

**OFFICIAL TRANSCRIPT PROCEEDING**

**FEDERAL TRADE COMMISSION**

**MATTER NO. P094201**

**TITLE CONSUMER ELECTRONIC LABELING**

**PLACE FEDERAL TRADE COMMISSION  
601 NEW JERSEY AVENUE, N.W.  
WASHINGTON, D.C.**

**DATE APRIL 16, 2010**

**PAGES 1 THROUGH 143**

**ROUNDTABLE**

**FIRST VERSION**

---

**FOR THE RECORD, INC.  
10760 DEMARR ROAD  
WHITE PLAINS, MD 20695  
(301)870-8025**

---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

FEDERAL TRADE COMMISSION

I N D E X

OPENING REMARKS	PAGE
Mr. Newsome	3
ROUNDTABLE	PAGE
Session 1	9
Session 2	73
Session 3	108

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

FEDERAL TRADE COMMISSION

FEDERAL TRADE COMMISSION )  
ROUNDTABLE ON: )  
CONSUMER ELECTRONIC LABELING ) Docket No.  
 ) P094201  
 )  
-----)

FRIDAY, APRIL 16, 2010

Conference Center  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20580

The above-entitled workshop was held, pursuant  
to notice, at 9:02 a.m.

## 1 PROCEEDINGS

2 - - - - -

3 ROUNDTABLE ATTENDEES:

4 MR. HAMPTON NEWSOME, FTC

5 MR. MATT WILSHIRE, FTC

6 MS. LYDIA AOUANI

7 MR. BILL BELT

8 MR. JASON E. FRIEDRICH

9 MR. ADAM GOLDBERG

10 MR. NOAH HOROWITZ

11 MS. KATHARINE KAPLAN

12 MS. MARGIE LYNCH

13 MR. CHRISTOPHER A. MCLEAN

14

15 MR. NEWSOME: Okay. Thanks everybody for  
16 coming. This is the FTC's public meeting on Consumer  
17 Electronics Labeling, and I'm Hampton Newsome. I'm an  
18 attorney here at the FTC, and this is Matt Wilshire.  
19 We'll be moderating today's meeting, and thanks to those  
20 who came from out of town.

21 You've caught D.C. on a beautiful spring day,  
22 which we don't get a whole lot of. My neighbor was  
23 telling me the other week, he said I love D.C. in the  
24 springtime, both days, so today is a nice one, and since  
25 we're just going half a day today, maybe you guys can

1 get out and enjoy some of that.

2 So basically, I'm not going to talk a lot here  
3 at the beginning. There's time here on the agenda for  
4 background. I'm not sure I will use all of that, but I  
5 have some housekeeping notes. I would like to talk  
6 about the ground rules that we will use during the  
7 discussion and just give a very quick background on what  
8 we propose. I assume everyone in the room is pretty  
9 familiar with it, so I'm not going to spend a lot of  
10 time on that, and then we'll jump right into the  
11 discussion.

12 There are a couple of things I need to --  
13 there's some security notes that I need to read. We  
14 read out for every meeting. First, anyone that goes  
15 outside the building without an FTC badge will be  
16 required to go through the magnetometer and x-ray  
17 machine prior to re entry into the conference center.

18 In the event of fire, evacuation of the  
19 building, please leave the building in an orderly  
20 fashion. Once outside the building, you need to orient  
21 yourself to New Jersey Avenue, which is over here.  
22 Across from the FTC is Georgetown Law Center, and look  
23 to the right front sidewalk. That is the rallying point  
24 for people in this building, and the building rallies by  
25 floors, and there will be a check-in person there who is

1 there to account for people in the conference center.

2 Third, in the event that it's safer to remain  
3 inside, you will be told where to go inside the  
4 building, and finally if you spot suspicious activity,  
5 please alert security.

6 The other note, bathrooms are on the other side  
7 of the lobby, just on to the left of the guard desk, so  
8 those are the housekeeping points.

9 All right. So some of you have been to some of  
10 these discussions before, these meetings, and it will  
11 just be an informal discussion. We have panelists here  
12 up at the table, and we also have a mike for the  
13 audience, and so we are inviting comments from anyone in  
14 the audience who wants to. Just come up to the mike.  
15 We don't have a lot of people here today, so I don't  
16 think it's going to be hard to manage.

17 The panelists, when you have something to say,  
18 just put your tent guard up like that so we can kind of  
19 get everybody, keep everybody in the cue. We would like  
20 you to try to keep your comments brief. We would like  
21 to keep things moving along. We're not looking for long  
22 speeches. We want to have a discussion, but I don't  
23 think that's going to be a problem.

24 One thing important to note is that nothing is  
25 going to be decided here today. This isn't a debate

1 match, so there's no need for protracted debate on  
2 topics. We want to make sure -- what we're trying to do  
3 is make sure we identify issues, allow for discussion to  
4 identify things that might not necessarily surface  
5 through written comments, and so what we're really doing  
6 here is allowing people to give their views, but it  
7 gives them an opportunity to frame their written  
8 comments that are due in May, and you can get an idea of  
9 the different ideas that people have, so that will help  
10 you with the written comments.

11 What we'll do, Matt and I will try to answer  
12 questions, but the purpose of this meeting is really not  
13 for the FTC staff to provide detailed responses to  
14 comments. It's mainly to get the comments out there,  
15 and in fact, when we give speeches or we run meetings  
16 like this, we're required to give the disclaimer that  
17 anything we say doesn't necessarily reflect the views of  
18 the Commission or any individual Commissioner.

19 So all the statements today will be on the  
20 record. It's being transcribed. We have -- and we will  
21 post that transcription on our website okay. So that's  
22 the -- that's basically what we're doing here today.

23 What I'm going to do is go through briefly some  
24 of the highlights of what we propose, and then we'll  
25 just jump right into the discussion, so all right.

1           So the proposed rule that came out in March  
2 proposed a label for televisions that would provide  
3 consumers with energy information. Some of the primary  
4 aspects of the proposal, it proposed the test procedure  
5 based on what ENERGY STAR has done, which is then based  
6 on the recent IES test procedure.

7           The primary disclosure on the label is the  
8 estimated annual energy cost. The format of the label  
9 would be an adhesive label that would go on the edge or  
10 the bezel of the product or as another option, a  
11 triangular cling label on the screen.

12           The label would also contain comparative  
13 information, similar to what's on the energy guide label  
14 for appliances, and it would be in the form of -- it  
15 would be set up in size categories, so ten inch  
16 increments, and finally, similar to the requirements for  
17 appliances, it would have disclosures for catalogs,  
18 which include websites and paper catalogs.

19           Here are examples, samples of the label that's  
20 been proposed. As you can see, it's a different  
21 configuration than the appliance label. It's also much  
22 smaller than the appliance label, and the two on the  
23 left here are the labels that would go on the bezel, and  
24 then the triangular one is the one that would go on the  
25 screen.



1           In the notice, we also sought comments on  
2 labeling, possible labeling for other consumer  
3 electronics, although we didn't propose to -- have any  
4 specific proposals for labeling, but we're seeking much  
5 more detail in terms of comments, things such as the  
6 status of test procedures, how these products are -- how  
7 consumers buy these product, how much energy they use,  
8 whether there's variability. Basically what we're  
9 trying to answer is whether labeling or some kind of  
10 disclosure would help consumers with their purchasing  
11 decision. These are the products that we'll talk about  
12 today.

13           So today, I've already talked about, we're  
14 focusing on the core issues with the proposed TV label,  
15 and that will be our first discussion on the agenda, and  
16 then we will explore the requirements or possible  
17 requirements for other consumer electronics, and this is  
18 all to help with the written comments in May.

19           Okay. So we basically have three sessions  
20 slated: TV, consumer electronics, and what we'll do is  
21 at noon, if there are topics that we couldn't get to or  
22 there are things that people want to cover, we'll have a  
23 follow-up session, and we're planning to end at one  
24 today, if not sooner.

25

1       SESSION 1:   PROPOSED TELEVISION LABEL

2               MR. NEWSOME:   Okay.   So let's go to session 1.  
3       Are there any procedural questions or anything anyone  
4       has before we jump into this?   Okay.

5               MR. BELT:    Are there people on the phone?

6               MR. NEWSOME:   I'm not sure.   We're checking into  
7       that, but I can't tell from here.   Okay, but it's a  
8       listen only line.

9               MR. BELT:    Right.

10              MR. NEWSOME:   If there is a problem with the  
11       phone, we will have the transcript posted so we will try  
12       to do that as soon as we can.

13              What I would like to do, we'll start talking  
14       about TVs.   I would like the panelists to just introduce  
15       themselves, and maybe in a minute or two just give  
16       anything they want to say, any general issues that they  
17       particularly want to discuss today, just to kind of set  
18       the stage, and we'll start with Chris.

19              MR. MCLEAN:   Thank you very much.   My name is  
20       Christopher McLean.   I'm the executive director of the  
21       Consumer Electronics Retailer's Coalition, and our  
22       coalition is made up of some of America's favorite  
23       places to shop for consumer electronics, including  
24       Amazon.com, Best Buy, K-Mart, Radio Shack, Sears,  
25       Target, Walmart, and the leading retail trade

1 associations, National Retail Federation and The  
2 National Retail Industry Leaders Association.

3 I'm also joined in the audience by learned  
4 counsel Bob Schwartz. Bob I hope will have a chance to  
5 contribute a little bit today because he has some  
6 tremendous background in terms of representing CERC as  
7 well as individual consumer electronics retailers in  
8 labeling issues before other federal agencies like the  
9 Federal Communications Commission.

10 CERC is very proud to join our colleagues in  
11 this room, in the DTV transition, and there were a  
12 number of learning experiences through DTV transition.  
13 I think that could be helpful with you.

14 We thank you very much for providing the  
15 opportunity to comment and participate in today's  
16 proceedings. In general, we're very excited with the  
17 direction that the Federal Trade Commission is taking in  
18 the labeling requirements. We do strongly agree that  
19 this needs to be a manufacturer's responsibility because  
20 they are in control of the product, and products  
21 actually evolve even as they -- over time even as they  
22 stay the same product name and brand.

23 You can also have product sourced from various  
24 locations meaning the same product, and the  
25 manufacturers, the one that is able to validate the

1 performance of that product, and in today's modern  
2 retail environment, we have some concerns about hang  
3 tags or store tags because they get separated from the  
4 product.

5           It just is part of the way American shopping is  
6 today. Everybody has had an experience where they've  
7 had a mismatch of a price tag or a label or a product  
8 that doesn't match up, a Samsung product with a Sony tag  
9 on it, and those things happen, I mean, and so making  
10 sure -- we like your approach of having a manufacturer  
11 responsibility attached to the TV in a way that doesn't  
12 interfere with the performance. We think the size and  
13 location of your initial proposals are very good, but  
14 hang tags and shelf tags we think are a very  
15 problematic.

16           Online, we think your you're on point there.  
17 Shoppers use online resources before they come into the  
18 retail store. We find that throughout our membership,  
19 that customers do a significant amount of research  
20 before they make a buying decision, and again in the  
21 modern retail arena, point of decision is more important  
22 than point of sale. Point of sale is the very last  
23 clean up thing, taking the product to the checkout line,  
24 and the point of decision often precedes even stepping  
25 into that retail environment.

1           Two things that we're highly concerned about is  
2 the timing. We like the statute's 18-month time period  
3 for implementation. Six months is very very short, very  
4 very difficult. We will recommend that you stick with  
5 the original 18 months, and also we would recommend some  
6 clear filling of the field so that you have essentially  
7 a preemption of state labeling requirements because that  
8 would just contribute to more consumer con industry  
9 distribution.

10           MR. NEWSOME: Thank you. Margie?

11           MS. LYNCH: Thank you, Hampton. My name is  
12 Marige Lynch. I'm a program manager with the Consortium  
13 For Energy Efficiency, and the Consortium For Energy  
14 Efficiency is a consortium of energy efficiency program  
15 administrators from the United States and Canada.

16           Our members offer incentives to manufacturers,  
17 retailers and consumers to encourage the acceleration of  
18 advancement of energy efficiency in a variety of product  
19 areas, including consumer electronics, and our members  
20 are also very active in educating consumers regarding  
21 the energy use of products, both purchase and ongoing  
22 use. These are voluntary programs using rate payer  
23 funds to accelerate the market in this fashion.

24           We are very supportive of labeling of TVs and  
25 other electronics products, which we'll touch on as

1 well, and thought the Commission did a nice, thorough  
2 job. I think our primary interest is that the label  
3 effectively convey the information to consumers as  
4 they're contemplating a purchase, so I think the  
5 specific recommendations of the Commission are a great  
6 start.

7 I think we very much want to respect stakeholder  
8 input on the specific format and location of the labels.  
9 Again, we have a general goal which is to make sure that  
10 info is effectively conveyed at purchase, but certainly  
11 we know there are a lot of complicated business and  
12 other considerations with regard to the retail setting  
13 and manufacturer considerations.

14 So I think we really value the opportunity today  
15 to learn more about the different considerations there,  
16 to inform our comments which are very much still in a  
17 formative stage.

18 MR. NEWSOME: Great. Thanks. Before we get to  
19 Noah, just two quick things. If you get up to the mike  
20 from the audience, make sure you give your name and your  
21 organization so we can get that for the transcript, and  
22 if you don't, we'll remind you.

23 The other thing is we have this device, this  
24 projector, which is called an ELMO, I'm not sure why  
25 it's called that, but it allows you to just project a

1 piece of paper on the screen, so if anyone has a label  
2 or a chart or something that they want to show, we can  
3 use that device. What we'll probably do is whatever  
4 goes up there, put that on the public record so people  
5 can see what was used in the meetings.

6 Noah?

7 MR. HOROWITZ: Good morning. I'm Noah Horowitz  
8 with the Natural Resources Defense Council, NRDC. We're  
9 a leading environmental advocacy group, very interested  
10 in energy efficiency, primarily as a means to reduce  
11 global warming and help save consumers money.

12 I'll save my comments for the main part of the  
13 agenda. Four things we hope we think you're going to  
14 cover, but if not, we want to cue up for you, is the  
15 test method; the bins or how you break down the sizes  
16 for the comparisons that are made; in terms of the  
17 label, what's the appropriate size, and different size  
18 labels might be appropriate for larger TVs versus  
19 smaller TVs, and also when labels or disclosures are  
20 made online or in catalogs, we have some input on what  
21 that might look like.

22 And the second part of the meeting we do have  
23 some input on other products that may be covered.

24 MR. NEWSOME: Great. Thanks, Noah.

25 MR. HOROWITZ: Thanks.

1 MR. NEWSOME: Okay. Adam?

2 MR. GOLDBERG: So can you hear me? Is this  
3 working? Push something? Is that better? There's a  
4 green light, anyway.

5 MR. NEWSOME: Is the light on on that?

6 MR. GOLDBERG: I'll try to speak up. My name is  
7 Adam Goldberg. I am a consultant representing  
8 Mitsubishi Digital Electronics and Mitsubishi Telephone  
9 Manufacturer. I don't have much in the way of opening  
10 remarks other than to say that we're very supportive of  
11 energy use disclosures such as -- we're supportive of  
12 energy use disclosure such as described in the NPRM that  
13 we're talking about.

14 So we look forward to participating today and  
15 seeing this proceeding move forward with all due speed.  
16 Thank you.

17 MR. NEWSOME: Thanks, Adam. Jason?

18 MR. FRIEDRICH: Hi. My name is Jason Friedrich.  
19 I'm in the global government affairs office of Motorola.  
20 I'm here representing our set-top box business.  
21 Motorola is the largest manufacturer of set-top boxes  
22 worldwide, and I imagine those devices will be covered  
23 in session number 2, so I will reserve further remarks  
24 for that session.

25 MR. NEWSOME: Great. Bill?



1           MR. BELT: I'm Bill Belt. I'm with Consumer  
2 Electronics Association, and I share the other  
3 panelists' enthusiasm for getting something done  
4 quickly. We are, as an industry, looking for something  
5 that is effective and accurate and conveys this  
6 information to consumers at the point of sale.

7           MR. NEWSOME: Okay.

8           MR. BELT: Should I try again? Now it's off I  
9 think. Is it off? Okay. I'm good. We have a couple  
10 things we want to raise today. CEA has a standard in  
11 this industry, CEA 2037 which we want you guys to look  
12 at carefully for use here. We think it perfectly fits  
13 what is required here.

14           It's already referenced by other parts of the  
15 government for similar activity. Like NRDC, we want to  
16 talk some about the bin sizes and how they might better  
17 reflect what's going on in the marketplace. We're  
18 looking for clarity on the issue of preemption, as is  
19 the folks at CERC, and I want to talk about that today.

20           The mechanics of labeling is something that's  
21 still in open discussion at CEA. We represent not just  
22 manufacturers but retailers. We have 2,200 member  
23 companies. Many of those companies are interested in  
24 this topic, and corralling them around the issue of  
25 where to put the labels and how to make sure the labels

1 stay affixed has been a complicated topic. I have some  
2 thoughts on it today, but we'll have to refine those  
3 thoughts before we do written comments.

4 Also we have the sort of unusual situation with  
5 portable and mobile TVs, which are not TVs that I think  
6 we intend to have covered by these rules, so we want to  
7 talk about that and see if there's some way to get the  
8 FTC to make a finding that labels are not required for  
9 those kinds of small sets that operate on batteries.

10 Thank you.

11 MR. NEWSOME: Okay. And I have an update on the  
12 phone line. If you have -- if anyone in the audience,  
13 if you have colleagues that are trying to get in on the  
14 phone line, if you could just send them this  
15 information: The phone line is 866-363-9013, and the  
16 password is 6742561, so we're trying to get that  
17 straightened out. I appreciate your patience.

18 Lydia?

19 MS. AOUANI: Hi. My name is Lydia Aouani, and I  
20 represent the Office of Energy Efficiency of Canada,  
21 which is a branch of Metro Resources Canada, and we have  
22 a similar process with an inter guide label for  
23 television, and we're at an earlier stage than the FTC,  
24 so we also have a public comment session which will come  
25 much later in the fall, and we hope to benefit from your

1 experience here and also share some of our own insights  
2 when we were developing this label proposal.

3 We are very thankful to the FTC to have the  
4 chance to be here and to share our thoughts and listen  
5 to your comments. We're looking whenever possible into  
6 harmonization, so that's something we will be working on  
7 today.

8 Just a few topics that I would really like to  
9 discuss today, mostly the way we use the comparative  
10 label and how the branches are defined, and also the  
11 positioning of the label, which is something that is  
12 still very open to discussion in Canada, and we've been  
13 looking at the FTC proposal, and it makes a lot of sense  
14 to us, so that's something we would like to confirm here  
15 at these sessions.

16 Thank you.

17 MR. NEWSOME: Great. Well, thank you. What I  
18 would like to do, there are a couple things I would like  
19 to cover in this session, and then there are probably  
20 other things that people want to cover too, so let's get  
21 to it.

22 The first thing I would like to talk about the  
23 test procedure. It's obviously something people want to  
24 talk about: The format, the location, the size of the  
25 label is another issue, the content, including the

1 opinions or the ranges, which is something several  
2 people mentioned and also the compliance, so I would  
3 like to get into a discussion about that.

4 Let's start with the test procedure, and I would  
5 like ask Bill, if he could, if you could provide us some  
6 details on the status of 2037 and some of the content  
7 and whether it's different than what ENERGY STAR has put  
8 together and anything else you want to add about that.

9 MR. BELT: Great, thank you. I actually I  
10 noticed on the very first line, even today, there was a  
11 typographical area. The international standard is  
12 called IEC 60287, so there is an international standard,  
13 IEC 60287, which covers a host of products, among which  
14 are TVs. TV is just one of the many products covered in  
15 there.

16 And the modification made, at this point maybe  
17 just as much as two years ago, it may be a little bit  
18 less, includes the on mode power, for how to measure the  
19 on mode power for TVs, and that was a huge international  
20 effort that affected many companies and was widely  
21 watched actually throughout the world.

22 Once that was complete, the EPA was then free to  
23 point to that standard, the international standard, in  
24 its test specifications, but it's important to note that  
25 standard was just that, international in nature, and so

1 much like a menu, it actually said, Pick from this  
2 section, pick from this section, pick from the other  
3 section. We had various choices, depending on where in  
4 the world you were doing the test procedure.

5 The tests, for example, varies across the world.  
6 The powers and the type of energy that's being drawn  
7 from the grid varies across the world, and so that leads  
8 to some variation in the standard and an ability for a  
9 tester to pick and choose various sections of the  
10 standard.

11 The EPA recognized this problem right away, and  
12 so when the EPA did ENERGY STAR Version 3.0 for TVs, it  
13 specifically states in this spec which portions, which  
14 sections, which paragraphs of the IEC standard you  
15 should pick and choose for purposes of the EPA standard,  
16 and they did it all right. We agreed with how the EPA  
17 did it.

18 CEA, which among other things, writes standards,  
19 we're accredited by the American National Standards  
20 Institute to write standards for our industry, thought  
21 it might be helpful to codify the EPA testing procedure  
22 in the CEA standard, so CEA 2037 does just that. It  
23 goes to the EPA version 3.0. It looks at what portions  
24 of the IEC standard are referenced, and it puts it all  
25 together in a nice package, and that package is called

1 CEA 2037.

2 The title is Determination of Television Average  
3 Power Consumption. That standard was finalized around  
4 January or February timeframe of this year, and then it  
5 went for ANSI approval, which is sort of a Good  
6 Housekeeping seal of approval almost on the standard,  
7 and that ANSI standard was completed in March of this  
8 year, so just now.

9 So we have a fully official, published,  
10 available for purchase or otherwise to give away to  
11 government agencies standard, which makes it very simple  
12 for people to see how to do the test procedure for  
13 purposes of EPA or for any other type of context.

14 So in our written comments we'll make a copy  
15 available to you, plus I can make a copy available to  
16 you at any time necessary.

17 MR. NEWSOME: Thank you. Noah, I'm going to go  
18 to so you since you raised this in your opening remarks,  
19 and can you give us your thoughts on the test  
20 procedures?

21 MR. HOROWITZ: Sure. Noah with NRDC. I agree  
22 with Bill there's an international test procedure for on  
23 mode. CEA provided a key role in that. We participated  
24 in it as well, and that's being widely used, so ENERGY  
25 STAR took that 62087, and a couple things, where there

1 were options, they said, Do it this way instead of that  
2 way, the most important thing being there are two  
3 choices in there.

4 You could use a set of static test bars or you  
5 should use a set of moving images. We agree, as I  
6 believe CEA does as well, that ENERGY STAR got it right.  
7 Our recommendation would be to use the test method that  
8 ENERGY STAR has currently, and our understanding is DOE  
9 is about to develop a national test method, so use  
10 ENERGY STAR now, and once DOE has its official test  
11 method X months later, FTC shifts to that.

12 We think it will be largely based on what ENERGY  
13 STAR did, but there are a few places where improvements  
14 or tweaks are needed. We don't think one should use the  
15 CEA test method. That wasn't an open process, and we  
16 think everybody is using ENERGY STAR. Let's use that.

17 A few places where we believe the CEA test  
18 method falls short is it only allows you to make a  
19 measurement in one mode, so when you take the TV out of  
20 a box and you make the measurement, you can only measure  
21 the power in on mode. You can't measure it in any other  
22 mode, so we think CEA 2037 comes close, but we don't  
23 think that's the one that should be used.

24 MR. NEWSOME: Well, can you explain that a  
25 little bit more in terms of the difference, the way

1 ENERGY STAR handles that, the ENERGY STAR procedure  
2 currently handles that and CEA? The on mode issue?

3 MR. HOROWITZ: They handle it the same way. We  
4 think an improvement is needed. You should be able to  
5 measure the power in any mode, and then it's up to the  
6 agency, FTC or EPA, to decide which value you use, so  
7 the test method should be more wide open in the future.  
8 That's why we don't want to lock into the CEA test  
9 method.

10 MR. NEWSOME: But substantively, in terms of  
11 differences between what ENERGY STAR has now and what  
12 CEA has done, to you it's not a difference. It's more  
13 just the process and locking that issue in. You want it  
14 to be flexible for the future to address that?

15 MR. HOROWITZ: And in addition, I haven't done a  
16 complete side by side analysis. My guess is there is  
17 98, 99 percent overlap. CEA made a couple of tweaks. I  
18 don't know what they are, and it would be good to  
19 follow-up on that.

20 MR. NEWSOME: Bill, do you -- we'll go back to  
21 you. And then there was somebody in the audience.  
22 We'll get you after Bill.

23 MR. BELT: Terrific, thank you. Two things:  
24 First, the claim that that somehow the CEA standard was  
25 not done in an open and transparent way is simply



1 untrue. ANSI would not certify our standards if they  
2 weren't indeed done in an open transparent way. That is  
3 part of what you get when you get your ANSI  
4 accreditation and ANSI certification.

5 It is a stamp of approval that says indeed you  
6 have done your standard in an open and transparent way,  
7 and they look at every single standard that they put  
8 their acronym on for those questions. So it clearly was  
9 done that way, and we have obviously a recognized,  
10 certified location that says it was done that way.

11 One of the things that we must avoid is multiple  
12 results. It would be a huge problem if the EPA said  
13 your TV used 120 watts and the FTC says your TV uses 140  
14 watts and the State of California says your TV uses 110  
15 watt and Canada says your TV uses 118. It's an enormous  
16 problem that we can't have happen. This is the value of  
17 standards and why we're encouraging the use of our  
18 standard.

19 It's no different, as Noah just mentioned,  
20 substantively from what the EPA has done. If you test  
21 to our standard, you will get the exact same results  
22 that you would get if you test to EPA version 4 and  
23 version 5, which are the ones we're moving into now, and  
24 it's critically important to manufacturers, as it must  
25 be to retailers, that they be no variation at all, that

1 the same exact TV registers the same power no matter  
2 where you're using it in the U.S.

3 MR. NEWSOME: So, Bill, you're saying  
4 substantively what ENERGY STAR has and what CEA has, you  
5 get the same result?

6 MR. BELT: Right, you'll never get a different  
7 result.

8 MR. NEWSOME: What about California?

9 MR. BELT: Somebody else will have to answer  
10 that question. I'm not sure. I think you get the same  
11 result, but I'm not sure.

12 MR. NEWSOME: And basically just a little  
13 background, if we incorporate a test procedure by  
14 reference in our rule, then we will incorporate it at  
15 that time, whatever version exists at that time, and if  
16 that test procedure, say ENERGY STAR changes or CEA  
17 changes in the future, our rule still references the  
18 version that we adopted at the time, so that's something  
19 important for people to understand as they're preparing  
20 their comments and their approach to this.

21 If, for instance, we adopt ENERGY STAR 4.0 as of  
22 such and such date and ENERGY STAR changes it later and  
23 everyone thinks it's something that needs to be changed,  
24 and it is a substantive change to the test procedure,  
25 then it's likely that we would go through another rule

1 making in order to change it, which takes a lot of time.

2 From the audience?

3 MR. FAIRHURST: Good morning. I'm Jon Fairhurst  
4 from Sharp Labs of America. I also was the project  
5 leader in IEC during the development of 62087 from the  
6 beginning, so Noah was a member of that. We had CEA  
7 involvement, plasma LCD government agencies,  
8 international, and we have an excellent consensus that  
9 it's the right way to go.

10 And Bill described it very accurately, that it  
11 gives lots of flexibility so that in different parts of  
12 the world it's usable and was exactly right in that  
13 ENERGY STAR 3.0 looked at IEC 60287 and needed to  
14 specify some very particular uses of that, and that's  
15 exactly what they did.

16 And then in CEA, the standard 2037 was done to  
17 very much copy, in most cases, word for word what was in  
18 the ENERGY STAR 3.0 document, the idea being that we  
19 didn't want to do anything new. It was a matter of, as  
20 Bill said, we don't want two different numbers in two  
21 different places, so rather than a political situation  
22 where the manufacturers are saying, no, we're going to  
23 do something different, it was very much, no, we need to  
24 do exactly the same, to the word the same.

25 Then when ENERGY STAR 4.0 and 5.0 was developed,

1 and 4.0 will go into effect on May 1, it actually  
2 references CEA 2037, so it's a kind of a closed loop  
3 where we've gone back. We codified the measurement, and  
4 what was -- the nice part of this is by separating  
5 measurement and policy, now when additional agencies do  
6 work, they can reference one document. If everyone  
7 references the same document, we can have the same  
8 number in all cases.

9 I would like to address the point that Noah made  
10 is that, yes, 62087 -- excuse me, CEA 2037 was done to  
11 specifically look at on mode power and standby power,  
12 which are the two measures used in ENERGY STAR, so we  
13 did not specify for other modes to be measured because  
14 we were specifying exactly what is done in ENERGY STAR  
15 and nothing beyond that.

16 I believe that in the case of the FTC ruling for  
17 the energy guide label, that that's exactly appropriate,  
18 is that what you're looking at is the annual use based  
19 on a certain number of hours and standby, a certain  
20 number of hours in the on mode, and that gets you all  
21 the numbers you need.

22 If there are some additional agencies that need  
23 to do other measurements or other status, to look at  
24 other trends in television or collect other data, that's  
25 I think a separate issue, but for the needs of FTC, I

1 believe that 2037 does everything that you need and is  
2 100 percent consistent with ENERGY STAR.

3 MR. NEWSOME: If you don't mind.

4 MR. FAIRHURST: My name is, J-O-N, and the last  
5 name is F as in Frank, A-I-R-H-U-R-S-T, I'm with Sharp  
6 Laboratories of America.

7 MR. NEWSOME: Would you mind just walking  
8 through just briefly to explain this issue, the test  
9 mode issue and the ENERGY STAR had -- what we proposed  
10 has some language about forced menus and things like  
11 that. Could you just explain that and whatever detail  
12 you want to provide about that and other considerations  
13 that went into that.

14 MR. FAIRHURST: Right. The concept of the  
15 forced menu was developed initially in IEC. The idea is  
16 that consumers for the most part, they bring their  
17 televisions home. They plug them in, and they don't  
18 make adjustments to them, so rather than saying set all  
19 TVs at a standard brightness or something like this and  
20 then do the measurement, we said, no, measure it out of  
21 the box, but we also realized that for retail, the  
22 manufacturers compete to get the brightest television in  
23 the room, brightest TV on the wall.

24 For various reasons, the brightest TV looks  
25 best, and so we realized that there's a trend now for

1 the manufacturers to compete and put their TVs in the  
2 least energy efficient mode, which is not good for  
3 consumers.

4 So what we allowed is that when you first turn  
5 the television on, you can have multiple modes. IEC  
6 came up with the general concept and then ENERGY STAR  
7 refined it to say, it's only home or retail mode with  
8 those names, which is appropriate for the U.S., and once  
9 again IEC being international.

10 Then what this allows is non ENERGY STAR  
11 television sets don't have an advantage of retail in  
12 that we don't have not ENERGY STAR ones very bright at  
13 retail and ENERGY STAR ones very dim. We didn't want  
14 that situation. ENERGY STAR TVs would compete poorly,  
15 so it allows the manufacturers to set up a bright retail  
16 mode.

17 When consumers bring the television home,  
18 they're presented with a choice, and they must make the  
19 choice for the televisions that implement forced menu.  
20 Not all do. Then that choice would be -- normally they  
21 would select home. It's the first item in the menu, and  
22 then they would get a picture that is set for the  
23 appropriate brightness for home viewing as determined by  
24 the manufacturer, and that is the mode in which we  
25 measure power and we believe best represents the power

1 that is actually being used in most homes.

2 MR. NEWSOME: So that's what -- both ENERGY STAR  
3 and CEA 2037 both have the approach to the test?

4 MR. FAIRHURST: Yes.

5 MR. NEWSOME: What you're testing in is either  
6 the mode that it's on when you turn it on, when you get  
7 it home, or if there's a forced menu that makes you  
8 choose something, then there has to be something called  
9 home mode.

10 MR. FAIRHURST: That's correct.

11 MR. NEWSOME: And that's what it has to be  
12 tested in?

13 MR. FAIRHURST: And there is one other  
14 consideration for ENERGY STAR 4 and 5, which is that the  
15 brightness in home mode may not be less than 65 percent  
16 of the brightness of retail mode, and there was some  
17 fear that manufacturers might say, I want the lowest  
18 possible energy numbers so we'll ship it in a very, very  
19 dark situation.

20 Manufacturers don't believe that's a problem  
21 because we want -- we don't want returns. If the  
22 consumer brings it home and finds the TV is unacceptably  
23 bright and we get a return or service calls, then that  
24 would be a problem, so in any case, ENERGY STAR has set  
25 that floor for the brightness of home mode, and the

1 manufacturers are motivated not to make televisions too  
2 dark for consumers in any case.

3 MR. NEWSOME: Okay. Thank you. Let's go to  
4 Margie.

5 MS. LYNCH: Thank you, Hampton. I had a couple  
6 of questions related to one of the issues Noah raised  
7 earlier with regard to the specter of the DOE working on  
8 a test procedure at this point in time, and I know you  
9 said you don't want to sit here and be in a position to  
10 present a lot of info on behalf of the Commission, but a  
11 couple of questions I had.

12 I was wondering if anyone in the room, yourself  
13 or others, have any additional information about the DOE  
14 proceeding, where it stands, what the timing associated  
15 with that might be, and secondly, I was curious from the  
16 Commission's side, what the process implications would  
17 be, should the DOE reach a stage in the next couple of  
18 years where it does finalize a test procedure? What  
19 will the Commission do? What will the timing issues be  
20 associated with that?

21 Is there a new rulemaking? How long does it  
22 take? If we could have a better understanding of that,  
23 I think that would be helpful.

24 MR. NEWSOME: Well, I think that in terms of the  
25 status of the DOE, I don't want to speak for DOE, but



1 they announced in the fall in the Federal Register  
2 notice that they would be pursuing standards and test  
3 procedures but in terms of the timing on that, I don't  
4 have the details.

5 As for the -- it's a good question, this issue,  
6 what does the Commission do if it comes out with a  
7 labeling rule based on a certain test procedure and DOE  
8 comes up with a test procedure sometime in the future,  
9 and usually under the energy guide program, it's kind of  
10 a joint program between the two agencies, and in most  
11 cases, where there is a DOE test procedure, that is what  
12 the Commission requires for substantiation on labeling.

13 So it's something that we would have to look  
14 into, and I would say there would be a good chance that  
15 if there were -- if DOE were to do that, that the  
16 Commission would consider harmonizing with DOE, but  
17 until that happens, I don't want to make any predictions  
18 on that.

19 Noah?

20 MR. HOROWITZ: Okay. Going back to some of the  
21 issues here. I think there's general agreement and  
22 consensus that everybody's using the ENERGY STAR test  
23 procedure and that the CEA proposed test procedure is  
24 essentially identical, and you get the same results, so  
25 if that's the case, let's just stick with ENERGY STAR.

1 I need to respectfully correct Bill Belt.

2 CEA's membership participated in their test  
3 method development, but there was no outreach to  
4 external stakeholders like ourselves. We don't think  
5 there's necessarily major flaws in the CEA test method,  
6 but going forward, we don't want to be looked into a CEA  
7 test procedure. We think it should be based on ENERGY  
8 STAR and other procedures.

9 Also we think there are there is recognition by  
10 everyone that there are certain things that aren't  
11 currently measured by the test method, and whether it's  
12 six months or four years from now, they might be, and  
13 again we want that to happen in the broadest possible  
14 way.

15 So how much energy does a TV use when it's  
16 displaying 3D images? That's not currently part of the  
17 test method. There are only 2D images. We think that's  
18 okay for today, but if 3D TVs take off and there's  
19 incremental power use, that should be considered.

20 If the TV is connected to the Internet, that  
21 could consume additional incremental power, that's not  
22 the test method now, so the test methods are working  
23 fine. We're hoping the DOE test methods in the future  
24 will accommodate these other things.

25 One thing we haven't spoken about is the duty

1 cycle. As Jon appropriately mentioned, you take how  
2 much power to use in on mode and how much power do you  
3 use in standby, and you take some sort of weighted  
4 average. Is it 5 hours on and 19 hours in standby that  
5 FTC is going to use or do you use different numbers?  
6 Sometimes people say it's 7 hours on.

7 I don't know what the right answer is, but I  
8 hope that's part of the proceeding.

9 MR. NEWSOME: But do you have -- we propose 19/5  
10 consistent with what ENERGY STAR uses for I guess  
11 estimates that they put for annual energy consumption.  
12 Are you comfortable with those numbers?

13 MR. HOROWITZ: We don't are expertise in that  
14 area. We just want to make sure that the most current,  
15 reliable information is used.

16 MR. NEWSOME: And are you -- and you're okay  
17 with the way ENERGY STAR approaches the test mode in  
18 terms of what we were talking about earlier, the forced  
19 menu and that question? Because earlier I thought maybe  
20 you were taking issue with that.

21 MR. HOROWITZ: I'm fine with the way ENERGYSTAR  
22 does come up with a number. What our concern which IS  
23 more DOE test method issue than here is, we think the  
24 national test method should allow one to measure power  
25 in any setting, so if there's some term called super

1 vivid or something that's using twice as much power as  
2 home mode, we think one should be able to measure that.  
3 The CEA test method doesn't allow that to occur.

4 MR. NEWSOME: So that's an additional issue, but  
5 for the FTC label, for the one number that's on the FTC  
6 label, you're okay with the way ENERGY STAR is handling  
7 it?

8 MR. HOROWITZ: That's correct.

9 MR. NEWSOME: Okay. Bill? Bill, why don't you  
10 go? Oh, Lydia.

11 MS. AOUANI: Lydia Aouani again. First, a  
12 disclaimer, I'm not overly familiar with the technical  
13 aspect of the specifications, but a few points I want to  
14 raise, but before that I would like to respond to the  
15 duty cycle comment.

16 We've decided to go in Canada with five hours,  
17 and while of course we took into consideration ENERGY  
18 STAR, but also there's a Canadian study that was done by  
19 a few utility companies on different aspects. They  
20 interviewed a few thousand people and asking them how  
21 many hours do they watch TV during the day, during the  
22 night, if there's a difference between weekend,  
23 weekdays, winter, summer, things like that, asking them  
24 how many hours do they watch their first television,  
25 their main television, their second television, their

1 third television.

2 And overall the national average was 4.9 hours,  
3 which really makes sense with the five hours that we're  
4 using for ENERGY STAR and for -- and that you're using  
5 for your proposed regulation. So we are just rounding  
6 it up to five hours, and it seems to make sense to us.

7 MR. NEWSOME: Okay. Thank you. Bill, did you  
8 have something? Oh, you have another one?

9 MS. AOUANI: One other issue. I didn't want to  
10 answer. I know you want to answer. For the procedure,  
11 and you had a good point, Bill, that we absolutely don't  
12 want to have a different kilowatt hour, especially  
13 between Canada and the U.S.

14 We have the label, and we want to have U.S. with  
15 one figure, and on the other side, while on the Canada,  
16 the TV consumes more doesn't make sense, absolutely, so  
17 that's why we would like to have a harmonized standard  
18 everywhere.

19 So the difficulty that we have in drafting our  
20 regulation is it's very difficult for us to change the  
21 law, so that's why we propose at this point to go with  
22 California standard, which is more set in stone if it  
23 passes, and I have a question with respect to that, and  
24 it's a question for Jon, I guess the question that you  
25 asked: Will this give the same results? If we're using

1 the California standard, will it give the same result as  
2 if we use the ENERGY STAR or CEA standard?

3 MR. FAIRHURST: The answer is that it -- the  
4 manufacturer can make the California test procedure  
5 overlap, but unfortunately California did some changes  
6 in the area of automatic brightness control. Something  
7 that hasn't been mentioned earlier, is that there is  
8 a -- there can be a sensor on the television that  
9 measures if it's bright in the room or dark in the room  
10 and adjusts the television brightness, and ENERGY STAR  
11 gives kind of a bonus or you get some advantages as a  
12 manufacturer if you implement that well anyway.

13 Then in the state of California, they actually  
14 changed that language, and I believe that the  
15 manufacturer kind of make it overlap, but it's  
16 different, and we find that a bit troubling in that we  
17 would prefer to have one standard across the board.

18 And unfortunately, while the California  
19 situation did allow comments, there were actually no  
20 comments taken into consideration. In other words, the  
21 language they put out, they received hundreds of pages  
22 of comments. There were no words changed in the  
23 language that was published by the CEA, and also I would  
24 like to mention that the CEA, to my knowledge, still has  
25 not delivered the proposed standard to the Office of

1 Administrative Law, so it is not an official California  
2 rule or regulation at this point in time.

3 We don't know -- when the OAL gets it, I believe  
4 they have 30 days to respond after that. We don't know  
5 if they will find some procedural issue and kick it back  
6 so it's a bit up in the air, even though it goes online  
7 the first of the year, so it's very troubling right now  
8 for manufacturers.

9 MR. NEWSOME: Okay.

10 MR. FAIRHURST: So it's almost consistent with  
11 what ENERGY STAR does, but not -- and what CEA 2037  
12 does. I would say it's consistent in its -- in the --  
13 in concept and almost consistent in words but not 100  
14 percent consistent with what's done in ENERGY STAR and  
15 CEA 2037.

16 MR. NEWSOME: Thank you. Let's go to Adam and  
17 then, Bill, I'll let you get in and then Chris, and then  
18 let's move on after that to format. Adam?

19 MR. GOLDBERG: Adam Goldberg with Mitsubishi.  
20 With respect to the duty cycle, our comments filed last  
21 year recommended using 8 hours on and 16 off, and I know  
22 that that puts Mitsubishi in a slightly different place  
23 than a lot of other bodies and other companies.

24 I think from our point of view, it's much more  
25 important that we get energy use disclosures sooner than

1 argue about whether it should be five or eight, and so  
2 at the end of the day, the difference is just in -- is  
3 just a relative difference from device to device, and  
4 consumers will still get the same information about  
5 relative power consumption between devices, so I expect  
6 that the 5/19 will be perfectly fine for us.

7 MR. NEWSOME: Okay. Thank you. Chris?

8 MR. MCLEAN: We would very much applaud the  
9 Commission's approach to harmonizing with ENERGY STAR.  
10 Consumer research shows that ENERGY STAR is a very  
11 trusted mark. Customers have come to understand it.

12 ENERGY STAR is very highly trusted by consumers,  
13 and Bill's point earlier that you need to have the same  
14 end result between programs is critically important, and  
15 in fact, I think we will be urging the Department of  
16 Energy to harmonize as well with ENERGY STAR so that at  
17 the federal level we have one language, because that's  
18 what customers will do. They'll compare -- whatever the  
19 assumptions are, they will compare that end result.

20 And then in terms of California, I just have to  
21 make a really strong statement that CERC participated in  
22 some of the California proceedings. We have very, very  
23 profound procedural problems with the way that  
24 rulemaking went. As a matter of principle, this is not  
25 really something that states individually should be



1 working on.

2 We're dealing in a matter of interstate  
3 commerce. We have national, global, international  
4 distribution systems, and to have a patchwork of state  
5 by state variations will be a disaster from the consumer  
6 point of view because there'll be complete confusion as  
7 to what these different values mean.

8 MR. NEWSOME: Okay. Thank you. Bill, quickly  
9 so we can move on because we don't want to miss these  
10 other topics.

11 MR. BELT: So on the ten things I would like to  
12 say, I will stick to one because I work in the tech and  
13 standards department at CEA, so although I said it  
14 before, I can't let it go unsaid again. CEA standards  
15 are done in an open transparent way. The ANSI seal of  
16 approval is all the evidence that anybody would need  
17 that this particular standard was done in an open  
18 transparent way.

19 It would not have the ANSI seal of approval were  
20 we not able to proof to ANSI for this particular  
21 standard that we reached out to other stakeholders, not  
22 just CEA members. CEA standards process is open to  
23 anyone with a material interest in the topic being  
24 discussed, whether you're a member or not. There's no  
25 benefit to membership at CEA.

1           You can be anybody. You can be from academia.  
2           You can be from government. You can make TVs, use TVs,  
3           buy TVs. It makes no difference at all. As long as you  
4           can show you have a material interest in the topic being  
5           discussed, you are welcome to participate in the  
6           standard.

7           We have many methods that we use to push out the  
8           information about what standards we are working on. We  
9           did that in this particular case. I'm happy to show  
10          that to you guys if it becomes somehow a problem.

11          Quickly on the duty cycle, the 5/19 seems to  
12          work for us, as Adam pointed out, and I would like to  
13          echo, we don't want to do anything that slows down this  
14          process, and we're perfectly happy to stick to the 5/19  
15          breakdown.

16          Again I would encourage you to make sure that  
17          whatever gets done here at the FTC doesn't lead to  
18          testing that it not reproducible and doesn't give us the  
19          same number sort of throughout the U.S. and with our  
20          trading partners.

21          MR. NEWSOME: All right. Thank you. Let's go  
22          to the location, the size of the label, and then after  
23          that, we'll get into the content, what is actually on  
24          the label, so as I mentioned earlier, we proposed a  
25          small adhesive label that would go in the bezel or the

1 other option would be a triangular cling label on the  
2 screen. It's intended to be available to the consumer  
3 when they're in the showroom and making decisions in the  
4 showroom, so does anyone want to start off with that,  
5 any ideas comments? Bill?

6 MR. BELT: So this has been sort of a tricky  
7 issue at CEA because we represent not just the  
8 manufacturers of these TVs but actually the retailers  
9 also, including sort of all the major retailers out  
10 there, so there's a lot I still don't know and a lot I  
11 wouldn't be able to comment on today.

12 I'm hopeful that by the time written comments  
13 are due, we can talk a little more substantively on this  
14 topic. A couple things I do want to point out. So I  
15 was at the consumer electronics show this January, at  
16 which I noticed nearly all of the major manufacturers  
17 are coming out this year with TVs that don't have  
18 bezels. They're beautiful. When they're turned off,  
19 it's just a sheet of glass, a completely flat sheet of  
20 glass.

21 When you turn them on, an almost virtual bezel,  
22 and I made up that word, they don't use that word, comes  
23 up, sort of a black edge, and then picture is within  
24 that black edge, but there is no bezel the way you and I  
25 know a bezel, a piece of typically black plastic around

1 the side. It doesn't exist for a lot of TVs that will  
2 be coming in the future, and a lot of companies have  
3 invested heavily in producing these products, and as I  
4 said, they're just beautiful.

5 So a recommendation or rule, whatever, that is  
6 affixed to the bezel may not be helpful for a lot of  
7 people. Something else that I have been hearing over  
8 and over again, especially from retailers, but also from  
9 manufacturers, retailers I'm told will simply not accept  
10 anything that is put right on the glass. Anything that  
11 will interfere with the consumers' experience of viewing  
12 the entire screen when they're standing in the store is  
13 not acceptable to any retailer that I've talked to, and  
14 I've talked to many retailers.

15 I am confident by the time we do written  
16 comments that we're going to argue for as much  
17 flexibility, sort of with respect to where you put these  
18 labels, so I'm not sure we're going to say, don't allow  
19 a cling on the screen, but I can tell you for a fact  
20 that no retailer, at least none of the big ones that  
21 we've talked to, will accept that. Nobody thinks it's a  
22 great idea, and then I encourage you to think of what  
23 are we going to do when TVs don't have bezels.

24 I'm not saying that that is the real future, but  
25 if that becomes the future, and again from my experience

1 at CES, these things were so beautiful, I can't believe  
2 that they're not going to sell extremely well, so I  
3 think that's going to be a problem in the next few  
4 years.

5 MR. NEWSOME: Thanks. We'll go to Noah, but  
6 first I want to ask Chris: Is that true, this issue  
7 about -- do you have a position on labels on the screen,  
8 this little triangular label? Is that going to be a  
9 problem?

10 MR. MCLEAN: Actually if I could maybe invite  
11 Bob Schwartz to join the comments. Number 1, the  
12 placement has to be safe. You don't want to mandate a  
13 placement that would somehow obscure a heat vent or  
14 something like that may make a product unsafe. Two,  
15 you don't want interference with the performance of the  
16 profit, and then it has to be practical in the modern  
17 retail environment.

18 And the reason I ask maybe Bob to contribute to  
19 the discussion here is we had a real life test run of  
20 these issues in the TV transition, and Bob has had a lot  
21 of experience in how that played out.

22 MR. NEWSOME: Bob?

23 MR. SCHWARTZ: I'm Robert Schwartz, counsel.  
24 I'm with Constantine Cannon, LLP. I'm counsel to  
25 Consumer Electronics Retailers Coalition, probably here

1 to answer any questions except for the one that you just  
2 asked. As Bill said this is a dynamic environment, and  
3 my colleagues can attest, I don't say things like this  
4 often, but dealing with several regulatory agencies and  
5 commissions, I congratulate the staff for the way you  
6 are proceeding, moving people toward consensus by  
7 gathering all of the information and having these calm  
8 discussions.

9 I think where I would start is where you  
10 shouldn't go, and in the regulations, as per your  
11 written proposal, I think you were correct in not  
12 wanting a label to get separated from the product in any  
13 way or in putting any independent obligation on the  
14 retailer in parallel with what the manufacturer may be  
15 doing because that way would lie absolutely chaos.

16 To try to match up a stray label with what  
17 product it was supposed to be on would probably take a  
18 conference call involving a half dozen people at a  
19 retailer and perhaps bringing in several of their  
20 vendors a week to figure it out, so it would be  
21 impossible for any of your people in the field, once a  
22 label gets separated from a television, to figure out  
23 whether it really does belong back with that TV or not,  
24 and that would be a problem for any public interest  
25 group, anybody involved in enforcement, and certainly

1 with retailers and manufacturers.

2           Once the information gets separated with  
3 product, which we know will happen -- I represented  
4 independently four major retailers dealing with the FCC  
5 when there was a retail only labeling requirement in the  
6 DTV transition. 95 percent execution is about the best  
7 that you can hope for, and where Wal-Mart has 5,000  
8 stores, Target 1,500, Best Buy 1,100, that many products  
9 and employees, you're going to get customers moving  
10 things. You're going to get people misapplying things.

11           Now, on the particular question here, if it  
12 doesn't have a bezel it doesn't have any place to hang  
13 something either. I think one of the areas that we need  
14 to do some discussion with the colleagues in CEA and in  
15 the retail environment is whether the triangle in the  
16 corner is viable or not. There seems to be a range of  
17 opinions, and they get communicated on kind of an ad hoc  
18 basis, and it sounds like some more organization is  
19 necessary to get to a consensus on that.

20           What the alternate may be, it sounds like the  
21 bezel one would be kind of in the corner of the screen,  
22 if there's no bezel or an insufficient one, whether  
23 others would be happy with putting it immediately on the  
24 back where -- in the display environment. People could  
25 come and peak at it, analogous to having it inside a

1 refrigerator. That sounds like something that people  
2 are going to have to discuss in good faith, and by your  
3 comment date in May, try to have very considered  
4 opinions.

5 But the labels themselves, I think there seems  
6 to be consensus on in the way you're presenting the  
7 information and what you're trying to do.

8 MR. NEWSOME: Just quickly: Are there any --  
9 has anyone raised any specific safety concerns with  
10 these proposals? I'm not -- it's no secret, I'm not a  
11 technical person, but saying things like that, we're  
12 talking about putting something on the screen. Is there  
13 any suggestion that that is a problem?

14 MR. SCHWARTZ: I don't believe Chris or I have  
15 become aware of any.

16 MR. MCLEAN: We're not aware of any, but among  
17 the options, we do want to make sure that there is --  
18 because electronic products do.

19 MR. NEWSOME: And if there are issues, we  
20 certainly want to know about them, but we have a fairly  
21 specific proposal here, and so went to know about -- I  
22 could see if you had a label on the back that was on the  
23 vent, maybe that would be an issue, but we're not  
24 proposing that.

25 MR. MCLEAN: No fire alarms have gone off yet.



1           MR. SCHWARTZ: We've seen the label. I have  
2 some products that system have those stick on labels  
3 that should have been taken off years ago. They're not  
4 on the screen but they're some place on the product, and  
5 I've seen it in friend's houses also, and in the past  
6 we've seen it on various things. I'm sure Bill would  
7 know more about this.

8           MR. NEWSOME: Well, let's go to Noah. Thanks.

9           MR. HOROWITZ: Unfortunately, this will quickly  
10 I think go into it's the retailer's responsibility, it's  
11 the manufacturer's, but let's put that aside for a  
12 second. Our primary interest and I think many people in  
13 the audience is when you're shopping for the TV in the  
14 store, you should be able to see the label. It  
15 shouldn't be on the back of the TV for example. It  
16 should be on the front or attached to it, and it should  
17 be sufficiently prominent. You need to be able to read  
18 it.

19           So I unfortunately being semi techy, I have a  
20 picture here that we'll send to the record, and people  
21 can huddle around it, but it's a bank of TVs at a store,  
22 and what's very common for the large TVs is you have a  
23 TV here and you also from a TV up very high. That's a  
24 common format in Best Buy and other large retailers, and  
25 the pricing information is down here.

1           So do we attach it to the TV? If that TV is up  
2 there, is your label that's this big going to work for a  
3 52 inch TV? We think more consideration is needed.  
4 We'll slow this during the break. I'm sorry I wasn't  
5 able to get it to you beforehand.

6           So our input is the size of the label needs to  
7 be larger, in particular for larger format TVs, and the  
8 sliding scale but comparative scale, putting the size of  
9 the ranges aside for now, we think the little triangle  
10 arrow is very important, perhaps is more important than  
11 the actual numbers there, so that should be more  
12 prominent as well.

13           MR. NEWSOME: Noah, is it the size of the label  
14 or is it the disclosures that are on the label? If you  
15 have -- in this scenario where you have a wall  
16 basically, the ones on the ground floor, closer to the  
17 floor, you can see the label, and you can see a lot of  
18 this information on the label is the same on every  
19 single label.

20           The only thing that's different is this cost  
21 number and basically the placement on the range. So is  
22 it the size of the label or is it the size of those  
23 numbers? Do you have any thoughts on that?

24           MR. HOROWITZ: It's a couple thing. Where it  
25 says cost range of similar models, and there's the X

1 axis there, we think that's going to be hard to read on  
2 large TVs that are located up high, so if you need a  
3 bigger TV -- I mean, a bigger label and/or a bigger  
4 font, I don't have an opinion on that.

5 MR. NEWSOME: Also I'm interesting in whether  
6 this scenario which I've seen where the TVs are up on  
7 the wall, how common is that? If we're trying to adjust  
8 things to deal with that, are we dealing with just  
9 something that's in one chain or is it normally done  
10 like that. Let's go to Margie.

11 MS. LYNCH: Margie Lynch from the Consortium for  
12 Energy Efficiency, and some of CE's members have in fact  
13 been experimenting with some of these types of labeling.  
14 As I had mentioned, CE's members offer incentives, and  
15 for TVs, it's typical to retailers to stock efficient  
16 products, and they need a method to designate to  
17 consumers which models are more efficient and therefore  
18 are essentially the subject of the program incentive.

19 So our members in California, joined later by  
20 the Northwest Energy Efficiency Alliance, brought to  
21 market a corner cling label, much like the one you have  
22 here, with some different information on it. It was I  
23 believe in the upper right-hand corner instead of the  
24 lower, and in our discussion a couple weeks ago on this  
25 proposed scheme, some of our members reported that their

1 retail partners indicated that this scheme, caused burn  
2 out on their screens, and this is again another one of  
3 those anecdotal reports. I'm trying to do some more  
4 back up to confirm that.

5           They in fact have discontinued the use of the  
6 corner labels at their retail partners' request. The  
7 scheme that I'm more familiar they've been working to  
8 develop because the also have concerns about the size of  
9 display of info, the scenario of a bank of TVs on the  
10 wall. I think in some retail setting they've moved to a  
11 card that is as large as three by five that I believe is  
12 fixed into an exterior plastic display that's attached  
13 on to the screen of the TV.

14           And we'll send along an example as well with our  
15 comments. I'm not suggesting that's the solution. I  
16 just want to say based on some of our members' practical  
17 experience, that is a solution that our members have  
18 developed to convey similar types of info, though not  
19 precisely this info, and so again kind of eager to work  
20 through with this community what the right solution is.

21           I think displaying the info on the back, though  
22 we haven't specifically addressed that, would have the  
23 concern that that does not assist a consumer with a  
24 purchasing decision, unlike a TV that you actually open  
25 up to see what it looks like inside. I think it's

1 probably rarely the case that a consumer will peak  
2 behind the back of the TV.

3 And we haven't touched on yet the issue the  
4 Commission flagged on as to whether labeling should also  
5 be required on product box, and the preliminary input of  
6 our members is that that would be a very valuable  
7 supplement to labeling at contemplated purchase as well.

8 MR. NEWSOME: Okay. I guess this issue about  
9 screen burn out, if anyone has any definitive  
10 information on, that would be someone in the audience.

11 MR. WOLD: Christopher Wold for CLAS, labeling  
12 and appliance standards program. I have been in  
13 conversation with NEEA regarding that issue. It was  
14 something that was initially brought up to us in  
15 discussion, and the people at NEEA looked at it a little  
16 bit more and contacted the retailer that they had the  
17 issue with, and apparently the label had had -- a batch  
18 of them had had a strong adhesive glue, an aggressive  
19 adhesive is what it was called.

20 And so that's what had happened on those  
21 particular screens, that the manufacturer of that label,  
22 one batch in particular, it had an aggressive adhesive  
23 glue attached to it, but the rest of the labels had not  
24 had that issue so it had just been one batch, and that  
25 at least with NEA's experience with one retailer that

1 had talked about that as an issue. After looking into  
2 it, that was their resolution.

3 MR. NEWSOME: Great. Thank you very much.  
4 Adam?

5 MR. GOLDBERG: So gosh, there's so much, so Adam  
6 Goldberg with Mitsubishi again. In our comments from  
7 last year, what we said was that the labels should  
8 substantially follow the existing label format and  
9 content, and I think that what's shown on the screen  
10 there and with the drawings and the NPRM are consistent  
11 with that and entirely fulfilling the needs.

12 One of the things that we did suggest in the --  
13 in our comments which were considered and rejected by  
14 the FTC in the NPRM is that -- and I hear a lot of  
15 discussion in the room about how hanging tags might  
16 somehow get disconnected from devices, so I think that  
17 primarily what we should have, for many reasons, are a  
18 number of different options on how to affix the labels  
19 to the devices.

20 I believe that Jon Fairhurst has an example of a  
21 way a hang tag could be affected without a significant  
22 possibility of the label being disconnected from the  
23 device, but I think for many reasons, including the  
24 safety one we're talking about, manufacturers need a  
25 handful -- at least a handful of options on how to

1 attach labels.

2 For example, Bill was talking about devices with  
3 very little bezel, and it could easily be the case that  
4 to do an adhesive label like the rectangular ones, that  
5 it needs to be affixed in some way to the back of the  
6 device, so the adhesive is on the viewable side of the  
7 label and then sort of attached to the back, so you  
8 could still see it, but it's not attached to the front  
9 of the device.

10 MR. NEWSOME: But the label would be visible to  
11 someone standing in front of it?

12 MR. GOLDBERG: Yes, absolutely, and if you need  
13 to attach it that way, it's possible that it could  
14 obstruct some vents along the sides of the devices.  
15 Now, this is sort of speculative, but I think that it's  
16 illustrative that we need options.

17 In terms of the triangular label on screen,  
18 there are problems about -- at least conceivable  
19 problems about the sort of adhesive that we just heard  
20 about, but I think those -- my understanding is that  
21 those that have some issue with a cling label relates to  
22 possible damage to the screen when the consumer goes to  
23 remove the label. For some devices, say traditional  
24 CRPs where it's glass on the front and there's low  
25 probability of damaging that glass by peeling off a

1 sticker, then in those cases, the triangular on screen  
2 label might be more acceptable.

3 But in other cases, for example, Mitsubishi  
4 makes a number of rear projection televisions. Those  
5 screens are a bit more sensitive, and a cling label  
6 where someone might not understanding, maybe take a  
7 razor blade or something to remove a label that might  
8 seem to be a bit sticky. That could be a big problem  
9 and cause a lot of returns.

10 So primarily there needs to be a handful of  
11 options where the labeling can be done in a way that  
12 both effects the disclosure to consumers and doesn't  
13 cause problems in terms of either venting or screen  
14 damage or what have you.

15 Then finally with respect to the label sizes on  
16 different screens, I think that the labels described in  
17 the NPRM are entirely sufficient. Televisions aren't  
18 displayed so far away from someone that they can't see  
19 them, and the yearly energy cost number is sufficiently  
20 large to be able to see it and compare.

21 And I don't think that -- I don't think that's a  
22 problem, and I say that coming from -- coming from a  
23 manufacturer's point of view where we make mid and very,  
24 very large televisions, that these labels are very good  
25 size.



1           MR. NEWSOME: Thank you. So we have about 20  
2 minutes left in this session. We have a couple more  
3 comments here on location format, I want to cover  
4 content of the label, and also talk a little bit about  
5 the compliance time and see if we can fit that in.

6           I also wanted to ask Katharine about, if she  
7 could give us an update on what's happening with ENERGY  
8 STAR and ENERGY STAR's -- the relationship between the  
9 ENERGY STAR procedure and the CEA 2037. If we can't fit  
10 that in, we'll try to get into that in another session,  
11 so let's move along and finish up with this topic.  
12 Bill?

13           MR. BELT: In the interest of time, I want to  
14 throw in one additional option. I agree with Adam that  
15 multiple options are probably going to be the right way  
16 to go. Retailers probably need that kind of  
17 flexibility. I don't doubt that retailers would mandate  
18 everybody selling in their store to implement a very  
19 particular way or maybe even a standardized way within  
20 the store, but various retailers may have different  
21 choices and opinions about what looks best for their  
22 customers.

23           We like the label, by the way, that's up there.  
24 I forgot to mention that. We like the content on the  
25 label, so that's my two cents on that one.

1           One thing that is not in the proposal that I  
2 think we should consider, and we will bring up in our  
3 written comments, is some form of electronic labeling.  
4 One thing that we know is that when these TVs are in the  
5 retail environment, they're always basically and  
6 presumably set to the retail mode, and it may be -- this  
7 may take the form of something like when the TV is a  
8 retail mode, there be like a floating box on it or  
9 something on there that looks exactly like that.

10           So you don't have to worry about a cling label.  
11 We don't have to worry about anything falling off. We  
12 don't have to worry about any complication for how to  
13 get there since presumably these TVs are always in  
14 retail mode when they're in the retail environment, so I  
15 don't want to sort of preclude the idea of an electronic  
16 label.

17           I think it's a great idea. I don't really know,  
18 would anybody implement it? I'm not 100 percent  
19 certain, but it does seem a reasonable option that ought  
20 to be considered.

21           MR. NEWSOME: Okay. And that's an interesting  
22 idea, and I encourage you, if that's raised or if anyone  
23 addresses that in the comments, it's important for us to  
24 have details about how that would work, how we would  
25 ensure that the information is available and that kind

1 of thing.

2 Lydia?

3 MS. AOUANI: Lydia Aouani from Intercan. So  
4 when we worked to design our label, it was really a big  
5 dilemma with a lot of issues that were raised today, and  
6 then we came across this label and offered this label as  
7 everyone else, and it represents several advantages, but  
8 I am hearing a lot of things today, no bezel on the new  
9 TVs, possible damage and things like that, and when we  
10 went and did our own store visits, two things that came  
11 out.

12 First, in one store mainly, there is no label on  
13 the TV policy, and in another store, there were so many  
14 labels on the TV and on the corners and everywhere, I  
15 was wondering where can we fit another label, and those  
16 are different store policies that we have to take into  
17 account and respect.

18 So when we designed our Canadian label, the main  
19 requirement for the retailer is it has to be visible  
20 from the front, and it doesn't really matter where it  
21 is, and we can leave it up to the retail which option  
22 they want to select and where they want to place it as  
23 long as it's visible from the front.

24 There's also the issue of the TVs that are too  
25 far up, and I think it was at Walmart, I was there, and

1 the TV was so high up I could not read anything that was  
2 in there, and of course in addition, I'm short, and I'm  
3 short sighted so it doesn't help, but I couldn't see how  
4 such a label -- you could probably eventually see the  
5 dollar amount. You would not see anything else. That's  
6 one of the issues I have.

7 And in Canada it's worse because the label has  
8 to be bilingual, so we would have to fit a lot of things  
9 in there which will make -- will be very difficult for  
10 us to have a similar label, but that's something we  
11 could consider.

12 As far as the placement is concerned, like I  
13 said, we went with a regular like appliance label style,  
14 and the advantage is that it's visible, and on the label  
15 itself, we decided to include information about the TV,  
16 so its model number and things like that, and that's in  
17 order to help the retailers not mixing up the labels  
18 whenever they decide to place it wherever they want.

19 I acknowledge that all of the different stores I  
20 have visited have very different policies, so, yeah,  
21 that's the purpose that we have right now. We couldn't  
22 see in the back or anywhere else because it doesn't give  
23 the customer the chance to look at it at the point of  
24 purchase, which is if we were to do that, the customer  
25 would probably look at it when he gets home, and he's

1 not even sure, so in this case, even in labeling on the  
2 box, you would have the same affect, which I think could  
3 be a good supplement.

4 I had initial comments from a retailer, and they  
5 mentioned that they cannot comply 100 percent, and  
6 that's very difficult when some labels get mixed up, but  
7 I think there, 95 percent could be achieved, and that's  
8 why a label on the box could be a good supplement.

9 Now, we still have no -- haven't decided whether  
10 we'll go for a regular appliance label or this one.

11 This is something we will have to work on together and  
12 definitely try to harmonize, if possible, but to take  
13 into account all of the things we've heard today.

14 MR. NEWSOME: Thank you. All right. Noah?

15 MR. HOROWITZ: I'll be quick in the spirit of  
16 time. We are potentially concerned about a hang tag.  
17 If it's moving around with the air, will they be able to  
18 see it, so we definitely want it visible by the consumer  
19 when they're looking at the TV. An alternate, which we  
20 recognize some retailers may not like, is can you have  
21 this information -- often there's a card, five by six or  
22 so, that says it's the Panasonic 42 inch plasma with  
23 picture in picture, it costs 999, zero percent  
24 financing, could you have right next to that the energy  
25 guide label? Would that work especially in the scenario

1 when the TV is up there?

2 We're open that. That wouldn't be attached to  
3 the TV, but we understand that caused some program  
4 administration issues. Can I put up a slide very  
5 quickly?

6 MR. NEWSOME: Sure.

7 MR. HOROWITZ: What's that called, HEIMY?

8 MR. NEWSOME: ELMO.

9 MR. HOROWITZ: ELMO, I'm sorry. We went to  
10 Sears' website to see electronically how things are  
11 working.

12 MR. NEWSOME: Could you tell them to deploy the  
13 ELMO? They have to hit a button.

14 MR. HOROWITZ: This is very much like Get Smart,  
15 I'm dating myself.

16 So I think even without the visual, the point is  
17 many people pre shop or actually make their purchase on  
18 the Internet and supplementarity, we like the energy  
19 guide label to be there, and ideally -- here's the  
20 picture of the Kenmore TV and the price, could you have  
21 a logo for the energy guide label right there? You  
22 click on it, and the energy guide label appears.

23 That's the way Sears is doing it now. Here's  
24 the screen shot that hopefully will be more visible in a  
25 minute by ELMO, but here is a little icon. It's only

1 that big on the second screen. We would hope that you  
2 would consider requiring the energy guide logo be  
3 located in a close proximity to where the price is.

4 MR. NEWSOME: Why don't you just leave that  
5 there, and they'll hit the button so people can see it?

6 MR. HOROWITZ: Thank you.

7 MR. NEWSOME: Thanks, Noah. So let's go to  
8 content. I note -- can we make it real quick?

9 MR. FAIRHURST: Very quick, yes. I want to also  
10 support what Adam had said and others have said. In  
11 fact, Bill I think had initially mentioned we have  
12 televisions that are -- that have no bezels, so I have  
13 an example of this. I can leave it with you. It also  
14 has curved corners, so square corner or 90 degree corner  
15 doesn't really work with it.

16 The other thing I brought is this label as an  
17 example, a physical example of something that Sharp has  
18 right now in Canadian stores actually. The way this  
19 particular one is done is it's affixed with adhesive to  
20 the television, and then it gets folded and hangs over  
21 something like this, but the idea here is that -- and  
22 I'll leave this with you, there are some knock out holes  
23 here.

24 This can actually be physically attached to the  
25 back of the television, either behind screws or with

1 some other mechanical means, and it could be folded such  
2 that it is immediately in front of the TV, if it's, for  
3 instance, a quarter an inch or less in front of the  
4 television. Wind isn't going to blow it around. If  
5 it's mechanically affixed, it's not going to come off,  
6 and it would give the manufacturer the most variety as  
7 far how this gets affixed to the television.

8           There's no risk of damaging the screen and so  
9 forth. There is one negative with it, which is that  
10 from a -- well, of course we would want this to be  
11 recyclable, but it is more plastic material so that is a  
12 negative, and therefore we would like something like  
13 this to be an option but we would also like to have an  
14 electronic option, and as mentioned earlier there is the  
15 home retail mode situation for many TVs.

16           So in the case that it would be selected on  
17 retail, then electronically the label would be at least  
18 on some duty cycle. I know some of the feedback is we  
19 wouldn't want it up 100 percent of the time because the  
20 consumers would want to see, what does the picture look  
21 like, but if it was 30 seconds out of every minute or  
22 something like this, then you would be able to watch the  
23 television and see the energy guide label as well as a  
24 non obscured picture, so I'll leave these with you.

25           One last thing to ask is: Please consider



1 actually a reverse labeling. The design of the  
2 television is critical to us. We want it to look very  
3 good, and a large yellow label, while this is large and  
4 yellow, but this is meant to really dominate. If there  
5 were a reverse color version with a yellow border, it  
6 would also be very visible, very recognizable, and so  
7 you might try that as an experiment.

8 MR. NEWSOME: Thanks. We have our design -- the  
9 person that actually designed this label, TJ Peeler is  
10 here, so it's good to hear those things. So I'll leave  
11 this with you. Okay. Quickly, and then David Baron?

12 MR. SCHWARTZ: I know you need to move on.  
13 Again this is Robert Schwartz for the retailers. We've  
14 been through with channels cards. In general they  
15 provide helpful information for consumers. To expect to  
16 rely on it from a legally required point of view to --  
17 made up with the product that it's supposed to be near  
18 and to be able to guarantee that the information is  
19 accurate as would be required here, we cannot project  
20 that it would be done with sufficient reliability by the  
21 retailer.

22 And from an enforcer's point of view, there's  
23 absolutely no way to check whether the channel card  
24 information is appropriate to that particular product.  
25 So it's not one that -- we agree that options have to be

1       there, but it's not -- but we would say we've been  
2       there, and it can't be one. Thank you.

3               MR. NEWSOME: Thank you. David?

4               MR. BARON: Thanks. David Baron, B as in boy,  
5       A-R-O-N with Justice. We're mainly concerned about  
6       compliance issues and enforcement, and I think what the  
7       discussion here today has revealed is that although  
8       there are options that will make it less likely that  
9       labels will become disconnected from the product, that  
10      the retailers are going to have to have some  
11      responsibility here.

12              And there was a point of the GAO report from  
13      several years ago that if you have such a disconnect of  
14      responsibility between retailers and manufacturers, you  
15      go into a store and a product isn't labeled, somebody  
16      has to be accountable for that. Somebody's got to be  
17      accountable. We can't have the situation we have now  
18      where there is no label on the product and no one is  
19      responsible.

20              So I hope the Commission will keep that in mind  
21      in adopting this rule. It's either got to be the  
22      manufacturer or the retailer or both of them, and it  
23      should not be the Commission's responsibility or the  
24      responsibility of citizens to figure out who's  
25      responsible. The consumer, all the consumer cares about

1 is they want to see the label there, and you've got to  
2 make this an enforceable rule.

3 I agree with several comments that the label  
4 needs to be on boxes. It shouldn't just be an option.  
5 There are some stores that do not have samples sitting  
6 out there, and you need to have the label on boxes.

7 On websites, I agree with Noah, some of these  
8 websites, it's almost possible -- and some of them don't  
9 have labels. On some of them it's impossible to find  
10 it, and you shouldn't be giving them the option to just  
11 have the annual operating cost. It is an option in the  
12 proposal. It's an option in the appliance rule. They  
13 ought to be required to provide the energy guide label  
14 on each page in which they display the covered product.  
15 That's a requirement already for the operating costs.  
16 It ought to be a requirement for energy guide as well.

17 Thank you.

18 MR. NEWSOME: Thank you, Dave. I think I'm not  
19 going to meet my goal with this session, but why don't  
20 we talk a little bit about content, and for the other  
21 issues, we'll I guess wrap it into the follow-up  
22 session, but one thing that I know people have different  
23 ideas about is the categories or the bins that the  
24 comparative information on the label -- the way that  
25 that's set up.

1           So why don't -- if anyone has any thoughts on  
2 that, why don't we try to address that now in the next  
3 couple minutes, and then we'll take a break. Anyone  
4 want to go?

5           MR. FAIRHURST: Yeah. Jon Fairhurst from Sharp  
6 Labs of America. Yeah, we agree with others that the  
7 bins are a bit too large. Our main concern is that it  
8 actually makes our own products compete with our own  
9 products so, for instance, we have a 40 and a 46 inch  
10 television. The more efficient are 40 inch television,  
11 and adds to the mix. Actually that's competing against  
12 our own 46, so our preference is for smaller bins. I  
13 would think five would be as large as you would want to  
14 go.

15           MR. NEWSOME: Five inch increments?

16           MR. FAIRHURST: Right. There are other options  
17 that would be equally as acceptable, but I would say  
18 that five would be as wide as you would want.

19           MR. NEWSOME: Okay. Lydia?

20           MS. AOUANI: Lydia Aouani again from Intercan.  
21 So we have one study in Canada that shows that customers  
22 shop first by TV size, and it goes -- it's equal with  
23 the price, so that's the first criteria, so it's really  
24 based on screen size, so if a customer goes there and  
25 wants 42 inches and there's ten inch increments or five

1 inches, it might not reflect exactly what they're  
2 looking for.

3 When looking at the ENERGY STAR data, and you  
4 can see the clusters of models per screen size, and for  
5 example there are some 42 or 37, there is really a large  
6 number of models, but if you go to the lower ends or the  
7 higher ends, then there's a smaller number of models,  
8 which could allow you to gather this screen size.

9 I would see more for popular models to have like  
10 40 inch compared to 42 inches, have a range just for  
11 them, so and on and so. It's high maintenance, but  
12 looking at the appliance label, for example, for  
13 refrigerators, we have 18 different ranges that we are  
14 updating every year, so it is doable I think and  
15 something to investigate further.

16 MR. NEWSOME: Okay. Thanks. So let's go Bill,  
17 Adam and then Noah, and then we'll take our break.

18 MR. BELT: So based on the two ideas we've just  
19 heard, let's say we have the FTC proposal, ten inch  
20 ranges, and Lydia's down to the inch kind of thing. I  
21 think there's a happy medium, and we've looked at this  
22 very carefully, spent a lot of time on this.

23 Lydia is correct. TV sizes tend to cluster  
24 around specific numbers. Some examples, and I can bring  
25 this up and put it on ELMO if it starts working, and I

1 would like to get that done. But some examples are 19,  
2 22, 26, 32, 37, 40, 42, 46, 55 and 65. These are  
3 cluster points basically for TV sizes. It has a lot to  
4 do with economies of scale and how you cut the glass for  
5 TVs.

6           These numbers are sort of emerging actually.  
7 Just a few years ago they were spread all over the  
8 place, but these are good, sort of the emerging cluster  
9 points, and maybe a few years from now they'll be  
10 slightly different cluster points or maybe a few less.

11           So as a result of that, I think that that ten  
12 inch scale that you have are too fairly arbitrary to  
13 begin with, are two big. In a couple of cases at least,  
14 more than one cluster point falls into these ten inch  
15 scales.

16           Talking about 30 inch TVs just for a second,  
17 that's the most popular size, 32 falls in there. 37  
18 falls in there. Well over 90 percent actually of TVs  
19 are either 32 or 37 in that bin, so what you will have  
20 is almost all of the 32 inch TVs being on the lower end  
21 of the scale, and all the 37 inch TVs be on the higher  
22 end of the scale, and you haven't done anything to help  
23 consumer pinpoint how his 37 inch TV or 32 inch TV  
24 compares against its peers.

25           So we're going to propose, and if we can get

1 ELMO to work, I can show it to you today, but bins that  
2 are about in the range of four to five inch sizes, that  
3 closely match the way we collect data today for how TVs  
4 are sold to the public. We collect the data this way  
5 because we are cognizant of where these cluster points  
6 are, and we try to sort of balance across these ranges  
7 how many TVs are being sold.

8 It just seems sort of mathematically a much more  
9 intelligent way, and the benefit also, the mathematical  
10 part, is it really does provide consumers a more  
11 accurate measure of how a TV stacks up against its  
12 actual real peers.

13 MR. NEWSOME: Thank you, Bill. Adam?

14 MR. GOLDBERG: Yeah. I think the FTC proposed  
15 bins in the NPRM matches kind of directly with what  
16 Mitsubishi proposed in our responses last May. I think  
17 for -- especially for the smaller sizes where there are  
18 a couple of bins in -- a couple cluster points in one  
19 bin, a good argument maybe could be made for having a  
20 little more granularity at small sizes, but I don't  
21 think there's any need to chop up the 70 inch and above  
22 class.

23 And in fact, the larger screens in general, say  
24 more than 60, is probably not real helpful to chop that  
25 up to much, so I don't have any specific comments

1 contrary to Bill's proposal, but we certainly don't have  
2 any issue with smaller bins for smaller size sets.

3 MR. NEWSOME: Okay. Thank you. And Noah? And  
4 then we'll go to break.

5 MR. HOROWITZ: We believe -- and I think it's in  
6 the proposal, I just want to reinforce it, it should be  
7 the viewable screen area, so if the bezel is half an  
8 inch thick, that's not part of the area for the diagonal  
9 that we're considering here, and that any bins or  
10 categories should be technology neutral, so we're  
11 comparing all 20 to 24 inch TVs whether they're LCD  
12 plasma or something we can't even conceive of today.

13 I have something for Tickle Me ELMO. I can hand  
14 this out. We plotted up the data, and you're exactly  
15 right. There are some natural break points around 32,  
16 37, so we think the ten inches that were originally  
17 proposed aren't quite right. We think something should  
18 be done, and we would be glad to talk to CEA. There's  
19 probably some natural things.

20 You don't want them too big because that  
21 disadvantages the larger TVs in that size. If they're  
22 extremely narrow, it gets complicated, and then just by  
23 going down the tenth of an inch get to be compared to  
24 the other ones, so there's probably sweet spot, and I  
25 think offline we can figure that out.



1           MR. NEWSOME: Thanks, Bill. We're going to talk  
2 more about this because we're going to get this device  
3 working, and so after the next session, the session 3, I  
4 think we want to explore this more.

5           Let's take a break now. Let's meet back here at  
6 10:55. So let's do ten minutes.

7           (Whereupon, a brief recess was taken.)

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1       SESSION 2: Possible Disclosures for Other Consumer  
2       Electronics

3               MR. WILSHIRE: We're back in the second session  
4       here. This is disclosures for other consumer  
5       electronics, not TVs. Just a reminder, I'm Matt  
6       Wilshire. I work with Hampton at BPC's Division of  
7       Enforcement, and I'll do a very, very quick background  
8       here just to kind of set the scene, and then I will turn  
9       it over to some of the people at the table just to ask  
10      them what -- which particular consumer electronics they  
11      would like to discuss.

12              Just by a little bit of background here, in our  
13      notice of proposed rulemaking, we discuss several  
14      consumer electronics products, set-top boxes, DVRs,  
15      personal computers, computer monitors, game consoles,  
16      audiovisual equipment and multi functioning devices, and  
17      actually we did not propose any labeling for these  
18      products in the NPRM, but we solicited comment about  
19      test procedures, whether they existed for these  
20      products, and whether the test procedures that we were  
21      aware of could produce data on which we could base a  
22      label that would be helpful for consumers.

23              The key point or the key issue that the  
24      Commission will have in front of it in determining  
25      whether to require energy use disclosures for these

1 products is going to be whether a disclosure is going to  
2 be helpful to consumers in making purchasing decisions,  
3 so if we could focus on -- I think that's the key issue  
4 that we should probably focus on in this second session.

5 So I would like to start by asking commenters,  
6 perhaps just restarting the first session, going around  
7 the table, and starting I guess maybe this time starting  
8 with Lydia and asking them if there's any particular  
9 electronic device they would like to discuss.

10 It's okay if you don't have one.

11 MS. AOUANI: We have actually. So when looking  
12 at the different proposed electronics, so far what we  
13 see as relevant would be probably the set-top box, and  
14 what we had in mind is not so much labeling the set-top  
15 box itself, but there could be an eventuality to include  
16 some of the energy consumption information as part of  
17 what the service provider is giving to its customer  
18 because of the specifics of the set-top box and how does  
19 the provider modify the set-top box energy consumption  
20 when the software is modified as well as the operating  
21 system.

22 So as far as the older products are concerned,  
23 products such as computers or servers or things like  
24 that, so far I think that the different configurations  
25 make it really hard for the time being for -- to label

1 other things such as multi functional devices or  
2 monitors are -- in my opinion, it's mostly for the  
3 business market, so it might be a difference of approach  
4 that we consider there.

5 And, yes, certainly also DVDs and older products  
6 have a high energy consumption so they would be a second  
7 good candidate so, yes, set-top box would be definitely  
8 the product that I would like to look at today.

9 MR. WILSHIRE: Thank you. Bill?

10 MR. BELT: So I'm going to mostly defer to my  
11 colleague, Doug Johnson, from CEA on that issue of the  
12 four products that we will be discussing now, but  
13 generally speaking, we see by our comments last year in  
14 the advanced notice of proposed rulemaking where we  
15 suggest for each of those product categories and for  
16 various reasons that we not move into labeling at this  
17 time.

18 Again, we support the concept. Certainly in  
19 general our goal and our interest right now is in TVs,  
20 which critically important product right now, and I  
21 don't want to be distracted I guess, if it's the right  
22 word, by other products, but I'll defer to doing  
23 Johnson.

24 MR. WILSHIRE: Okay. Thank you. Jason?

25 MR. FRIEDRICH: Sure. So I said earlier, we're

1 the largest manufacturer of set-top boxes for lease. We  
2 don't currently sell set-top boxes at retail, and as we  
3 said in our comments, sort of I want to give voice to  
4 some of the differences that exist in the lease  
5 environment, and of course on the discussions of TVs,  
6 we focus very much about a retail environment. There  
7 are a different set of challenges that exist in the  
8 retailer environment with respect to manufacturers, but  
9 first is about control.

10 You said earlier, manufacturers exercise a  
11 certain level of control, and then the retailers can  
12 display product, it's very, very different in the lease  
13 environment. Traditionally the manufacturer of a leased  
14 set-top box would not touch the end user in any way,  
15 shape or form necessarily directly. We would sell the  
16 product directly to the service provider, and they would  
17 furnish it to the end user.

18 And I think there are also -- there's a  
19 different set of concerns around choice, going into a  
20 retail store, looking at devices and making choices  
21 based on ENERGY STAR concerns. Traditionally when folks  
22 lease a set-top, I think the first question is whether  
23 they want to go to a retail outlet and buy a set-top at  
24 retail or they want to lease one. Once that decision is  
25 made, they want to lease a set-top box, then it becomes

1 a question about functionality.

2 Do you want a very basic set-top with perhaps a  
3 digital analog type adapter? Do you want a DVD? Do you  
4 want a multi room DVR? And once that decision is made,  
5 perhaps ENERGY STAR concerns could come into play.  
6 Perhaps it comes into play when, as the FTC noted in its  
7 decision, when you're actually determining which service  
8 provide you want to sign up for your video service.

9 So I just want to sort of over score, it's a  
10 very different set of concerns. It's a business  
11 relationship. Consumers are making different choices in  
12 a different environment, in a leased environment, and so  
13 I think we just need to be enormously cautious and  
14 mindful of these differences as we move forward.

15 MR. WILSHIRE: Thank you. Adam?

16 MR. GOLDBERG: I don't have any particular input  
17 for this aspect.

18 MR. WILSHIRE: That's fine. That's great.  
19 Chris?

20 MR. MCLEAN: Yes. Well, in terms of other  
21 devices, I think some of the comments we made earlier  
22 about TVs are just as relevant. You take into account  
23 the retailer realities.

24 MR. WILSHIRE: Chris, could you speak into the  
25 microphone so that everybody can hear?

1           MR. MCLEAN: Frankly, the realities of modern  
2     retailing, and of course, these are smaller devices and  
3     there are less available space. Some are displayed.  
4     Some are not. Some are sold in boxes.

5           On the issue of set-top box, the CERC is very  
6     excited about what's going on over at the Federal  
7     Communications Commission and the National Broadband  
8     Plan of at least proposing a future where we can break  
9     open the market for set-top box, particularly consumer  
10    choice and competition and innovation, and we actually  
11    think in that kind of vibrant, competitive environment  
12    for set-top boxes, we will also unleash these forces to  
13    have energy efficiency be an important part of that  
14    buying decision.

15           So even though we are in kind of a handcuffed  
16    situation now with cable and satellite and what type of  
17    boxes you have, we are very hopeful that the Federal  
18    Communications Commission breaks that wide open, and  
19    consumers get to control their set-top box decisions.

20           Then we would urge the Commission to take into  
21    account that one of the exciting things we see happening  
22    is convergence of products, and that converged products,  
23    whether it's a combined DVD, DVR, set-top box or VCR  
24    DVD, you will yield a more efficient energy use than  
25    having two separate devices plugged in separately and

1 taking phantom power away.

2 So the measurements are kind of important, and  
3 the assumptions are kind of important as to how you can  
4 adequately score these kind of new converged products,  
5 so we're comfortable with the idea of studying the other  
6 products, particularly given the lack of clear standards  
7 at this moment like we have with televisions, but we are  
8 very -- we very much believe that consumers want this  
9 type of information and should be moving in that  
10 direction.

11 MS. LYNCH: Thank you. Margie Lynch. We're  
12 interested in discussing all of the products on the  
13 list. At the same time, we're still doing our research  
14 to respond to the great set of issues and questions that  
15 the report flags. I think you all did a very thorough  
16 job in identifying the issues. I think there are some  
17 tricky things to unearth.

18 I mean, one, in the course of doing some  
19 research to respond to the issues we've raised, one of  
20 our members, the Ontario Power Authority reported on  
21 some information they've been gathering as part of a  
22 pilot program on set-top boxes, and they said that there  
23 are only a minority of people who reported that they're  
24 ever concerned about the electricity usage of their  
25 set-top boxes, about 11 percent.



1           However, once they were made aware of the  
2           electricity consumption of the set-top boxes, 76 percent  
3           said that they would take electricity usage into  
4           consideration when they're choosing their boxes, so we  
5           have a huge vacuum of information right now. The ENERGY  
6           STAR mark is the only indicator of consumption and the  
7           information ENERGY STAR collects, I think I've seen some  
8           prior information that most consumers assume that  
9           products are efficient because they are new, and it  
10          would be great to see how we could move forward.

11          And again the questions you raised are good  
12          ones. We want to do all of this responsibly. We'll try  
13          our best to help you do that responsibly, but one  
14          question I would ask is: If we're not able to move  
15          forward with any of the other products at this point in  
16          time, given the great set of questions you've raised, is  
17          there any opportunity to understand when this might be  
18          revisited so we don't lose an opportunity to jump on it  
19          as soon as we possibly can when we're in a position to  
20          answer the questions you raised?

21          MR. WILSHIRE: Okay. Katharine?

22          MS. KAPLAN: Yes. Hi there. I would agree with  
23          Margie and Chris. I think both made the point that I  
24          think consumers have an appetite for more information  
25          than they've ever had before when it comes to energy

1 use, and we, at ENERGY STAR, are looking hard at how we  
2 can provide greater information to consumers, and I  
3 would imagine that if there is an opportunity for an  
4 organization like the FTC to do so with an energy guide  
5 label, that there what be interest from consumers in  
6 having that additional information, recognizing that  
7 ENERGY STAR ideally covers only a portion of the market.

8 A couple of notes. I think a product category  
9 where there's growing interest, maybe not from all  
10 consumers but by a good segment of the population, is  
11 game consoles, and so I would suggest that that be a top  
12 priority.

13 I agree that set-top boxes are a unique product,  
14 but I think, as Chris mentioned, it's a really changing  
15 category, and I think that the retail opportunity will  
16 grow and grow and that that should be put on the list of  
17 priority products, although I think we should give it a  
18 little time to kind of settle out because I know through  
19 a regulatory process, you sort of have to have all your  
20 ducks in a row before you move forward.

21 And then one other note is that for products  
22 like servers where there's really a commercial buyer, I  
23 think that's a very interesting product category, but I  
24 think that the level of information that's provided by  
25 an energy guide would probably fall short of what a

1 buyer of a server would be looking for.

2 For example, for servers and storage and other  
3 enterprise level of equipment, we are requiring a power  
4 performance data sheet that would be used by a buyer of  
5 a server or a manager of a data center, and it's utterly  
6 detailed, and it provides all sorts of information that  
7 gets at things like how is this product configured, and  
8 what components in it use what amount of power?

9 And I think that's sort of the level of detail  
10 that you would need in order to provide something  
11 meaningful to the buyer of a server, so I would focus in  
12 on consumer oriented products and put game consoles at  
13 the top of the list.

14 MR. WILSHIRE: Okay. Thank you.

15 MR. NEWSOME: Can I jump in? That's a good  
16 point, and just to note, aside from the products that  
17 are enumerated in the statute, the consumer electronics,  
18 we have authority to label any consumer product, but it  
19 has to be a consumer product, so it has to primarily be  
20 used in like a residential setting.

21 MS. KAPLAN: Great. Thanks.

22 MR. WILSHIRE: Noah?

23 MR. HOROWITZ: We think what you're doing on TVs  
24 is great, and we encourage you to go full speed ahead,  
25 focus on that, and then to the extent you have resources

1 and time, in the short-term, we think monitors and  
2 computers, all the critical pieces of what are you  
3 measuring, test method data, duty cycle, that  
4 information is available so we would encourage you to  
5 quickly pursue monitors and computers, and computers I  
6 would have subcategories of desktops and laptops, and  
7 then you could have the follow on conversation, how do  
8 you deal with screen size and functions and things like  
9 that.

10 Then I agree with what was said by my colleagues  
11 who spoke previously, longer term, they might not be  
12 ready for you to move forward today, but hopefully a  
13 year or so later, game consoles and set-top boxes, the  
14 test methods will be more mature and things like that,  
15 and the reason we too believe set-tops are important is  
16 many of the full function set-tops that are out there  
17 today consume as much or more power than the TV they're  
18 connected to, and that's what we've been focusing on.

19 So we think it would be a shame to label the TV  
20 and tell the consumers, But, hey, that thing next to it  
21 might be consuming even more energy per year, and the  
22 reason for that is many of them stay at full or near  
23 full power 24 hours a day, and you might have multiple  
24 set-top boxes in the home.

25 The fact that there's a different distribution

1 channel, I think we all recognize that, but I don't  
2 think that should prevent this from happening, and it's  
3 clear that in the future, that retail model might  
4 change, and simply having information is powerful.  
5 Manufacturers don't want to be on the right-hand side of  
6 that scale, so simply having that out there, even if  
7 it's after the purchase, we think that's still a good  
8 thing to do.

9 On game consoles, there might be a factor of  
10 five difference in the power consumption of some of  
11 these models. The Wii consumes roughly 20 watts when  
12 it's on. The Xbox 360 and PlayStation 3 have been in  
13 excess of a hundred, although that's coming down.  
14 Consumers don't know that. We think that needs to get  
15 out there.

16 MR. WILSHIRE: Thank you. Well, based on what  
17 I've heard as we went around the room here, it sounds  
18 like there is -- the priority products are game  
19 consoles, set-top boxes and computers and computer  
20 monitors.

21 Why don't we start with -- why don't we delve in  
22 a little more detail on those products and start with  
23 set-top boxes. In particular, maybe the best place to  
24 start here is given the distribution, a little bit  
25 different distribution method of the set-top box coming

1 from provider and leased, if the Commission were to  
2 require an energy disclosure, what would be a feasible  
3 way, if any, to get the information to the consumer in  
4 terms of disclosure?

5           Would it be labeling, Internet disclosures, a  
6 combination of those, something else? I see that Adam's  
7 already, not Adam -- sorry about that, Jason is ready to  
8 get in here, so why don't we just start with you.

9           MR. FRIEDRICH: Actually I wanted to respond to  
10 an earlier point. We certainly agree energy efficiency  
11 continues to be of incredible importance to our  
12 consumers and our service providers customers. As a  
13 matter of fact, there was recently a press release about  
14 our partnership with Verizon Wireless on some energy  
15 efficiency, and those set-top boxes.

16           We've engaged very closely with EPA on ENERGY  
17 STAR. Our customers care about this issue because their  
18 end user customers care about it, so that's completely  
19 separate and apart from the retail availability of  
20 set-tops. The ENERGY STAR and energy efficiency will  
21 continue to be important to our service provider  
22 customers because we know it's important to their end  
23 users.

24           In terms of the FCC piece, they're in very  
25 preliminary stages, only notice of inquiry to be

1 released at the end of the month, very dynamic  
2 innovative space. I mentioned this DTA, this very small  
3 form function box, been talking about gateways, all  
4 these sorts of devices will very much change the  
5 characteristics. It is an innovative space which  
6 perhaps changing business models, I would be reluctant  
7 to tie too much to the FCC proceeding because it is so  
8 much in the sort of preliminary stages, but certainly  
9 it's a dynamic, innovative space, and that's something  
10 we need to be mindful of.

11 In terms of your direct question, it seems to me  
12 that the missing link here in terms of lease set-tops  
13 would be the service providers. They would probably be  
14 better able to answer that question. They communicate  
15 directly to end users than a manufacturer of leased  
16 set-tops would.

17 MR. WILSHIRE: Another question we raised in the  
18 NPRM regarding set-top boxes is whether there's a range  
19 of energy use that would help -- that would necessitate  
20 a disclosure. Are there any views here about that  
21 issue? Katharine?

22 MS. KAPLAN: Yes, there is a range of energy use  
23 of these products, and again you would probably need to  
24 be -- clearly one of the biggest drivers is the features  
25 or functionalities that are associated with the set-top

1 box, but if you were to bin by functionality so, mostly  
2 does this have a DVR in it is one of the biggest  
3 drivers. Then I think that there's great range of  
4 energy use among products that are available, and we  
5 have a reasonable data set we would be happy to share.

6 MR. WILSHIRE: Thank you. Noah?

7 MR. HOROWITZ: Yes. NRDC and its consultant are  
8 in the field now measuring the power use and different  
9 modes of the currently available set-top boxes, and we  
10 will make that data available. That should be in the  
11 next few months.

12 MR. WILSHIRE: We have a question from the  
13 audience. Jon?

14 MR. FAIRHURST: Jon Fairhurst, Sharp Labs. As I  
15 mentioned, I was the project leader for IEC 60287 2.0,  
16 which addressed the televisions. Just for your  
17 information, there's an effort right now on the 3.0  
18 version of that standard that addresses set-top boxes.

19 I'm expecting that it will be published around  
20 the first of the year. It could slip some, but it's  
21 basically the same document. Nothing is changing for  
22 televisions or any other category. The scope for the  
23 changes on 3.0 are set-top boxes only, and then, Bill,  
24 there are some -- I don't remember the numbers, but  
25 there are some set-top box measurement standards from



1 CEA available.

2 So we don't make set-top boxes, so I'm not  
3 advocating for anything, other than making sure that you  
4 have the most current information about the measurement  
5 techniques.

6 MR. WILSHIRE: Thank you. Are there any other  
7 comments regarding -- the NPRM noted ENERGY STAR as a  
8 test for energy use of set-top boxes. Are there any  
9 comments about the appropriateness of relying on that  
10 test for any energy disclosure for set-top boxes, other  
11 than what we've already heard? Okay then.

12 Are there --

13 MR. NEWSOME: Katharine?

14 MS. KAPLAN: I could offer that all of the test  
15 procedures that we make use of are vetted, well vetted  
16 among stakeholders, and it was my understanding that  
17 62087 3.0 actually used the ENERGY STAR test procedure  
18 as a foundation, but maybe, Jon, you could speak to  
19 that.

20 MR. FAIRHURST: That's right. The work in  
21 ENERGY STAR is very much related to the work in CEA, and  
22 that informed the work in IEC as well, so a lot of  
23 harmonization as much as possible between those  
24 standards.

25 MR. WILSHIRE: Thank you. Bill?

1           MR. BELT:  If I remember correctly, that sort of  
2 chain of events was CEA standards, one for standby mode,  
3 one for on mode.  That was taken up by the Canadians  
4 with a slight modification, not particularly important.  
5 Canada's version then became morphed into the EPA test  
6 procedure, and the EPA test procedure is in turn  
7 morphing into IEC 62087 3.0.

8           MR. WILSHIRE:  Okay.  Before we leave the  
9 set-top boxes, I would like to kind of circle back to  
10 something that Jason discussed, which is the best way to  
11 make any energy use disclosure.  Jason, I believe you  
12 mentioned the providers would be the appropriate way to  
13 do that.

14           We had raised in our in the NPRM the possibility  
15 of the provider doing so through an online disclosure or  
16 something like that.  Are there any views on whether  
17 that's feasible and appropriate or an appropriate way to  
18 communicate energy use to consumers?  Noah?

19           MR. HOROWITZ:  We're not opposed to an  
20 electronic disclosure, but we think there should be the  
21 equivalent of a piece of paper.  When Comcast or Time  
22 Warner or whomever deploys the box in your home, which  
23 is the current model, there should be some way, whether  
24 it's attached to the box or in the manual or  
25 something -- there should be a clear disclosure, this is

1     how much power and his is what it cost to operate this  
2     product.

3             MR. WILSHIRE:  Margie?

4             MS. LYNCH:  I was just going to add that it  
5     would be great also to get it into whatever marketing  
6     materials or information is presented to the consumer so  
7     it's actually at the time where they're choosing what  
8     type of service to select.

9             MR. WILSHIRE:  Katharine?

10            MS. KAPLAN:  I would agree with that.  I think  
11    that there are -- I'm not sure if you need to have the  
12    same requirements for a box sold at retail versus one  
13    that is leased, but if in fact you need the same  
14    requirements for all boxes, I would suggest that you  
15    require, if you pursue this product, a physical label,  
16    but then I also think you need a second step because the  
17    consumer, when buying -- when signing up with a service  
18    provider may see that they don't -- may be in a spot  
19    where they don't have much upfront information.

20            I think you should require service providers to  
21    make that information available while consumers are  
22    selecting the box or even selecting the service  
23    provider.

24            MR. WILSHIRE:  Chris?

25            MR. MCLEAN:  Yeah.  When we do get that dynamic

1 market, which we of course as retailers hope is sooner  
2 rather than later, we certainly don't want a leased  
3 regime to somehow be able to hide the ball on the  
4 comparability, so I hope you just actually anticipate  
5 that this will be competitive and that consumers will be  
6 able to choose between a leased model or a purchased  
7 model and be able to make that kind of information.

8 Not in any way speaking for service providers,  
9 but I think the parallel is the same. The data is in  
10 the control of the manufacturer, and I think the  
11 manufacturer has to be the one that can put forward that  
12 information, whether the retailer is a store retailer or  
13 the retailer is a cable provider.

14 MR. WILSHIRE: Okay. Are there any other  
15 comments on the set-top boxes?

16 I think we probably want to move on now to game  
17 consoles, another product mentioned earlier when we went  
18 around the room, and I guess the first question we had  
19 in the NPRM about game consoles is whether the existing  
20 ENERGY STAR test procedure is appropriate given that  
21 it's based on an off or sleep mode, and if the ENERGY  
22 STAR test it not appropriate for an energy use  
23 disclosure, is there any other test out there that would  
24 be an appropriate measurement for use of consumer  
25 disclosure?

1           Noah?

2           MR. HOROWITZ: NRDC did the first in depth look  
3 at the amount of power that video game consoles use in  
4 different operating modes. Whether you're playing a  
5 game, that's a certain type of energy consumption, power  
6 consumption. If you're watching a movie, it could be  
7 different, and then if you physically turn it off or if  
8 you leave the thing loaded, there are multiple modes,  
9 and you need a test method for each of those.

10           This is why I put this in that second category.  
11 Some of those pieces we will acknowledge are not there  
12 yet, so ENERGY STAR is doing a good job of trying to  
13 create a spec for game consoles. They're currently not  
14 considering doing anything in on mode, and if you're  
15 going to report how much energy does something use per  
16 year, you would need on mode. The fact that we don't  
17 have the test method is not a reason not to move  
18 forward. I think you could jump start a process to do  
19 that.

20           You need to figure out which game do you play  
21 and how often do you hit the shooter button or painting  
22 button or whatever. Those mechanics are what happens in  
23 the test procedure committees that Jon and I and others  
24 have served on. It's not insurmountable. Just a little  
25 bit of homework needs to be done, and I'm hoping with

1 CEA and others we can hand that to you, but acknowledge  
2 it doesn't exist today.

3 MR. WILSHIRE: Okay. Just a quick follow-up I  
4 guess. Am I correct in assuming then that at this  
5 point, you don't think a disclosure based solely on the  
6 ENERGY STAR test as it exists today would be helpful to  
7 consumers?

8 MR. HOROWITZ: I need to think more about that.  
9 It's a baby step, and it wouldn't be complete, but is  
10 that a reason not to go forward? I have to think  
11 further about it.

12 MR. WILSHIRE: Any others? Bill?

13 MR. BELT: As Noah said, there is a lot of  
14 missing information, and we're working with partners at  
15 EPA and others to try to fill in some of those blanks.  
16 One we're working on right now, sort of just to update,  
17 is usage patterns of consumer on these devices. A very  
18 critical piece of information that is missing is how  
19 much time do these devices spend in the on mode and the  
20 standby mode, and how much time are they being played  
21 games or are they watching media of some other kind like  
22 Blu-ray so usage power, absolute information, good  
23 information about usage patterns, it's difficult to  
24 report in any way.

25 So we're working on that right now. We're in

1 the early stages of producing a survey. It's out for  
2 comment with stakeholders, including the EPA, right now.  
3 We'll be fielding that survey in the next three weeks or  
4 so I think at the most, probably another few weeks to  
5 get the results and process the results, and then use  
6 those results to help inform the EPA process.

7 MR. WILSHIRE: Another question -- sorry. Noah?

8 MR. HOROWITZ: One last follow up on that. I  
9 agree we don't have good duty cycle data, and one option  
10 could be in game play and in movie play, here's the  
11 range of power. You could do a slightly modified energy  
12 guide label until we have consensus data on duty cycle.

13 MR. WILSHIRE: Transitioning from what test  
14 procedure is out there right now, we noted in the NPRM  
15 that there is some discrepancy -- discrepancy between --  
16 in the research as to just how much energy these  
17 products use, and therefore what kind of range we're  
18 talking about in terms of energy usage.

19 Noah already alluded to this a little bit  
20 earlier, but I want to take this time to solicit any  
21 other comments, what do people think? There is a range  
22 of energy use somewhat to the point that it would be  
23 helpful to consumers to understand how much each device  
24 uses.

25 MR. JOHNSON: Doug Johnson with the Consumer

1 Electronics Association. We did a study in 2007 that  
2 took a look at energy use across our industry in various  
3 product categories. I think the FTC is familiar with  
4 that study. We are revising that study this year.  
5 Among the category we'll cover in the study will be game  
6 consoles.

7 The last time we took a look at game consoles  
8 was with the 2007 study, but that study did not include  
9 analysis of the current generation game consoles that  
10 are on the market today, but nonetheless, in looking at  
11 the products that I suppose rise above the 100 kilowatt  
12 hour threshold a year, it really is televisions.  
13 Personal computers, and set-top boxes, game consoles at  
14 that time were not.

15 The study that we're doing this year, the  
16 revised study will inform us and others of the current  
17 market and whether energy uses passes that threshold. I  
18 think the 100 kilowatt hour threshold has been a  
19 standard anyway that some in government have looked at,  
20 whether something is significant or not, but I just  
21 wanted to mention that, so we will be taking a look at  
22 game consoles with the current products that are on the  
23 market this year. Thank you.

24 MR. WILSHIRE: If the FTC were to go forward  
25 either now or after getting more data, how would the --



1 what is the best way to communicate energy use  
2 information to the purchasers of game consoles? These  
3 are devices that can be purchased in a variety of ways,  
4 online or in retail stores, and I know in the NPRM, the  
5 Commission was trying to get a sense of how is the best  
6 way mechanically to display this information?

7 Noah, I should have called on you before I  
8 raised that question, but go ahead.

9 MR. HOROWITZ: That's fine. In terms of the  
10 annual energy use of these devices, it varies as much on  
11 the design of the box as how you use it.

12 MR. WILSHIRE: Noah, speak into the mike.

13 MR. HOROWITZ: Sure. If you do not turn over  
14 the Xbox 360 or the PlayStation 3, you consumer almost a  
15 thousand kilowatts per year, which is well in excess of  
16 the hundred kilowatt threshold. If you turn it off,  
17 it's dramatically lower, so we might want to consider a  
18 two part disclosure. If left on all the time, it's \$100  
19 a year making up these numbers. If you turn it off,  
20 it's \$10 a year.

21 That's very different than the way you're doing  
22 things, but something to consider.

23 MR. JOHNSON: One follow up on to that as  
24 parties indicated, we just don't have a good  
25 understanding of consumer usage, so it is very difficult

1 to have an annual energy use figure, unit energy  
2 consumption for game consoles in the absence of good  
3 data on consumer usage patterns in different operating  
4 modes.

5 MR. WILSHIRE: Any other views on this topic?  
6 We can move on I guess -- we will have a brief  
7 discussion about computers and computer monitors. We  
8 note in the NPRM that ENERGY STAR has a test for  
9 computer power use, but it's based on the off sleep or  
10 idle mode, and we raised a specific question as to  
11 whether a disclosure based on that test would be helpful  
12 to consumers.

13 Are there any views on that? Katharine?

14 MS. KAPLAN: Although we agree that ideally we  
15 would have a test procedure for active mode, we don't  
16 have that at this time and hope that in the future we  
17 get to that place, but we also recognize the vast  
18 majority of time, a computer is not in active mode.  
19 It's in these other modes, including idle and sleep,  
20 because of the great progress that's been made in power  
21 management.

22 So I think it's very meaningful to report out to  
23 consumers on the existing modes that we have test  
24 procedures for, idle, sleep and standby, and when active  
25 is added, ideally it would enhance the label.

1 MR. WILSHIRE: Noah?

2 MR. HOROWITZ: We concur with Katharine. Idle  
3 is a very good proxy for on mode. It would be very nice  
4 to have on, but we're 90 percent of the way there, and  
5 we think we should move forward using the current test  
6 methods and metrics that you have.

7 MR. WILSHIRE: Okay. Chris?

8 MR. MCLEAN: Yes, and I would just like to  
9 restate our confidence in the ENERGY STAR grant and how  
10 well that is accepted, and I think it's very important,  
11 much like the television discussion, that we have apples  
12 to apples so that customers who are shopping for an  
13 ENERGY STAR rated product will also be able to transfer  
14 that kind of information in doing the comparison.

15 The other thing is I think what's a real danger  
16 in computers and monitors is if states start coming up  
17 with their own schemes, which would just completely  
18 confuse everybody.

19 So again this larger theme that you've well  
20 established in the television of consistency and harmony  
21 with ENERGY STAR I think is a very good model to follow.

22 MR. WILSHIRE: We noted also in the NPRM that  
23 there were some comments to the effect that it may be  
24 difficult to determine or estimate energy usage given  
25 that computers are set up very differently, depending on

1 what people want in them, how many drives, memory, et  
2 cetera.

3 Are there any views about whether those are  
4 significant obstacles, and if so, what could be done to  
5 overcome them?

6 MR. JOHNSON: Doug Johnson with CEA. CEA was  
7 one party that commented on this very issue during last  
8 years public comment period. Our suggested approach, or  
9 an approach that was suggested by some of our members  
10 was to consider perhaps a base case. We recognize that  
11 computers sometimes are purchased as is and other times  
12 are customized by the consumer before purchase.

13 In those cases where the consumer configures a  
14 computer and selects certain components that have a  
15 great bearing on energy use, we think it would be  
16 challenging to have energy use disclosures that are that  
17 specific for specific models that are configured and  
18 sold to consumers.

19 So that led to some companies suggesting perhaps  
20 a base case type approach or basic configuration type of  
21 disclosure and some acknowledgment that if you select  
22 components that are different than this base case, this  
23 might have an impact on your actual energy usage or  
24 something like this, so that was our thinking last year,  
25 and obviously we're collecting comments again in this

1 current round from our members.

2 MR. WILSHIRE: Katharine?

3 MS. KAPLAN: Doug, I understand your point, but  
4 I also think that a base model often performs very  
5 differently from an energy perspective than the finished  
6 and enhanced product that a consumer might want, and so  
7 I think it's something that we would need to think  
8 through in order to communicate meaningful information  
9 to the consumer, and something that comes to mind is the  
10 very sophisticated online configuration systems that  
11 have been developed by two of the larger computer  
12 manufacturers who do a lot of selling of built to order  
13 systems online, and the fact that they can tell you, as  
14 you configure your product, whether you qualify for  
15 ENERGY STAR.

16 So I'm wondering: Could something very similar  
17 be done for energy use information so that we don't ask  
18 that these manufacturers report on average how many  
19 watts these products would be used based on a duty cycle  
20 that ENERGY STAR has prescribed, but why couldn't the  
21 FTC suggest that kind of disclosure?

22 MR. WILSHIRE: Well, before we leave computers,  
23 I just want to see if there are any comments on what  
24 type of disclosure would be appropriate beyond what  
25 Katharine just mentioned in terms of placement, in terms

1 of sort of the logistics of labeling and online  
2 disclosure? Are there any views on that topic? Noah?

3 MR. HOROWITZ: While a lot of purchases are made  
4 online, some are made in regular stores, and we still  
5 should have some sort of physical disclosure in the  
6 store as well.

7 MR. WILSHIRE: Okay. Noah, do you have --  
8 sorry, let me just ask Noah a quick follow-up. Do you  
9 have any views as to placement of those on store? Are  
10 we talking a sort of hang tag or are you thinking of  
11 something that's actually directly adheres to the  
12 product?

13 MR. HOROWITZ: We're agnostic in terms of how  
14 you physically attach things. Our basic principal is  
15 when you're looking at the product and the price, nearby  
16 should be that information on the energy use?

17 MR. WILSHIRE: Katharine?

18 MS. KAPLAN: Yes. I wanted to suggest that  
19 another consideration be just like with TVs, this idea  
20 of binning by size. With computers, there is certainly  
21 different means of binning computers as well, so we've  
22 taken a crack at that with ENERGY STAR, and you could  
23 use that as a starting point to seek comments or the  
24 very basic to a very media specific or a sophisticated  
25 unit, so you may need to think about how you kind of

1 group products for a fair comparison.

2 MR. WILSHIRE: We've covered about -- sorry,  
3 Chris?

4 MR. MCLEAN: I was just going to say our  
5 concerns about tags and having disclosures separated  
6 from the product applies just as well to these other  
7 categories as well. It should be a manufacturer's  
8 responsibility. It should be affixed by the  
9 manufacturer so it's part of the product.

10 And again computers are even more separable from  
11 their information than the TVs, so I mean, I think that  
12 you've got all the same kind of issues we talked about  
13 for televisions on how the tags are done.

14 MR. WILSHIRE: All right. Well, I think we've  
15 covered the products there that were mentioned when we  
16 first went around the room as priority. Noah, I'm  
17 sorry?

18 MR. HOROWITZ: Monitors were one that was  
19 brought up. I don't know if you plan on talking about  
20 those.

21 MR. WILSHIRE: Oh, that's right. Yeah. I think  
22 we have similar questions and similar concerns about  
23 monitors. The ENERGY STAR test that exists right now,  
24 as we understand it, uses a fixed screen image as a way  
25 to measure energy use and monitors. We had asked

1 specifically whether this was a test that would be  
2 helpful, that could be the basis of an energy disclosure  
3 that's helpful to consumers.

4 Katharine, do you want that issue or something  
5 else? I'm not sure.

6 MS. KAPLAN: I'm sorry, I just left this up, but  
7 I will comment that I think when it comes to monitors,  
8 we took -- made a go at including information specific  
9 to test setup that would help us to get at comparing  
10 products based on luminance, not just on screen size,  
11 which is what we had historically done.

12 And I think both with TVs and monitors, we're  
13 learning as we go on luminance as kind of our global  
14 partners, and so I would say this is a product category  
15 where we have a lot of good information, a lot of  
16 history, and we should begin a process, but we should  
17 also give a little bit of space to fine tune, setup and  
18 luminance considerations.

19 MR. WILSHIRE: Jon?

20 MR. FAIRHURST: Once again wearing my IEC hat,  
21 when we developed the television test procedure, there  
22 are actually three different options. There's the  
23 dynamic broadcast loop, which shows a ten minute video.  
24 That's what's used for television. There is a four  
25 pattern group of signals that's used in Japan for



1 testing, but we also did a third one which is called the  
2 Internet loop.

3 We did an analysis a hundred of the most popular  
4 Internet sites, looked at their average luminance, and  
5 published that as part of the DVD, so I think it's  
6 probably not FTC's role to work on measurement  
7 standards, but that is a resource available for  
8 potentially large displays and so forth, displays that  
9 are not used primarily for television viewing, so that  
10 resource is available, but to my knowledge no group has  
11 implemented that yet in any standard.

12 MR. WILSHIRE: Okay. Assuming that we can get  
13 the data here, are there the same issues for computer  
14 monitoring in terms of binning and range categories?  
15 Does anybody have any comments on that?

16 MS. KAPLAN: I'm happy to follow-up with the  
17 data that we have on monitors. I think there will be  
18 some binning, and I think if you're interested in going  
19 through the full range of displays, there's certainly  
20 now quite small and quite large displays, and so you  
21 will have to do some binning, but I would need to follow  
22 up with data on specifically what we would recommend for  
23 that binning.

24 MR. WILSHIRE: Okay. Noah?

25 MR. HOROWITZ: This gets into arcane stuff that

1 we don't want to get into today. I just want to cue it  
2 up as there's some debate, what's a monitor and what's a  
3 TV, and you need to be clear on that. And a simple,  
4 hard line has been, if you've got a tuner in it, and you  
5 mark it yourself as a TV, you're a TV. If you don't  
6 have a tuner, you don't.

7 I don't know what the right answer is, but that  
8 needs to be part of the discussion as we're now seeing  
9 40 plus inch, quote, monitors or displays out there, and  
10 would those fall into the monitors? If so, the bins  
11 need to accommodate that.

12 MR. WILSHIRE: Margie?

13 MS. LYNCH: I was just going to make a small  
14 note. I think the legislation talked about personal  
15 computer monitors. The ENERGY STAR specification for  
16 displays also includes digital picture frames. I just  
17 wanted to flag that. I don't have an opinion to offer.  
18 I think that energy use comparatively is likely a lot  
19 smaller, but I must want that to be on your radar  
20 screen. It also includes professional display, but I  
21 don't know that that would fall under your purview.

22 MR. WILSHIRE: Right. It looks like we have  
23 about five minutes before we are scheduled for another  
24 break. Are there any other comments about computer  
25 monitors or any of the other electronics? If not, we

1 can break early?

2 Last chance. Okay. Do we want to take a break?

3 MR. NEWSOME: We have some issues we want to  
4 loop back around on TVs. Why don't we just take a  
5 five-minute break, and then we can get that through, and  
6 unless people have a lot of issues that they want to  
7 cover, we can probably end a little early today, but if  
8 anyone has other issues at the end, we can certainly  
9 address them.

10 Before we go on the break, the things that I  
11 want to talk about are, I want to give Katharine a  
12 chance to just explain what's happening with the ENERGY  
13 STAR intelligent test procedure because we had that  
14 discussion earlier, on how it references the CEA's  
15 standards and stuff like that.

16 Also several people mentioned putting labels on  
17 boxes. I want to get more thoughts on that, whether  
18 that's something that would be useful in addition to  
19 having the label on the product, have it on the box and  
20 whether that creates any problems and that kind of  
21 thing.

22 Also, the ELMO is now deployed, is working, and  
23 so Bill, maybe he can put his proposal, the cost  
24 proposal up there, and we can discuss that a little bit  
25 more.

1           A few other things we didn't get to was the  
2 compliance period that Chris had mentioned, how  
3 long should the -- once the Commission publishes a final  
4 rule, how long should manufacturers have to comply with  
5 it.

6           Finally, one issue we didn't talk about, we  
7 might be able to touch on, is whether the label -- if  
8 the television has some kind of integrated function,  
9 whether the label should reflect that or whether it  
10 should say anything about that.

11           So let's take a quick break and let's meet back  
12 at five of noon. It's 11:55.

13           (Whereupon, a brief recess was taken.)

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1       SESSION 3:   Follow up.

2

3               MR. NEWSOME:   Let's go ahead and get started,  
4       and the first thing we're going to do is let's circle  
5       back to Katharine Kaplan, and I'm going to -- we were  
6       talking before about CEA's work and the ENERGY STAR test  
7       procedure, and I wanted to give Katharine the  
8       opportunity to talk a little bit about where the ENERGY  
9       STAR procedure is now, and particularly how it  
10       references or how it interacts with CEA 2037, so  
11       Katharine?

12              MS. KAPLAN:   Thanks Hampton.   Well, the ENERGY  
13       STAR's final spec, which for TVs is 4.0 and 5.0, will be  
14       released in the next day or so.   There were a number of  
15       items that were still at play, in play, and we were  
16       working with our partners on, including how do you  
17       measure download acquisition mode and report that  
18       information.

19              And then there was also, in the final spec that  
20       we put out whenever it was, about nine months ago I  
21       guess -- we had left a note box that we intended to use  
22       2037, but it was still in process, and that we were  
23       providing comments ourselves and would do it the best we  
24       could to keep our stakeholders involved in this non EPA  
25       process.

1           The draft that will go out in the next couple of  
2 days will make use of CEA's 2037 in some cases, but not  
3 in all cases, so my understanding is that that standard  
4 will be revisited. I think, Bill, you may have told me  
5 that there was a review -- another revision period  
6 coming up, and so my hope is that ultimately, we will be  
7 able to reference 2037.

8           But right now there were a number of issues that  
9 were very important to us that we felt like we needed to  
10 state more clearly what was needed from an ENERGY STAR  
11 perspective, and some of these matters were not covered  
12 in 2037.

13           Those include an allowance for the user to be  
14 able to test and report power data in any setting. We  
15 also had requested specific language regarding  
16 additional features and functions, specific language  
17 about the use of this test for 2D TVs versus 3D TVs, and  
18 then we had also requested that sleep mode be removed  
19 from the test procedure and the focus be on on mode.

20           We did and do reference or we will in this next  
21 revision that goes out -- we will reference 2037 for  
22 accuracy of input signal, use of the broadcast materials  
23 released originally by IEC's 62087 and testing TVs with  
24 automatic brightness control so it's a mix.

25           The ENERGY STAR specs references a number of

1 different test procedures in 2037 for the items I just  
2 mentioned.

3 MR. NEWSOME: But out of that list, just trying  
4 to keep track, it sounds like many of those differences,  
5 those departures, may not be relevant to the single  
6 disclosure that would be on the FTC label, but are there  
7 any particular issues? Can you shine any light on that?

8 MS. KAPLAN: Sure. I think one of the more  
9 important issues would be the ability to report data in  
10 any setting, so I think that our concern was that 2037  
11 as written would not allow for the testing of products  
12 in all modes including the most consumptive mode.

13 So I think that that could be of concern for you  
14 guys, so I would have to look at this more closely, but  
15 perhaps also the treatment of additional treatment of  
16 features and functions is something that may be of  
17 interest to you because there could be an impact on  
18 energy consumption.

19 MR. NEWSOME: Noah?

20 MR. HOROWITZ: Two quick things. The accuracy  
21 of the input signals, so there's an agreed upon ten  
22 minute DVD that you play on the DVD player. How you  
23 connect that to the TV can give you a different answer,  
24 whether you use what's called an HDMI input or another  
25 input, and I think ENERGY STAR now added some more

1 specificity.

2           The original IEC and CEA test method were silent  
3 on that, so one could get a slightly different answer.  
4 I think your overall question is: If you use ENERGY  
5 STAR versus CEA, do you get a different answer or not?  
6 That's one element that could result in a different  
7 answer.

8           Another one is these ancillary features over the  
9 last year or so, TVs are Internet ready and increasingly  
10 can provide a 3D image. The testing is done. You don't  
11 turn those things on, but you also don't turn them off.  
12 For example, if it's an Internet ready TV, you don't  
13 plug in the ethernet to engage the network, but at the  
14 same time, if you're able to physically turn off the  
15 Internet, if there's no Internet connection, the TV  
16 should be smart enough not to consume additional power.

17           I think there may be some specificity in there  
18 as well, so there are some gray areas: Can you turn  
19 these things off or not as opposed to you simply not  
20 turning them on, and there is a difference beyond  
21 semantics. Sorry to give you a headache on that stuff.

22           MR. NEWSOME: No, no, it's okay. But, Bill, can  
23 you respond to that? The FTC has proposed the ENERGY  
24 STAR procedure, and you all have done this work on your  
25 procedure of converting that to 2037. Are there issues



1 that you all see if FTC goes with the ENERGY STAR  
2 procedure as proposed?

3 MR. BELT: I can't respond until I see what the  
4 words say in the ENERGY STAR stuff, but we will look at  
5 it very carefully I'm sure and be happy to comment, and  
6 I assume all that will happen before May 16 when  
7 comments are due.

8 MR. NEWSOME: Okay. All right. Any other  
9 comments on test procedure? Otherwise we'll -- yeah?

10 MR. FAIRHURST: One of the comments was on input  
11 accuracy, and actually, Noah, there is an input accuracy  
12 statement in the IEC standard, which is the 1 percent  
13 adjustment for analog inputs, so I'm not sure if  
14 something has changed there in the latest version.

15 MR. HOROWITZ: It's what connection do you use,  
16 not what's the --

17 MR. FAIRHURST: I see. Which connection? And  
18 that's right. In the IEC standard, it says that HDMI is  
19 preferred over the analog, but it's not required that  
20 you use HDMI over analog, and once again, CEA was silent  
21 on that. We didn't refine that any more.

22 Regarding functions and features, the position  
23 in IEC was that in many cases, for instance, with a disk  
24 player, if that's integrated into the box. What we  
25 didn't want is for a television that had an integrated

1 DVD or Blu-ray player be disadvantaged compared to the  
2 television next to it, knowing that you're likely  
3 removing the DVD or Blu-ray player from the area -- from  
4 that island, if you will, the AV island, so you're  
5 eliminating an additional box.

6           You're not drawing any additional set-top or  
7 additional standby power with two boxes versus one, but  
8 it is true that a TV with the additional functions would  
9 use more per year, the idea being that we didn't include  
10 that in that people are really shopping for a  
11 television, and you are eliminating typically that  
12 additional box.

13           Regarding 3D, personally I believe that that  
14 will add very little power, if any, to the consumption  
15 of a television. I'm curious if anyone has actual  
16 measurement data that says anything different. I know  
17 there's kind of fear that 3D is going to take more, but  
18 our tests have shown that it's primarily the light  
19 generation of the television that is the main consumer  
20 of power.

21           Typically high end televisions are already  
22 displaying at 120 hertz, if not 240 hertz, so that we're  
23 not changing the update rate of the televisions when we  
24 go to a 3D mode. The main differences is we have two  
25 streams of data instead of one, so rather than going

1 with, here is some data that we have and here is data  
2 that we will interpolate, which actually takes a fair  
3 amount of processing, and now here is a real frame and  
4 an interpolated frame, we would be going left frame,  
5 right frame, left frame, right frame.

6 The other power consumer would be the IR emitter  
7 to the glasses, which is very low, and then the glasses  
8 which are typically run by battery, not from the  
9 television.

10 So in theory anyway, 3D televisions should draw  
11 very little power compared to 2D. It may be that there  
12 is some initial TVs that are taking more because it's a  
13 brand new additional feature, but I expect that in the  
14 long run, that's going to be a very minor change.

15 MR. NEWSOME: Noah, before we get to you: Does  
16 anyone have any other thoughts on this issue of the  
17 integrated functions or is everyone okay with what's  
18 been proposed, which is basically to just show the  
19 energy use of the TV?

20 So does anyone want to jump in on that?  
21 Everyone is okay with that? Margie?

22 MS. LYNCH: We've had some preliminary  
23 discussions on this. I think our members, to the extent  
24 there's a potentially significant affect in that  
25 consumers might buy a device and be very surprised by

1 their energy bills because there's an additional  
2 function associated with it, they would have concerns  
3 about that kind of situation.

4 We've done some preliminary research, thanks to  
5 Bill Belt. One of the questions we have is: How widely  
6 available in the market are these combo devices? Does  
7 it represent a huge percentage, and, Bill, is it okay to  
8 share the information you shared with me?

9 I don't remember the exact statistic, but he was  
10 able to access some info on specifically combo TV DVD  
11 products. It was roughly 7 percent I think of TV model  
12 sales, so that's a data point for us all to consider.

13 I also understand that there isn't really a test  
14 procedure for testing this functionality, so that could  
15 be a concern. So I guess I wanted to flag that it is an  
16 issue to us. We're trying to do some more research.  
17 We'll submit whatever we can.

18 MR. NEWSOME: Yes, and I guess not so much the  
19 question about whether to incorporate that in, the  
20 energy use of the additional function, but does the  
21 label need to say something like, This doesn't include  
22 the energy used by whatever, or is that such a small  
23 part of the market or would that be confusing to people  
24 and clutter the label unnecessarily?

25 MS. LYNCH: (Nods.)

1 MR. NEWSOME: That kind of a thing. Noah?

2 MR. HOROWITZ: I just want to clear up on  
3 this 2D versus 3D test method that ENERGY STAR and  
4 everybody is talking about, it's based on 10? Minutes,  
5 30 seconds, 30 seconds Desperate Housewives and so  
6 forth. All of those are 2D images, so even if it is a  
7 3D TV, we're not playing 3D images on it.

8 It's a question that really were in its infancy,  
9 if you display 2 or 3D images, will that cause a TV to  
10 use more power? We don't know. During the California  
11 proceeding, which we're not debating here, many industry  
12 reps said, If you do this, it's going to bound the  
13 introduction of 3D TVs, so there's potential concern  
14 that that would increase the power use, but that's for a  
15 later date in our opinion.

16 MR. NEWSOME: All right. Let's move on to the  
17 bins, the comparative information, and, Bill, why don't  
18 you take a minimum or two and kind of explain the  
19 proposal that you guys have.

20 MR. BELT: For us this is critically important.  
21 I think almost everything is almost secondary. If we  
22 don't get this part right, I don't know that anything  
23 else will matter.

24 On the left what you see is the chart proposed  
25 in the FTC's NPRM, which I think Adam is correct,

1 directly mirrors what Mitsubishi put on the record a  
2 little more than a year ago. On the right-hand side is  
3 what CEA is proposing, and I wanted to get that on the  
4 record today because I really to want to solicits as  
5 much feed back as possible between now and the written  
6 comments due date from everybody here.

7 In the lower left-hand side, you see sort of my  
8 best attempt to simplify really the reasons why that we  
9 like everything on the right-hand side column. First I  
10 would note that we are down to the tenth of an inch. We  
11 want to make sure that every single possible TV is  
12 covered.

13 I think it was Noah earlier that pointed out  
14 that it has to be the viewable screen area, and of  
15 course we agree that it should be the viewable screen  
16 area, so I haven't missed anything. I triple checked  
17 this last night. I think I got everything down to a  
18 tenth of an inch on the right-hand side.

19 My third bullet there is probably the single  
20 most important one, which as we know TVs sell in  
21 clusters. They are manufactured in slightly different  
22 clusters. There's a couple of additional clusters at  
23 manufacturing, but they actually sell in the clusters  
24 you see there, give or take a very little margin there.

25 And what I tried to do on the right-hand side

1 column is make sure there was only one of these cluster  
2 points in each of these ranges. As Noah pointed out and  
3 others have pointed out, there is sort of the bottom  
4 limit. I mean, it probably doesn't make sense to go  
5 down to every single inch, and so you will notice in the  
6 40 to 44 inch cluster or the 40 to 44 inch range, there  
7 are two cluster points in that range.

8 So that's because I'm trying to balance both --  
9 trying to make it small and include only one cluster  
10 point, while not making it so small that it's no longer  
11 meaningful to consumers, so this was my best effort, our  
12 member's best effort at a sort of medium ground.

13 We've also double checked that for the most part  
14 across those different slices, there is sufficient  
15 volume that the information that you would collect and  
16 compare against would be meaningful. You don't want  
17 there to be so few sets or so few models that you're  
18 comparing against one or two sets that obviously it  
19 would not be of benefit to anybody, especially  
20 consumers, so we tried to balance across that also.

21 MR. NEWSOME: Any thoughts on the proposal?  
22 Noah?

23 MR. HOROWITZ: I was -- I've got the data  
24 clustered if you want to see that.

25 MR. NEWSOME: Yeah, why don't you put that up

1 here.

2 MR. HOROWITZ: This is data pulled from the  
3 ENERGY STAR website. This is the on load power. I  
4 believe this is the measured screen diagonal, and Bill  
5 is exactly right. There are some clusters at 25 inches,  
6 32, 37 and so forth. That concludes my comments.

7 MR. NEWSOME: So, Noah, are you saying basically  
8 you're okay with this proposal? Are there any parts  
9 here where you disagree with what Bill is saying?

10 MR. HOROWITZ: I think it's a good strum in, and  
11 I want to reserve the chance to --

12 MR. NEWSOME: Sure, absolutely.

13 MR. HOROWITZ: I think in general it's  
14 definitely in the right direction. We might have a  
15 couple of tweaks, but I need to look at it further.

16 MR. NEWSOME: Does anyone have any problems with  
17 this general approach? David?

18 MR. BARON: I just want to raise a question  
19 which is with information on motor vehicle mileage, we  
20 don't group it into different vehicle sizes. We show  
21 the mileage of each vehicle, and you can compare how  
22 much mileage an SUV gets versus how much mileage a Prius  
23 gets, and this approach makes it pretty complicated for  
24 a consumer, who's looking at a big screen TV and they're  
25 saying, Well, this is -- this may be the best in terms



1 of energy usage of all the big screen TVs, but how does  
2 that compare to the little TVs, and then I'm going to  
3 have to go find a little TV and look at that and try to  
4 figure it all out?

5 So I just raise the question as to whether this  
6 is really a useful approach for the average consumer  
7 who's trying to think about how to maximize energy  
8 efficiency, and they may want to think between models as  
9 part of their consideration, and this would make it hard  
10 to do that.

11 MR. NEWSOME: So are you suggesting that -- not  
12 have a comparative information at all, just have the  
13 energy use.

14 MR. BARON: No, you compare it, but you have no  
15 bins. There would be no bins.

16 MR. NEWSOME: Just one category, one range?

17 MR. BARON: That's essentially what we do with  
18 motor vehicles. We don't have any bins. This is how  
19 much it uses, and then you can compare it with all the  
20 other models.

21 MR. NEWSOME: Okay. Any other comments?  
22 Katharine?

23 MS. KAPLAN: Thanks. I can see also the benefit  
24 to the consumer of more detailed information, and I say  
25 this because I think also that there's some movement in

1 these bins, and we've already seen some movement. As  
2 Bill mentioned, there's been clustering in even the most  
3 recent years that wasn't there before, so again, because  
4 this is a rulemaking process and you want these to stick  
5 for awhile, I wonder if you want to create a scenario  
6 where you're webbed to bins that in very short order  
7 might shift.

8 So it's a really quickly evolving marketplace,  
9 so it may be wise to be as nimble as possible.

10 MR. NEWSOME: Chris?

11 MR. MCLEAN: I think that you do need binning.  
12 I don't think that you can get away from that because  
13 you would otherwise have information that's not very  
14 useful to the consumers, someone coming in to buy a --  
15 there may be a distinction between a 40 inch set or a 42  
16 inch, a 49 inch set, but comparing a 40 inch set to a 12  
17 inch set is not going to be very useful to a consumer.

18 A consumer usually knows what they want when  
19 they're coming into the store, and it's not a decision  
20 whether they're going to have a small TV versus a big  
21 TV. It's among a certain class of TV that I think  
22 consumers like. I think the way the products are  
23 falling out from both sides of the table here is I think  
24 a fortunate coincidence and one that I think is a good  
25 guideline to follow.

1           MR. NEWSOME: Okay. Any other thoughts on this  
2 issue? Oh, Bill?

3           MR. BELT: Just to quickly follow-up on what  
4 Katharine said, I think that her point is well taken.  
5 This is a fast moving product category, as are all  
6 consumer electronics. These are not washers, driers,  
7 refrigerators or that type of thing.

8           So I think Katharine's point, which I think in  
9 fact is accurate, argues for careful analysis on the  
10 part of the FTC and keeping up to date with the  
11 specifications and making sure they are revised as  
12 frequently as necessary, which is likely to be much  
13 quicker than what you are accustomed to doing.

14           So I don't doubt that we will see the bins shift  
15 a little bit -- not the bins, but sort of the cluster  
16 points, and if I would have to guess, my guess today is  
17 that we'll probably see some of those drop out. I don't  
18 think we'll see -- but I could certainly be wrong.

19           Really I think it just argues for the necessity  
20 to careful watch the program once the program is  
21 established and make sure that it is relevant.

22           MR. NEWSOME: Okay. Let's move on to this issue  
23 of labels on the box. It was brought up a couple times  
24 early this morning. So in particular, I'm interested in  
25 whether people think that would be helpful to have it on

1 the box in addition to on the products displayed in the  
2 showroom.

3 Also from CEA perhaps, what kinds of logistical  
4 issues that involves. Is it a one time design change to  
5 the box or is there something more burdensome involved  
6 there?

7 I'm also interested in how -- and, Chris, you  
8 may be able to answer this, whether when products are  
9 displayed in the showroom, are they designated by the  
10 manufacturer as showroom models, or is the model just  
11 taken out of the box, out of any box and put it in the  
12 showroom?

13 So I'll just open it up on that, and let's go to  
14 Adam first.

15 MR. GOLDBERG: Go ahead, please after you. Noah  
16 had his card up first.

17 MR. HOROWITZ: I feel like I'm playing poker  
18 here. We think it's incrementally helpful. The more  
19 different places this information could be presented,  
20 the greater chance it's going to hit the consumer, and  
21 it's not -- in some store environments, the consumer  
22 does not see the box until they get to the cash  
23 register, but in particular in some big box stores,  
24 there's some sales, there might be an island of the  
25 product where the consumer is seeing the package or at a

1 Costco, they can see it.

2 So we think it's beneficial there, and it should  
3 be on the front panel, not on the bottom or something.  
4 If you're going to have it there, let's make sure it's  
5 visible.

6 MR. NEWSOME: Adam?

7 MR. GOLDBERG: This Adam for Mitsubishi. I  
8 think it's much more likely that a consumer never sees a  
9 box than he sees the box and not the set out of the box,  
10 particularly for large sets. You see a display model.  
11 You make a purchase based on a card that you take out of  
12 a little holder or talk to the salesman or something,  
13 and then two guys in a truck deliver it and take it out  
14 of the box and they leave the box in the truck, and they  
15 bring in the set without the box.

16 So I'm not sure how much help -- even in a big  
17 box store where you maybe have a pile of boxes, you  
18 still have a display model, but additionally,  
19 logistically it's very difficult or at least difficult  
20 to do. The boxes are designed, ordered and printed long  
21 before the product design cycle is even completed.

22 And in many or all cases, the final energy  
23 consumption characteristics aren't completed until very  
24 end of the design cycle, weeks before -- weeks before  
25 production or days before manufacturing begins, so as a

1 practical matter, what would happen is you order boxes  
2 six months ahead of time without any energy guide,  
3 anything on them, and then if it's required, then you're  
4 slapping the sticker on as part of the final  
5 manufacturing process.

6 It's expensive. Stickers are expensive. It's  
7 not as easy as just changing the design of the printing  
8 on the box, and at the end of the day, most often  
9 consumers will either see the device on a shelf with the  
10 label and the box or no box at all.

11 MR. NEWSOME: Okay.

12 MR. FAIRHURST: Jon Fairhurst from Sharp Labs.  
13 I would like to reaffirm what Adam was saying. The same  
14 experience from Sharp's perspective. I've been in  
15 meetings in Japan, product planning meetings where they  
16 get the VP from the U.S. to come in and approve the  
17 final image quality of the television. It's very, very  
18 late in the game.

19 If they make it brighter, dimmer, that affects  
20 the power of the television, so that's very, very late  
21 in the process, and yes, the boxes are printed up very  
22 much ahead of time, so what we're looking at is  
23 additional labeling, additional stickering in most cases  
24 for televisions, if it's required on the box, and so  
25 there is extra cost and extra materials that we would be

1 dealing with, so that's the trade-off as far as any  
2 benefit that there what be to consumers of having the  
3 label on the box.

4 MR. NEWSOME: Yes?

5 MR. SCHWARTZ: Bob Schwartz for CERC. The TVs  
6 that are on display do come out of a box. They don't  
7 come separately to the retailer as something to put on  
8 the display. The floors that retailers get reset on a  
9 periodic basis, but every TV has a box somewhere, even  
10 if the retailer has lost track of it.

11 At the end of a resetting period and they  
12 offer on open box sale, that's the problem in general is  
13 things get separated in a dynamic environment, and again  
14 it's one thing to try to offer a lot of information, and  
15 it's another, in my experience as a lawyer, to apply  
16 strict enforcement to what you do.

17 Having the parallel path for the information on  
18 the box and on the product means that statistically,  
19 there's likely to be an error someplace along the line  
20 where you will have a product where the information on  
21 the box doesn't agree with what's on the product, so  
22 it's a question of how far you're going to try to go to  
23 be helpful.

24 You're also creating some potential problems in  
25 the enforcement area when you do, and we've certainly

1 heard the same thing about the lead time for packaging,  
2 which would mean that you would probably need a separate  
3 sticker approach, and then you have to make sure that  
4 the right stickers get put on the right boxes when  
5 you're mailing the product.

6 MR. NEWSOME: Thank you. One more from the  
7 audience, and then Dave from the audience, and I guess  
8 Margie.

9 MR. RODRIGUEZ: Hi. Robert Rodriguez with Sony  
10 Electronics, R-O-D-R-I-G-U-E-Z. Just to agree with  
11 Adam. As far as the boxes go, most retailers, even like  
12 a Costco, still have a sample on display on the floor so  
13 the customer will still get that information right from  
14 the television set but from the box.

15 Most of the big retail chain stores also offer  
16 delivery, so they're not getting the box, even at home,  
17 and lot of time the customers aren't even seeing the  
18 box, so maybe it's carried to the car or delivered to  
19 the house.

20 To touch a little bit on the bin question or  
21 conversation from before as well, our research shows  
22 that the majority of -- the main two points of selling  
23 when a customer comes into the store would be either  
24 price point or size, which would work in conjunction  
25 with having the different bins as far as testing goes.



1 MR. NEWSOME: Okay. Thanks.

2 MR. BARON: On this issue of the box, it is a  
3 compliance issue, and the problem is we've seen this  
4 with other products, the display model isn't labeled or  
5 the consumer can't tell if the display model is the same  
6 one in the box, so having the label information on the  
7 box provides you the assurance that the consumer will  
8 get the information.

9 The fact that in some cases the consumer may not  
10 see the box is not a good reason not to label the boxes,  
11 any more than it is a reason not to provide the  
12 information in other forms.

13 As to the claims of the difficulty of labeling  
14 these items, I would urge the Commission before  
15 foregoing a piece of useful or a useful approach to  
16 consumers, to require manufacturers to document that  
17 this really is all that burdensome to put a sticker on  
18 or to manufacture the boxes in such a way that the  
19 information is on the label.

20 In the past sometimes, the Commission has  
21 accepted these kinds of claims without really thinking  
22 them through and without requiring documentation. We're  
23 in a new age now where people really want this kind of  
24 information and so if their claims are difficulty or  
25 undue expense, they ought to be documented, not just

1     asserted. I'm not saying they're false, but they should  
2     be documented.

3             One final thought, if a box is being labeled  
4     ENERGY STAR, and I've seen boxes that say ENERGY STAR on  
5     it, then they ought to be able to put the label on as  
6     well.

7             MR. NEWSOME: Thank you. Margie, did you have  
8     something?

9             MS. LYNCH: Yeah. The comment -- the question I  
10    was going to ask was somewhat addressed by the  
11    representative from Sony. I guess I was thinking that  
12    it might be helpful to collect some additional  
13    information on whether there are, in fact, retail sales  
14    settings in which display models are not set out, and  
15    the box is truly the only thing that is on the floor for  
16    the consumer to get info at.

17            So I think that would reinforce the case for  
18    labelling on the box, but if in fact that never ever  
19    happens, that might be an additional info point that was  
20    interesting.

21            MR. NEWSOME: Okay. Adam?

22            MR. GOLDBERG: Sorry, one last thing. I don't  
23    think we have any problem with getting disclosures to  
24    consumers in a way that they're helpful and useful, even  
25    if there is some expense to us. The point about the

1 boxes is it's logistically challenging, and at the end  
2 of the day, serves no good purpose because consumers  
3 don't make decisions in front of the box without also  
4 being in front of an unboxed product, if the box is even  
5 there at all.

6 With respect to the ENERGY STAR logo, it's one  
7 thing to commit when ordering boxes six months ahead of  
8 time that this product will be ENERGY STAR by hook or by  
9 crook, and it's another thing to say this box will  
10 consume 132.5 watts. It could be 134. It could be 129.  
11 You don't know six months ahead of time.

12 MR. NEWSOME: Okay. Chris?

13 MR. MCLEAN: I just highlight that if -- we're  
14 still reviewing our position, but if there's to be a box  
15 requirement, it has to be on the manufacturer's  
16 responsibility because of that exact point.

17 MR. NEWSOME: Katharine?

18 MS. KAPLAN: In response to Adam's comment, for  
19 most products covered by ENERGY STAR, we have a zero  
20 tolerance policy, so that means if you're .5 watts over  
21 the limit, then you should not claim that the product  
22 meets ENERGY STAR requirements, so although I can see  
23 what you're saying in the context of products where  
24 you're far below the limit, for anything very -- even  
25 marginally close, it's just, you have the same issue as

1 you would with an energy guide label.

2 MR. GOLDBERG: My point was, Katharine, that  
3 we're going to know whether our product meets ENERGY  
4 STAR or not, and if we've six months previously printed  
5 ENERGY STAR logos on boxes, we're going to make darn  
6 sure that those devices are ENERGY STAR, and I  
7 understand the zero tolerance.

8 What I'm saying is if ENERGY STAR's tolerance --  
9 if the ENERGY STAR number is say 200 watts and I know my  
10 product is going to be less than 200 watts, but I don't  
11 know if it's going to be 192 or 187, right?

12 MS. KAPLAN: I got that.

13 MR. NEWSOME: Let's go with Chris and then Noah.

14 MR. WOLD: Chris Wold, W-O-L-D, with CLAS.

15 Another thought that came to mind, I know ENERGY STAR  
16 has been changing their certification requirements, so  
17 I'm wondering and I'm thinking that under the new  
18 requirements, you have to certify your product prior to  
19 getting approval from the EPA, before putting the ENERGY  
20 STAR label on the product, so in a sense, I'm just  
21 wondering: Is there a possibility that you will have to  
22 know the energy use of the product prior to getting  
23 ENERGY STAR label in the future since you will have to  
24 submit your test results for pre approval?

25 MR. GOLDBERG: Sorry. Unless there's going to

1 be a requirement that we know the final product months  
2 and months in advance, we're not going to be able to  
3 print it on the box. It would have to be a less minute  
4 sticker extravaganza the way we first see it being for  
5 an energy guide on the product label.

6 MR. NEWSOME: Okay. Noah?

7 MR. HOROWITZ: I don't know if this is the right  
8 time. In addition to on the box, we would like serious  
9 consideration be given to electronic disclosures. I  
10 don't know if you want me to talk about that now or if  
11 that's another topic.

12 MR. NEWSOME: I don't have any topics left, so  
13 why don't you go ahead.

14 MR. HOROWITZ: We believe that electronic  
15 disclosures can be really helpful for consumers who make  
16 their purchase directly on the Internet or go to the  
17 Internet for information, pre shopping, if you will, and  
18 we think manufacturers and/or retailers, however that's  
19 implemented, the yellow energy guide label, the content  
20 of that should be on the websites as well, whether you  
21 go to Sharp's web site or if you're at Amazon.com's web  
22 site.

23 MR. WILSHIRE: If you want, you can try zooming  
24 out a little bit if you want to get the whole thing.  
25 It's one of the buttons that says wide I think. You can

1 adjust it to wherever you like.

2 MR. HOROWITZ: The other is sort of visual. We  
3 think the yellow energy icon should be on the website.  
4 When you click on that, the energy guide label appears,  
5 and this is already happening. I'm not making this up.

6 So I went to Sears website, and I clicked on  
7 washing machines, and I clicked on a particular Kenmore  
8 model. This is the top of the website, the exact  
9 information including price, and then lower on that  
10 page, without having to make a second click, I don't  
11 know if you can see this at the bottom, is the ENERGY  
12 STAR logo.

13 This product is ENERGY STAR qualified, and it  
14 says energy guide rated. If you click on the word or  
15 the little yellow icon, this is what popped up, so our  
16 recommendation would be on the initial screen close to  
17 where the pricing information is, there be the yellow  
18 energy guide icon that is then clicked on, and this  
19 information appears, so this is a way to provide  
20 information at a place where many people go to shop.

21 Thanks.

22 MR. NEWSOME: Okay. All right. Thank you.  
23 Margie? Oh, Adam you were up first.

24 MR. GOLDBERG: I mean, I'm in the perhaps novel  
25 position of agreeing with Noah.

1 MR. HOROWITZ: How does it feel?

2 MR. GOLDBERG: It feels pretty good.

3 MS. LYNCH: You guys should have a beer or  
4 something.

5 MR. GOLDBERG: In our comments on the advanced  
6 notice, what we said is that online retailers should be  
7 required to display an electric version of the energy  
8 guide label. I think the only distinction between maybe  
9 what Noah was asking about and what we had suggested in  
10 our previous written commentary is that we would suggest  
11 that that be limited to websites that are -- online  
12 systems that are selling the product and not just merely  
13 supplying information about them, see net or something,  
14 isn't a retailer, and if they do or don't want to put up  
15 the energy guide label, that's sort of a different  
16 thing.

17 MR. NEWSOME: Just to interject, the proposed  
18 disclosures on websites stems from a requirement in the  
19 statute for -- that catalog sellers have this  
20 information, and that basically in the rule, a catalog  
21 is something from which you can order the product, so  
22 generally if it's a website that just mentions the  
23 product, but you can't order it from there, then the  
24 rule does not require the disclosure.

25 MR. HOROWITZ: Would Best Buy online be

1 considered catalog the way you are looking at this?

2 MR. NEWSOME: If it's a website that offers --  
3 that you can buy the product from, then it would be  
4 considered that. Is that right, Matt?

5 All right.

6 MR. FAIRHURST: Yeah. Point of clarification.  
7 We've got -- Sharp USA might sell televisions in one  
8 area of the website, but we might have another area that  
9 talks about a model and focuses on the newest technology  
10 or life-style thing or something like that as compared  
11 to the specs, so I want to make sure that while in the  
12 area of where we're selling it and showing prices and  
13 specs and those technical details, of course it would be  
14 appropriate to show the energy guide information, either  
15 the full label or the numbers, however that works out.

16 But then in kind of the -- how cool is Sharp or  
17 the technology, these types of promotion things, on the  
18 same website, that we wouldn't be required to show it  
19 there.

20 MR. NEWSOME: It depends on the context. I try  
21 not to give regulatory advice on the fly, but it's a  
22 legitimate issue and something we can look at.

23 Okay. So the only other issue I have, and then  
24 if others have things they want to raise, that's fine,  
25 but Chris had mentioned earlier and the Commission had



1 proposed in the NPRM a six-month compliance period for  
2 televisions, and I assume that's something people will  
3 cover in their written comments, and the Commission has  
4 asked for.

5 If it should be something different than six  
6 month, there should be some specificity as to why it  
7 should be longer, and I just wondered if anyone wanted  
8 to address that here, please do. If not, you can just  
9 address it in your written comments. Anybody want to  
10 talk about that?

11 MR. MCLEAN: I was going to say from a retail  
12 perspective, six months is an extremely short period of  
13 time. Christmas is well-being planned right now. The  
14 consumer electronics show is in January, and a lot of  
15 buying and preparation is well in advance.

16 We would note that ENERGY STAR provides nine  
17 months so I think that six months is extremely compact.  
18 18 months is, as I said earlier, what the statute would  
19 permit, and we think that that's certainly reasonable.  
20 Anything shorter than 18 months does provide challenges.

21 The other thing is that as you go through the  
22 transition from no labels to a labels requirement, that  
23 retailers should absolutely have a sell through option  
24 because of -- I think particularly as you're coming out  
25 of an economic cycle, inventories sometimes turn over

1 very fast, and in slow times, it's possible that  
2 inventories are older.

3 And you also have to remind everybody to think  
4 while certain membership, the CERC board is a certain  
5 class of national retailers, we also have through our  
6 membership with the National Retail Federation and the  
7 retail leaders, that there's in a whole diverse range of  
8 retail operations that sell consumer electronics,  
9 everything from mom and pops to very, very large stores,  
10 so I think just bear that in mind, the great diversity  
11 and practicality of transitioning to a labeling  
12 initiative.

13 MR. NEWSOME: Any other thoughts?

14 MR. GOLDBERG: So I think that our position is  
15 that the labeling should be effective as soon as  
16 possible and no sooner, so without speaking to 6 months  
17 or 18, I think that even more important is being  
18 cognizant of when new models -- when models switch over  
19 is -- ENERGY STAR had a date in the past that was sort  
20 of in the middle of model years, and that's been fixed,  
21 thank you, to better line up with when products changes,  
22 which is to say around the summertime.

23 Old models go away, new models show up, so I  
24 think whatever timeframe ends up being chosen, we need  
25 to sort of limit the dates when it takes effect to be

1       sometime in the summer.

2               MR. NEWSOME:   Okay.   All right.   Does anyone  
3       have any other things they want to say?   Chris?

4               MR. WOLD:   Chris Wold from Collaborative  
5       Labeling and Appliance Standards, W-O-L-D.   I'm going  
6       to -- I was asked by NEEA to read a comment from them or  
7       to make a comment on their behalf, NEEA, Northwest  
8       Energy Efficiency Alliance, based on the size of the  
9       label, and in their experience, they have worked with  
10      PG&E in Sacramento utilities district, in order to  
11      conduct a promotional campaign on the highest and most  
12      energy efficient televisions.

13              And part of that campaign included an adhesive  
14      label attached to the bezel of the television, and this  
15      is actually planning for their upcoming campaign, about  
16      their adhesive promotional sticker, and they worked with  
17      retailers in order to develop the size of this adhesive  
18      promotional sticker, and it appears to be a little  
19      larger than the one that the FTC is proposing.

20              And so the issue has come up in terms of:   Are  
21      consumers going to be able to read the label from up  
22      high and also what are the retailers' point of view on  
23      these issues of the size of the label?

24              And I do know that in their work, in their  
25      conversation with the retailers, they were able to come

1 up with a label design that when the label is  
2 horizontal, it's at 3 inches by 5 inches, and then when  
3 the label is placed vertically on the bezel, it is 2.5  
4 by 6 inches.

5 So I wanted to just make note of their  
6 experience and thought that might help in your thought  
7 process in terms of label size.

8 MR. NEWSOME: Thanks a lot.

9 MR. RODRIGUEZ: Just to touch on the label  
10 thing, one of the things I would like for you guys to  
11 keep open is the use of electronic labeling on the  
12 display. Us at Sony and many other manufacturers, as  
13 Bill has said, from CES, we're moving around from bezels  
14 to a much slimmer design, and we're a little worried  
15 that depending on the type of adhesive or the customer  
16 trying to take the label off might be causing some harm  
17 to the face of the television set.

18 With electronic labeling, we can ease some of  
19 that and also move towards doing it quite quickly,  
20 within the six month proposal if that does happen, so  
21 that it can be done either cycling to a predetermined  
22 time or maybe even by holding an info or display button,  
23 which pretty much every remote control has, to bring  
24 that label up or off, if the retailer wants to do a  
25 demonstration or to take the label off for a certain

1 period of time.

2 So there are some options that we can do to make  
3 it a little bit easier, so we just want to keep that on  
4 the table if possible.

5 MR. NEWSOME: Thank you. Katharine?

6 MS. KAPLAN: I have a clarification of something  
7 I said earlier on display and how we treat them as far  
8 as testing goes, and is now okay to do that?

9 MR. NEWSOME: Sure.

10 MS. KAPLAN: So we actually for our larger  
11 displays, those from 30 to 60 inches, we do require  
12 62087, the Internet portion of that test content, and we  
13 also -- we have also indicated to our partners that the  
14 next time we revise the display spec, that we will make  
15 use of 62087 for all displays covered by ENERGY STAR.

16 MR. NEWSOME: Okay.

17 MR. FAIRHURST: Good. Now? Thanks.

18 MR. NEWSOME: Any other comments? Yes?

19 MR. FAIRHURST: Jon Fairhurst, Sharp Labs of  
20 America. Sharp also supports the electronic label  
21 option, but we would note that at many retail outlets,  
22 the remote control isn't available, and when the  
23 television is very high, an info button might not be  
24 reachable, even if it is present on the television, so  
25 that's why we prefer if it's there, it would -- simply

1 because the TV has been put in retailer mode and could  
2 cycle, as I mentioned before.

3 MR. NEWSOME: Thanks. Bill?

4 MR. BELT: Bill Belt, CEA. We will in our  
5 written comments make a proposal and try to be as  
6 specific as possible on how to implement electronic  
7 labeling, but we definitely want it as an option, not  
8 the only way, just an option so that's that.

9 I want to bring up one last time just for a  
10 though, because there's probably not enough time, but we  
11 would like to see some kind of mention made of TVs that  
12 are clearly in the minds of consumers TVs but are  
13 definitely not the subject of this proceeding, and those  
14 would be the kind of TVs that people buy, for example,  
15 to bring to a sports game with them.

16 They operate on battery power, to have in their  
17 hurricane kit, if they live in south Florida, or on the  
18 back of a head resting in a TV or in a car I mean.  
19 Those are clearly televisions under anybody's definition  
20 of what they're using those products for, but those are  
21 also products that we don't intend to cover, and there's  
22 no mention of them now.

23 Specifically, we would like to see some kind of  
24 finding that says that the label just doesn't apply to  
25 them. I wouldn't want to see an exemption, but I would

1       rather just see a finding by the FTC that these products  
2       are not required to carry labels. Thank you.

3               MR. NEWSOME: Okay. Any other comments? Okay.  
4       Well, I just want to thank everybody. I'm sure  
5       everybody is hungry. This has been very helpful for us  
6       in laying out the issues that we need to look at.

7               I encourage you to -- we try to get the  
8       transcript on the website as soon as possible to help  
9       you guys and others with their comments. I encourage  
10      people to be as specific as possible in their comments  
11      to help us as we look at these various decisions.

12              Matt, do you have anything? All right. Well,  
13      thank you very much. Have a good day.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

DOCKET/FILE NUMBER: PO94201  
CASE TITLE: CONSUMER ELECTRONICS LABEL PUBLIC MEETING  
HEARING DATE: APRIL 16, 2010

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the steno notes transcribed by me on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

DATED: 4/30/10

---

DEBRA L. MAHEUX

CERTIFICATION OF PROOFREADER

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

---

ELIZABETH M. FARRELL