FEDERAL TRADE COMMISSION

FOLLOW THE LEAD:

AN FTC WORKSHOP ON LEAD GENERATION

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Federal Trade Commission

Washington, D.C.

WELCOME

MS. WORTHMAN: Good morning. My name is Katie Worthman. I'm an attorney with the Division of Financial Practices in the Bureau of Consumer Protection at the Federal Trade Commission. Welcome to Follow the Lead: An FTC Workshop on Lead Generation.

Before we get started today with the substantive program, I have some administrative details to review. First, please silence any mobile phones and other electronic devices. If you must use them during the workshop, please be respectful of the speakers and your fellow audience members.

Please be aware that if you leave the Constitution Center building for any reason during the workshop you will have to go back through security. Please bear this in mind and plan ahead, especially if you're participating on a panel, so we can do our best to remain on schedule.

Most of you received a lanyard with a plastic FTC event security badge. We reuse these for multiple events, so when you leave for the day, please return your badge to the event staff.

If an emergency occurs that requires you to leave the conference center but remain in the building, follow the instructions provided over the building PA system. If an emergency occurs that requires the evacuation of the building, an alarm will sound. Everyone should leave the building through the main 7th Street exit. After leaving the building, turn left and proceed down 7th Street; cross E Street to the FTC emergency assembly area; remain in the assembly area until further instruction is given. If you notice any suspicious activity, please alert building security.

Please be advised that the event may be photographed. It is being webcast and recorded. By participating in this event, you are agreeing that your image and anything you say or submit may be posted indefinitely on FTC.gov or on one of the Commission's publicly available social media sites.

Restrooms are located in the hallway just outside the auditorium; and the cafeteria is currently serving breakfast. It's quite good. Lunch will be served from 11:30 until 2:00. There is a limited menu from 2:00 until 3:00; however, no food or drink is allowed in the auditorium. The panelists will have some water.

During the panel discussions today, if you're interested in submitting a question, please fill out one of the question cards located at the table just outside the first set of doors in the back. Spencer will -- if he's around -- he's very tall; you will see him walking around. Just wave your question card and he will come collect them and deliver them to the moderators. If your question is not asked today or you wish to file a formal comment, you can file one online until December 20th.

Now, I would like to introduce the Director of the Bureau of Consumer Protection, Jessica Rich.

(Applause.)

INTRODUCTORY REMARKS

MS. RICH: Hello. Good morning. Welcome to Follow the Lead: The FTC's Workshop on Online Lead Generation. This topic is of particular interest to me. These microphones, oh, my God. So, I'm really pleased to kick off this event.

Let me start by stating the obvious, which is that lead generation is a well established industry that has served a very important role in the marketplace for many, many decades. We know that lead generators are fairly ubiquitous across different industries and offer benefits to both consumers and advertisers.

Consumers can spend hours, days, and even weeks searching for goods and services that meet their needs at their price. Advertisers and businesses are constantly searching for new and better ways to reach these consumers. Lead generators serve the important function of connecting the two, and that's a good thing.

For example, today, we'll hear about a study showing that the ability to sell consumer leads in the mortgage market translates into real financial benefits to consumers. According to the study, when mortgage companies were able to sell consumers' information to third parties, consumers received lower cost mortgages. That kind of economic benefit is of enormous value to consumers, and we hope to learn about other such benefits throughout the panels today.

That sounds pretty straightforward, right, something we've known about for a long time? So, what's new? Why are we having this workshop? The answer is we're seeing a number of trends in the marketplace that point to lead generation as not just a source of leads for legitimate businesses, but also a source of highly sensitive consumer data for scam artists.

One of the benefits of being a general consumer protection agency is that we see what's happening across different industries and topic areas, and we can see links between them. Here are some of the things we've observed. First, starting about five years ago, we began bringing cases against companies that were seeking repayment of payday loan debts from consumers that either never owed the debt or owed the debt to somebody else. We learned that these companies, dubbed "phantom debt collection companies," which is actually a pretty polite way to describe these scam artists, had been able to purchase payday loan applications, full applications, from other companies as leads for their debt collection calls.

The fraudsters then called the consumers, demanding repayment and threatening arrest, jail, and even violence. In many of these cases, the fraudsters were able to collect millions of dollars that the consumers did not owe to them, simply because the consumers were intimidated and scared by the fraudsters' demands and threats.

Second, we observed a similar pattern, that is, the purchase of highly sensitive data from lead generators or data brokers in other types of fraud cases: debt relief scams, unauthorized charges, prepaid card scams, sweepstakes fraud, recovery room scams. For example, in two recent enforcement actions, the FTC alleged that two payday loan lead generators -- LeapLab and Sequoia One -- sold consumers' sensitive bank account information to fraudsters who then used the data to withdraw funds from consumers' accounts. These sales of leads resulted again in millions of dollars of consumer losses.

Third, the data being sold in these cases went well beyond the usual lead lists we've been seeing for years. No, it wasn't just so-called "sucker lists" of consumers who had fallen for scams in the past. The data being sold often included detailed loan applications, account information, and Social Security numbers, making it easier than ever for the scam artists to perpetrate their frauds.

Fourth, even apart from fraud, we have observed certain lead generators or brokers being incredibly reckless with sensitive consumer data. Earlier this year, for example, we took action against two debt brokers -- Bayview and Cornerstone -- for posting the sensitive information of more than 70,000 consumers on a public website as part of their efforts to sell portfolios of past-due payday loans, credit cards, and other purported debt.

The posted data included bank account and credit card numbers, birth dates, contact information, employers' names, and information about debts the consumers allegedly owed. They simply posted this sensitive information in plain text on a website.

Finally, we know from our privacy program that highly detailed information is increasingly available for sale to any buyer and that the implications for consumers can be quite serious. Purchasers may use this data to decide whether or not to provide consumers with important benefits such as a loan, a job, insurance, and housing.

They may use it to decide who gets the best customer service and who sits on hold, who gets the best coupons, and who gets ads for the best deals. Use of this data also could result in certain consumers being denied benefits based on stereotypes. We explored this issue in our workshop last fall, Big Data: A Tool for Inclusion and Exclusion, and we do have a report coming out on that workshop shortly.

Given the benefits that lead generation can provide and the perils when the information that lead generators collect and sell is misused, we thought it was time to have a workshop to develop a more detailed understanding of this segment of the economy.

What are the mechanics as leads journey from website to aggregator to end purchaser? How is lead generation evolving with the advancement of online marketing techniques, the presence of data brokers, and the fast-paced marketplace that mobile technology creates? What best practices and codes of conduct have been developed in this industry? What legal standards apply?

Through discussion at this workshop, we hope to provide insight into how to be one of the good guys in this industry and to help ensure an efficient and fair marketplace for consumers.

So, that's the purpose of the workshop. Here's how the day will go. We'll have five panels to explore this very important topic, composed of consumer advocates, industry experts, researchers, and others. Our first panel will set the stage for the discussion by providing a survey of the industry, describing the role of lead generators and related entities in the market and detailing the various lines of business or verticals that rely on lead generators. We will hear about how companies collect, process, and use leads and how this practice benefits consumers.

Our second and third panels -- in our second and third panels, we'll have case studies focused on industries that rely heavily on lead generation: consumer lending and education, respectively. Representatives from industry and consumer groups will drill down on the specifics of lending and education verticals to explore more fully how lead generation works on a day-to-day basis in those industries. We will discuss the potential vulnerabilities of collecting and selling consumer information, as well as what industry is doing to address consumer protection concerns.

Our fourth panel will focus on the consumer protection issues raised by lead generation as discussed in the case studies and as they occur in other lines of business. Among other things, panelists will discuss what laws apply in this space, including the FTC Act, which prohibits unfair and deceptive practices. They'll also discuss the risk that violating these laws poses to certain business practices.

Our final panel will discuss the steps industry can take to better protect consumers. We will hear about self-regulatory codes developed by the Online Lenders Alliance, the BBB, and the LeadsCouncil. We look forward to a robust discussion of how to promote a better consumer understanding of lead generators to help consumers avoid those lead generators who cut corners and break the law.

I want to thank the team that put this event together: Evan Zullow, Katie Worthman, Patrick Eagan-Van Meter, and Sandy Brown from our Division of Financial Practices; Jessica Skretch from our Division of Consumer and Business Education; and Devesh Raval from our Bureau of Economics.

I also want to thank our federal and state partners who are participating today: Deputy Under Secretary Jeff Appel of the Department of Education; Nathan Blake of the Iowa AG's Office -- I think you guys are sitting in front here; and Joseph Chambers of the Connecticut AG's Office. And thanks also to our event planning and web teams, our press office, our honors paralegals, and, of course, all of you out there.

So, enjoy the day, everybody.

(Applause.)

PANEL 1: INTRODUCTION TO LEAD GENERATION
MARKETPLACE AND MECHANICS

MR. ZULLOW: All right, well, good morning. And thank you so much again for being here, both in the audience, on our panels, and on the webcast. My name is Evan Zullow. I'm an attorney with the Division of Financial Practices here at the FTC, and we're very happy to welcome you to this first panel of our day, which is entitled Introduction to Lead Generation Marketplace and Mechanics.

Our panelists here will each be giving presentations with slide decks, about 15 minutes apiece. And as the title of the panel indicates, we hope to provide you with an initial overview or survey of lead generation, including the roles that lead generators and related entities play, the mechanics of collecting and selling leads, and the potential benefits and risks associated with this activity.

Also, if we have time following our final presentation, we may have a few question and answers, either from me or the audience. So, we're hopeful -- and, actually, we're quite confident -- that this panel is going to serve as a very nice foundation, giving us a bit of a common vocabulary and background to go into the rest of our day.

So, I will go ahead and introduce very briefly our panelists, who we're very grateful to have here today. The first, directly to my left, is Michael Ferree, who is a member and board member of LeadsCouncil. Next to him is David Morgan, Chief Revenue Officer at PerformLine. Next to David is Paul McConville, also Chief Revenue Officer at LeadiD. Then we have Professor Liad Wagman, who is the Faculty Chair and Associate Professor of Economics at the Illinois Institute of Technology, Stuart School of Business. And last but definitely not least, Jonathan Gillman, Founder and CEO of Omniangle Technologies.

So, without further ado, let's begin our presentations.

MR. FERREE: Great. Thank you, Evan. And thank you to everyone that's worked hard on this workshop. It's a real great opportunity for us to be here and speak to the industry that we all work in and have a passion for. As Evan said, my name is Michael Ferree. I'm Board Member on the LeadsCouncil and also Vice President of Corporate Development at Anomaly Squared.

LeadsCouncil is an association of over 400 companies, both buyers and sellers in all. In my presentation, I'll go into what that really means. And we work with those companies in the industry to promote best practices, benchmarking reports, code of ethics, that sort of thing. If you have any questions -- this is going to be a one-day event, and there's certainly so much to talk about in this industry. And I will provide my email after this presentation. If there's any questions, please feel free to reach out at any time.

So, let's begin. I'm going to be talking really basically about lead generation as a whole to really set up the rest of the day. So, I'm going to give you a brief overview of what lead generation is and how it works.

So, let's dig right in. Lead generation is a marketing activity that generates consumer interest in a company's product or service. This activity is also called performance marketing and relies on a cost-per-action model. So, the key really is with lead generation it's a relationship between advertisers and marketing companies to create a specific action and then action is paid for specifically.

So, what sort of benefits does lead generation provide these parties? When we look at it from the advertiser perspective, advertisers are able to rely on experts to generate that traffic, without risking large amounts of their budget. So, they can pay for what they want. They can define what that action is, whether it's a lead; and what that lead is defined as I will go over here in a second.

Marketers and publishers are able to focus on what they do best, which is drive traffic and consumers to a landing page. And then consumers benefit from having an efficient process to shop and compare different products and services.

So, what is a lead? A lead is a consumer that's raised their hand and expressed interest in a product or service. It's really that specific. Someone who has expressed interest in a product or service is a lead. It could be in a form of a data lead, which a lot of us are familiar with. It's a web form; it's a collection of personal information; and that is the lead.

It also can be a call. We think of leads that come from TV or radio that are direct calls to the advertiser. Those are also leads. And, then, now, with the advent of mobile and more and more mobile traffic, we're seeing click-to-call as becoming a really great source of leads, as well. So, users will see an advertisement, click on it, and it initiates a call to that advertiser.

Let's take a look at an example of the lead generation process. Now, there are different variations to the process, but I think this example is pretty straightforward and a really great example of what sort of happens in the lead-gen process. So, we're going to look at Google. Google provides a lead generation funnel for insurance carriers. As you see here, in this example, I have typed in insurance rates, and Google's paid advertisement, their own ad, shows up, where it says "compare quotes from

10-plus car insurers with Google." All I have to do is type in my zip code, and you can see that there. That's a little -- a closer shot of the advertisement. And I get to this page, and this is Google's page, and they're asking me to complete my personal information and put it in their form. And once I do that, I'm going to get options. So, they've collected my information and now are able to show me appropriate companies that can offer me services with insurers. And they've also aggregated the pricing. It's a really great -- really great source for shopping.

And this happens also in -- this is really similar to other verticals like education, where a consumer will complete their information and then be shown multiple schools based on their different filters. It happens across multiple verticals really, so this is a good example.

So, in this example, I went ahead and I didn't choose the lowest price, but I went with the second option and chose The General. And you can see towards the right, I really have a few options to be contacted. I can buy online. I know it's hard to see there, but that blue button says "buy online." Or I can use the click-to-call right below that and produce a call to The General.

So, what I'll do in this example, I'll just go ahead and say "buy online," and I get directed to The General's website. It has that same quote, and they actually have my information that Google collected, and Google passed it along to The General so that I don't have to re-input that information when I finish off the application here.

Let's take a look at what companies make up the lead generation process. You know, there's thousands of companies that really participate in the industry, and I sort of grouped up the process into three -- three main categories. We have marketing agencies, publishers, and advertisers. And really when we group those up even more, we have marketing agencies and publishers. And those are considered lead sellers or service providers. And, then, we have our advertisers, which are the end consumer of the lead -- the lead buyer. And, so, that's how at least from the LeadsCouncil and generally across the industry, you know, we break out lead buyers versus lead sellers.

When we look at marketing agencies, these are the companies that are specialists in different channels of marketing tactics. So, whether it's paid search, social media, TV/radio, these are your agencies that advertisers go to to manage their media campaigns. Sometimes these companies also own content, very similar to publishers here. So, a publisher is someone that owns the content; they have a website; maybe it's TV programming, you know, you name it. They own the content; they also run different advertising campaigns on that content, and they also collect the data;

whether it's a lead form, typically publishers will collect the leads on their sites; whether it's a call, they'll generate the call or click a call from their site to the buyer; but basically a lot of the actions that happen within the process will happen on the publisher's site.

Advertisers are your lead buyers, so we've got brands like Allstate, Quicken Loans, DeVry, Ford, USA, they all interact in lead generation activities, either on their own site or through third parties, and they purchase leads to generate business and sales to their company.

Let's take a look at companies that support the lead generation industry. The lead-gen industry is a -- the relationship between buyers and sellers is a dynamic one in that it's always trying to become more and more efficient. The more efficient they can be, the better performance they can derive from the campaigns.

So, a lot of these companies help the process become more efficient. So, I already talked about creative agencies, but let's look at tech providers here. We have companies, just a few here, that provide additional data or support. So, to -- like Neustar will confirm phone number, if it's accurate, is it real information. They will provide support there.

We have lead management. These are all lead management companies that once the lead comes to the advertiser the advertisers use these management companies to efficiently call them back, to create nurturing campaigns, and to better efficiently take the lead and close the lead to a sale.

We have call services companies like my own, Anomaly Squared, that provides the support around the call services. So, a lot of companies aren't as efficient at calling out on the data that they get or receiving the calls that they get from the click-to-call campaigns. And, so, these companies support that action and then they will transfer a call directly to the advertiser.

Compliance tool, this is really important. Over the last three, four years -- and we'll hear more about it here on this panel -- there's more and more tools and companies that are providing assistance with the management oversight of marketing and lead generation campaigns. And, so, when we think about compliance we think of a few different things. We think of brand monitoring; how are the partners like the agencies; how are they managing your brand as an advertiser? Are they doing the correct things?

And, so, there are some of these companies here that do that, and they also make sure that the disclosures are on the pages, that leads are coming through that are accurate and not fraudulent; data, is the information being collected on the webpage accurate, like I said, and not fraudulent.

So, this -- that's really important. We see more and more lead buyers and more and more lead sellers doing some level of self-regulation with these tools, which is good.

So, how big is the lead industry? It's a really, really good question. In 2010, I think most of us are familiar with IAB's study that said that the market -- the advertising market is $26 billion, and then lead-gen is about 5 percent of that, about $1.3. Where is it today? It's certainly, from an anecdotal standpoint, growing. We see it every day, and the conversations we have at LeadsCouncil and through the industry's number one conference, LeadsCon, that more and more companies are getting involved in performance marketing campaigns. Agencies that focused on brand marketing are now getting more involved in performance campaigns, and advertisers are demanding those campaigns. They want to have an option where they can reduce their budgetary risks and purchase exactly what they want, which is typically a lead or interested consumer in their product.

And, so, you know, that really ties in why there's so much growth in the industry, as well. Advertisers are becoming smarter. They're using math, analytics, all these sorts of things to increase their performance on the actions and the campaigns that they're currently running and what their third-party advertisers are running. So, lead generation is absolutely growing. When we look at it across multiple verticals, this is information specifically from conference attendees, and it's from LeadsCon, which has been in the working for eight years, I think, now. And the way trends go -- come and go and industries come and go depending on different cycles, and a lot of them around economic cycles. And right now, we're seeing a trend with insurance campaigns. We see a lot more individuals attending our shows and being a part of the LeadsCouncil from insurance-related verticals; financial services also growing; and then it sort of trails down here to home services and education and others.

So, my hope is that -- I had 15 minutes to really describe something that's very big and broad. My hope is that I covered a basis for this, and we'll pass along to David here, but if you have any questions, my email is there, and feel free to reach out anytime, and I'd be glad to help and educate you guys on lead generation. So, thank you.

MR. ZULLOW: Thank you so much, Michael.

(Applause.)

MR. ZULLOW: All right, David? Thank you.

MR. MORGAN: David Morgan. I'm the Chief Revenue Officer of PerformLine. PerformLine is a cloud-based marketing compliance, monitoring, discovery, reporting and analytics platform. We work with a lot of the major advertising brands, as well as lead generators and publishers in the industry to principally do three key things: to help mitigate risk; save money; and help them protect their brand.

Just a little bit about PerformLine and our position in the industry, founded back in 2008. We're a privately held company; 100 percent of what we do is solely focused on marketing compliance. For a lot of the major companies we work, it's very important for them to have an impartial third party that does not have ties to the media but are really helping them to maintain the best position that they can have in marketing.

We have a great team of industry and technology experts, and we perform our activities for our clients at a pretty large scale. We do north of 50 million data observations daily for our clients, and that covers a number of different channels and a number of different activities. We've been lucky enough to be recognized by the LeadsCouncil, for at least the last four years, as being the best marketing compliance monitoring company in the market, and that's something that we take seriously. We want to make sure that we're putting solutions in market that are helping people move their business in a positive way.

The general problem that I think we're outlining here is that while performance marketing and lead generation in general can have many great attributes, some of the points where there are blind spots really revolves around the fact that there can be some lack of transparency. And that's further exacerbated when you look at the active regulatory environment. So, marketing compliance for large companies, as well as service providers, can generally be complicated, labor-intensive, and expensive. And we can put some numbers around those as we go through this.

So, we've built a platform called PerformMatch, and there are three principal things that we do to help folks in the market, and it's what we call the DMAs of marketing compliance. And that's to discover, to monitor, and to act; to discover potential compliance violations automatically, to monitor where your traffic is coming from and not spot-checking but monitoring known traffic sources 24/7/365, and then having the technology within our workflow platform so you can track issues from when they're identified all the way through resolution with ownership and assignment of every step in the process, as well as live aging reporting against every open issue.

When you think about a company that might be buying hundreds of millions or billions of ad impressions per month across the internet, which is not an unheard of number, when I personally looked on the lead generation side of the business, at one point my company was buying 11 billion ad impressions a month. There's no way that you could use a human-based approach to actively monitor where your brand is 24/7.

So, a few lead generation basics, and we can dig in a little more here. So, different types of traffic that is available out there, so Michael showed you a great example of how someone might interact with a -- with a search that feeds back a lead generation flow on Google.com. Google is one example of where there's traffic available for brands to interact with consumers. So, Google is typically called PPC traffic. You also get organic site visitors, so those are folks who may go online and directly type in a brand or a site name and be directed straight there.

Contact centers -- and we'll dig into each of these boxes, too, in terms of what fits where. Contact centers are used at different points in the process by different players, and then cost per action. So, these would typically be performance-based campaigns that are not PPC or necessarily contact center, but are provided by third parties.

This slide didn't come out exactly the way it should, but what you're seeing there is supposed to be a graphical representation of how an advertiser can go from working with one point of contact to potentially being distributed on hundreds, thousands, or millions of websites. So, an advertiser could typically interact, if they like, with an advertising agency or directly with a marketing network, and they typically have a one-to-one relationship or a one-to-few relationship. That marketing agency or partnership then turns around, and the value that they bring is they have a many-to-one relationship. So, I have one relationship with an advertising network; that advertising network has a relationship with 10,000 websites. When I give them the offer that I want distributed, that I'll pay people for, they can turn around and get my offer on hundreds, thousands, or millions of websites within a matter of not just days but sometimes hours and sometimes minutes.

It's very efficient from an advertiser's perspective because I'm managing one relationship, and I get reach that I could never achieve myself in days or weeks of working on things, but it also comes with some liability. I'm taking the partner's -- on their expert relationships in the business to have vetted or proved or have oversight on the partners in their network. Right, so, in some relationships where there's limited exposure, that's very, very doable; in some relationships where there's massive sprawl in the network, that becomes something where there's more risk involved.

Now, there's added complexity because those partners themselves may have partners, and those partners' partners may have partners, and then those partners' partners may have partners' partners. And all of a sudden I thought I was working with one network; they thought they were working with five websites; and my brand's on 10 million. And the blind spot in this is where is that 10 millionth website and what is it saying around my brand.

And we speak a lot with our clients about this. We actually screen shot every ad that our clients have online every 24 hours and score them against a customized rule engine that's totally transparent to our clients so that they can have as much reach as possible. It's not just about finding your brand in places that it is unknown; it's about knowing where your brand is that you do know and keeping your eyes and ears on that, too, because the world has changed very much in the digital world, where now the content on a page isn't going to be the same in two weeks as it was yesterday. It may not be the same tomorrow morning.

So, a site can go from being compliant one day to noncompliant very quickly, and we also counsel our clients on the FTC's Net Impression Rule, and we heavily look at the dot-com disclosures and advise them towards looking at those documents themselves because a compliant ad on a noncompliant page can give a noncompliant impression. So, these are obviously being great guidance on things that I've looked at in my tenure in the industry, ever since the first dot-com disclosures came out.

So, if we look then at what happens to a consumer, it's really that same pyramid but upside down. So, how did an advertiser go from being one brand with one relationship to being on 10 million websites? Well, how does a consumer's information then pass back to that advertiser?

So, consumers could be many, many different places. The reasons advertisers work in these types of scenarios is to get that extended reach and to get a cost efficiency. So, if a consumer is anywhere on any of these different websites, they could -- their information could pass through a number of different hands before it reaches the advertiser.

So, note that a consumer doesn't necessarily start at the very top of this funnel; a consumer can interact at any point in this funnel. A consumer who does organic search could direct navigate straight to an advertiser's website, but, again, this is meant to illustrate, as some of the discussions will today, that the further away from an advertiser a consumer is and the less transparency that advertiser may have, the more risk there is to mitigate and the more controls you should have in market.

So, a few examples of what some of these different things that we showed on the initial grid look like. So, a page search placement. This is typical -- typically similar to what Mike just showed. Mike showed something that showed up as Google's own interface themselves, but obviously on those pages there are a lot of advertising, and I heard Google makes a couple of dollars selling paid search. But Google's not the only company out there. Obviously Yahoo! and Bing also exist.

So, a consumer comes onsite; they put in a search term; they see organic search results, which are unpaid, but then there are also paid search results that are targeted specifically around those keywords. A consumer clicks on a paid search ad; they get taken to a landing page where there's typically a call to action; and then they are typically taken to a form, and the way in which the advertiser is able to determine how much they will pay for this ad is based on how well their ads convert and how -- and what the value is -- the lifetime value of that consumer on the back end.

So, they're not guessing how much they're going to bid on paid search terms; it's math, and it's very data-driven. There's PPC traffic, and PPC traffic can be different from paid search in that it's not necessarily on a search engine. You could be on any of the websites Michael showed. You could be on The New York Times, MSN, or any one of a hundred or a million other sites and you may see an ad. And, again, these are just ads that we picked online; these are not ads that we chose for any specific reason, other than they were illustrative. And you could click on that ad and get taken directly to a company's website. And instead of them paying each time you see the ad, they're only paying when you click. So, this is just to illustrate pay-per-click traffic doesn't just occur on search engines.

CPA traffic. This is when you may be, again, on a different website, like a content-based website, and you may be looking at anything from something that's a news website to a job website to a search engine and see an actual banner that has a call to action for you. In this scenario, this is an ad for a mortgage company and trying to drive you into their funnel. And when you click on this ad, instead of them paying each time you click, the publisher or the website is paid when you actually submit your information. So, again, CPA traffic, the A in the scenario counts for action.

Banner ads. These are traditional ads that have been on the internet probably since the first -- I think the first internet ad that was bought was on Wired magazine's website many, many years ago. And this is when someone puts up a banner ad that is a graphical representation of a call to action. And when a consumer clicks on that and goes through they again typically are filling out information or doing something that creates value for the advertiser, but the ad is -- the ad is paid for each time the ad is shown.

Email. There's a lot of email out there. And, again, this is something where the email is the channel of delivery, as opposed to it being something that's present on a publisher's website. It's sent directly to someone; they interact with the email creative; they click through. And any of these channels can be used both by a direct publisher, a marketing partner, an affiliate, a subaffiliate, a sub-subaffiliate, anywhere in the value chain. So, any of these tactics can fall and either match you directly to an advertiser or take you to a site that will match you to potentially multiple advertisers as is shown in this example here.

And then contact centers. So, contact center is when you talk to someone on the phone or you engage with someone in a chat online. Any time you see a phone number on an advertisement, the reason there is a phone number there is because there is someone on the other end of the phone. Anytime you submit your information and you submit your phone number, typically the reason you're submitting your phone number is because someone on the other end is going to pick up the phone and call you.

For high-value transactions like a home mortgage or home refinance, an auto loan, insurance, considering higher education, a lot of these things are things where there is a considered purchase and you want to interact with someone. So, there are lead generators who will collect your information, and it may only be partial information, call you up, validate where your interest lies, verify your information, and pass you to an appropriate solution or advertiser that they may work with. On the other hand, when you submit information directly to an advertiser, say to a loan company, they're going to pick up the phone and they're going to call you.

So, depending on where in the consumer path the contact center falls, consumers can have very different experiences. If you're very far at the top of that funnel and your information passes through many, many hands, you may get calls from way more people than you were expecting, and way faster than you anticipated.

If you interact directly with someone who works directly with an advertiser, you're going to have more limited interaction, and, again, the cons are you may get more calls than you anticipated; the pro, you may have more information and more market choice than you would have had if you had just called one company directly.

A few other items to consider, depending on where a consumer enters their information and how they come into the path, there could be different hands that the information touches, and there are different ways in which consumers use additional technologies to both augment and verify and validate the information. So, data verification, similar to an example Michael pulled out there, when someone puts their information on my web form, I want to make sure that that person lives at that address with that phone number. And if they don't, some of the technologies will actually tell the consumer that's incorrect information, and that can happen both in web and a call center. Data augmentation is that partial data sets exist; an advertiser has a certain piece of information, can actually cobble that together with other pieces, and then they have a full data set on the person.

Lead scoring, I'm sure we'll go into this in some of the other panels, too. Literally the ways advertisers filter out different leads. Some are higher value and some are not. We've hit on the different relationships of the marketing partners. And, again, depending on where the consumer comes in, that data could be owned by multiple people in the channel. I think to some of the earlier comments, having channel controls, this is very key because if the marketing data is passing through many different hands, not only can an advertiser lose touch of their brand, a consumer is a brand themselves, and they can lose touch of their own -- their own information, and that's really where some of the risk starts to escalate.

So, again, thank you very much for having me. I'm David at PerformLine if anyone has any questions or would like additional information, don't hesitate to reach out.

(Applause.)

MR. ZULLOW: Thank you so much, David.

All right, Paul?

MR. MCCONVILLE: Evan, thanks for having LeadiD, and my kids would also like to thank you. Their father, who is from a tech company, they could see in the uniform of a tech company, the hoodie and jeans every day, I left and, my Dad, when did you get a suit? So, apparently, they thank you that I get to look professional today.

Coming in from LeadiD, I'm the Chief Revenue Officer. I've spent the last 12 years in the analytics business, working with large brands around better use of information to make decisions as they interact with consumers. And TARGUSinfo was one of the pioneers of realtime decision-making in industries like the performance marketing industry.

LeadiD, I call us the facts and the math of lead generation. We're an analytics company. And I think what Ms. Rich, you talked a bit about five years ago and some bad things starting to happen and what you see is a lot of technology companies like LeadiD and Omniangle and PerformLine, others coming in to say, hey, we can do a lot of good to help bring -- our mission at first was bring trust and transparency to the lead generation industry, right, where buyers and advertisers were saying, hey, we need better clarity, better transparency, on what the performance marketing industry is doing and how they're doing it.

Performance marketers for the most part were saying we're happy to give that transparency, and that was our birth and our origination. We've now built our business really around being data and insights and analytics on consumer interactions. And we focus on two areas: understanding and ensuring compliance and understanding and ensuring intent, two things that as consumers we expect and two things that as advertisers we also expect when interacting with consumers.

How we work, we are sitting on about 15,000 different sites now where our code is present. We witness all consumer actions on that site. We witness no or store no PII. We simply witness the actions of the consumer. That information then becomes useful, one, for the publishers or the providers, the aggregators, to say, yes, a consumer was here and they were demonstrating intent and we also witnessed that the consumer gave compliance. They said yes, I would like to be contacted about a service.

We issue a universe elite ID. Think of it as like a CARFAX. We store the origin and history of a lead. And, so, like the car industry, if you're going to buy a car, you get to say, hey, show me where that came from. And that's our business, to give that transparency.

We do that now about 120 million times a month on consumer actions. We are -- as David said, I'd call it the measured and considered purchase industries, right? Where as consumers we expect that we have choice. If we're going to buy -- get a mortgage, we're going to buy insurance, and I think as a study will say today around mortgage, right, we expect choice. We're going to use the internet to help us shop. We're going to make sure we visit multiple sites, and we may say on multiple sites, I'd like to be contacted, because I want to get the best deal, right? I don't want to overpay; I want to make sure my service is tailored to me. And that's where we are typically sitting is this look on those 15,000 sites that represent those industries to be able to say let's ensure that the consumer was providing compliance and was demonstrating intent.

The group talked a little bit about what's the typical consumer journey, right? We seek answers. What we see is about one in ten, maybe one in 12 of these interactions that we have on sites in these measured purchase industries, we as consumers, we decide to fill out information and say, yes, I'd like to know more. Right, we fill out that web form; you'll see devices here; one is what we're all carrying around now, and a desktop, both heavily used in the industry. We click "submit," and then as David talked about, right, then information is entered.

What we see is, again, fields. We don't see the information, but we see that fields for name, email, address, and phone, almost universal on those sites. And this is in education and mortgage only. And then rarely you'll see some other information like date of birth. But sensitive information, yes, but what we're seeing in these industries, the vast majority is simply the way that we would like to be contacted, right? We have to tell our names, and we have to say we'd like to get an email from you to get information; here's our address; here's my phone number.

The consumer then submits lead and then typically publishers and buyers will do some checking, right? They want to make sure that there are things, like, hey, if I'm going to call that consumer, I want to make sure that I do get the right person. So, if Paul entered his cell phone, let me make sure that that's Paul's cell phone before I call it, right? I don't want to call someone that is other than the intended consumer.

There will be some fraud checking in there or compliance checking. We do a lot now in this idea of TCPA, right, that FCC has been now very clear that if you are going to call a consumer on their cell phone through an automated means, you better make sure that that consumer is read the right compliance language; they've agreed to it; and they've provided that consent.

We'll also do things like checking lead age, right, how old was that lead? How long ago did a consumer submit it? Was it a duplicate to something that may have been submitted before all of this analytics information that the buyers and sellers are able to say, great, here is assurance that consumer was compliant, they saw the right language, and they are demonstrating intent that says, yes, I'd like to be contacted. That all ties back to our universal ID, that VIN number that we issue.

Buyers then get to look at that and say, yes, hey, I want to buy it or I don't, right? In this case, Brand A and B may say, yes, I'm very interested; Brand C, we'd be telling them, hey, you're the third brand that has been offered this lead. And as the third, brands are starting to say, hey, no, I don't want to overwhelm the consumer; forget it, I don't want to buy. And we'll talk a little bit more about that.

Then that's often driving phone calls; it's also driving emails, but a lot of work going into ensuring that there is that compliance and intent in advance. We're facts and math, so our data on those 120 million interactions a month tell us a lot. And, so, simple things. We're seeing the industry become far more efficient. And if you look at a lot of reports, there's one by the [Chief Marketing Officer] Survey, you've got -- CMO is now spending between 12 and 16 percent of their marketing budget on analytics, right? They're hungry for information so that they can make better decisions. That also is driving companies like ours, the technology companies, to help improve that efficiency.

So, one of the things we witnessed is over the last two and a half years, the industry's gotten far more efficient, right? We can see that as a consumer submits a lead how soon until a buyer says, great, I would like to call that consumer. They receive the lead, and that consumer has shown intent, I want to reach out to them.

Two and a half years, 50 percent of the leads were making their way into the hands of a buyer who was saying, hey, I want to get a hold of that consumer, and as a consumer, I'm waiting for that call. About half of them were getting there quickly; half weren't. Now, almost 96 percent of what we witness consumer is pushing "submit," and within a minute, a brand is starting to reach out to them.

Important because that's also saying that we're not seeing what was a problem five years ago, kind of this recycling of leads, information where a consumer may have entered it a few months ago, a few weeks ago, and now it pops up again. That VIN number is present; we can say, hey, that came from something that was weeks ago, and it's now out of the industries in mortgage and education that we're demonstrating here.

We also see this idea of compliance as incredibly important. The industries reacted fairly quickly, and we're actually seeing an up-tick in that since the July ruling from the FCC around TCPA, but the industry has said, great, it's important that we ensure compliance, and we're now seeing what's approaching 90 percent of all leads having clear, conspicuous, correct language on there that says to a consumer, yes, by submitting my information I am authorizing that I get a phone call. Brands want to make sure that that's there. They don't want to call anyone that's not looking to receive a call, and there's also the assurance as a consumer that the brands and the lead providers, both playing by the rules here.

What we also see is as more and more of us are adopting use of our phones and tablets on nearly everything that we do, the industry has helped drive towards that, as well. We look in education, now over 50 percent of forms in education filled out on a phone; mortgage, biggest typical, a bit more information required in mortgage, a little less than that. But the industry is adapting to, okay, as consumers, we rely on these devices and, great, we're going to make this collection of information efficient for consumers where they want to interact with those brands.

Call centers, I'll look at education and mortgage. Right, so, this information, a little bit of where is it going. We're seeing in education call centers actually creating about 16 percent of leads, so that means a call center calling out to us as consumers, where we may have provided some information at some point and saying are you interested in going back to school. Much less so in mortgage.

What we're seeing, though, is these rates going down. And these are where we see those calls originating from. The vast majority is onshore; still a bit offshore. And, again, those are calls going out to us as consumers. But what we see, again, market efficiency. Offshore, although a small percentage there, it is a group that is very good at making phone calls; they're really bad at helping us as consumers show intent, show interest. And, so, the market is driving kind of any offshore call activity really out of the marketplace.

As you see here, this is what marketers care about, right? Phone calls are being made, but does someone agree, yes, I'd like to talk to someone about mortgage or someone about education.

Transfer rates are much worse if it's an offshore call. Application rates -- actually somebody saying, yeah, I'm interested -- those much worse. Enroll rates, far, far worse. Right? So that's being driven out of the industry again, another example of just where we see industry and transparency cleaning up -- cleaning up the practices.

The other thing we've seen, leads are being sold less and less. Where it was, if we look back three, four years ago, three, four, five times was a norm in many industries. We largely don't see that anymore. The vast majority of leads in mortgage, only sold once; in education, only sold twice. And, so, as consumers, hey, that seems normal. I want choice; I don't want to be bombarded, right? Brands have figured that one out. Performance marketers have figured that out, so they do a lot to tune where does this lead go, how do I get a consumer who is most interested.

And, again, we've seen the number of calls going down dramatically simply because the analytics are now there to say what's the most efficient, right? And that's exactly what this slide -- right, so, if I'm making -- selling that lead to more than two parties that are going to make calls, conversion rates go down and, frankly, it's brand-disruptive. I don't want to be the fourth guy that calls someone who may be interested in a mortgage and have the consumer say will you stop calling me, right? So, market has driven some efficiency through this transparency.

And, then, what we've also seen is the efficiency. So, this is the education industry. If we look back two years ago, you're seeing companies that can't deliver the right performance or are not driving the right or best practices being driven out of the marketplace. So, if we use what -- the number of companies we saw is selling leads to the for-profit education industry two years ago, there's actually 15 or 16 percent less companies in that market now, and it continues to regulate, simply because, again, the access to data is there and marketers aren't going to continue to spend money where they're not getting performance.

And that's all for me. Thanks for having us here.

(Applause.)

MR. ZULLOW: Paul, one quick question. All of the --

MR. MCCONVILLE: I did leave it up there to have questions.

MR. ZULLOW: Thank you.

MR. MCCONVILLE: I opened myself up to that, yeah.

MR. ZULLOW: I take you up on your invitation.

Just to clarify, the trends and statistics that you're sort of referring to in your presentation, these all relate to entities who utilize the, you know, ID service that you provide?

MR. MCCONVILLE: Yes. So, we see 96 to 97 percent of all leads created in the education industry, third-party leads. We see about 90 percent of all leads created in the mortgage industry. So, we think we've got near full view of every lead being created in those markets.

MR. ZULLOW: And, also, too, does it -- in order to sort of be a part of the ecosystem that you can view, does it rely on sort of each entity in the chain sort of subscribing to the same system, where the lead can be identified? Or are there some that are outside of that?

MR. MCCONVILLE: Yeah, so, where present are codes there, and it's the same -- essentially the same code for all, so no derivatives of that for other industries. But, yes, you have to put our code on a site for us to witness any of the statistics I just showed there.

MR. ZULLOW: Okay. I thank you very much.

MR. MCCONVILLE: Yeah, thank you.

MR. ZULLOW: All right. And to our technical staff, the next slide. This is the one where I think we're using a different -- great.

Professor Wagman, thank you.

PROF. WAGMAN: Thank you very much. Hi, I'm Liad Wagman. I'm a professor of economics at Illinois Tech in Chicago, and I've been working on lead generation from the perspective of information economics over the past 10 years or so. And I want to show you today a specific case study in the market for mortgages. This is joint work with Jin-Hyuk at Boulder.

And what we're looking at is lead generation as a byproduct. So, you're shopping around for a mortgage; you decided on a lender; you're filling out your application;

you're providing a lot of information to the lender; and then the lender can turn around and trade that information.

So, what kind of information? Well, this is the kind of the traditional kind of information, but it's quite extensive: your credit report; it could be a credit score, but it could be much more. It could be a lot of information about you. And you're voluntarily providing that as part of your application, okay? And it can legally be traded. As my colleagues have talked about, if you have an affiliate that's partnered with you in some shape or form, there's hardly any restrictions on that information going downstream to another firm. So, that firm might be an insurance provider; it might be a warranty provider, and so on. Okay?

Now, consumers can opt out of some sharing, and it's usually limited to nonaffiliates. The problem with opt-out is that nobody does it, okay? We have here on this figure; this is from Johnson & Goldstein; countries on the left are countries where people do not sign up to donate their organs postmortem at the DMV. Countries on the right, they do, and the only difference is the default. Default on the right is that they're opted in; the default on the left is they're opted out. And the countries on the left they practically begged people to sign up, and this is as far as it got them. You see, people just go with the default. So, if you don't beg people to opt out, they're not going to.

Okay?

So, you might say, oh, this doesn't affect me, but really it does. These are just the privacy statements that you get with your credit cards. And you can see all of that there; you can see that firms will continue sharing your information, even if you're no longer their customer. And this is not limited to Barclays by any means. You know, Chase does the same thing; American Express does something very similar. Some of them have slightly more favorable terms, but really nobody opts out. Everybody goes with the default, and that means that your information will be sold and traded. Okay?

In some cases, it will be traded in an anonymized way. So, what I want today is kind of show you a flavor of an academic research project where I'm creating a game theoretic model and an empirical model to study the effect of being able versus not being able to trade information downstream. Okay.

And I just want to give you a little bit of a flavor of the theoretical model. And theoretic model is just -- you know, it uses math to study the equilibrium dynamics in the setting. So, consider a setting such as a mortgage market. It doesn't have to be, but let's consider that, where firms post prices; consumers decide where to apply; consumers apply; they provide information; information is collected as part of the application process. The lending firm is looking to accept the low-risk applicants and reject the high-risk applicants, but it can also sell the data they collect downstream. Okay?

So, very simple. Let's think about two types of firms. There's an upstream firm that's the lender you're applying with, and there's a downstream that could be the insurance provider, let's call that Firm B. Okay? Now, consumers vary. Consumers are heterogeneous. They have, you know, the high-risk consumers, the high-risk borrowers that you want to reject, and there's the low-risk borrowers, and they're spread out in the population, and firms do not know ex ante in the beginning whether a consumer is a high risk or a low risk.

And you really want to serve the low-risk ones, but, you know, the information you collect, even bad information, even disqualifying information can be useful because you can sell it. Okay.

So, then, the idea is to try to quantify the value of information, okay, how much do you get from collecting a certain amount of records about a consumer, about an applicant. All right. So, to do that, we have to model what information means here. So, this is really, really simple, to put it basically collecting a bunch of records. And you can summarize these records with, you know, positive and negative ones, and if one of the records is negative, usually that means you disqualified, the consumer didn't qualify for your loan, but that's not necessarily a bad thing.

The thing is, though, the more records you collect the more likely you are to find something disqualifying. It's as simple as that. Okay, and if you don't find anything disqualifying, then you approve the applicant for your mortgage. You can still sell the information in either case. All right.

So, using this simply model, we can determine the value of information. And we find that both negative and positive information has value downstream. And because it has value, that incentivizes lenders to collect more data when they can sell it. Okay.

So, putting the math together, we get an actual value for this information. I didn't just put it there to scare you a little bit, but, really, you know, it's not complicated. It's very, very doable just with pure math.

MR. GILLMAN: You're scaring me.

PROF. WAGMAN: Okay, I'm sorry.

MR. MCCONVILLE: It should be a plus somewhere.

(Laughter.)

PROF WAGMAN: All right, but that's the idea. So, I'm going to just tell you the lessons we learned from this. And the first lesson is that the lender's profit rises with amount of information that has collected. Okay? Now, collecting your information is a cost. It's costly to acquire more and more data. And, so, there's a tradeoff between the two, and we can obtain equilibrium, and what we see in equilibrium is that when firms can sell information then they collect more. And as a result of that, they deny more applicants. So, mortgage denial rates go up.

Okay, but overall, consumers, those who qualified, those who end up being qualified, they benefit from lower rates. All right, so, there is a direct benefit to consumers. And because there are high rejection rates there are less defaults down the road, less foreclosures.

So, this is kind of a positive associated with the ability to sell information. Our knee-jerk reaction is telling us, oh, this is bad, this violates our privacy. But there's a tradeoff here because there is some positives associated with it. All right?

So, then we turn to an empirical analysis model. This is all nice and good; it's a mathematical model. But can we actually see this? Okay, and we bumped across a natural experiment that happened in the Bay Area. In the San Francisco Metropolitan statistical area, there are five counties: Alameda, Contra Costa, San Mateo, Marin, and San Francisco. And they all had uniform privacy laws until three of them adopted stricter opt-in ordinances, where consumers would have to opt in in order for their information to be traded.

Now, we know what "opt in" means. It means no information will be traded because consumers go with the default. All right? So, that is a perfect opportunity to study the effect of being able versus not being able to trade data downstream. So, this specific ordinance was adopted in 2003 and 2004, and then it was superseded by CalFIPA and the FACT Act towards the end of 2004. That leaves us with two years to basically study it. Those are the treatment years of 2003 and 2004, intervention years, and then there's post-intervention after CalFIPA was implemented.

Notice that the GLB Act took effect towards the end of 2000, so it doesn't give us a lot of time for a uniform law before the adoption of the ordinance, only 2001, 2002, which is good. So, we have two years before, two years during, and two years after the treatment. Okay.

So, the data we use is data that anyone can obtain. It's from various government institutions. Some of it needs to be purchased; some of it is freely available. Okay. Some of the data is on the level of Census tract, which is between 2,500 and 8,000 people or so. Some of it is loan-level data, so specific loans, individual loans. Okay?

Now, the data is on loans that were originated, loans that were approved but not accepted, loans that were denied, loans that were withdrawn or were incomplete. And we have a lot of control data, as well, on median income, median home value, and so on within the Census tract. Okay?

Now, I'm going to focus on home purchase loans and refinancing loans. All right? And the variable I'm interested in is the denial rate, the rate at which loans were rejected, found to be disqualified by the lender because this maps exactly to the theoretical model, and then we can test the prediction. All right?

So, what's interesting to see is that before the ordinances were adopted, the trends in the counties were more or less the same. They looked very similar before it was adopted. They're also composed of very similar people. Demographic-wise, they're very similar, which is perfect for a natural experiment. It's just the ideal situation.

Okay, and, so, we do a simple difference-to-difference econometric specification. There you go again.

MR. MCCONVILLE: It looks simple.

PROF. WAGMAN: And let me explain it very quickly. For each tract, I, and year t, within our group of years that we studied, the treat(It) just indicates that this county was treated with the ordinance, the opt-in ordinance, meaning cannot sell data essentially. Okay, and then we have some control variables that I mentioned earlier. This is the Census-level study. All right.

And we used some simple econometric techniques that are widely accepted in the literature to study this, and here's what we find. Okay, the counties where firms can sell the data easily, meaning opt-out, rate of denial went up. So, if it used to be, say, 20 percent of mortgages were denied, it went up to 21 percent. Okay, because more information was collected. All right. Now, tracts that had larger minority populations, that spiked up even more. Okay, some statistical discrimination that was already observed in other papers, we see it here, as well.

Now, when we turn to loan-level data, to examine the same question, we get the same results. Okay, denial rates go up when firms can trade data because they can better screen applicants; they can find more information. They have incentives to find more information. Now, interesting is that this held very strongly for jumbo loans, for the big loans. You might ask why. Well, these loans cannot be resold to Freddie Mac, Fannie Mae. The banks actually have to hold onto them, so the incentives play even in a stronger fashion. Okay.

So, kind of exactly what we predicted in the theoretical model we see here. Firms can trade data; they have incentives to acquire more; and then they deny more applicants. Prices go down, too, though. Okay?

So, then, all right, this is great, and we see some confirmations, some vindication of our predictions. Can we say more? And, so, we looked down the road, a few years down, to see if, well, maybe we can see something about foreclosures or loans that were seriously delinquent as a result of the difference in the denial rates. And that could corroborate our evidence here.

So, remember that the model predicts that a decrease in denial rates just means that more unqualified people will make it through. Remember, the denial rates are lower under opt-out; denial rates are higher under opt-in. Okay? And, so, we actually find that in the counties that had the opt-out versus the opt-in, the foreclosure rates were different. Okay?

So, remember, opt-in means you cannot sell data; opt-out means you can. Opt-in means that firms acquire less data; opt-out means firms acquire more. And, so, more foreclosure rates in loans that were seriously delinquent were higher when firms could not sell data. And the reason they were higher is because firms acquired less data, approved more applicants, even when they shouldn't have been approved. Okay, so, this is kind of confirmation of what we expected.

Okay, so, just kind of to summarize, a few final remarks here, is that this is a specific study from our mortgage market. And the model we had here can be applied to many other markets, and we see that even if a market is taken as competitive, there are still inefficiencies, and those matter. And from an economic angle here, the outcome is actually more efficient when firms can trade data, when they can sell consumer data.

And, so, an opt-in standard, which might seem like it favors consumers more, might look good on paper, but it can actually have some undesirable effects in practice. It can be risky in practice. Okay, in this specific context, opt-in can come at the cost of higher prices and possibly higher foreclosure rates. Okay.

And, so, this is great, and this is a specific study in the mortgage market, the market that we're all probably familiar with, but it can be extended to other markets -- credit cards, insurance, and so on. And, so, I'm happy I got to share it with you. Thanks very much.

(Applause.)

MR. ZULLOW: Thank you so much.

And I think we'll be turning back to the PowerPoint component. Thank you very much.

Okay, Jonathan, thank you.

MR. GILLMAN: Good morning. I'm Jonathan Gillman. I'm the CEO of Omniangle Technologies. I started my career in consumer protection, so it's nice to see all of you state AG and FTC folks here. And now I kind of have a better sense of why Evan and Katherine asked me to be on this introductory panel. What we do here at Omniangle Technologies is we audit, preserve, and analyze the consumer experience throughout a lot of different online marketing contexts. And, so, as an intelligence firm, it's our job really to kind of put aside how the industry categorizes itself and what analytics and controls the industry has in place already and take a different approach, a more law enforcement approach, very similar to what we did at the Cyberfraud Unit at the Florida Attorney General's Office.

So, what we generally don't talk a lot about with our clients, who are banks, insurance companies, and schools, is why the issues that we see have persisted over the course of years, and I suspect that's why the FTC invited all of us here today. So, what I really want to get into is why are these issues so persistent in lead generation and what's different and similar with what you see in lead generation versus other areas in online marketing from a consumer protection standpoint.

So, it's a little obvious, but when you talk to online marketing professionals, they will really tell you that if you don't get a consumer in your front door, it's over. So, the sort of natural tendency in online marketing generally -- and this certainly is true for lead generation, as well -- is the most aggressive, most loud the ad, the creative, whatever you want to call it that's most likely, not just to get that consumer's attention but to get them to actually click on that ad, click on that link, open up that email with a very exciting subject line.

So, there are a lot of things I see when I read news sites. I see these things that come up. I couldn't even tell you what they're for -- kids hooked on hookah, I don't know where that's taking me or where they want me to go or what they want me to buy, but I can tell you sitting right here that someone is paying a lot of money to take consumers, distract them from whatever it was they were reading, probably not about that subject, and take them somewhere else to buy something.

So, there are some real kind of consequences to the natural tendencies towards the most aggressive, the most loud messaging in online marketing. And one of the things that you'll hear a lot in internet marketing is this concept of rogue affiliates. It's, you know, everything's fine; we have our guidelines; and we just want the highest intent consumers. And every once in a while through one of those intermediaries that David was talking about, someone will slip through with messaging that doesn't work.

So, if you're selling people movie streaming as a service, you probably want to tell them right up front what it's going to cost and what they might get. So, you're going to use an initial representation like this, and you would expect and you would want your affiliates and their sub-affiliate partners and all the other intermediaries to use messaging that's accurate and consistent because when affiliates do get a little creative and offer people three months free of Netflix for Obamacare, it sounds good. They might get a lot of people to click on the ad, and initial representations do matter. From a consumer protection standpoint, there's a reason why the standard is you cannot cure an initial deception with subsequent disclosure. So, the reason is people will actually sign up for offers that come in through a front door that is either confusing or deceptive or at least random, at best.

But some offers have kind of a self-correcting, and some types of offers have more of a self-correcting mechanism built in place in that. If I'm charging people 7.99 a month or 9.99 a month for a service but the consumers that come through the more aggressive ad tend to drop off a lot sooner, they might actually be convinced to put that credit card information in because they might think a week later they'll get an email from Obama saying here's your refund check. But they're ultimately going to cancel at much higher rates.

So, this self-correcting mechanism, it doesn't work perfectly. We have clients outside of lead generation that sell shoes and sell computers and sell TVs, and you do have to watch out for issues like this. But this self-correcting mechanism is broken in lead generation, and that's our assessment as an intelligence firm.

And the reason it's broken is not just the amount of intermediaries that exist between lead buyers and consumers in lead generation but the way that they interact. And one of the big differences between intermediaries and other forms of online marketing and intermediaries in lead generation is that these intermediaries in lead generation will host their own forms; they will have their own call centers; they will sometimes have an initial redundant process before they take you to a lead buyer, whether it's a bank or an insurance company or a school's process; and those intermediaries can create some kind of interesting economic disincentives if you're talking about truth and accuracy in advertising.

So, we see things like this in education all the time where it becomes for lead sellers or intermediaries out there very, very difficult to compete with affiliates and lead aggregators and whatever you want to call these intermediaries with those who are willing to use more aggressive messaging.

The ad that we have highlighted in red will generate more clicks. It will actually, because education is one of those areas where a lead is simply a form submit, will generate a tremendous number of additional forms. But, most importantly, because these initial representations tend to lead users to interact with intermediaries instead of interacting directly with buyers, those intermediaries are able to kind of triage and blend and massage users that come through these funnels in ways that make the economics work.

You'll hear the phrase "performance marketing" probably used a lot, and at Omniangle, when we analyze what's going on out there, it doesn't matter if you're paying someone on a cost-per-click basis, cost-per-lead basis, cost-per-action, or even a cost-per-impression or CPM-type metric, because no matter what business relationships exist in online marketing, the technology does exist to manage performance very, very well.

So, none of the tactics that we identify at Omniangle really represent users that cannot be made to work in some volume or in some configuration of interactions for lead buyers. And that's what makes lead generation different, largely, than a lot of what else we see out there in online marketing in that the intermediaries and the way the intermediaries interact with consumers make it more productive economically for ads that are more aggressive to persist, and they do persist, and those are the issues that are so difficult for banks and insurance companies and schools to try and deal with and manage.

Some of the common user experiences that everyone on stage kind of alluded to highlight the fact that these initial representations, if I say click here to join the FBI, I might go to a lead aggregator form; I might be called by a third party call center right away because the initial representation itself has a form within it. So, at Omniangle, we don't like to distinguish between, you know, PPC ads or emails or, you know, display ads. We simply say there are initial representations; then there are intermediaries that will interact with those consumers; and that information ultimately gets sold to lead buyers.

So, the sales pitch, I guess, from the lead generation industry is this slide. What they'll say when they go in and talk to Bank of America or Chase is they'll say, listen, we know there's a lot of aggressive tactics out there and, you know, you can call them third-party call centers or affiliate traffic. And by here affiliate traffic, what I mean is affiliates that send traffic to lead aggregators, not affiliates that work directly with banks or insurance companies.

But the fallacy of this slide and this narrative that this industry continues to perpetuate is that we're the lead buyers. It's as if there's an internet for the lead generation industry that's separate and apart from the internet that the buyers themselves buy ads and target users from. So, the reality looks much more like this. Anyone who does any analysis of this industry will tell you that education, banks, and insurance companies are the largest online marketers in the world in terms of advertising spend. And, so, when you ask yourself, well, really do these intermediaries fit just from a real estate standpoint if Allstate and MetLife are in thermonuclear war with each other over the summer season, where is an insurance lead aggregator supposed to get high-intent users from.

And, so, it's not to say there aren't ways to do it and that it can't happen, but the reality looks much more like this than the situation that often is advertised. This is why we see initial representations that get churned through call centers, aggregators; whatever you want to call them, they're intermediaries in initial representations like this, people looking for jobs, people who advertise specific job outcomes. You get emails that are basically promising government assistance or, again, referencing specific jobs. You have initial representations that are actually forms that look like they're job applications that will result in you being called by a third-party, or in some cases aggregator, call center that will try and turn you into an education lead.

Now, is that to say that there's no place for an education offer to be offered to a user who's looking for a job? I don't think that's the case. It's not our job to tell the industry what the rules are, but when you're telling someone, fill out this form to become a Homeland Security officer, and the next thing you know they're getting called by education lead generators, that probably isn't where the balance and the fine line is going to be drawn in the final analysis.

The same thing happens in lending. Again, people looking for help might also be a great candidate for a small-dollar loan or a payday loan. But if they're filling out their information on a site that looks like they're being offered government benefits, there's going to be a lot of problems with that, whether it's for unemployment benefits or unclaimed funds or, again, subject lines that are just designed to get you to open the email, but they do make clear representations, even if they're not always the most accurate, to consumers that are about to enter the lending process.

So, you know, we see consistent things in insurance, as well. The point is these initial representations are persistent. The spectrum of intent in lead generation, I think, is the real issue at hand here. And buyers are huge advertisers. They're the largest advertisers in the world. They're competing with the intermediaries. They're not just buying from a separate internet that the intermediaries operate in; they are both competing with and having to react to the economic efficiencies that some of these intermediaries can benefit from. And it's not just the messaging.

The other problem with the proliferation of call centers or just parties who share and trade information with each other is what happens to that user's data. So, it's great if someone fills out a form where a LeadiD has their pixel. We know when LeadiD has their pixel on a form. They're very transparent. But we also encounter many, many, many forms out there in lending and insurance and in education where we know, first of all, there's no LeadiD pixel because it's not being detected. And, secondly, the company who's pretending to be a government website isn't the most inclined to actually work with companies like LeadiD who are working for transparency in the space to cooperate in that manner.

So, what that means is not only are the representations of concern, but when you're filling out these random generic forms for jobs, your information doesn't get treated very well. And that's simply because while TCPA has made things better and buyers have made contractual prohibitions a little bit tighter against this sort of activity, the reality is these intermediaries that do not contract directly with insurance companies, schools, or banks are really going to monetize users' information as much as they can. And these are just some examples of what users can experience after they fill out forms for either jobs or government assistance. Again, these are third parties that are very large, very much active in the lead generation space and are impacters on this sector, both from a consumer's data and privacy standpoint, as well as the competitive pressures of being able to say much more aggressive things out there.

So, if I can sort of make any point louder than anything else is when you're looking at this from a consumer protection standpoint, you have to understand that ad space is finite. Yes, there are billions of display ad impressions out there, but they are increasingly expensive. And when you are an auto insurance lead aggregator and you go in and you pretend like you're not competing with Allstate's own internal direct marketing efforts and their own internal direct marketing campaign budgets, you're being disingenuous.

That's not to say that people can't figure out creative ways to target high-intent users; it's just the reality that it's the same internet; it's the same real estate; and it costs money -- a lot of money -- to target high-intent users in a specific vertical. And that's just an economic reality and much more of a common-sense sort of statement than anything else.

So, in closing, unlike many other areas in online marketing where there are these more -- let's call it functional self-correcting mechanisms from an economic standpoint, I'm really hopeful that this conference can continue the dialogue around where the lines should be drawn in lending, in auto insurance, and in education because in the absence of clear guidance from the industry and from partners in the government on where those lines need to be, the aggressive ads will win; they will win big because it's online marketing; and they will win even bigger because the intermediaries and lead generation specifically have capabilities to triage and monetize and blend users that come through these more aggressive channels much more effectively than in other areas of online marketing.

So, thanks to the FTC for having this conference. We're really excited to participate. And I look forward to answering anybody's questions throughout the day. And I just want to thank all the other panelists on here. I think they did an outstanding job of describing how the industry works from a mechanics and technology standpoint. Thanks.

(Applause.)

MR. ZULLOW: Thank you, Jonathan.

So, we've got about 10 minutes remaining to work with here, and I wanted to invite you all, because I think we could probably fill the day with a conversation involving your reactions to the other panelists' presentations, but just before we start to do that, I just wanted to ask, on one point that I think both Paul and David referenced, that in some instances lead information will come in from a consumer, you know, they'll elect to be a lead by maybe entering their name, contact information or the like, and you made mention of the fact that in some instances there's a process of augmentation or supplementation by some entity or someone in the lead pathway of what the consumer provides, you know, to augment or improve the lead or make it more useful.

And first what I was wondering about that process, if anybody can comment on it, is where is that information coming from that's being used to augment the leads as they're provided by the consumer?

MR. MCCONVILLE: So, there are a number of companies, I think Michael showed a slide, Neustar, that was the company that bought Targusinfo. They're one of the largest providers of caller ID in the U.S., and a very common practice is before a performance marketer sells a lead, they want to say, do I have the correct identity, right? And if Evan just filled out that form, did Evan give us his correct cell phone number, right? I don't want to call him if that's not correct.

Does he really live at that address? Again, because that will say two things. It will say, one, I want to make sure I've got it correct; two, if you're not providing correct information, likely it means you have lower intent. And, so, companies like Neustar or there's Axioms, the Experians, right, where they'll do that verification to understand that consumer intent or that consumer information.

MR. ZULLOW: And do you have a sense of how commonly that's done? You know, are there sort of costs and benefits to it that are weighed and involve it sometimes being, you know, this additional information being used and sometimes not?

MR. MCCONVILLE: I mean, it's fairly common, and I'll, you know -- Liad gave a great presentation around the value of the opt-in on information. I would suspect that's in an application, which will get far more scrutiny than on consumer information or kind of credit data or anything about that house or previous foreclosures. Not saying -- at least I haven't seen it in my years where in the lead process that that scrutiny is happening, right?

Fairly low-level information on the front end, right, of that consumer information; let me check that it's correct; let me see if the IP address on that form was filled out; where is that coming from, right? Was it out of country? Somebody saying they live in Ottumwa, Iowa, yet that's coming from Nepal, right? Let me see what's happening there. Or is there an IP I'm seeing over and over and over again, right again, there will be lots of checks and a lot of it not even looking at PII; it's simply looking at where is it coming from.

MR. MORGAN: And I think, you know, it depends on the industry, too. One of the things we didn't hit on here that Jon hit on a little bit was in some of the ads he showed there were major, massive brands. And a lot of the brands that we work with are major, massive brands, and we don't just monitor where they get leads from and where they know about. We have a crawler that goes out and crawls for where their brand appears that they're not aware of.

So, the downside of some technologies is they're limited. So, a lot of our clients use a stack of technologies together so that they can monitor information at a lead level to make sure that the data is verified as it's coming in, but then they also use data and technologies to go and look at where is my brand being used that I don't know about, because if it's not resulting in a lead that comes into me, I'm wholly unaware of it.

And when we think about messaging and what consumers see, if I see a brand that is now being associated with a payday loan but that company does not have a payday loan product, and the person submits all their information for this payday loan, the consumer has a negative experience with the brand; the brand owner has absolutely no idea this is happening because the person is never entering their databases, and then that impact on the consumer can be very bad.

So, we see this all the time in payday lending and small-dollar lending, that there are companies out there that will literally take any major brand that they can see, and let's say -- I'm picking this out of the air -- Disney Payday Loans. So, you can pretty much take any major brand that has brand equity and there is a payday loan site out there with that brand being used on it.

These sites -- and we've shown examples to some of our clients in the form of alerts just multiple times in the past week. It collects a lot of information -- driver's license, date of birth, state you live in, name, address, phone number. And as Jon pointed out, information that's collected in those types of scenarios is treated very, very differently.

So, all of a sudden now, someone submitted their information because they thought they were going to get a Disney payday loan of 1,500 bucks in their bank account in the next 20 minutes, and they may or may not get that information, but their information is going to get sold six ways from Sunday. So, who does that information get sold to, where does it go? You know, there are definitely many markets for many things out there. Who's buying it? It can get fragmented and bought in many different ways, too.

So, folks aren't often going out and buying a whole data set on someone, but sometimes they may be getting small pieces of information either to build a targeting profile or actually to augment those folks. I think if anyone's refinanced their house or bought a home, it's sometimes funny that right when you're about to close your loan your phone starts lighting up and your mailbox starts lighting up with all these offers from all these banks. Well, there's a thing called a trigger lead, so when you get your credit pulled, the folks who were actually the reporting agencies turn around and sell your information for an incredibly small amount of money with an incredibly large amount of information that goes out. And that's why those banks try to get you right before you're about to sign the paper with the bank that you had originally engaged in.

So, there's ways in which we use technology to try and uncover what's uncoverable, but there are also ways in which this has been part of the industries and the banking industry for many years in ways that folks may not know.

MR. ZULLOW: All right, thank you.

And with our last few minutes, does anyone else have any reactions or comments?

PROF. WAGMAN: Just a quick comment about real time augmentation. I think a lot of the data has already been collected, and a lot of the contracts between companies like

Axiom and somebody who's getting the lead are negotiated on an individual basis, particularly if it's a big buyer of augmented data from, say, Axiom. And, so, the marginal cost to augment one lead can be infinitesimally small. It can be practically zero if you purchase say a million queries on email addresses or something like this.

So, to answer your question of whether this can be done and how often it's done, I think for the bigger buyers, it's done all the time or most of the time because it's just free to do and, you know, it provides you with more information.

MR. ZULLOW: Well, thank you.

Any other reactions or comments from our panel?

MR. FERREE: I think I just want to make a comment regarding the ability to correct within lead generation and lead quality and intent. From a buyer's perspective, I used to purchase hundreds -- hundreds of leads a day in the mortgage and insurance space. And it's very, very difficult to make leads profitable and work for companies. They work very hard at calling and getting the quality leads that they need so that they will close at a price and a rate that's profitable. It's not easy. Not everybody can do it. There's companies that do it well, and there's companies that fail miserably.

And, so, when we talk about levels of intent, leads with intent and even at some of Jonathan's examples of the jobs, that's the last thing an advertiser wants is a lead that has low intent and that wasn't given the right content and approach to get it. So, as soon as they find them, that's why companies like Omniangle, PerformLine and LeadiD are really getting -- gaining more and more and more popularity in the industry because advertisers are forced to sort of regulate the leads that they're buying and monitor.

So, I think there is certainly a self-direction to some extent with advertisers and lead buyers. And I think you're seeing far less of those ads and far less of those types of strategies these days. And, granted, I am not seeing them. I'm not looking at the millions of pages that you guys are, but from a buyer's perspective, we're seeing less of those. The companies are disappearing that are doing that. Are they still out there, yes, but my point is, is that I think it's not an easy process for advertisers to work and buy leads and making them successful, and they want the highest-intent leads possible and talk with consumers that truly want to talk with them.

MR. ZULLOW: Great. Well, thank you so much. You know, I think we could easily fill a thousand minutes instead of the 90 that we've used today. But thank you all so much for being a part of this event and participating in this panel. Thank you.

(Applause.)

MR. ZULLOW: Okay, and as we step down, we would welcome all the panelists for the second panel of our day to come up. Thank you.

PANEL 2: CASE STUDY ON LEAD GENERATION IN LENDING

MS. WORTHMAN: Good morning. Welcome to Panel 2, which is a Case Study on Lead Generation in Lending. I'll briefly introduce the panelists. To my immediate left, Tim Madsen, who is President of PartnerWeekly; Glenn McKay, Cofounder, President, and CEO of Selling Source; Pam Dixon, Founder and Executive Director of World Privacy Forum; John Henson, Vice President and Head of Compliance; and Aaron Rieke, Director of Tech Policy Projects, Upturn.

First, I'd like to start with some initial reactions towards what you heard on Panel 1. And first with Tim and Glenn and John, does the description of the lead generation industry -- are there any specifics that you would like to point out with lending in particular?

MR. MADSEN: Thank you very much for inviting us here today. You know, in particular, I think the last speaker talking about the way that the lead aggregators fit into the ecosystem of both the lead buyers and then the marketers becomes more an integral part in making sure that the process is maintained and the consumers are given the correct type of information and that they're protecting the consumer experience by making sure that they're not being presented with something that is inaccurate and doesn't flow through to the actual product that they're going to be engaging with.

MR. MCKAY: And I think they made a lot of points that we really agree with in our marketplace, our industry, specifically around how we treat the consumers' data, how we protect it. And our industry is working very hard to find ways to, you know, help identify the lead, protect the consumers' data, like from a LeadiD/PerformLine perspective.

MR. HENSON: Yes, and I would think that just like Tim said that I think Jonathan made very good points about the focus of getting high-intent consumers and that there are affiliates and other lead generators who are hurting the high-intent consumers by confusing them and not the messaging out to begin with. And I think that that's a struggle that we have, people using our brand and our name to maybe lower some of the intent and to get the lower-intent consumers, and that's hurting us, as well. So, that's something that I found very interesting.

MS. WORTHMAN: And, Pam, do you have a reaction to the first panel?

MS. DIXON: Yes. Thank you for your invitation to be here today. I really appreciate it. Yeah, I thought the first panel was really interesting. I kept waiting for a particular model to kind of come on the screen. There's an illustration I have. It's of this giant network ball of all the different connections that come in this space.

So, the structure of this industry is

extraordinarily complex, and it's really difficult to articulate in any kind of graph, other than if you imagine a giant ball of yarn that loops almost infinitesimally. That's much more of the structure of the industry, actually. I don't find it at all probable that any single company is going to be able to say leads are generally not resold very often. That's not what our research shows at all.

There's a really -- there's a really difficult and challenging underbelly to lead generation that's very problematic. I really appreciated a couple of ideas that came out, though, that were really good and give us, I think, a very good starting point. One is that the problem with initial deceptions -- I would add to that that there are initial unfairness factors, for example, lead generation that is based on ECOA factors, such as marital status or where that has figured into the equation somehow. So, I think those are very important principles to think about as we move forward.

MS. WORTHMAN: And, Aaron?

MR. RIEKE: Yeah, I would just echo all of that. There's a huge amount of complexity here. I'm a computer nerd that got lost and briefly went to law school, and so I enjoy seeing all the graphs and the charts and the mechanics of how all this works. But I want to step back just for a moment and recognizing the fact that this is not the CFPB and this is not a panel to debate payday lending, and just remind everybody that short credit loans with high interest rates have an enormous impact on low-income and minority communities. And just one area that I think deserves special attention when we're talking about the complex machinery of lead generation precisely because we're involving vulnerable populations; we're involving sensitive financial data; and as Pam said, potentially factors that would fall under ECOA in nonmarketing contexts.

And, so, I just hope, you know, and I know that John sitting next to me is the mortgage guy, but as we talk about payday lending, I just want to make sure that we remember behind all the lead generation complexity and consumer protection issues are consumers' financial well-being.

MS. WORTHMAN: Well, I think let's talk a little bit about the sensitive information that's collected, and I know that, Tim, you've prepared actually a PowerPoint. And, Aaron, I'm going to ask you to pass the clicker down. I was not quick enough on my feet to grab it. And, so, we're going now to the mechanics of the auctioning process, which is how the information that a consumer puts -- well, I'll just let you begin.

MR. MADSEN: Yeah, thank you. So, we'll begin with the mechanics of a ping tree, which is really the technology behind how the consumer information once they engage with a marketing website finds its way to the actual advertiser, in this case, the lenders that we work with.

So, the first step begins with the customer finding that marketing website that they have either come across either through coming to Google, through entering in a keyword that is of interest to them, or possibly finding some other ad that is presented to them. Once they've made that choice that they want to engage with that website, they want to present their information in order to try to begin that service, they will begin by filling out a secure form on that site.

Once that form is completed, the consumer then has -- that information is then presented into the lead-handling system of either an aggregator or of that same lead generator themselves. You know, at that time, the encrypted information is then validated -- is validated for proper structure. We mentioned earlier in the first panel today, looking for information like this, is the phone number formatted properly; is the email formatted properly; does their address match the zip code, you know, so that we can make sure that the consumer is giving the proper information and giving them the best opportunity to be placed with a service that can help them with what they're initially looking for.

From there, the beginning of the ping tree system evolves into now looking at the information that the consumer has provided and finding the various advertisers or, in our case again, lenders who are able to do business or wanting to do business with that consumer based on the information that they provided. Filters, you know, can be anywhere from the states that they operate, the hours of operation, the number of leads consumers are able to service in that particular period.

And then once those filters are applied, then lenders who are still available to work with that consumer, still wanting to work with that consumer, are now eligible to be shown that particular piece of information.

So, if you look at the individual consumer information and having known that they've been matched, at least from a filter standpoint with available lenders who are able to work with them, then the process begins by taking that information and then putting it into a reverse auction program. Reverse auction, obviously, being it starts with the highest priced bidder, if you will, and then works its way down until somebody is wanting to engage with that consumer.

So, in this case, the customer information is presented first to ABC Corp., and ABC Corp. responds back with a no; then down to MNO Corp., the same answer. Finally, it finds its way to XYZ Corp., who says, yes, I'd like to work with that consumer. At this time, the consumer, their information, having been accepted by a lender, is directed to a page that provides them with the information of that lender. And then once that's given to the customer, then they are automatically redirected to that lender's website, where the consumer is presented with information and details on how they can proceed with the process of completing that application with the lender.

In the instance where the consumer is not matched or is not accepted by a lender, the consumer is then directed to a page that notifies them that they were not able to be -- weren't able to find a lender at that time to work with them. At that point, the ping tree process ends, and then the consumer experiences finalized net process.

MS. WORTHMAN: I think, Glenn, I think you have just a brief slide to describe the consumer experience, of what they see and how they put their information onto the websites.

MR. MCKAY: Yes, thanks. And as Pam said, this is a -- internet marketing is a very large complicated ball, if you will. I'm trying to pull a slice out of here and explain at a very high level, very simply the short-term lending online process from the consumer's perspective. So, the first section is the consumer has a need for a loan product.

And many times, as mentioned in the first panel, they will go to a search engine, Google being the most popular one, and key in some search terms, where sites will come up either in a pay-per-click or organic format, and they'll click on one, okay?

Or they may go to -- directly to the site from seeing a TV ad or a radio ad. They may get an email with a link in the email to click to go to a website. So, they're finding the site in many different ways, and once they get that site and then they'll go back to Google and type it in or go directly to the site. Okay?

These websites, a marketing website, let's call it, are usually made up of page one, page two, and three, and the information that the lenders require for the underwriting process is then entered by the consumer. So, the owner of these websites could be a number of people. We talked about publishers' affiliates; it could be one of them. It could be an aggregator might have their own websites. All -- virtually all lenders have their own websites and drive traffic to the sites. So, there could be different types of owners of these sites.

So, once the information is collected, many affiliates and publishers don't have relationships with the lenders. They don't know who they are; they're fairly small organizations and are not big enough to work with these larger lenders and be compliant with these lenders. So, they'll use an aggregator in the middle.

And these aggregators have lead-handling systems that do a few things. One is, as Tim said, they make sure that the information is in a correct format, but they really do a lot of fraud mitigation here. This industry is being hit unbelievably hard with fraud. I can go into details later, but there's a lot of -- we stop a lot of fraud right here.

From there, that aggregator might -- would have a ping tree of multiple lenders, as Tim just described; or some of them might work directly with one lender, okay? Most have the ping tree type of relationship.

Back to the website, some websites, as I said, go to an aggregator; some affiliates might go direct to a lender or, obviously, the lender themselves would go direct to that lender. From there, whether it's the ping tree or the individual lender, the process begins, as Tim explained, and lenders will underwrite that consumer in realtime. Okay, this is all happening very quickly; and the consumer is either -- starts the process with a lender or they're not able to do that.

MS. WORTHMAN: Now, as part of the information that a consumer inputs into an application, what is the information that's required in order for an application to be considered complete?

MR. MADSEN: You know, it depends on the actual product itself, and it is evolving at different times here of late, actually. But generally it's going to be looking for general customer information. We're going to be looking for first name, last name, address, are you employed, how long have you been employed. And then in the case of the short-term lending industry, they're also looking for information on employers, as well as bank account and Social Security number, so that, as Glenn mentioned, those lenders are able to make that realtime underwriting possible.

MS. DIXON: May I respond quickly? Okay, thank you.

So, just very quickly, something that I haven't heard mentioned today is the Fair Credit Reporting Act, and, of course, we all know that Fair Credit Reporting Act applies to firm offers of credit. And lead generation is outside of that. However, there's a very intriguing and very important gray area that I think we need to mention, which is zip code. So, aggregate credit statistics that determine the approximate credit score of a very tight block of homes, say between four and seven homes, can lead to a quasi or a pseudo-credit scoring of a neighborhood. That can be very effectively applied in lead generation. And this is -- this is a very controversial area that really needs to be taken into account. So, most of the ping trees and most of the analytical processes in lead generation do request zip code. This is part of the antifraud.

So, to make these applications without a zip code would be literally, I think, unheard of. I think that's a fair thing to say. However, right now, there is no regulation that prohibits the application of aggregated or statistical credit scores to people who are in the lending vertical. And this is a fundamental issue that needs to be dealt with at the policy level. Do we want to apply statistical credit scoring to neighborhoods when people are being offered lead generation in the financial vertical. I think this is a very important policy question to address.

MS. WORTHMAN: And I actually think that was something that was touched on a little bit in the big data workshop that, as Jessica mentioned, a report will be forthcoming, but it also does raise sort of what happens to the data that's collected during the time that a consumer is applying for a short-term loan.

MS. DIXON: The statistical funnel happens very quickly nowadays. It's not like, okay, let's collect the data; let's take a week and send it off to a data broker; and then we'll get something back. It doesn't happen that way anymore. It's very, very quick.

MS. WORTHMAN: And I guess one of the points is why is it necessary to collect the specific data that's required for a small-dollar loan.

MR. MCKAY: I think it's really -- that's how the industry began originally, and it comes down to speed and convenience. If a lender is trying to give feedback to a consumer very quickly that they do or don't want to work with them, they need that information to be able to underwrite. And in the small-dollar, short-term lending, they don't use FICO score. It's not applicable. Certainly in the larger dollar loans it is applicable, but in this, it isn't.

So, it really comes down to being able to offer the consumer the fastest method possible of being able to work with that particular lender.

MS. WORTHMAN: Is the bank account information used for underwriting? Or is it used for the delivery of the loan?

MR. MADSEN: You know, that's really a lender question. You know, they take it into account in various areas. They can look at it, you know, for underwriting purposes potentially. And, again, I can't really speak to what the lenders would use. In the case of ourselves as an aggregator, we will look at that bank account information as a way to help us key off of different fraud programs that are out there right now where people may be running different bots that are sending, you know, hundreds of applications through with maybe a single bank account but using, you know, false data with the intent of trying to defraud the lender. So, we use that as a way to provide a better quality program for our partners that are on the lender side.

MR. RIEKE: Can I make a comment? I mean, I feel -- you know, we're talking -- we're here at the FTC, and this is a consumer protection agency, and so I want to take this back to the perspective of the consumer for a moment. I just want to add some color to, you know, Tim said earlier that someone will find the web -- you know, a consumer has a need for a loan. Oftentimes, that need for a loan is evidenced by a search term that indicates financial distress, like I need money to pay my rent.

So, sometimes the search is "payday loans"; sometimes the search is just a search that indicates financial distress. And payday lead generators are advertising to those terms. When you arrive at a lead generation website, as Glenn said, it may be a big company like Selling Source, Money Mutual; or it could be any number of other people, including small affiliates that may or may not be good ethical functioning businesses.

Even when we're at a big brand name lead generation website like Money Mutual, the privacy policies are pretty shockingly permissive, given the sensitivity of the data that's being turned over. I mean, this is your full name, your address, your Social Security number, your driver's license number, your bank account information. And when you look at the consumer facing privacy assurances what you see is Money Mutual reserves virtually unlimited right to share, rent, sell, or otherwise disclose this data to other businesses. Oh, and by the way, if you're on the do-not-call list, that won't apply to anyone we share this data with. That's not to say that that means they're necessarily doing something bad.

But it's interesting to me that from a consumer perspective I have more privacy assurances with respect to the music I listen to from an internet-streaming website like Spotify than I would if I went to a payday lead generation website and provided this very sensitive info.

And I hear that that could be a side effect of the complicated industry that falls behind here. But, you know, again, from the consumer and the privacy perspective, it's pretty scary, especially if the website is an affiliate and you have no idea who this person is.

MS. WORTHMAN: And let's talk a little bit about who sees -- who sees the data and where it ends up. And --

MR. MCKAY: Can I respond to Aaron's comment first?

MS. WORTHMAN: Yeah, yeah. You can.

MR. MCKAY: Yeah, I don't have the privacy policy in front of me, and we've spent a great deal of time with some very expensive Washington, DC law firms making sure our privacy policy is correct, I could add. But our company -- and I can't speak for the entire industry -- but I will speak for many of the bigger companies; as you stated, we do not share personal information or sell personal information other than to the lenders that are contracted with us, okay?

Also, Lisa McGreevy, the President of our trade association, is on a panel later this afternoon, and in a meeting of major lead generators about a month ago, we adopted the best practice of not allowing anyone in our industry who is part of OLA to sell or share any of that data, except for the people that are contracted to. I don't think anybody was doing that with the larger companies, but we're just making sure that it's in writing.

MS. WORTHMAN: Mm-hmm.

MR. RIEKE: And my quick response to that is, you know, I'm not saying that Money Mutual is out of line in any way, shape, or form with the lead generation industry as a whole. And the DC folks that are writing your privacy policies are doing a good job to the extent that there's a whole lot of wiggle room here, and a surprising amount. And the Online Lenders Alliance guidelines are similarly permissive in recommending that there be contractual protections for these very sensitive leads, as they move through the ecosystem, but that's not even a requirement.

And, so, my point is not that there is noncompliance or illegality here, but there is -- there is just incredibly few restrictions when it comes to the sensitive data.

MS. WORTHMAN: And I think that that's -- let's talk about who sees the sensitive data, because I think, Tim, when you went through and showed how the flow would go to the first lender who could take a pass on whether or not to actually fund the loan, is there a way for that lender to capture the sensitive data? How is that an unscrupulous lender doesn't necessarily get the information and then can sell it subsequently?

MR. MADSEN: Yeah, it's a good question. And, really, so the way that the process works, the encrypted data that is posted to that lender in a secure API, they do see the full form of the data, and it's used in a realtime underwriting by these lenders. And at that point in time, if there were a lender who was wanting to do something and, you know, sell it off themselves, the potential is possibly there.

What we do is we've put different tools in place, where we're able to police that through automated seedings and through customer feedback and programs that we've put in place for the consumers to let us know if anything happens beyond the process of what we've given to them as a reasonable expectation for the lenders that we're working with.

In the case of the realtime seeding, we're constantly sending things out, and we're passing things through to those lenders, and we're monitoring to see if they're making phone calls when they didn't buy the lead or they didn't decide -- or they didn't at least tell us they wanted to work with the consumer, in the case of emails, if they're sending out emails that are different than the product that they're offering. So, if we're working with an installment lender and they get -- they send out an email for an installment loan, that's expected.

If the lender who told us they were going to work with the consumer is also immediately sending something out that's different than the installment loan, then we're reaching out to them and letting them know what's going on. And then we start policing that program and make sure that the lender either changes their behaviors or whatnot.

MS. WORTHMAN: I think John actually might have --

MR. HENSON: Real quick. So, LendingTree is a little different in that we -- obviously we do sell leads to lenders, but we are a -- we're an online loan marketplace, which -- so, when the consumer comes through, fills out a form, each step kind of shakes out borrowers. They fill out the entire form and it actually shakes out the lenders. So, they would finish the form and then they get matched with up to five lenders. And they're displayed and then the consumer can comparison shop.

So, but we're also different in the fact that we are a licensed mortgage broker. So, from a data privacy standpoint, we have state regulators and federal regulators who are also regulating us for our data protection. And our larger national lenders, and actually just all of our larger lenders, also audit us for data protection and things like that. So, we're held to the exact same standards that your Bank of America and your Wells Fargo are for a privacy standpoint.

So, that is a little bit of a differentiation for us. We don't actually do the loans, but we are a licensed broker, so we can sell them to our lenders.

MS. WORTHMAN: And, Pam, you had a comment, too?

MS. DIXON: Yes, just very quickly. So, the APIs, when you look at the realtime feeds from APIs, it's really fascinating. I mean, they -- when you think about them, you need to understand that those can -- those can really, you know, you know, shovel out data to 10,000 leads, you know, a day or more. It's a lot of data.

And when we looked at these back-end APIs, what we found is that in most of them, in addition to zip code, marital status was almost always included, as well as gender.

And I think as everyone knows who's sitting here, these are factors in the Equal Credit Opportunity Act. So, again, we come back to the policy gap that we have. And I don't want to take away from the policy panel at all, but I have to say, this is both a technical issue in the lending vertical specifically, where this data is being taken.

Okay, so, we have to understand, there are some very complicating factors here. You've heard fraud mentioned here. The fraud products require this data in order to work; however, once a lead -- a lead that's been generated that includes marital status and also gender, the lender will get that data. So, this is in a lead generation context, but that lender getting that data and also zip code and perhaps some credit -- you know, statistical credit scores, what does that do to the firm offer of credit?

And I think that this is a very significant issue that needs both technical solutions, and it also needs policy consideration, because these are protected factors. And there are really no disclaimers anywhere that these are protected factors and need to be handled as such. And this is a very robust and very fast-paced marketplace, and there's got to be some way of carving out a path that allows us to have continuing protections in this important unfairness area.

MS. WORTHMAN: And one of the things I want to also focus on a little bit is the policing of the lead buyers. And, Tim, you mentioned that you can seed, and describe that a little bit -- a little bit more.

MR. MADSEN: So, when we're posting leads to these lenders in that ping tree process, we'll also create leads that are not intended to be purchased. They're essentially leads that are -- use the information that we've provided that shouldn't be underwritten and approved by a lender but for the purpose of checking and watching their marketing status.

And that's where we're watching quickly to see if there's somebody that's sitting in there who is looking at a lead, not coming back and saying, hey, I want to work with that lender -- or, I'm sorry, with that consumer, but then continuing on with a process of their own. And that will help you catch whether or not, one, they're trying to offer a loan at the same time and actually not let the consumer -- or let us know that they were wanting to work with the consumer.

And in addition to that, it also lets us know if they're taking that information and then they're pushing out to one of these third-parties that were mentioned earlier in the first panel. I will say that because of the way that we monitor this and more importantly because of the way that we vet our lenders and the different partners, both on the marketing side and on the lending side, we don't see this as an issue because we're very careful in identifying who we're working with, making sure that anybody that sees this information that you're speaking of has permissible purpose to do something with it. We're not working with somebody who's not in the lending industry and providing a service that is specific to the offeror or the marketing product that we're proposing to the consumer.

MS. WORTHMAN: Aaron, you have a comment?

MR. RIEKE: Yeah. You know, so, as the data plumbing for lots and lots and lots of payday lenders, the lead generation plays an important role in practically circumventing states' protective lending laws. If you look at a map that the Pew Charitable Trust recently put up, there's 15 states that don't allow payday lending storefronts at all, and an additional nine that have pretty stringent requirements on loan terms and such.

Payday lead generators are very capable of filtering these leads efficiently out into different geographic markets. What we've seen play out over the last five years is that they just simply choose not to until they're forced to do so by a state. In New York, over the course of four years, Selling Source collected 800,000 payday leads from residents of that state. The state regulators looked through those leads and couldn't find a single loan made by a network lender that complied with state law out of the 800,000 leads.

And today, Money Mutual is under a consent order with New York not to collect leads from New York, not to advertise to New York, similar for the State of Pennsylvania. Of the 15 states I mentioned earlier, Money Mutual still allows 13 of those states to submit leads through their website. If you go to Google or Bing and you type in a search term like I mentioned earlier, "I need money to pay my rent," you're going to see payday lead generators of all shapes and sizes advertising at you despite the fact that they have the option not to reach into those states.

So, there are really complex state law questions behind this. There are really complex choice-of-law questions about how tribal and out-of-state lenders are allowed to lend. But what I want to highlight here is that as a practical matter on the ground today, and certainly online, states don't have very much power to effectuate their lending laws until they can find a really big company to push into a consent order, and I think that's a problem.

MS. DIXON: You know, there's the -- there's a real intriguing corollary issue of people who are turned down for lending in the lead generation space in this particular vertical. Very often, when an individual is turned down for lending or if their sum score, they've, you know, defaulted on the score, a lot of times they become fodder as a member of the vulnerable person who now can't get a loan. They become fodder for debt consolidation leads, and some of these leads are very unattractive and very, very -- they really skirt ethical boundaries. And this is -- this is not specifically a lending product; however, a lot of the debt consolidation companies are offering, I would say, a lending service, and I think are a important consideration in the lending vertical because the debt consolidation lead generations are just -- if there is a scale of aggression, they're very aggressive.

MS. WORTHMAN: I think -- let's -- I definitely want to touch on what happens to -- I want to use the term "remnant leads," sort of the leads that are what happens when a consumer, after they have gone through a process to get a loan, whether it's not they've been funded or they've been denied each time. But I just want to take a brief moment and actually ask John just a couple of questions about LendingTree's model, because I think we spent some time on the small-dollar lending, and just go briefly into just describing what types of information -- you touched on it briefly, just how LendingTree is a licensed mortgage broker, but what types of consumer information do you collect from consumers, how do you determine what client lenders to display on your website, what your relationships are, how you police --

MR. HENSON: Sure.

MS. WORTHMAN: -- folks that you do things with.

MR. HENSON: So, as I said, we're an online loan marketplace and in several verticals. We are not in the payday lending vertical. We are in personal -- unsecured personal loans, but our primary business is mortgage. So, the forms we take, the questions we take, are based off the vertical. We take certain questions in mortgage, and we take certain questions in personal, and we take certain questions in auto. And there's a couple reasons for those. The main reason is because we are licensed, RESPA requires us to either take an application or not take an application. And since we're not a creditor, we don't take an application, so we don't take enough information as defined under RESPA to be an application.

So, when we sell those leads to our mortgage partners, the consumer can reach out to them or be reached out to by the lender and can provide that information and complete the application with the lenders.

For you non-lending-compliance nerds, that means we don't send out adverse action notices like you would get from a lender because we're not making a credit decision; the lenders are making those credit decisions. So, on the auto side and personal side, we also vary the form, and that's mostly due to the filters that the lenders are looking for. Certain lenders are in certain states. Like Aaron mentioned we limit our lenders to the states in which they're licensed. So, if you're not licensed in Virginia, you're not getting Virginia leads.

And, then, the -- also, certain lenders don't make used car loans; certain lenders don't make new car loans; certain lenders do make debt consolidation personal loans, but they don't make personal loans for, you know, renovating your home or whatever. And, so, these are all different filters that we use and that our lenders can then select which filters they want to use to get those particular leads that match their preselected set.

When that happens, again, shaking the lenders out, and then we match with five lenders that have said we want customers that look like X. The customer comes in, goes through the flow, and they look like X, they get matched with those lenders.

Each lender generally displays either the rates or a banner-type ad, and then we'll reach out and contact the consumer, as well. So, there's multiple touch points for the consumers, and there's also -- they know who to be expecting calls from. So, if you're matched with lender A, lender B, and lender C, and lender Z calls you, that is a compliance problem for us, and we do have consumers who reach out to us.

But that touches another point that I think has not been mentioned yet, in that, yes, consumer data is sold many times. And one of the things that I think that fails to take into account is especially in the personal loan space, in the payday loan space, is that these are people who need money. And they're not filling out one form. They're filling out several forms on several different websites. So, yes, you're only matched with -- you're matched with up to five lenders on our website, but if you've gone to another website, you could get six more lenders or five more lenders or whatever.

So -- and I think that needs to be taken into consideration, too, when we say that consumers are inundated with contact from lenders. Well, that's because they're also inundating lenders with the applications and request. So, there's -- I do think that gets lost significantly.

MS. DIXON: That's actually true. When people call us and they're complaining about this, we ask them how many -- how many forms have you filled out online and do you have screenshots of your forms. And people will fill out a lot of forms online. And, unfortunately, not all the forms are from, you know, LendingTree or other ethical companies; they're sometimes forms that identity thieves have put up. And it's -- this is obviously not the topic of what we're talking about here, but Jessica Rich referred to the bad actors in this space. There are just some really scammy, fraudulent, nasty bad actors, who will take brand names and then just put, you know, normal looking forms and collect that data and commit fraud. And it's -- that is a significant problem. I don't think we can tackle that here, but it's frustrating.

MR. RIEKE: Can I add on the fraud point? I mean, there is a drumbeat of cases by the FTC and the CFPB of, you know, as has been alluded to already of huge fraud cases involving payday leads. Payday leads are the source of this fraud. And the most recent one from the FTC involved more than 500,000 consumer payday loan applications and millions of dollars of money withdrawn from bank accounts that shouldn't have been.

You know, I go on to internet relay chat and go to payday affiliate channels just to see what's going on periodically, and people are selling enormous lists of things of old leads. And that's -- it's hard to know where that's coming from or what the source of that problem is, but there is a fraud problem here. And that's -- the reason is obvious; it's because people are giving all the information needed to commit identity theft or withdraw money from bank accounts.

MS. DIXON: It's not just payday loan leads, though. It's also -- it's also debt consolidation and just plain old "I really want a house" kind of things. I think it really crosses the spectrum. It's -- there's a lot of people online, and it's very difficult. Consumer education is just profoundly difficult. And it's just really hard to educate the entire public when the fraudsters are as clever as they are.

And it's also really difficult with all of the sensitive data that goes into these forms. I really -- if I could change something, I'd really curtail the sensitive data. And even zip code gets sensitive if an aggregate or a statistical credit score is added to it. And then, certainly, national origin, religion, these sorts of factors, these are -- these are difficult questions, but I'm glad that we're at least starting to address them or at least surface them.

MR. MCKAY: Yeah, from our perspective, we applaud the FTC for their successes in this area. I think of all the companies in our industry that are, you know, stand-up OLA members, display the OLA seal on their websites, are not the problem. And we work very diligently within our organization to -- when we find something wrong to communicate with you directly and make sure that you're helping out, but we do really need to weed out the people that are the bad actors.

Just a couple of other things quickly. Really, payday lending has become installment lending. The only payday lenders left are the ones that are where there are states that have specifically licensing for the payday product. Most of the products now have evolved into an installment, which is a preset monthly term with a set amount of money.

The second thing is just commenting on what Aaron was saying about states and laws. It is a real complicated patchwork at the moment, and something that I know the CFPB and states are working on together. Internet jurisdiction is still a complicated matter, not just in our space, but in many others, too, in banking and others. It's not settled yet. We make sure that we are dealing with licensed lenders, and I want to make that clear. And each has -- each of our lenders has a legal basis for their operations.

MR. RIEKE: Can I add one thing? I mean, so, my colleagues would kill me if I didn't mention a lot of what I'm talking about with respect to the data security issues and the state issues and the advertising issues is in a report that we just put out earlier this week called Led Astray, and that report is at LedAstray.org.

And, you know, Glenn's exactly right. There's an incredible complexity in these state laws, and there's incredible complexity in the court cases trying to figure out when it is or is not legal for an out-of-state lender to reach into a state and make a loan. The problem is, is that all of that complexity yields in reality what looks like a national online payday lending market online today. And that's kind of the bottom line.

MS. WORTHMAN: Aaron, what were some of the -- when we touched on remnant leads previously, in your report, could you talk about some of the things that you discovered in looking at what happened to consumers after they had entered information online?

MR. RIEKE: Yeah, I mean, so what's -- you know, and, again, it's very hard. I want to be frank and say it's very hard to know exactly who's doing what here, so I've been giving Money Mutual a hard time up here, but I want to be clear that what I'm saying now doesn't necessarily pertain to them. What starts out as payday leads that have tons of information and bank account information in them for the purpose of connecting a consumer with a lender, once the lenders use those people up, there are still these leads sitting there, and there's a desire to find a way to monetize those leads again.

And, so, what you see is payday leads generating marketing lists of financially vulnerable people. So, you can go online today and buy a list of Spanish-speaking payday loan responders that looked for a payday loan six months ago. They might be ready for another one; they might be ready for another sub-prime financial product. And, so, those marketing lists can, in turn, be used to target consumer all over again for a whole 'nother -- for a whole new range of products. And, so, I think that the remnant lead problems are fraud; remnant lead problems are after-market lists that kind of start off the whole cycle over again.

And my point about privacy policies is not just to harp on privacy in the abstract. My point on privacy policies is there's nothing in virtually any payday lead generator's privacy policy that would prohibit the building and sale of such lists. And, so, even if that's not happening today by major payday lead generation companies, I think there's a lot of room to be clear about that.

MR. MCKAY: Aaron, I think I agree with you there.

MR. RIEKE: Yeah.

MR. MCKAY: It's something that we work very closely on, as I said before, in our trade association, and we welcome working with, you know, your company, FTC, to tighten this up.

MS. WORTHMAN: Mm-hmm. Do you think consumers know when they enter the information online that it is going to pass through multiple hands, before ending --

MR. RIEKE: Oh, absolutely not. Oh, absolutely not. There's no question the answer is no. And that's not because it's -- I mean, it may be disclosed on the page. That's -- you know, I'm not questioning whether or not a disclosure is made here, but it is unfathomable to me that any consumer would understand how many steps there are in this process.

And, you know, most consumers probably don't even understand that Money Mutual is not a lender and that Montel Williams is not, you know, a member of a bank called Money Mutual that's going to lend them money. I'm not sure that there's a way to fix that, honestly, and so I don't want to -- you know, I'm not trying to be critical about that, but it's very complex, and I don't think they understand that.

MS. DIXON: Can I talk about the frame of this vertical, just very briefly? I think another thing that would surprise most consumers is that before they see a lead, that lead has generally been scored. And we haven't really talked about the impact of what the data augmentation does to the scoring of the actual leads.

This is a very hard-to-pinpoint area, but basically, I mean, if you look at, you know, a bucket of 100,000 leads, those leads are not all going to see the same ads or, you know, final marketing product, whatever it might be. And the scoring of those leads itself is very nontransparent and completely unknown to consumers.

When consumers see different leads in the financial vertical, they are, in essence, given different financial opportunities. I know the argument that they are going to apply and then be subject to the Fair Credit Reporting Act, but what about the initial scoring of hundreds and millions of thousands of leads based on data augmentation or data append? This is something unexpected; it's nontransparent; and it can induce a lot -- introduce a lot of unfairness into the process.

MR. MCKAY: And just to be clear, the lead generators do not score.

MS. DIXON: Right.

MR. MCKAY: I mean, we'll filter.

MR. DIXON: Right, it -- right, it happens before. It happens, you know, before it ever hits the lead generation folks. That's what I'm saying. The industry has so many layers in it, but this is all happening.

MR. RIEKE: Can I -- so, there's a point I want to make on the layers, and there are many different layers that can be helpful here. It's worth mentioning that just two months ago Facebook announced an update to its advertising policy and said we're not allowing payday loan ads on Facebook anymore, period.

The fact that you can go -- you know, companies like Google and Bing, they have sophisticated ways to label and organize and target ads, and one thing that we point out in our report is opportunities for them to take a step up here where the law is really fuzzy and put a pro-consumer thumb on the scale.

There's room for the lead generators and their trade groups, I think, to tighten up what today are these vacuum privacy policies into something that might more closely reflect what's actually happening in the best-case scenarios. And then I think that, you know, in some cases, there's roles for regulators like the FTC, and I think there's an honest question for lead -- payday lead generation companies that are selling the sensitive data without clear contractual limits, regardless of whether or not they know they're selling to a fraudster when that crosses the line into unfairness.

So, I just want to say, like, I think there's many different points of intervention and ways to tighten up the ecosystem. That's it, yeah.

MR. MADSEN: Well, and real quick on -- to Aaron's point there. You know, there are bad actors our there. And as Pam mentioned, it doesn't -- it goes well beyond just the short-term road or the payday road as Aaron uses the term. But I think the most important thing here is remarketing to the consumer, giving the consumer additional options isn't necessarily a bad thing.

The marketers themselves, by presenting the consumer with a choice to engage in something else, Mr. Customer, we're not able to match you with a lender, if you're looking for ways to potentially help out your credit, would you be interested in hearing more about that. And if the customer takes an affirmative action and moves in that direction, that's not a bad thing. Where it becomes a problem is when it happens automatically and, the next thing you know, the customer is getting 15 or 20 emails saying, hey, we've got your information and you're signed up for a credit monitoring service. That's what we're all trying to stop.

And, then, Pam when you were mentioning the scoring and whatnot, I think there may be some definitions out there that we need to work through, because if you're looking at the way that marketers will try to put an ad in front of the consumer, then that may be for very particular purposes that if I'm working with a storefront lender and they don't have a storefront in Missouri, then I'm not going to put an ad in front of a consumer in Missouri.

So, I think we need to look at the definitions, and then when we find places where there are opportunities to work together to weed out these bad actors, we definitely need to be very proactive on it.

MS. DIXON: Yeah, I think the underlying -- there's a lot of levels in the industry, and there are certain mid and surface-level protections that we've talked about today, but we really -- in the first panel, there was, you know, the tech providers. Well, the tech providers are often data brokers. And this is an unregulated space. So, it's the back-end channels where we really haven't addressed any fixes yet. And I do think that we need to look at those fixes. I do think that there are opportunities for making those fixes. For example, what information is collected when, what information is displayed to which lenders. I think we'd go far in beginning to help.

And, also, has there been the application of a statistical credit score, which could introduce fairness issues later on. So, I think that there are definite steps that could be taken to address the underlying issues.

MS. WORTHMAN: And I think that let's now segue just a little bit in talking to what happens to this consumer information, because there is very valuable information that has been given. And, actually, even just when -- after a consumer's experience whether they have been funded or whether they haven't been, how long do you maintain that information, that personal information, and sometimes very sensitive information?

MR. MADSEN: Yeah, so, most companies will have a data retention policy in place, and the application of that may or may not be affected either by a litigation hold or different things that that company may be dealing with, you know, in our case --

MS. WORTHMAN: And by "that company" do you mean the lender or do you mean your own -- specifically the --

MR. MADSEN: In the context of what I was speaking to, anybody that is presented with that information, whether it's the marketing person who's collecting that information on the website, whether it's the aggregator who has that information presented to them and then passed along to the lender, the same thing. Anybody that is given that information to make a decision off of, any amount of information that they're holding onto will typically have some type of a policy related to it.

I don't know that there's a general policy that most people engage in. And it's probably changing as we speak right now, just with all the changes in the regulatory environment.

MS. WORTHMAN: And how do you ensure that a consumer's information is protected, as you said, if they are not funded with a loan, if they're given another opportunity; how do you ensure that that's the only way that their information will be given?

MR. MADSEN: Yeah, so, again, in our case, we do put different automated things in place, and then in addition to that, we've given customers a very visible way to contact us with any type of concerns that they've had. And we don't have it only related to our products themselves as far as any marketing interfaces that we have, but as well as our lenders. So, if they've had any kind of problem with their lender, we encourage them to reach back out to us, and then we will help work with them to rectify any situation.

MS. WORTHMAN: And your contractual relationships with your lenders, do you have certain policies that they have to adhere to in order to receive the confidential information?

MR. MADSEN: Yes.

MS. WORTHMAN: Okay. And, John, you wanted to speak.

MR. HENSON: Yes. I think to piggyback off what Tim said there, we, as well, have contractual relationships with our lenders. And because we are considered a covered entity under the CFPB, we have -- if you're coming into our site and you're giving us information, that is our consumers' information. Those are our consumers. We then share some information with the five lenders, okay, and -- but that's still our consumer information, that the lender has.

Now, when the borrower chooses to work with Lender A and then move forward with the process, that becomes Lender's A consumer. And that's their consumer information. But Lenders B, C, and D are not allowed to remarket to those consumers. So, they get the shot at the apple; the borrower chooses which one they want to work with; and then the other ones fall to the side.

And, then -- so you don't get credit card offerings from Lender B that you didn't choose. You don't get other mortgage information from that that you didn't choose. So, that's one way, anything just contractually. And, again, and I said this before -- since we are licensed -- we have to keep up with that and make sure that we are containing that that consumer's information.

MR. MCKAY: I would also say there is -- sorry, go ahead.

MR. HENSON: Go ahead.

MR. MCKAY: There's a list of best practices that OLA has published around data -- movement of data and data storage, and as an OLA member, we're required to follow those policies.

MS. WORTHMAN: Now, Aaron, when I asked if consumers know about -- that their information is passing through multiple hands, you said no, and you said I don't think that there is a way for consumers to know that. Is that right? I mean, is there a way to make it -- to make it more transparent, that consumers are aware that their information will be going through multiple hands until their search for their product is satisfied?

MR. HENSON: So, we have -- we use affiliates, okay, but the majority of our affiliates are display ads only. So, you have a website and you have mortgage articles, and you can have a display ad to LendingTree that you -- it's a click-out. So, you click on the ad; it goes to LendingTree; then you fill out the form there.

We do have affiliate partners that are host-and-post partners, which they have a form on their site; they collect the data; we limit what data they can collect; and it's always cobranded. So, the consumer knows I'm getting the LendingTree experience or LendingTree is going to end up with my information. So, that's one way that we've protected it. And those host-and-post partners are very, very few, and they're partners that we've had for a long time that we -- and we diligently monitor fraud and all that information, so...

MS. WORTHMAN: And, Aaron, do you --

MR. RIEKE: You know, I spent years working as a privacy advocate, so I don't want to sound like I'm down on transparency. I think that's really important. And I think that certainly a consumer that reads a website closely would notice that, oh, okay, this website is going to take my information and go to its network of lenders to find me a loan.

I think what's very, very hard for a consumer to see and understand is in the last panel we heard the term sub-sub-sub-sub-affiliate, right? And I think it's very hard for a consumer to picture and understand, okay, I might be putting in my bank account information which is going to be sold to Party A, which will sell to Party B, which will sell to Party C, which will sell to Party D, and then D will actually have the network of lenders. And who knows what happened along the way and the scoring that happened along the way and the enrichment that happened along the way.

I don't think that transparency is a very realistic option for explaining that system. And, frankly, I think there is, you know, one of the things to be thinking about when we come to what role do affiliates play in any lending market is how early in that chain do you need to collect the really sensitive information.

MS. WORTHMAN: Well, that's actually how early do you need to collect the really sensitive information, and that's sort of a question I have for the small-dollar lending. How important is it for -- to not have a two-step process that's a little more similar to LendingTree? Why does this confidential information -- the bank account information, the Social Security -- have to be collected right at the first communication with the consumer?

MR. MADSEN: Yeah, so, you know, it's there to facilitate that efficient process in the short-term lending world that they've created over the last, you know, 15 years or so. They do a realtime underwriting from the point that the customer fills out the form and provides their information; then within seconds, they're receiving back an answer that they've been -- they've been placed with a lender who's going to be able to help them further.

So, to add the different steps in there, not only does it make it almost impossible for these lenders to continue to engage in the way that they have in that very efficient and realtime manner, but then it also creates opportunities for the consumer to fall off due to whether it's technical issues, you know; computers lock up and then all of a sudden they're starting over the process.

So, for the consumer experience, it's typically done that way, also, to make it as efficient and painless as possible.

MS. DIXON: I'm worried that we've trained consumers, though, in some of the -- especially the more short-term loans -- that we've trained them to fill out this sensitive information. I would love to see a more negotiated process, just as a cultural norm. I think it would make a lot of sense in terms of slowing down some of the knee-jerk reflexivity that one can see online in filling out of forms because, I mean, one thread in this tangle of yarn is certainly the filling out of forms.

It's not everything, though; it really isn't. It's just one -- one narrow thread. There's actually -- there's lead generation that happens without ever having a consumer fill out a form.

MS. WORTHMAN: I would like to thank my panelists, or the panelists, not my panelists, for a very lively discussion. And we have now a break until 11:30.

(Applause.)