



Public Policies for Maintaining and Improving
Consumer Confidence in Electronic Commerce

Paul Misener
Vice President for Global Public Policy
Amazon.com

Business Stakeholders' Meeting
OECD Ministerial Meeting on
The Future of the Internet Economy

Trust 2.0 – Business Approaches Enabling Trust Online

Seoul, Republic of Korea

June 16, 2008

Thank you very much, Mr. Mudd, for your kind introduction, and for organizing and leading our session this afternoon.

Ladies and Gentlemen, and distinguished colleagues, my name is Paul Misener, and I am Amazon.com's Vice President for Global Public Policy. I thank the OECD's Business and Industry Advisory Committee for inviting me to speak, and I am especially grateful to the Government of Canada for including me in its business delegation.

Amazon.com serves well over 75 million customers worldwide. Amazon.ca offers Canadians the largest in-stock selection of books, music, DVD, video, software, and other products. Our website's "Canadian Essentials" store highlights the best in

Canadian books, music, and DVDs. We also prominently feature the works of current winners, finalists, and past winners of Canadian literary prizes, including the Amazon.ca/Books in Canada *First Novel Award*, the *Canada Reads* award, the *Giller Prize*, and the *Governor General's Literary Awards*. And, because the amazon.ca website is accessible globally, including through other Amazon websites, Amazon.ca provides Canadian creators unparalleled exposure worldwide.

Ladies and Gentlemen, the OECD Ministerial Meeting and this Business Stakeholders Meeting are about the future of the Internet economy, and this session is more specifically about enabling trust online. In my brief remarks, I will address one important facet of online trust, namely: consumer confidence in consumer ecommerce. (In this context, “consumer ecommerce” includes B2C and C2C trading, but not, for example, social networking, online gaming, government services, or B2B transactions, all of which also are part of the Internet economy.) In particular, I will address the broad public policies through which governments can encourage consumer trust online.

Jumping ahead for a moment to my conclusions, I believe that governments should adopt two essential public policies to maintain and improve consumer confidence in ecommerce. The first essential policy should be to improve cross-border law enforcement against so-called “rogue traders,” who constitute the fraudulent and malicious element of consumer ecommerce. The second essential public policy should be to preserve and enhance the economically efficient ecommerce marketplace so that consumers, through their buying choices, can discipline legitimate businesses that make mistakes or otherwise provide poor customer service. As I hope to demonstrate to you

today, both of these policies derive naturally from fundamental characteristics of the World Wide Web.

For a meeting on the Internet economy, a key question is, in what significant ways does online commerce differ from offline commerce? Almost exactly 15 years have passed since the introduction of the MOSAIC browser (and, thus, the graphical user interface to the Web), so it is easy to forget or overlook distinguishing characteristics of this revolutionary communications medium. I believe that, in the context of ecommerce public policy, the two most fundamental characteristics of the Web are its near ubiquity and the fact that individual users “pull” to themselves information, products, and services. I will address these characteristics separately and conclude with the essential public policies that flow from each.

Ladies and Gentlemen, the Web is, obviously, nearly ubiquitous. There are pockets of unavailability, to be sure, but these are rarely the result of purely technical limitations, and the number and extent of these pockets are shrinking. This means that ecommerce transactions can be – and usually are – made at a distance. To put it another way, online sellers of information, goods, and services usually are geographically remote from buyers.

A key public policy implication of trading at a distance concerns “rogue traders,” who are the fraudulent and malicious element in commerce. Trading at a distance makes law enforcement against rogue traders online more difficult than offline. Indeed, with offline trading, rogues are far more likely to be local and, thus, more easily found and prosecuted by law enforcement authorities. The inability of law enforcement to reach

rogue traders across geopolitical borders may be a significant retardant of consumer confidence online. The rogues can simply hide at a distance, behind national or regional borders, and take unfair advantage of consumers, usually without fear of legal consequence. Therefore, an essential government policy should be to remove barriers to cross-border law enforcement against rogue traders.

There are both private sector and governmental barriers to law enforcement against rogue traders. In the private sector, legitimate businesses could improve and accelerate the sharing of information about fraudulent and malicious activities, such as spamming, phishing, and spoofing. Forensic techniques and standards for private sector evidence gathering and protection also could be improved.

From governments, the barriers arise more from the inadequacy of law enforcement resources, than from inadequacies of the underlying law. Police and other law enforcement officials often simply lack the funds, expertise, or interest to find and prosecute the online rogue traders.

For all of these reasons, the first essential public policy that governments should adopt in order to maintain and improve consumer confidence in ecommerce is the improvement of cross-border law enforcement against rogue traders. More specifically, governments should encourage private sector information sharing and, in the public sector, provide additional investigatory and prosecutorial resources to law enforcement officials. Consumer trust may improve significantly as the incidence of fraudulent and malicious activity decreases.

Ladies and Gentlemen, the second fundamental characteristic of the Web, in the context of consumer ecommerce public policy, is the fact that individual users “pull” to themselves information, products, and services from sources worldwide. Indeed, as many of you are aware, Web browsers can rely on the illustratively named “GET” command that, in hypertext transfer protocol software language, requests a remote server to send the client device a web page or other information. The result is that, in stark contrast to previous commerce and media, such as local shops, newspapers, magazines, radio, and television, the Web is essentially a “pull” (not “push”) medium, in which consumers can choose, with but a few mouse clicks, among millions of ecommerce traders around the world. No longer are consumers beholden to local traders or forced to wait for “push” commerce or media. Adding to the consumer empowerment of choice is the widespread online availability of information, particularly from other consumers, about products, services, and traders. Consider, for example, a feature like Amazon’s customer reviews: can you imagine an offline store allowing consumers to display criticisms of its products? In short, consumers are empowered online to an extent they never have been – or could be – offline.

A key public policy implication of this consumer empowerment is that market discipline is *very* effective online, where consumers can punish traders who frequently make mistakes or otherwise provide poor customer service, because competing traders are but a few mouse clicks away.

But this efficient market feedback mechanism – whereby mistakes or other poor service are punished with lost business – is hindered when barriers are erected between

consumers and traders. Conversely, if consumers know that traders that provide poor customer service will suffer in the market, consumers will have more trust in ecommerce. Therefore, an essential government policy should be to remove barriers to the consumer-trader market online.

Such barriers to the otherwise highly efficient online marketplace have both private sector and governmental origins. In the private sector, for example, some network operators are attempting to impede online communications and commerce. But this should not be allowed. The fundamental openness of the Internet has been good for consumers and should be preserved. Maintaining longstanding network neutrality requirements worldwide will help ensure that network operators do not harm the highly efficient online market for information, goods, and services.

From governments, barriers to the efficient online market can arise from both excessive regulation and from geopolitical borders. Consumers should retain the collective power to punish poor customer service without having that power dulled by prescriptive rules that diminish differences among traders. Regulation of legitimate traders therefore requires a very light touch so that the clarity of online market feedback is not lost. The introduction of heavy, prescriptive regulation would only serve to obscure the consumer driven feedback messages to legitimate traders. And regulatory oversight should not be so excessive or readily presumed that consumers become complacent. In the relatively rare circumstances when regulation of legitimate online traders is deemed necessary, governments should give enforcement responsibilities to

disinterested public officials instead of diverting public policy implementation to private litigants with parochial interests.

Moreover, prescriptive rules should target only significant and deliberate unfair acts, because market forces are able to discipline mistakes or other poor customer service. A good way to focus enforcement attention in the right areas would be to link any regulations of legitimate traders to a “pattern or practice” of violations. That is, for otherwise legitimate traders, governments should intervene only when a trader manifests a “pattern or practice” of untoward behavior, not when occasional mistakes are made. This way, well-meaning, legitimate traders can be appropriately punished by consumers through market mechanisms, and governments can enforce against rogue traders, as well as legitimate traders who too frequently (as a pattern or practice) mistreat their customers.

Other governmental barriers to the efficient online market can result from geopolitical borders, which – if inharmonious cross-border regulations result – attenuate and obscure consumers’ knowledge and, thereby, the efficiency of market feedback mechanisms. Thus, online trading regulations should be harmonized across borders to the maximum extent possible.

For all of these reasons, the second essential public policy should be for governments to preserve and enhance the economically efficient ecommerce market so that consumers, through their buying choices, can discipline legitimate businesses that may make mistakes or otherwise provide poor customer service. Governments can accomplish this policy by barring network operators from interfering with legitimate ecommerce; by using a light regulatory touch with respect to legitimate businesses; by

enforcing only against a “pattern or practice” of abuses by otherwise legitimate traders;
and by harmonizing rules across borders as much as practicable.

Ladies and Gentlemen, in conclusion, and flowing logically from the two most fundamental characteristics of the Internet for ecommerce public policy, I believe there are two essential government policies needed to maintain and improve consumer confidence in consumer ecommerce. The first essential policy is to improve cross-border law enforcement against rogue traders, and the second is to remove barriers to the highly efficient ecommerce marketplace so that consumers, through their buying choices, can discipline legitimate businesses.

Thank you. I look forward to your questions.

* * * * *