FEDERAL TRADE COMMISSION

FOLLOW THE LEAD:

AN FTC WORKSHOP ON LEAD GENERATION

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MR. SHULL: All right, let's get started with Panel 3. So, my name is Brian Shull. I'm an attorney at the FTC's Bureau of Consumer Protection, and I'm going to be moderating this panel on lead generation in the education marketplace. I just wanted to give a chance for each of our panelists to just give a brief introduction for themselves, so we'll start here with Jeff.

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

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

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

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

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

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

MR. SHULL: Great. Thank you, everyone. And, so, just an administrative item, so for questions, at about 15 minutes until the end of the panel, I'm going to ask for any
questions from the audience. So, to the extent that you have one, at that point, you can raise them up and our timekeeper or somebody will collect them for us.

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

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

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

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

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

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

MR. HALPERIN: I would say that much of lead generation activity in higher ed relates to for-profit colleges, and I want to be clear that I don't think all for-profit colleges are bad and I don't think all lead generators
are bad. But many for-profit college products are, in my view, defective products. They are high-priced, low-quality, and often leave the student worse off than when they started. They can owe, $10-, $20-, even $100,000 in debt.

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

MR. GILLMAN: I have a slightly different take on it. Based on what we see, the reason why education is so popular in online lead generation is because of the balance between cost of traffic, cost of placing ads out there, with the expense that, as many have said, is subsidized by the government of the payout. So, if the government is going to underwrite the student loans and promote, you know, financing programs for students to pursue higher education, that money does and will trickle down through the lead generation ecosystem, and the ability of savvy marketers and lead generators to match up that subsidy, which ultimately starts with the government, down to extremely inexpensive sources of traffic, such as websites that offer people jobs or websites
that look to offer people government assistance, is one reason why from a lead generation standpoint I think education is so popular. There's simply so much margin to be made by so many companies as it stands right now.

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

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

My business is probably 60 for-profit -- 60 percent for-profit and 40 percent not-for-profit at this juncture. However, if you want to go 12 years back to when I started, it was probably 80 percent for-profit and 20 percent not-for-
MR. SHULL: So, we are going to spend some time talking about potential risks and harms to consumers, but I also wanted to give a chance about potential benefits. So, what are some of the benefits to consumers of education -- of lead generation being so widely used in education?

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

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

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

So, what the lead generation industry will tell
you, whether they sell clicks or they sell leads or they sell warm transfers from one call center into a school's call center, is that the function that they serve is to connect school brands with consumers that otherwise would not have interacted with those school brands. And that certainly is the case and does happen sometimes, but obviously whenever you inject those intermediaries it does bring with it other challenges.

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

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

On my landing page, we ask name, email, date of birth, gender, what your prospective major is, and how much college you've done, if any. And it goes back to the offeror sleeping in the data base. My back end comes -- my back end figures out exactly who the perfect person would be matched
with the perfect school. For an example, an 18-year-old male
would get something like a technical college, where a 30-
year-old woman with children, a work-at-home mom, would get a
different type of university and a different type of match.

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

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

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

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

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

So, there's no -- yeah, in the example that Jonathan used this morning, you know, we don't partake in marketing techniques like that. Pushing it directly to schools seems, for us, to be, you know, kind of the safest method to do it. It provides the best results both for the school and as a really clear way for a perspective student to get a clear message and not bombard it, as has been said, you know, with a variety of, you know, marketing touches, whether it's calls, emails, et cetera.
MS. SHERIDAN: I should be clear, too. Everything we do is on a singular branded basis, so every -- the person, the user, the prospective student that walks through any of my websites is very clear that whether it's University of Phoenix or ITT or Walden, who is going to be calling them. So, there's no confusion there that some other person could get sold this lead. There's a branded page approved by the schools, and that's what we show to the consumers.

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

MR. BLAKE: Sure. So, we've had a lot of discussions with schools, both informal and more formal. And what they consistently tell us is that, in the sector, they are somewhat at the mercy of the lead generators. Assuming they want to get leads, they're at the mercy of lead generators. And that's because once they pull out of -- if they make their restrictions too strict or too harsh they just get pulled out of the lines of the funnels that send leads to different schools. And either the lead generator or aggregator just refuses to work with them, or they pull them out of something that's pretty -- that would be normally
pretty beneficial to them and just essentially streamline them in some other -- something else that's not nearly as effective.

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

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

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

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

MR. BLAKE: Fair enough.

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

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

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

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

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

MR. BLAKE: I'm actually not a policymaker. Other
people write the policy and we try to, you know, enforce the
law. But I think, you know, in our experience, I think there
is a place for advertising education if you're up-front about
it. The difficulty comes with -- you know, we've seen and
you've heard where people kind of check the boxes with the
disclosure, but those disclosures are not getting through to
students. Or if you just have some sort of just rampant -- I
mean, if you're misrepresenting what you're actually
advertising, I think that's where we normally have the
problem.
MR. APPEL: I'd say certainly we're -- you know, we'd be supportive of any avenue or mechanism where the goal is to provide access to education and not be in support of where the goal is to exploit students for the sake of student aid programs. And that's kind of hard to do, frankly. It's not an easy distinction to always make.

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

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

MS. SHERIDAN: I think as far as online lead generation and the online schools, I mean, I've been doing this for over a decade, so, you know, as even you folks are, you know, going into your processes with these, you know, for-profit institutions, I have to say, it was even a shock to me what the situation was. I mean, we don't know, you know, how well the students are doing, I mean, until we find something like this out. So, I mean, way back in the old days, 10 years ago, there was -- we had no notion that people weren't being treated fairly; they weren't getting the
education that they were promised; that they were promised
jobs. I mean, it's hard to sit where we sat and not realize
that, but obviously now that it's brought to light, you know,
we react as such.

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

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

Here's one example, and I would love to go through
a few of them. I got some calls from some folks who work in
Salt Lake City, Utah for two different companies: one called
Neutron Interactive and one called EdSoup. Neutron
Interactive, although its principals later denied it, but its
employees then kept calling me up and saying the principals
were not telling the truth; the way they would start a relationship with a consumer was to put a job ad on Monster.com or another legitimate job site until it got kicked off of them, and then they'd go to another one. And that would say "jobs in your area" or some kind of, you know, "restaurant jobs in your area" or "plumbing jobs in your area."

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

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

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

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

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

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

MR. HALPERIN: Okay.

MR. GILLMAN: Let me just jump in on this. One of the really challenging things that happened is when the
regulators first started telling the schools that they were concerned about marketing that was centered around job messaging, effectively the schools in mass pulled out their own creatives from job websites.

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

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

So, I think whether it's the Department of Education or the FTC or the multistate group that's represented up here, it's critically important to provide guidance to the industry, not just the lead generators but the schools as well to say, listen, if you're going to offer people who are looking for jobs an education opportunity,
here's how we think that can be done in a manner that's okay.

And I know some folks, you know, on the law

enforcement side are hesitant to get into that level of

specificity, but having experience in consumer protection,

one of the reasons it's so hard is not to just identify the

bad practices, but when you're sitting at the table and your

job is to actually say how are we going to make this better

on a going-forward basis, that's the real hard work that in

education really needs to be done.

And it needs to be addressed right away because I

don't think there's any policymaker in the United States that

would say offering people education who are looking to better

their career or looking to better their financial situation

is a bad idea.

MS. SHERIDAN: I couldn't agree with you more.

There needs to be a code of conduct, white pages, all sorts

of things like that. I mean, canned spam has been very

successful for email issues. TCPA has been really successful

for the phone call issues. And I think that if you laid out

a policy for this type of situation, I think that it would be

successful there, too.

MR. GILLMAN: Hopefully this event is the first

step in the right direction, certainly for all of us.

MS. SHERIDAN: Certainly.

MR. SHULL: So, I'd like to get some other opinions
on this question about who should be responsible for ensuring that the industry engages in best practices. Is it the lead generators? Is it the schools? Is it the government? Or is it some other party?

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

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

And the difficulty, I think, at our level of government is that we're essentially going piecemeal, and, you know, we had a good settlement with QuinStreet; I think it's been three or four years ago now that laid out some prohibitions, some disclosures, which kind of had various levels of efficacy, but, you know, that's one area that
QuinStreet was, in particular, marketing -- you know, they owned GIBill.com, which we felt was inherently deceptive and ultimately they had to give it up.

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

MR. HALPERIN: May I follow up on that?

MR. SHULL: Yeah, sure.

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

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

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

MR. GILLMAN: I think Nathan and Jeff bring up an important resource constraint and logistics issue when you're talking about trying to enforce nationwide but in some cases state-specific laws against companies that operate nationwide and worldwide and in somewhat confusing circumstances. It doesn't have to be a law-enforcement-only solution, though.
Again, one way that you would knock off G.I. Jobs' ability to generate any traffic was to give the schools clear guidance on how can you market to people who are looking for jobs, because they would spend hundreds of millions of dollars as an industry per year wiping out a lot of these third-party record-generating and lead-generating sites' ability to generate any traffic to their own site.

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

So, if you really want to tackle, you know, these websites that some might argue are deceptive, their ability to get eyeballs literally, one way to do it would be to unleash the schools to use their own advertisements and their own advertising budgets to generate traffic through folks
like Matomy directly to their own pages as opposed to the schools being so afraid to go anywhere near a job site or a fake job site that the territory is completely ceded to third parties who are under much less regulatory and law enforcement pressure and perceive themselves, by the way, to be basically untouchable by federal and state authorities, many of which are overseas.

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

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

MS. SHERIDAN: Every single thing I send over to them has, at minimum, name, email, postal, data of birth, gender, date, time, IP, and the source or the website that it came from.
MR. SHULL: Is that typically what -- something that the school requires, or is that something that --

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

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

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

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

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

MR. COLWELL: Yeah, we certainly employ no shortage of third-party tools to certainly keep an eye and regulate the type of traffic that we offer. And as a business, we make money when we deliver a value for our clients, and our clients require it to do business with us. So, yeah, certainly, it's something that -- yeah, it's been much more
of a focus on it over the last couple of years, like you said.

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

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

MR. GILLMAN: So, one of the interesting things is when you sit at the Better Business Bureau or at the consumer hotline at the FTC, consumers only remember certain aspects of their experience. So, if you fill out a form on Section8Help.net and you get a call from EdSoup, which is a company you've never heard of, and then you get transferred to ITT Tech, and you get upset about that process, you're going to call the BBB and say, why is ITT Tech selling me food stamps. The consumer, even if they are exposed to a lot of these intermediaries either over the phone or in writing throughout the course of their flow, will often just sort of revert to the names that they can remember, that they can think of, which is usually the largest company in the chain.
So, the reason why you get a lot of these consumers who are often confused as to why a school or an insurance company or lender is calling them is they filled out a form.

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

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

MR. HALPERIN: Could I give another example of a consumer experience?
MR. SHULL: Okay.

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

It also then recommends schools. What schools does it recommend? ITT, Kaplan, the Art Institutes, Westwood are the first four that came up when I put in some information suggesting I wanted to have a -- get an online degree or part online and part on campus, I actually said. All of those schools are under investigation by federal and state law enforcement for fraud. That's Edvisors, that is -- there are many other sites that do college rankings, college advice. It looks like a benign experience. You don't necessarily know you're entering into a consumer relationship as much as just getting advice, and then you get the call and you don't -- and, again, you don't know why.
MR. SHULL: So, Amy or Daryl, what would you guys say would be the best practice for the industry of what should consumers be told at that initial point of contact with a lead generator?

MS. SHERIDAN: You want to answer?

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

MS. SHERIDAN: Yeah, I think really clear information about what is going to happen after you hit the "submit" button, okay? There's an opportunity after anyone hits the "submit" button to have a "thank you" page and let the user or prospective student know what is going to happen. I think it's important to keep, you know, exclusive leads and branded pages so you know whether it's University of Phoenix or Westwood or whomever is going to contact you. So, I think those are the two most important things from our side is really showing the process of what is going to happen after
MR. SHULL: So, just a quick -- so we are at the 15-minute mark, so to the extent there are questions from the audience, if you want to hold them up, then someone from the event staff will come and collect them.

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

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

MR. COLWELL: Yeah, and if you visit any school's website, the initial contact with the consumer, the request-more-information or request-to-be-contacted form, it's all, again, relatively vanilla contact information: a name, an email address, maybe physical address, a phone number, and some basic drop-down questions typically around the type of degree and timing, about when they want to go back to school.
So, you know, neither from like a lead generator's point of view nor a school's point of view is any sensitive financial information required.

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

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

MR. SHULL: So, to the extent that education lead generators aren't collecting kind of the sensitive financial information, but they are still collecting, you know, PII, personally identifiable information. What are some potential risks of that information being misused?
MR. GILLMAN: Well, the simplest concern that should be out there is if I'm a school and I'm working with a lead generator and the lead generator, theoretically has their own form and collects the consumer's data, then I have some contractual and legal mechanisms to try and make sure that that company is being a good partner and good steward of that customer's data.

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

And that's really where it gets to consumer -- the protection advocates and regulators and law enforcement folks being very clear and asking the question: What do you do in the revenue chain? Do you host a form that a consumer fills out, or do you pay people like Matomy to send people to your form, or do you pay people like Amy to host a form for themselves and then do you buy data from them, recognizing that in all cases, even in the affiliate model where you're getting traffic directly to a school page, there is the
option that three steps before an affiliate network sent the
user to a school's landing page, they also filled out the
form for sweepstakes.

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

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

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

MR. APPEL: So, in terms of looking at the
regulations and the requirements for institutions under the
Departments' purview, obviously, we have rules against
institutions misrepresenting their educational programs, the
financial charges of the programs, or the employment
prospects or outcomes of their programs. So, they need to be
concerned about, you know, what their -- what they or their
agents are representing about their educational programs.

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

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

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

    MS. SHERIDAN: I think that we reached a really
great point, actually, with TCPI coming out almost a year
ago. It now is mandatory if you are going to call someone
that where they opt in or put their information in, there is
a list of companies that could possibly be calling you. So,
now that's mandatory for the last year, so they have to have
some disclosure in a -- on an unchecked box, and they have to
check the box to say that they know that they are going to be
hearing from X, Y, and Z.

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

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

MR. HALPERIN: You know, when Corinthian Colleges,
one of the worst behaving for-profits collapsed, there was a
big discussion among policymakers in Washington about what to
do. And I work with a coalition of organizations --
veterans, civil rights, consumer, student -- and we looked,
and in our view, I mean, it would be difficult, frankly, to
enact any laws because many of the -- this industry has a lot
of sway over policymakers in Washington, the for-profit
college industry.
But in our view, if you enforce the existing regulations, the ones particularly that Jeff mentioned --
prohibition on misrepresentation and the prohibition on paying a commission for selling admissions to college, and you also require the institutions to be financially responsible, then that would play -- that would make a big difference in the schools behaving properly and forcing their agents going down to the lead generation industry to do the same.

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

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

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

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

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

But the damage that has been done to consumers over the last five years because schools have been too afraid of the government to place their own very transparent advertisements on job websites, I think, is a relevant one to be asked, as well, in addition to the question about what new laws and regulations should come up. Sometimes, the industry
makes its own laws and regulations in an odd sort of way, and
that's one that I think is a very bad one that's basically
being enforced now much more stringently than any of the
other current laws on the books regarding marketing for
higher education.

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

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

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

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

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

(Applause.)

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