of stuff, but we don't -- the law doesn't need to adapt to Twitter -- Twitter advertising needs to adapt to the law, and I don't think that #spon does it for a variety of reasons, including your dictionary point, but not just that one.

>> RICH CLELAND: Susan?

>> SUSAN COOPER: I remember Jennifer speaking in the last panel, and, I guess, in her introductory presentation about readers don't come to Websites to look at disclosures and to read them, and they won't often see them. And so icons can be a great visual cue to a reader. And I just think that you're not -- you're never gonna start off at a point where people are gonna understand. I mean, clearly, there are a lot of people who don't understand what #spon -- or a lot of people didn't understand what a hashtag was a couple years ago. And so it definitely will take a while and a lot of collaboration among the industry to get to a point where there are icons that make sense. I think the other thing that we need to keep in mind is we've been talking about, in both of these examples, really traditional sort of old-school type of offers, where marketer offers an individual a product for free, try it out, and promote it. And I think that we have to keep in mind that advertisers are looking for new ways -- I'm not speaking from an advertiser's standpoint, but my understanding is that advertisers are looking for new ways to communicate and connect with their audience, and that means new offer types, so not just that standard, "Here's a free product. Tell us what you think about it," but offering exclusive content, offering coupons. And so the types of offers are not just limited to what we're seeing here, and so there may not be one icon that is gonna necessarily be a universal disclosure for all types of those offers.

>> MALCOLM FAULDS: I thought that was a really good point. And to put some color behind it, there's a very popular interior-design commerce site right now that offers its members incentives to refer their friends to sign up. And if you get 10 friends to sign up, you get \$20. If you get 30 friends to sign up, you get \$40. And it kind of multiplies after that. And they give social-sharing tools so you can post that link to your blog, but you can post it as a message to Facebook or you can post it to Twitter. But they don't have any kind of disclosure in any of their messaging around that referral scheme. So I think, to your point about different offer types, you know, it's happening today in lots of different ways, and I don't think the recipients of those messages know that the person who's sending that message has a material connection to the e-commerce site.

>> RICH CLELAND: Stacey?

>> STACEY FERGUSON: So, I may be jumping ahead a little bit, but I see the conversation going to a place where I believe the solution has to come from the platform, and we can't rely on the consumer to come up with their own form of disclosure that they're gonna hope is adequate. We've seen so many different examples, and none of them are fantastic, especially on Twitter, so I really agree with Robert in saying that the platforms have to adapt to the law. So I think that, in the case of, for example, that interior-decorating site, they have to build it in the technology, so when the user shares their link, they don't have to worry about it. The advertiser or the brand or whoever it is that's providing that link makes it clear to whoever's reading that there is that connection. On Twitter, there should be an option, if I am posting a sponsor tweet, I click on a certain button, and my tweet becomes a certain color that people will come to understand meaning that there is some relationship there. I don't think that you can rely on the consumer to put in their own hashtag, the proper disclosure in plain English. And maybe I'm, you know, taking too hard of a line, but I really think that the platform providers should build in technological solutions to solve these disclosure issues.

>> RICH CLELAND: Susan?

>> SUSAN COOPER: Hi. So, I think it's a little bit of a slippery slope to say that the platforms should be responsible, particularly when -- and I know we're not talking about whose responsibility

it is here for making the disclosures, but the primary people who are involved in the communication here are the marketer or advertiser and then the consumer or social-media user. And I think that there are a lot of challenges with certain platforms, and so using Facebook as an example, because that's obviously what I can speak best about, if you talk about a typical "like" story, if a user "likes" a page, that generates a story on their profile and in their News Feed that says that Jim "liked" Coca-Cola, and that is a static story. And Jim may have been incentivized to like Coca-Cola, or he may not have been, but either way, that is a story that says -- it's factually speaking. "He 'liked' Coca-Cola." If he checked in to Coca-Cola's headquarters, it is a check-in story. Again, he may have been offered, you know, a lifetime supply of Coke products for checking in, but this is the story. And I think that Facebook offers uses a lot of ways to communicate different things -- essentially, whatever they want to communicate. They can append a comment to a check-in or to a "like" story. They can tag a photo. And so there are ways that users can add to those stories, but the technology can't really detect sentiment. So, for example, even if there were a way, technologically speaking, for an advertiser to say, "Okay, we're offering an incentive right now, so we're gonna code our 'like' buttons so that, when a user clicks on it during the incentive period, it shows up in a different color," that doesn't necessarily solve the problem because I could show up and decide, "I really like Coke, so I'm just gonna 'like' their page today." I know nothing about the incentive, I haven't taken advantage of the incentive, but now, suddenly, my "like" story is color-coded, and I haven't, in fact, been incented to "like" it. And so that's, I think, just an example of where some of the technology challenges exist, with respect to, you know, the platform actually offering a solution, not to even get into sort of the whose responsibility it should really be.

>> STACEY FERGUSON: But what about just giving them the option? So that, if I just do like Coke and I don't have to pick that color-coded one -- I can pick the regular "like," but if I was incentivized, I could pick the color-coded "like." I know it gets complicated, but we're going down this road, and we're gonna have to deal with it in some fashion. I'm not -- I don't expect anyone to disclose a "like." I feel like that's going to kill Facebook. You know, it's not gonna make it fun anymore if I have to go and add a disclosure every single time I click the "like" button or check in somewhere. But if there's something that's easy enough to do, it doesn't overtake my message or

my story, then that should be something to be considered, I would think. And maybe it's too idealistic.

>> RICH CLELAND: Robert?

>> ROBERT WEISSMAN: I agree with Susan's point that the duty rests with the advertiser, not with the platform. And if the advertiser can't figure it out, then they can't advertise. On the other hand, if the platform wants to facilitate advertising and it turns out not to be possible to do it, then it may be in the platform's interest to try to work out some of these kinds of solutions.

>> JIM DUDUKOVICH: I was gonna say the same thing. I think what we're talking about here are advertisers and consumers, and trying to, you know, legislate any responsibility on behalf of -- you know, on the part of the platforms is difficult. But market forces may be at work. If it turns out that platforms can't monetize themselves because advertisers can't play on the platforms, you know, there is an incentive for the platforms to develop tools and technology to assist advertisers. I think that's a long way off. I mean, I think we're starting to see it, but I think that's somewhat of a red herring for this discussion, to going to what the platform's responsibilities are.

>> RICH CLELAND: Okay. We have three more of these Twitter examples. I want to run through them very quickly in the interests of time. This next example is -- again, it's #spon, but now it is associated with a URL link. Does that -- Does this raise any issues for anyone -- unique issues that we hadn't talked about in relation to "spon"?

>> MALCOLM FAULDS: I don't think this link solves anything. This link --

>> RICH CLELAND: Okay. Is it conspicuous? Is "spon" here conspicuous?

>> MALCOLM FAULDS: No, it's not a conspicuous disclosure, and in fact, it looks like a call to action. So, if I were a consumer and I saw this, I figured I could click on that link and go get whatever this product is and lose many pounds. [Laughter]

>> JIM DUDUKOVICH: The link doesn't work. I tried it. [Laughter]

>> RICH CLELAND: All right. And this one is just the link. The next example is just the link and assuming that all the disclosure information, including the typicality disclosure and the materiality here -- does the fact that the link is not labeled in any way -- would it be considered under anybody's standard to be effective?

>> MALCOLM FAULDS: For WOMMA, the prior one would have been compliant because of the "#spon," but this one actually would not be because there is no hashtag indicating the material connection.

>> RICH CLELAND: Is there -- Well, that's a good question. Let me back up to it just a minute there because the -- one of the things, one of the questions involved in that example was, was it conspicuous, not whether it was understandable.

>> MALCOLM FAULDS: Mm-hmm.

>> RICH CLELAND: And so the question is, if you set it up in such a way that it could be mistaken as part of the link itself, as opposed to being a disclosure, is it conspicuous? If I'm looking at this tweet in a bunch of Twitter things, I may just see, you know, a line here that looks like a link to me and not even notice that at the end of this is hashtag something -- it could be #paid. It could be something else. But I might miss that information because I'm focusing on the link, on the URL. Okay, and, then, finally, our last example is -- here we've added some additional information -- the word "disclose." Earlier, we had talked about, in the context of the blog, the word "disclose" not really being an adequate label on a link to actually convey the information. Is it different in the Twitter example? Stacey?

>> STACEY FERGUSON: It's a little -- a little bit different. It would give me a clue. I would never click on it, but I would say, "Oh, okay, there's some relationship there."

>> RICH CLELAND: Would I say "relationship," or should I -- would it be more information about the product?

>> STACEY FERGUSON: This one, I would think there is information about the relationship. The previous one, where there wasn't the word "disclose," I would think I could go there and buy the Fat Away pills.

>> RICH CLELAND: Mm-hmm.

>> MALCOLM FAULDS: Agreed. I think labeling is everything in these kinds of disclosure links. And there are some solutions on the market and some planned ones that are much more intuitive for how they communicate to a reader that there is disclosure language or some kind of rules or terms behind a link that would explain or give a little bit more context to the tweet.

>> RICH CLELAND: Well, let's talk about that for a second, because that sort of depends on consumer issue, doesn't it? And who has the responsibility to educate consumers what these messages are or what the mechanisms for the various platforms are? Well, if you're on Twitter, this is, you know, the way it's done. If you're over here, this is the way it's done. Who has the responsibility to do the education here?

>> STACEY FERGUSON: I would say the advertiser.

>> RICH CLELAND: Jim? I mean, if we're gonna talk -- we're talking about icons. Let's talk about icons for a minute.

>> MALE SPEAKER: Right.

>> RICH CLELAND: We've got an icon. Who educates consumers about what this icon means, and when do we know that has reached a sufficient level of understanding that it's okay?

>> JIM DUDUKOVICH: Great question. [Laughter] Don't have an answer. Don't have the data. I don't think anybody does. So, in response, I'll, you know, throw the question back and say, you know, start from the other end -- you know, is there any evidence that consumers don't understand it or are being harmed through the use of, you know, icons or badges or hashtags, #spon? I don't know where we start. It's a chicken-or-egg thing. Do we assume that consumers don't know, you know, guilty until proven innocent, or do we wait until consumers complain and say, "I've been harmed. I didn't understand that this was a paid endorsement, even though it said #spon"?

>> RICH CLELAND: Susan?

>> SUSAN SHOOK: I was gonna add -- you know, if you change those examples and did the #paidad even before that came out as guidance, I think most consumers would look at this and think, "This is a paid ad," right? So, to the chicken and egg, it also goes, again, to the judgment of, is the disclosure adding here? Does it suggest very overtly that there's something going on here with a sponsorship relationship?

>> RICH CLELAND: Mm-hmm.

>> SUSAN SHOOK: And you don't necessarily have to have loads of consumer research to suggest a "paidad" would make the disclosure here apparent.

>> RICH CLELAND: Right. Robert?

>> ROBERT WEISSMAN: Yeah. I don't think it's a chicken-or-egg question. I'm not sure if it's the chicken or the egg, but, I mean, the answer is yes. We assume the consumers don't know. If they're not disclosed to about hidden arrangements, we assume that they don't know, and we assume that because it's true. And it's a total -- And it's a problem, I think, in these kinds of conversations and a mistake that people who are supercognizant of this stuff think, "Well, everybody knows." Everybody does not know. And if you watch television, you don't know. You know there's paid advertisements all the time, but you miss them all the time. It's impossible to keep up with the number of paid ads on TV. So even people who are superengaged don't know. So

I think a high degree of -- Obviously, the duty's on the advertiser. I think that the idea of an icon requires at least a high degree of skepticism that it can be done, as opposed to using actual words that describe what the thing is. I think this example is bad and it's unsatisfactory for a variety of reasons, because, I mean, I looked at the disclose, and I would guess that the disclosure's about the product, not the arrangement. But even if it had been clearer, even if you had something that was sort of more generic -- I guess this is pretty generic. It's...after all. This is a classic case where the disclosure needs to be simultaneous with the advertisement, because the whole value of this kind of -- and, again, this is -- the example is imperfect because the text is so bad, so blatant -- but this kind of association with a celebrity -- it's very impressionistic. It's very much about trying to get you to act on the emotion. And if you don't know at that moment that you're being advertised to, then you're fundamentally being tricked. So this is classic case where the disclosure has to be simultaneous, prominent, easily understood, and the burden to make sure all those things is true is, I think, certainly on the advertiser.

>> RICH CLELAND: Okay. Now I'm gonna go on to -- In the interests of time, I'm gonna move on to a -- actually, now we're gonna start into the hard questions. You know, so far, we've been talking about disclosures that are typicality disclosures on an endorsement guides or materiality disclosures, and those are all disclosures that can be made relatively -- in my view -- relatively shortly or relatively short. So let's talk about something else where, perhaps, a longer type of disclosure is needed, more information. I think Jim -- was it Jim? You came up with this example? Darn. [Laughter] Okay, so, let's assume that, instead of tweeting about a weight-loss product, our -- the tweeter here is talking about a fuel-saving device that she was given to test and review. And the problem with -- So you have that issue, but you also have an additional issue here -- the fact that this particular device only actually saves gas when it's used with 93-octane gasoline. That's obviously a lot of information for a tweet. What do we do in this situation, Jim?

>> JIM DUDUKOVICH: Well, this is -- I mean, this is -- We're really opening up the discussion, because this, as we -- issue, I don't know why I brought this up on our precall, but it was an accident. [Laughter] But, you know, this is one where, okay, there is -- so I produce this fuel-saving device, and I send it to a blogger. And the device gets you better gas mileage, but it only works with the most expensive gas, so it's sort of a -- it kind of cancels itself out. But if we are to

assume that you cannot buy this product without being told that it only works if you use 93-octane gas -- so it's labeled on the package. It's on point of sale. It's everywhere. You can't possibly buy it without knowing that -- what duty does the advertiser have to tell the blogger, "Make sure, if you talk about our product, you disclose that it only works with 93-octane gas"? You know, I would say that it's a stretch. It's a stretch to say that the blogger's got to disclose that because purchases can't actually buy the product without learning about that condition.

>> MALCOLM FAULDS: I think if you come back to the earlier theme of authenticity in earned media, that only works when people trust each other and they recognize the other person as being someone that they know or trust or believe in certain instances -- that raises the bar for this kind of thing. And Nielsen recently came out with their Trust in Media Study, and they said that 70% of consumers are more likely to trust a stranger on a product-review site than they are to trust a brand's own Website. And so, you know, the dynamics have really changed, in terms of where people get information and what they trust. So given that there's so much trust in these peer-to-peer conversations, I think it's incumbent on the advertiser or the agency or whoever's organizing the program to make sure that the participants are sharing all of the relevant information because, if they don't, the participants are gonna lose credibility among their social networks, which is the last thing that you want to happen.

>> RICH CLELAND: Okay. Robert?

>> ROBERT WEISSMAN: A couple points -- I mean, one would be -- maybe a starting-point way to think about it is, what if this was just a print ad? You know, 'cause Jim makes some useful and persuasive points about the context, but if it were a print ad, you'd say, "Yeah, you have to disclose it. It's part of what goes with it." Well, then, if that's the case, then I think the same thing applies. Actually, the disclosure wouldn't necessarily need to be that burdensome in this. There are other hypotheticals where I think it would be, but if you said, you know, "needs 93-octane," you probably took care of it. And if that cost you whatever number of characters that is, then that's -- you know, that's life advertising on Twitter.

>> RICH CLELAND: Stacey?

>> STACEY FERGUSON: He took the words out of my mouth. And, also, you know, maybe the advertiser has to decide certain campaigns should not be run on Twitter. Maybe, for this particular example, it has to be a blog post, and I've seen contracts where that comes through.

>> RICH CLELAND: Mm-hmm.

>> STACEY FERGUSON: "This -- We would like a blog post. For these short messages, you can put it on Twitter." But maybe that has to be a call on the term of the advertiser and build that into the campaign. But I think what Robert said about maybe just putting that short piece in -- "needs 93-octane" -- that might do it.

>> RICH CLELAND: Okay. What I think I can --

>> SUSAN SHOOK: We're also talking about...

>> RICH CLELAND: Go ahead, Susan.

>> SUSAN SHOOK: ...cross-platform, as well. So Twitter may be the introduction of, "I've got this, you know, amazing additive," and then a link that says, "more info here," that takes you to another platform that can give you the space that you need to make the claims and the disclosures. You know, and to Robert's point, if you had a link that said "93-octane only," I, again, think that that's a -- you know, for someone who's interested in this, I think that's enough of a wake-up call that they probably realize there's a disclosure additionally following. So I think the context, you know, of the link, and the form of it can also do a lot to signal to the consumer that there's a disclosure that's of import to the claim made.

>> RICH CLELAND: Mm-hmm. Can we assume, for the purposes of discussion, that there might be some disclosures that are just too darn big to put on a Twitter feed? And what is the implication of that, Jim?

>> JIM DUDUKOVICH: You know, I think -- hopefully, I speak for the industry when I say this - you know, if you cannot advertise your product lawfully on a particular platform, then you should not advertise your product on that platform. I mean, if there are -- you know, if you're getting into, you know, pharma and areas where there are incredible amounts of disclosures that have to be made, Twitter's not an option for you. It's just not because those are situations where there are material -- there's material information that can't be buried in a link.

>> RICH CLELAND: Mm-hmm.

>> JIM DUDUKOVICH: You know, it's got to be disclosed up front, so...

>> RICH CLELAND: Susan, would you agree?

>> SUSAN COOPER: Yeah, I just -- I think -- I guess I would agree, but I would hope that those cases would be more limited and be more of an exception than the rule because I think that -- again, I cannot speak for the advertising industry, but I would expect that they want to be in a position where they can take advantage of these kinds of new media to market their products.

>> RICH CLELAND: And just -- quickly, one of the comments raised the issue of subsequent tweets to make disclosures. Malcolm, do you want to...

>> MALCOLM FAULDS: I think it's a little bit problematic because -- to the point, I believe, Susan made earlier, that tweets might -- they might start on Twitter, but they might end up in different places, so a recipient of a tweet might see it on LinkedIn, or they might see it on Facebook. And if the disclosure happens on a follow-up tweet but isn't shared to those channels, well, then they've only received part of the message. So that's just one instance of how that can be problematic. I think, whenever possible -- Well, at WOMMA, we would say that it needs to be in line with the Tweet.

>> STACEY FERGUSON: And, also, Twitter is not like a blog post, where you go on and you read the entire story and you're done. It's a constant conversation. So you might pop in on Twitter

for one minute, pop off, and you'll miss the subsequent tweets. So if there's a statement or a claim being made, the disclosure has to be the right next to that message or it's gonna get lost.

>> RICH CLELAND: I'm gonna move on to the third area I promised I would talk about. You know, the issue was raised in a number of our comments that there are some social-media platforms, such as Facebook, Facebook "likes," Google+, and some branded Websites allow users to endorse a product or service and communicate that endorsement to their social networks. Assuming that some disclosure is necessary -- that was the assumption of our panel here, that the consumer has been given something in exchange for the like or the plus or the endorsement, what are the current options, best options for disclosure, if any? Susan, I'm gonna start with you.

>> SUSAN COOPER: Yeah, sure. I mean, I do think you have to get to the point where you've determined that the "like" or the -- it is made because of an incentive because I think that the fact that you are "liking" something is not necessarily an endorsement. I mean, a lot of people -- We tell people, in fact, you should like the Facebook site governance page so that you can get updates about our terms. I don't think that people who like that necessarily like the way that we govern our site. [Laughter] So, I mean, I really do think that you have to make sure that, you know, there is, in fact, an endorsement or inducement that's happening there. But like I said earlier, there are a lot of ways that users can append comments to a "like," and I think that's -- it's a little bit different than a subsequent tweet because it would be attached directly to the "like" there. I think the other point -- and I think I maybe had alluded to this earlier, and that's the fact that -- you know, the fact that you -- people like things for a lot of different reasons. People check in for different reasons. So, to a certain extent, a check-in is, in fact, an indication that I am physically at this place. So regardless of whether or not I've been given some sort of incentive to be here, I am here. And I think that impacts sort of the disclosure. I do think that the icon example is something that should be pursued because I think it could be a very useful visible clue. And I'm not aware of something that, you know, has emerged as sort of a leader to signal that, but it could definitely be a good place to get to, I think, to help with any of the gaps that exist.

>> RICH CLELAND: Other views on that?

>> MALCOLM FAULDS: One issue that we identified at WOMMA when we were revising the disclosure guides for our members was these signs of approval and how they can sometimes be a barrier to complete information around promotions, so -- called "like-gating," for lack of a better term. So, if someone needs to like a Facebook page in order to see the rules around a promotion, that's problematic, or if they have to join a community to see the rules of a membership, that's problematic because their messages for these promotions might be reaching people that don't know they have to like the page to see the rules or what's going on -- why people are acting in certain ways or saying certain things. So, you know, I think that what Susan said before is right around the limited space and all of that, but I think that, sometimes, people have used these in restrictive ways that -- and that's problematic.

>> RICH CLELAND: Mm-hmm. Susan?

>> SUSAN COOPER: I can respond to that really quickly and then just raise another point I forgot to mention, and that's -- there are a couple things. So, I do think -- Facebook doesn't prohibit, like, getting promotional content. So, if an advertiser chooses -- and obviously, we require advertisers to comply with all applicable law, but if an advertiser chooses to require a user to "like" something in order to enter into a sweepstakes or a contest. That isn't something that's prohibited. There are a couple things to keep in mind, and that is that the act of "liking" something, whether you are -- have been provided an incentive to do so nor not does not necessarily equal a published story. So the user has complete control over their settings of how their stories are published. So, I can, for example, use my settings to say "all of my likes are only going to be directed to me." And that means that I can like something because I've been incentivized to do so, but no one will ever know that because no one will ever be able to see that story. So we do offer some technical ways to sort of control that message. And I think the other point that I wanted to make there, too, is that the user experience is very important to us and we do -- while we don't prohibit all types of incentivizing, we do have a lot of policies that restrict the way that incentives can be used because we want to ensure that users are not going to be incentivized to basically spam their friends.

>> RICH CLELAND: Malcolm.

>> MALCOLM FAULDS: Just to close out the "like-gating" comment, you know, we recognize there are some valid needs for why you'd want to present some -- marketers would want to present some information to people who "liked" a certain page, but whenever that creates promotions that would affect people who are not necessarily members of those pages, we just want to make sure that marketers understand that there's an expectation that the information around those promotions is available to people who haven't necessarily liked those pages, that there is public comment that isn't behind the "like" gate.

>> RICH CLELAND: Okay. I think we probably already addressed the question of whether or not there are technological solutions to this?

>> SUSAN COOPER: Yeah, I mean, the only other thing to say maybe is that there may not be a "dislike" button, but you can "unlike." [Laughter] So, I mean, people can "like" -- I mean, not -- and I know that it's not a perfect solution, but you can like something for the purpose of obtaining content, and then you can subsequent-- and you can have that step so that no one can see that story, and then you can "unlike" it to break that connection.

>> RICH CLELAND: Okay. We have a couple of questions here, and one was -- I think this question goes to, how do you make disclosures on review sites, where you're being incentivized to go to a site to post a review? Malcolm?

>> MALCOLM FAULDS: Yeah, this is a really important area. So much of commerce today is influenced by online reviews. The whole -- You can take a look at Best Buy for an example of how it's really transforming how people are making purchases and how it's affecting major companies. The best practice is to make in-line disclosures when there's a material connection between the reviewer and the marketer, and then, when there is syndicated content, we also think it's advisable to badge that when possible. So, if you look at Amazon Vine, for instance, it's a program where popular reviewers on Amazon may be getting free products from Amazon. They have a program -- it's called Amazon Vine, and those are registered people. Whenever those displays are running for different product pages, Amazon will badge that. There are other companies, like Bazaarvoice and PowerReviews -- actually, that's the same company now -- but they do something similar. So that's

a good practice, as well. You want to disclose, in the same expectation you would on Twitter, to readers of product reviews.

>> RICH CLELAND: Jim?

>> JIM DUDUKOVICH: I wanted to open up a can of worms by asking you a question.

>> RICH CLELAND: Good. Time to go fishing.

>> JIM DUDUKOVICH: Yes. And the topic is Pinterest. And I've witnessed a lot of activity going on on Pinterest which -- you know, Pinterest is a site where the fundamental premise, I think, is that, if I pin something to one of my boards, it means I like it, right? I'm telling people, "Hey, I think this is cool. I like this." Well, when retailers -- I've seen a number of different incentive programs where -- you know, "pin it to win it," where if you pin things from a retailer's site onto your board and then send a link in to them, you're entered into a promotion for a chance to win a prize, or if you pin something from a particularly retailer and then want to -- somebody viewing your board clicks through your board and purchases it, you get a credit. What does the FTC think about those? Are those things where the person who's pinning needs to disclose that they're pinning because they're incentivized, rather than because they actually truly like the thing?

>> RICH CLELAND: Well, I'm gonna punt.

>> JIM DUDUKOVICH: Can we do that?

>> RICH CLELAND: I'm gonna punt. But I do think that it -- I mean, we've talked about blogs. We've talked about Twitter. We've talked about Google+. But there are a lot of other platforms out there. Stacey, what are some of the disclosure options on these other platforms?

>> STACEY FERGUSON: So, with Pinterest specifically, there's a comment box right there. So you can append a disclosure to your pin, and you should. Pinterest is so new for a lot of people that it's not being treated in the same way yet as Twitter and Facebook are, in terms of disclosures, but

if you are pinning to win it, you should put that in there -- "I'm pinning this so I can win the -- whatever it is. Or you can even put in your comment, "This is a great pair of shoes. If you buy it, you know, use my affiliate link." You can put that in the Pinterest comment box. So it's just a matter of getting users in the frame of mind to know that, "A," they need to do it, and, "B," they can do it. And I've seen it -- not a lot, but I've seen some people disclosing on Pinterest.

>> RICH CLELAND: Okay. Any other last-minute comments?

>> MALCOLM FAULDS: I wanted to give people an update on what we were doing with the new disclosure guide at WOMMA. One of the most common pieces of feedback that we got was that the -- while it was clear and useful, it didn't provide enough guidance on how to handle disclosures or how to do monitoring. So the new guide to disclosure will be available for public comment, I believe, in the next month or so, roughly. And so, one of the things that we are doing is broadening the definitions of terms. So there was the term "blogger" in there to represent participating consumers in social-media programs. For many reasons, we thought that was problematic and limiting. So we've used the term "advocate" to communicate someone who has a material connection to a marketer. There are two different kinds of advocates -- an independent advocate, who might be a consumer who's taking part in a marketing promotion, or an affiliated advocate, who might be an employee or an affiliate or an agency. And then we've defined "marketer," and these are the people who are selling the products or service, as opposed to "advertiser." It might sound small, but when it comes into the exercises that we go through and the examples that we go through, it really starts to bring to life the real dynamics that are happening, and it makes the use cases much more, I think, realistic to people. There are other things we're doing around specific requirements for marketers in running these kinds of programs. We've given more examples of disclosure by medium on the different platforms that we've talked about. And we've also identified some unique disclosure issues around contests -- "like-gating," which we've talked about, celebrities, context syndication, so how content can go from Twitter to Facebook to LinkedIn, and what "reasonable monitoring" means, 'cause that's a big question for a lot of brands. And the last thing is, the last guides really focused on digital, and there is often a real-world component to social-media programs, and so we clarified that this extends to off-line outcomes of social-media programs, as well.

>> RICH CLELAND: All right. I want to thank all the panelists. I've certainly learned a lot. And, again, thank you very much. [Applause] Okay, we're gonna break for lunch now, and we're gonna resume at 1:30. Sure.