

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In Re:)
)
CONSUMER/DISABILITY)
TELECOMMUNICATIONS)
ADVISORY COMMITTEE)
(C/DTAC) MEETING)

Volume: 1
Pages: 1 through 228
Place: Washington, D.C.
Date: November 8, 2002

HERITAGE REPORTING CORPORATION

Official Reporters
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In Re:)
)
CONSUMER/DISABILITY)
TELECOMMUNICATIONS)
ADVISORY COMMITTEE)
(C/DTAC) MEETING)

Courtroom TW-C305
Federal Communications
Commission
445 12th Street, S.W.
Washington, D.C.

Friday,
November 8, 2002

The parties met, pursuant to the notice of the
Commission, at 9:15 a.m.

APPEARANCES:

SHIRLEY ROOKER
Committee Chair

K. DANE SNOWDEN
Chief, Consumer & Governmental Affairs Bureau

KRIS MONTEITH
Associate Bureau Chief for
Intergovernmental Affairs

THOMAS CHANDLER
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MICHELE WALTERS
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Attorney-Advisor
Consumer Affairs and Outreach Division, CGB

PAUL GALLANT
Chair, Media Ownership Working Group
Media Bureau

P R O C E E D I N G S

(9:15 a.m.)

1
2
3 MS. ROOKER: Good morning. I'd like to welcome
4 you to our November meeting of the C/DTAC. I never know how
5 to pronounce that or what to say about it.

6 I'm Shirley Rooker. I'm the president of Call for
7 Action, and it's my pleasure to start this meeting. I'd
8 like to kick it off by having us go around the table and
9 each of you introduce yourselves and tell us what company or
10 organization that you're with. Since I've just accomplished
11 that, let's just start to my right with this gentleman here.

12 MR. MARSHALL: I'm Strom Marshall, FCC staff.

13 MS. HARKINS: Judy Harkins, Gallaudet University.

14 MR. KRAMER: Jeff Kramer, AARP.

15 MR. ALMOND: Ben Cingular Wireless.

16 MR. BECKER: Gil Becker, National Association for
17 State Relay Administration.

18 MS. WILLIAMS: Andrea Williams, Cellular
19 Telecommunications and Internet Association.

20 MS. BATTAT: Brenda Battat with Self Help for Hard
21 of Hearing People. Good morning.

22 MR. STOUT: My name is Claude Stout and I'm with
23 Telecommunications Incorporated for the Deaf, and we are a
24 Consumer Action Network group. Good morning to everyone.

25 MR. KALTENBACH: Matt Kaltenbach, Sony Ericsson.

1 MR. SEGALMAN: California Department of Rehab. and
2 Speech to Speech.

3 MS. GRANT: Good morning. I'm Susan Grant,
4 National Consumer's League, and let me take this opportunity
5 to say that we just put out a brochure about going wireless
6 with a grant from Sprint, and I set some copies on the
7 table. It's hot off the presses, and I hope you like it.
8 Thank you.

9 MS. BURSTEIN: Good morning. I'm Diane Burstein
10 with the National Cable and Telecommunications Association.

11 MR. GOLDBERG: Hi. I'm Larry Goldberg from the
12 WGBH Media Access Group and The National Center for
13 Accessible Media.

14 MS. LINKE-ELLIS: I'm Nanci Linke-Ellis. I'm with
15 what used to be called TRIPOD Captioned Films which is now
16 becoming Insight Cinema.

17 MS. RUBY: Hi. I'm Laura Ruby with Microsoft.

18 MR. TOBIAS: Jim Tobias, Inclusive Technologies.

19 MR. LUDWICK: Good morning. I'm Paul Ludwick with
20 Sprint.

21 MS. AYLWARD: Just looking around the table, it
22 seemed like just a few short meetings ago every face was
23 strange, and now it looks like we're a table of friends and
24 that's great. I'm Rayna Aylward with the Mitsubishi
25 Electric America Foundation.

1 MR. CHROSTOWSKI: Bob Chrostowski,
2 Telecommunications Industry Association.

3 MR. BENNETT: Hi. Matt Bennett, Alliance for
4 Public Technology.

5 MR. TAKEMURA: Michael Takemura with Hewlett-
6 Packard.

7 MR. DEL CASINO: Mike DelCasino from AT&T.

8 MS. ROOKER: We also have a couple of people who
9 are joining us by telephone this morning. Ken McEldowney is
10 going to be joining us a little bit late, and David
11 Lowenstein, are you there?

12 MR. LOWENSTEIN: I am.

13 MS. ROOKER: Good morning.

14 MR. LOWENSTEIN: Good morning.

15 MS. ROOKER: Do you want to introduce yourself?

16 MR. LOWENSTEIN: Yes, hi. I'm David Lowenstein
17 with the National Urban League.

18 MS. ROOKER: Thank you very much. We're glad to
19 have you.

20 MR. LOWENSTEIN: Thanks.

21 MS. ROOKER: If we forget you, shout at us or
22 something.

23 MR. LOWENSTEIN: Okay.

24 MS. ROOKER: All right. Thank you very much. Oh,
25 David missed his turn. I think we're going to let David

1 speak.

2 MR. POEHLMAN: Hi, I'm David Poehlman. I
3 represent the American Council of the Blind, and it's very
4 good to be here. We have a nice beautiful warm spring -- I
5 mean fall day. I've been in Florida. Please excuse me.
6 And it's good to be back. Thank you.

7 MS. ROOKER: Thank you, David. Belinda has joined
8 us.

9 MS. NELSON: Good morning. I'm Belinda Nelson
10 from Gila River Telecommunications.

11 MS. ROOKER: Anybody else new that's joined the
12 table? Okay.

13 Well, thank you very much, and welcome. I would
14 like to do a few thank yous for people who helped make this
15 meeting possible. I'd like to thank Paul Ludwick and Sprint
16 for breakfast and lunch. We really appreciate that.

17 I'd also like to thank Suzanne Perrin and Betty
18 Thompson for their logistical support, and of course,
19 there's always that person that I have to thank who really
20 makes it all run, and that's Scott Marshall. He gets
21 aggravated every time I do that, but nevertheless, it
22 wouldn't happen without Scott, I'll tell you that.

23 Now, it's my great pleasure to introduce to you
24 Dane Snowden who is the Chief of the Consumer and
25 Governmental Affairs Bureau. Dane you're here, I believe

1 with us? Yes. Thank you. Good morning. Please join me in
2 welcoming him.

3 MR. SNOWDEN: I want to echo a couple of comments
4 I heard a second ago. One is David I wish you had brought
5 some of that warm weather from Florida to Washington, D.C.,
6 and Rayna, I think you're right.

7 As I look around this room, I remember when I
8 first joined a year and-a-half ago, I didn't know anybody
9 here. Now I actually look around, I know a lot of friends
10 that I can say it is a pleasure to see all of you back here
11 in Washington.

12 Well, good morning. Thank you for coming back.
13 On behalf of the Chairman and our Commissioners and, of
14 course, the entire staff at the FCC, I want to extend our
15 welcome and appreciation for you and for your work.

16 We all extend our appreciation to this advisory
17 committee, and thank you for your advice, your support, your
18 guidance over the past two years.

19 Please indulge me for a second. I would like to
20 introduce a new member of my staff who is my new Chief of
21 Staff, Ms. June Taylor. June, if you could stand up. She's
22 over here to my right.

23 You all may recall my former Chief of Staff,
24 Barbara Douglas. She is still with the Commission, however,
25 the Chairman has asked her to take a new role in our Office

1 of Workplace Diversity, so I have lost Barbara but I have
2 gained a wonderful asset in June and the Commission's gained
3 two wonderful people.

4 This morning I would like to take a few minutes to
5 bring you up to speed on some of the activities of the
6 Commission. In addition, I want to highlight some of your
7 good work.

8 As all of you know, the telecom sector is in need
9 of economic recovery -- and I apologize to you folks, but
10 this is where I was told to speak. I know you have to turn
11 around like that, but if you want to move your chairs around
12 now, please go ahead. If you want to watch the monitors, I
13 won't be offended

14 As I was saying, the telecom sector is in great
15 need of some type of economic recovery amid the recent
16 scandals and bankruptcies that we've all been reading about.

17 I thought it was a good idea to share with you Chairman
18 Powell's vision for pulling this sector out of the trial and
19 tribulations that they're in now.

20 He recently gave testimony to a Senate hearing,
21 and I wanted to highlight one of the ideas he had when he
22 presented a pyramid. If you were ever in his office, he has
23 this -- I call it the virtual pyramid because it's life-
24 sized. It has six different steps to receiving or achieving
25 economic recovery.

1 The first step is protecting consumers. I thought
2 for this group, that would resonate very well as potential
3 consumers buying sharing continuity of service.
4 Particularly when you look at the area of World-Com and
5 bankruptcies that we've seen, it's very important that we
6 insure the consumers are protected.

7 The second step is routing out corporate fraud and
8 prosecuting corporate wrongdoers. The third is restoring
9 financial health by telecommunications companies, paying
10 down their approximately \$1 Trillion of debt they are
11 currently carrying. The fourth step is prudent industry
12 restructuring that promotes competition.

13 The fifth step is new revenue through new
14 services, and as this group has talked about, broad band is
15 a key portion to bringing new service and new revenue for
16 this sector. The sixth is reform economic and regulatory
17 foundations, and that deals mainly with our state and other
18 regulatory counterparts.

19 Now, protecting consumers has been a key theme
20 during the chairman's tenure. This theme is embraced by
21 each of the Commission and, of course, everyone here at the
22 staff.

23 Recently the Commission has been vigilant in
24 enforcing its roles, and as some of you may know, we
25 recently imposed a \$6 Million forfeiture against a

1 telecommunications company, it was SBC, for a series of
2 violations of our local competition rules. It's important
3 to know that this is the highest forfeiture in the history
4 of the Commission.

5 In addition, we are seeing positive results from
6 our -- created in the year 2000. Coupled with Outreach and
7 coordination with our state counterparts, the Commission has
8 increased its efforts to bring resolution and restitution to
9 consumers who have been slammed.

10 Now many ask if slamming is on the rise. I
11 personally contend that through the efforts of the
12 Commission, our state counterparts, and C/DTAC, more
13 consumers now are aware of what slamming is and, more
14 importantly, what they can do about it. So the bottom line
15 on slamming is the rules are working, and the consumers and
16 the industry are benefitting from them.

17 Now, before I discuss some of the other major
18 activities of the Commission, I wanted to clarify an issue
19 regarding our quarterly report that I have been told caused
20 some confusion among members of this committee.

21 While I know other members of my staff are
22 scheduled to discuss our complaint in inquiry and analysis
23 processes, I too wanted to discuss this matter of our
24 quarterly report.

25 The issue in question for those of you who are not

1 familiar with it, it centers on a perceived discrepancy over
2 the data that was published by the Commission and data that
3 we gave to IEEE as a professional courtesy.

4 Let me say for the record that we double checked,
5 and there are no discrepancies. Further, let me assure this
6 committee that since the reform of the agency, the
7 Commission through the Consumer and Governmental Affairs
8 Bureau has centralized our complaint process to insure that
9 all information is captured in a uniform way.

10 In addition, we created an analysis plan to
11 further insure that all data collected to be analyzed and
12 incorporated into our rule making and outreach
13 responsibilities.

14 I understand that there was an e-mail in
15 circulation about this issue that was not directed to the
16 Commission. I ask that in the future if you have a concern
17 relating to the way in which we present the quarterly report
18 or about any of our procedures, by all means, please bring
19 them to my attention or bring them to this advisory
20 committee.

21 This body here is the appropriate means of voicing
22 your concerns and creating proposals for the Commission's
23 review. We have always benefitted from the contributions
24 made from your focused review of the Commission's
25 initiatives.

1 Now, an area that I do ask that you focus on is
2 digital television. Now some of you when you came in
3 through our lobby, you probably saw a wonderful television
4 set that we all would like to have in our homes, and pretty
5 soon we all will.

6 I know our security force here, they love when the
7 Sunday football games are on. I don't think they're arguing
8 over who gets to protect the building there because it's
9 perfect quality.

10 As you may know, DTV is probably the most
11 significant development in television technology since the
12 advent of color televisions since the 1950s. Now, I know
13 some of you are too young to remember the advent of color
14 television, but indulge me. I know that's why my staffing
15 is laughing.

16 DTV will provide consumers with a clearer and
17 sharper pictures as well as CD quality sound and can also
18 provide new uses including data services. Over 250 stations
19 are now operating which includes over 75% of U.S.
20 households.

21 The Commission's work in this area began ten years
22 ago, and in 2006, DTV will replace today's analog
23 television. Now, DTV is not just about pretty pictures. It
24 will open up new avenues for accessing data.

25 Our challenge -- when I say challenge, I mean that

1 of the Commission, manufacturers, and this advisory
2 committee, is to demonstrate to consumers the value of
3 joining the digital revolution.

4 As in so many things, the move into the future is
5 exciting and full of opportunity. We want to let consumers
6 know how they can be a part of the next innovation in
7 American broadcasting.

8 Now, the work on DTV started 10 years ago as did
9 the creation of our telemarketing rules. As many of you
10 know, the Commission is currently revisiting its
11 telemarketing rules. The comment period is still open, and
12 we are eager to build a full record from consumers, the
13 industry and states.

14 Now, everyone knows telemarketing is big business.
15 In fact, it's a \$600 Billion a year industry. We've all
16 seen the advent of new technologies and telemarketing such
17 as faxes and auto dialers. In addition, the Commission has
18 seen a significant increase in consumer complaints and
19 inquiries on this issue, and we felt it was time for another
20 review.

21 Through the Commission's rule-making process, we
22 strive to find a balance between legitimate telemarketing
23 and consumer privacy. In the area of intergovernmental
24 affairs, the Commission kicked off its Indian
25 Telecommunications Initiative, or ITI.

1 Lead by Kris Monteith, a senior member of my staff
2 who I believe is here as well, ITI looks at both Commission
3 policy and outreach strategies to explore ways in which the
4 FCC can bring affordable, quality telecom services to native
5 American tribes in Alaskan native tribal communities.

6 This past September in Arizona, Chairman Powell,
7 Commissioner Cobbs, and Commission staff participated in the
8 National Summit For Emerging Tribal Economies. In addition,
9 thanks to the help of two advisory committee members, Ms.
10 Belinda Nelson and Mr. Vernon James, some of us were treated
11 to a wonderful visit to the Gila River Indian Community, and
12 I want to personally thank you, Belinda and Vernon, for your
13 hospitality. The assistance and support of Belinda and
14 Vernon is an example of the benefits the Commission has
15 received from this advisory committee.

16 Over the past few years, we have all benefitted
17 from the important work of C/DTAC. This advisory committee
18 has helped to identify issues of concern to consumers from
19 policy matters to information to collection, to our consumer
20 outreach and education efforts.

21 I want to also thank Rich Ellis who I know is not
22 here today from Verizon for asking me to participate in the
23 tenth anniversary of the Verizon Center for Customers with
24 Disabilities.

25 In addition, I want to thank Larry Goldberg for

1 hosting me during my visit to Boston and for the tour of the
2 WGBH studio. That was simply a treat. I really appreciate
3 that.

4 Now to your accomplishments. I want to underscore
5 just how important this committee has been to the
6 Commission. Please indulge me as I enumerate some of your
7 accomplishments. We are particularly thankful, first, for
8 your attendance at these meetings. It is not easy, and we
9 recognize that.

10 At your last meeting, you asked us to review the
11 burden of travel to and from these meetings. My staff has
12 researched this matter very carefully, and unfortunately,
13 the Commission does not have funds to pay the travel costs
14 of any of its FACA committees, and we have about 10
15 including C/DTAC.

16 However, we are investigating whether the
17 discounted airline and hotel rates available to Federal
18 employees on official travel could be made available to
19 advisory committee members. I do not know at this time
20 whether discount can be extended to the committee members,
21 but we will continue to look into this matter.

22 Since your charter began two years ago, C/DTAC has
23 participated in FCC rule makings regarding various topics
24 within your purview from universal service to
25 telecommunications services, to the Commission's consumer

1 complaint process.

2 In addition to making comments on some of our rule
3 makings, this advisory committee has put a face on some very
4 important issues affecting consumers. One of these issues
5 is access to emergency information by people with
6 disabilities.

7 Your hard work on this issue also reached the
8 attention of another FACA, the Media Security and
9 Reliability Counsel. Putting this important matter on their
10 radar screen was quite an accomplishment and I believe a
11 feather in this advisory committee's cap.

12 Finally, I want to say that I'm confident that
13 your recommendations today regarding the Telephone Consumer
14 Protection Act will also be very valuable to us, and we
15 thank you in advance for your input.

16 I'm pleased to share with you today that Chairman
17 Powell has accepted your new charter recommendation, and we
18 are currently processing it through the appropriate Federal
19 channels, and there are several that we need to do. We all
20 hope that the new charter will be approved very soon.

21 I would also like to end today by saying that the
22 Commission owes you a debt of gratitude for your service and
23 for your contribution. I want to personally thank each of
24 you for your candor and for your guidance.

25 I know in the beginning when I first joined, very

1 few people would approach me, and now I feel that I get a
2 lot more candor than I get anything else which is exactly
3 what is appropriate.

4 As a small token of the Commission's appreciation,
5 I would like to recognize the C/DTAC members here today and
6 present each of you with a certificate that memorializes
7 your contributions.

8 I've asked one of my legal advisors, Ms. Amy
9 Brown, to assist in this effort, so please indulge me as I
10 call each of your names and your organizations that you
11 represent.

12 First is Mr. Jeffrey Kramer from AARP. Matt
13 Bennett from Alliance for Public Technology who's
14 representing Paul Schroeder. Mr. David Poehlman from
15 American Council of the Blind. I don't want to get too far
16 ahead of Amy. Who do you have now? Oh, Michael Del Casino
17 of AT&T. She's already ahead of me, typical legal advisor.

18 Ben Almond representing Susan Palmer from Cingular
19 Wireless. Roger Kraft, Communication Service for the Deaf.

20 Dr. Judith Harkins from Gallaudet University. Belinda
21 Nelson from Gila River Telecommunications, Inc.

22 Mike Takemura from Hewlett-Packard. Laura Ruby
23 from Microsoft. Rayna Aylward from Mitsubishi. Karen
24 Kirsch from National Association of Broadcasters. Amy's
25 earning her keep today. What do you guy's think? Actually,

1 Amy earns her keep everyday.

2 Diane Burstein who's representing Daniel Brenner
3 from the National Cable Telecommunications Association.
4 Susan Grant, National Consumer League. Milton Little,
5 National Urban League. He's on the phone. We'll send it to
6 you.

7 Dr. Bob Segalman from Speech to Speech. Brenda
8 Battat, Self Help for Hard of Hearing People. Matt
9 Kaltenbach from Sony. Matt, I'm not sure if I ever told
10 you, but I used to work for Sony many years ago. I started
11 my career for Sony up in Montville.

12 Paul Ludwick from Sprint. Robert Chrostowski from
13 Telecommunications Industry Association. Dirck Hargraves
14 who's representing Kate Dean from the Telecommunications
15 Research & Action Center or TRAC.

16 Nancy Linke-Ellis from Tripod Captioned Films.
17 Dirck, we have a seat for you right here if you'd like.
18 Larry Goldberg from WGBH National Center for Accessible
19 Media.

20 I would like to also recognize the working group:
21 Claude Stout from Consumer Action Network who is the Chair
22 of the complaints in outreach working group. Rich Ellis who
23 is not here today from Verizon is the Chair of the
24 operations and structure working group. Gail Becker,
25 National Association of State Relay Administrators, who was

1 the Chair appropriately of the TRS issues. Jim Tobias,
2 President of Inclusive Technologies who is the chair of the
3 universal service working group.

4 I'd like to also thank the three subcommittee
5 chairs: Micaela Tucker from Nokia, who is the Chair of the
6 disabilities subcommittee and also the Chair of the section
7 255 working group. We will mail hers.

8 Ken McEldowney who I believe is by phone who is
9 the Executive Director of Consumer Action and is the Chair
10 of the consumer protection subcommittee, and Andrea Williams
11 from CTIA who is the Chair of affordability subcommittee.

12 I also want to at least acknowledge those who are
13 not here with us today. We will again mail those
14 certificates. Vernon James from San Carlos Apache Tribe.
15 Joseph Gassons from Connect Bid. Steve Jacobs from Ideal at
16 NCR. Kathleen O'Reilly, infamous attorney. Melissa Newman
17 from Quest. Maria Long from Rainbow Push. Shelly Nixon,
18 and our wonderful college student who we definitely value
19 when she's here.

20 Certainly last but not least, I would like to say
21 a special thanks to Ms. Shirley Rooker, the Chair of this
22 committee. You have done an outstanding job with pulling
23 this committee together. You hard work -- we are in deep
24 deep gratitude to you, in debt to you, for your leadership,
25 for your vision, for your support, and for all that you do,

1 and we really appreciate it. Thank you very much, Shirley.

2 With that I bid you farewell and have a great
3 meeting, and I look forward to hearing more about it today.

4 Thank you.

5 MS. ROOKER: Thank you, Dane.

6 I would at this time -- we do need to approve the
7 minutes of the last meeting, the June 28th meeting. I
8 believe you have received the minutes already. Do we hear a
9 motion to approve the minutes of the June 28 meeting? That
10 is so moved, or do you have a comment. Okay. Do I hear a
11 second to that? Opposed? The minutes are approved. Thank
12 you very much.

13 I would like to make a note. Rayna Aylward, we
14 thank you for being here this morning. Her mother is having
15 some rather serious surgery today, and she's going to be
16 leaving us early. We just want you to know you and your
17 mother will be in our thoughts, so we hope that it goes
18 well.

19 Oh okay, Scott. We have to do the March minutes
20 also, I'm sorry. I would like to get a motion for approval
21 of the March minutes. Does someone want to move that?
22 Okay, moved. And does someone want to second? Okay.
23 Approved. All in favor say aye.

24 (Chorus of ayes.)

25 MS. ROOKER: Opposed?

1 (No response.)

2 MS. ROOKER: All right. March minutes are
3 approved. Thank you, Scott. See what I mean? He keeps me
4 on the straight and narrow.

5 Do we have logistics? Scott, I think you need to
6 talk about that.

7 MR. MARSHALL: Shirley and I are on the end of the
8 rectangle today you'll notice, and consequently the
9 restrooms are to my right, out the door, straight across the
10 hall and the first left. Likewise, the telephones are out
11 the same door and immediately to your left. If you have any
12 other needs, let us know.

13 MS. ROOKER: That's not to promise that we can
14 meet them, but at least we'll hear you out.

15 Actually, Dane mentioned several of the things
16 that I was going to talk about this morning, but I will talk
17 about them anyway because I think that what he said reflects
18 the fact that this has been a busy committee.

19 I think we got off a little bit to a slow start.
20 We kind of found our way, but I think in the home stretch
21 we've really done some really good things. That's not to
22 say that there isn't a whole lot more that we can do because
23 there is.

24 Just to highlight some of the things for you, when
25 you referred to the media security reliability counsel,

1 which is one of the FCC's Federal advisory committees with
2 the same kind of status that we have, Scott and I were
3 invited to participate in telephone conversations with some
4 of the committee members, and unfortunately I was not able
5 to do it.

6 Scott did it, and he put together a letter also to
7 the Chair of that committee which outlined the concerns that
8 we have that have been expressed by many of you, for
9 example, in a recent e-mail by Nancy Linke-Ellis, and that
10 was the effectiveness of communications to people with
11 disabilities during a time of an emergency.

12 We are very pleased that the committee is taking a
13 look at these issues. They're listening to us and our
14 concerns, and we continue to hope to have a continuing
15 dialogue. This was a direct result of the March discussions
16 that we had.

17 So we've connected with his advisory committee,
18 and it is their role to look at these issues, and we're very
19 grateful. We will keep you updated as things progress with
20 that committee.

21 At the June meeting, we heard from David Nobel who
22 was from the International Association of Audio Information
23 Services, and he spoke to us regarding the impact of digital
24 radio on radio information services for the blind.

25 Now, the FCC last month issued an order in which it

1 specifically recognized the problem that Mr. Nobel addressed
2 and indicated that it expected the radio industry and the
3 reading services people to work out interference problems,
4 and we will keep you posted as this resolution progresses.
5 We'll let you know what's happening.

6 Since last June, the complaints and outreach
7 report that was adopted by the committee in June -- and a
8 copy of it, I believe, is in your materials -- it was
9 submitted in a proceeding dealing with the Commission's
10 informal complaint process. Now, what that means in
11 English, it means our recommendations were put into the
12 official records for consideration of the FCC.

13 Also in June, the report of the disabilities
14 committee was submitted as part of the proceedings regarding
15 TRS services and speech to speech, so we are making our
16 voice heard.

17 Now, Dane had mentioned the rechartering process.
18 Let me just give you a little bit more information on what
19 that requires. As he said, Chairman Powell has approved the
20 issue, but it will not be finalized. Letters have to be
21 sent to 31 offices and committees. They are required to
22 recharter the committee. I think they're more than anything
23 a formality. We have to file and advise that the
24 rechartering is taking place.

25 The new committee will be announced in the Federal

1 Register, and applications for membership will be sought
2 from a very diverse group of organizations. We'll send all
3 of you a copy of the public notice when it's released, and
4 we hope that will be done by the end of the year and start
5 the process of nominations for the new committee.

6 We expect that the meetings for next year will
7 take place on the same cycle, March, June and November.
8 Now, there's one thing that is going to be different and
9 that is our name.

10 It's been interesting, the comments that I've
11 heard from people when I would mention the C/DTAC committee.
12 They'd first off look at me and say, "what?" Most people
13 believe that our goal, when they look at our title, that it
14 is only disability issues when, in fact, that is a major
15 part of our committee but we really are a consumer advisory
16 committee.

17 We recommended that the name be changed. I've
18 consulted with the subcommittee Chairs to this change, and
19 the FCC has accepted the suggestion that we be called a
20 consumer advisory committee.

21 This in no way lessens the devotion and concern
22 that we have about disability issues, but I think the name
23 more truly reflects what we are because we serve all
24 consumers and we also serve the disability community.

25 So if anyone wants to comment on this, I'm not

1 sure that it -- I think the name change has been accepted by
2 the FCC, but I hope it doesn't upset you that we've changed
3 the name. It think it more truly represents what we are.

4 I think our actions will show that there's no less
5 emphasis on disability issues, so I hope that doesn't cause
6 concern for you, but I think it is more truly representative
7 of what we do.

8 We encourage you to apply. As I said, you'll be
9 notified, and I'd like to personally thank all of you
10 because I think it's been an extraordinary group. We've had
11 a lot of learning of each other and learning of issues.

12 We've had a lot of work to do in terms of bringing
13 many of us up to speed on some of the things that are of
14 concern to the rest of us. I think the sharing process has
15 certainly contributed to my growth, and I hope that you feel
16 the same way about it.

17 But it could not have happened if it wasn't for
18 the wonderful people that are sitting around this table and
19 those who are not with us today. Having said all of that,
20 does anyone have any comments or questions? David.

21 MR. POEHLMAN: Just a comment on the name change.

22 David Poehlman with the American Council of the Blind. I
23 think it's a good move. I am concerned, however, that you
24 know as people often do, you know, pick and mull around to
25 find out where to go, what to do, that our committee might

1 be missed as a source of communication, you know, by people
2 who might be seeking that.

3 So is there a provision somehow for the fact that
4 we do include disabilities to be registered somewhere below
5 the title somewhere in the --

6 MR. MARSHALL: It's in the charter.

7 MR. POEHLMAN: I know it's in the charter, yes.

8 MS. ROOKER: Right.

9 MR. POEHLMAN: But that's the only thing that I
10 bring out. I actually like it because we're all in it
11 together, you know, no matter what issue we stand on. We're
12 all consumers, and that's the important part of it.

13 MS. ROOKER: That's a good question, David. As
14 Scott says, it is in the charter the communities that we
15 serve. I don't know. Does anyone have comments on ways
16 that we make ourselves known?

17 I think by virtue of the fact that we are called a
18 consumer advisory committee, it says that we serve all
19 consumers whatever those issues are. Perhaps there's a -- I
20 don't know how there's a way -- let me just, we have some
21 comments. Jim.

22 MR. TOBIAS: Just as in this incarnation of the
23 committee, we had a -- subcommittee. Perhaps under the new
24 regime, there would be an explicit disability identification
25 so that, as David says, people who have disability issues in

1 telecommunications or in communications could refer directly
2 to that subcommittee instead of to the committee as a whole.

3 MS. ROOKER: I think certainly there are going to
4 be -- I expect a continuation of the subcommittees. I think
5 we're doing some valuable work. We may change the format
6 somewhat, but I'm certain that that's going to continue.

7 We haven't really talked about the formation of
8 them, but I see no reason why it wouldn't because I think
9 those issues have to be addressed and the best way to do it
10 is in a subcommittee.

11 Certainly there could be referrals to those
12 subcommittees who expertise is in the specific subject.
13 Andrea.

14 MS. WILLIAMS: One of the -- in terms of the name
15 change, I for one supported that recommendation when Shirley
16 asked the subcommittee members. I think it's really, David,
17 an issue of how we advertise or make it known.

18 The FCC has already provided us a space on their
19 web site, and I anticipate that that will continue. It's
20 really up to us to make sure that that information goes out
21 to consumers and to each of our constituency.

22 We as members of this advisory committee also, I
23 believe, have the responsibility to make sure that our
24 respective constituency know that this is what the consumer
25 advisory committee is doing. These are some of the issues

1 that they will be covering. This is a place to make your
2 voice heard on these issues.

3 MS. ROOKER: Thank you. Claude?

4 MR. STOUT: If I thought of what you're saying,
5 the new name will be for the whole committee and it's
6 already been decided, is that correct?

7 MS. ROOKER: Yes.

8 MR. STOUT: It's already been authorized?

9 MS. ROOKER: Yes.

10 MR. STOUT: Okay. With that information, I need
11 to go on record saying that I am not happy with the name
12 change already being decided before gathering information
13 and opinions from this committee.

14 The next time that you make a name change, please
15 check with the committee here first before that work is
16 done. You've already gone ahead with the name change, and
17 no discussion has come from the group about what they would
18 like. That's my issue, my complaint, for this morning.

19 MS. ROOKER: Thank you, Claude. We had to make a
20 decision because in the chartering process we had to have a
21 name. I did consult with the subcommittee members as to the
22 name change, so I apologize if you feel that we didn't ask
23 you. We had talked to a number of people in addition, but
24 your thoughts are appreciated.

25 Yes, Larry.

1 MR. GOLDBERG: One of the questions was raised as
2 how people find us or find disability issues, whether it's
3 by title or whatever. I think one way that would definitely
4 be helped is if some sort of link to the disabilities issues
5 were put back on the home page of the FCC.

6 Even though we're part of the consumer and
7 government affairs bureau and as a subcommittee of a
8 subcommittee, a direct link would help absolve all those
9 problems.

10 MS. ROOKER: That's an excellent suggestion. As a
11 matter of fact, I had just made myself a note here to take a
12 look at the web site to make sure that it is encompassing
13 all that we do so that we can reach out to all
14 constituencies. I think that's very important, so thank
15 you.

16 Yes, Rayna.

17 MS. AYLWARD: I have a couple of comments that are
18 sort of related to the name change but have more to do with
19 composition of the newly chartered committee.

20 I think we spent a lot of time in between the
21 lines talking about the relative proportions of consumers,
22 corporate industry groups, and I think particularly with the
23 name change now, I'm not making any particular suggestions,
24 but I would hope that there's a lot of thought put into how
25 the various groups are represented.

1 The second comment, again it's not a real
2 suggestion but just something I hope will be taken into
3 consideration, is to have both the person and the position
4 taken into account so that it's not just a slot for any
5 particular company or any particular group but that you
6 really, particularly with a smaller group which I imagine
7 you'll be having, you really want to have individuals who
8 are very well suited to talk about these issues.

9 One third thing, and I'm sorry that Shelly Nixon
10 is not here. I really really encourage you to have a youth,
11 at least several youth representatives, because I think
12 we've all learned so much from her, and she is the future
13 for all of the things that we're working on here.

14 MS. ROOKER: Yes. You made some excellent points.
15 As a matter of fact, I just sent Shelly a note telling her
16 how much I -- she's so thoughtful and she comes out with --
17 I mean, she's just amazing. And that's an excellent
18 suggestion.

19 In terms of size, we really haven't decided on the
20 size of the committee because I think it's so important that
21 all constituents be represented, and I really do see the mix
22 as pretty much what we have here in terms of representation
23 from all populations.

24 So it's something that we're very sensitive to and
25 very concerned with, and it's something that is certainly my

1 first priority to see that we have representation from all
2 consumers and that in the broad sense of the word. So we
3 are very sensitive to that. And I encourage you as soon as
4 you get this notice to apply for the committee. So we'll be
5 doing that.

6 Did I see a hand somewhere? Yes, Laura.

7 MS. RUBY: I was just going to add to that, but I
8 think we should each take responsibility for making sure
9 that we send those nominations out to at least two or three
10 people that we know and think of, especially some folks that
11 outside of the beltway.

12 MS. ROOKER: Yes.

13 MS. RUBY: Because I think it's really important
14 for us to try and bring in some of the consumers that are
15 more at the state and local level who can bring some of the
16 issues from outside the beltway back up to us.

17 MS. ROOKER: Well, it's just like David Nobel
18 coming here from Pennsylvania at our last meeting --

19 MS. RUBY: Right.

20 MS. ROOKER: -- and bringing the issue of the deaf
21 and radio services. So indeed, that input is very important
22 whether they come as a special guest and speak to the
23 committee or come in as committee members. It is important,
24 and that's an excellent suggestion. Do we have any other
25 comments?

1 I believe, if I remember correctly, we had to make
2 the name change because we were applying for the charter, so
3 there was a time frame there. We had very little time to
4 get this done, and we talked about it. So at any rate,
5 well, thank you very much for your comments, and I think we
6 will move on.

7 Let me just see here, where are we? Have I
8 finished my report? I think I finished my report. You
9 don't have to listen to me any more. I would like to also
10 underscore Dane's thanks to our subcommittee Chairs and our
11 working group Chairs, because you put a lot of time and
12 effort into the things that we've accomplished in this
13 committee, and you're part of what makes it happen.

14 Okay. I think we're going to move. We're a
15 little bit early, but that's fine because we've got a hot
16 subject coming up after our morning break. I think I'm
17 going to move into the section where we're going to give you
18 an update of what's been happening with the Consumer and
19 Governmental Affairs Bureau.

20 Starting that out is going to be Pam Gregory.
21 Pam, welcome back. It's nice to see you. She's with the
22 Disability Rights Office, and if you all remember correctly,
23 I think the last time Pam was here I tried to age her
24 considerably. I never do that. This is the youthful Pam
25 Gregory.

1 MS. GREGORY: Well, actually I don't mind it
2 because the last time I was up here, Shirley introduced me
3 as being with the Commission since 1964 which made me
4 eligible for retirement.

5 I'm just going to -- years may know that I've been
6 with the Commission for a little over seven years. I was
7 the first employee brought to the Commission to work full-
8 time on disability issues.

9 I've done a lot of different things. I've learned
10 a lot, and I've made a decision to step down of the Chief of
11 the Disabilities Rights Office, and let me tell you I
12 couldn't be happier. The reason is is that many of you know
13 that I have two year old twins that are a handful. I don't
14 work on Fridays, and I was just feeling stretched, too
15 stretched.

16 People now at the Disability Rights Office -- I
17 feel a lot of pride in ownership in that office, and I would
18 not be stepping down as a full-time -- you know, as a staff
19 person, I'm still going to be there. Don't get too excited
20 Mike.

21 Unless I felt very very comfortable in the new
22 leadership -- and Tom Chandler, the handsome young man
23 sitting in the front row is going to be my new boss, and I
24 couldn't be happier. And Cheryl King is going to be the new
25 deputy.

1 I want to let you know that this is a really good
2 thing. This is going to be okay. They're great people.
3 Tom is incredibly smart, and those of you that work on
4 disabilities, you know when you have these conversations,
5 you know, does the person get it. I mean, that's always the
6 bottom-line question, and let me tell you, these people do.

7 I feel completely comfortable, completely
8 confident, and I want to thank Dane and Margaret for letting
9 this happen. My husband wants to thank you, and I want to
10 thank all of you for being so great to work with. Now I'm
11 going to have Tom come up.

12 MS. ROOKER: Thank you, Pam.

13 MR. CHANDLER: Well, good morning. To go off
14 script at the very beginning, I'll say it's a little scary
15 to start out when the person you're replacing seems so happy
16 to be leaving. Somehow I don't know whether there was full
17 disclosure here or not, but maybe another task force can
18 look into that.

19 It's obviously great to be here and great to have
20 a brief chance to share with you some of my thoughts about
21 the Disability Rights Office, DRO, and our busy agenda.
22 Since I'm new to most of you or at least some of you, first
23 I'd like to give you a little personal background.

24 I've been with the Commission almost two years. I came
25 over to join the Office of Legal Counsel to do appellate

1 work defending Commission orders in the Court of Appeals.
2 About six months ago through contacts with Pam, I joined DRO
3 first as a deputy then as acting chief, and I guess as of
4 late last night actually chief.

5 So anyway, before coming to the Commission, I was
6 at the Department of Justice, and I was there for about 12
7 years in the Civil Rights Division doing appellate work.
8 That makes me, of course, a civil rights lawyer and makes
9 clear that that's where my background is.

10 In the first half of my days at the Department of
11 Justice, I did mostly gender discrimination cases and
12 education discrimination cases. Some people like me and
13 some people hate me for this, but one of the things I spent
14 a long time was getting women admitted to VMI in the
15 Citadel. Some of my conservative friends in my neighborhood
16 in Virginia don't think that was a very good idea, but
17 others think it was.

18 Later in my years at the Department of Justice, I
19 started to do a lot of ADA work. Of course, the ADA didn't
20 even exist when I first joined it, but a few years later it
21 was enacted in 1990. I did a lot of Title 3 work, the
22 public accommodations, and also did a lot of Title 1 and Title
23 2 which you know are the employment and the state and local
24 government provisions.

25 Now with DRO, as we all know, Title 4 of the ADA,

1 is chiefly the TRS, the telephone relay services, so with my
2 new position here, I'll have completed what I call the
3 "grand slam" of ADA work having done Titles 1 through 4. I
4 think there is a Title 5, but it's mostly, you know, filler
5 or things that aren't substantively divided out the way the
6 other sections are.

7 So given my background in disability law and in
8 civil rights law, I obviously leapt at the chance to join
9 DRO. Fourteen years or so of doing nothing but appellate
10 litigation was enough. It was sort of time to come out of
11 the cave and actually meet some people on a daily basis
12 instead of just doing legal research and writing legal
13 briefs.

14 It's important for me to emphasize as we all know
15 that disability rights is really the logical and latest
16 outgrowth of the civil rights movement that for the last
17 half century or so, as we all know, has justly and morally
18 transformed our society into a much more inclusive and
19 better place, and it's been great to be a part of that.

20 DRO, as you know, started out as a task force, and
21 now we view ourselves as a driving force. We now have eight
22 attorneys including myself and five other staff persons who
23 offer invaluable assistance.

24 As Pam mentioned, one of the new attorneys is our
25 recently appointed new Deputy Chief, Cheryl King. She's

1 over there. She can stand up. She's been terrific and
2 really adds to, I think, the strong team that we now have.

3 Cheryl's been with the Commission for over five
4 years and has a lot of experience. I think some of you have
5 probably met her, and if you haven't, I urge you to try to
6 meet her during the break.

7 Of course, Pam Gregory will still be with us.
8 That was part of the deal. It had to be from my end, and so
9 we will not lose her invaluable knowledge or experience and
10 everything that she has brought to DRO.

11 The short of it is that we are now geared up, I
12 think, to be a strong legal and policy office, and on a
13 broad level, one of my goals is to have us be a strong legal
14 shop that obviously focuses on telecom issues and more
15 narrowly those issues as they affect persons with
16 disabilities.

17 As you know, that entails a fairly broad reach.
18 Currently we have a large TRS item going on that's the
19 outgrowth of the further notice in the March 2000 improved
20 TRS order as well as the further notice part of the IP relay
21 order that came out earlier this year.

22 That order is keeping a number of our attorneys
23 quite busy at the moment including Cheryl, and she tells me
24 that's going to keep me quite busy starting next week, I
25 think. But that's a major item that is ongoing.

1 Obviously, there are other TRS matters that we're
2 looking at. We have before us the recertification
3 applications from all 50 states' TRS programs, and those
4 will have to be acted on by next spring.

5 We have the Cabtel petition by Ultratech
6 addressing their new enhanced VCO product. We have waiver
7 requests for certain of the mandatory minimum requirements
8 for IP relay. We have pending issues concerning cost
9 allocation issues for IP relay and VRS.

10 Of course, outside of the TRS area, we are
11 actively involved in closed-captioning matters, hearing age
12 compatibility issues, and issues arriving under Section 255
13 which as you know requires telecommunications products and
14 services to be accessible to persons with disabilities to
15 the extent that's readily achievable.

16 Finally, I should mention that we are closely
17 watching a case in the D.C. Court of Appeals that was argued
18 in early September that challenges our video description
19 rules largely on First Amendment grounds, and that decision
20 should be coming out any time although it may be another
21 month or so. That area then is up there now, and it's
22 possibly vulnerable for those who went to the argument and
23 saw that.

24 In addition to these issues, I'd like to mention
25 just a couple other goals I have and we have DRO. First I'd

1 like to enhance our coordination of disability matters with
2 other Federal agencies such as the Department of Justice.

3 I've been recently told by my former colleagues
4 and friends there that the Disability Rights Office of the
5 Civil Rights Division, which is one of their functional
6 sections where they have education, voting, employment,
7 housing, and after 1990 disability rights, is now the
8 largest section of the Civil Rights Division.

9 I think that's another indication of the attention
10 that disability issues are now getting in the civil rights
11 community and, indeed, on a broad national policy level. I
12 work closely with that office doing my ADA cases there, and
13 I have and intend to further renew my contacts there.
14 Another such agency is FEMA which raises issues concerning
15 access to emergency information.

16 Secondly, I want to make sure that we keep our eye
17 on the goal of functional equivalency and what that means as
18 technology develops and changes. In this regard, I think
19 it's important to emphasize that we recognize that our work
20 really will never finish in DRO because as technology
21 changes, the rules and laws will have to also change to
22 insure that these improved technologies are accessible.

23 Finally, in closing I'd like to emphasize two more
24 points. First, as we all know, the Commission is a
25 government agency which, in turn, makes me a government

1 lawyer and all the people who work in DRO government
2 employees.

3 As such, our role is to establish rules generally
4 as directed by Congress to regulate telecom matters, in
5 particular those telecom matters addressing disability
6 issues.

7 We are deeply committed to this goal of
8 accessibility, but the same time as government employees, we
9 always have to balance competing interest because that's
10 what government does.

11 So I urge you to the extent some of you may
12 occasionally feel that whatever we finally get out the door
13 hasn't gone far enough or leaves you a little bit
14 disappointed to keep your eyes on the broader goal and to
15 repeat the old civil rights refrain to "keep your eyes on
16 the prize" and know that as the wheels of government turn
17 slowly, we're doing our best to get there.

18 Finally, I've already met many of you, and when I
19 have I have learned a lot. I would very much like to meet
20 as many of you as possible so I can continue to learn both
21 about the area and to hear your concerns and ideas and where
22 we should go from here.

23 My door is always open. Pam feels the same way,
24 so please do not hesitate to contact me by e-mail or
25 otherwise. We can set up a meeting or whatever would be

1 appropriate to begin or continue our dialogue on these
2 important issues.

3 Again, it's an honor to be part of DRO. Thank
4 you, Dane. Thank you, Margaret. Thank you, Pam. It's
5 great and important work that benefits us all, and I'm
6 thrilled to be involved, and on we go. Thank you.

7 MS. ROOKER: Thank you, Tom. Do you have time for
8 questions? Do we have questions for Tom? Larry.

9 MR. GOLDBERG: Larry Goldberg. My organization is
10 a part of a public broadcaster, and as a public broadcaster
11 we're very big supporters of digital television as has Dane
12 mentioned is an important part of the chairman's goals as
13 well as broadband. For consumers to really begin accepting
14 digital television into their homes and their lives aside
15 from the cost, it really has to be a service that serves
16 everyone.

17 I think that one of the important aspects of what
18 the DRO needs to do to help the disability community adopt
19 digital TV which we think is a great idea is that it's
20 accessible.

21 The rules actually require digital TV programming
22 to be closed captioned and very very little of it is. So
23 that's one area we'd love to help you make sure that the
24 programmers understand those aspects.

25 When I show the new digital television sets that

1 have built-in closed captions as I showed to Dane last
2 month, it just knocks people out. It's a fantastic look and
3 feel.

4 But I couldn't go to any deaf consumer today and
5 suggest that they buy a set because so little of the
6 programming is captioned. So I'd love to help you work
7 through that.

8 MR. CHANDLER: Yes, I appreciate those comments,
9 and you know, we are actively looking at digital TV and the
10 closed captioning rules. I can't wait for the day that I
11 can afford an HDTV and certainly we're aware of those
12 comments and we'll continue that dialogue.

13 MS. ROOKER: Bob.

14 MR. SEGALMAN: Around about a year ago, a
15 significant amount of NECCA funds were set aside for TRS for
16 outreach. Can you tell us what's become of that?

17 MR. CHANDLER: I can tell you that my
18 understanding is that at one point on the NECCA budget, I
19 think, there was an item for some outreach that was then
20 removed because it wasn't clear or finalized whether the
21 money could be spent in that way.

22 But more importantly, that is a matter that is
23 part of the open proceeding we now have in TRS and that
24 we're looking into and hoping to address in our upcoming
25 order.

1 So there isn't much I can say more than that. As
2 you know, for these kind of remarks I always rehearse saying
3 I can't answer that question, and I guess that's maybe the
4 first time I get to do that today.

5 But we're aware of that change and the perceptions
6 that resulted from that. It raises some difficult legal
7 issues, and we are looking into that, and that hopefully
8 will be addressed as part of the upcoming order next year.

9 Anything else? No? We can keep ahead of
10 schedule.

11 MS. ROOKER: Thank you, so much.

12 MR. CHANDLER: Thank you.

13 MS. ROOKER: You're welcome. The next person that
14 is going to give us an update is Kris Monteith who is the
15 Associate Bureau Chief for Intergovernmental Affairs. Kris.

16 MS. MONTEITH: Thank you very much. It's a
17 pleasure to be here today. I see some familiar faces from
18 other contexts, and I look forward to meeting others of you
19 at the break and during the day.

20 Tom, you're a hard act to follow. You're very
21 entertaining and lively, and I'm not sure I'm going to be
22 able to live up to that, but I'll try.

23 Just to give you a little bit on my background, I
24 do have a little bit of background with disabilities related
25 issues as well. I joined the Commission in 1997 in the then

1 Network Services Division of the Common Carrier Bureau, and
2 one of my responsibilities there was telecommunications
3 relay services. I worked with Pam Gregory, and Andy Firth,
4 and some others in NSD on those types of issues.

5 Then I moved to the Wireless Bureau, and I headed
6 up the policy division of the Wireless Bureau. There I also
7 had responsibility for disabilities related issues but from
8 the wireless perspective and worked on wireless TTY types of
9 issues and hearing aid compatibility issues.

10 So now I moved to the Consumer and Governmental
11 Affairs Bureau, and I get to interact with all of you folks.

12 So I feel in some ways that I'm coming home or full circle,
13 and that's a very nice place to be.

14 I just want to describe a little bit for you what
15 we're doing in intergovernmental affairs and what our vision
16 is. As you may know, the intergovernmental affairs function
17 was moved from the Commission's Office of Legislative
18 Affairs in March of this year.

19 That was a part of the overall restructuring of
20 the agency to improve the efficiency and effectiveness of
21 the agency overall. Dane brought me over from the Wireless
22 Bureau to head up that intergovernmental affairs effort.

23 Division of Intergovernmental Affairs as we see it
24 is to create a comprehensive affective program of outreach
25 to state, local and tribal governments and other Federal

1 regulatory agencies as well as organizations representing
2 those constituencies.

3 Our purpose there is really three fold. We want
4 to promote an excellent understanding of FCC programs,
5 policies, rules and decisions. We want to establish a
6 beneficial ongoing two-way exchange of information and
7 communications on telecommunications issues of common
8 interest, and we want to establish cooperation and
9 coordination in areas of overlapping jurisdiction.

10 I'd like to describe for you in a little bit of
11 detail but hopefully somewhat briefly the broad areas of
12 responsibility that we see encompassed under
13 intergovernmental affairs and those are the local and state
14 government advisory committee, the Indian telecommunications
15 initiatives, the Federal state joint conference on advanced
16 telecommunications services, intergovernmental affairs
17 outreach generally, and sort of ad hoc special programs that
18 come our way or special projects that come our way that
19 involves state, local and tribal governments.

20 The local and state government advisory committee,
21 as you may know, was formed in 1997 to advise the Commission
22 on issues of concern to state, local and tribal governments.

23 The LSGC has taken an active role in bringing
24 representatives of state and local governments together with
25 representatives of the Commission to produce creative

1 solutions to legal and regulatory issues that are
2 confronting those state, local, tribal governments and the
3 FCC.

4 The LSGC meets six times a year here at the
5 Commission and produces recommendations and advisory
6 recommendations for the Commission's consideration. The
7 Commission's Indian telecom initiatives were originated in
8 2000 and are now housed in CGB.

9 CGB has undertaken a really comprehensive program
10 aimed at laying a solid foundation of understanding,
11 cooperation and trust among the FCC, native American tribes,
12 tribal organizations, Alaskan native communities, and the
13 telecommunications industry.

14 Our goal is to design a clear and comprehensive
15 blueprint for increasing access to critical
16 telecommunication services and improving the quality of life
17 in Indian country.

18 We aim to accomplish this goal by a number of
19 means specifically, through interactive regional workshops,
20 attendance and participation by Commission senior staff at
21 conferences that are sponsored by tribal organizations,
22 meeting with individual tribes and their representatives to
23 address the unique tribal concerns of those individuals in
24 charge, and the dissemination of educational materials to
25 native American tribes and organizations.

1 Through these efforts which we envision will be
2 developed and implemented in a collaborative way with our
3 native American partners, we believe measurable progress can
4 be made towards the goal of achieving access to affordable
5 telecommunications services for all Americans.

6 Turning to the Federal State Joint Conference on
7 Advanced Services, as you may know, that was formed in 1999
8 to fulfill the promise of 706 of the Telecommunications Act.

9 The Joint Conference shares ideas and gathers real-life
10 stories from across the country that are aimed at assisting
11 the FCC in its reports to Congress on the deployment of
12 advanced telecommunications services.

13 The Joint Conference has held field hearings
14 across the country to learn about the deployment of advanced
15 telecommunications services and most recently has undertaken
16 a study of broad deployment and take rates in the U.S. That
17 study will be presented to the National Association of
18 Regulatory Commissioners at its upcoming meeting in Chicago
19 next week.

20 Concerning intergovernmental affairs outreach
21 generally, this is a fundamental aspect of what we in the
22 consumer and governmental affairs ITA area are trying to do,
23 obviously.

24 Now we're just trying to establish and maintain
25 relationships with local state and tribal governments as I

1 mentioned through attendance at their conference, by
2 inviting those folks to come in and meet with us, through
3 really a regular ongoing interactive dialogue with our
4 state, local and tribal counterparts. We will encourage
5 these organizations to interface with us and to ask for our
6 assistance as we all move forward with our telecom plans and
7 our policies.

8 Just to describe a couple of other initiatives
9 that we've undertaken recently, Dane mentioned the National
10 Summit on Emerging Technologies that took place in Phoenix
11 in September of this year and our participation in that
12 national summit as part of our Indian telecom initiatives.

13 The FCC planned a day-long agenda on
14 telecommunications issues, and we had a lot of help from
15 tribal representatives including some that serve on this
16 committee, Belinda Nelson and Vernon James, and we really
17 really appreciate all of their hard work that went into
18 making that day what I think was a huge success.

19 We had leading experts from across the country
20 addressing telecommunications issues really in a nuts and
21 bolts type of fashion. The aim was to inform and educate
22 and to have really an interactive dialogue, and I think that
23 we were hugely successful in that effort.

24 The IGA function was also very instrumental in our
25 recent public forum on rights-of-way issues. Rights-of-way

1 issues are of considerable interest to local officials and
2 state officials and have gotten a lot of play recently.

3 The FCC undertook a public forum aimed at hearing
4 from local authorities and state regulators in the industry
5 on how we might grapple with and hopefully reach solutions
6 to some of those difficult and complex issues.

7 The intergovernmental affairs function of CGB was
8 very instrumental in putting together that program and
9 helping to shape the agenda and identify speakers, and then
10 of course on the day of the program providing logistical
11 support. We have other initiatives of a similar nature
12 underway.

13 I hope I haven't bored you all too too much, but
14 in sum, what we're trying to do with our intergovernmental
15 affairs effort is really establish a concerted very specific
16 plan by which we can do outreach to our state and local
17 counterparts and form what we think will be very beneficial,
18 long-term, ongoing relationships and ultimately help improve
19 and provide the best telecommunications services we can to
20 all Americans.

21 So with that, thank you very much. I appreciate
22 your time and your attention.

23 MS. ROOKER: Do we have any questions for Kris?
24 Okay, well, thank you very much Kris. It was good to hear
25 from you.

1 Our next speaker is Michelle Walters who is Chief
2 of the Policy Division. Michelle.

3 MS. WALTERS: Thank you. Hi. I will try to make
4 this as short as possible. I am so excited about what we're
5 doing in the policy division that I might have a tendency to
6 give you more detail than you want. So please signal me if
7 I'm going down that road.

8 Just to briefly introduce myself and my background
9 so you know where I'm coming from, I worked for a couple of
10 years in the D.C. area at a law firm on telecommunications
11 law matters.

12 I got to dip my toes into a wide range of issues
13 from broadcast, cable, satellite, wireless, really
14 everything except for telephones which, of course, is now a
15 major focus of my work.

16 I was lucky enough to be hired in 1996 to help
17 implement the Telecom Act here at the FCC, and I spent over
18 three years in the General Counsel's office doing
19 litigation.

20 Compared to Tom, I really only had a brief
21 flirtation with appellate litigation, but I actually find my
22 experience very relevant to our work in the policy division.

23 With every order and rule provision, I encourage all of the
24 attorneys to think of themselves gripping the podium in
25 front of demanding judges trying to explain why what the FCC

1 did was right. I think that is something that is very
2 important to all the work that the Commission does.
3 Consumers are best served by rules which stand up in Court.

4 I was working for about almost two years in the
5 Common Carrier Bureau on a number of consumer oriented rule-
6 rule-making proceedings with a very small staff sort of
7 competing for resources.

8 When Margaret Egler and Dane Snowden approached me
9 about the possible plan to move that work over to CGB, it
10 became clear to me that that was going to be a great move
11 not only for me but for everyone who was interested in the
12 consumer protection rule makings that the Commission has.

13 So I came over on a detail basis in the fall of
14 2001. The reorganization took effect in March. So we had a
15 ramping up period, and that was very helpful. By the time
16 the reorg took effect in March, we were really going ahead
17 100 percent.

18 I'd like to describe the policy division to you
19 just briefly. We're a small shop. We have six attorneys
20 plus me, a total of about 15 people and five more on detail.
21 Despite the small size of our group at this point, we have
22 a very broad area of responsibility. We do rule making, we
23 do enforcement, and we do analysis. There aren't that many
24 shops in the agency that cover that range of issues.

25 So I'd like to give you some specifics on each

1 area of our responsibility. First, rule making. I actually
2 think of this in three different pieces. The most
3 significant piece would be our own home grown rule makings.
4 Those are proceedings that we have direct responsibility
5 for.

6 These include the Commission's telemarketing and
7 unsolicited facts rules, the TCPA rules. The Commission did
8 not have an open ruling making. It had rules on the books
9 and they were enforced, but it didn't have an open rule
10 making until this fall when our policy division presented an
11 item which was adopted, a notice of proposed rule making, to
12 seek public comment on whether we should revise or expand
13 those rules.

14 Two attorneys from my division, Richard Smith and
15 Erica McMahon who are sitting over there, will be talking to
16 you later this morning in more detail about what the
17 Commission has proposed and inviting comment from obviously
18 C/DTAC as a group but also any individuals or groups who are
19 represented here. We're very excited about that rule
20 making.

21 The slamming proceeding is probably what people
22 think of the most when they think of our division. We have
23 open rule making on a number of issues, issues that we've
24 received comment on, issues that we have received petitions
25 for reconsideration on. It's a very active area for us, and

1 I'll talk about that more when I get to the enforcement
2 piece.

3 A number of other areas that the Commission has
4 rules in place that we have responsibility for include the
5 truth in billing rules, the operator service rules. That
6 has to do when you're at a pay phone and you want to try to
7 make a collect call.

8 That's just a handful. We do have some others,
9 but I will note that the set of rule makings that we're
10 responsible for is not a closed set, and in fact petitions
11 for rule making that the Commission receives that have a
12 strong consumer component may well end up in our shop.

13 We have a few that have been filed and a few more
14 on the way, and so if you think something's going to be
15 happening at the Commission that has a strong consumer
16 dimension, chances are good that we may be doing it.

17 One secret to our success so far, I believe, is
18 our extensive consultation with FCC's own enforcement
19 bureau. I think it's really key when we have these rules on
20 the books that we're very much in sync in our
21 interpretations with the enforcement bureau.

22 So when folks are calling my attorneys to get more
23 of a sense of, you know, what does the Commission mean or
24 how does this play out in a particular situation, we do try
25 to coordinate with enforcement so that there's some

1 certainty out there and people have a feeling that if they
2 follow these rules they've done the right thing.

3 The second piece of our rule making responsibility
4 is coordination with items that have been originated in
5 other bureaus. We think that many of the things the
6 Commission does these days really really has a consumer
7 dimension that we feel we can contribute to, all kinds of
8 wireline and wireless telephone issues.

9 Really the consumer policy aspect of competition
10 is something we feel strongly about, so a lot of the orders
11 that have come out over the last -- since March or before
12 have had input from CGB policy, and we think that's
13 constructive. Also on the media side, digital television
14 issues, media ownership issues, we are very interested so we
15 are playing a role.

16 Just as a quick side note, we do have strong
17 relationships with a couple of government entities that
18 engage in similar activities. NARUC, the National
19 Association of Regulatory Utility Commissions, are there,
20 the state commissions all around the country, we work with
21 them closely on a number of issues, and we're also in touch
22 with the National Association of Attorneys General along
23 with enforcement.

24 Getting to our own enforcement responsibilities,
25 we do not poach what the Enforcement Bureau does. We have

1 one specific enforcement mission and that is resolution of
2 individual complaints under our slamming liability rules.

3 The Commission can and still does take major
4 enforcement action when they go to a company and say I'm
5 sorry but you have a pattern or practice of, you know, 50
6 slamming violations and imposes a large fine or perhaps
7 comes to a settlement.

8 But under the slamming liability rules which are
9 special, consumers can actually get individual relief on
10 their complaints. That is different from most of our
11 informal complaint process which does not have that type of
12 provision.

13 We have an arrangement with many states where they
14 opt in and administer the complaints from their own citizens
15 which is great because there are really a lot of slamming
16 complaints out there and I don't think our shop could
17 possibly keep up with the flow if we had them coming from
18 all 50 states. It's still a challenge even with the number
19 that we have.

20 I'm proud to say that in the month of October, if
21 my memory serves me, we released 147 slamming orders, many
22 of which resolved more than one slamming complaint, so we
23 have a small very hard working team trying to make sure that
24 they are processed quickly and folks don't have to wait.

25 Thanks for your patience. My last point is the

1 third prong of our responsibility, our analysis function.

2 We have an analysis branch, and the chief of that branch is
3 here, Warren O'Hearn. Hi Warren.

4 Warren and his team take the data on inquiries and
5 complaints that is collected by another part of our bureau,
6 CICD, I think it's Consumer Inquiries and Complaints
7 Division. They analyze this data, they interpret it, and
8 they present it in internal documents and external
9 documents.

10 As you might imagine, data is extremely important
11 to the FCC's decision making processes. It's also important
12 to the public. It's important to companies. It's important
13 to everyone who is interested in this industry and how it is
14 regulated and how it affects people.

15 So we are very excited to have that group in our
16 policy division particularly, I think, for sort of the
17 internal analyses that we can request and draw on and then
18 share as appropriate with other parts of the Commission or
19 with the eight floor. That's what we call the
20 Commissioners.

21 I think that is actually everything that I wanted
22 to tell you about us, but I certainly am happy to take your
23 questions if there's something I haven't covered.

24 MS. ROOKER: Do we have questions for Michelle?

25 Well, Michelle, you obviously answered all their questions.

1 Thank you so much.

2 We appreciate your taking the time, all three of
3 you, to be with us this morning, and you to Pam. We're
4 going to miss you. You'll be with us, I hope.

5 MS. GREGORY: Yes.

6 MS. ROOKER: Good. You can come and visit. We'll
7 allow it.

8 We are going to take a break now. Then when we
9 come back, I'd like you back here by at least quarter of 11
10 because we have a very informational topic coming up -- very
11 informational -- a very informational discussion but also I
12 think it's going to be a very interesting topic for us to
13 address. And we really would like to come out of this
14 meeting today with some recommendations for the Commission.

15 So let's be back here no later in your chairs by quarter to
16 11.

17 (Whereupon, a short recess was taken.)

18 MS. ROOKER: -- We were getting so many dead air
19 time calls especially when we'd go away on vacation and come
20 back and we'd have all these hang-ups on our answering
21 machine. It was maddening to have to go through them. I
22 don't have an answering machine that's voice activated.
23 It's old. What can I say.

24 But nevertheless, the Telephone Consumer
25 Protection Act of 1991 is certainly an interesting piece of

1 legislation, and also in fact, to the many many changes that
2 have taken place in the last decade which has made the rules
3 -- maybe a time to take a look at them, and that's what the
4 FCC is doing.

5 They have come out with some proposed changes in
6 the rules, and this morning we're going to hear from the two
7 people who have written these proposals. Then we're going
8 to have a discussion and hopefully come up with some
9 recommendations for the FCC as to what we think. At any
10 rate, I'm sure that none of us will be hesitant to express
11 what we think.

12 But to proceed, I'd like to introduce to you -- we
13 have two people here. They're both attorneys with the
14 Consumer and Governmental Affairs Bureau, Erica McMahon and
15 Richard Smith who are the authors. Erica is going to speak
16 with us first. Erica, welcome.

17 MS. McMAHON: Good morning. Thank you very much.
18 Again, my name is Erica McMahon. I work in CGB's policy
19 division, and I have been involved in the Telephone Consumer
20 Protection Act, NPRM.

21 As many of you may know, the Commission released
22 an NPRM on September eighteenth. In that NPRM, we are
23 seeking comment very broadly on whether our existing rules
24 on telemarketing need to be updated or whether additional
25 rules need to be adopted in light of new ways that

1 telemarketing is conducted today and in light of new and
2 more widely used technologies for that purpose.

3 Just to give you a little bit of background, the
4 TCPA was enacted by Congress in 1991 in an effort to address
5 what was seen then as certain practices that were intrusive,
6 often invasion of privacy, and in some cases a threat to
7 public safety.

8 In 1992, the Commission adopted rules as directed
9 by Congress to implement the TCPA, and these rules include
10 rules on use of auto dialers, the use of artificial or pre-
11 recorded messages, unsolicited facts ads, and ways that
12 individuals might avoid unwanted sales calls, in this case a
13 company specific do not call list.

14 It has been ten years since the Commission has
15 adopted a broad set of rules to address unrestricted
16 advertising over the telephone and fax machine, so the
17 Commission thought now is the time to look at those rules
18 again and see whether we need to update them or adopt some
19 additional rules.

20 So what I'm going to do is tell you a little bit
21 about the TCPA and then a little bit about what our NPRM
22 does.

23 The TCPA first of all prohibits all auto dial
24 calls or pre-recorded messages to certain numbers. Those
25 would include emergency numbers, numbers for guest or

1 patient rooms in hospitals, health care facilities, elderly
2 homes, or similar establishments, any numbers assigned to a
3 paging service, cellular telephone service or other radio
4 common carrier services, and finally any service for which
5 the called party is charged for the call.

6 The TCPA also addresses line seizure by auto
7 dialers by requiring any pre-recorded messages that are sent
8 by auto dialers to release the called party's line within
9 five seconds of the time that the called party hangs up.

10 What our NPRM does in this area is seeks comment
11 on auto dialers in general, the definition of an auto
12 dialer, and whether we need to clarify that that definition
13 covers the technologies that are used by the telemarketing
14 industry today to market business services. The NPRM also
15 seeks comment on the use of predictive dialers and on
16 answering machine detection.

17 The TCPA also makes it unlawful to send artificial
18 or pre-recorded vice messages to residential telephone lines
19 without the prior consent of the called party or in the
20 absence of an emergency.

21 Now, there are certain exceptions to this rule.
22 For non-commercial calls, commercial calls that do not
23 include an unsolicited advertisement, calls to persons with
24 whom the entity has an established business relationship,
25 and finally calls made by tax-exempt non-profit

1 organizations.

2 In addition to addressing the actual delivery of
3 the pre-recorded message, the TCPA requires that all
4 messages must identify at the beginning of the message the
5 business or entity making the call and during or after the
6 message the telephone number or address of that entity.

7 Our NPRM seeks comment in this area on the
8 identification rules, in particular, whether they apply to
9 the situation when a predictive dialer dials a number but
10 then abandons the call before the telemarketer identifies
11 him or herself.

12 The NPRM also identifies certain types of messages
13 like offers for free goods or services and messages sent by
14 radio stations or television broadcasters. We also seek
15 comment on the established business relationship and whether
16 we need to clarify what exactly constitutes an established
17 business relationship.

18 Finally, we seek comment on the interplay between
19 the established business relationship and a customer's
20 request not to receive calls so that if an entity can under
21 the law send a pre-recorded message to an individual because
22 they have an established business relationship with that
23 individual, what happens when the consumer then requests
24 that they not be called again? Does that entity then have
25 to honor that do not call request?

1 The TCPA also makes it unlawful to send
2 unsolicited faxes without the prior express permission of
3 the recipient. In the NPRM we seek comment on what
4 constitutes express permission. In the NPRM we also seek
5 comment on whether the Commission should continue to treat
6 an established business relationship as providing the
7 requisite permission to send an unsolicited fax add. And
8 lastly we ask about whether we need to address the
9 activities of fax broadcasters and, if so, what ways?

10 The TCPA also prohibits the sending of auto dial
11 calls or pre-recorded messages to a number for which the
12 called party is charged for the call. I just mentioned that
13 a minute ago.

14 What the NPRM gets into a little bit more detail
15 about is whether we need to address specifically
16 telemarketing calls to wireless customers. For purposes of
17 our rules on telephone solicitations, we ask whether
18 wireless subscribers should be considered or are considered
19 residential telephone subscribers, and we ask about whether
20 calls to wireless numbers should fall within the
21 prohibitions on auto-dialers and pre-recorded messages.

22 Lastly and perhaps more importantly for your
23 purposes here, the TCPA required the Commission to adopt
24 rules to give consumers options for avoiding unwanted sales
25 calls.

1 What the commission did in 1992 is to adopt what
2 are called "company specific do not call lists." Under the
3 rules, all companies are required to maintain do not call
4 lists. They're required to have a written policy on a do
5 not call list and to make that available upon demand, and
6 they must place a consumer on a do not call list if that
7 consumer requests that that be done. Finally, the company
8 must honor the do not call request for ten years.

9 In our NPRM, we seek comment very broadly on how
10 effective the company specific lists have been at preventing
11 unwanted sales calls and whether this approach has been
12 unreasonably burdensome for consumers, for instance, whether
13 requests are honored, whether telemarketers hang up before
14 consumers are permitted to assert their do not call requests
15 or do not call rights, and we also ask specifically whether
16 consumers with certain disabilities, hearing or speech
17 disabilities, often may not be able to convey their request
18 not to be called by telemarketers.

19 I do know that some of you in this room have
20 already passed along some of your concerns and suggestions
21 to us over the years, but we hope that you will take
22 advantage of this proceeding by commenting even further on
23 some of these issues.

24 We ask specifically in our NPRM what additional
25 measures should be taken to insure that consumers with

1 disabilities have the opportunity as other consumers to
2 request placement on do not call lists.

3 The NPRM also seeks comment on whether companies
4 should be required to provide some means for consumers to
5 confirm their do not call request, and finally we seek
6 comment on whether telemarketers should be required to
7 transmit caller I.D. information or should be prohibited
8 from blocking such information.

9 I've talked just a little bit about the company
10 specific lists. Now I'm going to turn it over to Richard.
11 He's going to talk a little bit about our discussion of a
12 possible national do not call list.

13 After he speaks, we will then open it up for
14 questions.

15 MR. SMITH: Good morning. My name is Richard
16 Smith, and I'm an attorney in the policy division of CGB.

17 Erica has addressed the Commission's current rules
18 on telemarketing and the efforts to review those rules in
19 our recent notice. I have just a few brief remarks about
20 the concept of a national do not call list which is also
21 discussed in the notice.

22 The national do not call list is basically a very
23 simple idea. It would be a centralized database maintained
24 by the Federal government or someone appointed by the
25 Federal government containing at the minimum the telephone

1 numbers of those residential consumers that do not wish to
2 be contacted by telemarketers. The TCPA specifically
3 authorizes the Commission to consider adopting the national
4 do not call list.

5 In 1992 when the Commission first implemented its
6 rules on telemarketing, the Commission considered the
7 national do not call list proposal. At that time, the
8 Commission concluded that it would costly and difficult to
9 maintain such a database which potentially can have millions
10 of telephone numbers. The Commission, therefore, opted for
11 the company specific approach which Erica has discussed.

12 Well, since that time we have continued to receive
13 complaints and inquiries regarding telemarketing. It seems
14 as though telemarketing has become more and more prevalent.

15 As was mentioned, the use of predictive dialers seems to
16 make it difficult and in some cases impossible for consumers
17 to request that they be placed on the do not call list.
18 This calls into question the effectiveness of some of our
19 current rules, and therefore we have decided to revisit the
20 idea of a national do not call list.

21 Also since 1992, there have been a couple of
22 noteworthy events that may influence what we ultimately
23 decide to do. For example, approximately 1/2 of all the
24 states now have their own do not call lists and
25 telemarketing rules. Some of these very closely parallel

1 the Federal rules. Others have very numerous exceptions. I
2 can think of at least one state that has as many as 20
3 exceptions to its do not call list.

4 Many of you are probably also aware that the
5 Federal Trade Commission has recently issued a proposal to
6 adopt a national do not call list. That proceeding is
7 currently pending, and we understand that there were many
8 many comments filed.

9 One of the questions that we often receive is why
10 is the FCC now considering the do not call list in light of
11 the FTC's actions. There are a couple of very good reasons
12 for that.

13 We have an independent statutory authority and
14 responsibility under the TCPA to regulate certain
15 telemarketing practices. Although the FTC is taking action,
16 we certainly don't know where they will come out on that.

17 In addition, the FTC lacks jurisdiction over a
18 number of entities that engage in telemarketing. For
19 example, the FTC lacks jurisdiction over common carriers,
20 banks, insurance companies, and many others. Presumably,
21 even if the FTC adopts a do not call list, these entities
22 will be allowed to continue to call those consumers who are
23 on those lists.

24 Many of you may also be aware of the Direct
25 Marketing Association's list of numbers of consumers that do

1 not wish to be called. That's also very useful information
2 for consumers. They can sign up for that list on the
3 internet by contacting the Direct Marketing Association.

4 The notice basically divides or in its discussion
5 of the national do not call list into two broad categories.

6 The first is whether or not to adopt the list. The second
7 is if so, how will this work in conjunction with the many
8 state lists and the FTC's possible list.

9 So those are all the issues that we have on the
10 table. We certainly encourage consumers to participate in
11 this industry as you probably are well aware. It needs no
12 encouragement to participate. We meet with them quite
13 regularly.

14 Just as a reminder, the comments are due on
15 November 22. The reply comments are due on December 9. The
16 notice is available on our internet site, and I think I also
17 saw it in the package that was distributed here today.

18 So thank you for your attention. If you have any
19 questions, Erica, Michelle, and I will certainly be glad to
20 take those.

21 MS. ROOKER: Thank you. I think there's going to
22 be a lot of questions. Before we get to the people around
23 the table, I would like to check in with our folks on the
24 phone.

25 Ken, are you on the phone now?

1 MR. McELDOWNNEY: Yes, I am.

2 MS. ROOKER: Well, hello. We're welcoming Ken
3 McEldowney from Consumer Action. And David are you still
4 there?

5 MR. LOWENSTEIN: I am.

6 MS. ROOKER: Good. Let me start with the two of
7 you if either of you have questions or comments for our
8 panelists, and I'll check back with you in a minute and a
9 little bit later also.

10 MR. LOWENSTEIN: Okay.

11 MR. McELDOWNNEY: Shirley, you're so good. Yes, I
12 would just like to make a comment. I think that several
13 years ago when the original telemarketing rule was being
14 proposed to be argued very strongly for the need for a
15 national do not call list, one, to protect consumers, but we
16 also thought it would be advantageous to industry itself.

17 I think what's happened in the intervening years
18 have basically created a situation in which out of complete
19 frustration states have set up their own do not call list,
20 and I think that the anger that consumers have had toward
21 telemarketing calls is coming close to destroying that as an
22 effective means of commerce in reaching consumers.

23 I would strongly urge the adoption of the national
24 do not call list so the consumers who do not wish to be
25 contacted by telemarketer callers would have an easier way

1 of opting out, and then basically the people who either
2 don't care or like getting telemarketing calls would then be
3 in my mind a much better audience for such calls from
4 industry. So I think it's time for both the FCC and the FTC
5 to step up to the plate and do a national do not call list.

6 I guess one last comment, one of the real problems
7 I think with the other national list that's out there which
8 Direct Marketing Association is that in essence in some ways
9 it really is voluntary. It excludes folks who are not
10 members of DMA, and so I think that it's been helpful for
11 some consumers, but I think its shortcomings demonstrate the
12 need for a national do not call list that's administered by
13 the Federal government. Thanks Shirley.

14 MS. ROOKER: Thank you Ken. I think we're
15 probably going to have quite a bit of discussion on this.
16 David, do you have any initial comments?

17 MR. LOWENSTEIN: No, I'm just listening and taking
18 good notes for Milton.

19 MS. ROOKER: Okay. You've heard Ken's comments,
20 and let's go around the table with the other people who I
21 just met.

22 MR. KALTENBACH: Matt Kaltenbach, Sony Ericsson.
23 I have two questions. Number one, do you have contact
24 information for where to complain when a telemarketer does
25 not stop after he's been requested to stop phoning or faxing

1 a residential location? And number two, are you considering
2 an e-mail do not spam list as a national on-line service?

3 (Applause.)

4 MS. ROOKER: I like that. I used to think spam is
5 what came in a tin can.

6 All right. We had some other hands on this side
7 of the table. Who was here?

8 MS. McMAHON: Actually, can I answer him?

9 MS. ROOKER: Oh, okay. Go ahead. Absolutely.

10 MS. McMAHON: With regard to your first question,
11 one good thing to do if a consumer feels that their right
12 has been violated by getting a repeat call when they've
13 asked to be taken off the list or getting an unsolicited fax
14 is file a complaint with the Commission.

15 CGB's web site has a pretty easy format. If you
16 just go to www.fcc.gov and -- for consumers? Is that how
17 it's labeled? And it's also how to file a complaint. There
18 are a couple of different ways that will get you to the
19 place where you can do it. If you're filing a complaint
20 about an unsolicited fax, you might want to -- you want to
21 attach the fax. You know, that actual evidence is
22 important.

23 I will also note something that I don't think we
24 mentioned but something that everybody should be aware of
25 which is the TCPA is an unusual statute. In addition to

1 giving the FCC the authority to pass regulations and take
2 enforcement action, it also gave individuals a private right
3 of action.

4 It may be affected by what your state has done.
5 You know, some states I think seem to prohibit consumers
6 from exercising that right, but in most states, you can
7 actually take the violator to small claims court. And there
8 are people who are actually finding that to their financial
9 benefit because they can prove it and they go to court. So
10 it's a \$500 per violation.

11 MR. McELDOWNEY: The problem I have is if the fax
12 numbers are removed somehow automatically from the system.

13 MS. McMAHON: Yes.

14 MR. McELDOWNEY: And even when you submit yourself
15 to the number they provide, you just don't get removed.

16 MS. McMAHON: Right, no. Well, it can be
17 challenging, and I'm just saying that in addition to filing,
18 I would actually recommend that people do both myself. You
19 know, you file a complaint with the FCC so the FCC is aware
20 of the scope of the problem, and the, you know, if you can
21 go to court and prove that your rights have been trampled
22 on, you should do it. So quite a lot of people do do that.

23 About your other question, e-mail spam, I believe
24 it's safe to say the Commission has never been given the
25 express authority to regulate the internet, so --

1 MR. McELDOWNNEY: At my last log on, I had 1080
2 spams.

3 MS. McMAHON: Yes. I think that's something that
4 at this point, you know, the Commission has a role to play
5 with certain aspects of the internet, the telephone lines
6 that the internet service goes over, but the TCPA has not
7 been interpreted thus far to apply to e-mail, so I think
8 that's something that's really outside the scope of this
9 rule-making. It's not addressed in it.

10 That being said, you know, you can certainly -- I
11 would say go to your members of Congress and tell them how
12 you feel about it. You know, I think there's a lot of
13 interest afoot. There may actually be something on the hill
14 already, you know, maybe more than one. But it's just not
15 something that Congress has ever said FCC you have a role to
16 play, do this.

17 The Federal Trade Commission has broader authority
18 over internet matters than we do, but to my understanding,
19 it's been more focused on fraud, fraudulent internet, and
20 you know, oh, our spam is not fraud, it's just intrusive and
21 excessive.

22 MS. ROOKER: Before you move on to another
23 question, I'd like to -- being the Chair, I'm going to take
24 advantage of that position and the microphone.

25 When a consumer is given the right to tell a

1 company not to call them, I believe that that right is
2 preemptive by predictive dialers because when you answer the
3 phone and there's dead air, you don't have the ability to
4 tell that company not to call you. They've already called
5 you. They've already caused you to get out of the shower
6 and pick up the phone. So they're going to call you again.

7 Isn't that in violation of the TCPA in that
8 they've called you, you've not been able to tell them not to
9 call you again?

10 MS. McMAHON: I think that -- I can't tell you
11 that it is because the Commission hasn't addressed that
12 question. But your question has been keyed up expressly in
13 the item, I believe, very explicitly to give the Commission
14 an opportunity to say how it feels about that.

15 I mean, predictive dialing just wasn't in use
16 either at all or extensively when those rules were put in
17 place, and the Commission has not given an interpretation to
18 say how it fits into the scheme. But I feel pretty certain
19 that it will when it decides this order.

20 MS. ROOKER: Okay, so it would be appropriate then
21 for us as a committee, if we choose to, to make a
22 recommendation on that?

23 MS. McMAHON: That isn't -- yes, it's something
24 that the Commission hasn't expressly addressed, and if you
25 want to make a recommendation, you should do it.

1 MS. ROOKER: Okay. David, I think you had a
2 question.

3 MR. POEHLMAN: Hello, this is David Poehlman with
4 the American Counsel of the Blind. I have two questions,
5 and I'm not really sure -- or discussion points, and I'm not
6 really sure which one to bring up first, but I'll bring up
7 the funny one first.

8 I'm developing a list of people who want to be on
9 my do call list. Anybody want to volunteer, just raise your
10 hand. There you go. That brings up a point, I'm aware of
11 we're starting to see more and more really nice little
12 things that say so if you want information from us, better
13 check in this box. Now, usually it's checked. So I uncheck
14 it right? But, if you uncheck it, you know, there's a fair
15 chance that you won't get anything from them that you didn't
16 ask for.

17 So my question is, and I've asked this in
18 different circles in different ways and I get the same
19 answer all the time so maybe I'll get a different answer
20 here, but my question is why don't they have a do call list
21 and anybody that's not on it doesn't get a call?

22 Then my other avenue of discussion is how do you
23 establish yourself on a do not call list? And what I'm
24 asking here is how much information do I have to provide in
25 order to have the privilege of not being bothered by these

1 telephone calls?

2 The only reason I ask that is because in light of
3 some relatively recent events, it is a concern to me that
4 there are huge lists of data, you know, people's whereabouts
5 and personal information, and so forth, that if they fell
6 into the hands of the wrong people or something that, you
7 know, could make it very difficult or could make it very
8 easy for some things, some massively disruptive things, to
9 happen. So those are my two things.

10 MR. SMITH: Just in terms of what I would call the
11 do call list, certainly that's an idea that we would be open
12 to, and we would invite you to file comments on. Obviously
13 the industry would not like that idea. We certainly are
14 doing what we can, and the notice is written broadly, so if
15 anyone has ideas like that, we are certainly open to them.

16 In terms of what type of information would be
17 required to place you on the do not call lists, we are aware
18 of the privacy concerns, but until we do decide to adopt a
19 national do not call list, I don't think we would have any
20 real ideas or suggestions at this point as to what types of
21 information would need to be provided.

22 MS. WALTERS: Can I make a couple of additions?
23 It's Michelle again. Just to elaborate on a couple of
24 things that Richard said, the idea of a do call list is
25 certainly something that if you have thoughts, you know, we

1 welcome putting it into the record.

2 I will just note that the TCPA itself, the
3 statutory language, I don't remember what you call that part
4 of it. It's kind of like the preamble. It sort of sets out
5 principles, and one of the principles that it talks about is
6 striking an appropriate balance between the interest in
7 consumers, protecting their privacy, and legitimate
8 telemarketing -- the legitimate interest of businesses in
9 telemarketing.

10 So, you know, you would have to make not only a
11 policy argument but I think a legal argument about how the
12 Commission could go all the way in that direction. But I'm
13 not saying, you know -- this town is full of people who make
14 very good legal arguments, so I encourage you to do it.

15 But I wanted to note that I think it would be very
16 important for that argument to look at the statutory
17 language in addition to take a policy position.

18 I just wanted to point out one other thing about
19 privacy. I mean, I believe the way the company specific do
20 not call lists are set up is that if you say -- you know,
21 they have called you and they have said Mr. Poehlman, you
22 know, I want to sell you something, and you say please
23 remove me from your calling list, never call me again,
24 they're supposed to put you on the list. I mean, I don't
25 think that there is any additional information. I don't

1 think the rules contemplate that they would extract
2 additional information from you at that point.

3 How do they log you in? I don't know that, but I
4 mean, I think that, you know, the Commission would certainly
5 frown on them -- I think it would probably be a violation if
6 they said, well, first you have to tell me 10,000 things
7 about you.

8 I will note actually when the Commission rejected
9 the national do not call list initially ten years ago, it
10 did talk about some privacy concerns, about uses to which
11 that massive information might be put, and obviously there
12 are privacy concerns all over this, and none of it is
13 insurmountable. But I think, you know, all proposals are
14 going to be examined in a number of lights and one of them
15 is the privacy implications.

16 MS. ROOKER: Okay. Thank you. Dirk, I think you
17 were next. And then Jim, did you have a question? Okay,
18 and then Bob. Okay.

19 MR. HARGRAVES: I'm Dirk Hargraves, counsel to
20 TRAC, and we want to just come out and say that we're
21 supporting and everything we can help consumers not to get
22 spammed by my e-mails and what have you or faxes, but I also
23 wanted to mention and this is probably not the appropriate
24 forum, but the issue was raised that TRAC, in conjunction
25 with NCL and Consumer Action filed a petition at the FTC to

1 ban spam, and we encourage all of you here to talk to your
2 constituents to join us.

3 You can go to our web site that we've put up
4 called banthespam.com or contact me after this meeting and
5 discuss ways in which we're trying to heighten the profile
6 on this issue.

7 MS. ROOKER: Thank you, Dirk. Jim?

8 MR. TOBIAS: Hi. This is Jim Tobias, Inclusive
9 Technologies. I have two questions and maybe you can answer
10 the first one first. It's the level of aggregation with
11 respect to the concept of an existing business relationship.
12 So I don't know what the current status is.

13 Is it only that company, only that incorporated
14 entity, that you have the relationship with or is it
15 possible for callers to aggregate across entities? My
16 concern would be, let's say, I get put on a do not call list
17 and then in the act of shopping at my neighborhood
18 supermarket I am somehow re-establishing an existing
19 business relationship and so someone somewhere gets the
20 right to call me again. So what's the current status of
21 aggregation on a calling list?

22 MS. McMAHON: I'll try to answer that. Let me
23 jump back and sort of reiterate something I said earlier,
24 and that is there is an exemption in our rules for entities
25 to call or send pre-recorded messages to individuals with

1 whom they have an established business relationship.

2 Now, both in the statute and in our rules there is
3 a specific definition of established business relationship,
4 and we are actually seeking comment on that definition and
5 whether we need clarify it.

6 In addition, to get to answer your question, there
7 is also a provision in our rules about affiliated persons or
8 entities, and it really comes down to whether the consumer
9 "reasonably would expect" them to be included given the
10 identification of the caller and the product being
11 advertised.

12 So therefore, if you had a relationship with AT&T
13 and they were calling you and one of their subsidiaries is a
14 subsidiary that the consumer reasonably would expect them to
15 be a subsidiary and you would, you know, by virtue of your
16 relationship with AT&T would also expect that that other
17 company would be able to call you in the absence of a do not
18 call request. That is the current state of the rule now.

19 But I would certainly encourage any of you all, if
20 any of the consumers, your constituents, have had concerns
21 with that to file comments on that particular issue because
22 I think we've asked questions on this NPRM broadly enough
23 that we could, in fact, address some of those concerns.

24 MR. TOBIAS: Okay. Thank you. And just one more.

25 I'm going to kind of turn it around a little bit

1 because I do understand and as Dane Snowden mentioned, you
2 know, I think he said \$600 Billion a year changes hands in
3 telemarketing, so that there are millions of people out
4 there who want to receive these calls. And actually in
5 surveys they'll say that this is their favorite way of being
6 sold to. They prefer it. And that's fine. Different calls
7 for different folks I guess.

8 My question really is about the accessibility of
9 telemarketing, and I think there were many issues, and we
10 already heard that some of them have been raised. But let
11 me put one item out and that is the situation where someone
12 who is deaf or hard of hearing answers the call in a mixed
13 household, and the marketing is assumedly happening in
14 speech and in English, and the person who receives the call
15 has to go and get the other person in the household to
16 answer the call. And I think it's the same situation if
17 it's a non-English speaker getting an English speaker in the
18 household.

19 Now, I understand that there is a maximum amount
20 of time for the telemarketer to clear the line once the
21 called party has hung up. Is there a minimum amount of time
22 that the telemarketer must remain on the line when the
23 called party has asked them to hold, and is that something
24 that would be reasonable to include in a comment?

25 MS. McMAHON: To answer your question, yes, it

1 would certainly be reasonable to include in a comment, but I
2 don't think the TCPR rules addresses what you're describing.

3 MR. TOBIAS: But would the law. I mean, could you
4 make a ruling?

5 MS. WALTERS: I mean, I would say I don't think
6 it's unreasonable. I think you should file comments and,
7 you know, it's not something that the statute specifically
8 addresses, and so then it would be a question of first, you
9 know, was there support for taking this approach and then
10 was it something that fit into the rules.

11 I mean, I could see that it might be, but there's
12 not something at this time that addresses that, but
13 certainly -- I guess the other question is just when you do
14 an NPRM and notice, you have to make sure that notice is
15 broad enough to take actions.

16 I think this notice is fairly broad. I think we
17 ask some broad questions about how our rules could be
18 improved to address issues that have come up since the
19 Commission last adopted the rules. So I encourage you to
20 put this type of thing into comment because the Commission
21 would consider it.

22 MS. ROOKER: Okay, I think Bob, you were next.

23 MR. CHROSTOWSKI: These questions are more of from
24 my own personal nature rather than TIA, but I think they'll
25 be appropriate.

1 First, the question is that this order is directed
2 at consumers, but big business as well as small business
3 feels the affect of what's going on, especially with the
4 noticeable increases in unsolicited faxes.

5 I was wondering, was this addressed in the prior
6 go around that it's not targeted specifically at consumers
7 because small business are consumers, in essence. So what
8 is the ruling? How does the ruling affect the commercial
9 establishments?

10 MS. McMAHON: Yes, well, the TCPA is a little
11 tricky sometimes because in some cases a particular
12 provision only applies to calls to residential telephone
13 subscribers. They would not extend to business numbers.
14 But in the area of our unsolicited fax prohibition, that ban
15 actually extends to both businesses and residential numbers.

16 MR. CHROSTOWSKI: Okay, thank you. And my second
17 question was to Richard. You named some exclusions, and you
18 mentioned charities. Was that also political calls as part
19 of the exclusion premises?

20 (Laughter.)

21 MR. SMITH: Yes. That's a short answer.

22 MR. CHROSTOWSKI: Can we change that?

23 MS. ROOKER: I'm wondering does it include the
24 professional fund raisers who say they're calling on behalf
25 of a charity, notably the Firemen's Association or the

1 Policemen's Association, when in fact I think about 70
2 percent of those funds go to the fund raiser. Are they
3 excluded?

4 MS. McMAHON: Well, the Commission has ruled in
5 either it's '92 order or maybe in one of its orders on
6 reconsideration in the mid nineties that a, you know, for-
7 profit telemarketer that is hired by an entity to do its
8 fund raising would, in fact, be able to also take advantage
9 of an exemption.

10 So in that situation, I mean, if the exemption
11 applies to, say, a non-profit charity, just because it hired
12 a for-profit organization wouldn't mean that it still
13 wouldn't be permitted to make those calls.

14 MR. CHROSTOWSKI: Okay.

15 MS. ROOKER: All right. We have some other, now
16 who had their hands up first? I'm not sure. Jeff. I'm
17 hearing Jeff was next, and then we'll go down the --

18 MR. KRAMER: I'm not sure I'm next but next to
19 Shirley. Jeff Kramer with AARP. In the interest of time,
20 I'm not going to reiterate, but I do want to echo our
21 support for the comments that Ken McEldowney made in saying
22 how important we think that a national do not call list is
23 to consumers.

24 Telemarketing and the concerns about telemarketing
25 fraud have been something AARP has worked on for a number of

1 years. We've done studies. We've done a number of focus
2 groups and found that older Americans tend to be more
3 susceptible to fraudulent telemarketing calls. More and
4 more, especially with predictive dialers and other things,
5 they're becoming afraid to almost pick up the phone, so we
6 think something needs to be done.

7 We'll be filing comments, so you'll be hearing
8 what we have to say on a number of the issues you talked
9 about.

10 I guess my question is about the coverage and the
11 exemptions. Do you envision, if the FCC were to do
12 something similar to what the FTC will hopefully adopt, do
13 you envision covering the exemptions that the FTC doesn't
14 have jurisdiction over it or do you just envision this being
15 the common carriers now being included and then we would
16 still have the exemptions for the banks, and insurance
17 companies, and those kind of things?

18 MR. SMITH: I think we would envision that our
19 rules would cover all of those entities.

20 MR. KRAMER: Okay.

21 MS. WALTERS: Just to add, though, what we on the
22 staff level envision at this moment can't really predict
23 what the Commission's going to do.

24 MR. KRAMER: Sure.

25 MS. WALTERS: And so the record will influence the

1 options that the Commission feels it has, and if you all do
2 have a chance to take a look at this document if you're
3 curious to find out more, you'll find that the Commission
4 has framed its questions pretty broadly in terms of the
5 national do not call list, in particular, but also some of
6 the other issues to really try to get as rich a record as
7 possible and to feel like it has a lot of different options
8 for how it might proceed.

9 So you know, it's an unusual situation to have one
10 agency proposing to do something, to have another agency
11 saying, well, what are our range of options, so comment will
12 be extremely important, and I really encourage people to
13 look at the specifics of what the Commission has said.

14 MR. KRAMER: Thank you.

15 MS. ROOKER: Okay, Andrea. We'll just go around
16 the table if that's all right.

17 MS. McMAHON: Can I just jump in here very
18 quickly?

19 MS. ROOKER: Sure.

20 MS. McMAHON: Michelle reminded me. We do have a
21 section in our NPRM that discusses the exemption for tax
22 exempt non-profit organizations, and you had asked about a
23 for profit telemarketing group that is hired by a non-profit
24 to do its fund raising.

25 But we do have a related question in our NPRM that

1 you might be interested in, and that is when a non-profit
2 organization is conducting a joint solicitation with a for-
3 profit organization.

4 In other words, the non-profit organization is
5 making the calls, soliciting funds for its organization but
6 at the same time indicating that a certain part of those
7 proceeds will go towards the purchase of a magazine, or
8 something like that, which would benefit the for-profit
9 organization that it was conducting the joint solicitation
10 with.

11 So if you all have had experience with those types
12 of calls, we would certainly be interested in your comments
13 in that area.

14 MS. ROOKER: Okay. Andrea.

15 MS. WILLIAMS: Andrea Williams from CTIA. I have
16 two questions, one is basically sort of piggy back on Jeff
17 with respect to more coordination, and the second question I
18 think is more of a legal question.

19 Is there any coordination or, I assume, I hope
20 there is between the FTC and the FCC? I think my fear is
21 that what you're going to come out with are dueling
22 regulations, and then you're going to be in a situation
23 where an industry is trying to implement rules that may be
24 conflicting. So that's my first question.

25 My second question is whether this national do not

1 call list, if the Commission decides and the FTC decides
2 that this is a good thing to do and move forward, will that
3 decision preempt or supersede state do not call lists?

4 MS. WALTERS: Andrea, have you had a chance to
5 read the NPRM yet?

6 MS. WILLIAMS: Not all of it, no.

7 MS. WALTERS: Okay because I think that -- and it
8 is sort of the back half of the document --

9 MS. WILLIAMS: Okay.

10 MS. WALTERS: -- that is more relevant to your
11 issues, so when you get there I hope you find it more
12 informative.

13 The FTC and the FCC have been talking to one
14 another. You know, when -- I think Richard sort of
15 mentioned that we were aware that there were a lot of
16 comments filed.

17 In fact, Richard and Erica attended basically the
18 entire FTC forum. They've read numerous comments that have
19 been submitted in the other agency's proceeding, and on
20 various levels, the two agencies have been talking to one
21 another.

22 So we pretty much know what they're proposing, and
23 they pretty much know what we're proposing. I think that a
24 higher level of coordination would really be impossible
25 considering the fact that we have two statutes and that

1 there are a lot of different things going on at this early
2 stage, but I would expect that coordination would continue
3 and become, you know, even more coordinated as these things
4 progress.

5 I will just note that although the Commission
6 reserved the option to take complete action at this time,
7 the Commission did note that it might potentially find the
8 need to seek further comment on certain issues particularly
9 pertaining to a national do not call list.

10 If, for example, the FTC were to act, you know,
11 very shortly and they had an order, a rule, instead of a
12 proposal, the Commission reserved its right to seek some
13 additional comments. So in addition to the agencies talking
14 to one another, the FCC has said we might need more
15 information to get a better understanding of how things
16 might fit together.

17 In terms of state do not call lists, I'm pretty
18 sure that the item tees up pretty directly what would be the
19 relationship of a national do not call list to state do not
20 call lists. Is that right you guys?

21 MS. ROOKER: Okay. Brenda.

22 MS. BATTAT: One thing I can say, one easy way to
23 get rid of them is to just say call back on the relay,
24 please, and they put down the phone immediately.

25 (Laughter.)

1 But I have a real major concern. People with
2 hearing loss often will pick up the phone and they don't
3 hear enough to know what is this call. They don't know how
4 to differentiate is this a call that I need to try to hear
5 or try to find a way to get this information, or is this
6 just a call that I really don't need to hear. They really
7 don't know what they're dealing with, and it can be scary
8 particularly for older people. It can also be very
9 worrisome about maybe they've missed something important.
10 Maybe it's a friend calling and they cannot figure out what
11 this call is. So it's a big concern.

12 One of the things that I hope that you will -- so
13 I think there definitely needs to be some way that we can,
14 you know, either have a do call or don't call list. But my
15 concern is that to get onto the list, whatever kind of list
16 it's going to end up being, that getting onto it is made
17 consumer friendly for all people with disabilities, that
18 there are multiple ways that you can get onto that list and
19 it does not require a phone call, for instance.

20 There has to be multiple ways to access getting
21 onto that list and also that the information, that the list
22 -- the awareness and information about the existence of that
23 list is made accessible to people with disabilities.

24 MS. ROOKER: Okay. I think Susan was next.

25 MS. GRANT: Hi. Susan Grant, National Consumers

1 league.

2 Is the definition of pre-existing relationship set
3 by the statute or is it set by the rules susceptible to
4 change? I ask because I think that this is going to be a
5 much more important issue with the possible creation of a do
6 not call list and the question of, for instance, whether you
7 buy something in a store and give your phone number whether
8 that implicitly then allows you to receive telemarketing
9 calls from the vendor.

10 MS. McMAHON: I appreciate that comment. I'm just
11 checking on one thing. The definition of an established
12 business relationship is found in the Commission's rules,
13 and while the statute, the TCPA, created the established
14 business relationship exemption, it was not defined there.
15 It was defined only later in the Commission's rules.

16 MS. ROOKER: Does that answer your question,
17 Susan?

18 MS. GRANT: Yes.

19 MS. ROOKER: Okay. Bob.

20 MR. SEGALMAN: I just wanted Brenda to know that I
21 have implemented her idea using a tape recorder next to my
22 speaker phone that tells people to call back with Speech to
23 Speech.

24 MS. ROOKER: Thank you, Bob. Nanci.

25 MS. LINKE-ELLIS: This goes in with what both Bob

1 and Brenda said, but my personal frustration is with the
2 unsolicited fax which now seem to be coming in alarming rate
3 but there's no fax number to send it back to to say do not,
4 you know, take me off your fax list, what they do is they
5 give you a phone number to call, and then there are a series
6 of buttons and things, you know, that you have to follow.

7 Because of that -- and I continue to either do it
8 or have somebody do it for me -- but who takes note of the
9 fact that, you know, that when I put my stuff on "do not fax
10 me again list," how do I know that that's actually being
11 done.

12 Since there's no money back, how do I know that
13 there's any enforcement. I mean, what can I do to stop
14 wasting my time? I mean, who is going to be the one that's
15 really actually going to do something about this besides
16 taking my comments?

17 MS. McMAHON: Well, let me start off by
18 reiterating that the TCPA's prohibition on unsolicited fax
19 ad is very broad and it's really -- it doesn't require one
20 to request that you be placed on a do not fax list.

21 In other words, an entity or business is not
22 permitted to send you an unsolicited fax ad without your
23 prior express permission. So if, in fact, you haven't given
24 your permission, you are receiving these unsolicited fax
25 ads, I think you have a violation of the law, and you would

1 be able to file a complaint with the FCC on that.

2 MS. ROOKER: Can't you also take him to small
3 claims court?

4 MS. McMAHON: Absolutely, yes. As Michelle
5 described --

6 MS. ROOKER: Right.

7 MS. McMAHON: -- there is the private right of
8 action. You could go to small claims court.

9 MS. ROOKER: You can do the same -- I mean, many
10 of us don't have time to go to small claims court, but --

11 MS. WALTERS: Nancy, I understand your frustration
12 because you're talking about the practical problem of just
13 getting them to stop, and the problem is that, I mean, they
14 don't get the one bite at the apple the way a telemarketer
15 does.

16 A telemarketer can legitimately call you the one
17 time and you say never call me again, and they put you on a
18 list for ten years. But the fax ad was never supposed to be
19 sent to you in the first place, and so the fact that they
20 are not, you know, honoring our list and they put an 800
21 number that doesn't really go anywhere, or whatever, that
22 just compounds the problem.

23 You know, some people are not aware of the fact
24 that they're really not allowed to do it the first time.
25 And obviously there is an enforceability problem. Sometimes

1 you might want to go to Court but you just don't know who
2 they are.

3 I really encourage you to file complaints with the
4 Commission and make sure the people know that. We are
5 talking about ads, so there are -- it's less clear about
6 other kinds of unsolicited fax context, but in the main,
7 people typically send these because you want you to buy
8 something.

9 MS. ROOKER: Let's go to our phone again. Ken, do
10 you have any comments?

11 MR. McELDOWNEY: No. I think the comments I have
12 were pretty much expressed right in the beginning. So I
13 don't really have anything to add.

14 MS. ROOKER: David?

15 MR. LOWENSTEIN: No, nothing to add.

16 MS. ROOKER: Okay. Do we have any other questions
17 for our panelists?

18 (Pause.)

19 Let me be sure that I understand clearly some of
20 the things that we've brought up today: one is the
21 feasibility of a do not call list; another which Bob brought
22 up about whether or not small businesses or businesses in
23 general are included in the prohibition or the ability to
24 tell a telemarketer not to call you. I'm not sure we got an
25 answer to that.

1 I'd like to know what the answer to that is
2 because I run a small business, and I will tell you that we
3 get telemarketing calls from people. I don't want them. We
4 also get faxes which are illegal, but they do it anyway.

5 Do businesses fall under the prohibition against
6 calling you again if you tell them not to? Maybe you
7 answered that and I didn't understand it. I do miss things
8 some times.

9 MS. McMAHON: Okay. I'm going to try to answer
10 your question and then follow up if I haven't.

11 Under the current PCPA rules on telephone
12 solicitations, if an entity calls you, you may request that
13 they place you on a do not call list.

14 MS. ROOKER: As a small business, you're talking
15 about?

16 MS. McMAHON: No, no. Forgive me. I'm sorry.

17 MS. ROOKER: As an individual. Okay.

18 MS. McMAHON: Okay. Now I get what your real
19 question is.

20 MS. ROOKER: I'm asking about a small business.
21 Do I have the same right under this law?

22 MS. McMAHON: The short answer is no.

23 MS. ROOKER: Okay.

24 MS. McMAHON: Currently, the definition of
25 telephone solicitation only includes calls to residential

1 telephone subscribers. So the do not call provisions which
2 apply to telephone solicitations would not extend to
3 business numbers.

4 In other words, you could not place a business
5 number or require a company to place your business number on
6 their do not call list. Now, that doesn't mean that we
7 wouldn't encourage a business to request that they be placed
8 on a do not call list. It may be that there are a lot of
9 telemarketers out there that would, in fact, honor that
10 request.

11 MS. ROOKER: Okay. Matt?

12 MS. WALTERS: And then -- sorry. Erica, she did
13 say this earlier, Shirley, which is that faxes are
14 different.

15 MS. ROOKER: Oh, yes. I know that.

16 MS. WALTERS: The fax --

17 MS. ROOKER: I know that, right.

18 MS. WALTERS: -- part is not restricted to
19 residential so --

20 MS. ROOKER: I understand that, right.

21 MS. WALTERS: -- anyway.

22 MS. ROOKER: Matt.

23 MR. BENNETT: I have a question. Is there
24 consideration for a do not call list, don't care about the
25 relationship, don't care if it's a business, don't call me

1 anytime, anywhere, anyplace, just don't call without any
2 exemptions, without any exclusions, this is don't call me
3 list?

4 MS. ROOKER: And this is a man from a telephone
5 company?

6 (Laughter.)

7 MR. BENNETT: I'm sorry.

8 MS. ROOKER: I couldn't help that, Matt. I'm
9 sorry.

10 MR. SMITH: I know it's a TCPA in allowing us to
11 establish a national do not call list specifically limits us
12 to residential customers, so it would not allow.

13 MS. ROOKER: I'm sorry. I'm having trouble
14 hearing you. I suspect some others are too.

15 MR. SMITH: The statutory authority on the TCPA,
16 the language for national do not call list, would limit us
17 to residential customers only so therefore it would not
18 allow business customers to be on that.

19 MS. ROOKER: I think his question was can you just
20 say to everybody in the world don't call me.

21 MR. SMITH: I think the answer to that is no.

22 MS. ROOKER: Okay. I'm not sure who's first. Do
23 you want to follow up on that?

24 MR. CHROSTOWSKI: Bob Chrostowski. I guess the
25 issue is that if your number is published in a telephone

1 directory, does that constitute disclosure that makes you
2 eligible to receive these calls? I think that's the real
3 heart of the matter.

4 MS. WALTERS: Well, I mean, having a number
5 published in a directory does not constitute your express
6 permission. I think that because people are allowed to --
7 entities are allowed to telemarket to you unless you ask not
8 to be -- I mean, they can call you but it doesn't count as
9 your express permission to do so.

10 They can call you the one time. You say take me
11 off your list. You know, I don't think -- I believe -- is
12 that something that the Commission said expressly or am I
13 just expressing a staff opinion?

14 Oh, perhaps the Commission has not said that
15 expressly, but I think that certainly -- on a staff level
16 that's my operating concept. I mean, an established
17 business relationship is a different kind of thing.

18 I hate to note, but I will say again that what
19 Richard is talking about, the Commission's inability to
20 mandate a national do not call list that extends to everyone
21 and not just residential customers is because the statute
22 limits the Commission's authority. So going to Congress is
23 a way to get a statute with broader authority.

24 MS. ROOKER: Okay. David, Andrea, and then Nancy.
25 I'm not sure if that's the right order. I apologize if it

1 isn't. David.

2 MR. POEHLMAN: This is David Poehlman with the
3 American Council for the Blind again. I have a couple of
4 things that have been raised either through further thinking
5 or observing and taking part in the discussion.

6 One is, is there any role being played or can
7 there be asked a role to be played by the telephone
8 companies in this process. For example, would it be
9 possible when you sign up for new phone service just for the
10 phone company to say would you like to receive telemarketing
11 calls, yes or no. And you say no, then they put you on a do
12 not call list that's distributed, you know, to organizations
13 that have signed up to receive it. That's one thing.

14 Another thing is if your number is not published -
15 - and I guess I could ask this another way, but if your
16 number is not published, does that trigger some indication
17 that you don't want to be called by telemarketers?

18 Or to put it another way, are there certain
19 practices of obtaining telephone numbers that are not
20 permissible under any statute or any regulation that the
21 Federal government or any of the state governments now hold,
22 and how well are they enforced? I guess those are my two
23 things.

24 MS. ROOKER: They're all looking puzzled, David.

25 MR. SMITH: I don't think we exactly know the

1 answer to your second question. Just in regard to your
2 first question, I know that in the notice we have asked
3 about how to better inform consumers of the existing
4 company's specific list, and so if you have any ideas, we'll
5 certainly welcome those.

6 Also, there's a laundry list of things that the
7 Commission has to do if we do adopt a national do not call
8 list, and I believe one of those is to require the common
9 carriers to notify their customers of the existence of such
10 a list.

11 MS. WALTERS: David, it's Michelle again, and I
12 will say I am not aware of any special treatment that you
13 get if you have an unpublished number in terms of
14 telemarketing. Our rules don't have any special provision
15 for those who have unpublished numbers. It's possible that
16 some state regimes may recognize that as a category.

17 Some entities do their telemarketing by using
18 phone books or customer lists that they've gotten from, your
19 know, or were purchased through a warehouse or something.
20 Some may do it by just going through all the numbers in a
21 particular exchange, so I don't think that -- my guess is
22 that you probably get a little less if you use -- just from
23 a practical standpoint -- if you have an unpublished number
24 because certainly -- you know, I think a lot of sort of
25 local businesses who engage in telemarketing may want to

1 come clean your gutters, or whatever, they just use their
2 local phone book, and if you're not there, they won't call
3 you.

4 So as a practical matter, that might be helpful,
5 but other telemarketing does take place in a more, you know,
6 systematic way and that might not protect you. But I am not
7 aware of any regime that puts unpublished numbers in a
8 special category for that purpose, you know, avoiding
9 telemarketing or saying it's more of a violation to call you
10 as opposed to calling me.

11 MS. ROOKER: I know that Andrea and Nancy both had
12 their hands up. Okay, Nanci Linke-Ellis.

13 MS. LINKE-ELLIS: Going along with the, you know,
14 about how telemarketers use phone books, I think maybe one
15 of the most obvious ways to sell this is that this should be
16 -- common carriers should be required to put in their phone
17 book a list of places where they can make a complaint. You
18 know, list a phone number for, you know, unsolicited phone
19 calls, list a fax number for unsolicited fax so that at
20 least we have a place to, you know, to qualify the fact that
21 we have been receiving them.

22 I could very easily go to small claims court. You
23 know, that would take work. It would take time. It would
24 take money. What I would like to be able to do is just take
25 a fax that comes in to me and write "do not fax me again,"

1 and fax it back to them. But they don't provide a fax
2 number. So there's got to be some easy solution to do this,
3 and the phone book seems the obvious.

4 MS. ROOKER: Well, I think their point was they're
5 breaking the law by faxing you the first time. So, how can
6 you -- I hear where you're coming from. If you do get a fax
7 from someone illegally, should they be required to put a fax
8 number on it so you can contact them?

9 MS. LINKE-ELLIS: Most of them don't even put the
10 names of the companies on them.

11 MS. ROOKER: Right.

12 MS. LINKE-ELLIS: You have to call and find out
13 who it is.

14 MS. ROOKER: Right, and that's a very interesting
15 -- do you have a comment on that?

16 MS. McMAHON: I should add, though, there are also
17 identification requirements on faxes that are being sent to
18 recipients. They are required to identify themselves on the
19 fax and I believe also provide a contact number, but I'll
20 have to check on that. So that would also be something that
21 you might be able to pursue in a complaint if you saw no
22 identification information on the unsolicited fax add.

23 MS. WALTERS: Just to point out the value of
24 filing a complaint about something like that with the FCC,
25 the FCC may know who's sending that fax. They may have been

1 able to find out through receiving multiple copies. Through
2 their investigations, they may actually be able to say, oh,
3 look another one of those whereas you would have no way of
4 knowing as an individual.

5 So I mean, sometimes unfortunately I think the
6 enforcement bureau gets stumped too, but they sometimes they
7 actually know so it's worth at least a try.

8 MS. ROOKER: Okay. Michael.

9 MR. TAKEMURA: Michael Takemura with Hewlett-
10 Packard. The question is is there anything in the NPRM with
11 the growing number of individuals that are using wireless or
12 cellular phones as a primary phone without any land-base
13 lines and how the provision works. I think you said earlier
14 that they were all excluded.

15 MS. McMAHON: The rules right now prohibit auto
16 dialed calls to numbers for which the party is charged for
17 the call. What we are asking for in the NPRM is more
18 comments on telemarketing calls to wireless numbers in
19 general.

20 The Commission recently passed rules that will
21 give consumers -- and I'm not an expert on this -- but the
22 ability to port their wireline numbers to their wireless
23 phone, and we have asked some questions on what that will
24 mean for wireless subscribers and if there are any ways we
25 might improve our rules or adopt some rules to specifically

1 address those calls that might be on the increase in the
2 future.

3 MS. ROOKER: Would you define for us the
4 difference between auto dialers and predictive dialers?

5 MS. McMAHON: Well, I'd rather not and the reason
6 being -- I can tell you a little bit more about a predictive
7 dialer, but we do ask questions in our NPRM about an auto
8 dialer and what types of technologies are used by
9 telemarketers today to automatically dial numbers.

10 So the definition of an auto dialer versus a
11 predictive dialer is teed up in our NPRM, and I would
12 encourage you to file comments on the types of calls you're
13 getting using various technologies, and we encourage
14 industry that use these technologies to describe them for
15 us.

16 But my understanding is that a predictive dialer
17 is a technology that gives a telemarketer the ability to
18 kind of try to estimate or predict the time that a consumer
19 will answer the phone and a telemarketer, an actual
20 individual, will be available to answer that call.

21 And what a predictive dialer does, though, often
22 is to dial more telephone numbers than there are
23 telemarketers available to take those calls. So when you
24 the consumer answers the telephone, if a telemarketer is not
25 available, the predictive dialer may, in fact, abandon the

1 call and you may hear either dead air or a click.

2 MS. ROOKER: All right.

3 MS. McMAHON: Whereas an auto dialer, in general
4 without going into too much detail, again, because this is
5 something we're asking questions on is more just as gives
6 someone the ability to automatically dial numbers. Now, a
7 predictive dialer may fall within that category, but we're
8 asking questions about that.

9 MS. ROOKER: Okay. Thank you. Okay. We had more
10 comments, questions. Bob.

11 MR. SEGALMAN: One of the issues will be the
12 appointability of wireless numbers and wireline numbers, and
13 this would have an effect on the telemarketers. I know that
14 from the standpoint of equipment manufacturers this
15 represents difficulty unless there is some defined mechanism
16 to determine what is a wireline number or a wireless number.

17 And I read the notice, and I see some agency there
18 that is used by Federal government law enforcement agencies
19 from the standpoint of clarification of numbers. Would you
20 like to comment on what the intent is in this regard?

21 MS. WALTERS: Well, I would say this is an area
22 that is experiencing very dynamic change, and so the
23 Commission has asked questions because there's a strong
24 interest, I think, in the legitimate telemarketing industry
25 in identifying numbers that they really shouldn't be

1 calling. So if the question is auto dial calls to wireless
2 phones, you know, they would like to know so they don't mess
3 up and make that mistake.

4 Things are really changing in this area. The
5 Commission has authorized mandated wireless number pooling
6 which has to do with how the blocks of numbers are
7 distributed, and those changes are going to take effect, I
8 think, as soon as around Thanksgiving time.

9 Then I believe in a year -- is that the current --
10 it's been sort of a moving target -- but in a year, wireless
11 number portability is supposed to also be available, and
12 that would mean that you could move your wireless phone from
13 one wireless carrier to another instead of having to give up
14 your number if you change providers.

15 So what is possible now and currently in state may
16 not be possible and may not be as useful in as short as a
17 year when the way the wireless numbers are distributed is
18 changed.

19 So the Commission -- you know, obviously you ask
20 questions at a point in time, and the Commission asks some
21 questions about how -- there might be more information about
22 which phones or wireless phones, and it did indicate that I
23 think it's New Star is the numbering administrator who sort
24 of has a handle on what numbers are assigned to wireless
25 phones.

1 They're really not -- they don't know who the
2 individuals are, but they know what the blocks of numbers
3 that go to the carriers who then provide them to their
4 customers. But things may look really different as some of
5 these other mandates take effect.

6 I will just note, so I would say Bob, any insight
7 that anybody has on this peace of things would be very very
8 valuable to the Commission because there are a lot of
9 different pieces to the puzzle, and it's hard to know how
10 it's all going to fit together.

11 But I think everyone realizes there's a lot of
12 potential help in having telemarketers be able to know if
13 it's a wireless phone or not and obviously more protection
14 for consumers.

15 I will just note that we have seen a press release
16 from the Direct Marketing Association which I'd like to say
17 probably is responding to some degree to that section in the
18 NPRM saying they're going to make available lists of
19 wireless numbers to their members to help them avoid
20 violations that have to do with calling wireless phones.

21 Again, all I can say is I've seen the press
22 release. I don't really know much about how they're
23 planning on implementing it, and I'd be particularly curious
24 to see how they think it's going to work when some of these
25 other rule changes take effect.

1 So, sorry to be -- it's a confusing area but an
2 area in which the Commission would really welcome comment
3 from a lot of different perspectives.

4 MS. ROOKER: Do we have any other comments or
5 questions for our panelists? Yes.

6 MS. STEWART: Hi. Pam Stewart. I just wanted to
7 know if you've addressed in this -- I just found out
8 yesterday, I was trying to call back somebody that kept
9 calling me, and my call intercept was bypassed because there
10 was a phone number. But when, you know, I answered the
11 phone there was nobody there, and I wasn't going to wait for
12 them.

13 But when I called back, the number that came up on
14 my caller id it says this number is no longer in service.
15 So I called Verizon and I asked them what's up with this,
16 and they said the telemarketers have found out now that if
17 they have a lot of trunks they can ask their rep to put that
18 message on all the other trunks so it bypasses your
19 intercept --

20 MS. ROOKER: That's right.

21 MS. STEWART: -- but you still get those
22 telemarketing calls.

23 MS. ROOKER: Yes. I've had the same issue because
24 I've tried calling them back because they've gotten through
25 because they actually register a number, and they get

1 through my caller intercept, but when I try calling back,
2 there's no one there. It's not a number that I can call.

3 MS. McMAHON: I will just quickly respond by
4 saying that we would encourage you to file comments on that
5 particular experience. We do ask questions in our NPRM
6 about whether to require telemarketers to identify
7 themselves in the form of caller ID or whether we should, in
8 fact, prohibit them from blocking that kind of information.
9 So please include it in your comments.

10 MS. ROOKER: What they do is if a telephone number
11 is registered with no name, and then when you call it back
12 you don't get, it says it's not accessible. You can't get
13 through to it. That is sneaky business.

14 What we're going to do is Micaela Tucker is -- we
15 don't know whether she's going to be able to join us or not.

16 She was schedule to speak at 1:00. What I think we're
17 going to do is post-pone until then the discussion and
18 recommendations to the FCC on the TCPA, and that will give
19 us more time to do it because we certainly don't have time
20 to do it right now, if that's okay with everybody.

21 Did someone else have a comment? Jim, did you
22 have a comment?

23 MR. TOBIAS: No.

24 MS. ROOKER: Then Scott has an announcement to
25 make.

1 MR. MARSHALL: We do have lunch available for
2 committee members. If you need to find one of our
3 cafeterias, it's on the courtyard level of this building,
4 and you have two choices. Enjoy.

5 MS. ROOKER: Okay. We will be back here at 1:00,
6 and we'll be prepared to put together some recommendations
7 on the TCPA, and thank you very much to our panelists.

8 (Whereupon, at 12:00 p.m. the meeting in the
9 above-entitled matter was recessed, to reconvene at 1:00
10 p.m. this same day, Friday, November 8, 2002.)

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A F T E R N O O N S E S S I O N

(1:00 p.m.)

1
2
3 MS. ROOKER: I can see it now. We fed them too
4 much lunch. We have an addition to the agenda also this
5 afternoon, and so we really need to move along.

6 We did hear from Micaela. Micaela is expecting
7 her second child, and she was not able to fly in to our
8 meeting, so she sent her apologies. We are not going to
9 have a report from the committee.

10 Jim, I think you were familiar with some of the
11 things that have been going on in the committee, but I don't
12 know that we necessarily have a report. Would you agree
13 with that?

14 MR. TOBIAS: Well, maybe if I could talk just for
15 two minutes.

16 MS. ROOKER: Okay.

17 MR. TOBIAS: Or a minute.

18 MS. ROOKER: I'll tell you what, can we address
19 the TCPA and then put you in after that?

20 MR. TOBIAS: Sure. Perfect.

21 MS. ROOKER: Okay. So that we can follow through
22 in what we were doing earlier.

23 As is apparent, the TCPA is a complex piece of
24 business, and I don't know how much of it we can get our
25 arms around, but perhaps there are some aspects of it that

1 we can discuss and make recommendations to the Commission.

2 Certainly some of the issues of fraudulent
3 practices could be one of the things that we address. I'd
4 like to hear from you, and I think we may as well just have
5 an open discussion on what we want to consider, and we'll
6 take it from there. If you want to make a proposal, you
7 need to make it in the form of a motion. Certainly then we
8 can have discussion on the motion before we vote on it.

9 So first off, I do not want to propose what the
10 subjects are that we talk about. I don't think that's
11 right. I think it's your business, so what I'd like to do
12 is to hear from you on what is some of your thoughts on what
13 you've learned this morning. Susan?

14 MS. GRANT: I'd like to make a proposal that the
15 committee support the creation of a national do not call
16 registry.

17 MS. ROOKER: Okay.

18 MR. McELDOWNNEY: I second the motion.

19 MS. ROOKER: You're awake, Ken, that's good.
20 That's good. This is a rather broad proposal in that we
21 don't address issues of the states' existing lists,
22 etcetera, etcetera. How would you all like to discuss this?

23 MS. ROOKER: No one is talking about a national do
24 not call list? There's been a proposal on the table. It
25 has been proposed and seconded that we support a national do

1 not call list. We're not putting perimeters on it or
2 anything else, but the general recommendation. What does
3 that sit with the committee? David?

4 MR. POEHLMAN: This is Dave Poehlman, American
5 Counsel for the blind. I guess it depends on how detailed
6 we want to get, but do we want to talk about, for example,
7 what some of the means of putting that in place would be
8 like, for example, do we want to in substance within this
9 propose that the national do not call be enacted through
10 interaction with the telephone carriers so that consumers
11 can file through their carrier or by some other means, or do
12 we have anything to discuss there?

13 MS. ROOKER: Well, it's Susan's proposal. It's
14 her motion. Susan.

15 MS. GRANT: Can I amend my motion to say that the
16 committee supports the creation of a national do not call
17 registry that is easily accessible to all consumers?

18 MS. ROOKER: Without us trying to get under the
19 burden of defining what accessible means? Jeff.

20 MR. KRAMER: Jeff Kramer of the AARP. I support
21 Susan's motion, and I think that it's important that we try
22 to keep away from as many specifics as we can. I know a
23 number of our organizations will be filing separately, and
24 then we can talk about the details of that. But if we have
25 a consensus here that we think it's a good idea, then we can

1 let other people worry about the details.

2 MS. ROOKER: Do we have any other comments before
3 we go to a vote on it? Bob.

4 MR. CHROSTOWSKI: My only concern about the
5 national call list is that we might have conflicting state
6 regulations, and therefore, I would ask that there would be
7 some uniformity in this matter.

8 We can't have Federal regulations in effect and
9 then have conflicting state regulations. This creates
10 confusion for all parties.

11 MS. ROOKER: Okay. Are you proposing an amendment
12 to Susan's motion?

13 MR. CHROSTOWSKI: I would like to know the
14 authority that the Commission would be operating under and
15 then if indeed, for example, would it supersede state
16 regulations in effect regarding this matter.

17 MS. ROOKER: Okay. Your question is really
18 outside the scope of the motion. You're really asking for
19 specifics, and what we have on the table is a rather general
20 statement that we propose it without us defining the
21 perimeters. Paul.

22 MR. LUDWICK: Paul Ludwick with Sprint. I think
23 that's a good idea not to put any perimeters on it because I
24 think when we start dealing with individual state
25 regulations, you start getting into commerce and things that

1 the FCC can't be involved in and that there are frankly
2 constitutional rules of.

3 MS. ROOKER: Yes. That makes sense. Do we have
4 any other comments?

5 All right, the question has been called. Andrea.
6 I think you maybe got your hand up there.

7 MS. WILLIAMS: I agree with Bob. Maybe it's, you
8 know, we have another motion and deal with that issue
9 separately, but I'm very very concerned, and I think my
10 question earlier to the FCC expressed that concern in terms
11 of having a Federal system and then having 50 different ask
12 --

13 MS. ROOKER: Right.

14 MS. WILLIAMS: -- with different states.

15 MS. ROOKER: All right. I'll tell you what. Can
16 we address that in a follow-up to the original question?

17 MS. WILLIAMS: Sure.

18 MS. ROOKER: Because let's take a vote on Susan's
19 question, and then I think we can go to your follow-up, and
20 then you can make a separate motion if you want. Would that
21 be acceptable? All right, so we have the question has been
22 called. All in favor, say aye.

23 (Chorus of ayes.)

24 MS. ROOKER: Opposed?

25 (No response.)

1 MS. ROOKER: All right. It's unanimously carried.

2 Thank you very much. I hear from our folks on the phone.

3 You guys in agreement?

4 MR. LOWENSTEIN: Yep.

5 MR. McELDOWNEY: I guess I didn't say "I" loud
6 enough.

7 MS. ROOKER: You didn't. Shout it out Ken. Okay.

8 Now, let's go back to Andrea's issue. Do you want
9 to put that into form of a motion that this be something
10 that's serious consideration when that national list is
11 being considered?

12 MS. WILLIAMS: I think Bob said it perfectly.

13 MS. ROOKER: Bob?

14 MR. CHROSTOWSKI: Well, let me start off by saying
15 the question I have is does this fall under totally the
16 FCC's ability to create a mandate on a, you know, country
17 wide basis or, for example, does the FTC become involved
18 with this matter as well from the standpoint of the Federal
19 Trade Commission being that this is a commerce activity?

20 So, I think there's a lot of questions here, and I
21 think what we should do as a committee here is only espouse
22 that there would be uniform regulations --

23 MS. ROOKER: Okay.

24 MR. CHROSTOWSKI: -- that should be achieved in
25 trying to reach the goal that this committee is seeking.

1 MS. ROOKER: Do you want to put that in the form
2 of a motion?

3 MR. CHROSTOWSKI: Maybe Andrea this is your turn
4 now.

5 MS. WILLIAMS: Okay. I move that we accept the
6 provision where to the -- let me try and think. The
7 national call list, that whatever call list is developed
8 that the FCC do so in conjunction with the Federal Trade
9 Commission and that those regulations will be uniform not
10 only in promulgation of those rules but also in
11 implementation of that national call list.

12 MS. ROOKER: And do you want to mention the
13 states?

14 MS. WILLIAMS: No. I think it's pretty clear ---

15 MS. ROOKER: Okay.

16 MS. WILLIAMS: -- in terms of uniform.

17 MS. ROOKER: Okay. All right. We have a motion
18 on the floor. Is it seconded? Seconded, okay. And any --
19 Susan do you want to --

20 MS. GRANT: Can you just read the motion back to
21 us so I understand clearly what it says? Oh, I thought
22 maybe Scott was transcribing or something.

23 MR. MARSHALL: Yes. I hope I've got it down
24 correctly.

25 MS. ROOKER: We get a lot of this from the audio

1 as well, so.

2 MR. MARSHALL: Okay. That the committee supports
3 -- the committee believes that in connection with
4 establishing a national call list that this would be done in
5 consultation with the Federal Trade Commission and that
6 regulations would be both uniform and would be implemented
7 similarly. Does that say it right?

8 MS. WILLIAMS: Yes, thank you.

9 MS. ROOKER: Thank you Scott. Jim.

10 MR. TOBIAS: I have a question about it. Maybe
11 it's that I don't understand the issue at hand. Is the
12 concern that companies would be confused about how to --
13 that telemarketing companies would be confused about whom
14 not to call, that there might be more than one set of lists,
15 or --

16 MS. WILLIAMS: The concern is that you may have
17 rules being developed that tells you how to implement the do
18 not call list and the processes in terms of how do you get
19 the names, what telemarketer should do or should not do.

20 Will those rules make FTC come out with one set,
21 the FCC comes out with another set, and then you have 50
22 states with their --

23 MR. TOBIAS: Okay.

24 MS. WILLIAMS: -- perspective on how that should
25 be implemented, and then you're in a situation where you

1 have an industry trying to implement God knows how many
2 different rules and regulations, and --

3 MR. TOBIAS: So it's really the burden that might
4 be placed on carriers, for example, if they're involved in
5 the collection of these names or the storage of the data
6 base, or what have you --

7 MS. WILLIAMS: Exactly.

8 MR. TOBIAS: -- in addition to the telemarketing
9 industry. So it's really simplification of the
10 implementation from the perspective of any entities
11 responsible for collecting the do not call list and
12 harmonization of rules.

13 MR. CHROSTOWSKI: I believe it's jurisdictional
14 overlap as well where there's dissimilarities in the
15 jurisdictional authorities of the FTC and the FCC.

16 MS. ROOKER: I mean, some businesses will come
17 under the rules in the FCC and some will come under the FTC,
18 right?

19 MR. CHROSTOWSKI: Right.

20 MS. ROOKER: So that's part of the issue here is
21 that the rules be consistent will all the telemarketer
22 entities, I believe. Susan.

23 MS. GRANT: I'd just like to clarify though that
24 as I understand it, the motion before us does not make
25 reference to the states. We're talking about consistency

1 between the FCC and the FTC.

2 MS. ROOKER: Right. That's correct.

3 MS. WILLIAMS: Well, then let me amend that motion
4 that there also be consistency with respect to whether the
5 states adopt the national do not call as center or that
6 their rules and regulations are consistent with the Federal
7 Rules.

8 MS. ROOKER: Okay, now we've got an amendment, and
9 do I hear a second to the amendment?

10 MR. McELDOWNEY: Shirley.

11 MS. ROOKER: Yes.

12 MR. McELDOWNEY: I have a suggestion because I
13 sort of like the way that we sort of started off which is
14 sort of dealing with the key issues sort of separately. So
15 we first adopted a thing on do not call. I think it would
16 be best if we keep the second motion fairly pure in a sense
17 of having it be coordinated with the FTC regulation.

18 MS. ROOKER: Okay, and then make a third
19 amendment.

20 MR. McELDOWNEY: And then have a third motion --

21 MS. ROOKER: Okay.

22 MR. McELDOWNEY: -- dealing with state preemption.

23 MS. ROOKER: Okay. I think that makes sense, Ken.
24 Thank you. Okay, so why don't we vote on -- if that's okay
25 with you, Andrea.

1 MS. WILLIAMS: Fine.

2 MS. ROOKER: Let's take the original amendment
3 which dealt only with the FTC and the FCC's coordination of
4 rule making, all right, the original motion that we had on
5 the table. Can we do that and vote on that? All right.
6 Then let's take all in favor.

7 (Chorus of ayes.)

8 MR. McELDOWNNEY: Aye.

9 MS. ROOKER: Okay. We heard you, thank you.
10 Opposed?

11 (No response.)

12 MS. ROOKER: Okay. That has been approved. Then
13 we will go to the issue of the states. Matt.

14 MR. BENNETT: One of the -- I'm going to fumble in
15 the phraseology of what I'm trying to say. Of course, I'm
16 from the telecommunications industry, Shirley, so I do that
17 a lot.

18 (Laughter.)

19 MR. BENNETT: One of the overriding concerns I
20 developed by listening to the explanations and status of
21 this NPRM this morning was on several occasions I was
22 directed that this is an issue more related to Congress or
23 to the centralized government as well.

24 So in terms of coordinating jurisdictional
25 overlaps, I'm wondering if it's beyond the scope of this

1 committee to copy or to inform the appropriate congressional
2 authority that says where these overlaps exists, it provides
3 them an opportunity to provide functional guidance or find
4 omissions or extensions to the authority that will satisfy
5 the goal now instead of in yet another revision of these
6 rules and orders five years from now which makes the
7 overlaps and jurisdictional conflicts removed at that future
8 time.

9 I think there's an opportunity if we just copy
10 information to our appropriate legislative branches that
11 they may --

12 MS. ROOKER: I don't --

13 MR. BENNETT: -- have an opportunity --

14 MS. ROOKER: I don't -- my legal assistant here to
15 my right says that he doesn't believe that we can do that.

16 MR. BENNETT: Okay.

17 MS. ROOKER: Okay.

18 MR. BENNETT: That's fine.

19 MR. MARSHALL: We can give advice to the
20 Commission.

21 MS. ROOKER: We can give advice to the Commission.

22 That is our goal. All right, now the third issue, then,
23 comes back to the question of whether or not we want to --
24 did we do that? I'm getting confused. We haven't done
25 that. Whether or not someone wants to address the issue

1 that there be consistency between the Federal regulations
2 and state regulations. That was suggested. Andrea, do you
3 want to frame this in a motion?

4 MS. WILLIAMS: I move that we adopt, support a --
5 oh -- Mike. Maybe you can help me.

6 MR. TAKEMURA: I think -- I'm going to try and
7 help.

8 MS. WILLIAMS: Okay. Thank you, Mike.

9 MR. TAKEMURA: I think we can just duplicate the
10 previous motion and replace "FTC" with "states."

11 MS. ROOKER: Okay.

12 MS. WILLIAMS: Sounds good.

13 MS. ROOKER: Does that work? Susan?

14 MS. GRANT: I don't think that this is -- if we're
15 directing this to the FCC, then I don't think that it makes
16 any sense to --

17 MS. ROOKER: Well, we're saying that --

18 MS. GRANT: -- narrow this --

19 MS. ROOKER: -- the FCC coordinate with the
20 states. We're not directing it toward the states.

21 MS. GRANT: But the states already have existing
22 laws, nearly 30 of them.

23 MS. ROOKER: Right, I know. I think what we were
24 -- well, I don't know. I should let Andrea speak for
25 herself. I think what she was saying is she would -- that

1 the FCC would work with the states.

2 MS. GRANT: Okay, well I'd --

3 MS. ROOKER: That was the recommendation --

4 MS. GRANT: -- be interested in --

5 MS. ROOKER: -- to the FCC not to the states. Is
6 that correct?

7 MR. BENNETT: Shirley?

8 MS. ROOKER: Yes, Matt.

9 MR. BENNETT: It might be in the consumer's best
10 interest if the FCC requests the states relinquish and let
11 the FCC rules supersede theirs to provide uniformity.

12 MS. ROOKER: I'm not sure that we can -- preempt
13 the states?

14 MR. BENNETT: The FCC could potentially request
15 that --

16 MS. ROOKER: Preempt or supersede.

17 MR. BENNETT: -- piece of legislation from each
18 individual state where they agree that the FCC legislation
19 supersedes an individual state's legislation.

20 MS. ROOKER: I don't know whether we can make that
21 kind of recommendation.

22 MS. WILLIAMS: The recommendation that I want to
23 make is that the states, either their rules are consistent
24 with the FCC and the FT -- the Federal Rules or if those
25 states who do not have a do not call list that they adopt

1 the Federal Rules as part of their --

2 MS. ROOKER: I think the point was we can't make
3 recommendation to the state. And you're saying we want the
4 states to do. We can request --

5 MR. BENNETT: No, what I requested was the FCC
6 request to the state that they relinquish jurisdiction where
7 they find the FCC rules supersede them to provide uniformity
8 to the consumer.

9 MS. ROOKER: Okay. That's a political hot potato.

10 MR. CHROSTOWSKI: Looking at the notice at Article
11 48, it says, "the commission seeks comment on whether and if
12 so to what degree state requirements should be preempted."
13 So therefore --

14 MS. ROOKER: So we can comment then?

15 MR. CHROSTOWSKI: Yes. This is what we are doing
16 as a committee, recommending that the requirements be
17 uniform among the states.

18 MS. ROOKER: Okay. That's what you were saying.

19 MR. CHROSTOWSKI: Yes.

20 MS. ROOKER: All right. I think that's where
21 Andrea was going. Do we have that motion? Has it been
22 seconded. I'm supposed to keep track of that.

23 MR. CHROSTOWSKI: I second. I second.

24 MS. ROOKER: Thank you. Let's call for the
25 question to be stated.

1 MS. WILLIAMS: Can we restate the motion again?

2 MS. ROOKER: Can we restate it, please? I think
3 he's as confused as I am.

4 MR. MARSHALL: It was just replacing FTC with
5 states. That's what the motion was.

6 MS. ROOKER: Well --

7 MR. CHROSTOWSKI: We were adding states to the
8 previous motion that was passed.

9 MS. ROOKER: I think we need to make sure that we
10 are clear on what we are saying here. Let's see if we can
11 rephrase this.

12 MR. TAKEMURA: Can I just ask Scott to restate the
13 previous motion, and when you get to the point where it says
14 FTC, replace it with state commissions, or something like
15 that and let's see what that sounds like, because I think
16 that -- I'm hopeful that that would solve the issue.

17 MS. ROOKER: Okay.

18 MR. TAKEMURA: And then that would be the motion.

19 MR. MARSHALL: Okay. In developing a national do
20 not call list, state regulation would be uniform with -- no,
21 it's not going to work.

22 MS. ROOKER: Bob is reading from the comments.
23 Can we perhaps phrase it from the comments section, Bob, of
24 the recommendations that you have?

25 MR. CHROSTOWSKI: At Article 48, the notice says

1 the Commission seeks comments on whether --

2 MS. ROOKER: Right.

3 MR. CHROSTOWSKI: -- and if so to what degree
4 state requirements should be preempted. It goes on to say
5 that some courts have held that the TCPA does not
6 necessarily preempt less restrictive state laws on
7 telemarketing.

8 MS. ROOKER: Well, Paul had made the -- Paul, you
9 had stated that it should preempt or supersede the state
10 laws, right? Do we want to make it that motion instead of
11 the other?

12 MR. LUDWICK: That's a friendly amendment Andrea?

13 MS. ROOKER: Okay. Can we restate this? I think
14 we're all a little confused as to it. I'm sorry. My brain
15 has gone to sleep.

16 MR. MARSHALL: Federal Regulations preempt all
17 state laws, is that what you want to say?

18 MS. ROOKER: Then what we're going to do is make
19 the recommendation that the Federal Regulations pre-exempt
20 or supersede state regulations, is that what we're saying?
21 The comment is -- that is the comment and that's what we're
22 requested to comment on. Is there a consensus that that's
23 what we're doing?

24 MR. POEHLMAN: I think our concern is I think it's
25 in the consumer's best interest to make that statement. It

1 might be a good idea to phrase it in that term. I think
2 there are a couple of issues here in this motion, and it
3 does tie closely to the previous motion.

4 Basically what we're looking at here is either
5 uniformity in implementation between, as best as can be
6 achievable, between the national do not call list
7 implementation and the state regulations.

8 So the idea would be for the FCC to work with the
9 states to insure that when or if they do provide a national
10 do not call list implementation that it doesn't conflict in
11 confusing ways that would be harmful to the consumer or to
12 positive business interests, you know. So that's what we're
13 trying to do, so I would say --

14 MS. ROOKER: Is that a motion, David?

15 MR. POEHLMAN: Well, it's too long to be a motion.

16 MS. ROOKER: Well, Andrea, let's go back and take
17 another shot at that.

18 MS. WILLIAMS: Let me take another shot at this.
19 That the Federal Regulations governing the national do not
20 call list preempt inconsistent state laws and regulations
21 governing do not call lists.

22 So essentially, if the state law is consistent
23 with the Federal law, not a problem. If it's inconsistent
24 with the Federal law, then the Federal Rules should
25 supersede or preempt.

1 MS. ROOKER: Susan.

2 MS. GRANT: Only because I have to go catch a
3 plane. I could support something that encouraged similar
4 kinds of requirements. I can't support preemption. If the
5 committee ends up voting in favor of preemption, then I need
6 to record dissent that that does not reflect the position of
7 the National Consumer's League, and I guess if you adopt
8 anything from this point on, I also -- they may not also
9 necessarily reflect the position of the National Consumer's
10 League. I'm really sorry that I have to go --

11 MS. ROOKER: That's okay.

12 MS. GRANT: I thought we'd finish this this
13 morning, but --

14 MS. ROOKER: Yes. Okay. Thank you, Susan. We
15 appreciate your input.

16 Okay. Having said that, we're at the point now
17 where Andrea has made a motion that it preempt conflicting
18 state regulations.

19 MR. McELDOWNEY: Shirley?

20 MS. ROOKER: Yes.

21 MR. McELDOWNEY: Hi. This is Ken again. Yes, I
22 would have to sort of second what Susan said. I think that
23 one of the real issues for something like that for us is,
24 you know, we generally strongly oppose preemption of state
25 laws.

1 For something like this where you do not yet know
2 what the final rule is going to be in terms of the FCC,
3 there is no way that, you know, we could support a motion
4 that would say that it will preempt the state laws because
5 what if the FCC came out with something that was very weak.

6 So basically, I think in the absence of knowing
7 sort of what's going to be coming down in terms of the final
8 decision, there's no way that I could support this motion.

9 MS. ROOKER: Okay.

10 MS. WILLIAMS: Well, maybe the wording -- and Ken,
11 maybe you can provide some other words or I see Jeff down
12 there, agree -- basically the concept that I'm trying to get
13 across is that we want to make sure that all the rules are
14 going to be consistent so that they can be implemented, and
15 consumers aren't left with trying to figure out, you know,
16 who has authority, who do I make my complaint to.

17 So if there's another way that it can be worded
18 without preemption and gets across the concept of
19 consistency and uniformity, that's fine with me.

20 MS. ROOKER: Jeff, do you want to take a shot at
21 it?

22 MR. KRAMER: Well, I don't know. I thought we
23 were closer when we started and we were just talking about
24 consistency because now, you know, we have to voice our
25 opposition to preemption as well.

1 I mean, I think if we're talking about consistency
2 so that consumers when they put their name on a list that
3 everybody takes from the same list so there's a consistency
4 there, and so that states know how to implement it and
5 enforce it, I think we're on the same page.

6 But to say that the FCC should preempt these
7 states, we'd have to oppose that. So I don't know if we
8 could go back to where we were talking about just
9 consistency among --

10 MS. ROOKER: Andrea it's --

11 MR. KRAMER: -- the implementation --

12 MS. ROOKER: -- your motion.

13 MR. KRAMER: -- of this.

14 MS. ROOKER: What do you think? That there's
15 consistency, do you want to say that instead of preemption?

16 MS. WILLIAMS: Consistency and uniformity.

17 MS. ROOKER: Okay.

18 MR. KRAMER: Yes. I just --

19 MS. ROOKER: Do you want to restate that?

20 MR. KRAMER: -- because we can -- well --

21 MS. ROOKER: Okay. If we can restate that --
22 we've really got to move on.

23 MR. KRAMER: Right.

24 MS. ROOKER: Can you restate that if that's your
25 desire?

1 MS. WILLIAMS: Right, that the Federal Regulations
2 and state regulations are consistent and uniform.

3 MS. ROOKER: Okay is that -- now we have a motion
4 that says that they are consistent and uniform. Is there --
5 can we live with that?

6 MS. WILLIAMS: That Federal and state --

7 MR. McELDOWNEY: Can you read the whole motion
8 again?

9 MS. WILLIAMS: The Federal and state regulations
10 governing the do not call list are consistent and uniform
11 with one another.

12 MR. McELDOWNEY: So you're basically saying we
13 urge that or something like that?

14 MS. WILLIAMS: Yes, that's fine.

15 MS. ROOKER: Okay. We can say we urge that.
16 Matt?

17 MR. BENNETT: I believe that we can give guidance
18 to the FCC to say that they should promote conformity with
19 state laws. I don't think that we can put words together
20 that draw them to have to implement and maintain conformity,
21 but I think if the FCC is in a role of promoting conformity,
22 they won't overstep their jurisdiction.

23 MS. ROOKER: Isn't that what we just said?

24 MS. WILLIAMS: It's a wordsmithing thing.

25 MS. ROOKER: Yes. I think that's what we said.

1 We will promote -- do you want to change that to we will
2 promote. That the FCC promote.

3 MS. WILLIAMS: Well, there are some states that
4 may not necessarily want conformity with state laws.

5 MS. ROOKER: Because they may be weaker.

6 MS. WILLIAMS: They may be weaker, may be, you
7 know, more detail, more restricted. That's why I said
8 consist -- whatever they come up with, just make sure it's
9 consistent and uniform.

10 MS. ROOKER: Okay. Can we accept that? Well,
11 let's take a vote. We've got a motion on the table, and
12 let's -- we've got to move on. I'm sorry. Andrea's motion
13 --

14 MR. MARSHALL: Do you want me to read what I wrote
15 down?

16 MS. ROOKER: All right. Scott's going to read it
17 back to us.

18 MR. MARSHALL: That the committee urges the FCC to
19 promote that Federal and state regulations are --

20 MS. ROOKER: Take out promote.

21 MR. MARSHALL: Oh, I thought we just put it in
22 there.

23 MS. ROOKER: Didn't we take out promote?

24 MR. BENNETT: No, we added promote.

25 MS. ROOKER: We added promote?

1 MR. BENNETT: Yes.

2 MR. MARSHALL: Right, okay. That the committee
3 urges the FCC to promote that Federal and state regulations
4 are consistent and uniform.

5 MS. ROOKER: Okay.

6 MR. MARSHALL: We have to, you know, reword that,
7 but that's basically what it says.

8 MS. ROOKER: Okay. All right. We've got a motion
9 on the floor. Do I hear a second?

10 MR. POEHLMAN: I second.

11 MS. ROOKER: I call for the vote. All for, aye.

12 (Chorus of ayes.)

13 MS. ROOKER: Okay. Opposed?

14 (Chorus of noes.)

15 MS. ROOKER: Okay. We have some opposition. All
16 right. Thank you very much. The motion carries.

17 Now, let's go to --

18 MR. KRAMER: Did somebody want to -- reflect in
19 the minutes.

20 MS. ROOKER: Well, we -- I'm not sure -- well,
21 because we did not say the preemption business.

22 MS. WILLIAMS: No, we took the preemption out.

23 MS. ROOKER: I mean, some people are not agreeing
24 even with that, but --

25 MR. KRAMER: Okay. I just wondered if there was

1 any dissent that needed to be reflected.

2 MS. ROOKER: Is there decent that needs to be
3 reflected, Jeff?

4 MR. KRAMER: Well, a point of order, I was ready
5 to abstain on that motion, and I didn't see a lot of hands
6 either way.

7 MS. ROOKER: Well, that's true. Well, they were
8 saying aye. I mean, they did say aye. Some people put
9 hands up. I called for a voice vote, but I can call for a
10 hand vote if you want me to.

11 MR. KRAMER: Yes, I'd request it. Yes.

12 MS. ROOKER: Okay, well then let's go back and do
13 a -- everybody who is for the motion, put up their hand,
14 please.

15 (Chorus of ayes.)

16 MS. ROOKER: Okay. Against?

17 (Chorus of noes.)

18 MS. ROOKER: Okay. The motion passes. Thank you.

19 There are some other issues that were brought up, one of
20 the ones that you would like to see us addressing. I know
21 that one of the things that was brought up this morning is
22 about some companies calling and using a phone number on a
23 caller identity, caller ID, that is not a legitimate phone
24 number that you can't reach the company. Do we want to make
25 some suggestions with regard to that practice and that it be

1 prohibited?

2 MR. McELDOWNEY: Yes, Shirley. I would make such
3 a motion. I guess one thing I was confused about was that I
4 would think that that would be considered deceptive
5 marketing, and I'm not sure why action cannot be taken
6 against those companies absent some sort of final
7 telemarketing rule.

8 MS. ROOKER: Do we have anyone here who can answer
9 that, that that is a deceptive practice -- I mean, I don't
10 know the answer to that Ken. It's a good point. Bob.

11 MR. CHROSTOWSKI: I don't know the answer to it
12 either, but I would suggest that if deceptive practices were
13 indeed the case, quite possibly the rules should be amended
14 to increase the penalties for that type of behavior.

15 MS. ROOKER: Okay. Is that a motion, or what are
16 we doing?

17 MR. CHROSTOWSKI: I would be happy to make a
18 motion.

19 MS. ROOKER: All right.

20 MR. CHROSTOWSKI: My motion is that in the event
21 that deceptive practices albeit where the person who claims
22 that their rights have been violated cannot seek to remedy a
23 situation and because of the actions by the person or entity
24 that's created the situation, that the penalties be
25 increased for the use of such practices.

1 That was a long motion, but I started to think
2 about it when I -- well, maybe I can cut it down a little.

3 MS. ROOKER: We were talking about the issue of
4 the telemarketer registering a number that's not a
5 legitimate number.

6 MR. CHROSTOWSKI: What if we were to just say
7 something, request that the FCC enforce, you know, in
8 violations of the existing TCPA any kind of deceptive actus
9 under that which would include these kind of things.

10 MS. ROOKER: Which would include faxes?

11 MR. CHROSTOWSKI: Right.

12 MS. ROOKER: Unsolicited faxes.

13 MR. CHROSTOWSKI: All these different things.
14 Just a general that the FCC enforces.

15 MR. SMITH: But you have that now.

16 MR. CHROSTOWSKI: Well, this is a recommendation
17 to the --

18 MS. ROOKER: That stronger enforcement?

19 MR. CHROSTOWSKI: Yes.

20 MR. SMITH: What are you going to do when that's
21 not working?

22 MS. ROOKER: Stronger enforcement, would that be -
23 -

24 MR. CHROSTOWSKI: Yes.

25 MS. ROOKER: And considering --

1 MR. CHROSTOWSKI: Yes, it's a violation, but you
2 know, we don't see a lot of enforcement actions in this
3 area, so we could come forward and at least put the
4 Commission on record that we think they need to enforce
5 this.

6 MS. ROOKER: Matt.

7 MR. BENNETT: I thought what I heard from Bob's
8 recommendation is the FCC should stipulate penalties for
9 deceptive practices.

10 MS. ROOKER: Increasing them, actually.

11 MR. CHROSTOWSKI: Yes.

12 MR. BENNETT: Well, --

13 MS. ROOKER: Well, then maybe that's a better way
14 of putting it. Do we want to put that the FCC enforce and
15 consider increasing the penalties for deceptive practices?

16 MR. McELDOWNEY: Shirley, how about a motion like
17 this: that the committee urge the FCC to increase
18 enforcement action of deceptive practices such as a
19 telemarketer, you know, using a deceptive, you know,
20 whatever it is, however you want to use it.

21 MR. CHROSTOWSKI: Identifier.

22 MR. McELDOWNEY: Identifier.

23 MS. ROOKER: Okay.

24 MR. McELDOWNEY: I mean, everyone get the idea of
25 there should be more enforcement for it, but specifically

1 mention an area that was brought up this morning. That
2 would be my motion.

3 MS. ROOKER: Okay. Bob, is that okay with you?

4 MR. CHROSTOWSKI: Well, just one comment.

5 MS. ROOKER: Okay.

6 MR. CHROSTOWSKI: I think that the entity that has
7 created a problem is subject to enforcement under the
8 existing rules where the FCC can say stop but that doesn't
9 stop the deceptive practice. That's my point.

10 MS. ROOKER: And your point is that we need to
11 make the penalties bigger and enforce them.

12 MR. CHROSTOWSKI: Yes.

13 MS. ROOKER: I'm not sure that's in conflict with
14 what Ken was saying.

15 MR. KRAMER: What Ken said was to increase
16 oversight basically to put more pressure.

17 MS. WILLIAMS: I mean, I take the word stronger
18 enforcement could be increased penalties, forfeitures, you
19 know, if you have a license, taking the license, you know, a
20 number of things.

21 MS. ROOKER: Should we, then we could amend --

22 MS. WILLIAMS: The reason why I want to stay away
23 from increased penalties, because I'm not -- I don't know
24 the TCPA as well as maybe some others here, and I don't know
25 if the FCC has authority to increase penalties.

1 MS. ROOKER: I see.

2 MR. KRAMER: Shirley.

3 MS. ROOKER: Yes.

4 MR. KRAMER: I believe Ken's motion the way it was
5 originally stated it meets the true intent of what we need
6 to accomplish which is to know to put the FCC on notice that
7 they should look at doing additional diligence on
8 enforcement activities because it's obvious from the
9 comments in the room today that this practice is rampant and
10 it's out of control, and by putting more focus on
11 enforcement they hopefully would be able to get it under
12 control.

13 MS. ROOKER: Okay. That's basically a restatement
14 of what Ken said. Do we accept it --

15 MR. KRAMER: I believe -- I think Ken's original
16 statement for a motion was the right way of phrasing it.

17 MR. CHROSTOWSKI: I withdraw my motion.

18 MS. ROOKER: Oh, Bob. Thank you. All right.
19 Okay, then Ken's motion. Do we need to restate the
20 question? Do you want him to? Okay, Ken, would you restate
21 that for us, please?

22 MR. McELDOWNEY: That the committee urge the FCC
23 to increase their enforcement action on deceptive
24 telemarketing practices specifically the use of -- for
25 example, the use of -- I forgot the word again already.

1 MS. WILLIAMS: Unsolicited.

2 MR. KRAMER: Unsolicited facts.

3 MS. ROOKER: No. You're talking about the use of
4 a phoney phone number.

5 MR. McELDOWNEY: Phoney phone number, yes.

6 MS. ROOKER: In a telemarketing call.

7 MR. McELDOWNEY: Yes.

8 MS. ROOKER: A phoney phone number. How do you
9 like that.

10 MR. McELDOWNEY: That's a good -- I like that. I
11 like the technical terms.

12 MS. ROOKER: It rings. It has rhythm. It's
13 getting late in the day. It's Friday. I'm sorry. That was
14 good, right. Back to serious business.

15 MR. KRAMER: Shirley.

16 MS. ROOKER: Yes.

17 MR. KRAMER: Can I suggest phoney identification.

18 MS. ROOKER: Phoney identification, thank you very
19 much, and false identification. I still like the phoney.
20 We'll substitute false identification.

21 All right. The motion is on the table. Do I hear
22 a second, please? All right. It's been seconded. A voice
23 vote. All in favor say, aye.

24 (Chorus of ayes.)

25 MS. ROOKER: Opposed?

1 (No response.)

2 MS. ROOKER: All right. The motion has been
3 approved and carried. Thank you, Ken, for putting that
4 before us. We've got a few more minutes. Where are we? We
5 actually are at the point where I don't think we have any
6 more time to devote for this, but I do think that we've come
7 up with some things that are useful and good.

8 Does anyone else have any other comments they can
9 make in one minute? Okay, if not, then I would like for us
10 to move on and thank you all for that. That's not easy.

11 Yes, Andrea.

12 MS. WILLIAMS: I just, for point of clarification,
13 are we moving Micaela's report to the next meeting?

14 MS. ROOKER: Well, actually we're going give Jim -
15 - he wants a minute to talk a little bit about what they're
16 doing. Yes, and then we will have a full report from the
17 committee when we meet again.

18 MS. WILLIAMS: Oh, okay.

19 MS. ROOKER: So, Jim, you wanted to give us a
20 minute.

21 MR. TOBIAS: Yes, I just want to give the
22 committee as a whole an update on what's been going on.
23 We've had several working groups within the disability
24 subcommittee, and some of them have delivered something in
25 the way of a report, but it has not been fully circulated to

1 the disability subcommittee as a whole and certainly not to
2 the committee as a whole.

3 So I'm reluctant to have them put forth at this
4 meeting as recommendations, but I'm also concerned that if
5 we have a large change in membership that we'll have to
6 start again from the beginning.

7 At this point, I do have to say that I'm really
8 quite disappointed in how we have not been able to generate
9 recommendations when literally in the first two or three
10 meetings we had really all the content that we needed for
11 recommendations to the Commission.

12 We've added some value over the time without
13 doubt, but I think our time was not well spent in the last
14 six to eight months in generating that, so I don't know what
15 the mechanism, if any, there is for taking the current work
16 product and moving it forward into the new committee, but I
17 would like to encourage either you as, you know, the lynch
18 pin and source of continuity of helping us make that
19 transition.

20 MS. ROOKER: I think that's an excellent point.
21 Also, I think it might be useful for us to talk about how we
22 can better facilitate in the future in getting products out
23 of the groups, and I think that would be a useful perhaps
24 independent discussion with us or ideas if you want to e-
25 mail me some thoughts on that too.

1 MR. TOBIAS: Sure.

2 MS. ROOKER: But yes, that will be something that
3 we will do so that we're not losing what's been done is to
4 find out a way to do transition. And I expect many of you
5 will be on this subsequent committee, so it may not be an
6 issue. But anyway thank you, Jim, very much.

7 MR. TOBIAS: Thank you.

8 MS. ROOKER: And of course, we appreciate Micaela
9 and we're sorry that she's not with us, but we're happy for
10 the reason.

11 Moving on, we're going to hear from Margaret Egler
12 who is the Deputy Bureau Chief of Policy under the CGB.
13 Margaret, welcome, it's nice to see you again.

14 MS. EGLER: I'm actually going to hijack the
15 meeting for a moment here, Shirley.

16 MS. ROOKER: Okay.

17 MS. EGLER: So bear with me. First of all, this
18 morning you got to meet Tom Chandler officially who is the
19 head of the Disability Rights Office. Tom and Michelle who
20 you also saw are the two division chiefs who report to me,
21 and it's a great pleasure to have that kind of talent
22 working for you because it certainly makes your life a lot
23 easier and I'm always happy. I mean, they're just great
24 people, and so I get to do more miscellaneous stuff now like
25 final review, so I'm very happy about that.

1 But before I talk about that in review, I just
2 wanted to go back to this morning. Pam Gregory did the
3 introduction for Tom. I just want to take a second and ask
4 Pam to come up for a second. I want to give her something.

5 Pam, as you know, has been sort of the continuity
6 for the transition of CIB to CGB and also from the
7 disability task force, the disability rights office. She
8 was extremely patient with me when I took over this job last
9 year. She actually was called to my office any number of
10 times when I'd have to say to her, so what does this mean,
11 or how does this work. And so she said, well, Margaret it's
12 like this.

13 But she was always very very gracious, and I am
14 just so happy that we were able to work out a situation that
15 she was going to be able to stay that accommodates her needs
16 and her desires and also keeps her in DRO because she's an
17 extremely important part of it.

18 So I just wanted to give you your own little --

19 MS. GREGORY: Am I in trouble?

20 MS. EGLER: -- certificate of appreciation. Pam,
21 thank you very much, and here's a little something for you
22 to --

23 (Applause.)

24 MS. GREGORY: Thank you very much.

25 MS. EGLER: And that's the first --.

1 I don't have a certificate for you. You actually have to
2 work now. I think everybody knows this morning the D.C.
3 Circuit threw out the video description rules. What better
4 way to say it, but they did.

5 So Tom, as his first official job of the
6 Disability Rights Office Chief will sort of give you a
7 little highlight of what exactly the D.C. Circuit opinion
8 said.

9 Well, he's just going to give you the facts. We
10 can't really tell you anything about what the Commission's
11 going to do about this because obviously everyone upstairs
12 is still digesting it, but just in case, I know that the
13 staff gave out copies, and this is just so in case you
14 didn't get a chance to read it. Tom will give you a little
15 update. Go ahead.

16 MR. CHANDLER: Well, when I said I hope to see all
17 of you again soon, I didn't really think that would be a
18 matters of hours, although I'm happy to be back. And also I
19 should say that I was tempted to take out of my earlier
20 remarks that reference to the pending video description
21 decision because I didn't think it would come down for a few
22 months, and so I guess I sort of jinxed the whole thing and
23 therefore take personal responsibility for this bad outcome
24 even though I had nothing to do with it. But it comes with
25 the territory.

1 As most of you know, these rules involved video
2 description which required commercial TV broadcasters
3 affiliated with the four largest commercial networks, the
4 big three networks and FOX to have 50 hours of video
5 descriptions per quarter on either prime time TV or
6 children's TV, and there were also other requirements on
7 multichannel video distributors. I'm still learning all
8 these long phrases.

9 The rules were adopted three to two by the
10 Commission and were challenged on appeal. And in only two
11 months and two days, the Court has struck them down
12 unanimously. One judge did file a concurring opinion, sort
13 of a concurrent paragraph, on a narrow point but certainly
14 agreed with the results.

15 It's really a straight forward opinion, and for
16 those of you who are lawyers, as you know, you take a whole
17 course in law school on administrative law and it's all
18 really -- administrative law 101 which is what are the
19 powers that a Federal agency has to enact regulations.

20 Those powers, of course, come from Congress, and
21 then there's interplay between the language Congress has
22 used in drafting the statutes, here primarily 713 of the
23 Telecom Act, and then the regs or the regulatory action that
24 follows based on Congress' statutory authority.

25 So here the primary question was did Congress have

1 the authority to enact these regulations that came out in
2 2000. Specifically, did it have that authority under 713 or
3 713(f) which is the part of 713 that deals with video
4 description. The other parts deal with closed captioning.
5 So the same provision dealt with both aspects of
6 accessibility.

7 The Court said no, Section 713(f) did not give the
8 Commission the power to enact these regulations, and the
9 thrust of the reasoning was that although the part of 713
10 addressing closed captioning specifically mandates that the
11 Commission not only look into close captioning rules but
12 actually adopt some rules in a pretty good period of time,
13 the reg as to video description only says that the
14 Commission should do a report on video description.

15 So the Court's basic notion was that the rule
16 itself mandated different Commission action for closed
17 caption than it did for video description, and in one area
18 it mandated rules and the other ones it only mandated
19 report.

20 And implicit in that, I suppose, is that if
21 Congress had wanted there to be regs for video description
22 it would have said so since it said it in the earlier part
23 of the statute addressing closed captioning.

24 After that, the Court addressed really more
25 elegant questions which is that if 713 didn't give Congress

1 the power to enact these regs, did some other parts of the
2 Telecom Act give them the power and specifically looked at,
3 I guess at our urging in our briefs, section 1 and section
4 4(i) of the Act.

5 Section 1 is just the general language about the
6 purpose of the Commission to extend telecommunications to
7 all persons, etcetera, and section 4(i) is I think what we
8 call the necessary and proper clause.

9 The Court concluded that it was "a very frail
10 argument," for us to rely on sections 1 and 4(i) to try to
11 enact these regs particularly when section 713 which
12 specifically addressed this subject area didn't allow for
13 these regs in the video description side.

14 Where there was disagreement on the Court in the
15 one dissent was the question whether video description regs
16 implicate program content. Two of the judges thought they
17 did and thought that because these rules mandated program
18 content that it therefore was beyond the scope of section 1
19 because whatever sort of implicit or ancillary powers
20 sections 1 and 4(i) may give the Commission, in the Court's
21 view it certainly didn't give the power to address content
22 for, among other reasons, First Amendment concerns that any
23 regulation of content would implicate the First Amendment
24 and, in those places where Congress has addressed First
25 Amendment type matters in the telecom area, it has done so

1 explicitly with certain obscenity provisions and things like
2 that.

3 It contrasted, obviously, closed captioning and
4 video descriptions, and said closed captioning does not
5 involve content because it's just a transcript of exactly or
6 a precise repetition of what was said where vide description
7 involves someone coming up with a secondary script
8 describing what is going on with the picture.

9 You can buy that distinction or not, but
10 unfortunately for us today, the only opinion that matters is
11 that of the majority of the judges who thought it was
12 content based therefore beyond the powers of section 1.

13 So in a nutshell, that is really it, and again,
14 it's really just a somewhat regrettably at least to simply
15 it a straight forward analysis of what Congress said the
16 Commission can do in this subject matter in the underlying
17 statute 713 and distinguishing the treatment of closed
18 captioning from video description.

19 And then really the second part was saying if 713
20 didn't do it, you also can't do it under these other
21 statutes, section 1 and section 4(i). So the opinion does
22 have the effect not only of throwing out the video
23 description rules, but for appellate lawyers and the legal
24 people around here, it's also possible that it has an effect
25 on the scope of the Commission's powers under sections 1 and

1 4(i).

2 But all of these matters are things that will have
3 to be addressed as we look at the opinion. We've now had it
4 for all of three hours or something, but again, it's some
5 irony that this happened to come out right when I said we're
6 looking at it and didn't expect it to come out, but it's a
7 predictive business and we're not always right.

8 MS. EGLER: We blame you.

9 MR. CHANDLER: And I'll take all the blame.

10 MR. KRAMER: Is there anything in the legislative
11 history that would speak to one side or the other?

12 MR. CHANDLER: Unfortunately, yes, and that was
13 not helpful to us because I believe the House report first
14 required regs for both video description and closed caption,
15 then they amended the House report to tone that down.

16 The Senate report specifically only had do a
17 report, and the conference committee adopted the Senate's
18 view. But the opinion, interestingly, did not really go
19 into the legislative history too much at all except it
20 background.

21 It really relied just on the plain language of 713
22 and the different treatment between closed captioning and
23 video description. So to the extent there was legislative
24 history, it was not helpful, although the Court didn't
25 emphasize that.

1 This time I'll say I hope I see you all again
2 soon.

3 MS. ROOKER: Bring us better news next time.

4 MR. CHANDLER: Hopefully next time, but maybe.

5 MS. ROOKER: Thank you, Tom. We appreciate your
6 being here.

7 MS. EGLER: Okay. What I was actually supposed to
8 talk about is what I'll talk about now, and that's the
9 biennial review. I have the PN here somewhere. I got a
10 little discombobulated while we were getting things together
11 for that little presentation. All right, well, we put out
12 this PN somewhere that's in my folder.

13 Okay. Basically, let me just give you a couple
14 minutes on what the biennial review is. Okay. Basically,
15 as part of the '96 Act, Congress decided that they wanted to
16 give the FCC a couple tools.

17 As you remember or as you've probably heard us
18 talk about the '96 Act, the '96 Act was the biggest
19 amendment ever to the Communications Act of 1934 and it was
20 aimed at a lot of different things.

21 I'll just talk about where in telecom it was aimed
22 in creating a competitive market and not just in long
23 distance which already had by '96 had happened but in the
24 local arena. So there are all these rules that you've heard
25 about having to do with facilities based carriers,

1 resellers, unbundled network elements, a lot of things that
2 go on that we created rules, a lot of which have been struck
3 down, a lot of which are on appeal. I mean, it's been a big
4 area for litigation.

5 But basically, that was one of the -- what
6 Congress was trying to do was sort of create a more
7 competitive arena, and they gave the FCC some pretty
8 impressive tools to help sort of deregulate where that would
9 be helpful.

10 One of them was section 10, what is now section 10
11 of the Communications Act which is forbearance, and that is
12 if someone on the filing of a petition for forbearance, we
13 can forebear from enforcing a rule or statute if it meets
14 certain criteria.

15 The other is section 11 which is the biennial
16 review requirement. That is a very very short section, and
17 mercifully very easy to understand. It's just these two
18 paragraphs that says that every other year, every even
19 numbered year, the Commission shall review all of its
20 regulations issued under the Act that have to do with
21 telecommunications, serve any operations or activities of
22 any provider of telecommunication service and shall
23 determine whether that regulation is no longer necessary in
24 the public interest.

25 It's pretty straight forward, so the Commission

1 did it in 1998. They did a much larger review in 2000.
2 We're still sort of getting used to doing it and figuring
3 out how to do it right.

4 What happened in September of this year is that we
5 put out a whole slew of public notices. Each bureau that
6 has telecommunications responsibility, and there are several
7 of them, and the Consumer Governmental Affairs Bureau is one
8 of them because we do the disability and the consumer
9 issues.

10 Basically what you saw in this two-page public
11 notice is we are asking for comment to determine whether or
12 not these regulations as required by statute, whether or not
13 these regulations are still necessary and are in the public
14 interest. Then we list all the regulations involved.

15 You'll see in the public notice is that we list
16 what we call part 6 and part 7 which are the rules that were
17 established under 255 for accessibility of
18 telecommunications services and equipment and also section
19 225, the TRS rules.

20 The TCPA rules are all up. The operator service
21 rules, slamming rules, everything we do having to do with
22 telecom which is a huge amount of rules are up for notice
23 right now.

24 And I understand that there was some concern when
25 that came out. People thought for some reason we were,

1 like, about to get rid of all our consumer rules or about to
2 get rid of our disability rules. It's simply not the case.

3 This is just a tool given to the FCC by Congress
4 to review the rules and to sort of get rid of ones that are
5 keeping -- that are not in the public interest, that may be
6 old and archaic, that may not have any more use of.

7 This ideally would then allow us to sort of
8 streamline things and get rid of rules instead of going
9 through a whole rule making and finding them no longer
10 necessary. It gives the FCC another good option to sort of
11 make the rules better.

12 So it's not something anyone should be afraid of.
13 Again, we have to do it every two years now. We'll continue
14 to do it every two years. If you want to know what the
15 comments are, go into the FCC's web site and go to the ECFS
16 which is the electronic common filing system and plug in the
17 docket number. Do you have a copy of it? What's the docket
18 number? It's 02265. That's our docket number. That's the
19 CGB docket number, and you'll see all the comments come in.

20 I looked at this actually last night, and at this
21 point there are between 40 and 50 comments filed. I did a
22 quick review of them. Most of them are from individuals
23 asking us not to get rid of the TRS rules, so -- which is
24 great. I mean, this is the kind of stuff -- this is wide
25 open, so I put them out for comment.

1 You know, what's in the public interest?

2 Obviously, if we get 800 comments people saying don't get
3 rid of the TRS rules, there's a lot of comments there saying
4 that the TRS rules are in the public interest.

5 But basically, what section 11 and the biennial
6 review is for us to determine whether or not -- we have to
7 make the determination that a rule was not in the public
8 interest, and so we need evidence and that sort of thing.

9 So if you have concerns about any of our rules, if
10 you want to comment on them, it's all wide open, and we are
11 committed to doing this, of course, by the end of the year,
12 so it's a fairly quick comment cycle and review period.

13 But that's basically all it is. It's every
14 telecom rule that -- I mean, WCB has hundreds that they have
15 to do -- the wire line competition bureau -- that they have
16 to do, and it's just something that Congress requires us to
17 do, and it gives us an opportunity to get rid of rules that
18 are no longer of any use.

19 Again, our rules aren't being picked on. Nobody's
20 rules are being picked on. It's just something that we're
21 required to do, and if you've seen any of the prior biennial
22 reviews, the 2000 one is a good example where we used it as
23 an opportunity to get rid of a couple sort of just dumb
24 stuff or it's also stuff.

25 It's also the 2000 biennial review was the order

1 that created, well, it's what lead to the informal
2 complaints rule making that we started in February which is
3 still open and we're working on the report and order as to
4 whether our informal complaint process for common carrier
5 should be extended to non-common carriers like radio and TV
6 and cable operators.

7 So, it's a big opportunity for us to look at
8 things, to streamline, to make things better, and that's how
9 we use section 11, and we'd certainly be happy if any of you
10 wanted to comment on how we can make any of our rules better
11 or make them more in the public interest which is our duty
12 here at the FCC.

13 Does anyone have any questions? Go ahead.

14 MR. TOBIAS: I just have one question, and I'm
15 concerned that if someone files a comment that says that the
16 rule is not stringent enough or is not accomplishing what
17 it's intended and their suggestion is actually to intensify
18 the rule, could that somehow be misread as comment in favor
19 of eliminating the rule?

20 MS. EGLER: You know, it just depends. One
21 comments isn't going to like tear down an entire rule.
22 Often what happens out of the biennial review is that we get
23 comments on how things should be changed or made better not
24 necessarily be gotten rid of, and those are the beginnings
25 of other rule makings.

1 So I think that's what you'd see if we saw a sort
2 of ground swell of we desperately need this. If we didn't
3 feel like we had enough notice in the biennial review to do
4 something, but it's not to get rid of but to make better,
5 that could be a basis, and there are several that actually
6 have gone that way, so.

7 Actually, it's a good thing if people --
8 especially with the way we have our common filing system
9 now, everything's available. It's all on the web, and for
10 people to very easily get involved, let us know what you
11 think because it does allow us in the Consumer Bureau and
12 all the other bureaus to sort of see where people are and
13 maybe what we're missing in the big picture.

14 MS. BATTAT: I understand that this review is the
15 first time that the public has ever been involved in the
16 review process before?

17 MS. EGLER: No, I mean, basically like I said,
18 we've been -- I guess we're trying to get it to where it's a
19 good working process. The 1998 -- the year 2000 -- I wasn't
20 involved in the 1998 review, but the 2000 review was what
21 happened we did a staff report on all the rules and then
22 that was out for comments.

23 Anything we put out for comment, it's all put out
24 for comment in the same way. We put it out, and you can
25 send comments to the secretary's office. You can send it,

1 and this is where we encourage and we're trying to make the
2 system better even as we speak.

3 The electronic comment filing system -- because
4 it's free -- you know, it's all free, but it's cheap and you
5 just e-mail the stuff in and that's where most of the
6 comments that we've gotten are in that.

7 We also noticed that somebody did a form letter
8 sort of explaining how important TRS is and then put a lot
9 of different people's names on it, so I mean, so we saw a
10 lot of the forms which is, you know, fine.

11 We get that a lot of the rule making. Somebody
12 has something they really want said, and then they get a lot
13 of different people to send the exact same comment or exact
14 same letter. But you know, it's all open. We read all of
15 them.

16 Anybody else? That comment period has closed.
17 Replies I think are closing today or it's about to close.
18 But if you're interested, again, the Commission -- this is
19 always an expedited process. It's always a fast rule
20 making, but if you're interested, go into the ECFS and check
21 out the comments we have on this 20-265.

22 Sorry. The docket number is 02-311. That's the
23 CGB's docket number on this. Just plug that into the ECFS.
24 you can see, and if you want to send one, it's a late filed
25 comment, but what we tell everybody is that we always like

1 the best and fullest record, so you can send in a late filed
2 comment or an ex parte, and they always get read.

3 MS. ROOKER: Do we have other questions for
4 Margaret? Well, Margaret, thank you again for being with
5 us. It's nice to see you. Thank you.

6 Okay, moving right along here, we're going to get
7 an update on the complaints and outreach committee report
8 which as you know our group prepared on the 28th of June in
9 our June meeting, and we are delighted to have Thomas Wyatt
10 who is the Deputy Bureau Chief for Inquiries and Complaints.
11 Welcome, Thomas.

12 MR. WYATT: Thank you. Good afternoon everyone.
13 I'm happy to be back to talk about the consumer inquiries
14 and complaints process, and what I'd like to do is spend my
15 time this afternoon briefly describing the -- well, briefly
16 addressing some of the issues that arose out the June 28
17 meeting. And we'll be happy to address any additional
18 questions you might have.

19 One of your questions had to do with the
20 distinction between the consumer inquiries and complaints
21 process. As you know, our consumer centers handle a lot of
22 consumer contacts, and we recognize that sometimes the
23 distinction between what is an inquiry and a complaint is
24 sometimes blurry, but it's an important distinction and one
25 I really want to try to clarify today. It's important to

1 consumers. It's important to regulated companies, and it's
2 important to us. And I'm going to tell a story in a couple
3 of minutes to put it into maybe a better context for you.

4 Some of you may have noticed that in our quarterly
5 reports that we issue on complaints and inquiries we
6 included a definition of inquiry and complaint. I'd like to
7 show you a slide now, and I believe the slide is also
8 available in your packets. I believe we have real copy of
9 the slides as well, but you'll be able to take a look of the
10 slide. Now, these are the definitions that we use in the
11 quarterly reports.

12 Basically an inquiry is defined as any
13 correspondence or communication sent at our consumer centers
14 from an individual seeking information about matters under
15 the FCC's jurisdiction.

16 The informal complaint definition is defined in
17 the report as any correspondence or communication received
18 at the consumer centers via postal mail, fax, e-mail, or
19 telephone from or on behalf of an individual that, one,
20 identifies a particular entity under the FCC's jurisdiction,
21 alleges harm or injury, and seeks relief.

22 Now, I'd like to show you an actual experience
23 that we had with a consumer contact to put this into proper
24 context for you. A while ago, we received a letter from a
25 consumer. That letter went into considerable detail about a

1 problem the consumer was experiencing with a telecom service
2 provider.

3 She even went so far as to attach a bill which
4 listed some charges that she thought was outrageous and way
5 out of hand. She also included in her letter, however, a
6 note that she wanted information about her options and her
7 rights with respect to this carrier, and she was very
8 specific in that request.

9 Shortly after we received the letter, she phoned
10 us and asked about her letter. We pulled her letter up and
11 discussed it with her, and she reiterated that she wanted to
12 know her rights and her options for addressing this with the
13 carrier. Those were explained to her including the right to
14 contact the company directly to try to resolve it.

15 In a very short amount of time, we took her letter
16 and we actually forwarded her letter to the company
17 involved. Now, it couldn't have been more than five days,
18 and during that time -- about the same time, she also
19 contacted the carrier.

20 The carrier said to her, well, we have a complaint
21 notice from the FCC. We've escalated it to our attorney.
22 We can't talk to you. What we had done, we had put that
23 consumer in an adversarial position with that company,
24 something that she had not requested and did not want.

25 She clearly wanted information about how to

1 proceed and how to resolve it, and because her letter was so
2 specific in terms of the problems she was having with the
3 company, the criteria was used for a complaint but for the
4 fact that she didn't want it treated as a complaint.

5 But we had managed to put her in an adversarial
6 position with that company. And she was upset with us to
7 learn that the company would not deal with her on a one-on-
8 one basis until they had discussed it with their attorneys
9 and responded officially to the FCC complaint.

10 Now, that is not the goal of the consumer
11 complaint process. Our goal is to really provide
12 information to consumers. So if a consumer contacts us, we
13 try to drill down as best we can to figure out what it is
14 the consumer wants or needs from us or from the companies.
15 To the extent that we can provide assistance in filing a
16 complaint, we'll certainly do that.

17 I want to put a slide up now that will describe
18 the flow chart for consumer complaint. It will give you a
19 good idea of how the complaint process works. Now, you'll
20 notice that again our consumer citizenry will receive the
21 contact to be a toll free call, voice or TTY. It could be
22 e-mail. It could be postal mail. It could be a fax. That
23 contact is logged into our tracking system.

24 We had some discussion earlier today about how we track
25 complaints and inquiries, and we really put a lot of

1 emphasis in recent months on better tracking inquiries and
2 complaints. So we have a tracking system set up so that our
3 representatives can pretty readily start tracking that
4 inquiry or complaint from the very beginning.

5 Of course, we have to evaluate the content and
6 jurisdiction of the complaint. If there's something that's
7 not within our jurisdiction, you'll see the box over to the
8 right that our goal is to provide additional information or
9 refer the matter to another state or Federal agency for that
10 matter.

11 In some cases, if the content is not specific
12 enough to warrant treating it as a complaint, we will refer
13 the matter to the enforcement bureau for their review
14 because sometimes it might be relevant to some matter that
15 they're undertaking or that they're considering over in
16 their shop.

17 But assuming that the jurisdiction is okay, then
18 we forward the complaint if the consumer wants it treated as
19 a complaint to the company involved. The companies are
20 given up to 30 days to respond. Well, when I say respond,
21 they're given 30 days to satisfy the complaint or respond to
22 the allegations. I can tell you from experience that most
23 companies tend to try to resolve it rather than respond in
24 detail to the allegations.

25 So what happens next? Well, is the complainant

1 satisfied? If the answer is no, as you see over to the
2 left, we have staff trained to try to mediate on behalf of
3 the consumer.

4 We put a lot of emphasis on really trying to
5 understand the consumer's problem and providing the consumer
6 reps with the tools to really engage the companies and try
7 to get a resolution satisfactory to the consumer. We might
8 even require the company to provide additional information.

9 Often times, the company's response might be a
10 little vague or it may not address a specific issue raised
11 in the complaint. So I'll go there as to obtain additional
12 information from the company so that you can evaluate
13 whether we need to do anything else with the complaint.

14 Of course, we'll advise the consumer of any other
15 options he or she may have including the right to file a
16 formal complaint setting out in more detail what the
17 specific allegations are.

18 When the complaint is satisfied, well, usually the
19 complaint is closed. If we have an indication from the
20 company's response and our communications with the consumer
21 that the consumer is happy with the company's response to
22 the complaint, we'll close it.

23 That doesn't mean that the company is off the hook
24 necessarily because we do work very closely with the
25 enforcement bureau. We share information with them, and if

1 the number of complaints about a particular company
2 indicates a pattern of practice that warrants some kind of
3 intervention on their part, you know, that company could
4 face that action.

5 So we are very corrective in sharing information
6 with the enforcement bureau so that we can identify patterns
7 of practices that might require or warrant some kind of
8 enforcement action.

9 So I think that's a very important thing to
10 remember about the informal complaint process, that it's
11 really geared towards facilitating resolution for the
12 consumer.

13 We don't typically issue written decisions or
14 rulings on an informal complaint. There's only one informal
15 complaint context in which we actually are required to issue
16 written orders. That is in the slamming context and there's
17 a very discrete set of rules for slamming complaints, and
18 orders are issued in those complaints.

19 But all of the informal complaints, the process is
20 not really geared towards bringing decisions. We really try
21 to facilitate a resolution for the consumer. And to the
22 extent that the consumer's not satisfied with the carrier's
23 response, or I should say the company's response because we
24 certainly -- the process involves a lot more than just
25 carriers. But to the extent that the consumer's not happy,

1 we want to make sure they know their rights and their
2 options as for pursuing the matter.

3 So the processes work well we think because we've
4 done some informal studies that show that the majority of
5 the complaints that we receive and forward to the companies
6 are resolved to the satisfaction of the consumer which I
7 think is exactly what the process is designed to accomplish,
8 some kind of resolution that will benefit and help the
9 consumer.

10 I know that I still get questions about, well,
11 inquiry, complaint, what is the real difference. Hopefully
12 I've explained it some because it is an important
13 distinction.

14 We try not to put consumers in an adversarial
15 position when they don't want to be, but at the same time we
16 want to make sure that we communicate pretty clearly to the
17 companies when consumers bring issues and concerns to our
18 attention. So we really try to make sure what the consumers
19 are either calling about, writing about, so that we can take
20 the appropriate action.

21 So I know there was a question at the last meeting
22 about the kinds of training that the representatives receive
23 as far as consumer complaints and inquiries. We spend a
24 great deal of time trying to educate and train our staff to
25 really respond appropriately to inquiries, and they run the

1 gambit.

2 We get some fairly complex inquiries that require
3 quite a bit of effort to get the bottom of and try to answer
4 on behalf of consumers. Other times we get complaints that,
5 frankly, are really not suitable for resolution in the
6 informal complaint context. They really require some more
7 formal adjudication. If that's what the consumer is looking
8 for, a decision on the merits, it really requires something
9 more formal.

10 So we try to educate consumers about the formal
11 complaint process to make it clear that they have that
12 option and also help them understand that they have the
13 right to ask for waivers of certain informal complaint rules
14 if they feel that the formal complaint process is an
15 impediment to actually bringing a complaint.

16 So the process is really geared towards
17 benefitting and helping consumers, and that's where we
18 really put our efforts. And we'll continue to do that.
19 We're always looking for ways to make it work better.

20 To the extent that the committee has
21 recommendations, we would welcome those. I know that there
22 have been questions about the complaint and inquiry reports,
23 and again I would reiterate that we would always welcome
24 suggestions about how to make the report more useable for
25 consumers and for the companies.

1 So I would really encourage you to share with us
2 if you have recommendations about the reports or about the
3 process that we can consider and incorporate. So with that,
4 I'll step back and take any questions you might have about
5 the process.

6 MS. LINKE-ELLIS: Hi. Nanci Linke-Ellis. I have
7 one question about the complaint process. The diagram is
8 gone. When the complaint is -- oh here. When you get to
9 the box that says "complaint satisfied," does the FCC follow
10 up with the complainant or is the complainant responsible
11 for coming back and saying no I'm not satisfied?

12 MR. WYATT: Our goal is to follow-up with the
13 consumer because we don't want to accept the representation
14 by the company that it's satisfied because we've learned, I
15 think the hard way in some cases, that what the company's
16 take on what the discussion was with the consumers is a
17 little different than the consumer's take, so that's the
18 case sometimes.

19 So we try to follow-up with the consumer to
20 confirm that they're satisfied with the resolution and make
21 sure they know they have the right to pursue the matter
22 further if they don't like the resolution or don't like how
23 the Commission handled the complaint.

24 MS. LINKE-ELLIS: How long does it take for you to
25 contact the complainant once the company has come back with

1 their resolution or I mean their explanation. I'm really
2 referring to a specific case that involved KDKA that some of
3 my fellow deaf and hard of hearing people are familiar with.

4 It had to do with emergency closed captioning in I
5 think it was Harrisburg, PA, and a complaint was filed --
6 was it Pittsburgh? Okay.

7 They filed a complaint and they went through the
8 whole process, and the FCC notified the station and sent a
9 copy of the rules. At that point, all it said was, you
10 know, they sent a letter of apology with regret and they
11 cited it as human error, and that was it.

12 There was no explanation as to what the human
13 error was. There was no explanation as to whether they were
14 going to change captioners, or they were going to oversee
15 it, or what the station was going to do.

16 And in hearing about this in a captioning meeting,
17 our question was, well, what did the FCC do then. I mean,
18 what was the next -- what happened?

19 MR. WYATT: I'm not specifically familiar with
20 that specific case, although I will look into it. But I can
21 tell you the general practices are to try to get back to the
22 consumer very quickly especially in a situation that
23 implicates some public health or safety concern.

24 The goal is to get back to the consumer within 10
25 to 20 days, but you have to also understand that in some

1 cases the staff is evaluating that response to determine
2 whether it will take some additional action so the consumer
3 may not -- that process may take longer than 10 or 20 days.

4 We may be coordinating with the disability rights
5 office about the matter, about the response. We may be
6 coordinating with the enforcement bureau, so we may not know
7 exactly what the next step is in that 10 to 20 day period,
8 but the goal is to get back to the consumer and give them a
9 status.

10 Frankly we're looking at ways to streamline the
11 process so that we can keep the consumer better updated
12 about the process so they don't wonder about what the
13 Commission's going to do next. So that is one of our
14 principle goals in the coming months to make that process
15 more streamlined and more predictable for consumers.

16 MS. ROOKER: Claude.

17 MR. STOUT: Hi. I'm Claude Stout. When I'm
18 looking at your diagram, the one that's shown on the Power
19 Point slide, it really looks great and it makes perfect
20 sense. It also shows how it works and how the complaint
21 process works and what place people go to, and when one
22 situation happens how you gather information and so forth.
23 I think it's a great idea.

24 Now, the issue is does the FCC made this
25 procedure, is it working from now on, and then can you help

1 increase our customer's confidence in it? If you remember,
2 I don't know if you were here last July's meeting but before
3 agents from your office were processing a response, and they
4 got the person's complaint regarding captioning that was
5 sent -- a fax sheet. That was it.

6 And that person didn't know where that fax sheet
7 came or where the error occurred. The person couldn't learn
8 anything more other than that from when they ran a fax
9 sheet. That person wasn't capable of understanding.

10 But what your diagram says, this is what you
11 should inform and send out to people when they make the
12 complaint because then they can clearly see what the FCC is
13 doing and they can provide more information to you because
14 they understand the process more clearly. It helps the
15 customer understand what exactly is going on. So maybe you
16 want to include this.

17 So when you are talking about the procedure, it's
18 nice to have them understand it first so that they can fully
19 take part in it. Because of what I'm hearing from you, I'm
20 hoping that you could put this, even a copy of it because it
21 seems like a successful process, and if consumers know, then
22 I think it would also be affective.

23 MR. WYATT: Okay. I think that's an excellent
24 suggestion, and what frankly I am working on, I'd like to
25 see this -- assuming that everybody in my office agrees that

1 it's helpful, then that -- and I like to hear from others
2 here as well whether you think this is something that would
3 be beneficial to consumers and, based on what Claude said,
4 it sounds like it could be very beneficial.

5 So my goal is to have on our website and in our
6 other publications some information that better explains the
7 process and what consumers can expect. And I think it's
8 important for consumers to really understand how the process
9 is designed, what it's designed to accomplish.

10 We're really not geared towards producing
11 decisions on the merits. It's really geared towards helping
12 consumers problems they have with companies, and that's
13 where the bulk of our resources are devoted.

14 But we do share information with the enforcement
15 bureau which has the enforcement responsibilities for the
16 Commission. To the extent that we do get complaints that
17 require some enforcement action, we try to get those over to
18 the enforcement bureau as quickly as possible so that they
19 can decide whether some action is appropriate.

20 But yes, I agree Claude. To the extent that we
21 can better explain the process for consumers, that serves
22 everybody's interest. It serves the company's interest as
23 well, because maybe it will mean that they'll be more often
24 put in a customer service role than an adversarial role with
25 the consumer. I think they prefer to be in a customer

1 service relationship with the consumer as opposed to an
2 adversarial role that we've launched through our complaint
3 process.

4 MS. ROOKER: Brenda.

5 MS. BATTAT: I have a question about a complaint
6 filed under 255. If a complaint is not resolvable in terms
7 of finding an accessible product, does the FCC go through
8 the process with the company of finding out what process, in
9 fact, do they have in place for designing their product to
10 see -- what I'm thinking of is to push or move access
11 forward. Are we building any kind of data as to what is
12 happening in the companies, what kind of processes they
13 have, what is working, what isn't working, and where the
14 stumbling blocks are. Is anything like that happening?

15 MR. WYATT: I can't tell you that. When we
16 receive an informal complaint about an accessibility
17 barrier, we take it very seriously, and we engage the
18 disability rights office in that process right away so that
19 we can be poised to ask the right questions of the
20 companies.

21 We also engage the enforcement bureau because,
22 frankly, the 255 standard as you know is a pretty demanding
23 standard, a very achievable standard, and determining
24 whether an accessibility feature is readily achievable is a
25 fairly complex process and it doesn't really lend itself to

1 an informal complaint process.

2 But we do, when we receive informal consumer
3 complaints, we will -- we take them very seriously. We
4 serve them. We view the company's response. If there are
5 questions that are not answered, we coordinate that with the
6 disabilities rights office. We fashion additional
7 questions. We bring companies in.

8 I can tell you that often times we'll bring the
9 company in to hear from them first hand about what they're
10 doing or what they haven't done to really try to get to the
11 bottom of the issue. But yes, there is a concerted effort
12 to really try to extract information from the companies
13 about accessibility barriers.

14 You mentioned whether we're collecting any data, I
15 mean we're not -- other than tracking the complaints, we're
16 not really compiling any specific data about how the
17 companies are responding, but you know, again, we're closely
18 monitoring those responses, and we do call companies in when
19 we need to get additional information, but at this point
20 we're not really tracking in any public way what the
21 companies are saying in response to the inquiries or the
22 complaints.

23 I don't know if that answered your question or
24 not.

25 MS. ROOKER: We have a question from the floor

1 back here.

2 MS. ENSTRAW: Hello, my name is Alison Enstraw.
3 I've been following what's been happening here, and before I
4 filed a complaint to the FCC regarding my cable company.
5 They were not providing captioned programs.

6 I asked Jennifer Simpson, I talked to her in the
7 complaint department, and she investigated the legal issues
8 with the cable company, however, she went above and beyond
9 the call of duty by giving me some guidance as to who to
10 contact for special individuals in my county and also to
11 make it very effective how to file a complaint or to make an
12 appeal within my county.

13 What I learned was a lot from Jennifer. It was
14 Jennifer Simpson, and I didn't know that much information.
15 I really felt helpful. My county apparently had a franchise
16 committee that dealt with cable industry, and I learned so
17 much through that process. And they were ordered, that is
18 the cable company, to provide captioning programming.

19 So if you could maybe set up a system that would
20 be more helpful by giving guidance to the consumer because
21 consumers often really don't understand the system and how
22 it works and how it works within their own community. So
23 thank you very much.

24 MR. WYATT: Thank you for those comments, and I
25 can tell you that we are doing something along that line.

1 We are in the process of updating our fax sheets that
2 explain the consumer complaint process, and hopefully that
3 will be something that will be very beneficial to consumers.

4 I really want to get the information on our
5 website as well so the consumers can go in and have a real
6 good appreciate for how the process works, what they can
7 expect from it, and just how to use it. So we'll continue
8 to try to find ways to make sure that consumers know about
9 the process, and understand it, and use it.

10 MS. ROOKER: Yes, Judith.

11 MS. HARKINS: On the chart -- and I agree with
12 Claude. This is going to be helpful to people to understand
13 what to expect. In the box that says was the complaint
14 satisfied, and it says if it was satisfied the complaint is
15 closed and it may be subject to further review for
16 enforcement action.

17 If the complaint was not satisfied, there's no
18 indication that it's subject to review for enforcement
19 action, and I would say that the distance for an everyday
20 consumer. We need something that is intermediary so there
21 can be some kind of intermediary step that the agency would
22 make.

23 So one thing to do, I think, would be to make it
24 clear that if it is not resolved that it is also for
25 enforcement action, and I would imagine that the committee,

1 the new committee, would like to see some tracking of the
2 unresolved ones.

3 You said that more than half were satisfied. The
4 complainant was satisfied, but that means that close to half
5 were not. So that's where we're kind of -- we'll keep
6 coming back and needling you about the ones that weren't
7 because that we might want to see a little more proactive,
8 you know, maybe a rule making or something like that.

9 MR. WYATT: Just to clarify, I want to -- because
10 I think that's an important point, and I do want to clarify
11 that we're talking about a little over 70 percent satisfied
12 which is still, you know, that remaining 20 some odd
13 percent, that's still important to us, but the success rate
14 is right around a little over 70 percent. That again,
15 that's an informal study that we've done.

16 But you made some very good points about the box.
17 I certainly didn't mean to indicate that complaints that
18 are not satisfied are not subject to further possible
19 enforcement action because they are.

20 That's part of the discussion that we have with
21 the consumer when we mediate and with the company. So we
22 try to make sure that companies understand that we have an
23 obligation to really enforce the Commission -- well, when I
24 say we, I mean the Commission has an obligation to enforce
25 the rules and requirements on the books and that our goal is

1 to get to the bottom of the complaint. And if we need to
2 share information with the enforcement bureau, we will.
3 Thank you.

4 MS. ROOKER: Okay. We have one more question. I
5 think Al Sorinson has another question or a follow-up, and
6 he's behind the post.

7 MR. SORINSON: When you were talking about how the
8 FCC works within your commission, that's fine. But what is
9 missing is what you send me. I need information regarding
10 my point in my county telling me who I should contact within
11 my own county. That would help me a lot.

12 It would be nice if you could go ahead and go
13 beyond the call of duty by providing complainants with more
14 information that pertains to their specific area not just
15 within FCC. Thanks.

16 MR. WYATT: Another good point, and you mentioned
17 Jennifer Simpson. Jennifer Simpson does work in the
18 consumer inquiries and complaints division. She's been
19 wonderful in terms of responding to questions about the
20 process and helping to facilitate some kind of resolution of
21 complaints.

22 Frankly, we're trying to get more people up to
23 Jennifer's level, so to speak, because I mean she's been
24 very instrumental in helping us, and we really want to
25 develop more expertise in the division along the line.

1 So we're putting a lot of emphasis on training.
2 Jennifer assists with that on a daily basis. We really
3 wanted to have a team of people in the consumer center that
4 can provide the kind of support and information that Mr.
5 Sorinson just described. So another very good point. So
6 thank you.

7 MS. ROOKER: Thank you very much, Thomas. We
8 really appreciated having you.

9 To follow up on the complaints and outreach
10 committee report is Irshad Abdal-Hagg who is the consumer
11 attorney advisor to the consumer affairs and outreach
12 division. Welcome. It's nice to have you with us.

13 MR. ABDAL-HAQQ: Thank you very much. It's so
14 late in the afternoon, I think I'm next to the last
15 presenter, and I'm just thrilled that there's still an
16 audience.

17 I once had to present at one of these all day
18 things and I was next to last, and after each speaker, there
19 were fewer and fewer people in the audience until we got
20 down to my turn to speak, and there was only one person
21 left. I made my speech, and he clapped his hands, and I
22 thanked him for waiting to listen to my presentation. He
23 said, "I wasn't waiting to listen to your presentation. I'm
24 the next speaker." So even though I'm next to last again,
25 I'm glad to see that there are so many people here.

1 My name is Irshad Abdal-Haqq, and I'm an attorney
2 advisor in the consumer affairs and outreach division which
3 is a part of CGB, and I just want to share some information
4 with you about what we do, how and why we do it, and perhaps
5 how you might be able to help us out.

6 The head of our division is Martha Contee, and she
7 made a presentation before you at the last general meeting
8 in, I believe it was in, June. She talked about consumer
9 scams. Scams that were being perpetrated on consumers,
10 telecommunications related scams.

11 At the end of her presentation -- I'm just going
12 to paraphrase what she said. At the end of her
13 presentation, she said that consumer education is the key.
14 It doesn't matter how many rules we have, unless we have
15 consumer education, we aren't going to win this game.

16 So the best consumer protection is education and
17 awareness, and this is what our goal is in this bureau.
18 That is my goal in this division, and she's going to work
19 very hard on that. And I would like to continue in that
20 vein.

21 Even though she was relating to you scams that
22 result in many complaints, our job in the consumer affairs
23 and outreach division is to try to educate the consumer to
24 inform the consumer so that they aren't taken advantage of,
25 and if they are, what they can do about it.

1 Organizationaly, our division is under the
2 immediate supervision of the deputy bureau chief for
3 consumer affairs. Presently, Kris Monteith who addressed
4 you this morning is acting in that position as well as
5 heading the intergovernmental affairs office.

6 Generally, the consumer affairs and outreach
7 division is mandated to develop and implement consumer
8 outreach and educational policies, goals and objectives and
9 to insure that the Commission has the benefit of a wide
10 spectrum of information and view points in its decision
11 making processes.

12 We also plan, develop and conduct consumer
13 outreach and education initiatives to educate the public
14 about important Commission regulatory programs and other
15 aspects of the Commission's activities.

16 Specifically, we do the following things: we co-
17 sponsor and sometimes we sponsor national consumer forums,
18 and we call these beyond the beltway forums. The most
19 recent one that we were involved in was the one that the
20 intergovernmental affairs office had it but we supported,
21 and that was the emerging economies in Indian country. We
22 helped to staff a booth to provide information to consumers.

23 We went out there and we did a lot of the logistical work.

24 The other thing that we do is -- and we haven't
25 had many of those. In past years we have, before the

1 reorganization, we did a couple of other Indian related
2 forums that we participated in. And we are hoping to do
3 more in the future.

4 Locally, we also have a local outreach program
5 where we will actually go out to community centers, to
6 social organizations and other organizations such as AARP.
7 We're looking to perhaps do things in the school systems.

8 We want to reach children and youth, and we share
9 information with those populations about telecommunications
10 in hopes of not only educating them and informing them but
11 helping them to protect themselves from being victimized as
12 well.

13 We participate in and develop special initiatives,
14 and this is something that you might be particularly
15 interested in, such as Get Connected where we make massive
16 mailings. We send information to people across the country,
17 to organizations, to PUCs that share the information with
18 their constituency as to how to get connected to basic
19 telephone service.

20 We had a calling home initiative where we mailed
21 information to various military units so that those enlisted
22 people, soldiers and others serving the military, would
23 understand what their options are when they're calling home
24 and when they're making international calls, etcetera.
25 We're considering a special initiative for DTV so that

1 people could better understand that.

2 Also, we provide media relations support. We have
3 a professional media relations person on staff, and a part
4 of his job is to help to prepare to do advance work, that is
5 if the bureau chief or one of the commissioners are going
6 somewhere and he's going to make a speech or going to appear
7 on TV, then we might participate in helping to facilitate
8 that activity either by helping to arrange for the
9 interview, and sometimes we also review the speeches or
10 portions of the speeches for that individual.

11 We provide disability support services. Two of
12 our staff people provide sign language interpretation on an
13 ongoing basis all the time and also provide braille
14 transcriptions. Those people are in the room right now, and
15 we provide that type of support.

16 The other thing we do is we develop outreach
17 materials in cooperation with the consumer publications
18 branch. That is, the fact sheets, alerts, booklets,
19 pamphlets, all of those things we help to develop, and our
20 publications branch will actually do the formatting and
21 arrange to have them printed. But we participate in some of
22 the writing and organization.

23 Right now, the head of that office, the
24 publications branch, is Stacy Mesa. We have about 90 fact
25 sheets and alerts now that are still in publication. All of

1 them are being translated into Spanish, and we have about 10
2 booklets and brochures.

3 Next, we are attempting to partner with other
4 agencies, Federal and non Federal, in mutual outreach
5 concerns, you know, ways that we can get to consumers to
6 share information with them and to encourage public
7 participation and to inform the public.

8 So we have a full plate. We have a lot of
9 activity. We help to set up the C/DTAC meetings. You know,
10 our division is the one that does this thing. You know, so
11 we're always busy.

12 If there are any special events in the building,
13 even if they're not related necessarily to our bureau, we
14 participate in helping to set that up. We do a lot of the
15 logistical work.

16 Those are the things that we are supposed to do.
17 Those are the things that we are hoping to do more of in the
18 coming year, and I just want to tell you about a few things
19 that we've done in the past year.

20 In addition to the C/DTAC meetings and helping to
21 facilitate those and working with Scott Marshall who is a
22 part of our bureau, we attended a public service
23 appreciation week which is held every year here in
24 Washington. We set up a booth, and we shared information
25 with the general public and handed out fact sheets and

1 alerts regarding telecommunications related issues.

2 We did the same thing recently in October at a
3 public utilities discount day which was held here in
4 Washington. The local Washington PUC is called the office
5 of people's counsel, and as far as we can tell, it's the
6 only one that hosts this public utilities discount day which
7 is orientated for poor people.

8 You have all of these low income people who come
9 in and don't know that they have access to the telephone
10 service through our Get Connected program, and hundred of
11 people came. So many came in, we ran out of materials.

12 The staff had to call back, and we were literally
13 running around gathering materials and shipping them over to
14 the convention center because there were all of these people
15 who needed this information, and I think it probably is
16 needed all across the country.

17 If we can get into some kind of relationship with
18 some of the other PUCs and convince them to hold the same
19 type of affair, then I think it would be very successful in
20 the way of facilitating outreach.

21 We participated in an energy expo day and, of
22 course, the national summit on emerging tribal economies
23 which I mentioned earlier. We partnered with our
24 intergovernmental affairs office in that activity.

25 We also attended an AARP convention in San Diego

1 and hosted a booth there last September, and we shared
2 information with the general public.

3 Today, a group of students from Hollan's College
4 came in. They're undergraduate students taking a
5 telecommunications course, and they wanted to know what we
6 do and why we do certain things, and we brought those
7 students in and took them on a tour.

8 They had a brown bag lunch and met with some of
9 the higher officials on the eighth floor. They don't allow
10 me to go up there because I get nose bleeds. They had a
11 great time. I went in for a part of it, and they were
12 grilling some of the technical staff here on DTV, why do we
13 need digital television, you know. It costs too much.
14 What's so great about it?

15 They were going on and on, and I learned so much
16 about what the average consumer would ask just from the 10
17 minutes I spent there, and it should help us tremendously in
18 our outreach effort as we shape our DTV outreach.

19 We've done a lot of other things. I don't want to
20 bore you with all of these things that we've done, but
21 they're all related to the things I mentioned earlier.

22 In addition, we found out that the most popular
23 publications we have when we go out are those related to get
24 connected, cramming and slamming, unwanted telemarketing
25 calls, understanding the phone bill, and we have a general

1 booklet that tells you about the FCC.

2 Those are the types of publications that people
3 ask for and they go for when we go out on these forums.
4 Sometimes we might have 20 different types of handouts, but
5 those are the ones that people seem most interested in.

6 As I said, in the coming year we want to continue
7 in this effort and to expand it. We're a new bureau. We've
8 only been around for -- I mean, I'm sorry, a new division.
9 We've only been around for a year or so even though the
10 bureau itself did conduct some outreach activities in the
11 past.

12 Now we're actually -- we've shown a commitment to
13 doing this, and this is, I think, a credit to the head of
14 the bureau. I've talked to people at FTC, and they send out
15 maybe 10 times as much material as we do.

16 I said, well, do you hold forums? Do you co-
17 sponsor forums where you go and talk to the public and
18 explain these things to them. They say no, we don't have
19 the budget for it. The only thing we do if someone else is
20 having something, then we'll go there and staff a booth for
21 a day or so, but that's all that we can do. And that is
22 supposed to be the consumer agency.

23 So I think that we really have shown a great
24 commitment to helping consumers, and I would request that
25 what we could benefit from a committee like yours is that

1 your share your concerns and suggestions with us as to how
2 to evaluate the quality of our outreach, how to develop, and
3 what types of new outreach techniques we may use, and
4 helping us in figure out ways of encouraging more public
5 involvement in the FCC decision making process. Thank you.

6 MS. ROOKER: Thank you much. We have a few
7 minutes for questions. Claude.

8 MR. STOUT: I'd like to thank you for what you've
9 done. I need to make sure if I understand you right. When
10 you talk about the resources and abilities at the FCC, are
11 they greater than at the FTC? Is that what you were saying?

12 MR. ABDAL-HAQQ: Yes. We're hoping so. Our
13 budget, as you know, we're still operating on a continuing
14 resolution, and we won't know what type of resources,
15 financial resources, we have available to us until later
16 this year. However, as far as staff is concerned, we
17 certainly have more resources committed to consumer
18 outreach.

19 MR. STOUT: I guess I'd like to add one thought.
20 As you made your comments, it was more of, I guess, a more
21 isolated effort as locally. You know, the local effort
22 you're talking about.

23 Well, you go to some national meetings and you
24 help there like Indian affairs or you went out to Arizona.
25 That's really great, but I'm trying to see about how with

1 your limited resources you can make a better impact like
2 public service announcements. I mean, that could go a long
3 way reaching many more than 50 people. You could reach
4 thousands of people.

5 If you had public service announcements on
6 television, you'd be educating more people about their
7 rights, about what they don't realize they can do, and you
8 could talk to them about the complaint process and they
9 could experience it for themselves.

10 MR. ABDAL-HAQQ: Yes, I agree with you
11 wholeheartedly. In fact, I didn't go into the details of
12 our media relations outreach effort, but a part of that plan
13 is to develop the type of tools that you're talking about.

14 A part of it would depend on what kind of funding
15 is available. We're committed to the concept, but we're
16 just not sure what funding would be available to actually
17 carry that out, but it is a part of our plan.

18 MR. STOUT: I'd like to suggest that the FCC push
19 to increase the budget. You know, you can ask Congress for
20 more money.

21 MR. ABDAL-HAQQ: Amen.

22 MR. STOUT: And it could go through Department of
23 Treasury. If you start pushing to increase your budget in
24 the area of advertising, let's say, or more staff, more
25 money for the public service announcements. I mean, you

1 have consumers here. We could go to Congress and push them
2 for you to help support your actions.

3 And probably you can't do this alone. I mean, we
4 know what works, and we know how we can advise you and how
5 we can go to Congress and lobby for you. And we could say
6 they keep telling us their resources are limited, please
7 give them a greater budget because we'd like to see them do
8 more advertising, more announcements, more education.

9 MR. ABDAL-HAQQ: Yes, I support that, and I'm sure
10 that the Commission would -- the challenge whenever you ask
11 for more money is what I hinted at at the end of my
12 presentation, and that is to demonstrate that the quality of
13 your outreach is worth the money that's being spent. And if
14 there are ways that you can help us to figure out how to
15 measure qualitatively the effectiveness of our outreach, I
16 would appreciate any ideas in that area.

17 MS. ROOKER: Bob.

18 MR. SEGALMAN: Some mistakes have not been able to
19 afford to produce flyers on some of the TRS services. It
20 would be very helpful if we could have a national flyer on
21 each TRS service. Would that be possible?

22 MR. ABDAL-HAQQ: It's certainly something that we
23 can consider, and I will take it under consideration and
24 discuss it with the staff.

25 MS. ROOKER: Well, thank you so much. Do we have

1 one more comment? Al.

2 MR. SORINSON: While we're on the subject of
3 outreach programs, I do have some issues that I don't know
4 whether it's within the FCC's purview or jurisdiction, but
5 for example, PBX System, that is within each user's
6 jurisdiction within FCC jurisdiction. Many of them are not
7 programmed recognizing 711. As a result, people within the
8 companies cannot make a relay call through the 711. Could
9 the FCC become involved in that issue?

10 MR. ABDAL-HAQQ: I honestly am not sure whether we
11 could or not. It would be something that I would have to
12 check with other offices on. I can say that our outreach
13 office itself, we don't develop any types of regulations or
14 standards, or even proposed law.

15 We implement policies that other offices in the
16 FCC may have already adopted relating to consumers, and we
17 share that information. So it's not something that we would
18 initiate, but it's something that we can look into and ask
19 about.

20 MS. ROOKER: One more question.

21 MR. KRAFT: I think what he's referring to was the
22 fact that many companies, for example Home Depot. They have
23 PBX in their store and it is not designed to take 711 calls.
24 For example, a store employee would not be able to call me
25 at home. If I give them the 711 number, I have been waiting

1 at home and I haven't heard anything from them because they
2 can't even call me. So we need to figure out how the stores
3 can change that and we configure their PBX. There's nothing
4 related to rules.

5 MR. ABDAL-HAQQ: It sounds like if there was an
6 education --

7 MR. KRAFT: But it's more possibly related to the
8 FCC maybe outreach to help educate them that this problem
9 exists.

10 MR. ABDAL-HAQQ: Yes. That definitely is
11 something that --

12 MR. KRAFT: So that they can have that fixed.

13 MR. ABDAL-HAQQ: Yes. Sorry.

14 MR. KRAFT: Because it is an issue because we have
15 to modify a switch, I think it is, their PBX switch, and
16 once that's programmed, it can accept 711 calls.

17 MR. ABDAL-HAQQ: Yes. That is the type of
18 information that we can share with businesses, individual
19 vendors, that sort of thing. Absolutely. And it's also the
20 type of suggest that we would ask this committee to provide
21 us from time to time so that we can fill in those gaps where
22 there are deficiencies between the consumer and maybe
23 another consumer or telecommunications company just because
24 of lack of information we may be able to address some of
25 those concerns.

1 MS. ROOKER: Thank you Roger. We do have one
2 final question here. And this is it.

3 MS. KELLY-FRYE: This is Brenda Kelly-Frye, the
4 director of the Maryland Relay. I thank you for bringing up
5 the issue about the 711 non-access through PBX systems. I
6 do have a little bit additional information. I do have a
7 little bit additional information.

8 I appreciate the fact that the FCC perhaps may
9 consider assisting us in encouraging agencies and companies
10 out there that do have PBX systems and to reprogramming
11 their system.

12 However, some PBX systems are privately owned, and
13 we can't really enforce, you can't force them to program
14 their systems. And some of them have done it for good
15 reasons. They don't want their employees to dial 411. It's
16 not necessarily that they don't want them to dial out 711 to
17 reach the relay, it's that they don't want them to incur the
18 additional expense for information phone numbers when they
19 can just pick up a phone book.

20 But we in Maryland do send out through the state
21 government, we do send out through the relay, we send out
22 letters to any companies and encourage them to reprogram.
23 All it takes is just telling like a telephone administrator
24 person and asking them to program and allow us that three
25 digit dialing including 711.

1 MR. ABDAL-HAQQ: Thank you.

2 MS. ROOKER: Thank you very much. Thank you
3 Irshad. We really appreciate it.

4 I have one item of business before we take a
5 break, and that is to find out who needs a taxi after the
6 meeting?

7 All right. We're going to take a break. We
8 expect you back here at quarter after three. Thank you.

9 (Whereupon, a short recess was taken.)

10 MS. ROOKER: I thank you for -- and we have
11 something a little bit different, and I think it's going to
12 be a very interesting presentation for us. Is Paul here?
13 There he is.

14 We're very pleased to have with us Paul Gallant
15 who is the Chair of the Media Ownership Working Group in the
16 Media Bureau of the FCC, and he's going to talk about some
17 issues that are really quite important to us in terms of
18 ownership. So Paul, welcome.

19 MR. GALLANT: We're going to be changing gears a
20 bit as I understand it with my topic from everything else
21 you've talked about today, and hopefully at this point of
22 the day that's a good thing.

23 Media ownership right now at the Commission is a
24 very hot topic both in the cable ownership area and in the
25 broadcast ownership area. To just step back for a second

1 and let you know how we got to where we are today, the 1996
2 Telecommunication Act directed the FCC to review its
3 broadcast ownership regulations every two years and to
4 decide if each of those rules continued to serve the public
5 interest. If the rule in question does not serve the public
6 interest, the Commission is then directed either to modify
7 the rule or to eliminate the rule.

8 So we began on September twelfth a biennial review
9 of our media ownership regulations. The Commission issued a
10 notice of proposed rule making that sought public comment on
11 whether each of the six existing broadcast ownership rules
12 continue to serve the public interest.

13 I thought it would help if I just quickly ran
14 through what those rules are and what the rules are intended
15 to do.

16 Four of the FCC's broadcast ownership rules are
17 focused on the local media market. One of those rules is
18 what's called the TV duopoly rule. It limits the number of
19 TV stations that any one company can own in a single media
20 market.

21 A second rule is the local radio ownership rule
22 which serves the same purpose as the first rule. It limits
23 the number of radio stations that any one company can own in
24 a single market. To sort of shorthand what that rule is,
25 it's the bigger the market it, the more stations any one

1 company can own up to a certain level. For example, in a
2 market where there are 45 radio stations, one company can
3 own, I think the rule says, up to eight of those 45
4 stations.

5 A third locally oriented broadcast ownership rule
6 is the broadcast newspaper cross ownership rule. And that
7 prohibits the common ownership of a local broadcast
8 television station and a newspaper in the same city.

9 Before 1975 when this rule was adopted, there were
10 a number of those combinations, but the Commission decided
11 that they tended to exert an unacceptable level of influence
12 over community affairs, so they ordered several of the
13 existing combinations to sell one or the other of the
14 properties and grand-fathered the remaining broadcast
15 newspaper combinations. So there are there a few in
16 existence today, but going forward, there is a ban on those
17 kind of combinations coming into existence.

18 The fourth local ownership rule is a rule that
19 limits the number of TV and radio stations any one company
20 can own in a market. This is sort of a cross ownership
21 rule. If you already own a TV station, that limits the
22 number of radio stations you can own or vice versa.

23 There are two national ownership rules as well.
24 One is the national television ownership rule which says
25 that one company can own no more television stations that

1 serve up to 35 percent of the US television households.

2 The second national ownership rule is what's
3 called the dual network rule, and that rule prevents the
4 merger of any of the top four broadcast networks from
5 merging.

6 The goals of these broadcast ownership regulations
7 are to preserve and promote competition, diversity, and
8 localism in the media markets. Competition is important
9 because generally speaking, vigorous competition, between
10 and among any kind of companies tends to serve the public
11 interest by giving companies the incentive to improve their
12 products and lower their prices.

13 Diversity is obviously a central goal of our media
14 ownership regulations as well. The Commission has
15 traditionally assumed that separate ownership of media
16 outlets tends to promote a diversity of view points on the
17 air and that that is very important to the functioning of
18 the government and the airing of public issues.

19 The third policy goal of the FCC's media ownership
20 regulations is localism, and we have aimed to have ownership
21 rules that encourage media companies to serve their local
22 communities.

23 One example of this is the 35 percent national TV
24 ownership cap, and one of the theories that that rule rests
25 on is that by insuring that there are a number of TV

1 stations out there that are not owned by TV networks that
2 those stations will sometimes decide not to air particular
3 programming that a network would like it to air because in
4 the station's judgment that programming may be unsuitable
5 or, you know, inappropriate for the community that that TV
6 station serves.

7 So the FCC's 35 percent ownership trap is intended
8 in part to preserve localism and give the local TV stations,
9 65 percent of the local TV stations, an incentive to insure
10 that broadcast network programming is appropriate for their
11 communities.

12 So again, the Commission opened up this big
13 ownership proceeding on September twelfth. Public comments
14 are due on the questions that were asked in that notice on
15 January second, and reply comments are due here on February
16 third.

17 To improve the Commission's understanding of the
18 media market and how consumers use the media, the FCC -- or
19 I should say, Chairman Powell created the media ownership
20 working group which I became the Chair of.

21 Our job was to do studies of the media market
22 including how the market works and where consumers get news
23 and information from in order to give the Commission a solid
24 factual basis to review it's media ownership rules this time
25 around.

1 We completed those studies and put them out for
2 public comment on October first, and they're all posted on
3 our web site if you're interested in taking a look at them.

4 So once the public comment comes in on January
5 second and the replies on February third, the Commission
6 will then have hopefully a solid record to understand how
7 the market works and how consumers use the media to re-
8 evaluate its existing ownership regulations. And the goal
9 of the Commission is to complete this rule making and review
10 by the spring of next year.

11 So that's sort of where things stand, and that's
12 how we've gotten to this point. I'm happy to take any
13 questions that you have.

14 MS. ROOKER: Tell us how you're looking at the
15 existing rules and what you think might change particularly
16 related to consumer issues and disability issues.

17 MR. GALLANT: Well, the consumer issue in media
18 ownership, I think, at least one of the consumer issues, is
19 the viewpoint diversity question I mentioned earlier. I
20 mean one of the goals of FCC regulation of media ownership
21 is ensuring that there are sufficient diversity of
22 viewpoints out there so that consumers and citizens have the
23 ideas and the information available to them so that they can
24 make decisions in the democratic process.

25 That's not necessarily sort of a financial issue,

1 but it's a critical democratic issue, and it's been the
2 organizing principle of the Commission's historical
3 regulation of media ownership.

4 That's clearly been a central goal, and so I think
5 that would be the easiest consumer oriented goal that I
6 could point you to in this area, and it's a very important
7 one.

8 MS. ROOKER: What about the disability issues? Is
9 there anything in particular that you're reflecting in
10 recommendations that have to do with access?

11 MR. GALLANT: I can't say for sure, but off hand,
12 I mean, the Notice of Proposed Rule Making that was issued
13 in September I don't think raised those issues. I'm not
14 certain, but I don't think the ownership rules implicate the
15 disability issues.

16 MS. ROOKER: All right. Do we have any questions
17 here? I think Dirk and then Larry.

18 MR. HARGRAVES: Thanks for your presentation. I
19 met earlier in this week with Media Telecommunications
20 Counsel and NABOB, National Association of Black Owned
21 Broadcasters, and they expressed concern.

22 And I guess the understanding now that these
23 reviews come along every two years we're having, but the
24 concern is the importance of diversity and ownership and
25 what have you was an issue that many minorities thought was

1 already decided, and it seems that this is being opened up
2 again.

3 Are we saying that the idea is to tweak the system
4 so that we can better achieve the goals of diversity,
5 localism, and competition, or is there a fundamental
6 question of whether or not minorities and women and small
7 business owners should have access to the ownership of
8 different forms of media?

9 MR. GALLANT: Well, the Commission has
10 historically undertaken specific efforts aimed at promoting
11 ownership of broadcast outlets by minorities, women, and
12 small businesses, and I'm not an expert on -- I can't give
13 you a great deal of detail of those, but I know that some of
14 those started to run into resistance in the courts in the
15 early and mid nineties.

16 As we think about that goal and as we deal with
17 that goal in this proceeding, one of the things that we've
18 asked the public to comment on, and as you know from my
19 discussion at MMTC a few days ago, we have asked people very
20 directly to supply us not just with information about why
21 this is a good goal and what we should do but a clear
22 explanation as they see it of how we can get there legally
23 because, you know, we've had sort of mixed success in the
24 courts, to put it mildly, recently, and it's really
25 important to us that the media ownership rules that come out

1 of this proceeding stand up in court.

2 So I would just underscore that along with the
3 policy telling us why it's important to have rules that
4 promote minority and female and small business entry and
5 involvement in this business that we have, you can show us a
6 legal path to get there. I mean, we think about this too,
7 but we would really benefit from some public input.

8 MR. HARGRAVES: Just a follow-up, would you be
9 inclined to comment or characterize the discussion in terms
10 of the FCC's limited resources in the studies that they've
11 tried to conduct and the concern that MMTC had that the some
12 of the studies weren't -- I guess the predicates of the
13 studies weren't in keeping with how they would have
14 preferred to have done, and the response was that, well, we
15 can do our own studies and kind of give you that
16 information.

17 MR. GALLANT: Well, yes, I mean to some extent I
18 think no matter what we did, there will be people with
19 interest in having us do more or different work. But I
20 think it's important to keep in mind that this is a
21 significant improvement over anything the Commission's ever
22 done in the area of media ownership research on it's own.

23 I mean, typically, the Commission waits for public
24 comment to come in and takes whatever the public tells us
25 for better or worst, and that's our record and we make

1 decisions on that. Sometimes that gives us a good record,
2 and sometimes it doesn't.

3 So we didn't want to take a chance this time of
4 lacking the kind of information we need to make some good
5 policy decisions here, so we went out and did our own
6 studies, and we hoped that that would be the first volley in
7 this debate about how the market works and how consumers use
8 the media.

9 In an effort to make our own studies as
10 transparent and as sort of open to the public as possible,
11 we've released as much of the underlying data as we can
12 publicly on our web site or in our reference room. We've
13 also made available some proprietary data that the study's
14 relied on.

15 If people want to come in and look at that data
16 here at the Commission on our computers and work with it, we
17 made a process available for them to do that. We've even
18 made the authors of these 12 studies available for anyone
19 from the public who wants to come in and understand better
20 how these studies were created, what the methodology was,
21 and what, you know, just sort of how they reached their
22 results.

23 So we've tried to make this an open and
24 transparent process for anybody from the public who wants to
25 really engage on these issues that you're raising.

1 MS. ROOKER: Larry.

2 MR. GOLDBERG: I think you opened up by saying
3 that the cross ownership rules also affect the cable
4 industry, but you didn't list those in your six areas that
5 the NPRM is looking at. Is that a separate proceeding, or
6 is that part of it as well.

7 MR. GALLANT: Yes, that's a good question. The
8 biennial ownership review that Congress directs us to do
9 every two years actually just focuses on the broadcast
10 ownership rules.

11 And you're right. There are two other ownership
12 rules that we have related to cable operators that we are
13 also reviewing on a separate track, and it will likely be
14 completed before the broadcast review.

15 The cable ownership rules, just to quickly give
16 you an understanding of what they are, the 1992 Cable Act
17 directed the FCC to set a maximum number of households that
18 any one cable company can serve nationwide. The FCC set
19 that limit initially at 30 percent.

20 That was challenged in court by one of the cable
21 companies successfully, and the court said the FCC didn't
22 have a good enough rationale and evidence to set the 30
23 percent cap, the cap where it did at 30 percent.

24 So it sent the issue back to us, and we are not
25 actively reviewing that, and we're entering the later stages

1 of that review, and we hope to have a decision relatively
2 soon on that.

3 The other cable ownership rule is a sort of
4 horizontal nationwide ownership cap. It's what's referred
5 to as the vertical ownership rule, and Congress also in the
6 1992 Cable Act directed the agency to limit the number of
7 channels devoted on a cable system to programming that is
8 affiliated or owned by the cable operator. The goal there,
9 I think, was to insure a certain amount of shelf space for
10 independent programmers that are unaffiliated with cable
11 operators.

12 The court also had problems with the way we came
13 up with our initial vertical ownership limit, and so they
14 sent that back to us as well. So that's bound up in the
15 same proceeding on cable ownership that we're handling right
16 now.

17 MS. ROOKER: Okay. Do we have other questions?
18 Ken?

19 MR. McELDOWNEY: In which of the proceedings do
20 you look at the sort of cross ownership for the ownership by
21 the national TV networks of cable networks, like the recent
22 NBC purchase of Bravo?

23 MR. GALLANT: Well, at least as best that I
24 understand your question from the example that you gave at
25 the end, the FCC does not regulate the -- well, I don't want

1 to say this too broadly, but the FCC does not regulate the,
2 sort of, relationship between programming networks.

3 There's not a regulatory hook when NBC buys Bravo
4 or when two cable channels want to get together. That's not
5 -- Congress has not given us authority to look at that kind
6 of transaction.

7 MR. McELDOWNNEY: Would you see that as potentially
8 being something that needs legislation then, just in terms
9 of the increasing concentration of sort of media ownership?

10 MR. GALLANT: Well, I mean that issue comes -- I
11 guess I just start by saying I wouldn't be the right person
12 to advise Congress on what they, you know -- they'll do what
13 they think is appropriate.

14 I mean, the issue though that you raise comes into
15 play to some extent in the broadcast ownership proceeding
16 that we're working on right now where we're looking at, you
17 know, how many and what kind of media outlets are out there
18 today, and is this different than it was 20, 30, 40 years
19 ago when a lot of these broadcast rules were first put into
20 place. And if the world is very different than it was at
21 that time, you know, what does that mean for our existing
22 ownership rules.

23 So if you have a lot more of the cable channels
24 and even if you look at the internet or, you know, DVS, I
25 mean, clearly there are some things that are different today

1 and, you know, that may have implications for some of the
2 broadcast ownership rules.

3 So I'm not sure if that answers your question, but
4 the example you gave does come into play to some extent in
5 the broadcast ownership proceeding.

6 MR. McELDOWNNEY: Thank you.

7 MS. ROOKER: Do we have other questions? Okay.
8 Well, we thank you very much for being with us.

9 MR. GALLANT: All right. Thank you for inviting
10 me.

11 MS. ROOKER: This comes to the second to where we
12 invite comments from public attendees to this meeting who
13 are not members of the committee. We would like to find out
14 if we have anyone who wants to make any comments.

15 No public comments. Oh, Scott's just asking me a
16 question. We do have a public comment. You know, I really
17 did skip an important part, and that is to talk about the
18 media ownership rules. I apologize for that.

19 Do you mind waiting? Okay, thank you. We really
20 do need to discuss whether or not anything that we have just
21 learned we want to make recommendations to the FCC, and the
22 issues seem to be the diversity issue, larger ownerships,
23 the buying up of, gobbling up you might say, of some of the
24 cable stations by the networks, the cross ownership issues.
25 Are there things here that we would want to make

1 recommendations? Dirck?

2 MR. HARGRAVES: I don't want to speak out of turn,
3 but the MMTC and NABOB, and a host of other groups are
4 advocating on behalf of women and minority owned and
5 disadvantages businesses are coalescing around this issue.
6 We might want to reach out to them and not re-invent the
7 wheel, and work together.

8 MS. ROOKER: I see. So instead of us putting out
9 issues, you're saying we should maybe hear from them?

10 MR. HARGRAVES: Sure. Sure.

11 MS. ROOKER: In terms of further discussion?

12 MR. HARGRAVES: That would be a recommendation.
13 MMTC, which is the Minority and Media Telecommunications
14 Counsel. Dave Hoenig is Executive Director. And NABOB, the
15 National Association of Black Owned Broadcasters. And I
16 forget the gentleman's name there, but that would be my
17 recommendation.

18 MS. ROOKER: What about issues for in the
19 disabilities community. What does multiple ownerships mean?
20 Does it mean anything, Larry?

21 MR. GOLDBERG: Well, I've been trying to think
22 about the implications and in particular on captioning and
23 description, it would almost make sense if there was only
24 one network and they owned every TV station in the country.
25 We could easily have 100 percent captioning and is one

1 program all the time. But clearly that's not --

2 MS. ROOKER: Might get boring.

3 MR. GOLDBERG: Yes. Aside from that, I think that
4 there's sort of a natural kinship, obviously, because of
5 this committee between consumer concerns over media
6 concentration and the disability community, and I almost
7 turn it back to you Shirley. You're Chair, but you
8 certainly are head of an organization that clearly has
9 significant concerns about this.

10 But as Paul was saying and as you might think of
11 any other disability representatives here, it's hard to
12 imagine particularly negative consequences to making TV
13 accessible unless you want to spin out some paranoid
14 fantasies of one decision by one company, the, you know,
15 Disney/AOL/Turner/Paramount Company. If it was all one,
16 they could stop all access. But I think that's a stretch.

17 So I think the concerns of the consumer
18 representatives are paramount here, and that's you, and Ken,
19 and --

20 MS. ROOKER: Ken, what do you say about that? Are
21 you there, Ken?

22 MR. McELDOWNEY: What do I say about what?

23 MS. ROOKER: Larry was saying that he says he
24 feels that the consumer community's concerns about gigantic
25 ownerships or multiple ownerships in markets is a consumer

1 issues, and I said what do you think about that?

2 MR. McELDOWNEY: Yes. I mean, I think definitely.

3 I think certainly the coverage recently of Clear Channel in
4 terms of not only their ownership of radio stations but
5 their control of programming of radio stations and the
6 ownership of, you know, constant booking agencies, plus bill
7 boards, plus -- I mean, in certain markets, they've gotten a
8 concentration of, you know, well over 50 percent of the
9 radio stations.

10 I think the same sort of thing happening in TV and
11 I think it's increasingly of being of being a very serious
12 concern in the consumer, you know, movement just in terms of
13 that type of concentration as being sort of really just not
14 conducive to open exchange of ideas.

15 MS. ROOKER: Certainly I can kind of agree with
16 you on that Ken. What I've seen is that the large
17 ownerships with multiple dollars to spend can come in and
18 really put the smaller radio stations out of the business.
19 I guess that's an economic fact of competition, but it does
20 happen.

21 Or at least make them change their formats to
22 something else, because they go head to head with them on a
23 particular format and just knock them out of the market.
24 And that has happened. I won't cite cases, but it's
25 happened here in Washington.

1 So at any rate, there is that concern. Is there
2 some way that we want to express something to the FCC on
3 this issue?

4 MR. McELDOWNEY: I'm just not sure how to put it.
5 I'm sure I'm conference call brain dead.

6 MS. ROOKER: It's Friday brain dead too.

7 MR. McELDOWNEY: I know. I think it sort of
8 points out one of the problems I think we've had in terms of
9 when sort of new issues are brought up late in the meeting.

10 MS. ROOKER: Yes.

11 MR. McELDOWNEY: I think it's been very hard to
12 look at them with any sort of a clear or focused mind.

13 MS. ROOKER: Well, this is not an issue that's
14 going away, and there's no reason that we have to make
15 decisions today. Wait a minute. Scott's got something.

16 MR. MARSHALL: No, it's true. And the comment
17 period is open for people to comment.

18 MS. ROOKER: And the comment period is open. It
19 will be open for as I figure it well into February. Not
20 before our next meeting. I mean, it will be up, but we can
21 always make comments and make recommendations. Is that
22 right? Yes. It doesn't have to be the proposed rule
23 making.

24 So maybe this is something that we would want to
25 take a look at in a little bit more depth and hearing from

1 more people. Give us some time to think about it. It's
2 certainly a different focus than what we've been doing, but
3 it's certainly one that I think concerns all of us when we
4 see huge ownership.

5 So, I know from my organization it can affect
6 negatively depending on whether or not that particular
7 corporate owner happens to feel friendly to consumers
8 because our relationship with broadcasters is dependant upon
9 the broadcaster having an interest in serving the community.

10 Since that's no longer a requirement, it's now a
11 special gift, I think, when broadcasters want to bring an
12 organization like Call for Action. I'm happy to report that
13 we're growing tremendously with four new stations this year,
14 but you never know what's down the road.

15 MR. McELDOWNNEY: No, I like that idea of looking
16 at it in perhaps a little more detail in February, and at
17 that point we'll have the benefit of, sort of, the comments
18 that people have made. So I think that will help us in
19 terms of getting a slant on terms of possible motion.

20 MS. ROOKER: Okay. All right. Then why don't we
21 say that this is something that we're going to consider at
22 our next meeting. We have another agenda item for Scott
23 here. Judith, I think you had a question.

24 MS. HARKINS: This one is for you, Ken, and for
25 Shirley because you're the experts, you know, in this area.

1 I wonder if you think it would be appropriate to
2 commend the Commission for initiating a study on this rather
3 than just going to a public proceeding but actually looking
4 at it in a serious way.

5 MS. ROOKER: I was very pleased to hear in Paul's
6 remarks about them actually instead of just basing their
7 comments on what consumers say -- and of course, you're
8 never certain what slant the consumer's coming from -- but
9 that they actually went out and spent the resources.

10 Perhaps that is the one thing that we should say
11 as a result of this meeting that the Commission is to be
12 commended on the depth of their involvement in looking at
13 the issue. Would we want to make that kind of a positive
14 motion? Somebody want to say it?

15 MS. HARKINS: I think that's a great idea.

16 MS. ROOKER: Okay. Then can we put it just like I
17 kind of said it? All right. I'm making a motion that -- I
18 love being Chair. God you've got power. That we commend
19 the FCC and the efforts and resources that they've expended
20 in looking at the issues of ownership in broadcast and
21 media, and they are to be commended.

22 All right. With the motion on the floor, do we
23 have a second? Okay. All in favor, say aye.

24 (Chorus of ayes.)

25 MS. ROOKER: It's approved. Okay, it's passed.

1 Thank you very much.

2 Anything else that we want to discuss on that
3 issue, Paul?

4 MR. LUDWICK: I have something, but I'm not sure
5 really appropriate for the group, but it's something that
6 bothers me on a personal level, and maybe this is just my
7 soapbox.

8 MS. ROOKER: Let's talk about it.

9 MR. LUDWICK: Okay. It's come to my understanding
10 that in many areas, an increasing number of areas of the
11 country, groups with political agendas are purchasing radio
12 stations that share their band width with public radio
13 stations that provide public radio.

14 Effectively, what that does is take public radio
15 off the air in that area of the country.

16 MS. ROOKER: Oh, really? That's a new one to me.
17 You mean, if someone bought the band width that NPR --

18 MR. LUDWICK: Well, I think the way it works, and
19 maybe somebody knows a little bit more about it --

20 MS. ROOKER: I don't know anything about it.

21 MR. LUDWICK: -- but stations can share band
22 width.

23 MS. ROOKER: Right.

24 MR. LUDWICK: Low power stations. So some --

25 MS. ROOKER: Right. Both upper and lower bands

1 and all that stuff, right.

2 MR. LUDWICK: So some stations share band width
3 with a station that provides public radio. Well, a
4 political group comes in and buys the station that owns the
5 band width and effectively withdraws the sharing agreement,
6 takes public radio off the air in that area of the country.

7 My opinion is it's not in the best interest of the
8 public to have that removed from the air, but I'm not sure
9 there's anything this group could do about it or say about
10 it, but it's something that bothers me personally.

11 MS. ROOKER: I don't know. Larry?

12 MR. GOLDBERG: I can mention a little more about
13 that. Only a little bit, but because it's a member of the
14 family and NPR, in Louisiana in particular there was a
15 station that became available on the market.

16 It was bought up, and it's happening -- mostly
17 religious broadcasters who in particular were posing the
18 kind of programming on NPR, and by buying a station and then
19 increasing their wattage, they were able to pretty much wipe
20 out the coverage area of the local NPR station.

21 The NPR stations not having the resources to fight
22 for it, and they were basically asleep at the switch. NPR
23 now is well aware of the problem. It caused quite a bit of
24 turmoil there, and they're going to try to provide more
25 resources to the stations.

1 I think the most that the Commission might be able
2 to do is to be a little bit more proactive and not just
3 being passively allow this to happen but to just notify it
4 and to make sure that the other stations have the time to
5 react because it was somewhat a fast purchase, completely
6 legal, but it really left a lot of people unaware. And
7 these little tiny NPR stations just don't have the resources
8 to fight it.

9 MS. ROOKER: You know, that's a new one on me. I
10 think perhaps what we should do is put this on as an agenda
11 item so that we can discuss it further at another meeting.
12 We can get some information on what's really happening.

13 Is it possible, Larry, that you could provide us
14 with any data or input on where it's happened, and how many
15 times, and --

16 MR. GOLDBERG: Sure. I think both the NPR side
17 and the media bureau is probably a good place for that, but
18 I could look into that.

19 MS. ROOKER: Okay.

20 MR. GOLDBERG: NPR, like I said, woke up and put a
21 lot of resources into making sure their members don't get
22 caught short again. Luckily another station became
23 available in Louisiana, so those folks who were without any
24 NPR programming now have some programming back.

25 MS. ROOKER: I thought there was a limit when a

1 radio station on what it's wattage it can -- you know, there
2 are restrictions on what kind of wattage you can have, but
3 obviously they're living within the law when they do this.

4 MR. GOLDBERG: That's right.

5 MS. ROOKER: That's an excellent suggestion.

6 Anything else? It's a cruel world David says. Well, it's
7 not a cruel world. I hope it's still a beautiful day
8 outside. I don't know. It's probably dark by now.

9 Unless you have any other comments, I would like
10 to turn this over to the folks who wanted to speak from the
11 public. Thank you for your patience.

12 MR. CRIEGEN: Good afternoon. Tim Criegen. I'll
13 try to keep this short because I know we all want to go
14 home. It's Friday night. I just have two general
15 questions. I don't know if these are something that you can
16 answer, but if there's someone that I could be directed to.

17 The first question: I'm a little leery to ask
18 this especially in view of today's decision we heard, but in
19 view of changed technologies since the original captioning
20 laws went into effect, specifically DVDs, is there any
21 effort or any movement by the FCC to look into looking at
22 different technology that exists today which didn't exist at
23 the time the law was enacted. For example, to make close
24 captioning a requirement for DVD players. That's one
25 question.

1 The second question is among the proceedings we
2 talked about, we talked about the biannual review and so
3 forth, as a consumer especially one with hearing loss, I'm
4 particularly interested in the status of the open proceeding
5 on hearing aid compatible telephones, and I was wondering if
6 you could give us any sense of where the Commission is on
7 resolving that or where they are with dealing with that.

8 I know that the comment and reply comment periods
9 are over. I know that there has been certainly movement in
10 the community to talk to the FCC and have meetings, and so
11 forth. I was wondering if you could give us some sense of a
12 time frame for a decision on that.

13 MS. ROOKER: I can't. I mean, I'm totally out in
14 left field. Scott, can you?

15 MR. MARSHALL: No, and if it is an open
16 proceeding, I'm afraid we really can't talk about it.

17 MS. ROOKER: Scott says if it's an open proceeding
18 that he can't talk about it.

19 MR. MARSHALL: You're welcome though to --

20 MS. ROOKER: Margaret, do you know any answers?

21 MS. EGLER: Margaret Egler, FCC. The question was
22 this is the accessible telephone? We're not talking about -
23 - you're talking about 256 and 255, right?

24 MR. CRIEGEN: Two different questions. One was
25 about whether the FCC is making any movement to look at

1 applying captioning rules to new technology which didn't
2 exist at the time of the original act, specifically I
3 mentioned DVD players. That was one question.

4 MS. EGLER: All right.

5 MR. CRIEGEN: The second question was whether
6 there's any indication of what the time frame might be in
7 result to a ruling coming down in the open proceeding on
8 hearing aid compatible telephones.

9 MS. EGLER: Right. I can tell you on the first
10 one, I don't know off the top of my head. We could get back
11 to you on that because that's the media bureau if that's
12 happening, and I just don't know off the top of my head.
13 But we can definitely get back.

14 What we'll do is, Scott, if you'll make a note of
15 that question, we can send it down to them then you can send
16 it out to the list.

17 As far as the second question, the hearing aid
18 compatibility, that is under active review. I can tell you
19 that's something that is actually being worked on at this
20 point in time, but we don't disclose, nor can we because we
21 are not the four people sitting up on the eighth floor of
22 this building, when things are going to get acted on.

23 So that's just the way it goes. But I can tell
24 you it's being worked on actively right now, the second
25 question, the hearing aid compatibility question. Okay?

1 MR. CRIEGEN: Okay. Thank you.

2 MS. EGLER: Sure.

3 MS. ROOKER: Thank you very much. Do we have any
4 other questions from the public? Larry? You're not the
5 public.

6 MR. GOLDBERG: No, but I can help with Tim's
7 question a little bit.

8 MS. ROOKER: Okay.

9 MR. GOLDBERG: In terms of where we first were
10 able to get captions built into these TV sets was the TVD
11 Coder Circuitry Act, and that was explicitly about receivers
12 and it did not cover such a thing as a VCR. But the
13 extension of the Decoder Act covers digital televisions.

14 Digital televisions are not necessarily a box that
15 has both a receiver in it and the display, so the FCC rules
16 requiring caption capabilities for digital television are in
17 both the set top boxes, the external devices, as well as the
18 displays.

19 So maybe not a DVD. The FCC really doesn't have
20 jurisdiction over DVD's, but a box like a TVO box or some of
21 the new advanced technologies that will receive your signal,
22 record them, and play them back will be required to support
23 captioning.

24 It's hard to imagine in the atmosphere
25 particularly all the cases the FCC's lost on jurisdiction

1 for them to try to now look at DVDs or the movies or things
2 like that. They really don't have any standing there. But
3 devices that help you watch television and the signals that
4 are coming in over broadcaster cable will have to support
5 captions in the digital environment. So we're almost there
6 with what Tim is looking for.

7 MS. ROOKER: Thank you, Larry. Do we have any
8 other comments?

9 Well, I'd like to make a personal comment -- Al?

10 MS. ENSTRAW: I'd like to make a public comment,
11 but if you don't mind, I'd like to sit here so the
12 interpreter can see me. Is that all right? I don't need a
13 microphone. She has one in her hand.

14 MS. ROOKER: That's good.

15 MS. ENSTRAW: Again, my name is Alison Enstraw.
16 My question or concern regarding this group, is this group
17 able to help or not sure but the issue is, for example,
18 headline news on CNN.

19 It's 30 minute news, and it's continuous from 8:00
20 in the morning until 2:00 in the morning only. That's the
21 only time that they provide captioning. But the last five
22 minutes of every 30 minute segment there is a coding on
23 headline news.

24 For the last five minutes you have a choice of
25 ongoing captions for headline news or local edition news

1 depending on what locality you're in. It depends on which
2 locality the cable exists in.

3 So now in some places or some localities, some
4 cables choose to add their own news, their own programs,
5 that are not captioned, so that would mean for the viewer
6 that they'll show five minutes without captions because it's
7 the local news and that overrides the headline news.

8 So I don't see the last five minutes of the
9 headlines news of captioning. So currently, the FCC rules
10 state that if it's less than five minutes, you don't need to
11 have captioning.

12 Now, my question is, they show five minutes of
13 uncaptioning program instead of letting the headline news
14 with their captioning ride through. Do you have any ruling
15 on that, any special kind of issues regarding that? Do you
16 understand my question?

17 MS. EGLER: Yes. I mean, I understand your
18 question. I said I'll answer this.

19 MS. ROOKER: Yes.

20 MS. EGLER: And I'm not an expert on the
21 captioning, but basically, the rules as far as captioning
22 are put upon what we call the multichannel video
23 distributors which are the cable companies, etcetera.

24 There's a certain percentage that they have to
25 caption every year, and that amount goes up incrementally

1 until, I think it's, 2004 or 2006. So as far as -- we'd
2 have to look at the whole picture as far as what headline
3 news is captioning, and it may be that they're captioning
4 enough of the percentage to be able to give the five minutes
5 to their local people or to keep their own five minutes at
6 the end that they may already caption. But we have to look
7 at the entire day and all the hours together.

8 If you feel if a company, a particular channel,
9 for example this would be the headline news as provided by
10 whatever cable company you're watching which would be the
11 distributor of the programming, if you have a complaint, you
12 know, send it to us. We have a whole system of how to deal
13 with closed captioning complaints, and we would look at it.

14 But there's currently not a requirement of 100
15 percent captioning. It's something that's going up. Now,
16 let me just make this one point. As opposed to emergency
17 captioning which is sort of a different situation where
18 there's an emergency situation.

19 But when we're talking about just general
20 programming, there are requirements for captioning, and it's
21 something that's going up every year but it's not 100
22 percent right now.

23 MS. ENSTRAW: Okay. I did file a complaint.

24 MS. EGLER: Okay.

25 MS. ENSTRAW: And the FCC did respond, so I really

1 appreciate Jennifer Simpson's comment, and she gave me
2 additional information as well. She said that since it's
3 less than five minutes, it's not necessary to be captioned
4 and there you have an exemption within a separate ruling.

5 Now, my question is, is it okay for them to
6 override the headline news because that is captioned instead
7 of showing a captioned program that's already being
8 broadcast in the local -- so can a local cable company kick
9 out that five minutes? Do they have that right to put it in
10 even though it's uncaptioned? Do they have that right?

11 MS. EGLER: That's a contract that they would
12 have. I mean, what you'll see is you'll see headline news
13 in the big cities. You'll see it in the small rural areas.

14 Often the big cities have a -- if it's a headline news,
15 basically it's Time Warner has an agreement with the cable
16 companies to get to insert local news or some public
17 interest, or they just pile in a bunch of commercials.

18 I mean, it's however they have their individual
19 contract with that cable company, you know, whether its
20 Comcast or Cox. Whereas in the smaller areas where they
21 don't have -- there's no separate production facilities,
22 they'll show all 30 minutes of headline news.

23 You see, like when you're in a hotel and it's just
24 a single antenna system, you'll see the entire 30 minutes of
25 headline news. But that's a contractual arrangement. We

1 don't get involved in it, but in terms of what the
2 percentage of complete captioning, that would be something
3 that would go into the mix when we look at that particular
4 distributor's captioning. Does that answer your question?

5 MS. ENSTRAW: Okay. Yes. You're speaking from a
6 legal point, yes. But I'm still wondering if this committee
7 is able to make an agreement that that is a serious issue
8 and that needs to be researched for the next meeting because
9 I would like to make a request that the FCC does set up a
10 non-exemption because if they're already showing a program
11 that has captioning, then it would not be right to be able
12 to supplement that with a show that's not having captioning.

13 So I was wondering if that's a serious enough issue for
14 this group to consider.

15 MS. ROOKER: I would really have to talk with the
16 people at the FCC as to whether or not that's something that
17 we can do. I can't really answer you right now. I'm sorry.

18 Scott do you have something?

19 MR. MARSHALL: I think we have to consider it for
20 another agenda.

21 MS. ROOKER: Yes, we'll have to consider it for
22 another agenda item. We're certainly welcome -- we
23 certainly will entertain the idea. We need to do a little
24 research. Joe?

25 MS. ENSTRAW: Thank you very much.

1 MS. ROOKER: Thank you, Al.

2 JOE: I have more of problem than five minutes
3 with headline news. On Sunday there's no captioning at all
4 on headline news, and I did write to them, and they said,
5 well, we've fulfilled our January 2002 commitment plus, so I
6 could live with the five minutes, but I can't watch headline
7 news on a Sunday.

8 MS. EGLER: Yes, and they may be right. I mean,
9 obviously I don't have your complaint or their response in
10 front of me, but again, it's not 100 percent yet, and
11 whether it's a monthly or quarterly requirement, again, I'm
12 not completely sure. But it's something that little by
13 little will incrementally go up, but right now they may have
14 fulfilled it. It's basically so that they can get used to
15 doing it and then do it all the time.

16 MS. ROOKER: Okay. Do we have any other public
17 comments?

18 MS. ENSTRAW: Actually, can I add one more thing?

19 MS. ROOKER: Sure.

20 MS. ENSTRAW: I want to make a response to Jacob's
21 question. I do believe that headline news does show
22 captioning on the weekends from 8:00 in the morning until
23 8:00 at night. Is that incorrect? I thought that they did
24 show -- it is of course shorter than what they provide
25 during the week. Okay.

1 MS. ROOKER: All right. Well, thank you. Does
2 anyone else have any other comments?

3 Well, I'd just like to take a personal moment to
4 say I really appreciate the service that you all have given
5 to this committee. I strongly encourage you as soon as the
6 Federal Register comes out to apply for the new committee
7 which will be formed and as I said will follow the same
8 schedule we've done in the past for our meetings.

9 I've learned an awful lot. I hope you've learned
10 a lot. But thank you so much. You've worked very hard, and
11 you only accomplish things because everybody puts their head
12 together and butts heads, and that's kind of the fun part of
13 it, isn't it.

14 But at any rate, thank you all so much. Scott has
15 made me promise to give him the microphone. I turn it over
16 to him reluctantly.

17 MR. MARSHALL: Does this mean I get the last word?

18 MS. ROOKER: Yes.

19 MR. MARSHALL: I want to thank you all for being a
20 wonderful group to work with over the past two years. It's
21 been a privilege for me to do that, and I also want to thank
22 Amy Brown who's been working with me these past several
23 months and has been just terrific support for this
24 committee, and also, Shirley, your staff and your office
25 that does all of the letters when we file comments.

1 MS. ROOKER: My staff?

2 MR. MARSHALL: Your staff of one gets all those
3 letters out in a very timely way and takes care of all the
4 logistics about getting the food bill paid, and I don't have
5 to worry about that. And I just wanted to thank you for
6 that and I hope you'll pass that along to Carol.

7 MS. ROOKER: I will.

8 MR. MARSHALL: She's been fantastic. Thank you.

9 MS. ROOKER: She is fantastic. Well, thank you
10 all so much. Do we have a move that we adjourn? And
11 Second? All in favor?

12 (Chorus of ayes.)

13 MS. ROOKER: Opposed.

14 (No response.)

15 MS. ROOKER: Well, goodbye folks. Have a good
16 holiday.

17 (Whereupon, at 4:30 p.m., the meeting in the
18 above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

CASE TITLE: Consumer/Disability Telecommunications
Advisory Committee (C/DTAC) Meeting

HEARING DATE: November 8, 2002

LOCATION: Federal Communications Commission
Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above matter before the Federal Communications Commission.

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