

THE COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION HOLDS  
A 37TH ANNUAL WASHINGTON CAUCUS

MAY 13, 2010

SPEAKERS:

ED BLACK,  
PRESIDENT AND CEO,  
COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION

CATHERINE SLOAN,  
VICE PRESIDENT, GOVERNMENT RELATIONS,  
COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION

SPEAKERS:

MIRIAM E. SAPIRO,  
DEPUTY U.S. TRADE REPRESENTATIVE NOMINEE

ROBERT D. HORMATS,  
UNDERSECRETARY OF STATE FOR ECONOMIC,  
ENERGY AND AGRICULTURAL AFFAIRS

GREG SCHAFFER,  
ASSISTANT SECRETARY FOR CYBERSECURITY AND  
COMMUNICATIONS,  
DEPARTMENT OF HOMELAND SECURITY

SEN. BYRON L. DORGAN, D-N.D.,  
CHAIRMAN, SENATE DEMOCRATIC POLICY COMMITTEE

SEN. RON WYDEN, D-ORE.

SEN. AMY KLOBUCHAR, D-MINN.

SEN. MARK BEGICH, D-ALASKA

REP. RICK BOUCHER, D-VA.

REP. ANNA G. ESHOO, D-CALIF

REP. ZOE LOFGREN, D-CALIF.

REP. MICHAEL M. HONDA, D-CALIF.

FTC COMMISSIONER J. THOMAS ROSCH

JESSICA RICH,  
DEPUTY DIRECTOR OF THE CONSUMER PROTECTION BUREAU

BLAIR LEVIN,  
TECHNOLOGY, INNOVATION AND GOVERNMENT REFORM  
POLICY WORKING GROUP LEADER,  
OBAMA-BIDEN PRESIDENTIAL TRANSITION TEAM

ERIKA MANN,  
EXECUTIVE VICE PRESIDENT,  
HEAD OF EUROPEAN OFFICE,  
COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION,

[\*]

BLACK: Good morning. Welcome to CCIA's 37th annual Washington Caucus. I'm Ed Black, president and CEO of CCIA.

At this early in the morning, I'm not going to give you a long speech about who we are, what we care about. I think most of you understand that we represent a very wide range of companies and have a strong commitment to certain core principles of openness, competition, innovation, and have worked very hard to make sure that the tremendous potential that our industry has to serve society is not encumbered by unnecessary regulations, burdens, unfair competition, et cetera.

And because we do have such an amazing lineup of key people, starting with a long-time great friend, I want to say not very much, and unfortunately that means I've also got to cut short what could be a great introduction for Rick Boucher.

(LAUGHTER)

But Congressman Boucher, I think, is no stranger to this crowd or to our industry. Currently, he is the chair of the Communications, Technology, Internet Subcommittee of, of course, the House Energy and Commerce Committee which has tremendous jurisdiction and influence on our industry.

Currently, he's deeply involved and has put forward recently a draft on Internet privacy issues that will, I think, concern all of us. And we're all looking forward to being able to work with him and work on how that evolves.

But Rick has had a distinguished history as a leader on technology and Internet issues. When he first came to Congress in

1992, he basically was the person who initiated the ability to change the law so that commercial activity could take place on the Internet.

He's the founder of the Internet Caucus. We worked extensively on Digital Millennium Copyright Act and other related legislation on a wide range of telecommunications issues. On almost every issue, Rick, either because of his membership on Judiciary or on the Commerce Committee -- I didn't mention Judiciary -- has the ability to have an impact on the issues, and I think has an unique perspective coming from both views on how to come up with the kind of balanced, reasonable solutions which we often think are what really works for our industry.

It's not a win-lose industry. It's an ecosystem where the different parts need to work together. And having somebody who can see those many parts, understand them from a technological, business and political perspective is extremely valuable. And I've just described Rick Boucher.

(APPLAUSE)

BOUCHER: Well, Ed, thank you very much. I'm glad you took as long to do that as you did. And I appreciate so much the invitation to take part today once again in the Washington Conference for CCIA.

Let me say about Ed, in return, that he is a very close friend, and a person whose opinion I respect enormously. And it is a rare week when I don't have the opportunity at least once during the course of that week to have a conversation with Ed about the current policy debate in the information technology area.

And the advice I've gotten from him over the years has been tremendously valuable. I value the friendship and I value his role as a very trusted adviser, and I think him for having me here this morning.

At his suggestion, I'm going to share with you some thoughts that I have on two subjects. The first of these is the legislative discussion draft that I circulated about 10 days ago with my friend and colleague, ranking Republican member of our Communications Subcommittee, Congressman Cliff Stearns from Florida.

The second subject will be the actions that are being taken at the FCC to subject the transmission component of broadband services to certain sections under title II of the Communications Act. I'll have some thoughts about that and suggest perhaps another way forward.

First, privacy legislation. As I indicated, about 10 days ago we released a discussion draft. For those who are not Washington denizens, let me say just a word about that process.

Oftentimes, members introduce a formal bill which then becomes the subject of hearings, of possibly markups and movement through the legislative process. We have actually initiated this discussion draft at a step prior to that.

We have circulated very broadly among interested stakeholders and published on our respective Web sites a legislative text, but we have not formally introduced it as a bill. Now, we circulated this as a legislative discussion text so that we could receive comment.

This measure represents our thinking as to the best way to provide a set of privacy guarantees for Internet users, but our goal in this is to build as broad a consensus as we can, to have a broad base of interested parties and stakeholders supporting this measure when we formally introduce it as a bill. And so until the last week of June, we have invited comment and recommendations from interested parties.

We will take those comments and recommendations and modify our discussion draft before we formally introduce a bill and submit it to the subcommittee that has jurisdiction, which is our Consumer Protection Subcommittee, also within the Energy and Commerce Committee. And the chairman of that subcommittee, with whom we've been coordinating closely, has indicated his intention to have a legislative hearing shortly after we introduce the formal bill.

So that step will be taken, but it will be taken only after we've had an opportunity to review the good recommendations we get from stakeholders and make modifications in our bill accordingly. So my invitation to you is review what we have done and give us the benefit of your thoughts. If there are provisions you like, please tell us about that. If there are things that you think could be improved, we want to hear about that, too.

And we do intend to take these comments very seriously and have an interactive conversation with those who make recommendations to us. So it won't be just reading the document. We're going to call you and talk to you about it and discuss with you the reasons for the recommendations you have made. And then, assuming that we're of a mind to modify our draft in accordance with what you are recommending, we're going to want your support for the legislation. So this is how policy gets made. It's a multiple step process.

We're basically, from a legislative perspective in terms of looking at precise language, at step one.

Here's what we're proposing to do. We are saying that there will be a set of privacy assurances provided for transactions both online and offline, for people who do not have a more specific set of federally assured privacy guarantees through other statutes.

Now, we do have some federal statutes in place that provide privacy protection for medical information, Gramm-Leach-Bliley for financial information. There is CPNI protection at the FCC under title II. And there are other ways in which the federal government currently assures privacy.

But for the regular commercial transaction not in any of those categories, and for the great bulk of preference, profile, construction and targeted advertising activity for Internet-based transactions, there are no assured set of privacy guarantees today. We're seeking to fill that gap, and it's a rather major gap that we are seeking to fill. So we applied our principles, both online and offline. But I was brought to this issue primarily by the online experience.

Here's our basic goal. We want to make sure that individuals have a greater sense that their online experience is secure. And I think once people have an understanding that they have a right to know what information about them is collected, and have a right to know how that information is used, and have an ability to control that information collection and use. The greater confidence people will have from that knowledge and that ability will lead to a greater willingness to engage in electronic commerce.

So we're not seeking to inhibit legitimate business practice. We are not seeking to inhibit responsible targeted advertising. That's the way that so many successful business models on the Internet today are financed -- content is provided for free, and it is the advertising that supports that content origination and dissemination. We want to keep that model and encourage it. But we want it to be conducted in accordance with the best business practices.

So that's fundamentally our goal. Give people confidence. That greater confidence will enhance their willingness to engage in electronic commerce.

Most of what we do operates under the most business-friendly practice, and that is what we call "opt out." And under that

arrangement, Web sites that are engaging in what we call "first-party transactions" would have the opportunity to collect the information and use that information, subject to "opt out" permission by their customer.

What "opt out" means is that unless the customer takes an affirmative step to deny permission to the Web site operator to collect and use the information, that information may be collected and used in accordance with the terms of the privacy policy. So it's "opt out."

There will be a full disclosure required of what information is collected and how that information is used. And then most transactions would occur under "opt out consent" which, again, I'll say from the standpoint of the Web site operator is far preferable to the more restrictive "opt in."

Now, we do have a set of instances where "opt in" does apply. "Opt in" would apply for the collection and use of what we call "sensitive information." And that's defined as information regarding medical condition, financial transaction information, any kind of government identifier, a Social Security number, driver's license number, et cetera. Geographic-specific location information would be subject to "opt in."

And we fully intend that information about children and adolescents also be subject to "opt in," but it already is under the Children's Online Privacy Protection Act, the so-called COPPA. So we have decided not to replicate that in this statute. But in case you see an omission there of information about children and adolescence, that's why. It is otherwise covered.

So for sensitive information, it could be collected and used only pursuant to affirmative consent, pursuant to "opt in."

The other way in which we apply "opt in" is for the sharing of information among unrelated parties. If a party's services are necessary for a first-party transaction where the Web site that collects the information directly markets its customer, we would apply "opt out" to the sharing of information to that essential party.

So for example, if someone is serving ads to a Web site's customer, and the serving of those ads is pursuant to a contract and the information is shared with that unrelated party just for the purpose of serving the ads, that would all be treated under the "opt out" umbrella. So it would be a very easy way to do business, and

that information is essential to the first-party transaction could be shared. But if the Web site that collects the information shares it with totally unrelated third parties, that would be subject to "opt in" consent.

Now, we do have a major exception to that rule, and I want to spend just a moment on the exception because so much of our discussion about our legislation will focus on this exception.

Advertising networks are a reality today. And within a typical advertising network, all of the various Web sites that participate in the network collect information from their customers and they create a preference profile based on that. And the information in that preference profile is then shared with all of the other members of the advertising network, all of the other Web sites that are collecting information within that network.

And what happens is that for a given individual who may visit multiple Web sites, a sort of uniform preference profile of that individual is constructed by the collective efforts of all of these Web sites. And so if you're visiting three Web sites on a day, each of those visits may result in the addition of information to your preference profile shared by those three companies and others who are a part of the advertising network.

Then when you as an individual go to the Web site of any of the companies that are taking part in the network, they're going to target advertising to you based not just on what they have learned from your visiting their Web site, but what they've learned from your visiting the Web site of all of the companies that are involved in this network. So it's a comprehensive preference profile and it greatly enhances the effectiveness of targeted advertising.

Now that is a reality today, and so what is happening is the sharing of information among unrelated parties, related only by virtue of the fact that they're participating together in an advertising network. But so many targeted advertisers today take part in these advertising networks that it's now a deeply embedded aspect of the way in which targeted advertising works. And we respect that, but we want to make sure that where the information is shared, it is done so in accordance with the best business practices that we can find today.

And so while "opt in" is the general rule that we're applying to the sharing of information among unrelated parties, we allow for an "opt out" to apply where those best business practices are exhibited and we define what those best practices are.

Here they are. If the advertising network and all of the participants in it agree to provide to all of the individuals who visit individual Web sites and are being targeted based on the collective activities of the Web sites in collecting information from Web site visitors -- if they all agree that they will provide a link with every targeted ad that indicates where that ad originates and the fact that it is built on a preference profile, and offers the opportunity to access that preference profile and to modify it so that an individual who doesn't like the way he's coded in a particular preference profile can change the coding.

And if one further step is taken, then "opt out" consent will be provided. That one further step is to say that there will also be a link made available that would enable the customer, on clicking that link, to "opt out" of information sharing by all parties within the advertising network.

So in other words, it would be a decision by the customer that he doesn't want information collected about him within the advertising network. It would still leave the individual sites free to collect information about him, but they would be limited just to first-party transactions back with him. They couldn't share it with others within the advertising network, if he makes that decision.

So to summarize, it would be a link showing how the ad originates, the fact that it's built on a preference profile, access to the preference profile, the ability to modify codes within that preference profile, and an opportunity to "opt out" of information sharing within the advertising network completely for that individual. Now, there are companies that do some or all of those things today. And we are incorporating those very consumer-friendly, privacy-friendly, best practices, and essentially offering a carrot to the advertising networks. If they don't do those things, they can only operate pursuant to "opt in" consent. If they do those things, they can operate pursuant to "opt out" consent.

And so we're asking the advertising networks generally to step up to what are the best business practices exhibited by companies involved in advertising networks at the present time. We give the FTC the authority to enforce these provisions, including civil penalty authority. We preempt the states from legislating privacy protections in this exact range of subject matter. And I'll say again that we welcome comments and recommendations.

Sometime during the month of June, it is our intention, perhaps

toward the end of the month, to incorporate good recommendations we receive, modify our discussion draft, introduce a bill, and then take other steps in the process. So sometime between now and the end of the first week in June, if you have good thoughts to share with us, please do. We would welcome your ideas about how to do this effectively.

I want to offer just a few comments this morning on the response that the FCC has recently made to the Comcast decision in the D.C. Circuit. That decision has cast doubt on the authority of the FCC to enforce any of the network neutrality principles before that presently exist and to undertake the rulemaking that the FCC has now underway, to expand those four principles to a total of six, adding to the existing four principles of nondiscrimination and transparency.

The FCC at least wants to be able to enforce the existing four principles, and it wants to continue its rulemaking to assure network openness. I think we must assure network openness and basic principles of network neutrality. I would just note that when Michael Powell, as chair of the FCC a number of years ago, initiated the first four network neutrality principles, they were consensus-based. The stakeholders agreed. Those have not been controversial. They should be enforced.

And I think the FCC has done a very good job on a case-by-case basis since those four principles were first announced in enforcing those and doing so in cases where I think most parties would agree the FCC actions were appropriate. But doubt has now been cast on their ability even to do that, much less move to the next step.

So what the FCC has done is treat the transmission component of broadband as a title II service with respect to six of the 48 code sections that fall within title II. The FCC has announced forbearance with regard to the other 42 code sections, meaning that it does not intend to apply those and enforce those with regard to broadband. It is six sections only.

Now, those six sections essentially do the following. They would prohibit unreasonable denials of service and other unjust or unreasonable practices by broadband providers respecting the operation of the transmission layer of broadband. It would provide enforcement with regard to their unreasonable denials of service and unjust or unreasonable practices. It would give the FCC, with regard to broadband, universal service fund purview, and assure the FCC's ability to apply the universal service fund for advanced communications services.

It would give the FCC the authority to assure the confidentiality of consumer proprietary network information. And it would enable to FCC to assure access for people with disabilities to broadband services.

Now, those are the steps the FCC has taken. It is described as a light regulatory touch. "Light" in the sense that it applies only to the transmission layer, and it is only six out of a total of 48 title II provisions.

I have thought a bit about this, and I would make the following comments. We have got to preserve network neutrality. The Internet has been the most fundamental foundation for progress that our economy has seen in recent years. Some would argue that the innovation that has been generated because of the open nature of the Internet, the fact that anyone can innovate to deliver new technology associated with it or software products or services over it, has been responsible for creating millions of jobs.

Perhaps it is the greatest platform for innovation that we've seen in our nation's history. Each can form his own judgment about that. I think we all agree that it is a tremendous driver of national economic growth. And it is its open nature that enables it to be such. That has to be preserved. That's what network neutrality is all about, and I support that.

At the same time, we don't want principles to be adopted as regulatory measures that are so heavy-handed that they have the effect of inhibiting investment in broadband facilities. As Internet use grows, we need the broadband capabilities over the last mile and through the trunk fiber backbones to accommodate that growth. We do not want a regulatory step to be taken that inhibits it. This is the balance that has to be struck.

I personally think the FCC has done a reasonably good job in its reclassification with the tools it has available in order to do that. But I honestly think in the end, a far better approach is for Congress to address this subject.

And I would like to invite the broadband providers who have concerns about the FCC's action, and the edge companies that depend on the Internet to deliver their products and services -- these are major proponents of network neutrality -- to come to the Congress and engage us -- give us the benefit of your thoughts on how we could structure a targeted set of provisions that would ensure network neutrality and

network openness, and do so in a way that does not inhibit investment of the network. We can do that.

I think the principles to do it are pretty straightforward. I think that the discussions over what is now almost a decade on the subject of network neutrality have sharpened the debate to the point where we have real clarity on how to do this effectively. What we don't have at the moment is consensus among the stakeholders around that set of principles, but I think it should be achieved.

So if the broadband providers don't like what the FCC has done, come to us with your recommendations of how we can do it better. And the door is open for those conversations. I've had discussions with Chairman Waxman about this. He's of the same mind, and we would welcome those suggestions from interested parties, whether you're in the broadband provider camp, or whether you're an edge provider needing network neutrality to deliver your products and services.

So those are my thoughts this morning. And I guess what I would say, to quote my long-time colleague and great friend, Morris Udall, who had one of the best senses of humor of anybody I have ever met. He said that when he was talking to his constituents back home in the West, that after he finished his talks, he would generally say, "Well, them's my views, and if you don't like them, I'll change them."

(LAUGHTER)

I'm not sure I'm willing to go quite that far this morning, but most of what I've talked about we are really willing to change. We need your thoughts on how to do that effectively.

Ed asked if I can take a few minutes for questions, and if you have any -- OK, one or two. Thoughts? Questions? Have I put everybody to sleep? Maybe I have.

QUESTION: Your bill really does make a distinction between network-based advertising, the web-based advertising (inaudible). (Inaudible) when I go to order a pizza from Pizza Hut, I don't want a Dominos pizza to show up at my door. (Inaudible) example could happen.

BOUCHER: If you go to the right Web site, that isn't going to happen.

QUESTION: At least at this point. But with the network-based advertising, some say (inaudible) could happen. They reserve the

right to look at my data (inaudible).

BOUCHER: You're talking about an advertising network? Well, what goes on within the advertising network?

QUESTION: Well, network-based versus (inaudible).

BOUCHER: I'm not sure I understand your distinction. Why don't you tell me what you mean because -- well, Web sites collect the information. Are you talking about a carrier that connects it because he's providing the connection to Web sites?

QUESTION: That's right. The carrier (inaudible)

BOUCHER: We are basically -- well, we cover that. Anyone who collects information is required to comply with these provisions, disclosure about it, and the way in which it is used. And if someone who -- I mean, and it's applied across the board. It's even applied in offline transactions. And so there is coverage there.

And that means the individual would have an opportunity to learn about what information is collected by his broadband provider, for example, and how that information is used. So he can "opt out." If it is sensitive, he has to "opt in." If it's share with unrelated parties in some way, then, again, he would have to "opt in."

I mean, I think that strikes the right balance. But if you have some thoughts about it, share them with us. We'd like to hear from you.

QUESTION: (inaudible)

BOUCHER: Let me call on Bill Barlin (ph). This'll be quick.

QUESTION: (Inaudible) certainly appreciate your interest in having Congress weigh-in on title II. It's so terribly important for our industry. But we are in an environment right now where we can't get (inaudible) through the Senate. (inaudible). Do you think that (inaudible) controversial could take three, four, five years (inaudible).

BOUCHER: We could get something done very quickly if there is consensus. If there's no consensus, we're not going to be able to act at all, not even within four or five years. I mean, it's -- this is such a contentious subject and the principles for consensus, in my mind, are so clear. I mean, I didn't elaborate those. I will if

anybody wants to hear about it.

But I think we understand the issue well enough, as do you and all the participants on both sides who've been talking about this now for almost a decade, that if the obvious conclusions can be reached on both sides, and there's willingness to concede that we're actually going to have some regulation in this area, we can achieve this within a matter of months. But the consensus is what is key.

So my suggestion to the broadband providers is come to us with a set of ideas. Make sure they're realistic, and if they are, we can act pretty quickly. And if anybody wants to know what "realistic" is, give me a call, and I'll tell you exactly what I think it is.

By the way, on the spectrum inventory, we passed that in the House. It's bipartisan. There were no dissents. Well, I think maybe -- we had a recorded vote. Yes, there were 18 out of 435 voting no.

So this is -- this is obviously the right approach. Find out what spectrum is underutilized, what potentially could be reallocated for the purposes of commercial auction, and then move forward when you have that information in hand. That's the key way to do this.

It's hard for me to imagine that this would prove controversial. I'm not sure who opposes it.

QUESTION: (Inaudible)

BOUCHER: Well, he has a hold on everything.

QUESTION: (Inaudible) bill that I thought everybody was for, because of (inaudible) title II legislation, which, based on the press releases (inaudible) so far. (Inaudible)

BOUCHER: Winston Churchill said about the Russians once: a mystery wrapped in an enigma, surrounded by uncertainty. And that, in my mind, pretty well defines the other legislative body in our Congress.

A friend of mine once said that the only real reason that we even have a Senate is because the Constitution requires it. If Byron Dorgan is here, I apologize. He just walked in. Well, you know, this is legislative license that we both have on each side. I'm sure he'll have some choice comments about the House.

Thank you very much. Great to be with you today.

(APPLAUSE)

SLOAN: Good morning. I'm Cathy Sloan with CCIA, and I have the pleasure to introduce Senator Byron Dorgan who is finishing his third term in the U.S. Senate representing North Dakota after six terms in the House. And as many of you know, he will not be returning to the Senate after this terms expires this fall.

So he would like to -- so we'd like to recognize him for his service and efforts to preserve the open -- dogged efforts to preserve the open nature of the Internet and ensure access to cutting-edge communications technologies for consumers and small businesses throughout the United States.

He's a plain talker and straight shooter who has authored a very informative and fun-to-read book on trade called "Take This Job and Ship It." And rumor has it that he might be working on another book. I guess he can tell us if that's the case.

Senator Dorgan is a senior member of the Appropriations, Commerce, and Energy Committees. He has closely overseen the operations of the Federal Trade Commission. And Senator Dorgan also serves as chairman of the Senate Indian Affairs Committee and of the Democratic Policy Committee and the Senate Subcommittee on Aviation Operations, Safety and Security.

In March, the Congressional Executive Committee on China, chaired by Senator Byron Dorgan, held a hearing on Internet control in China. Ed Black testified before the committee and encouraged our government to participate and partner with U.S. industry and other nations to make freedom of expression on the Internet a top priority in foreign policy. And so we look forward to hearing his latest thoughts on that topic.

And also want to wish him an early happy birthday on his last day of being whatever age he today.

Senator Dogran?

(APPLAUSE)

DORGAN: Well, Cathy, thank you very much. It's nice to see all of you here this morning. And I listened to the congressman, and I always come away thinking how smart he is and how thoughtful he is. And I'm really pleased that people of his quality stand for public service. And I know he's working on these issues -- has been for a

long while in a very thoughtful way.

It is interesting, however, that those who have served in both the House and the Senate -- and by the way, most House members rush quickly to go to the Senate, the body they don't like very much, when given the opportunity, mostly for the six-year term because the words "quickly." as Congressman Boucher mentioned to you about movement, "quickly" and "Senate" do not belong in the same sentence generally speaking. Nothing happens very quickly in the United States Senate, unfortunately.

I did write a second book last year call "Reckless" about the economy. And in it, I spoke about the day that Hank Paulson came to us on a Friday, leaning over the lectern -- a lectern like this -- leaning forward, the treasury secretary, and explained to us that perhaps by Monday our economy could collapse -- completely collapse unless a three-page bill, which he handed out that day and had drafted giving him and the Treasury Department \$700 billion, was passed by Monday.

And I sat listening to him, and I thought of what I'd read in the paper that morning about Hormel Meat Company, a company in Austin, Minnesota, which announced the day before that it had gone to a second shift making Spam. Now, do any of you know what Spam is? Spam is a low-cost luncheon meat, and I'm sitting in a very serious discussion about the economy with the treasury secretary talking about imminent collapse thinking about Spam, because he was talking about economic indicators.

And I thought, when Hormel Meats in Austin, Minnesota goes to a second shift to make low-cost luncheon meat that, too, is a significant economic indicator. And then I thought, has the treasury secretary ever eaten Spam?

Anyway, I wrote about that in my last book. I was just thinking about this. I concluded probably not, and that's why he missed that economic indicator.

Let me mention to you that net neutrality and what I call Internet freedom -- John McCain took that moniker, "Internet freedom," and used it for a bill that opposes what I believe is real Internet freedom. Net neutrality and universal service are both very important policy choices, and we're having a lot of discussion about both.

And the chairman of the FCC, after some long period of a FCC saying, "You know what? Let's just deregulate everything." After

some long period of that, the new chairman of the FCC said, "Well, let's try to figure out what we're doing as a country."

There's an old saying, "If you don't care where you're going, you're never going to be lost." So if you have no plan, and you don't put together a destination and a journey that has an ending that you actually contemplate, then you're never going to figure that you missed the destination. Right?

Well, that's been the case where you have this deregulation and you say, "Whatever happens, happens. We'll be perfectly fat and happy about that." Julius Genachowski has now come in and said, "You know what? We really ought to have some destination in mind. What are we trying to achieve? What do we aspire to have happen in our country with respect to, for example, broadband or the bigger pipes across the country?"

Ask yourself this question: What if we had a system in which we have an advanced electrical grid in Washington D.C. and New York, but rolling brownouts in Wyoming, South Dakota and North Dakota? Why? Just because there are more people here and we had to build a bigger apparatus here to make darn sure we were going to serve the millions, but it's hard to get electricity stretched across Wyoming or North Dakota.

My state is 10 times the size of Massachusetts, and we have 640,000 people spread out in 10 geographic Massachusetts'. Is it harder to build the infrastructure to provide electricity across those states? Yes. Have we done it? Of course. We wouldn't think about deciding that this kind of service is not necessary in parts of our country.

Neither should we believe that would be the case with respect to the penetration of Internet -- of the Internet, and also the bigger pipes or broadband service all across this country at significant speeds. Because if you don't do that, you have a digital divide that separates the country, and you've divided the country into the haves and have-nots with respect to innovation and opportunity in the future.

The Internet, as Congressman Boucher said, is in fact one of the great innovations of our lifetime. It is just a fact. You think to yourself about what you are able to do.

And the reason I tell you this is I come from a town of 300 people. I came from a high school senior class of nine students. I was in the top five, I tell people, which made my parents pretty

happy. But you know what? We had a library the size of a coat closet because it was a coat closet. They took the door off and built some shelves. Now in that school, in a town of 300 people, they have access to the best libraries in the world. This innovation changes everything.

And so it is so important for us to understand the importance of universal service and to get this right. That's what Julius is trying to do.

On the issue of network neutrality or what I call Internet freedom, this town, of course, responds best to the big lie, regrettably. I wish it did not, but it does. The big lie -- the healthcare reform bill is a government takeover of healthcare. You might not like the bill, but it sure is not a government takeover of healthcare. I mean, that's just absurd.

Or network neutrality is a government takeover of the Internet. There was a press conference two days ago by people who shall remain unnamed, Grover Norquist and others, that government takeover of the Internet. Nothing could be further from the truth. Network neutrality simply restores, in my mind, what I'm pushing for and fighting for, restores the issue of nondiscrimination.

Now why is that needed? People say, "Well, we don't see this wholesale set of problems that are affecting the use of the Internet or the availability of the Internet that would rise to the occasion of having to pass it."

Well, you know, there have been some, BitTorrent and other things, but when Ed Whittaker said, "You know what, I don't want Google using my pipes without paying me for the pipes." It reflects exactly, in my judgment, why we need to restore the nondiscrimination rules.

I want everybody to be happy. I mean, I want those that are creating Internet sites, those that are providers, I want everybody to do well and be happy, but I want this to be an open and free architecture that no one is going to be a gatekeeper or have a toll booth.

And let me tell you one final story. I think I've told before some groups of this experience, but I went to my little town of 300 people, into this little home where I grew up, which is a small white house with two bedrooms. And I had not been back there since I'd been in that home when I was 18 years old. And I knocked on the front

door, and the woman came to the door. She knew me, of course, knew who I was.

And I said, "Would you mind if I look at the home that I grew up in?" And she said, "Fine." And I walked in, and I walked -- there's a little shed and then into the kitchen. And in the kitchen, she had a little aperture, a little white thing with -- I'm not describing this well, am I?

She had a camera setup with an arm and a gold bracelet hanging down over the arm, and she was taking a photograph of this bracelet. I said, "What are you doing?" "Well," she said, "I run a business." I said, "What do you do?" She said, "Well, I run a business on the Internet. I sell jewelry." "Really," I said. She said, "Yes. I buy jewelry from places and then I -- I created an Internet site, and I sell jewelry." And I said, "Is that why I noticed all those cardboard boxes and tape in the shed?" She said, "Yes, that's my shipping department."

This woman in the kitchen of the house I grew up in has a business. I said, "How do you do?" She said, "Well, I do pretty well. My husband drives the gas truck, and he, you know, he does OK. And I -- I, you know, make some extra money running my business." It is so unbelievably important to me that this woman, in the kitchen of the home I grew up in, has access to everywhere in the world -- open architecture, complete access to anywhere in the world without having ever to pay anybody or worry whether she'll have that access. That benefits her and everybody else in the world that has access to her kitchen business.

And that's -- that's what this means to me. And I think Congressman Boucher said it the best. We don't need to have a big fight about this. Let's find out if there are ways for us to come together.

You know, if the providers say, "We don't ever intend to do what you might suggest we might do at some point." If that's the case, let's find a way to come together and establish the principles for Internet freedom and establish -- help Julius and others establish the principles for the build-out of universal service and the Internet of what we did.

I was around in '96, as you know, and long before that, as a matter of fact, in writing the '96 Act, and we didn't know much about the Internet then, but we did know enough to talk about advanced services and providing advanced services. We talked about providing

comparable service at affordable prices because that was what we defined as universal service for what we thought would be advanced services, but we weren't sure what they were.

It has grown to become one of the great innovations in our lives. And I'm not suggesting the government should run it. The government created it, as you know. And now in town meetings when people say they read from the Internet, and they have this little script, and they stand up and they snort a little bit, and they say, "What has the government ever done right? The government has screwed up everything it's touched -- Social Security, run into the ground; Medicare is bankrupt. They can't even run the postal system. What is government -- tell me one thing."

And I say, "Well, the government created the Internet." "No, it didn't," they say. But of course it did. I mean, I'm just telling you that the Internet was created by the government, and the full flower of this Internet, with the genius of the private sector and the people in a dorm room today who are creating the next big business that we've never thought of and won't hear about for a few years, that's what really drives the innovation of this great country of ours.

So it's important we get this right. And the chairman of the FCC is walking through a very difficult minefield of people who say, "don't do anything, don't do anything that I don't like."

But you know what? You don't ever invite controversy or challenge unless you're moving forward. The easiest way to not invite any challenge or controversy is to stand in place and do nothing.

I commend the chairman of the FCC. He's trying. And I hope those of us in Congress on both sides of the political aisle and both in the private sector, the providers and the folks that are using the Internet to create businesses, I hope all of us can together try to determine what do we want to happen going forward that can give us an opportunity to preserve this innovation in our lives.

So I'd be happy to answer a question, Ed, if anybody has a question.

All right. If anybody has a question, I'd be happy to do that.

Yes, sir.

QUESTION: Is targeted open Internet legislation possible without

getting embroiled in the broader questions about reforming the Communications Act or implementing the other aspects of the FCC's broadband plan?

DORGAN: I don't know. It's hard to know what's possible. You mentioned my colleague, Mr. Coburn. He had, you know, he has a hold on everything these days, and it's slowed down everything in the United States Senate. It's very hard to get much of anything done.

But that ought not deter us from pursuing the ideals of good public policy and trying to get to the finish line with good public policy.

Let me tell you one more thing. I know there's this thing about the Senate and the House. I watched Dave Obey say that he was not running again, and his last remark was about the United States Senate. I served in the House. I loved the House of Representatives. I serve in the Senate.

While I wish the Senate worked a little better than it does, you know, I'm not critical. The Senate's a great institution. But I was thinking of the people who continue back and forth to do this Senate-House thing. I was thinking of Ogden Nash, who had a four-line poem about a guy who drank too much, married to a woman who nagged him about it.

He drinks because she thinks -- Let's see -- he drinks because -- let me get it right for you.

Ogden Nash: He drinks because she scolds, he thinks. She scolds because he drinks, she thinks. Neither will admit what's really true. He's a drunk and she's a shrew.

(LAUGHTER)

DORGAN: So anyway, listen, thank you very much. It's good to see all of you.

(APPLAUSE)

BLACK: And we want to make sure your voice and leadership doesn't leave Washington even though you're leaving the Senate. Thank you for everything.

I know it's kind of frustrating that we have such a tiny window for our speakers, but it'll loosen up a little bit later on in the program. Let me move now to introduce, again, a great friend and a

leader for our industry.

Congresswoman Anna Eshoo represents the heart of Silicon Valley and has, for her decade in Congress, been a leader in promoting innovation and competitiveness.

She also serves in a powerful House, Energy and Commerce Committee and particularly a subcommittee on telecom and the Internet as well as an important role on the House Permanent Committee on Intelligence.

I have a long list of things here I could read about Anna, what she's done on investment, on public Internet access, on innovation agenda, immigration issues, but you all probably are fairly familiar of that because the key this is Anna is one of those very rare people who when we go up and want to talk to her about something, she's already been thinking about it.

It's a pleasure to have her with us today.

Anna?

ESHOO: Thank you, Ed, for not reading my entire life out to everyone. I always say, "When someone does that I wish my kids were in the room to hear it."

At any rate, good morning everyone, and I'm delighted to see you.

Ed, thank you for your good words, and thank you for your extraordinary leadership of CCIA.

Ed really stands out in this town, and I salute you for it. I couldn't mean it more.

CCIA provides a visible link between two essential industry sectors, I.T. and communications. Very importantly, you represent a major block of the American gross national product because together you employ almost 1 million workers. Imagine that, almost 1 million workers and generate nearly \$250 billion in annual revenue.

In fact, as I was preparing for this, I thought I don't think we would have really survived this recession without you.

When other industries collapsed, you held the nation afloat in more than one way because you're the first to spur job growth, innovation and financial development, and I thank you. I thank you

for your work, for your innovation, for your creativity and for your tenacity and essentially you're doing a great deal for the country. So I salute you, and I thank you for that.

Computers and communication are really at the heart and soul of my district, which encompasses most of Silicon Valley. During this past year, we've seen a reinvigorated -- and I'm sure the speakers before me have talked about this.

I heard Byron Dorgan as I was coming in the door -- a really reinvigorated federal communications commission, which I welcome, and I think you probably do too.

Last week we saw the answer to one of the more perplexing issues that was before the court, one of the court cases really in recent memory. A week ago, the FCC chairman went to bat for a free and open Internet. That's music to my ears.

I'm extremely pleased with the chairman's approach to answering the court's concerns about the case Comcast vs. the FCC because I think his decision really moves us decisively to foster broadband growth and to preserve Internet freedom, or as most people call it, net neutrality.

I don't know how we ever came up with that term or who came up with it because it's kind of an oblique term. I like Internet freedom better.

It's really a shot, I think, across the bow to any and all that are trying to slow the industry down. By announcing his framework, he demonstrated that he's not going to wait until a provider attempts to give preferential treatment to some content while sending others to the back of the line.

I think he's standing up for consumers, and he's standing up for consumers now. I appreciate his efforts to adopt a narrowly tailored framework that reflects the light regulatory touch which has allowed the Internet to flourish in the first place.

This latest move on net neutrality is just one piece of the innovation pie. It's a major piece. The other is the national broadband plan. As a member of the Energy and Commerce Committee, I've been closely reviewing the plan and its recommendations and its concepts, and I'm pleased that the plan mirrors some of my own legislative agenda.

I love this bill, my dig once bill. I don't know why anyone didn't think of it earlier, but I think it's a great bill and Amy Klobuchar is carrying it over in the Senate.

It really is a centerpiece of the last mile rollout. My next generation 9/11 bill is included as part of the plan, and many of the bills that I have co-sponsored are also embraced, from spectrum inventory to universal service reform.

The plan also embraces a free national wireless broadband network and that concept is essential, I think, to leveling the playing field for Americans who would otherwise not be able to receive or afford broadband, so I think that that's an important part of it too.

Now the telecommunications subcommittee -- which Ed reminded you I'm a member of -- has already held three hearings on the plan, and when I leave you this morning we have a hearing, a fourth hearing on the plan.

We're going to be hearing from the FCC. We're going to hear from California's CIO and the Sacramento Public Library system among others essentially on their plan for increasing broadband adoption including many ways to ensure that all Americans -- and this has to be at the heart of our effort -- that it's all Americans, that no one is left out of this, including ways to ensure that they are able to subscribe to broadband and that consumers are educated about broadband's benefits.

When I looked at the line-up for the hearing, I'm very pleased that there are several Californians on the panel, so it says that we're leading the way.

The plan's recommendations are important, but our examination is really important too. I think that implementation is going to take some time. Even as we work to ensure that all content is delivered at the same speed on the Internet, some Americans are still stuck in the slow lanes, and that's really a major challenge for us.

We need to take steps that are going to ensure that all Americans receive broadband access and in the immediate future. That's why I've pushed the NTIA to focus its broadband technology opportunities program on anchor institutions in the second round of stimulus funding. That's really one of the reasons why the Sacramento Public Library system is going to be testifying.

I've got my eye on the stimulus fund program to make sure the bureaucracy doesn't get in the way and that the money gets to those

who need it as quickly and efficiently as possible.

But even if we deploy broadband to every household in the United States and we ensure that consumers are protected, our best efforts are going to have really little impact if users don't believe that the Internet and the networks that it rides on are secure.

That's why I want to spend a few minutes talking about cyber security. The more we rely on the Internet to conduct our business, the more vulnerabilities we create for hackers to exploit.

As a member of the House Intelligence Committee, I'm well aware of the threat, not just from criminal hackers but from other countries. Google knows this all too well. It's the first thing that Allen (ph) and I chatted about as I came in the door this morning.

There are some things I think that we need to do to address the threat, both from the private sector and from the government. When you look at the entire pie, the government is about 5 percent of it; 95 percent is in the private sector.

First, I think the government obviously has to secure its own networks. The administration got off to a good start with their 60-day cyber review, but it took them a long time to get moving on their recommendations.

I think it's a great idea that they created a new White House cyber czar but it took the administration -- it's taken the administration more than a year to fill the position, and I think the jury is still out as to what kind of impact this role is going to have. I hope it's an excellent one. But, as I said, the jury is still out.

I'm also keeping a close eye on the progress under the comprehensive national cyber security initiative. It's known as CNCI. We always have to have these shorthand terms for these things -- to ensure that it's achieving the goals to reduce the government's point of presence on the Internet and improve the security at those gateways.

There's something that I would like to suggest to you. First, think about security from the beginning of the design process rather than adding it on at the end. This is not going to go away. This is a challenge that we're going to have to make our way through, and I think that there are steps that we can take that are going to maybe not so much ease the pathway but be a lot smarter about what we do.

There should be really more support for education and training for your workforce on cyber security. It needs to be part of the curriculum I think at colleges and universities so that students that you end up hiring have a background in security before they even walk in the door.

I would encourage you to report serious incidents to the government. Now if the government doesn't know about these serious breaches, they can't help address them.

I applaud Google for setting that example and coming forward to report how they've been hacked by China. It wasn't an easy experience, and there were a lot of wrinkles along the way, but they still did it. And I understand fully that the reporting process isn't always smooth, and this leads me to the larger part of the challenge, and that's getting the government's house in order because that comes under the hat that I wear.

If we're going to ask industry to report cyber security incidents to the government we need to establish a very clear process to do so. Companies won't report if they're going to be bombarded by dozens of government agencies, each wanting to investigate the incident.

The government needs to streamline the process when it comes to cyber reporting so that it's clear to industry what to expect when you step forward.

I've been pushing to share more information with the private sector. We can't have the government hiding information about cyber threats behind the wall of classified information. That, of course, has a lot to do with the culture of the intelligence community.

There are 16 agencies, and this has been an inculcation for decades and decades. But we need to think this through very smartly and there has to be an atmosphere where information sharing is not only safe but that it's encouraged.

Industry is a necessary partner in operating the networks and it does us no good, at least in my view, to keep critical information from our partner. So I'm working very hard on that. It isn't always easy but I still think that it's the right direction for us to go.

So as Congress moves forward on cyber security, on net neutrality and on implementing the national broadband plan, we'll need your input. We're going to need your insights. We're going to need you to

work with us.

You're the experts. No one can say to any of you here you don't know what you're talking about. You know of what you speak and what you do. My colleagues and I always benefit from this. As you know, my door is always open.

In fact, I think some of the most successful efforts in the congress are really made up of teams, both those that are in the congress and those that work with us. So thank you, again, for having me here this morning. I think this is, what, your 37th annual.

Have you been here for every single one, Ed? No, OK. He was 12 when he started. He was 12 when he started.

So I'm delighted to be associated with you, to work with you.

And, again, Ed, thank you for your extraordinary leadership. I don't think that the progress that's been made for the country would have been as significant as it is were it not for your leadership and the membership of CCIA.

So thank you for having me here this morning, and if you have any questions, I'd be happy to attempt to answer them.

Sure, yes. Yes?

QUESTION: Congresswoman, you have been wonderful for what we call the competitive telecom industry. Sprint thanks you for your hard work on special access and getting some attention to that. I think the FCC has been looking at that issue.

Along those lines, the wireless industry is somewhat concerned about net neutrality in regards to managing our network. But with the recent guideline that came out from the FCC, it appears that they're taking comment on that and have an open mind to that. So I just wanted to see if you had any thoughts with regard to wireless networks and net neutrality.

ESHOO: Well, I think -- first of all, I think that it's a great relief to me to see a reinvigorated FCC. When the democrats won the Congress back and the FCC came in to testify, there were only two other times where the FCC had come before the committee during the previous setup. Imagine that, twice.

One was on indecency and the whole Janet Jackson debacle where I

thought members were going to have strokes talking about it. I mean, you'd think it was -- I mean, to say that it was overblown doesn't even begin to describe it.

I mean, I think indecency is something you have to talk about and work your way around. So I have confidence that the FCC is moving in the right direction on this, and we have a ways to go relative to these issues.

But I think that they're engaged and they're willing to examine different ways of doing things instead of just walking in with a bias for the big guys and no one else counts. So I'm encouraged by that.

But you need to -- obviously, you're engaged and wireless is so important in the country, and we have to make sure that it is not necessarily protected but it's got to be part of any plans that go forward.

But most of all, I'm excited about a reinvigorated FCC. I spent quite a bit of time and did a white paper for whomever was going to come in and then met with Julius (ph) before he took over and went over all of these issues with him. So he certainly heard where I was.

I stay in close touch with him and he does with me as well, which I appreciate, which never happened before. So this is good. For sure it's much better. Anyone else?

Sure, Ed, absolutely, sure.

QUESTION: (OFF-MIKE).

ESHOO: It's a great question. Change is afoot in the country and the electorate is obviously not in a good mood. I understand it. I understand why they are where they are.

They've seen an awful lot happen in a short period of time. I don't think they fully appreciate -- I heard Byron Dorgan talking when I came in the door about how on a Thursday evening the chairman of the Federal Reserve and the Secretary of the Treasury came in and said, "If you don't do something by Monday the entire financial system of the country is going to collapse."

Now, in my book it matters not what administration would say that. That's the way they saw it. We had to act.

But the bailout -- and I think the way the first tranche of money was used really left a very bad taste in people's mouths. I know it

did in mine and I voted for the bailout, and I've never gotten a thank you note for it, but I think I did the right thing for the country.

So when I compare where we are now with 1994, that's the Democrats, we were not prepared in '94. We were not prepared. We're prepared now and continue to prepare ourselves, not only in terms of the resources but also with our message, with organization, with all of that.

So we won seats in the last two cycles that were very difficult seats. I mean, they were 58 percent, 59 percent Bush districts. So we were lucky that we won them. I think that we're going to lose some seats.

We have a large majority but I don't believe that we're going to lose the House. I really don't. I think as we roll out our message and the achievements in a very short period of time that we will sustain ourselves and that we will keep the House.

When you asked the question, Ed, I immediately was reminded of how much is at stake, how much is at stake so that we can keep making progress. So I have confidence in that. I really do.

I'm very curious about all the ins and outs about what's taking place. You really don't see, for the most part anyway, or not so far, where democrats are really kind of eating their own. You have some upsets in some of the primaries, but it's not a source that you see as a result of what's happening on the republican side.

So it's an interesting season, and I'll do everything I can to help us retain the majority, not simply because I want the Democrats to have the majority, as important as that is. I think that we have a healthier view of where to take the country and what needs to be done in order to get there.

When you just look at this area of telecommunications and all of that, when you see the time that -- and time is the most precious thing that God gives us. When it's squandered you can never recapture it.

When I think of almost a decade where we didn't move in the area of telecommunications it held the country back. We're not a country that likes to sit still. We want to be number one. We want to keep pushing the edges of the envelope out.

There are always great debates about this and there should be. But we have to keep making progress. I'm thrilled that yesterday we

did the reauthorization of the Compete Act.

That really was born in my district with the innovation agenda and the dollars that are invested as a result of that will work to ensure that America will really be able to compete in the 21st Century.

So at the end of the day, what do I want to look forward to? I won't be around, but I want historians to write that the 21st Century was an American century.

(UNKNOWN): (OFF-MIKE)

ESHOO: Thank you.

(UNKNOWN): (OFF-MIKE)

ESHOO: Sure. Yes, Bernie (ph)?

QUESTION: (OFF-MIKE).

ESHOO: What reform? Oh, patent reform.

QUESTION: (OFF-MIKE).

ESHOO: Right, right. It is. It is.

QUESTION: The Senate's approach hasn't really reflected the technology industry in Silicon Valley and that sector of the economy and what needs to make things better for consumers and for the economy.

It doesn't seem -- this trolley car seems to be stuck. It doesn't seem to be getting moving.

ESHOO: Well, I don't think I have the best news on this front. I think Zoe is coming -- isn't she this morning, Zoe Lofgren? Is Zoe coming this morning?

(UNKNOWN): Later.

ESHOO: Later, right. So she is up to her eyeballs in this being on the Judiciary Committee and knows the subject matter as well as anyone could know it.

We had a great, great bill in the House and Howard Berman

deserves such accolades for the work that he did and Zoe Lofgren and others. But to have shepherded that through without a great deal of controversy, it has. It's really fallen apart in the Senate.

I mean, my constituents say now they've gotten to the point where they would rather have no bill than what the Senate has. I don't know if a whole delegation of you going to meet with Senator Leahy will help move the bill from where he thinks it should be right now to another place but those that were the detractors have been a lot more successful in the Senate.

But that's inside baseball. I mean, the fact of the matter is that the framers recognize patents in the constitution and how essential they are to our competitiveness and our growth and nothing remains static in our country, thank goodness.

Maybe it does for certain periods of time but overall that's not who and what we are. The whole patent regime really needs to be updated. So all I know is that it's stuck, Bernie (ph), and we've got to figure out a way, we've got to put our heads together as to what it might be that will move us in a much better direction because it's essential. It's the foundation of everything.

Without that kind of reform you're not going to be able to spread your wings and fly. So I don't have the best answer. I'm always hopeful. I'm an optimist at heart, but I wouldn't be in this business if I were not. But we have to think of a new way of getting at it and perhaps that can come from all of you.

Thank you, everyone. It's great to be with you. Thank you.  
Thank you all.

BLACK: We want to -- we actually don't have it printed but we do have a window here for a quick 10-minute break. But our next speaker will come on at half past if you will please be back by then.

(RECESS)

BLACK: Ask everyone to please resume your seats. We will try to continue the program. That way we have a little better chance to make sure we have time for Q&As.

In the back of the room there where you probably couldn't hear me, if you can take your seats.

The reason we have our next speaker is really because of the

importance and relevance of the subject -- and it's not because of the little anecdote I'm about to tell you. But it shows, I think, some poignancy and relevance.

Some of you know -- Senator Dorgan mentioned that I had the occasion to testify on the issue of Internet freedom and human rights regarding China about a month ago.

I want to apologize for any of you who since then have had occasionally difficult time communicating with us. Because ever since that event -- I'm sure it's not connected -- but our system has been brought down a few times. And we have done some tracing of why we think it happened but, of course, proof is not completely positive.

But it is, I think, very relevant to just mention in the context of having our next speaker, because cyber security in its many forms and aspects really is increasingly critical.

We all understand how important it is to be connected, to be secure, to be able to rely on Internet and communications for so many increasingly important parts of our lives.

So we are glad to have Greg Schaffer here. He's assistant secretary for Cyber Security and Communications. He serves under Secretary Janet Napolitano at Homeland Security.

He has multiple hats he wears in that context in national communication system. He is one of the people in the administration, really, that will drive and decide not just for the government but working with the private sector on the effectiveness, scope and parameters of our cyber security system.

He comes to this job with a diverse and excellent background, having served as senior V.P. and chief risk officer at Alltel Communications. He was a director at Pricewaterhouse, running their cyber crime prevention and response practice. He was also a computer crime prosecutor at the Department of Justice earlier.

The risks we face, the challenges and attacks are getting more sophisticated and what's at stake is constantly increasing.

So it's important that we're going to have someone now who's going to give us all the solutions to these problems.

(OFF-MIKE)  
(APPLAUSE)

SCHAFFER: Well, good morning and thank you for having me here today. I don't know if I can quite live up to the "all the solutions to all the problems" approach that Ed laid down, but I do think that we do have, needless to say, a broad set of risks and challenges that face us in the area of cyber security and communications right now.

There's a lot of change and a lot of movement and a lot of activity, no doubt.

And what I'd like to take my time to talk to you about this morning is some of the efforts that the Department of Homeland Security is engaged in to address the threat, and how we are proposing to move forward and try to reduce the amount of risk that the federal government has and, in fact, the country has in the area of cyber security.

I won't talk this morning about much in the communications side but that's the other hat that I wear. And we are obviously very involved and engaged in emergency communications pieces of the puzzle as well and we interact with a lot of those in the room on those issues on a regular basis.

As a practical matter, cyber security is an area where we all recognize that there is a tremendous amount of shared responsibility. It is not something that the federal government will solve on its own nor is it something that industry can solve on its own.

Indeed, the only way that we will address cyber security issues is together. And we recognize that through a tremendous extent.

I think, personally, having dealt with this problem as a federal prosecutor, as a lawyer for private companies, as an executive in private industry and now in the role I have here at DHS, you recognize the advantages and disadvantages that are had on both sides of government vice (ph) private sector equation and how both sides can help one another in order to move these issues forward and to drive solutions and bring innovative ideas and capabilities to the table.

So we're very anxious at DHS to continue to be as engaged and involved with private industry as possible in order to work together to try to find these solutions.

So what's the problem that we're facing? It's highlighted by Ed's story, I believe, but also by a lot of what's changed in the 12 years or so that I've been involved in the area.

When I was a federal prosecutor on cyber crime cases, a lot of what we dealt with was what I would refer to as loud and proud activity. It was the kind of thing that was designed to be seen and heard. It was obvious that something had happened. And that has changed now. We are in a much more sophisticated, much more targeted, much more carefully crafted space from the bad guy's perspective.

And because of that, the challenges for all of us, on industry side, on the government side, have increased dramatically.

There's some statistics out there that show what kind of a problem we're dealing with today. Symantec (ph) recently released some numbers, a survey for 2009 showing that 75 percent of companies -- large companies, small companies, mid-size companies -- had computer cyber attacks in 2009. They reported that they had issues.

Indeed, 100 percent indicated that they had some level of loss associated with their cyber activities. That's clearly gone from an siloed (ph) problem to a horizontal problem that everybody is having to deal with.

The cost of those breaches, the cost of those attacks also continues to rise. And, you know, we've seen statistics over the years, the kinds of breaches that occur, the announcements that need to get made due to regulatory requirements and otherwise; have driven the numbers to a place where you now see that a breach can result in -- the average, according to Ponemon Institute, last year was \$6.75 million to address a breach from a cyber perspective. That's up 2 percent from 2008 to 2009.

The costs are not limited, of course, to the handling of the breach by the entity that has to address it. There's also regulatory expense. There's fines that have been issued. There are class-action lawsuits that are pending for a number of entities. There's a variety of ways that these incidents cost us on a regular basis.

And the fact is that the pace of the growth of the problem is tremendous. Symantec -- Dave DeWalt -- I'm sorry, McAfee, Dave DeWalt, CEO, recently announced some statistics on the amount of data that they're seeing just being developed, the amount of malware that is being produced and put out into the ecosystem on an annual basis.

Forty-seven thousand new malicious codes discovered or being produced on a daily basis. And last year, when they did a study of the whole ecosystem, they were able to identify 34 million samples of

malware.

The scope of dealing with that problem continues to grow. And as a practical matter, we have to be able to address those issues for government, for industry, for the society as a whole.

The fact that it's gotten so much more sophisticated is balanced, to a certain extent, by the way that the government has responded and the way that industry has responded.

I think we have more attention and focus and energy on cyber security related issues right now than we have had in a very long time. When I was a prosecutor a dozen years ago, if the president of the United States had made an announcement as was made earlier this year and a speech about cyber security we would have been quite surprised. It hadn't risen to that level of attention and detail.

But today we do have that level of attention, and we have a tremendous amount of focus and energy going into providing solutions and coordinating the federal government in order to bring the problem into focus and to make progress and reduce the risk.

So what kinds of things are we doing today? Of course, DHS has a number of roles in this space. The first and foremost is defining and designing and deploying a frontline defense for federal departments and agencies, protecting the dot-gov domain.

In that space, we have been involved in the development and the deployment of intrusion protection solutions, intrusion prevention solutions -- and I'll talk a little bit about that in a moment.

We are also in the process of developing standards for the network operating centers and the security operating centers that the government deploys for its departments and agencies so that we have standard practices and procedures; and we can act and handle our network operations as a single enterprise rather than in separate fiefdoms and domains.

We're also moving forward with plans to address incidents when they occur. So we've got a process in place to develop a national cyber incident response plan. And that progress, I think, will tremendously assist us in addressing these issues, again, consistently and with all of the resources in the federal government being brought to bear in incidents of national moment.

We do this in a variety of ways and with a variety of different

programs, some of them that you have probably heard about. The Trusted Internet Connection Program in which we are trying to consolidate the federal government's connectivity to the broader Internet space, so that we've got single points where we can deploy security solutions, manage the network, and make sure that, again, we're managing it in a consistent operational way on a going forward basis.

This really allows us to focus our energy and our spend and our solutions in places that can be more centrally managed, and done more consistently.

We establish in that way baseline capabilities that should be consistent across the federal enterprise.

We're also moving forward with intrusion protection technology that's being deployed at those trusted Internet connections. So you will have heard about the Einstein program, I'm sure. Einstein has several faces to it. Einstein 2 is an intrusion detection capability. It allows us to examine the traffic that moves in and out of federal networks and look for malicious traffic in your real time.

That gives us the ability to know when something is happening and to respond more quickly to risks that are faced by the network.

We have at this point deployed the Einstein solution to 12 of 21 agencies that will serve as trusted Internet connection access providers. And that deployment is somewhat ahead of schedule and will continue, and give us more situational awareness with respect to the amount of traffic and malicious activity that's occurring on the networks.

Today, with 12 of 21 systems deployed, we are seeing 180,000 events monthly. So the amount of activity that has to be addressed, the amount of activity that needs to be looked at by security professionals and worked is quite significant.

We're also deploying that solution through the Managed Trusted Internet Protocol Service, the MTIPS program. And that is being deployed with the Internet service providers that handle the networks contracts.

So as a practical matter, we'll have agencies coming online that don't have their own ticks through the MTIPS program, and they will be in a position to have the same kind of protection as the larger agencies that will manage their own Internet connections.

Ultimately, we hope to have nearly 100 agencies protected by this solution when it is fully deployed. So with that, we get to a place where we've got much better situational awareness, much closer to real-time capability to see what the activity is.

But, of course, that's not the end of the process. The ultimate goal is not to have the activity get on the networks at all. And that's the next stage in the process, which is Einstein 3, which is not intrusion detection but intrusion prevention.

Einstein 3 is currently in a testing phase. We're going through a pilot program to let us see how potential solutions may work and can be deployed.

Those tests are designed to make sure that we know how to get the traffic separated correctly, how we go and look for malicious activity, and how we block it before it ever gets on the network and has the capability to cause harm.

Of course, we've been working extensively with the private sector in thinking about how these solutions should be designed and how they should be deployed. We've also been working with our partners within the federal government, including the National Security Agency who has done this extensively, of course, for the dot-mil space.

So working with our partners we're trying to design a solution that will really prevent the kind of problems that we see and that have been so widely publicized through the various breaches that have occurred.

We do that with privacy and civil liberty concerns at the very top of our agenda. At every step of the way we have privacy advocates within the department and within the interagency.

We've been contacting the private sector privacy individuals to bring folks in to look at what we're doing, give us advice as to how we should be proceeding as we go forward.

So that piece of the puzzle is something we're very cognizant of, because at the end of the day we've got to deploy the solutions in a way that maintains the privacy of the American people and defends the civil liberties of those who are using the network in order to do the business of the government.

All of that being said, it's not just about the situational awareness and the blocking that happens at the edge of the network.

It's also about what we do to knock down the risks that we do know about and is already there.

And today it's not just about IT systems. What is happening quite aggressively is that other kinds of systems are being brought into this world that we know has historically had vulnerability. So we are starting to connect industrial controls and potentially the electric grid, the pipelines, the water systems -- various other solutions are leveraging all of the wonderful capability and efficiencies that an I.P. -based background can provide.

But we need to make sure that we're doing that in a way that is secure and that tries to address as much as possible in advance the vulnerabilities that we have learned about through the IT solutions.

So the department has put a lot of energy and weight into that space as well over the course of the last year. We have, through a variety of processes, started to build out the kind of infrastructure that lets us address the industrial control issues and to do that in an organized way, in partnership with the private sector.

We do most of that under the critical infrastructure partnership advisory council structure. We do that through the national infrastructure protection plan, and the 18 sectors and the critical infrastructure sectors that are defined and designed under the plan.

DHS has the role and the responsibility to be the sector specific agency to manage the relationship with the IT sector and the communications sector. Indeed, I meet regularly with those sector coordinating councils in order to stay in sync and make sure that we are working together to try to come up with solutions.

Through that process, the sector specific agencies and the sector coordinating councils; there's various other structures as well, the ISACs. And ultimately for cyber we also have what's called the Cross-Sector Cyber Security Working Group.

The need to manage the acronyms is extraordinary as you go...

(LAUGHTER)

... from the private sector to the public sector.

So the Cross-Sector Cyber Security Working Group actually gives you the ability to talk with and engage all of the sectors, even the ones that are not cyber specific about their cyber-related risk

vulnerabilities and how they're being managed.

So in addition to the individual sectors we also have a cross cut for cyber. Because, as we know, cyber is engaged and involved in pretty much every one of the sectors at this point. So we're doing that across the board in addition to in each of the individual silos. The department uses those relationships and those structures in order to stay in sync with the private sector, to provide information about where we're going and what we're doing, and ultimately in an effort to make sure that we are leveraging the capabilities of the private sector to bring new solutions and approaches to the federal government and to the ecosystem at large.

There's a variety of programs that we've used in the last year (inaudible) to try and ensure that we are leveraging the data that we have and the relationships as effectively as possible.

We've got some pilots, for example, that I think are moving us in the direction of being more operational with respect to the notion of what our goals are.

It's not information sharing for the sake of information sharing. That is not the end goal. The end goal is to reduce risk. And so we're trying to find ways that we information share that is operationalized and actually helps both government and industry to reduce the amount of risk involved.

One example is work we're doing right now with the FS-ISAC (ph), financial services industry. ISAC is actually being provided with information in a pilot with DOD and DHS to share data that all three of those entities have brought to bear from their network operations and their review of the intrusions and the activity on the networks, an opportunity for us to really look at the data across government and industry.

We're also trying to make secret level information more readily available to our partners across the country by not having to have them come to Washington for cleared individuals to look at data but to leverage our fusion centers out in the field so that people who are cleared to have access to data are actually able to see it closer to home and not have to travel to us in order to get access to it.

The actionable data that we can share, the material that actually allows us to tune our solutions both in government and industry has to be as available as we can possibly make it for both sides to most efficiently reduce risk.

Holistically, the risks that we have are never going to be reduced unless we do exactly that. Unless we are sharing the data across these various domains and doing it as quickly as we possibly can, we are not going to be in a position to deal with the growing and increasing rate of attacks and more sophistication that we have through the groups and attackers that are engaged and involved.

That, from my perspective, requires us to have a broader dialogue. It requires us to not just speak to the security people who recognize and have been dealing with this problem for a dozen years but to make sure that the industry leaders, the people who are data owners whose data becomes at risk through these processes, and others who are in a position to influence the way that we invest in security solutions and go forward to try to reduce risk need to really be brought into the conversation and understand exactly what it is that it costs us to have an environment where the security issues are not being knocked down but continue to grow.

So a lot of work is being done to, again, share that information with the right set of people and put the data in the right hands. Some of the things that we're doing in order to ensure that that happens quickly is to go ahead and put a lot of the solutions that we already are going to market with together.

So we've created something called the National Cyber Security and Communications Integration Center which really takes the operational pieces of the NCS, which is the National Communications System, which is the NCC Watch, the National Coordinating Center for Communications, the US-CERT operations, the Industrial Control CERT (ph) operations, and puts them all in a single facility, along with the National Cyber Security Center and some resources from our Intelligence and Analysis Division at DHS.

So that new facility gives us the opportunity to look at a broad range of risks at a single place and to exercise what will be defined in the national cyber incident response plan, an approach to addressing large incidents when they actually occur.

So, with that, I think I'm close to the end of my time. And I know we wanted to leave some room for questions, but that's a general overview of some of the things we're doing with the department to try to move things forward. And, again, thank you for having me.

(UNKNOWN): Thank you very much. I do (OFF-MIKE)

(UNKNOWN): (OFF-MIKE)

SCHAFFER: I'll answer that in a couple of different ways. The first answer is probably yes. The number of threat actors and the variety and scope of threat actors continues to go up.

As with all things, those who do good have learned that this new technology works very well in making their operations more efficient. Those who would do bad are no strangers to the fact that this technology has opportunities for them as well. So we see a broad array of threat actors.

As you know, in cyber it's very hard to get to attribution. That is one of the most difficult problems. The good thing for the Department of Homeland Security in terms of what cyber security and communications does, my group, is that we focus on network defense.

We are designing and implementing solutions to try to prevent malicious activity on the networks wherever that malicious activity may come from. So there are lots of others in the federal government whose role is to investigate, to prosecute, to deal with those issues in a variety of other ways. But from my group's perspective its defense and make the activity stop.

QUESTION: Just quickly, Steve Castor with AMB. Thank you for coming and also thank you for the work that you're doing. Obviously we're vitally interested here at the table.

Two questions for you, actually. First of all, how is DHS coordinating with all of the other agencies -- the White House, NITRD, NIST -- to ensure that we're not creating separate sets of standards or access points that may be limiting to technology competition?

Number two, how are you also through that process working to ensure that industry is at the table, we're encouraging open standards that don't choose winners or losers in technology by creating standards that might close some out?

SCHAFFER: I think that there's a number of mechanisms right now that are designed to sort of create some lanes in the road, whether it's the comprehensive national cyber initiative or the White House coordinator, Howard Schmidt and company, working to ensure that each of the departments and agencies are picking up the ball and running with the piece that they have on their plate is certainly part of the process.

There's a lot of interagency discussion and coordination on the

very large range of issues here. Certainly more engagement and involvement between the various agencies than I've seen in a very long time, so that level of engagement is very high.

As you say, there is a lot of opportunity to address various issues in various places, but I think we're working hard to try to make sure that we've got single focus so that we don't randomize industry with approaches that we're taking.

I do think that over time we will be in a position to continue to knock down risk with industry at the table. I think every effort is being made, at least from DHS' perspective and what we're doing to engage as much as possible.

We recognize that you have solutions to bring to the table and approaches to bring to the table that we can't develop independently of you, both because of the ownership of the networks but because of the people that you have and the capabilities and the development and the speed with which you are able to get solutions to market and be things that we can leverage.

So we're trying as much as possible to stay aware of what industry is about.

QUESTION: Bruce Aitken from the Homeland Security Industries Association. Secretary Schaffer, a couple of questions about Einstein 3. Is it your office or the Office of Science and Technology, or other offices that are working on this within DHS?

And, secondly, what screening programs or mechanisms do you have in place to evaluate new technologies that could help further this goal of building a barrier around the government agencies rather than trying to rid the agencies of malicious programs? Thanks.

SCHAFFER: It is, indeed, our office within NPPD (ph), the Office of Cyber Security and Communications that's primarily responsible for the Einstein solution.

With respect to the approach to get input, we did do an RFI last year. Sought a lot of information about the various solutions that could be brought to the table, and we are analyzing that data and trying to take the best ideas that we can from what we've brought forward through that RFI process.

But we do that on a fairly regular basis. When we've got new issues or questions and we believe that industry has solutions that we may not have seen before, we're anxious to get that information. And

we will reach out and put an RFI on the street to make sure that we've got the best thinking at the present time.

(UNKNOWN): (OFF-MIKE)

SCHAFFER: I think that we are making a concerted effort to reach out, both through DHS. I know that the White House, as well, has been engaged in various international fora over the course of the last year.

I've been on a couple of international trips working without partners to try to develop solutions. We hosted last year the Meridian Conference, which is an organization that really focused on the industrial control -- involvement in how do we do a lot of the incident response work. We have a variety of engagements from DHS and a section that really focuses on those international partnerships.

So we know, as with industry, government can't do this alone, and the U.S. government can't do this alone. We are inextricably tied to our partners in terms of where the networks go and how the traffic flows.

So unless we've got the ability to work with our international partners we won't be successful in this space, and we definitely are focused on trying to move those arrangements and agreements forward, focusing, I think, on the operation centers like our US-CERT in various countries. And the way that the network operation centers can really assist one another by seeing data and sharing that in real time or close to real time in order to give us better situational awareness and be in a position to respond more quickly to incidents.

BLACK (?): (inaudible) thank you. We all agree international cooperation will be vitally important.

We have our recent example (inaudible) people in the room are not happy with (inaudible). We would urge that the extensive consultation and attempts to make it all sectors and stakeholders have a chance to be involved before we lock ourselves into international agreements. It's hard to undo (inaudible).

But thank you very much for your work and for being here.

Thank you.

(APPLAUSE)

BLACK: As many of you know, CCIA has played an active role in a number of key issues over the years internationally both in Asia and especially in Europe.

But we recently realized that we had a way to make a vast improvement in our European operations. We opened an office in Brussels partly because we had found available to us a unique person to lead the effort and head that office.

Erika Mann, I think, is not a stranger to many people here, because whenever U.S. technology companies would go to Europe and ask their consultants, "Well, who should they talk to in the European Parliament?" Erika Mann was one of the names at the very top of the list.

We're really excited and pleased to have her join CCIA and head our officer there. As a former German member of European Parliament, she concentrated on trade, digital economy, telecom issues, research policy.

She was her party's leader. They call speaker for the Committee on International Trade. She chaired the Transatlantic Business Dialogue and was -- been on the board of Transatlantic Economic Council.

The many, many issues that our industry faces that drive us and keep us focused on policy, that affects us, they exist in Europe. And Europe sometimes gets ahead of us, sometimes they do it differently, but the truth is we are a global industry and we need global solutions.

And having an ability to coordinate our effort in Europe as well as in the U.S. is vital. And having Erika join us is a key part of being able to do that effectively.

So great to have Erika Mann with us.

(APPLAUSE)

MANN: Thanks, Ed.

Good morning.

One is obviously wondering what one can talk about. I mean, you are all the experts. I was a member in the Parliament, as Ed said, for 15 years from Germany. And I always covered three areas. One was

trade, the second telecommunication regulation and Internet regulation, and all the regulation which surrounds this environment. And the last one was research. And I never changed. Those three subjects I covered over 15 years.

And I was very pleased when I got the offer to work with Ed. I like to stay with this industry. It was my industry even before I went to the European Parliament. I had my own company in the sector, so it's the industry which I feel the most familiar with.

So I'm very pleased to be back.

And I thought I'd give you maybe a short overview of what we want to do in Brussels and -- and cover some of the subjects which are important for you.

The office is up and running. It's in a beautiful place. Everyone who knows, Brussels is (inaudible). So when you come there it's just -- you have the commission in front of you, you go out of the office, and you can say hello to the commission.

The Parliament is very close by. It's a perfect area. It's an area when you're there -- it's like being here. You smell the politics in the air and you know what's going on. It's very easy to grasp and to understand.

The media is there. The journalists are there. So we're in the middle of the center.

It's a small office because that's all we need. We -- I think we are very effective. We don't need a big office space. But we have everything.

So when you come there we have little spaces which we can give you where you can sit down. If you don't have your own office there just let me know and we can always organize and can arrange those.

The issues which you, I think, need to understand when you look into the European political landscape now -- there are many issues which are very important for you. It's a very uncertain time -- I mean the economic crisis and the financial crisis is not over yet.

I mean, you have seen the news and you have seen the bailout with regard to Greece. But everyone expects more negative news to come. It's Portugal. It's Spain. It's Italy to some degree. And, of course, coming from Germany you see obviously the news about how the

Germans will have to pay a lot of this, which is true.

So I just want to really draw your attention to the fact that uncertainty is very high. And uncertainty obviously reflects back to business. And your area is one in the industry which -- will be affected. And you can see (inaudible) already on issues which are bubbling up.

Why is this the case? Because Europe comes more from an industry-driven economic base and the service industry is much less developed in many countries. And definitely when you look into the software companies you can see this. So I would urge you really to follow -- to follow all the items which are coming up as early as possible.

Don't estimate that it's understood. Always keep in mind it is important for you to follow European politics. Whenever you have a question, I'm happy to answer them. Let me know even if it's the most simple one which you'd like to know. I'm really happy and pleased to do this.

I work already with some companies. And I think in the areas where we work together we already made big progress. I just wanted you to be aware of this.

Now, what are the issues which you will have to look into? And I think from the broad political framework it is what is called in Europe, Europe 20/20. So it's a kind of foresight into the long-term future, understanding what needs to be done now, what kind of challenges need to be tackled now in the policy framework to make sure that the economic future (inaudible) is a positive and for the society it's a positive future as well.

It is still not true -- it is still in discussion and in debate in the commission. There are big fights all over the place. And this tells you always something.

The same is true for the innovation agenda. The innovation agenda, it's the big forecast -- you know, what needs to be done. And very important for your business. And there was a tiny battle already (inaudible) which tells you a lot. This was about open standards and how important open standards are.

Luckily (inaudible) language is back into the text, but it tells you a lot -- you know, how much the fight is going on and how much miscommunication, misunderstanding sometimes happens just because some people are not on the table. So go and get involved.

The same is true for the digital agenda. The digital agenda was voted last week in the House in the European Parliament. And the Parliament tried actually to bring all of the important issues to the table again.

But still, I mean, there is still some improvement which can be done. And the work only started with regard to the digital agenda. That's why there is something you have to watch carefully. There are many more commissioners there which will play a role, not like in the past. There are many more. So it's not that you can just concentrate either on the competition policy or internal market or the legal side, but you have now trade involved when it comes to the active (ph) agreements or you have the trade commissioner who is responsible for that.

And in many ways, there are more commissioners involved than ever before. You lost one. You lost a big voice which was in the industry commission on -- the new commissioner, Mr. Oettinger from Germany, who's now responsible for this sector. His prime focus is energy and some other subjects. But there is a big voice which is not there any longer, so it needs to be covered by someone else.

Of course -- I mean, there is Neelie Kroes. She's now responsible for the sector. But if you have only one commissioner watching one sector specifically, that's never enough. Because it reflects in so many other political areas. So it's very important to keep this in mind.

Anyhow, happy to work with you on the subject.

The issues -- and, by the way, for many of you, watch the innovation agenda. I mean, I'm looking to Edward Peters (ph) but it's true for many others as well. Because you have a complete revival of debate when it comes to the health care sector, to the energy sector -- I mean, government procurement, taxation. Many issues will be debated and rediscussed and reshaped.

It's the best time, actually, to enter the market and to discuss it.

And what I said about the office, by the way, which we run in Brussels, it's not only -- ability to reflect not only what's done in Brussels, but we will play a role in member states as well.

The issues, like discussed this morning, there's no big

difference. Net neutrality, it's on the agenda. Broadband rollout. Investment involvement -- who is going to finance for it. Is the classical model surviving (inaudible) do we need to invent a new model?

Spectrum policy. Privacy is back in many ways. Security issues. The big issue is cloud computing -- not always well understood. So go and get involved so that the issues which affect you are understood right.

ACTA (ph), it's the big fight and the big discussion. In Europe there's a big difference which you have to be aware of the new power in the European Parliament. The Parliament will now vote on most of the issues and most of the subjects. ACTA (ph) is one of them.

It's not true for the Congress because it's a government agreement. We'll not have to vote on ACTA (ph). This is opposite to European Parliament (inaudible) Parliament that have to vote on it (inaudible) indicates it will vote against it, the agreement (inaudible) continued.

The strange story -- it will be signed by the -- by the commission first and by the member states because it's a shared (ph) agreement. It's -- legally it's a very tricky agreement.

So member states will have to -- will have to sign and agree on it as well. Because the criminal sanction part, it's still not -- you know, it's not shared responsibility in Europe, but it's still a national responsibility.

But nevertheless, the Parliament will have (inaudible) to vote on it. And if the Parliament will vote against it and it will be -- it will not survive.

Those are the -- maybe a brief overview of the issues and the work I'm going to do on behalf of CCIA. Thank you so much.

Sure, go ahead.

(APPLAUSE)

(UNKNOWN): Thank you (inaudible). It's wonderful to have you.

MANN: Thank you. Thank you so much.

(UNKNOWN): With the British election changes and the different views that the Conservatives and Liberal Democrats have in Britain

about the European Union, and everything from currency to policy. What's your assessment -- or is it just way too early to tell -- on sort of where this is all going?

I guess let me pull into that as well the fiscal crisis, the budgetary crisis. I mean, back -- back when -- as the European Union was forming each state had to be able to demonstrate that they actually had fiscal responsibility and balanced budgets and so on and so forth, and now here we are in melt down.

Where do you see both the European Union and the E.C. going in the period up ahead? And how does Britain fit into that in its new political makeup?

MANN: Yes, everyone is watching the scene. Because Europe is shaped by its national background -- the backbone of the European area. I mean, I'm a Social Democrat. I'm very pleased, although, by the outcome of what happened in the U.K.

I think the Labor was just not really capable of caring and understanding the need as much as the Conservative and the Liberals are doing right now. It's just a trend, a little tiny shift which occurs all the time in policy, and it's natural.

I think they will do pretty well. I think they are very -- two good -- I mean, the two leaders Cameron and Clegg are very sensitive politicians. The Labor -- the Liberal Party, it's more like -- in the U.K. it's more like the old Social Democratic Party was in Germany. I mean, we had the Social Liberal Party as well.

So they're not classical. You always have to watch when you talk about liberals from the U.S. perspective. And you watch the European -- that's a different meaning. It's a very different party.

But it will be interesting to watch. Because you have a party which left the Conservative Party in the European Parliament. They have their choice. They have their own party structure now in the European Parliament.

Personally I think they will go back. I think they will join the Conservative again. I would be surprised if they can stay outside of the -- like they do now. I cannot see this, having the Liberals inside and having the Conservative outside of a big party grouping. I don't think it's going to work.

So I think we will see that Cameron becomes more European.

That's -- I mean, I don't know how much she will become more European. He will not move on the Euro -- certainly not, but he will move on other issues. And giving in and giving five seats to the Liberals in his Cabinet, it already tells us a lot.

And Nick Clegg, he's a very reasonable person. He was in the European Parliament. I worked with him. We worked together in the Trade Committee for many, many years. He's very reasonable. He comes from -- he worked in the commission. He worked with Solian Burton (ph) when he was commissioner on trade. He's very reasonable but, of course, he -- I mean, I'm positive.

I think it's -- it's going to work out. And for the Labor it will be good to start fresh and to start new.

Taxation issue, yes, they will be completely in many ways looking at in general what needs to be done. And, I mean, you have a big debate in most member states because the level of taxation is just not sustainable in many countries. It's just too high, and you don't see the growth and the investment and the innovation that you need. But how will they reshape it? It's tricky.

There's a discussion as to Monti (ph) report (inaudible) would be important for you to follow. The Monti (ph) report (ph) is already out. It will be debated. The big political discussion starts next week. It's about what needs to be done on a big agenda in Europe. And this will look into taxation issues.

He made a tiny announcement, but then he stepped back immediately -- if this shouldn't be done more, you know, on a European scale. But he stepped back from it because it's such a sensitive issue. So -- that's a good time to do something.

(UNKNOWN): Erika, I just wanted to thank you for the tremendous work you've done so far on ACTA, the anti-counterfeiting trade agreement.

And I think most people, because it wasn't transparent, and because of the terrific work you did there to enforce the transparency, now are able to see that platforms are subject to an increased liability through that without the full measure of the exceptions and limitations. And I think we can now have a much different debate that we can actually discuss the substance.

And I guess I wanted your take on is this a time to push for a more innovation-friendly copyright regime in Europe through fair use

or to really push on that, or should we just work on the ACTA front and not try to go even further than ACTA?

MANN: Oh, I think you have to go further, because that's something which is not well understood. Because we always have in mind that we are similar, that Europe and the United States, you know, in framing policies and in our legal approach to issues.

So there are the underlying -- you know, understanding is we are similar. But we are not similar. In many ways we are not similar. And this is quite often misunderstood.

So I think it is very important to push now. Because if you get a new innovation agenda re-drafted which is not looking into fair use and the balance of powers, and it's doing it right now because -- it's a misunderstanding that only protecting is important, but on the other side it's not important. Of course protecting it's very important. But, you know, the other side is important as well, to have open standards, to have open platforms, to have a fair use, to have exceptions because of many, many, many reasons -- sometimes technology reasons, sometimes a completely different reason. And this is not well understood.

And I think it is really not understood. It's not, you know, that legislators don't want to get it right. They want to get it right. But you have to do it right now. It's -- the best time is to do it now. And people are listening.

And we are actually -- CCIA is doing work on it. We are part of an initiative actually which did a big announcement last week. We had eight members of the European Parliament there. And we will continue.

We will publish a brochure, the one that you have in your -- which is inside of the -- yes, there. This is the U.S. one. And we will do something -- they're working on it to do something in Europe, which is similar, which explains how limited, actually, our possibilities and why companies and innovation actually is suffering because we don't have the same possibilities to the same degree, so just go and push for it.

We will run events. We have a competition event on the 10th of June. We will discuss some of the issues there as well. And we hope to have an innovation event in the second half of the year where we would love to pick up those kinds of items.

(UNKNOWN): Let me just ask you to go a little further on -- in

overlap between -- and it's also related to the British election. The Conservative Party in the U.K. is different in a very fundamental way in that they kind of have, if you will, a growth description with a hands off business but also hands off private activity.

And so they're much more civil libertarian focused.

MANN: Yes.

BLACK (?): Whereas, the Labor Party actually has implemented their camera system, surveillance. Have authorized much more filtering type approaches on Internet content and going in a very controlling direction.

Whether or not we have any sense whether the Liberals and the Conservatives now will try to take back some of that Internet supervision control censorship policies in the U.K. And then put that together with the fact that in Europe, which has prided itself on having very strong privacy policies, nevertheless, in country after country we've seen instances of secondary liability being imposed, which really opens up and makes vulnerable people's confidential information, and almost calls for filtering and censorship -- so how -- what kind of -- the trends, these contrary trends that are going on, both Europe wide and within different member states?

MANN: Yes, that a very good observation and I think it's probably too early to tell what's going to happen in the U.K. What you can see from the different Liberals which are in power in Europe, generally there tend to be more libertarian as you say, and they continue.

You see the fight in the German government because it's going on already. And so they will not change their agenda. They will not change their agenda neither in Europe nor in the member states. I don't see this.

And the Conservatives in the U.K., I think they will be very modest and very moderate. I don't think they will continue happened -- what we have seen with the Labor government. Which, by the way, happens all the time in politics. I mean, I've seen this all the times: that the left tends to be suddenly, when one's in power, to drift more on a certain issue, more what you expect from the right, and, you know, visa-versa.

It's a kind of strange policy process which nobody really understands, maybe historian (ph), I don't know -- or a psychologist,

maybe even better -- what's going on.

But I would be -- but, again, it is something which needs to be sorted out in Brussels. Because if Brussels is not getting this right and it's not understanding this right -- and ACTA, it's a good -- you know, it's the first good occasion where Europe can get this right.

And the Parliament will be -- it's probably the most helpful source. Many reasons -- I mean, I can't go in to explain everything -- why it is complicated in the commission. Because if it's in the trade negotiators -- the problem is it's with trade negotiators. And, I mean, I appreciate trade negotiators because I think they just, in most cases, wonderful -- have a wonderful personality, very detailed knowledge and just very bright. But on the other side they tend to lose sometimes political instinct.

And I think in this case that's what we are going to see; that you have seen over the last year and that you continue to see.

(UNKNOWN): Can I follow up on that for just a second? Because of the discussion I heard of the Labor Party Conference in Britain last October. That there was extensive dialogue going on between the Labor government and the Obama administration on centralized data aggregation of personal information with citizens.

And in Britain it was pulling in extensive data from the national health system as well as from the attorney general and homeland -- the secretary of the homeland and so on and so forth.

And that -- in fact, that there was extensive work going on between the Labor Party and the Center for American Progress and the White House on these issues.

In the debate that took place, one of the -- one of the people in the audience stood up and said, "Well, but this is all my personal information. And I may give it in for health reasons or I may give it in for a driver's license or I may give it in for some other purpose, but to have the government pull it all together in a massive data system where its monitoring, that really concerns me in terms of my personal privacy."

And you have laws governing the privacy in the private sector but somehow the government can do whatever it wants. And the response was, "Well, in a monarchy, of course, at the end of the day, it's all the queen's information."

(LAUGHTER)

And so then for them to go on about how closely they were working on policy the Obama administration felt a little uncomfortable.

So I'm curious, to follow up on Ed's question, where you see that going with the Conservative government? And are there similar dialogues going on between the European Parliament and the E.C. and the United States on these same massive data aggregation strategies?

MANN: Oh, sure. Oh sure. There are many debates, and I was part of many of the discussions, I mean, both in the Parliament, or like what Ed mentioned, the Transatlantic Economic Council -- although the Transatlantic Economic Council one has to be cautioned very much because it's not really working that well as one -- what was expected.

But I think you are absolutely right. The discussions are going on all the time. And -- I mean, still, having been a politician for so long, I think what Democrats tend to do or want to do is to get it right. I mean, this is, at least in Europe, the case.

So that's why sometimes (inaudible) the Labor are the same and the German -- you know, the German Social Democrat, many of us (inaudible) overstep sometimes because they want to get it right. I think this is one of the explanations.

I think (inaudible) be very important for you -- I mean, for the business really to explain why in (inaudible) limitations in areas and on privacy are important. And you don't want -- why it is not really good that the government tries to overlook everything and to become the super agent, you know, the godfather, you know, of knowing everything and having all the information.

But there is, of course, the history that you must understand as well. There's much more trust although this is changing. And I think the election -- you know, the election outcome is part of the explanation.

The trust in government is slowly -- less visible in Europe as well. So there is a change, and you might want to step in through this door and might want to explain, again, why it's important to have separation of knowledge about critical issues as well, like the ones you pointed out.

It's a long way to go. It's really not be easy. Because there's still this strong belief that a super strong state should control and should know everything. And the super strong state, it's still a

positive one. It will not to harm.

But that's something that you -- I think we will want to reach out. It's a good time to do this.

(UNKNOWN): One last question about the patent system. Because many of us -- we've mentioned have been working for years (inaudible) reform. The U.S. (inaudible) legislation and (inaudible) hit a wall (inaudible) problem. But when I've been over to Europe and some of the discussions we've had, the Europeans are still assuming (inaudible) that the U.S. is the system to model, they're not (inaudible), even while we're saying it's broken. And yet the momentum to copy what is some of the worse aspects of the U.S. system still seem to have a lot of momentum.

Maybe you'll take a minute to explain the (inaudible) differences the E.U. passes (ph) you have to get a uniform patent (inaudible) versus (inaudible) what the battles are on that issue.

MANN: I mean, it's like in the U.S. It's going nowhere. I thought actually there was a tiny chance to make some progress in Europe, and the only thing which Europe still wants is to find a solution with regard to languages and translation and to find a solution about where you can file, how you can file, and how much -- it will have -- to have somebody, a European court system which then comes into place if you have conflict.

So it was a very simple approach to the very end. It was not the big patent reform which was foreseen in the very beginning. But I just heard -- and I had no chance to look into it -- but I got information from a colleague that sent me some information that obviously this process is stalled and that the commissioner now is withdrawing.

Now, there is again, obviously, you know, the underlying conflict between member states. Because the trademark office is in Spain, and -- and -- so Spain was obviously very keen if there would be something newly created in Europe that actually -- it would be Spain who would finally (inaudible) agency, body, whatever it is going to be -- the additional court or whatever.

And Spain is now still in power because of the presidency. They're still having the presidency for the first half of the year. So everybody thinks because Spain was site maneuvering a Europe initiative. But it goes on and it will go on. It will continue to go on. I'm not seeing, in a moment, that there will be some progress made. I can't see that.

BLACK (?): (OFF-MIKE)

(UNKNOWN): Make or break.

BLACK (?): Again, welcome Erika.

MANN: Pleasure.

BLACK (?): And if you've been under the impression -- those of you who don't live in Washington all the time -- that this is a minefield, believe me Europe is more complicated.

(LAUGHTER)

And it's really great to have a guide through that minefield.

MANN: Thank you.

BLACK: Let me now turn to -- have with us and welcome somebody who has done something very unusual. He basically entered government. He had an important task to do, he did it, and he said "Bye."

(LAUGHTER)

And, you know, that's -- and he accomplished it, and very well. And you all know who I'm talking about: Blair Levin, who has been a key player at the FCC, with Reed Hundt in the private sector, advising investors in the telecom area, and the (inaudible) as a widely respected commentator and advocate on key telecom and related issues for many years.

Again, I really hate reading long lists of accomplishments, but with Blair it's tempting. The reality is, he's somebody that when we all knew he was part, and co-led with Julius Genachowski the Obama technology transition team we all said, "Oh, yes. That's great."

And we knew that -- when we read during the campaign the policy pronouncements that were being put forth, we were not surprised, but pleased. And when he went to the FCC and took charge of the broadband plan we all had high hopes.

And we also knew, I think, that this was not an easy task. Many of us had, as I said earlier, for more than a decade really called for the nation to provide some leadership in this area. We have the lot of players, a lot of stakeholders. It's complicated, difficult to get things done, and very difficult to get good things done. And we

needed a plan, and we needed somebody who understood all aspects of our industry in order to lead that effort.

The only regret I have is that I'm not sure who's going to quarterback well enough all the implementation of the plan as well as he did the drafting of it. But I have a feeling he's going to play a role there, too.

We're very happy to have Blair Levin with us.

(APPLAUSE)

(UNKNOWN): (OFF-MIKE)

(LAUGHTER)

LEVIN: Before you sit down, I wanted -- this is the bound copy of the plan. I wanted to bring a copy...

(LAUGHTER)

... for -- I didn't want (inaudible) go on the website constantly.

BLACK (?): (inaudible)

LEVIN: Right. Right.

It is, of course, on the website. There are series of technical appendices, which are...

BLACK: I want an autograph later.

LEVIN: I'll do that.

(LAUGHTER)

There's a technical appendices on -- for example, about an 80-page thing on non-adopters; the first time the government has actually -- the first time anyone, really, has looked at why are non-adopters non-adopting. Last week or so we came out with about a 136-page really extraordinary piece of data work on the broadband availability gap and the real numbers on that. And there will be some other ones coming out.

I know we're running a little bit behind, but I would like this

to be as interactive as possible. I think a lot of you know a lot about the plan and have questions, and I'd much rather spend the time answering those questions. I will say, I think whenever somebody does something -- I look at this as we had a great time doing it. We had a lot of laughs. We had a great deal of fun. But it is a serious work. And it is an -- it's an interesting thing to watch a serious work be dissected in the media.

It was quite amusing in the 24 hours after the 400-page plan was released. There were hundreds and hundreds of stories. There were hundreds of people who were quoted. I feel 100 percent certain that not a single person who was quoted had actually read the plan.

(LAUGHTER)

One has to forgive them. That's just the nature of the way the news cycles work. I recently read a blog by someone who berated us for not doing certain things, and said if they were really good they would have done the following three things. And I read it and was thinking, "You know, it's been six weeks. This guy hasn't read it either. Since we actually did all three things that he asked for." But it would have not been such a heartfelt story if he'd actually read the plan.

So I'd rather answer questions than just talk. But I'll talk for a few minutes about a couple of things I think are important, particularly for this group.

The plan really, properly understood, is an effort to accelerate the movement of the American economy generally, and the public sector quite specifically, to the digital broadband platform. That is, we want more of the economy to flow through the network's devices and applications that your companies create and operate.

Now, one could take the view that the market will, on its own, complete this transformation and no government plan is necessary. And that, on its face, is a perfectly reasonable point of view. But one of the things we discovered -- and we knew before, but really discovered in greater detail -- were three reasons why the plan was necessary.

First, that in that ecosystem of networks, devices, and applications it turns out there are key inputs controlled by the government, and that the current policies hamper economic growth.

Second, in sectors where the government is the major buyer or

supplier, it turns out the current practices of government are actually barriers to the transformation, making the delivery of health care, education, public safety and other government-affected services more costly and ineffective than they should be.

And third, if America wants to lead in this century, as it did on the last, it has to accelerate its own transformation to the digital economy so that it remains on the leading edge of the creation of technologies, products, and markets.

So what I want to talk about today is how the several hundred recommendations in the plan help address these three issues and accelerate that transformation.

And I want to point out that while everyone in this room, I think, probably believes that transformation is well-understood and represents an obvious path, there are significant barriers to leading us in the right direction.

And the truth is, this country has not yet embraced broadband in ways that it should. For example, in nearly every metric used to measure the adoption of health care information technology, the U.S. ranks in the bottom half of comparable countries, even though electronic health records alone could save over \$500 billion in 15 years. The electric grid is not connected to broadband, even there are tremendous savings to be had there.

In education, online courses, constantly studies show, dramatically reduce the time required to learn a subject and greatly increase course completion rates. Yet only 16 percent of public community colleges, which are the fastest growing educational institutions in the country, have the high-speed connections institutions need. Nearly a decade after 9/11, our first responders still don't have that interoperable public -- advanced broadband network.

Why are we having his problem capturing the opportunity? Well, one answer, this kind of economic transformation is that not that dissimilar to others we've had in the past. There was a terrific paper 1990 by a Stanford economics professor, Paul David, called "The Dynamo in the Computer," which explored why major innovations in microelectronics, fiber optic communications, and computing had not yet shown up in the productivity statistics.

And he talked about a diffusion lag, because it takes time for one technology to replace another. Factories, for example, didn't

reach 50 percent electrification until four decades after the first central power station. And the logic of the factory owners was, "Why should we invest in electric power for factories when we already have perfectly adequate supplies of water and steam? We had designed these factories with this power source. Why do we need to transfer?"

In fact it wasn't "profitable," in the words of the paper, to replace production technologies to the old regime of mechanical power derived from water and steam.

In other words, the problem wasn't just getting the electricity. It was overcoming the cost of completely reengineering factories and processes to benefit from electric power. And we learned that there are a number of sectors that simply do not want to reengineer their processes to take advantage of this. Because there are a variety of reasons -- a variety of embedded investments that have already been made.

Now, time will, in some sense, solve this problem. But there is enormous potential costs in terms of economic growth and leadership.

And we thought a lot about another business classic, "The Innovator's Dilemma," the 1997 book by Harvard business school professor, Clayton Christensen, which examined the difficulties large companies have innovating. This is well-known to this group. I think Ed has run this -- or been involved in this group for several decades.

And as I look around the room, there are a number of companies -- this is kind of like your opening day of Harvard Law School, where I did not go to law school, but so it said that they say, "Look to your right. Look to your left. One of you won't be here." In the case of the computer industry, it's, "Look to your right. Look to your left. Two of you won't be here."

(LAUGHTER)

That industry has no problem doing this over time. But when we think about countries it's different. And the reason, of course, is that well-established companies develop their own systems to efficiently meet their clients' current needs. And they are reluctant to cannibalize their own products, and therefore are usually late to employ new radically transformational technologies.

One example from the book is the five-and-dime giant, Woolworth's, which was a leader in the retail market for years, but could not capitalize on the discount store trend because it was unable

to abandon a business model that was high-margin/low-inventory turnover strategy.

Innovation instead happened from the outside, which is why today Wal-Mart is the world's largest retailer -- which, of course, is a major investor in information technologies -- and Woolworth's has been out of business for more than a decade.

The U.S., too, has led the world for at least several generations. But past leadership does not guarantee future success. And, indeed, as one reads Christensen's work, past leadership in some ways threatens future success.

So as we looked at broadband in America we could see elements of both diffusion lag and the innovator's dilemma threatening future American leadership. Now we could also see how competitive markets and private investments are the key to driving the kind of innovation that will enable America to lead. And I would say there are several ways in which our national plan is very different than the national plans of the rest of the world. And I'm happy to talk about it, but one of them is a much higher focus on private investment.

And there were some obvious points. For example, the data suggested that despite a specific congressional mandate the set top box market is not open to competition innovation. So we had recommendations we thought would lead to that. And we think this is really important because if we lead in integrating what you might think of as Internet applications and content, with the traditional linear programming of multichannel video providers we think that's a whole new industry and America ought to lead in that.

But in order to do that, we have to break through the current device bottleneck. And it's interesting because when we started that process the cable industry was pretty reluctant. But as we started having further conversations with them, clearly there was a division in that industry and there was a moment where I said, "You don't want to be the industry that says no to the iPhone." And you could almost see how people started thinking about this differently in terms of what their real business is.

So that's one area where we think private investment can really move forward if the government adopts the right rules. Another section of the plan focuses on lowering the cost of inputs to broadband deployment, such as access to rights-of-way to improve the business case for deployment and competition. There's some stuff on research and development, which also we think can lead to significant

private investment.

Another recommendation is that the federal government investigate a national framework for digital goods and services taxation. Industry argued, and we concurred, that the current patchwork of state and local laws relating to taxation of digital goods and services hinders new investment. And a business model -- you don't want some small entrepreneur in, say, Kansas having -- which is able to start up a business with relatively little capital having to spend all of their capital figuring out how to file forms in 50 states.

So there needs to be something on this. I don't think it's actually that controversial. I will say it is a measure of the problematic politics we have in this town that by uttering the word "taxation" we cause certain people to say, the FCC is recommending taxing everyone. When, in fact, this was a suggestion by industry. This was one of our more, shall we say, conservative recommendations.

And at a moment where we were being criticized I wanted to lean over the table and whisper to the people criticizing us, "These are your guys. This is your team that's suggesting this. You know, actually read the stuff. Don't just react with the knee jerk reaction to the word taxation."

But clearly the most important recommendations -- and I would argue too without a doubt -- the single biggest threat from the government perspective -- you all have threats in this private sector. You all compete with each other. There are many threats you have. But the single biggest way the government can screw up your business in 10 years is by not having a good spectrum policy.

Now, spectrum has been the biggest driver of private investment in what we might think of as the ecosystem. We might not really think of it as a broadband today because we're not at 4G, but we will be there.

And in fact when I look back at my earlier time at the FCC, it may well be that the most important thing Reed and I did when we got there in the fall of 1993, the digital television transition was supposed to last for 30 years, and that was a soft 30 years.

It would continue on as long as the broadcasters thought it should. We said that's ridiculous. It should be ten years. We did that. Congress then kind of overruled us, but eventually we established the principle there had to be a time (inaudible) and eventually it took about 12 years.

Had we not done that, this country would not have spectrum available for 4G. The spectrum that AT&T and Verizon are using to build it out is the spectrum that we are essentially getting back by virtue of the digital dividend from the digital television transition.

There's a very valuable lesson in that which is that by the way, you know, in this obvious government -- government tends to react to crisis. It does not do well anticipating the crisis to come and avoiding it. But that's one of the benefits of a planning process.

And looking at the numbers, we could be wrong about this, it's pretty clear that in the middle of this decade if we don't get a significant amount of new spectrum into the ecosystem, we will have a spectrum crunch.

So if we really want to have private investment, we need to have more spectrum. If we use our spectrum more efficiently than other countries, our businesses and consumers will pay more for service, discouraging investment across the economy. It's a huge government lever, and we have to ask if we're doing it right, and we're really not.

You know, for example there was a lot of spectrum that was lying phyllo (ph) simply because the government was not deciding what the rules were. And so I would hope you'd agree that the single worst use of spectrum is where it's just lying phyllo (ph) because of inaction.

Partly due to the planning process the FCC had already started by clarifying the rules regarding mobile satellite services, the owner of some of the spectrum is actually committed to building out a new 4G network committing billions of dollars, creating thousands of jobs -- first new facilities-based entrance in the broadband space in nearly a decade.

It may not happen. There are significant risks. But if that happens, that single change alone could have a great impact on innovation and competitiveness throughout the mobile and fixed markets because of the collateral effects.

We also want a mobile broadband system that welcomes innovation of new business models. Right now, most of the activity is over spectrum for which there're exclusive licenses. But other business models may emerge either spectrum through secondary use or through unlicensed or opportunistic use.

We actually can't be certain -- because this is very technology dependent -- how the different models will merge, but we want each to have their own spectrum and other inputs necessary to realize their full potential. For secondary use, for example, we need greater transparency and one of the things we did in the planning process was to create a dashboard so that people can know how spectrum is being used.

For unlicensed or opportunistic use, we need to finish the white spaces rulemaking. But we should also consider using that technology for other opportunities including whether there should be a nationwide ban for unlicensed use.

But the most important long term recommendation was integrating market mechanisms into our spectrum allocation process. Think of it this way, spectrum is the single largest capital allocation the government makes into the broadband ecosystem, and it makes it every year.

Can you imagine -- I used to work for Wall Street institutional investors and if I went to a client, and the client said, "I have a great new way where we're going to make billions of dollars investing under the following rule. We're only going to invest our capital in companies that we invested in 60 years ago."

That would be a very short conversation because I would not want that person as my client because they would not be there in about 60 seconds because that's the dumbest possible way to allocate. You want to allocate on the basis of markets and technologies, consumer demands. That is the way we invest spectrum.

So when government allocates spectrum on the basis of history rather than markets, it substantially reduces the private investment that follows. So we propose that the FCC have the ability to offer current holders of spectrum, both in the private sector and in the government incentives to put their spectrum into the auction so it can be used for a different purpose when consumers demands in markets change.

This should not actually be a controversial -- anyone who understands markets should completely understand why this is the right thing to do. But I have to tell you that this is actually a hugely controversial proposal. The bottom line is that the most important place to look for billions of dollars of capital investment, if that's what we as a country as serious about, is with spectrum policy.

But as with electricity before, it's not just adequate to get fast broadband to every person, business, and community institution. If we really want to change the way America does business, we have to reline some of our own processes for the possibilities of broadband. And in many cases, outdated, misguided regulations are in fact hindering the development of broadband applications.

For our most critical national priorities, benefits aren't online, government data is too seldom online, few policy processes engage the public. Well, actually we ate our own dog food and had a lot of conversations online. As I noted before, health care in the U.S. lags behind comparable countries in using health I.T. which could decrease hospitalization and improve quality of life and save hundreds of billions of dollars in the coming decades.

But regulations hinder this. Doctors are not certified to practice across state lines. Telemedicine, remote monitoring, remote diagnostics and more face reimbursement difficulties. There's also very significant problems in terms of data that you all were talking about earlier.

In education, one study suggests incorporating online tools and customized education material in the classroom enables students to master the same content in half the time, but few students currently have access to such material.

The result in part to outdated teacher certification and of course accreditation requirements, outdated approaches to use the copyrighted materials for education and outdated textbooks.

So changing these rules is part of what we need to drive this transformation, but that actually isn't going to happen until we can refocus the public dialogue. So let me just close with an example and then happy to open up for questions.

So a few months ago, we heard a lot of about textbooks in Texas. We saw countless hours of debate on C-SPAN and indignation and abundant columns and newspapers and blogs dedicated to whether Texas school kids should in their textbooks learn about the contract for America, John Calvin, Thomas Jefferson, et cetera.

Now I don't mean to dismiss these questions. They are no doubt important in some level. But while we focus on these, we have missed the far more important question. Why are we using textbooks at all? Why are we still using ink on paper? Why are we using a medium that can be only updated occasionally and at the cost of millions of

dollars instead of instantly at the tap of a keyboard?

Why are we using a medium that can't integrate easily access to videos, audio material, reference guides and other resources that we know helps students learn? I've got three kids. They learn very, very differently. Two of my kids would have desperately wanted the ability to see visuals, whereas one of my kids gets it perfectly fine from words. Textbooks, it's all about the words.

Why are we still using a medium that can't undergo constant assessment and improvement, that can't offer materials tailored to individual students' needs. This isn't done anywhere else. There are lots of sectors that adopt materials so that they go to your particular needs.

You know, one thing about textbooks -- you had no idea whether this textbook or that textbook teaches the Battle of Gettysburg better. But if you had an electronic textbook, you could actually give a quiz at the end of the chapter so that over time, the best material is the material that's incorporated. And by the way, every morning, the teacher knows who's read their work and who hasn't.

But also knows what work needs to be done because they know how the students did on the test. So you know we really ought to be leaders in developing a completely new category of broadband delivered educational content. Content that resembles textbooks as closely as the movie Avatar resembles old radio programming, something wholly different, wholly new, immersive, participatory.

And we ought to be leaders in using broadband similarly to reinvent how we deliver health care, public safety, and other government services. But instead, I fear that what we're really doing is suffering from that innovator's dilemma, spending all of our time trying to optimize some methods of the past, ignoring the ways we could fundamentally change them for the better.

Now, the beauty of the Internet is we don't know what's going to happen next. The plan is not a complete map. It is a map, and it is a path toward the future, but the most important thing is to understand that as a country, we have to ask and answer these bigger questions. We have realign our policies and processes and we have to understand how broadband will transform this country and grasp that opportunity if we want to lead the world in the 21st Century. Thank you very much.

And with that, I'll be happy to answer any questions.

Yes?

QUESTION: Hi. I have a question about adoption. If I read the MBP correctly, it's a target for access in a so-called 100-square initiative, but does not set a concrete target for adoption date. So can you share with us if the FCC ever thought about or discussed setting a target for adoption date? I'm asking this because Japan is in the middle of forming a national broadband plan after the U.S.

LEVIN: They're having an adoption problem.

QUESTION: Yes, (inaudible).

LEVIN: I think your adoption problem is different though than our adoption problem.

QUESTION: Yes. He says in his Twitter that Japan should target 100 adoption date by 2015. So can you share?

LEVIN: Everybody likes even numbers. Look, I -- yes. Did we think about it? Yes. I think the right way to think about what we did and effectively what is chapter two where we set certain goals, and this was a difficult thing to communicate. The goals are not guarantees. We do not say, "If you do these 200 recommendations, you will achieve these things."

These goals are things that are very -- they're dependent on a lot of different things. You know, the single biggest driver of adoption is in fact the value proposition. And if somebody comes up with an application that drives people -- in the same way the television was a very compelling application and drove adoption to about 98 percent.

Now, broadcast television was free, but you still had to buy a TV set. But my point is you could, you know, someone could think of an application that could drive broadband to 95 percent in three years, right?

I mean if for example hypothetically, I know Apple has been trying to figure out a way to offer an a la carte over the top video offering. Now, I don't know whether they'll achieve that. But if they achieve that, you could see a lot of people who say they currently afford broadband suddenly saying, "I'm going to buy broadband and get my television that way, and the total bill would be less," et cetera, right?

So those -- what we use those targets for would be essentially as

a compass. That's where we're going, and if we don't get there in -- if it looks like we're not getting there, then we need to reassess what we're doing. So it's just kind of a measurement as opposed to kind of this is a government guarantee.

There are a couple of places where we have interim goals, and the 100 is one of them. And there's a concrete reason for that because that actually is the one -- the reason, which is actually not stated in the plan, is that America, the broadband ecosystem is about to see two very big developments.

And I don't think anybody actually knows what the real impact of those developments will be. One is DOCSIS 3.0, and the significance of that is that for the first time really since the beginning of broadband, one player -- cable -- will have a huge asymmetric bandwidth advantage over their competitor in about 70 percent of the country.

That may not be meaningful. You know, other people are quite certain what it means. I must say it seems to me, based on my experience, level of certainty is always inversely proportional to the amount of time you've actually spent in a room trying to figure out a capital allocation decision.

But there are people are certain that this means a cable monopoly. I don't know that that's what it means. It's a possibility. It could be that in both Japan and Korea you have much faster networks, but you don't actually have people using them and the companies are having very difficult times in fact selling the higher speeds. Now that may change because Google with their fiber initiative may develop certain applications and there are many different variables.

The second big change is 4G. So what we're really saying is after these two developments hit the field, it's a good time to take a look at what the state of play is. It could be that the 4G deployment causes -- well, at that point you'll have this very interesting phenomenon that the current -- other than FiOS, the current teleco strategy is kind of in that ballpark where it's possible that 4G will compete with it, depending on the nature of the applications.

It's also possible that, you know, DOCSIS 3.0 will wipe them out, and then they'll have this interesting challenge of do they lower their price, do they invest in fiber, or do they do something else.

So that seemed to us to be an appropriate time to take a look at

what was going on. But the adoption thing, the situation in Japan is so -- one of the things that was really striking about the John Horgan (inaudible) adopters is the importance of culture frankly, and how certain -- you've got to really do adoption in the neighborhood. It's a very different problem.

Other questions?

QUESTION: Absent any reclassification by the commission, are you concerned that there are any parts of your broadband plan that can not be implemented in light of the Comcast decision?

LEVIN: You just I just gave this whole speech in which I didn't say net neutrality or (inaudible), and if I'd had my way I would have written a whole plan without it too.

I guess you know I've read a lot about this. I was actually involved in some meetings, but not that many meetings. And I just say if I could step back and be in my former role as an analyst, looking at a lot of the commentary on all sides on the Title I and Title II question, it does remind me of Woody Allen's comment that mankind is at a crossroad, one path leads to utter hopelessness and despair. The second path leads to complete annihilation. Let us hope we have the wisdom to choose wisely.

(LAUGHTER)

You know, this very apocalyptic stuff on both sides as to these choices. I don't know whether it's a matter of temperament or it's actually a matter of legal analysis, but I'm not worried about it. I am worried about intellectual capital. I am worried about political bandwidth. I am worried about engaging in spending all of our time concerned about what is -- what people, you know my coming from the outside, there's policy, and there's legal strategy.

There's litigation strategy. I was a lawyer for ten years. I didn't do that much litigation but I litigated a few things. And, you know, I think litigation strategy is one thing, but it's very different than the kind of decisions that actually effect, "Do we get a gigabit to every community? Do we get e-books in the hands of kids? Do we save money on health care I.T.?" It's just a different thing.

So I'm not worried about it the way other people will, though I will say I'm not -- it's been a long time since I practiced law, and so I'm not -- I deeply respect folks and I -- let's put it this way. I have a great deal of sympathy for the chairman's problem, because in

some sense, he did the Comcast case for a variety of reasons gave him very bad options.

But hopefully we'll choose wisely and move on. I think that, you know, for example on the spectrum issues, which I obviously care deeply about, I don't think there's really a Title I and II thing. The second half of the book, really about 200 pages, is all about the national purposes. They're not affected by it. The adoption piece I don't think is terribly affected by it, though it is actually probably a universal service.

The thing that is most affected by that analysis would be how we deal with the low income. So it affects it somewhat, but I'm more worried about, you know, it is pretty clear that we're going to spend a huge amount of time talking about something where, you know, other people can correct me.

I actually -- I think there was moving -- we were moving toward a greater consensus on how to solve the problem not necessarily as a legal matter, but as a practical matter. And that's, you know, it would be good to do that so we can move on to other things.

Other questions? Yes.

QUESTION: Good morning. Thank you for all of your work on the plan.

LEVIN: Thank you.

QUESTION: I wanted to ask you, if I may use the term the Godfather of the plan, what do you...

LEVIN: Godfather of the plan?

QUESTION: The Commandant if you will.

LEVIN: The Godfather is my favorite movie, and I went to see Godfather II with my older brother who was very disturbed by, if you recall at the end of the movie where the younger brother ends up causing the death of the older brother. It was very disturbing to him how much I liked that movie.

QUESTION: I can imagine.

LEVIN: He's still alive by the way and doing very well.

QUESTION: Glad to hear it. My question is what do you envision to be the role of intra-modal competition in Internet access in affecting or implementing the National Broadband Plan.

LEVIN: Yes, that's a great question. There are many answers, many things I don't know. And as an analyst, I prided myself on, you know, I had a really high record of getting things right. One thing I got wrong was a piece I wrote on the iPhone.

When it came out and the book, the current book on Wall Street that summer was *The Black Swan*, and I did a piece entitled, "What is the Black Swan of telecom? Hint, it's not the iPhone." And the reason I wrote that was because I thought that in terms of the structure of the industry, the iPhone was a very cool device, but did not change the structure of competition, the market structure, it wouldn't affect the things that Wall Street people cared about.

That was wrong. And it was wrong for an interesting reason, and the reason was if you go back, I'm not even sure Apple recognized the extent to which the portable device could become a platform for hundreds of thousands of applications.

And that, you know, their negotiating leverage in a variety of different places could change things, and of course this led to many different structural changes in the device market, but also the relationship between devices.

And one of the things in any value chain, and this is a value chain, right? I mean you have networks and devices and applications. There's not only competition for the customer, the customer between those three things for who gets the premium return.

And I'm not smart enough to figure out where the competition is really going to come from. I will say this -- it is not realistic to think, as far as I can tell, that there will be any new fixed broadband providers. OK?

That is to say I don't believe that broadband over power line is going to work, and I don't believe economics will ever be sufficient for someone to start a Greenfield (ph) thing. So that's a problem, but that's definitely an issue.

But then the question of where does the innovation and consumer benefit come? Does it come from the networks getting faster? Does it come from the applications getting better? Does it come from people developing new kinds of devices that, you know, you didn't know you

needed and then you didn't know how you lived without kind of thing?

So I don't really know, and I think that, you know, one of the really good arguments for net neutrality is that it allows applications to effectively compete with things we've traditionally thought of as being provided by the network provider.

All right, so that -- I'm very sympathetic to that kind of argument. But other countries do it differently. We have a unique situation whereas we only have two. That actually is one more than most countries have for more than 50 percent of their country, right? I mean cable, we have the highest percentage of cable market share for broadband of any country in the world.

That's a really big fact. We have cable passing 90 percent of the country. That is -- other than I think Canada, I don't think that's true anywhere else. It's really not true in most of the world, so I mean, so these things effect it.

What we tried to do is focus on those things where we had a high level of confidence that if the government acted better, like with rights of way, it would improve the situation for everybody. There's no downside to having better coordinated rights of way. There's no downside in my opinion to having spectrum constantly be re-allocated based on markets.

But as to whether that would, you know, it'll really be taken care of through inter-modal competition or intra-modal, that's -- you're making a prediction. I mean one of the things that is really interesting to me is whether 4G effectively competes with DSL in five years.

I've heard it and read it both ways but, you know, I don't think we really know.

Other questions? Yes.

QUESTION: (OFF-MIKE)

LEVIN: Well, unfortunately I didn't have to spend time watching Carolina basketball this year. But that's a private joke. It was good of him to have this season because I would have missed the games anyway.

QUESTION: So having spent several months (inaudible) policy like this is (OFF-MIKE)

LEVIN: I actually think it's unbelievably important, but there are, you know, yes, right. We'll move to baseball from basketball.

Look, there are -- I'm obviously biased in this regard, and I appreciate you asking the question. Every carpenter, you know, looks at everything like a nail I suppose.

But the truth is I don't know. There's both the kind of prevention, the downside, and the creation of the upside. And so I would say as clearly as succinctly as I can when I look at the problems we have, I don't know how we solve them without significantly increasing the level of which we use broadband.

In other words, as a country, we are not competitive with the rest of the world because we spend a significant, greater portion of our GDP on health care. All right, that is a question of competitiveness. It's also a question of social justice, but if we're going to spend it all with the number 17 and the rest of the world is spending 12 or whatever it is, and by the way, they're getting better results too.

That over the long term is a huge weight, you know, if you had someone running a race in the Olympics and they were -- they had to carry an extra five or ten pounds, they're not going to win that race. So if we think about the problems we want to solve, you know we're doing badly in education. OK?

I'm not saying this is going to replace great teachers. I am saying what you want the teachers to do is focus on helping the kids. And I remember very distinctly I went to public schools until I got to my third year of college.

You know, in pretty much every class I was in through elementary, middle school and high school, the teacher wasn't teaching for me. The teacher was teaching for other kids in the class. And I'm not bitter about it. I'm just saying if I had had a tool that enabled me to do math at my speed, if I'd had a tool that enabled me to do Spanish at my speed, which by the way was conservatively less than since I was in school with a bunch of -- it was a heavily Hispanic community. It was Los Angeles.

In any event, my point is that there's a reason why you do better with, you know, we may kind of in some sense revolt at this notion that looking at a screen can actually help you do better quicker. We can't solve these problems unless we really change the way we think about those problems.

The other thing that is true is what is leadership about, you know? I mean, we could have in the year 1900 decided we want to be leaders in rail service, and we could have missed everything about automobiles, right? Actually it wouldn't be so bad to be leaders in railroads again, though I think with the geography of our country it would have never happened.

But my point is this is, you know, if we become the leaders -- there is no country that's the leader in health I.T. that has a lead that we couldn't overcome. We have -- one of the things that was very clear in the plan is that to be a leader in this economy you need to have -- you don't need the fastest networks, but you need fast networks.

What you really need is to be leaders in applications, and we have the ability to do that; we have the leading companies here. We, you know, in health care, if we combine the creativity that we have in Hollywood with the technical genius that we have in Silicon Valley with the substantive genius we have in our leading hospitals, we ought to be the leaders in health care I.T.

And that's a product that we can sell everywhere. Look, you know, the simple truth is Verizon and AT&T -- and I apologize if they're insulted by what I'm about to say, but it's just a simple fact -- there's a limit to how much they can export. Whereas, you know, companies represented here, Google, Facebook, Intuit, these are all applications that can be used around the world, should be used around the world.

That's where the leadership -- I don't know where else -- I mean, you know there's -- Tom Friedman and others talk a lot about leading in energy and I'm sure that's true as well, but a lot of that has to do with broadband too because of things like the smart grid.

So I don't -- I think the implementation of it is really important, but in that regard I would note that it's not just the implementation at the FCC. It's the implementation that Aneesh Chopra and others in the administration will be doing. Yes?

QUESTION: I found your comments about open education materials to be very interesting, and I have a multi-part question from that. First, have you received pushback or (inaudible) from the publishing industry that would be (OFF-MIKE).

The second part is how has that (inaudible) state and local level

really can leverage their enormous investment, and they spent billions and billions of dollars (OFF-MIKE)

And then, third, at the FCC has there been consideration of the whole increasing (inaudible) making federally funded research (OFF-MIKE)

LEVIN: Moving backwards, on your third point, that is something which I know that they're looking at at the Office of Science and Technology Policy, where they spend a lot of time thinking about research and development stuff. And Aneesh the CTO is charged with coordinating the implementation of essentially the second half of the book, and that's one of the issues that we raise in the book.

On the education side, we worked extensively with the Department of Education, and the person who we had running the team I believe is going over there, or is already over there. The reason I'm hesitating is I'm not sure what's public information and not.

It's not stock material information so I'm -- we haven't violated any FCC rule, but I'm -- but he's a terrific person, and I spent a lot of time working with them.

As to pushback from the publisher's, I think that, you know, most of the kind of public attention has been on the telecom portions. Actually, it's funny, if you attended any congressional hearings, most of the questions related to the one page in the book where we talk about Title I and Title II, in which we simply say there are some who say it should be this. There are some who say it should be that. And we're just saying that here are things we ought to do and that jurisdiction should come.

So in other words it is, you know, most of the attention has been about the thing that it wasn't. But I do think that -- look, I have a lot of sympathy for Secretary Duncan because there are so many problems. The ship is leaking in so many ways in terms of our educational system.

The notion of -- Machiavelli said something which we kept seeing time and time again, right? The most difficult thing is change because those who are hurt by the change know their interests. Those who are benefited by the change are not organized and can't see it clearly. Or as we sometimes said, the future doesn't have a lobbyist. It just doesn't.

So this is a problem in which in a quiet way the publishers will

do what they'll do, but it will be quieter. And it's not quite clear what the coalition is who benefits from open source textbooks. So I do think that it'd be interesting to see a coalition of device manufacturers, content providers, but non-traditional content providers.

You know, what is the single biggest content that's actually used inside the classrooms, in science classrooms in America today? Turns out to be Nova, right? Which is the PBS program produced by WGBH. And they produce terrific stuff.

I don't know why WGBH in ten years isn't the largest producer of educational material in the country, right? In other words, if you start from the Nova, and then you put that in to the book, you think about it that way, we're going to redefine books over the ten years. And we ought to have educational books be a big piece of that.

QUESTION: Actually, that was the same question I was going to ask, so I'll try to do it a little bit differently. I was on the (inaudible) the other day which is always interesting, and overhearing a conversation for two and a half hours from a book publisher and from the two copyright lawyers for the book publishing industry going on and on and on about how awful the Internet is and how bad companies like mine are how, you know, impossible the space is.

And then they proceed to pull out all of their phones and show each other pictures of their kids and show each other the stuff, and they talked about a great vacation, travel site that compiles the best deals from all around the Internet. You know, like the platform, and they're sharing and they're showing each other downloaded apps they're doing, and they're looking up stuff on their phones.

And I was like, there's just such a disconnect between what people do in their personal lives and then what they are advocating in -- what the old line business interests, you know, very strongly believe, you know, they need to do and sort of how do we -- is this -- from where you've sat for the past 18 months or so, how do we address that?

LEVIN: You know, it's a really important question. But it's one I actually didn't address in the last 18 months. First of all, you know, it was funny, because I was part of the transition team, and I was involved in the drafting of this legislation as part of the stimulus bill. But, you know, helped draft it and thought nothing of it.

And then in early June, got called in by (inaudible) cops and said, "By the way, we actually have to do this thing now. Would you like to do this?" And at that point a third of the time had already run and stuff, and very quickly made the decision that the planning process -- it was probably a time issue, but it was also -- there were other issues as well.

That for it to succeed, it would have to kind of be weirdly blind to politics, because it was important that it would actually -- if you think about it in terms of the long term, you want it to actually be a blitz of some kind of authority, that we were not cooking the books, we weren't fiddling around with the numbers, the numbers are what the numbers are.

And that was a really important -- particularly for issues like universal service and a number of other issues that we looked at. So I didn't think about, you know, how to overcome that. But it has really, as we got into the process, particularly in the national purposes, what was really striking is -- and it looked very much like other kinds of examples, like electricity, where people are very comfortable doing what they're doing.

And so the way out of it has to be that somehow we have to create a coalition of the future. And, you know, your organization has always been part of that in some sense because you guys, you know, you're about the future, and your economics are different than the book publishing industry.

So, you know, one has to be sympathetic to them on some level. But for the sake of the country and the kids and that, that's actually I think the real challenge, and I would say that as much faith as I have in Julius and Aneesh who have known a long time and think very, very highly of, it really is about that kind of coalition of the future coming together to say, "OK, we really can't, you know, it's great that we passed a health care bill," -- Maybe you agree or disagree -- "but the real truth is that when you look at doing health care kind of in a data driven way in the same way that Google, you know, did advertising in a data driven way, that's where the real progress is going to be made."

And that's also, by the way, the only thing that's going to prevent -- that's really going to bend the cost curve is by creating that.

Tom? Or either one -- the representative from T-Mobile, whoever may be.

(LAUGHTER)

QUESTION: (OFF-MIKE)

LEVIN: You know, look, I think that one of two things will happen, or let's put it this way. I have very little doubt that in the long run the plan will be implemented (inaudible) spectrum part to a very significant degree. But the important ideas in there will be carried out because we won't have a choice.

And if you look at every kind of trend, it just kind of leads you there. We were on the right side of history, and I know people in the broadcast industry get very upset when I say certain things. But you know, I didn't make this up, right? I didn't -- I love an industry that says that the spectrum part of the plan is the biggest threat to the industry since it began in 1942.

This is an industry which managed to go from basically 100 percent market share in the evening primetime programming to under 30 percent. They managed to go from its own distribution for 98 percent of the country to about 10 percent, but no help from, you know, they did that on their own. Didn't need any help to do that, but somehow the spectrum part in which we say by the way, we will give you money for an asset that you, you know, are essentially leasing. It's a weird thing. But that's where the politics are today. That's not where the politics will be by the middle of the decade. And the question is whether we are reacting in a panic mode as we are doing to the oil spill, or as we did to Katrina or -- look, I can assure that if in the year 2001 somebody had said, "Oh, by the way, here are the problems in New Orleans, and if we don't do something, it'll be horrible," and if that person had succeeded and Katrina had blown through, you know, that person would not be remembered.

So my aspiration is actually to not be remembered, for us to solve the problem before it becomes a crisis. But it becomes a crisis, you know, then we'll have to then, by the way, there are a number of alternatives. It amazes me that the broadcasters think that must carry is going to survive forever because, you know, that's a case where, again, I'm not much of a lawyer, but I did practice for a few years.

I've read the decision, which was 5 to 4. I read the fax that the decision -- this was a justification of a very extensive intervention by the government on behalf of one industry for another industry. Every fact in that case has changed to improve cable's

argument.

Well, at some point, you know, it happens, right? So in any event, I feel confident that over time that would be true. But in a short term, I don't know that there's the bandwidth politically for people to understand that we have to get more market mechanisms in the allocation process.

And that's not about broadcasters. That's also about getting government to have more market mechanisms, for other parts of the spectrum. You just, you know, we need people to be able to reallocate based on what the market is saying not on the basis of history.

Earl (ph)? Good to see you again.

QUESTION: I'd like to follow up on your comments here.

LEVIN: I would hope so.

QUESTION: With spectrum, and a number of times now you've mentioned the transition with cable.

LEVIN: Yes.

QUESTION: And what I'm curious about is -- and I can't claim to have read all of the pages of the broadband plan so hopefully you can point me to the right spot.

LEVIN: Even I can't claim to have read them because by the time I read the sixth draft of it, I couldn't read it anymore. I'm not sure how it came out.

QUESTION: How did you deal with the fact that -- or did you deal with the fact that under the cable model, just thinking about the broadcasters and then being behind the curve now. Under the cable sections of the statute, their business model is predicated on exclusive control over video. And as you mentioned earlier, you know, Apple working on an app to do individualized video.

It seems to me one of the biggest potential obstacles to high speed broadband in the United States is you have to get rid of that model. You cannot have the network operator having the right to exclude other people's video or to maintain their package of video at the expense of everybody else.

And so as you pointed out, DOCSIS 3.0 comes along, we can talk

about how little innovation there's been on the cable set top box side of things.

LEVIN: And we do.

QUESTION: Yes, you did.

LEVIN: Which, by the way was not -- no one thought we were going to do that.

QUESTION: Right. So the question I've got is putting those pieces together, it seems to me you missed the major step then in saying the real thing the U.S. needs to do is not only transition the spectrum from broadcasting, but to transition out of the cable model into a true open platform that allows individualized use of the bit stream.

LEVIN: Well, we can have a long debate about this, and I think that's a worthy debate, and I would make the following observations. Let me re-characterize your question as saying the question is how will the future of over-the-top video proceed? And because when I use cable broadband at home, it's totally individualized. We don't have the cable model.

Now, how that came to be and all that kind of stuff, you know, they don't make money when I visit Google. They don't make money when I visit the New York Times Web site. They make money by just selling me a thing, right? So it's very individualized.

It is absolutely true that there's a future involving over-the-top video. We don't know exactly how it will be done. We don't know even kind of broadly how it's going to develop. It's incredibly important. I don't -- but that's -- right now, that's about contracts.

And one of the interesting things in talking to folks is everybody's very excited about it, but also everyone's very nervous about it.

QUESTION: You get your over-the-top video, you're correct, through your cable modem which is individualized.

LEVIN: Right.

QUESTION: What I'm saying is you've got a pipe that's subdivided. And the financial incentives are huge for whether you're

talking about a cable operator or an incumbent wire line operator or even a wireless operator to reserve as much of that spectrum for their personal pipe, their content and services by using the cable model to segregate it.

So you'll have a two-lane country road that's open and interactive, and then you have an eight-lane highway that's under the cable rules. And so I'm just curious why the broadband plan didn't address that.

LEVIN: I'm not sure that's really -- well, first of all I'm not sure that's actually accurate. In other words, in terms of the applications in uses today it doesn't feel like, you know, a few years ago it did feel like that two-lane country road.

But now, when I watch Hulu or I watch TV on Netflix, it's as good as I -- I can't imagine it much better. You know, I hit the Netflix thing and boom, it's right there. So I'm not sure that's accurate.

I do think it's a really interesting business question of who -- of how you do this over-the-top video, and in that regard, I actually gave a speech to the small cable guys. I've decided I'd rather be here than give a talk to the large cable guys out in Los Angeles today.

Like I said, you're the coalition for the future. But no, actually I think the cable industry is in a really interesting position. Their competitive advantage is bandwidth.

You know, Brian Roberts is a really smart guy and he's got really smart people around him. I would say that knowing what I know, I think I agree with some Wall Street guys who say, "Why are you buying NBC?" Like, why not -- if you could -- what you ought to do is you ought to invest some money in some applications that make Americans want 50 megs, because at that speed you've got a huge advantage.

So, it could be that cable, and by the way, one of the analysts, Craig Moffat, who heavily disagrees with what the commission did on Title I and Title II and I frankly -- Craig's a great guy and I think very smart, but I disagree with the piece he wrote on that.

But he wrote a very interesting piece back in March saying basically the current model is going to break. Re-transmission is going to break it, and I'm roughly interpreting him saying that whereas he doesn't see how the government can regulate the price on cable, this model that's existed for about 20 years where the cable

guys and the programmers fight over how much money it should be, and then at the end of the day they just pass along the consumer and the rates keep going up.

At some point that model breaks, and it may be that a cable guy says I want to affirmatively break that model. But I don't know, and sometime you'll tell me what specific recommendation you would have said. I would say that, you know, I think that's -- I don't think that's a problem today. That could be a problem in the future, and we didn't try to solve every problem that we thought about in the future. I think there are very significant problems off in the future that there were just too many variables for us to work on. But I certainly agree that if we see the Internet developing the cable model, that's a big problem.

QUESTION: (OFF-MIKE)

LEVIN: It's a great question. We didn't really focus on that, and there are a lot of good reasons why we didn't, but I think it's an absolutely fair critique to say that as a practical matter going forward, unless you do some things differently, you may not achieve it.

For example, it would not necessarily -- I think it probably would be a good thing if there was somebody, probably in OMB, who took it upon themselves or institutionally said as we think about all the different ways we hand out money to schools, to local governments, to public safety, to educational institutions and health care institutions, et cetera, that broadband -- broadband is always going to be a part of that.

You know, I mean economic development -- one of the interesting facts I learned was that, you know, economic development folks in states have all these charts showing where the water is, where the power is, where the roads are, blah, blah, blah, and of course they're now adding where the broadband is because you actually cannot sell, you know, rural North Carolina to economic development developers without having adequate broadband there.

So in the same way, there needs to be somebody in the government probably who's looking at it holistically. But we debated that internally, and it was like we just went beyond our ability to articulate that in a thoughtful manner.

I don't know -- and also I think that you know, there's interesting questions about what the FCC should do and what the FTC

should do, and we generally stayed out of that. I think that, you know, whoever takes on -- if they do a plan in, say, 2015, there's a few issues that I would recommend that are further along by that point, and that would be one of them.

But I think that it's a good thing that we have a CTO because I think that he's in a good position to work with all the different agencies and make sure this gets implemented.

BLACK: (OFF-MIKE) We have time for one more question before we break.

QUESTION: Blair, I think the plan is just great, and it's a tremendous job. The one problem I have with this administration is that it seems to be focused on the exclusion of everything else, and some of the...

LEVIN: You think the problem is the administration is focused on the broadband plan to the exclusion of everything else?

QUESTION: Yes.

LEVIN: That was not my impression.

QUESTION: One example, for the past 12 years now, the whole issue of what is VOIP, is it regulated, is it not, does it come with interconnection rights and reciprocal compensation rights, has just been avoided by the last two administrations.

Can this administration go much longer without addressing that and resolving those kinds of really core questions?

LEVIN: You'd be amazed at how long you can go without addressing core questions.

(LAUGHTER)

No, seriously, I'll reveal that back in those couple of months when I was merely a friend of Julius, if he had asked me should I take on universal service and inter-care counter form, I would have said "No, don't do it. The politics isn't right. It's about -- we're about two years away."

And then I suddenly was in this planning process and it was kind of like, if you don't address that, I don't know how you fulfill the congressional obligation.

So we had to, like, accelerate the process. And actually I think the process was useful because it brought the parties closer together. I think there's now a very good chance that we can make significant progress on that issue. But I just use that as a way of saying no, no, you can avoid the problems for awhile.

Look, there's a moment -- there are many things to me that are quite amusing. Some of the blogs are now very concerned there's going to be a broadband tax, you know, that we're going to tax broadband in some way.

It's a very difficult question to figure out what's the revenue source for universal service, if you want to add universal service. Now, it's a little disingenuous for us to say, you know, the future's broadband; it's not voice and to, you know, over some period of time to say but we're just going to keep assessing the voice revenue base forever.

At some moment, there has to be a transfer. But I don't know that that moment is now because of the revenue structure of the industry. There's lots of issues. You have to stage these things.

So as to the specific question, there's a moment in time when you, you know, it goes into the zone where you can actually accomplish it, but I don't know that that is now. I think that there's an awful lot on the plate of the FCC. The plan itself created 66, I think rulemakings that there's a chart for.

That's a really big challenge. The telecom act was slightly bigger and had a lot more deadlines, but it's nonetheless a very, very significant challenge. And so you have to, you know, you have to figure out what you can do and when you can do it.

And I'm not sure that that is -- I think that eventually happens as one is reorganizing compensation. And also you know, as one reorganizes the contribution base. But I don't see that as necessarily having to be done within the next 24 months.

Thank you very much, Ed. Appreciate it.

BLACK: We'll take a recess.

We have lunch set up next door, which will start in 15 minutes, and we have -- our Senators are going to call us and let us know when they actually come.

(RECESS)

BLACK: Please continue to eat and enjoy lunch. Don't rattle the silverware too loudly. But I do want to take this occasion, because we are back in a tricky time schedule and our -- our speaker has some very important meetings to attend.

Before I -- I formally introduce Ambassador Sapiro, let me say that once again we want to thank our sponsors, AMD and T-Mobile in particular, for their support of this program.

As you all know and you've heard it earlier today, but, you know, what CCI stands for is -- is, I think, unique in the industry, and -- and having such a diverse group of companies support concepts of openness, competition, innovation the way we do is -- is vital. It is our companies that really make it possible for us to be a voice in Washington and around the world that needs to be heard.

So let me move on and say that having Ambassador Sapiro here is not only great from a policy standpoint, but she's a friend, and we served together on panels and committees before, and having somebody with her breadth and depth of background at such an important position as deputy U.S. trade rep is very comforting.

And we know there are a lot of battles that take place, and knowing there's someone who really has the kind of understanding of the complexities and the realities of our industry is -- is very important.

A few of -- again, you all have the bios, once again, in your book in more detail, but Miriam has served as the director of European affairs and National Security Council, was a member of the secretary of state's Policy Planning Council, a special assistant to President Clinton, who worked on China e-commerce issues for Coalition of Service Industries.

We had a number of years working together serving on the Advisory Committee for Information -- OK, I'm going to mess up the name -- International Communications and Information Services for State Department. Anyway, I chaired it for a couple of years. I can't remember the name.

But, you know, for a global industry that we are in our industries, the international environment is -- is vital. U.S. Trade Representative's Office is such an important player in making sure that the legitimate interests of the various American industries are

heard and projected as we deal with countries around the world.

It's been a difficult season for trade. CCIA has been from, you know, being a leader on the China Trade Agreement, on Open Trade Agreement, on NAFTA over the years -- it's something we're deeply committed to. We think getting rid of barriers to trade and making sure we have a reasonable and fair international trading environment is -- is critical.

It's no secret that we have some problems with the trade agreement which is -- we call ACTA -- which is under negotiation. We hope that the end of the day some very good part that will -- will survive, and some parts which we are not quite so happy about will see a sunset.

Miriam is -- Ambassador Sapiro is -- is a -- a valuable voice and insightful player, and it's a real pleasure to have her with us today.

(APPLAUSE)

SAPIRO: Thank you, Ed, so much for that very generous introduction. And many thanks to CCIA for inviting me here today.

I'm especially pleased to be here, because not only do I get to see Ed, and I know it's not easy to get him off the golf courses in Florida these days...

(LAUGHTER)

... but I also get to speak to an organization who has the first two words of their slogan is "open markets," which is very similar to ours.

And finally, I got to eat lunch, so I'm really -- I'm really deeply grateful to -- to have this opportunity to talk to you all today and to be able to discuss a topic that is so important to all of us here, which is the intersection of information and communications technologies and international trade.

First, I'm going to provide a brief overview -- I promise you it will be brief -- of the administration's trade priorities. Then I'll speak to how specific trade goals relate to the ICT services sector and some of the challenges that we are now facing. Afterwards, I look forward to hearing your thoughts on addressing these challenges, and what we at USTR can do to support a robust and innovative ICT sector.

Many of you know earlier this year the Obama administration released its trade policy agenda, which sets forth many of our major trade priorities. Although time constraints don't let me go through these in detail, I will highlight a few for you.

First, the administration is strengthening its efforts to enforce U.S. rights in the rules-based trading system. We are doing that by improving our monitoring and our trade enforcement efforts, including bringing new cases at the WTO as necessary. We are also supporting work to complete an ambitious and balanced Doha Round that liberalizes trade in the three core areas of agriculture, goods and services.

Second, we are working to address non-tariff barriers, known as NTBs, by seeking transparency and due process in our partners' trading practices from government procurement to market regulation. Our commitment to identify and eliminate NTBs can be seen in two new reports that we issued in March.

These reports focused for the first time specifically on sanitary and phyto-sanitary barriers and on technical barriers to trade that we believe harm the ability of America's agricultural producers and manufacturers to export around the world.

Third, we continue to work with our trading partners to ensure that they provide adequate protections for intellectual property rights. Ed mentioned the ACTA -- the ACTA, which is one such effort. In particular, USTR continues to press China to address certain troubling indigenous innovation policies that could discriminate against or unfairly disadvantage U.S. stakeholders.

Working closely with other U.S. government agencies, USTR has raised this issue with the Chinese at multiple levels, both in Beijing and Washington, and will continue to raise that issue at every appropriate opportunity, such as the U.S.-China strategic and economic dialogue that's going to take place later this month.

Fourth, we are pursuing new regional initiatives, including the negotiation of a Trans-Pacific Partnership Agreement known as TPP. This will be a high standard 21st-century trade agreement that will provide a critical link for trade between the United States and Asia.

Fifth, we are working to resolve outstanding issues with our pending free trade agreements and to build upon existing FTAs. We continue to engage actively with Congress, industry stakeholders and the government of Panama, Colombia and Korea to address remaining issues. Indeed, just this week Ambassador Kirk and I met with

Panamanian Vice President Varela during his visit to Washington.

Sixth, we are intensifying our engagement with the major emerging markets of Brazil, Russia, India and China. In the past few weeks, for example, we have held discussions with Russia regarding its accession to the WTO. And in April, I led the team to Brasilia to discuss ways to strengthen our economic and trade partnership and to identify a path forward on the cotton dispute.

As a result of these talks, Brazil agreed not to impose approximately \$800 million in WTO authorized countermeasures at this time while we continue to engage to seek a long-term solution to this dispute. Brazil had been authorized to retaliate not only against U.S. goods exports, but also against U.S. intellectual property rights.

Finally, we are seeking to use trade policy to lower the cost and to enhance the effectiveness of our energy and environmental policies. A centerpiece of this effort is our work with willing partners in the WTO to achieve faster progress on liberalizing trade in innovative and climate friendly goods and services through tariff reductions and other initiatives.

Against this backdrop I want to focus for a few minutes on ICT services in particular. Broadly speaking, the administration is seeking to ensure that U.S. suppliers can compete in foreign countries and on a cross-border basis in the supply of transmission services, computing services, and the applications and content that ride on what is now a globally interconnected, increasingly broadband network.

Since these areas are a significant U.S. competitive advantage, their expansion abroad is an obvious priority for us. At the same time we recognize that our trade goals for this dynamic sector must be able to accommodate new and changing technologies and business models.

Over the past decade we have had success in creating a trade framework to support the development of competitive telecommunications markets and greater access for computer and related services. We have done this with respect to individual countries through the original GATS negotiations, subsequent WTO basic telecom negotiations and associated commitments, WTO accession processes, and the refinement of rules in our FTAs.

As a result U.S. telecom, computer and related suppliers are, with few exceptions, able to fully participate in all FTA markets and to a lesser degree, limited typically by foreign equity restrictions,

in most other WTO markets.

U.S. suppliers now have a broad global presence in operating the infrastructure that provides the pipes, storage and processing power driving globally interconnected networks, including the Internet. They are active participants in multiple layers of this global market, including development of submarine cables, data centers, in countries' fiber networks, cell phone towers, and switching and routing equipment.

Nonetheless, our work is not nearly done. While most countries are relatively open to computer services, telecom remains a concern. Our two neighbors, Canada and Mexico, prohibit foreign control of most facilities-based services. Further away, China and much of Asia remain major challenges with only a limited facilities-based presence allowed in many of these countries.

Given the continuous presence of strong incumbents and a significant capital investment required to become a facilities-based provider, to which Tom was just referring a few minutes ago when we were talking, it's not surprising that U.S. companies are unwilling to invest on a minority share basis. This makes addressing foreign equity limits a priority for our ongoing work.

Even with the ability to fully invest, a weak or captive regulator lacking a commitment to competitive market entry can prevent even the most sophisticated network operator from succeeding. In many cases, it is the government that arbitrates conflicting claims over spectrum access, interconnection and rights-of-way in order to ensure that a competitive market can flourish.

Thus, starting with the WTO basic telecom agreement and refined in our FTAs, we have put a particular emphasis on principles to guide regulators focusing on transparency, impartiality and the introduction of pro-competitive policies.

A recurring theme over the past decade has been the slow, but growing acceptance that most of the technology decisions in the network, particularly in the wireless sector, are best made by the supplier and consumer choices in the marketplace. This concept of technology neutrality has found an increasingly stronger place in our FTAs as governments have generally come to view themselves as poor substitutes for a dynamic global market in evaluating consumer preferences.

The dizzying array of new wireless technologies -- for example,

bluetooth, wi-fi, wi-max, RFID and LTE -- are testimony to invention, entrepreneurship and competition. The emergence of globally interconnected broadband networks linking a substantial portion of the world has now achieved a critical mass, allowing business models to expand into new horizons.

The digital language of the Internet stitches together billions of people, devices, applications and content, providing a distribution platform almost impervious to geographical boundaries, linking the world at the speed of light.

In the past government sought to control infrastructure silos -- telephone, computer and broadcast networks -- leaving market access for services delivered on those networks subject to that control. Today, however, that is less and less the case. The ability of governments and competitors to deny market access opportunities is dramatically weaker. In most areas all companies need is a presence on the Web to reach their customers -- most, but not all.

Looking ahead to the next frontier with these fundamental changes, opportunities and challenges for the ICT sector have evolved and will continue to do so. What does free trade mean in a medium that generally does not respect geography?

For one, past models to control products that once traded physically but are now liberated from a physical medium do not necessarily work. Books, magazines, newspapers, software, games, music, video, anything that can be digitized is now a tradable product that bypasses traditional customs checkpoints.

Ten years ago we spoke of e-books almost as science fiction. Now we know that they are an important, if not critical element of publishing. Similarly, voice services, once the most profitable preserve of long-standing monopolies based on control of copper wire, can now be offered through a software application that is free and easy to download.

In addition, infrastructure-based services today may reside at home, but are nonetheless available globally. Server farms, data centers, interactive gaming systems, video on demand, and software as a service all underscore the dramatic power of the economies of scale that our companies are poised to benefit from. In short, the opportunity to invest locally and reach globally has never been as great.

From a trade perspective, the first priority is for us to

identify key elements of this digital ecosystem and to work to ensure that our trade rules address them comprehensively. This starts, of course, with national treatment and market access both for investing abroad and supplying digital products and cross-border services.

In our FTAs and at the WTO, it will be important to pull together complementary part of this ecosystem and ensure that the building blocks -- processing, storage, transmission, content and applications -- have a well-defined home. We are reaching out to key partners now in the WTO, who might join us in an initiative to identify the policies key to supporting development of ICT networks and services, which we can address in the Doha negotiations. We aim to do the same with our partners in the TPP process.

In the dynamic sector of ICT services, it is inevitable that unforeseen challenges will arise. That may highlight a few in particular that I would welcome your insight on. Let me also add the caveat that while some of these issues are clearly within traditional trade rules, others may not be. And whether those issues in the first group are ripe now for trade disciplines remains to be seen.

Intellectual property rights, a traditional aspect of trade, have been challenged by new broadband networks as never before. Protection of IPR in this environment both at home and abroad will ensure that not just American inventors and creators, but inventors and creators from around the world have the incentive and legitimate expectations of reward for their efforts. We want them to continue enriching our world with new, creative expressions, works of art and literature and the processes and technologies that can improve our lives, many of which are made by companies in this room.

Of course, we recognize that there are diverse perspectives on IPR issues. The president's trade policy agenda reflects a commitment to work with all stakeholders to develop sound policies in this area.

In addition, it has long been our policy to promote the free flow of information. Such information flows are the lifeblood of ICT networks, and restrictions on them can impact trade. At the same time most countries feel they have legitimate interest in some oversight for a range of reasons. Reconciling these views with a medium premised on openness and global interoperability is a key challenge.

Efforts to block access to services and applications are another set of challenges. Although applications can reach anyone on the Web, or almost anyone, it is also not that difficult to block them. While in some cases blocking may be against illegitimate purposes, such as

to protect copyrights, to protect children, or to avoid spam, blocking may also be anti-competitive. For example, many countries allow their phone companies to block VOIP.

I want to highlight briefly just two more issues. One is the location of infrastructure. The efficiency of global networks depends increasingly on the economies of scale in processing and storage. Consequently, such benefits depend on suppliers not being required to install infrastructure in every country.

Lastly, security is a pervasive concern for all of us, if networks are going to gain corporate, governmental and consumer trust. But how can we ensure that the need for securing networks does not unduly cut users off from a global medium and halt legitimate trade? Can the reliance on consensus-based international standards address this issue when many governments' first instinct may be to address this through a local fix over which they believe they have more control?

Obviously, these are difficult questions, and the solutions are going to take time to develop. But since ICT services are so closely connected to America's productivity, America's innovation and America's economic growth, it is important, it is vital, really, truly vital to develop the right framework for our sake and for that of our trade partners as well.

I look forward to working with all of you and our trading partners to address these challenges and create new market access opportunities. Thank you.

(APPLAUSE)

BLACK: You don't have a lot of time, but do you have one or two minutes?

SAPIRO: I can certainly take a few questions.

QUESTION: Just on the restrictions on investment in telecom infrastructure, I just -- and you mentioned Canada, but I'd just tell a little story. They did an auction of the spectrum band that we launched our 3G broadband service in, so the -- we looked at it, because it would be very efficient with the same frequency, the same equipment, the same handsets could work it with great economies of scope and scale.

But you had to be 51 percent Canadian in order to get a license.

And there were a number of people who approached us, offering to be our 51 percent partner, and the deal seemed to be we provide the money, and they'd own 51 percent.

But it really was too bad, because, one, they were -- they were very high on getting a new entrant, and this would have been a credible new entrance instead of sort of some of the things there were. And also it would have been -- I mean, we probably could have integrated that in an economic sense and in a customer sense, and just a missed opportunity, I think.

And I understand their concern about content and all that, but this was, you know, we -- we pass everyone's content, so this was not a content issue. It was just an infrastructure issue. But it's -- it's too bad that that couldn't be worked out, so anyway I just offer it as an observation.

SAPIRO: Yes. No, I mean I'm glad you mentioned this specifically. And next time I meet with my Canadian counterpart, I would be happy to probe him a little bit more. We've raised this with the Canadians many times, and we will continue to do so, but if it's all right with you, I may actually mention the story just to illustrate.

QUESTION: Tell him we looked at it seriously...

SAPIRO: Yes.

QUESTION: ... and were considering it, and it just -- it didn't make sense if we couldn't own the company.

SAPIRO: Right. Yes, well, I mean, it strikes me as the opposite of a win-win. It's a loss-loss situation, and there may be legacy reasons for this kind of restriction, but in -- in today's age it really doesn't -- doesn't make a whole lot of sense anymore. And it obviously has an impact on business models and the opportunity to -- to be creative.

QUESTION: (Inaudible). As you say, it doesn't -- the technology doesn't respect borders so, I mean, it could have been done pretty easily.

SAPIRO: Yes. No, thank you for raising that.

QUESTION: Yes.

SAPIRO: Anyone else?

QUESTION: I was wondering if you could give me an update on the outreach you're doing on ACTA for a group to, let's say, blog in pursuit of requesting briefings or some of the -- the activist groups have said, the (inaudible) text (inaudible) are concerned. Do you think they're real (inaudible). Can we just get an update on this?

SAPIRO: Absolutely. Well, we met with many of you in this room earlier this week. Matt and others came in to talk to Ambassador Kirk and the team. And then a few weeks ago I met with Matt and others. We are reaching out broadly to all stakeholders.

We want to ensure that the balance we have under U.S. law is something that we preserve in the ACTA negotiation. We've also done many briefings on the Hill and will continue to do that to keep staff in the boot and to address any questions as they may have.

So we're actively doing outreach. And if you haven't had a chance to participate in any of that, I would say seem Matt.

Is that all right? Can I put you on the spot like that?

All right. I think I've got time for one more question.

BLACK: I'll take it, if nobody else will.

(LAUGHTER)

Censorship as a trade barrier. And you made reference to it and how -- but I think what we see as multiplier ramifications of, for example, if you block Business Week Web site if you're a country that -- in Business Week they ran an article about something in your country you didn't like, the whole Web site may get blocked by that country. That means all the advertisers who advertise in that, everybody connected to that expected to have, you know, commerce flow from that, really wind up being affected.

And I'm thinking -- I don't think that our trade agreements really have approached that, and I don't think it's probably had much discussion with many countries that it's not just the specific impact on an entity being blocked, but that there is this upstream and downstream impact on a lot of people who were connected to that site as well.

And I guess what I'm -- jump -- try to not to jump to the question, which is there has been a lot of discussion in China, and

you have a neat background in China. China is very complex. We have all kind of issues. I don't think a lot of us would like to see a trade case brought against China. It's too cumbersome.

But I think there are some countries out there that are smaller that maybe we have some leverage with that are following the Chinese model for whom testing some of these theories about whether or not they are overusing the national security exception in blocking all kinds of things that really don't have a legitimate claim, whether or not there's not a case that should be investigated on some countries where they really are just, you know, they -- we just want to control, we want to send certain.

And they're doing it probably wildly and carelessly, whether or not a precedent there couldn't then wind up being used with a variety of other people. Because I think we're in a global competition for a U.S. open model, more or less U.S. open model, and a closed, controlling, firewalled, protected censorship model, and it's -- it really is. It's a global competition, and at the moment China seems to be -- the China model seems to be gaining adherence better than the open model.

SAPIRO: That's an interesting question, Ed. And I know you've been a pioneer in this field in terms of -- of focusing people's attention on -- on the question of -- of censorship.

If -- if there are any companies that are affected by this in a specific market and are willing to drill down with granularity into specific provisions of our trade agreements, we -- we would be -- we would welcome the opportunity to -- to talk to them.

So I don't know if some may be in this room or other places, but certainly if there's a company with a specific concern about a provision in one of our trade agreements, whether it's an FTA or WTO commitment, and they're able to provide some specificity -- I'm trying to get rid of this cough -- we would be happy to talk to them.

BLACK: One last point -- if nothing else, transparency is the -- is that key ingredient.

SAPIRO: Yes.

BLACK: So I doubt if hardly any of these countries who are opposed to censorship are publishing their criteria for censorship, so transparency per se is probably not present, so we have a lot of potential targets.

SAPIRO: They're censoring their censorship.

(LAUGHTER)

Anyway, it's been a real treat to be here, and it's a fabulous program. I'm envious of all of you that get to stay. I really wish I could join you and -- and listen to the speakers to come.

But let me just thank you again for inviting me. It's been a real pleasure. Thank you.

(RECESS)

(JOINED IN PROGRESS)

SLOAN: ... with us from the House of Representatives, Congressman Mike Honda.

Since 2001, Congressman Honda has represented the 15th Congressional District of California. His district includes Silicon Valley -- the birthplace of technology, innovation and a leading region for the development of technologies of tomorrow.

In the House of Representatives, Mike serves on the Appropriations Committee with postings on Labor, Health, Human Services and Education, Commerce, Justice and Science and Legislative Branch Subcommittees.

In 2007, he was named House Democratic Senior Whip by House Majority Whip Jim Clyburn and joined a select group of members and Democratic Caucus opinion leaders tasked with strategic planning about how issues impact designated members or groups, and will help develop strategies to ensure legislative success.

Like his California colleagues, Anna Eshoo and Zoe Lofgren, Congressman Honda was key to the development of the Innovation Agenda -- a commitment to competitiveness to keep America number one.

In 2007, the Congress passed and the president signed the America COMPETES Act which we heard about this morning, which incorporated many of the important elements of the Innovation Agenda, as well as provisions of the Innovation for Our Nation's Vital Educational Needs For Technology or the INVENT Act, which was originally introduced by Mike Honda.

Mike truly understands that one of the most important things we can do to remain competitive in the global marketplace is to ensure that Americans continue to innovate and to teach our students the science, technology, engineering and math skills they need to be leaders of innovation, and he should be so proud of his own son, an engineer, and his daughter, a public health educator.

Congressman Honda, welcome.

(APPLAUSE)

HONDA: Good afternoon and thank you very much for waiting. I really don't know why. I guess she saw the votes, right, on the recommit thing, so -- but we will get that bill passed. We know that that's needed in the America COMPETES reauthorization.

I was going to say in my prepared remarks that America COMPETES reauthorization is on the House floor as we speak, and this has been just (inaudible) for the work. And I think that what we've seen today is a lot of the jockeying around and making folks a little bit nervous on certain amendments on the motion to recommit, but I think that we need to keep moving on.

I guess one of the things I just want to reemphasize is that our commitment to making sure that we have funds for research and development, that we have funds for -- continue the effort to have STEM really fully get deployed out.

And one of the things I tried to do last -- last session was to, on my bill, 2710, was to look at the entire picture and find out what is it that we have as a result of \$2 billion worth of expenditures through 12 agencies? And what do we have and what's been shared and how do we offer this to the rest of the public?

And the answer came out that it's not shared. There's no common area where it can be pulled together, and that was the effort that we tried to do in our bill. And I think that some of that effort was -- is embedded in the COMPETES Act.

I think we still need to do a couple of more things and that is to elevate the subcommittee on STEM to a committee level so they have a greater attention at the administration, and continue to work to have a deputy secretary of education to be responsible to do all the coordinating so that we'll have someplace where all the silos will be connected and all that information is gathered through these research grants that will be available for sharing with the rest of the country

and for our schools.

I think the other thing here probably is in the Smart Electronics Act and it's something that we just dropped in. It's H.R. 5070 and that seeks to get a handle on exactly how big the problem is in terms of anticipating the use of all electronics that we have and we anticipate to have, and how we can increase the efficiency of all these gadgets so that we reduce the amount of energy that's going to be used for the future technologies that's going to be out there.

When we start to charge a lot of our gadgets or we leave them on or we leave the charger in the plug, but not plugged into our BlackBerry or phones, it continues to draw down energy. And so I think that if we could increase the efficiency of -- I guess, we call it Star Energy -- Energy Star -- that we could double the savings and double the efficiencies, and that would be something that we could anticipate and pick the low-hanging fruit.

Right now, we're working with a group called Marvell to talk this thing through. We dropped a bill and we're hoping that this bill will have your attention and through your attention, perhaps your support, in moving forward. A lot of the issues that -- a lot of the things that you do do get involved in would be impacted by this bill.

I was told that I should keep this short. I don't think that there are too many questions above where my attitudes are in terms of, you know, the credit taxes and everything else like that or education.

I will say, however, in education that I'll be pushing very hard for a dialogue in this country on equity in education. And the reason I am making that important rather than some of the other issues that the Education Committee is putting out is that all of the activities and all of the initiatives that we have had in the past seems to have very limited success and the success of scalability seems to be the problem.

I kind of look at it differently. I think that our country has grown up with the sense of public education, and as changes evolved over the centuries, and not taking that into account says to us that we have regionally different notions of what equity is. Each part of this country has a different history in its development of public education, and I think that that has a role in place.

One other aspect is how public education has developed in terms of the Constitution and the Constitution allocating -- delegating the responsibility of education to the states. That was back in 1797 when

there was no Department of Education or anything else like that. And now we've developed as a nation and we know that we have all signs of innovations and tools to access knowledge, to gather knowledge, to increase our knowledge.

And yet we don't seem to have a way to have our youngsters acquire that, exhibit that, and evaluate how well they have mastered these skills, and we seem to keep competing and measuring ourselves against other countries. And so I think that if we start off with the issue of equity and come to some agreement on that, then I think that we can understand the magnitude of the job that's before us in terms of providing an equitable education for each child, rather than all children.

So let me just leave it at that and open it up.

Yes?

QUESTION: I was very interested in your comments just now about education. Early this morning, we heard from Blair Levin who was talking about the national broadband plan, and there's a good chunk of the broadband plan focuses on education and using broadband to increase educational opportunities.

And then within that, one of the subsets within that was talking about open educational materials and where teachers, let's say, would make -- would actually do the writing of the materials or the school district would write the materials, but then it would be made available over the Internet to everyone else under some kind -- like a creative commons license or some kind of open license, and that would really enhance equity because then it would be available to every school district and people could -- teachers could sort of pick and choose what materials they wanted and it would be available for free as opposed to sort of having very expensive textbooks and so forth.

So is that one of the kinds of things that you're thinking about?

HONDA: Well, I think what you described is something that's necessary, but access to knowledge and through the Internet and having a bandwidth that allows us to do that speaks to, I guess, kind of equity to the access of knowledge or parity for everyone to be able to do that. But it doesn't guarantee that each child is going to have the necessary support and help to develop themselves as young students to be able to first learn, be taught, and then learn on their own.

And what I mean by that is every child comes to our schools

differently. They have different skills. They have different strengths. They have different challenges. And we approach them as if they all had a sort of basic common kinds of issues. So we teach them according to grade level and age, and we don't really break down the particular skill sets that need to be developed as a child or an individual.

There is one aspect. If someone says, "Well, this child seems to be having some problems in this normal classroom of learning," so we refer that child to a special ed person. And every parent has a right to have their child assessed as low as age three. And what we do is we assess the child for all its strengths and weaknesses and then we develop an individual education plan or we could call that a roadmap.

Well, it seems to me that every child should have that regardless of whether they have special needs or not or whether they're bright and they have what we call students who are in the mentally gifted programs. If every child have that assessment, and I think that there would be not one parent that would object to that because most of them object to having the child assessed as gray area, not quite special ed, but in the normal range and so they get the normal instructions. That's not equity in education.

And if we assess each child for their strengths and weaknesses, then we have a roadmap. And then we also have a direction that what that child needs in terms of motor skills, eye-hand coordination, and then the other academic things. And so if we approach it that way, then every child will have their own roadmap and their strategies. But when you think about it, when you put together at least one classroom, that's a lot of money if you do every child.

It's going to also indicate that you're going to have not enough teachers or resource people that's going to be able to address the needs that those children need because the way we're doing that -- the way we approach education right now is to make certain assumptions and we start at a certain line and then we try to bring them along. And that's a good try, but we're teaching to the average.

And when we do that, we leave a lot of people -- a lot of kids behind or bored and they end up dropping out. And if we do the assessment properly, the issues around language needs and other kinds of needs will become a political football. It becomes an educational, pedagogical need.

But again, our schools are structured so that we can be agile enough as we say in technology to accommodate the different kinds --

combinations of youngsters that we're going to be able to want to teach at one time.

In the past, we've been arguing about ADA -- raising the ADA for each child. There's a big fight in California, and across this country, ADA varies. Let's say that we did hit an average for each child in this country. Say it's \$13,000 ADA. Still, that's not equity. That's parity. That assumes that every child comes to school with the same kinds of needs.

And then we say, "Well, we have --- we have federal programs, ESEA, Title 1, lunch programs and things like that, but they -- it still addresses a group of youngsters that have average kinds of achievement, and we're trying to raise it, but we're not looking at each child. So policy-wise, how we develop policy language really I think determines what the strategies might be to see that all children deserve equal access to education (inaudible) each child shall have. The prescription and the actions can be different.

It's a subject of I think a lot of conversation and a lot of debate, and I think that the bottom line is going to be, "Mike, it's too expensive." And what I say to that is, "Well, we went to war without thinking about how much is going to cost."

If our children are truly our main focus and they are our national treasure, our resource, then should we not be investing in that as if we were going to, you know, fight for their equity? Because one thing I know as a teacher, our children go to school every day with one currency and one currency alone, whether you're poor or rich, middle class, private school or public school -- they come to school with one currency and that's time.

And when you think of timing, you can bank it and draw it out later. You have to be ready to utilize it at that moment. If we're not ready, then a child does not get the full benefit of what we promise them -- that they should have. So the bottom line question is to what extent are we prepared to put our resources into each child for their education.

And so I'll leave it at that. Thank you for your question.

QUESTION Yes, I wanted to comment on the America COMPETES Act. The original America COMPETES Act took several years to come to fruition, and this one -- the reauthorization has materialized in a few weeks, it seems. And it seems to me a better bill in some respects, too. I haven't plowed through all 200-and-some pages, but I

particularly am impressed by the way it has dealt with NIST and promoting the NIST director to undersecretary.

And I wonder if you'd had any particular visions for what you see NIST doing in terms of coordinating innovation policy, because we really haven't had any ongoing coordination which despite the -- you know, it's great to have a White House that's really supportive of innovation policy, but if there's nobody that's responsible for pulling the pieces together on the ground, you know, you can't really depend on Congress to get excited about it every three years or so.

HONDA: Or get excited at all.

(LAUGHTER)

No, I think if you go back to H.R. 2710, the one I wrote a couple of years ago with Eric here and with Ed Potassak (ph) who was one of our Einstein fellows, we spent a lot of time looking at this whole picture of STEM and we found that, you know, there's a lot of money being spent, a lot of information out there in different silos, but not being shared.

There's not a place where the level of attention would be such that it would attract the attention frequently through a committee and through NIST, because under 2710, we had NIST looking at coordinating. The three Cs that we had in our bill was coordination, collaboration and just bringing it together -- collection, I guess.

And we wanted to make sure that all those things are put together in a sensible way, and that one person in the Department of Education would be responsible for its management. NIST would be responsible for looking at some of the application of the information that comes out and make suggestions to the White House, but at a higher level where it has more attention. And we thought that we had a system that we put together that if it were taken in its entirety would make a lot of sense and be very efficient.

So I would refer you 2710, besides the one that's been put forward today. What was put forward today was better than what we have in the past, but I believe if you look at 2710, it would be very comprehensive.

Yes?

QUESTION: Congressman, from an appropriations and budget point of view, we have a situation where under President Clinton we actually

painfully struggled to balance the budget and (OFF-MIKE) surpluses.

And now we have a much worse situation than we had back then and that is (inaudible). And we have this presidential Commission on Fiscal Responsibility and deficit reduction. What are your thoughts on the work of this commission? What are your thoughts on solutions for the pathway forward?

HONDA: Well, the ideal of balancing the budget, you know, deficit is the bottom line. That's, you know -- I guess their job is to figure out how we're going to do it and what are the things that we're going to need to look at to make it happen, and I guess assess the pain that's going to be involved in it, too, because you have some good people on there that understand that process.

When Clinton did it, we had to look at welfare reform and other things that hurt me as a local politician, that I didn't want to see cut. And I complained about it, but we took care of it at the local level. And later on I learned that, you know, this is part of that process of, you know, sort of trimming our expenditure to balance that budget.

So we're back on PAYGO -- pay as you go. If you have something you really want and you don't have the money, you have to find a source. Otherwise, it's going to have a tough road to hoe. And so I -- I'm for it. I think that it's going to take a little while. It's going to take some bit of pain. But that's the job and something we inherited and I think that it's nothing that's -- you know, it's not a pipedream to be able to do that. We've done it once and we saw benefits of it.

I think what has to happen is if we are able to accrue a possible surplus in the future and we have a change in administration, the Congress and the White House stick to it. If they don't, then I think that folks like yourself have to put the administration on call, because we know what happens when you don't do that -- bad things happen.

We don't have the resources to invest in R&D. And you saw what happened in all the ATP and all the other kinds of research-oriented activities that we kept alive with earmarks and other things. You can't expect a country to blossom if we hold back on the investments. There's no such thing as the ROI (ph) on something that you haven't invested in.

I'm not a financial person. I'm not a technologist, but I have

just enough sense to know that if you don't do it right, it's not going to come out in the wash. So we're going to have to look to that group to give us a laundry list. And I'm sure Obama is -- he's not stupid, and I think he's smart enough to understand that we have to have a balanced budget.

And I think we all have to ask if Congress is going in that direction. When I sat on the Budget Committee, my first two years, 2001 and 2002, I kept asking my cohorts on the other side: Who benefits from a deficit budget? Who benefits with the rising increase in debt? And they kept telling me, "Well, a country is healthy when you have a debt." And that was bought in.

I think I know who benefits. Certainly, it's not children or society as a whole.

QUESTION: (inaudible)

HONDA: OK. Yes?

QUESTION: This is easy, Congressman. Just as a sort of a champion for the Internet on Capitol Hill, where do you see this net neutrality thing going?

HONDA: Well, I ask different organizations and industries, you know, where they sit on net neutrality and I hope they support it. And most of them say they understand what that means, but maybe we're not talking to the right folks.

But it seems to me that if we don't have something like that, then the esophagus of our country is going to be choked off. And you know what happens when someone has obstructive sleep apnea, you're not going to be real healthy and it's very limited. And so I think that we need to keep a firm stand on that.

OK. I get the signal, so sorry about today's votes, but we'll get back on -- we'll get back on the trail. But I think the key is to stay on top of us on those key issues. Education -- keep questioning us. What do you mean by equity? What do you expect to do with this initiative? Maybe because when you look at the "Nation at Risk" that was written back in the 80's, you look at the report, "Rising Above the Gathering Storm," they come to the same conclusion.

Now, I know that we did a hell of a lot of things between those times, including technology. People got smarter. They got more information. There's one thing that's -- and kids are learning, but not all kids equally. And we've got immigration. And so we have a

complex thing that we need to look at and take it child by child.

On immigration, I'll close on this. I hope you all are on top of and supportive of comprehensive immigration reform. I think that that's critical. It takes in everything from farm labor to H1B, and we try to be as inclusive as possible without putting people down or vilifying them.

So I appreciate your time. thank you.

(APPLAUSE)

BLACK: Advance warning -- our afternoon schedule is going to be jumbled. We have too many great people who are going to be overlapping, so bear with me as it unfolds. Senator Klobuchar should be here within three to four minutes. But we -- it looks like we have one too many speakers for our time slot, so I'm not sure how it's going to happen.

(RECESS)

BLACK: All right, let me ask you all to please resume your seats and gather back around. We have with us, as forecast and as we've awaited, Senator Amy Klobuchar.

Senator Klobuchar is someone we elected in 2006; we have been excited to work with. She is on, and I'm going to really cut it short -- you've got a bio in your book.

But she's on Commerce Committee, Judiciary Committee on key subcommittees. She's already shown herself to be a leader, has been great on consumer issues. She's in a position for our industry to understand all aspects of it.

The jurisdiction of those committees basically covers a wide range if not almost all of the issues we care about. Having someone who can understand both those perspectives and who has, frankly, come from a state which has some history of technology and one of the most technology-oriented states around, it's a great asset.

We look forward to working with Senator Klobuchar, and we basically have great expectations but we're not worried. Please, welcome.

KLOBUCHAR: Well, thank you so much, Ed. I appreciate it. You sort of saved me coming to give this speech because we're having a caucus meeting about Wall Street reform, and a number of us think we

kind of need to end the bill.

So we were supposed to stand up and say that like it's time to go and I realize I got both my amendments passed yesterday and I might not be the best messenger to say, "Hey, you guys, why do you have to have your amendments?"

Just as I was going to raise my hand, Sheldon Whitehouse turned to me and said, "Do you notice all the people speaking already got their amendments in?" So I thought I have to go give a speech. I can't do it.

But, anyway, I just wanted to thank you for allowing me to speak here. Since I last addressed you I actually took over a subcommittee which I renamed. It used to be Trade and Tourism, and it still has tourism but I renamed it for a reason -- Competitiveness, Innovation and Export Promotion -- because I really see this as key to the future of our country.

It's funny. When you name a committee it just suddenly gives you some jurisdiction over things. So I've been able to do a lot of work.

Whatever the actual jurisdiction is I've been able to do a lot of work with Mark Warner on the innovation, and I've done export promotion forms with Senator Thune and others across the country just because as I look at this economy, I think what we need to be talking about is the work that so many of you do, and that's innovation.

That is how we should be talking about the work that we need to do in Washington if we want to bring this country together so that we are a country once again that makes things, that invents stuff, that exports to the world.

If you think about our agenda like that, it is a much easier route to go to explain to people what we're doing. So why do we need to do something about, say, health care? Well, because we can't compete in a world where some companies in other countries have health care systems that are much more efficient delivery systems, and it's a huge drain on our competitive agenda and our ability to compete internationally against other countries.

Why do we have to do something about exporter trade? Same reason. Why do we have to list the cap on Visas for immigration and allow kids that come here to school and get an education here to be able to stay in this country? Otherwise, if we don't do that, how are we going to compete?

I always think about those 2000 drummers at the Beijing Olympics in the opening ceremonies. I remember watching it with my family, and I keep thinking that those drum beats are getting louder and louder and louder.

And while they're building high-speed rail in Shanghai, we're still debating about what our standards should be in an energy bill. While they're building millions of solar panels, we're still trying to figure out what we should do with renewable energy. While they are getting their act together and graduating more and more engineers and scientists, we are struggling. We're doing better, but we're still struggling.

That is why I think if you take what we're doing in Washington and try to describe it in terms of a competitive innovation agenda or, as Tom Friedman calls it, nation building within our own nation, we would be in a much better stead.

So what does this mean for our policies? I'm going to focus a little bit on some of the work that you do. First of all, I think we need to do more in the area of cyber security.

This is something that has concerned me. I am practical about it having been in the private sector for 13 years. I understand that things can happen and laptops can be left behind.

But in terms of the bigger issue of education of people on the Internet, Thune and I have a bill on peer to peer and some other things. I think there is a lot more work to be done, and it reminds me a little bit as I think of the national security issues, sadly, of some of the mess that got us into this financial crisis with subprimes.

Some of this stuff is very hard to understand. When policy makers don't understand it, either mistakes can be made or issues aren't dealt with. So that's something that I think as a member of the Judiciary Committee we need to be doing more on and being ready for.

Certainly in our secret intelligence briefings we hear about it more and more from some of our military leaders in terms of their concerns about some of these issues.

The other thing I would say is that we need to move ahead with our broadband policy. I admire some of the work that's going on at

the FCC. I may not agree with every little thing that they're doing, but at least we're finally starting to move ahead to look at how we're going to expand Internet in this country and make it more accessible and mostly make it faster.

Again, I think that we need to be doing more on this out of the Commerce Committee. One of my funnier members of our Commerce Committee was when we had a hearing on cell phones, and I had actually asked for the hearing because of a GAO report.

As you know, I've done some work in this area with early termination fees to try to do something about them. So I had a hearing with Senator Kerry, who chairs the subcommittee, Senator Rockefeller, who chairs the whole committee and myself.

So we were all sort of three tri-chairing this hearing. At some moment, Mark Warner walks in, and he has to walk all the way down to his seat at the very end, and I wrote him this little note that got passed down to the very end and it said, "What the hell do you think you know about this?"

As you know, he made billions of dollars in this area, so my point of that story is that I think we need to move ahead and work with the FCC and do what we need to do to make it just basically easier, to expand broadband and to work in this area.

Another area, patent reform -- I know that's kind of a hot button for many people. As a member of the Judiciary Committee, we worked very hard to try to find some kind of a compromise.

I think you know my state, as was mentioned. We are a state that has a lot of interest in patents. We're the home to -- now we're seventh in the country for Fortune 500 companies and -- I'm pretty proud of this -- 21st in population. We actually went up from ninth to seventh.

There's a lot of interest in patent reform. So I was actually pleased we were able to work things out. I know there are still concerns from the high-tech end and actually some of the inventor end.

But I am a supporter of the compromise, and I know we'll most likely still be making some changes to it as we go forward. And we are open to working people as we go forward with the patent reform. If we have a minute, I'd love to hear any of your concerns on that.

So that's what we've been up to in some of the key areas that you

care a lot about. But, again, I'll just go back to what I started with, the importance of this innovation agenda.

I just always think about if we don't move forward in this country and do something about the Visa caps and do something about our education system for science and engineering, we're not going to have the next Medtronic start in a garage, which is what happened in our state.

We won't have the next 3M, which started as a little sandpaper company up in Two Harbors, Minnesota, or even the next Target that started as a dry goods store on (inaudible) mall right at one of the more difficult economic times in this country.

So getting around our state, I continue to have hope for these entrepreneurs I see every place; the 12 people that quit their jobs and went to work for a solar panel manufacturing company in Starbuck, Minnesota, or the guy who has a little telephone company up in Sebeka, Minnesota, that decided that their customers didn't have enough backup power so put together this little small wind, small solar package and sold it to dozens and dozens of his customers because their power kept going out.

They had one guy come up and say, "I've decided I want to do my whole house in solar." The telephone company said, "Well, sir, you know it's going to take you 10 years to get back that investment." The guys said, "Well, I want to do it." They said, "Well, sir, do you mind us asking how old you are?" He said, "I'm 85."

They go, "Are you sure you want to do this?" He goes, "Yes, I want to go green. I see it as the future." So that's the kind of courage we're seeing out there in the hinterland and I think it needs to be matched with the policies that we make in Washington, D.C.

So I'm very excited about the work that you're doing. Do we have three minutes for questions or comments or anything? I do? Did the votes start yet? Good. Anyway, did the votes start though? You find out if they have and we're OK.

All right, questions, comments, anything.

QUESTION: You talk a lot about competition and innovation. One area that you didn't mention in your talk but is of great concern to a lot of us here is ACTA, the anti-counterfeiting trade agreement.

On the whole, the agreement has a lot to be said for -- but there

are a couple of provisions dealing with secondary liability and also dealing with statutory damages that has been of great concern to us.

We have repeatedly made our concerns known to the U.S. Trade representative, but those concerns are falling on deaf ears and that's an area where we feel that that will really harm U.S. competitiveness, especially of the people in this room.

KLOBUCHAR: The concern is, just so I know? I'm not being argumentative, but I just want to know so that I can look at it.

QUESTION: Well, what ACTA does is it exports a lot of our enforcement provisions but not our exceptions. So it's an asymmetric export of our intellectual property law. So as a result, that will increase the exposure of U.S. companies doing business abroad.

So companies here that rely on fair use and other exceptions, when they enter the global market, ACTA sort of ratchets up the potential liability without the potential of the exceptions. Right, it's asymmetric, so that will make it more difficult for us a small business in Minnesota to do business in Europe.

KLOBUCHAR: (Inaudible) out of the counterfeiting is going on on the other side.

(UNKNOWN): Right but the point is to have a more balanced framework.

KLOBUCHAR: I get it. All right, we'll look at that. Thank you. Yes?

QUESTION: (OFF-MIKE)

KLOBUCHAR: I know. I know. I bravely brought it up. I was hoping I could stay to hear from you so we can make some changes.

QUESTION: (OFF-MIKE)

KLOBUCHAR: I see, from being the...

(UNKNOWN): (OFF-MIKE)

KLOBUCHAR: Are you actually concerned it's worse than the current law?

QUESTION: (OFF-MIKE)

KLOBUCHAR: Well, we should look at that. Thank you. It's not really compromises from your perspective.

QUESTION: (OFF-MIKE)

KLOBUCHAR: Is there a vote?

Well, thank you very much everyone. I look forward to coming back again. Thank you. All right, thank you.

BLACK: Well, now it's my pleasure to introduce FTC Commissioner Tom Rosch. Nationally regarded for his antitrust and trade regulation law expertise, Tom Rosch has been lead council in more than 100 federal and state antitrust court cases and has more than 40 years of experience in this area.

It's no surprise that he was nominated and confirmed as commissioner of the Federal Trade Commission in 2006. He's a recognized expert on the history of regulation of innovative markets and the relationship between patent law and antitrust, regularly speaking on how these topics impact innovation.

I hope he will shed some light on these interesting and important issues for us today. Thanks so much and welcome.

ROSCH: Well, you've heard a lot from the heavy weights today, and frankly, I don't hold myself out as being in the same room with them. But I figured you'd want to hear from a Republican as well. So that's why I'm here.

Let me ruminate a little bit. Basically what I'm going to be talking -- I'll be talking a little bit about antitrust but mostly about consumer protection this afternoon.

I'll be talking about it from the standpoint of somebody who's over 70 years old, believe it or not. I can hardly believe it, although my wife does and my grandchildren do as well.

But let me just sort of talk off the top of my head about this subject, if I may, because during the 70-plus years that I've been on this planet, I don't think I've ever seen technological progress of the kind that we've witnessed in the last 10 years.

It has truly moved at warp speed from my standpoint. I'd like to share with you three possible causes for that as well as three possible deterrents to the continuation of that progress.

First of all, with respect to the causes, as I see it, the first cause is global marketing. There are, to be sure, some exceptions to global marketing. People in the U.K. and in Japan still drive on the left-hand side and so their cars are right-hand drive cars.

But for the most part, we see commodities traded all over the world and that's been facilitated, I think, by the use of both the Internet and also by various companies in Asia who import through telemarketing, marketing techniques into the United States.

What are the threats to the continuation of this trend? I would suggest that they're as follows but they all boil down to one word and that's protectionism.

First of all, there are tariffs, which are clear protectionist activities. Second of all, there's hands-off law enforcement. Just imagine what our world would be like if the Asians didn't have the same sort of law enforcement activities in the consumer protection area that we do and they did not prevent fraud and deception from occurring outside our borders and being imported into our borders.

The third possible thread is discriminatory law enforcement. There was an allegation, for example, not too long ago that the E.C. was discriminating against Intel and against Microsoft. We'll see because those allegations are going to be taken up by the European Court of Justice very shortly.

We are concerned at the commission and have been concerned that China may enforce its new antitrust law in a discriminatory fashion to keep American goods out of China. We'll see.

But in any event, there's no question in my mind that discriminatory law enforcement, if it does occur, is one deterrent to the continuation of the progress that we've seen with respect to global marketing.

The second, I think, cause of this, if you will, revolution with respect to technology is what Mike Honda was talking about and that's education both in terms of opportunity and in terms of achievement.

Now that progress may appear to us to be somewhat modest because when we open up our newspapers, the newspapers generally talk about our scores locally or at the national level.

They appear to be relatively modest but the emphasis has to be on

relative because the reason why they appear to be relatively modest is because other countries in China, for example, or in various countries in Africa are making progress on this front that outstrips our own. So progress may appear to be modest but it is not.

What are the threats to this? From my own standpoint, there are two threats. One of them was mentioned by Congressman Honda and that's societal reluctance to invest in something where the progress seems to be so opaque. We just don't see it and, therefore, we're reluctant to invest in it.

Another one, which he did not mention but which I'll mention, is the entrenchment of, I think, the public interest groups with respect to the education establishment.

Unions particularly appear to be more concerned with wages, with benefits, with pensions, with tenure than they often are with experimentation with new systems which may inure to the benefit of the students to a greater extent than that which we see today and I think that's a deterrent.

A third cause of this technological revolution is quickening innovation. Now, there are a number of explanations for that phenomenon. First of all, there is a more skillful use of the first mover advantage and you all know what that is.

That's basically where someone has an edge by virtue of being the first to market or the first to invent that its rivals do not have and there's been more skillful use of that advantage, it seems to me, in recent years.

A second explanation, which is a favorite of the economists, is that there are more multi-sided markets than there used to be.

By multisided, I'm talking about the kind of market in which the consumer is attracted to buy more and more of the product or service but that, in turn, stimulates developers of an application of that product or service to develop better applications and more applications for that service.

That, in turn, stimulates more consumer acceptance, again, multisided. A third explanation offered is that we're making better use of trade secrets both on the legislative front and in terms of firms.

They're appropriating their inventions increasingly by protecting

them through secrecy and that is a third explanation. How about the flip side, which is patent ability?

I say the flip side because, as you know, patents are made a matter of public record immediately upon patent ability. But by the same token, those inventions, which are patented, are protected for a certain period of time in various ways.

Now it's been said from time to time -- and the ABA antitrust section said this several years ago -- that patents really were not all that important outside of the pharmaceutical industry. I don't agree with that.

I think that they help to commercialize innovation. That is to say they facilitate a relationship between, on the one hand, the inventor and on the other hand the large firm which already has marketing expertise and development expertise. I think that's a good thing. I think that's contributed to innovation.

Secondly, they attract more venture capital and that's important as well. So I think there are two explanations that make a lot of sense, to me. Now what are the major threats in this area?

This is where I see antitrust coming in because I see two major threats to innovation with respect to quickening of innovation. The first is that there may be an illegal acquisition of monopoly power through an illegal acquisition of the invention or the power of invention.

By that, what I'm talking about is the sort of merger in which one of the merging parties -- we call them the A side at the commission, which is the acquiring side -- acquires the inventor, if you will, because the A side really does not want to invent itself.

Accordingly it doesn't have to compete in order to innovate by reason of that acquisition. I consider that to be a real threat. A second threat, however, is the illegal maintenance of monopoly power.

Again, let's assume that what we're talking about here is a firm with monopoly power by virtue of its invention, by virtue of its technology but engages in practices which tend to at least cripple, if not eliminate, rivals so that they cannot put pressure upon it in order to constrain its exercise of monopoly power.

That's a second problem, I think, that we have to grapple with. Now the warp speed that I just mentioned I think is reflected in use

of the Internet.

Amazon.com, for example, has taken an enormous amount of market share away from the bricks and mortar companies, retailers with whom we used to deal when I was here the first time back in Washington, the first time during the period from 1973 to 1975.

At that time, we didn't see companies like amazon.com as even a -- it wasn't even a gleam in our eye at that time. Now what are the threats to the use of the Internet?

As I see them, they are threefold. First of all, there are practices which disable consumers from using their computers, and now, I'm talking about various forms of malware, spyware being the most prominent one.

But there are also a number of other malware practices that we at the commission are charged with trying to deal with and we do try and deal with them. But they represent a threat.

Second are disparate or different national standards or laws with respect to the transportation of data by multinational corporations across country borders.

We see this vividly in the case of Europe and the United States, the United States having a far lower level of protection -- standard of protection than Europe does, and we're both currently fighting for the hearts and minds of the APAC nations in Asia with respect to what their standards are going to be.

Third are what are perceived as online privacy protection flaws and that's what I'd like to turn to for the rest of my remarks.

I want to emphasize at the outset the word perceived because I wonder if they really are flaws. There are a number of conundrums in this area that confuse me. Perhaps they don't you but they do me.

One of them is that consumers often say one thing but they do another. Survey after survey says that consumers care about privacy, that they're concerned about privacy yet the statistics show that consumers do not review carefully privacy policies by and large.

Survey after survey shows that, again, consumers express concerns about privacy but the statistics show that they very rarely opt out. The opt out rate is less than 10 percent.

Surveys show that consumers are concerned about privacy but statistics show that we don't seem to be nearly as concerned about offline profiling as we are about online profiling and offline profiling has gone on for many, many years.

Magazine subscriptions, et cetera, et cetera, everything that floods our mailboxes around Christmas time, particularly on Saturdays, is a reflection of the gathering of information about consumer preferences that occurs offline.

Consumers, again, according to the surveys, are concerned about privacy but they submit vast amounts of personal data to social networking Web sites and they freely permit behavioral tracking and profiling. There's just no question about that.

Now what are the possible improvements in this situation? I want to underscore possible because I wasn't here for Congressman Boucher's remarks this morning and he is, at the end of the day, probably the most important figure in this debate.

First of all, with respect to notice, currently, notices are buried in a whole lot of lawyer's gobbledy-gook, which arguably is more designed to protect the firm and the lawyers, frankly, than it is the consumer with respect to privacy.

There is currently a lack of competition among privacy notices. That's understandable because most consumers feel that they mean nothing, even if they read them, which they frequently don't do and I'll confess they're not the most readable things I've ever encountered myself. So that's a second reason.

What can we do about it? Well, we have a self-regulatory effort right now, which through the use of icons and words of one syllable, are trying to make notices more comprehensible, more understandable and I think that that's a good thing. Certainly, it's better than the alternative, which is government regulation either through legislation or through commission action.

Consent is the second thing I'd like to focus on and that really boils down to an opt in and an opt out debate. Let me tell you where I stand on this debate.

I favor opt in for the submission of certain kinds of data of the individualized data, such as social security number, such as, for example, passport number, driver's license information and bank account statements information.

I favor opt in for those submissions as well as the submission of other sensitive kinds of information such as information about sex, such as information about ethnicity.

I favor opt out for other submissions including shopper profiles and behavioral tracking. Now let me express some reservations about these positions.

First, with respect to opt out, I favor it only if consumers are properly warned about the sharing or use to which their submissions are going to be put. So to some extent, I see opt out, I see, if you will, the options available to consumers to be tied, to some extent, to notices.

Secondly, I favor opt out only if the use of the data submitted is permissible. I favor opt out, for example, with respect to submission of data to buy athletic shoes. It seems to be to be perfectly harmless.

On the other hand, I wonder about the submission of information with respect to things like medical information, et cetera, which could conceivably be used and shared with insurers in order to make their actuarial judgments.

This comes somewhat close to home because I testified on this in front of Congress a couple of years ago and got roundly booed by the members of the committee with respect to my positions on it, which was very defensive of the insurance industry at that time.

I do think that that kind of information can be misused by the industry. So I am concerned about it.

I wonder about material changes in the degree to which sharing is indulged in or the use that is made of the material or the data that is submitted, the information that is submitted.

What materiality, however, means is, at least for me, completely up for grabs. What happens, for example, when the change is incremental but at the end of the day results in a very substantial change over time, over a long period of time?

Is it a material change? That seems to me to be a temporal question which we at the agency have not yet resolved.

Finally, let me express one reservation about opt in. I wonder

if opt in should ever be permissible, that is to say permissible at all, if it is used by an incumbent, particularly an entrenched incumbent, or a firm with monopoly power to erect entry barriers and thus impede rivals from competing effectively.

This was an argument that I heard several years ago in connection with our Google double-click matter. That is to say that people who were already competitors, that were entrenched competitors, could use the opt in mechanism basically as a sword to erect entry barriers to keep rivals out.

I really didn't believe it then. I believe it now. I've given it a lot more thought and that's where I come down on that. So I wonder about opt in at all if it's being used as a sword by an entrenched competitor or a firm with monopoly power.

Well, thank you very much for listening, and I guess I've got about two minutes, same as the Senator had, with respect to questions. Yes?

QUESTION: There's been a lot of talk about the FTC section five, especially in wake of Intel case and the courts cutting down on the scope of section two. And I wonder if you could talk a little bit about where you see section five going, especially to overcompensate for some of what section two precedent has been cut?

ROSCH: Yes, first of all, I consider section two precedents to be about as clear as mud today and that's particularly so after the Microsoft decision by the D.C. circuit at the beginning of this decade.

In order for section two precedents to be settled, which I think is very important, it can only be settled in one of two ways. First of all, the Supreme Court settling the law, which it very rarely does. It maybe takes a section two case once every couple of decades or so.

Secondly, if all 12 regional courts of appeals plus the D.C. circuit agree on what the standards ought to be with respect to section two and that very rarely happens two because it's all over the map. Section two law is all over the map. So I don't consider much of section two law to be settled.

With respect to section five, I commend to you some remarks that I made in Los Angeles about three weeks ago, which basically spell out five factors which I think we need to take into account at the commission before we bring a section five case.

One of those factors is, indeed, the extent to which section two law is unsettled because I don't think, and the courts have told us this, that we ought to be using section five when section two law is unsettled so that we would be unsettling the law if we used section five.

That said, another factor, which I mentioned, is that I think we have talked about antitrust injury in far too narrow of terms when we've talked just in the form of increased prices. I think there are lots of dimensions to competition, including non-price factors as well.

So I'd like to see a broader focus, for example, on the effect of either a transaction or practice on the consumer choice. And that, I think, we can do with respect to section five much more easily than we can do with respect to section two. Thank you very much.

BLACK: It's now my great pleasure to introduce Undersecretary Robert Hormats. Bob Hormats has extensive background in the private sector as well as the public sector.

His public service includes assistant secretary of state for economic and business affairs, Deputy U.S. Trade Representative, senior staff member of the International Economic Affairs, the White House National Security Council. He has an extensive portfolio as undersecretary, a wide range of vital issues to American business in general and our industry in particular.

He has, for example, major responsibility and co-shares in the effort on global Internet freedom. He has responsibility over various policies, international innovation policy.

An area that we all know is very critical is intellectual property issues where, frankly, it's not often understood at high ranks of government that while we are very strong supporters of intellectual property that when we're dealing not with the third world but with major industrialized country that getting the balance is more important than getting more.

It is the nuance. It is the appropriateness of specific I.P. regimes that really makes for the kind of innovative and competitive industry that we have. So Bob Hormats, we have known each other for many years and he has a great grasp of, I always think a great grasp of Internet economics as well as of industry. We look forward to working with him on these issues.

And I know some of the issues like intellectual property may not be something you've dealt with regularly but he's going to hear more about it.

So, thank you very much for being here, Bob.

HORMATS: Well, thank you very much. It's a pleasure to be here and thanks very much for that kind introduction. I appreciate it.

We've known each other for a very long time, too many years to count, I think, but always a very productive and good relationship.

I'm particularly anxious to have a chance to talk to you today about the kind of issues that Ed's outlined because they are extremely important. Intellectual property, I'll get to it later on in my remarks.

But what we're really talking about here in my judgment is the lifeblood of a modern knowledge-based, knowledge-driven global economy.

If we do not protect intellectual property now against assaults of various kinds, which I will describe a bit later, we're going to find that our competitive edge is eroded dramatically, not by competition but by practices of piracy and forced transfer of intellectual property, things like indigenous innovation policies that adversely affect our interest, not just today but by undermining our competitive strengths over the course of the next several years and several decades.

So this is something I will touch on, and I'm delighted you mentioned it at the outset because it is something that I have raised at every meeting that I have had in China, and I've been to China several times.

In fact, we just had a meeting this morning with a senior group from the NDRC, which is one of China's major agencies that deals with this. Of course, next week I and many of my colleagues, half the government it seems, are going to China for the SNED.

This question of intellectual property protection, of indigenous innovation and the wide range of issues that surround these topics will be a major item for the United States to raise in that very important forum.

Given that the focus of this year's caucus is on Internet policy, innovation and job creation, I would like to speak to you this afternoon about the role that our federal government in general and especially the State Department plays in fostering the growth of U.S. innovation, supporting global economic development, especially as it relates to the Internet.

America has always been home to innovation. The creative and pioneering spirit of this country was woven into the fabric of our culture long before the Internet, laptops and mobile phones ever existed.

Anyone who's read the biography of Benjamin Franklin understands this very well. If you read about Alexander Hamilton and the original developers of our economic system, innovation, the protection of American industry's ability to compete was very high on their agendas because this is the way they understood that America can build its economy from a series of 13 colonies into a major economy.

You had to be able to have a robust industry, industrial sector, agricultural sector, but you needed the notion of private enterprise, of free enterprise, of freedom of people to develop their capabilities and to develop and establish businesses.

This ferment of ideas and of businesses and of an entrepreneurial culture was central to the founding of our country and has been central to our success ever since.

But today, of course, we can hardly imagine life without these major innovations that I've just outlined, the Internet, mobile phones, laptops, a whole range of things.

They are fixtures in the new world that thrives on instant communication, unfettered access to new data and a variety of communications and contacts around the world. Secretary Clinton called connectivity the fifth freedom, the ability to connect with people in your country, outside of your country, in your neighborhood, your friends and your neighbors and your business contacts.

This freedom of communication, of connectivity, is extremely important. In today's global market, one that facilitates growth of groundbreaking companies and drives less competitive firms to either reinvent themselves or shutter their doors, is based on information. That is the valuable resource that we've got.

We must all work together to ensure that our knowledge-based economy continues to thrive. That's why promoting innovation is so important to President Obama, to Secretary Clinton and to all of us in this administration.

This emphasis on trade and other initiatives that support innovation is apparent in the program that has just been announced, which is the national export initiative.

The national export initiative was unveiled in March. It is a multi-agency effort to encourage U.S. firms, both large firms and small firms to increase their exports and help American workers reap the benefits of an expanding global economy.

We're using all the tools in our toolbox to make this work, from promoting commercial advocacy to increasing export financing and especially to reducing barriers to trade and protecting intellectual property.

I know this will benefit a lot of American companies and the entire American economy, but it will particularly have an important effect on export-oriented companies, many of which are represented in this room.

It's also going to be important in rebalancing the global economy which is, of course, an important part of our macroeconomic agenda. For many of our most technologically advanced companies, foreign sales account for roughly 80 percent of total revenues.

Many small and medium-sized companies require direct sales abroad or sales of goods that are incorporated into the products made by larger companies to grow in the future.

So the ability of large companies to export and the ability of small companies to export either directly or by incorporating their products and the products of large companies like Boeing Airplanes or GE Engines, companies like that, is really an important part of keeping our economy growing and providing the kind of trade that companies in the United States need in order to grow their revenues, to employ more people and to maintain their ability to innovate.

The decision we make today about how to protect I.P. -intensive industries and to promote creative services will determine our nation's competitiveness, not just now but for many years to come. Every nation must wrestle with these questions. By working together we can enable more firms to be more efficient and productive

at home and abroad. So where do we begin?

We start with the basic truth and that is that intellectual property is the lifeblood of a knowledge-based economy. It is deeply tied to our national competitiveness and the long-term success of our economy and the long-term success of many other economies as well.

But we also realize that this presents important challenges. I touched on those a few moments ago. The theft of intellectual property is far easier than it was a decade ago.

In the area of source code, it tends to be much more lucrative because it is easier to get intellectual property off the Internet, and it is easier to utilize that to compete against the original inventor of the technology or the source code or the technology that's being pirated.

Today the threat comes not just from rogue firms but also from governments that would seek to promote an unfair advantage for domestic firms in a discriminatory manner as well as from a lot of other groups, such as organized crime groups around the world.

National programs that attempt to pick winners and losers in key economic sectors are another source of concern. For example, China's so-called indigenous innovation policies appear to link accreditation lists for products and government procurement together and are discriminatory against foreign firms that, foreign firms that are operating within China and foreign firms that want to sell to China.

We're working with the Chinese government to urge them -- and we'll continue to do this -- to suspend the accreditation process, suspend production of this catalog that is used as the basis for government procurement which we believe, as I say, is discriminatory, and we've had lots of conversations with Chinese authorities on this subject.

As late as this morning we had a conversation with them on this and we hope to raise it again. We expect to raise it again. We also think there is some understanding today in China of why we are so concerned about this.

This is not the only element of discrimination that we perceive in certain kinds of Chinese policies but it is the one that, for the moment, is the topic we're focusing on and we will continue to do that.

We think there is growing understanding in China of this. We do not want a confrontation with the Chinese. We want to explain why it is in their interest as well as in our interest and the interest of other countries to have this list and this accreditation process suspended.

We believe there are better ways for China to induce its companies and support the efforts of its companies to produce innovation. We're not against an innovative Chinese economy.

We're not against innovation in China. We're simply against policies that promote innovation in ways that discriminate against foreign goods, foreign imports and the goods made by foreign companies operating in China.

There is also a broader set of problems that not just emanate from China but from other countries as well. Every nation struggles with intellectual property protection.

The United States is confronting these issues not simply in China but many other parts of the world and I think we have to be vigilant, including some industrialized countries present problems for intellectual property protection and we need to deal with these in a very forthright way as well.

So it's not singling out China alone. Wherever these problems exist we need to identify them. We need to use the techniques that we have available to go after them, through negotiations if possible.

But we also have such things -- and I'm sure you've heard about this from Miriam Sapiro at lunch -- special 301s and other types of mechanisms within the WTO that can be utilized as well.

We also need to work with foreign governments. In many cases you find that while the United States presses for protection of intellectual property, we have allies within these countries that support the same objectives.

When I was in China a few weeks ago I met with a group of Chinese who also are supporting the protection of intellectual property in China. Why are they supporting it? Because they're producing intellectual property as well, and they want it protected.

They want it protected in China, and they want to be sure that when they sell abroad, they're intellectual property is protected.

I can remember a story. This goes back a couple of decades. It relates to China. Deng Maomao, who's the daughter of Deng Xiaoping, had just published a book called "My Father Deng Xiaoping." It was the best seller in China. It was published in Chinese and in English.

She came to New York and there was a book party for her. Someone raised this question, someone from the movie industry it turns out, raised this question with her. What about intellectual property protection in China?

She said, "I'm all for it. I just published this book, and within a week, four people were selling pirated copies of this book on the streets of Shanghai." Can you imagine anyone pirating the book of Deng Xiaoping's daughter?

But nonetheless, they were selling these things, and she identified them and found out who they were and got the government to crack down on them. But it shows one thing and that is we're not without allies in these countries.

There are a great many people in these countries who are also concerned about the protection of intellectual property, trademarks, copyrights, patents, in their own economies. If they're going to be able to be rewarded for their creativity and their innovation, they want their governments to protect them.

This is true throughout the world. It's true in India, through many other parts of the world. So one of our goals is not to have our confrontation with these countries but to work with them and, particularly, to work with people within these countries who share the same points of view. We are in the process of doing that.

Let me just turn now to the Internet and its role in the innovation process. The fact is that the Internet is a facilitator of innovation as well as the product of innovation.

It's also, however, as the result of the fact that more and more people are using it around the world, subject to evolving threats from hackers, from cyber terrorists, from others who are trying to get into our Internet systems to either disrupt them or steal information or do various and sundry other things that you're all quite aware of.

For this reason, the State Department has been working very actively to preserve an open, interoperable and reliant Internet and an also reliable regulatory environment that deals with the Internet so that we have a sense of transparency among countries as to what their Internet regimes, their regulatory regimes are.

Our goal is to enable the Internet to develop into an engine that freely exchanges information, ideas, economic information because this is important to enable societies to grow and it's important to economic growth in general.

We're also collaborating with other countries in emerging areas of concern like cyber security, data privacy, Internet freedom and a number of other things and let me try to review a few of these very briefly.

One is cyber security and innovation. As President Obama said last year the cyber threat is one of the most serious economic and national security threats we face as a nation.

The benefits of a globalized world, instant communications, travel, the rapid availability of goods and services, all raise important security concerns. I suspect that many of you in this room are well aware of these risks.

In cyber space, criminals can disrupt systems or steal data in an instant from thousands of miles away and often you really don't even know where the source of the threat or the theft is.

Their data might travel across 10 or 20 countries, and we don't know where it goes. In some cases we don't know how it's used but we know that there's a high risk that it ends up in the wrong hands.

If consumers cannot rely on stable, secure networks, they will not entrust their dollars or private information to high-tech businesses or utilize the Internet to transfer this kind of information.

For better or for worse, the Internet that we use in Washington, D.C., is linked very closely to the Internet in Moscow, Berlin, Nairobi, Brazil, many other parts of the world.

Cyber security is a truly global issue demanding a concerted effort by industry and government to create an environment of stability, reliability and reward for innovation.

We are inextricably linked to the fate of networks far beyond our borders but we're making enormous efforts to identify new threats, to defend against them and to improve the security of our digital infrastructure.

The State Department's emphasis on capacity building is critical to that effort. We continue to work internationally through the United Nations, through APAC, through the OAS and through other forms to help ensure that other countries have made protection of their national networks a priority.

We want them and their citizens to be aware of the techniques and the commercially available products which will aid in this effort. As with virtually everything we do in the area of cyber security, we rely extensively on the efforts and the resources of the private sector to accomplish this task.

The private sector has proven time and time again its adeptness at leveraging signs and technology to address the great challenges that we face as a nation and as an economy and we're looking to you once again to help in this global endeavor that is so critical to our economic future.

Regarding the issue of privacy, another component of the strategic effort that we're making pertains to the question of privacy protection. The plethora of new online applications and content have revolutionized how consumers and businesses interact, transact and obtain and use information.

Beyond the boundaries of electronic commerce, the Internet is transforming critical sectors of the U.S. and of the global economy and of our societies in general such as health care, energy education, the arts and political life.

In all these sectors, proper use of personal information can play a critical, value-added role. Consumers must have confidence that their personal information is protected online.

Companies also need clear rules and policies that allow for innovative business models and a free flow of data across state and international borders in support of domestic and global trade.

Our challenge is to provide a flexible, forward-leaning policy environment with a robust regime that respects longstanding privacy principles and expectations.

This is a difficult task but it is critically important. Given the fundamental changes in the information economy, a domestic and global reassessment has been undertaken to review approaches to privacy.

The U.S. government, through recent efforts like the Federal

Trade Commission, public roundtables, the federal communication systems, national broadband plan and the Department of Commerce's Internet policy task force is addressing privacy concerns as we develop policy in these sectors.

But these days we can't afford to work in isolation. Our efforts also extend to other countries through our international relationships where we discuss cross border data matters in groups such as APAC, the OECD in bilateral discussions and in other venues.

We also must ensure that privacy guidelines don't impede the efficiencies provided by the innovations that have developed so rapidly over the last decade. I don't believe that these are necessarily competing forces.

When consumers fully trust companies providing these services, their trust leads directly to financial benefits for those firms and the ability of those companies to invest in more R&D.

Lastly, let me talk about Internet freedom. This is an item of critical important to us because, in particular, we at the state department have been given a major assignment to address this issue head on by the administration and particularly by Secretary Clinton.

I serve as coleader of the Net Freedom Task Force with my colleague Under Secretary Maria Otero. The Task Force helps coordinate Internet freedom policy within the department as well as coordinate our outreach with foreign governments, businesses, academia and NGOs.

We held the meeting on March 4th with interested parties, companies and other groups to discuss emerging trends and areas of cooperation and concern on the issue of Internet freedom.

The department emphasizes in this effort a policy of shared responsibility with the private sector on Internet freedom and censorship efforts by foreign governments.

We strongly support the global network initiative, which is a multi-stakeholder group of companies, academics, investors and NGOs that has developed a set of voluntary principles to combat threats to Internet freedom.

In our bilateral and mediolateral engagements we have stressed our commitment to Internet freedom. We are currently increasing our efforts to coordinate policy with countries of a similar mindset on

such issues.

The other day I had an opportunity to meet with Nelly Cruz (ph) who is the European community commissioner in this area and we're attempting in particular to work with the European Union on such matters.

We're also developing the same kinds of relationships with senior officials in the government of Japan, South Korean and other countries because we want to make this -- in fact, we need to make this a global effort or at least an effort among countries that have a similar view of Internet freedom and what needs to be done to protect it.

We hope and expect that U.S. companies will continue to be active contributors to these efforts, particularly through the task force that I mentioned where we will continue to work with you and solicit your opinions.

We believe that companies that actively engage on this issue will not only be viewed as responsible firms, which you are, but will also reap long-term financial benefits.

A free and open Internet not only protects political and religious speech but it also enables all Internet firms to compete and succeed fairly in our network world.

If we do not get together in the areas that I've talked about to resist the kinds of pressures that I mentioned, then the danger is greater that we'll get picked off one by one by countries that want to interfere with Internet freedom and want to interfere with the ability of Internet companies to operate without a high degree of government involvement.

Let me now conclude with the following couple of points. For the state department, Internet freedom, intellectual property rights, cyber security and privacy represent some of the most important international economic challenges to innovation that we face.

These are 21st century issues which demand 21st century solutions. A key piece of what drives overall U.S. strategy on these issues is our communication with stakeholders, including the private sector.

So if we're not listening to you, raise your voice. If we're on the wrong track, help us to find the right one. We have much to learn from you and your feedback is critical in crafting effective and

persuasive policy.

Our goal is to work with the private sector. You have innovative solutions in many areas where we're trying to play a constructive role. We can only do so with the input that you and others in this sector can provide us.

So we look forward to a fruitful and continued engagement with you. We look forward to receiving your ideas and we look forward to an ongoing dialogue. These are critical issues to your companies. They're critical issues for the American economy.

Without progress on these issues, without our ability to deal with these 21st Century economies our overall economic ability to compete in this world where there's a lot of competition in these sectors is not going to be as robust as it otherwise would be. With your help and with the kind of engagement that I'm suggesting, we have the opportunity to support what you're doing and, in turn, provide a major contribution to the future growth of the American economy.

Thank you very much.

BLACK: Let me start it off.

HORMATS: Sure.

QUESTION: (OFF-MIKE)

HORMATS: Well, I think you put it as well as it could be put. I think there are balances. There's not 100 percent answer to any of these things, particularly because you're dealing with an evolving technology and there are various interests that are being debated in this kind of debate.

We're not in the process of sorting this out. I mean, we read you 100 percent as to -- there's always a tendency for something that is used for constructive purpose to be abused and used for a very non-constructive purpose if it's badly used or its excessively used.

We're abundantly aware of this and you've put it very well. These are the kinds of things that we have to deal with, I mean, in a totally different area.

There are lots of regulations, and we've had to confront this kind of issue in other sectors. This sector it's more complicated

because the tools are way more sophisticated.

But let me give you -- but it's not uncommon to have to deal with these. I'll give you another solution in a totally different area which is agricultural trade.

I mean, you couldn't think of this but there are rules about sanitary and phytosanitary conditions. We like expansive opportunity for our companies to sell agricultural products.

On the other hand, there are certain restrictions to make sure that people get high-quality food that's not tainted and that's not polluted with all sorts of bad things, whatever they happen to be.

So there's legitimate interest in making sure that your food is not tainted, that it's not sprayed with carcinogens. On the other hand, there are countries that take this need for protection and abuse it and make it into a protectionist item.

So this kind of issue that you very effectively described is something we're grappling with in this area as we are in many others. We're abundantly aware of exactly the kind of points you've made and building these into agreements or treaties or bilateral arrangements or international understandings is critical.

It's not always either to do because one country can shade it 10 degrees one way, one can shade it 20 degrees another way. We have to find an answer to this. That's why working with the industry is so important.

It's particularly important because of the law of unintended consequences. Frequently something is put in there that sounds very innocent and sounds very constructive and yet it opens a loophole which you can drive a truck through which works in a way that it was never really intended to work and, therefore, cooperating with the industry as we go along is extremely important in this area.

We've had -- I've negotiated a number of things when I was in government before. This kind of thing tends to crop up where you've put your finger on a major issue, one we're very much not only aware of but are really trying to grapple our way through.

We can only do it with the input from the industry because you'll have a better idea of the consequences of various things, words that seem to mean something can mean something different if they're used in the wrong hands or excessively.

So I appreciate you raising it, and I think you're right on the mark.

QUESTION: Can I just say the same thing in a little bit more concrete manner? YouTube, in the history of YouTube we have revealed that less than one percent of the videos have been subject to a DMCA take down request by a copyright holder.

They have a tool to take down the material that is infringing to them. Yet when the government is pushing things like the anti-counterfeiting trade agreement where there is secondary liability imposed with statutory damages without full exceptions and safe harbors, we are subject to the platform itself basically effectively being outlawed for a one percent problem where 90 percent of the uses of YouTube are for these empowering Internet free expression uses. It just strikes us as an odd position for the government.

HORMATS: Well, I will take -- I'm not familiar in the same detail that you obviously are but I get your point. If you wanted to send me some more information on that, I would -- I don't claim to be an expert in that level of depth but I do understand the point you're making.

It is certainly a problem. You don't want to do sweeping things for one small sliver of the problem that can have an adverse effect on everything else. I agree.

If you send me that, I will get up to date on it and I'll look into it because it's an area we're following. I'm a big YouTube fan anyway. I want to make sure it continues. Yes, please.

QUESTION: I want to amplify this talking about intellectual property which always makes me nervous because there's many different kinds of intellectual property. They work in very different ways.

There's also a risk that government, since they can pretty much define what intellectual property is, will take the worst aspects of our system and use them to their own advantage.

So I want to point out that in China -- and you were saying that the Chinese are embracing intellectual property -- .

HORMATS (?): They're not embracing it. They're making use of it in different ways. But embrace wouldn't be the word I would use.

QUESTION: Well, in the copyright -- you gave us a copyright example. In the patent area, last year there were over 620,000 applications for regular and utility model patents, basically everything that wasn't a design patent.

That's over a third more than in the U.S. The overwhelming number of those were from Chinese applicants. The prospect this raises is that the Chinese are using the patent system to create a non-tariff trade barrier as a super ticket where the Chinese language, in fact, provides some of the protection.

Some people have accused the U.S. of having a non-tariff trade barrier because our -- the costs of litigating patents in the U.S. are so -- so prohibitive. But the Chinese -- the number of Chinese patent application is skyrocketing and this is only where we are in 2009.

HORMATS: No, I'm aware of that. And there -- this goes back to the point I was asking earlier. I think there are -- this whole question -- I was on the board of a bio-tech company, and there was a question of patenting certain kinds of bio-tech products, what constitutes a novel drug and what doesn't.

Then you almost have the same kind of issue here, where you have something that could be -- that takes a technology or a use of technology that's patented somewhere else and changes it a little bit and gets a new patent, which tends then to be restrictive for language reasons. Or not only language, there are others too.

But you're raising an important point. But what -- where do you see the answer to that? I'm curious as to -- I know the problem, I'm curious as to how -- and I know it's an issue. What's your take on how to address it?

QUESTION: Well, I think, there are -- the system works different ways in different industries. And as I understand it, the patent -- the Chinese reject the new uses of old compounds -- old substances doctrine (ph) that we accept. So we accept more patents in pharmaceuticals which makes sense from what economists tell us of the value of patents in pharmaceuticals.

HORMATS: Adding value by the way you use the molecules...

QUESTION: Yes, but we grant a lot more patents in I.T. where economists tell us that the patents are less valuable. And we're experiencing the problems of having -- basically ignoring patents in I.T. until they become a problem. And that is, you know, mammoth

portfolio building and control (ph) problem.

HORMATS: Right. Now, I understand the issue. Now, you raised the China question. How would you address that particular part of it?

QUESTION: Well, I think we first have to address it by fixing our problems at home. And we need to do that with patent reform that's real patent reform and not what's coming out of the Senate at the moment.

HORMATS: I think you'll have a couple of Senators in a few minutes (inaudible).

QUESTION: Good.

HORMATS: Sure.

QUESTION: (OFF-MIKE)

HORMATS: I understand the point. I think the -- for the moment what you're taking about is more of a domestic or at least a...

(CROSSTALK)

HORMATS: Yes, I think that suggests a lot more cooperation between the various patent authorities to make sure that they're -- this is of course the debate we're talking about the pharmaceutical industry -- that's of course the debate that goes on in that industry all the time.

I don't know the answer to this. I know it's a problem, and again it's probably only of balance. I'm hardly an expert in that area, but I understand what you're...

QUESTION: (OFF-MIKE)

HORMATS: That I get. That part I do get.

Any additional questions? Well, you're going to hear, Amy Klobuchar is going to speak in a few minutes, and she's terrific. She's a great friend, and I'm sure she'll...

(UNKNOWN): She actually already did.

HORMATS: Oh, she did? Did you ask this? Did she answer your question? She knows this stuff better than I.

Well, thank you very much. Have a good day.

(RECESS)

SAPIRO: Well, actually this speaker is pretty close to schedule. He didn't mess us up at all. In fact, we probably messed him up.

But anyway, Senator Mark Begich was elected to the U.S. Senate in 2008 after the highly competitive Alaska Senate election in which he defeated incumbent Ted Stevens, the longest-serving Republican member of the Senate at the time. And that election victory makes him the first Democrat to represent Alaska in either chamber of Congress since 1981.

Since taking his seat in the Senate, Senator Begich has been appointed to the Committee on Commerce, Science and Transportation, the Committee on Armed Services, the Committee on Veterans Affairs and the Budget Committee. Senator Begich's service on the Commerce Committee includes assignments to the subcommittees on aviation, on communications and on Amy Klobuchar's Committee on Competitiveness, Innovation and U.S. Export Promotion.

Senator Begich believes that it's the government's role to help create a pro-business climate and then get out of the way so the private sector can do its job. He recognizes one of the key building blocks to access the new economy as access to the Internet and favors policies that promote -- that provide rural areas the same opportunities as urban areas to enjoy the benefits, the access to the Internet which includes rededication of the FCC-administered Universal Service Fund to ensure affordable broadband Internet access in rural areas.

Please welcome Senator Mark Begich.

BEGICH: Thank you very much. And yes, I'm on Amy's committee. I have to give her a hard time all the time because when she talks about Minnesota and she says these rural communities, I thought always in somebody who have been in the committees I described -- Alaska extreme rural.

And then usually we go back and forth, she says we got so many lakes. I said, "Yes, 10,000. We got 1 million." Then she says, "Well, our state has this." I said, "Yes, we had 10 times that." And then she always says, "We got 3M and we got..." you know, and I said, "You're right, OK." I stop there. But it's always a pleasure to work with her on her committee and talk about innovation.

First, I just really want to, you know, being in the Senate, being in the Commerce Committee is -- for Alaska is a very significant committee in a lot of ways, not only from the telecom and Internet capacity, but we have fisheries underneath there. We have aviation, and those are big businesses for us in Alaska.

So first, thank you for the chance to be here and thank you for those that have been subjected to this committee hearing process. I am a new member. I won't make my comments unless you ask a question, which I would encourage you to do that what I think about the process, and I would answer at that point, but I do think there's a lot of work ahead of us.

In my state, we're very unique in a lot of ways. We have 200 communities that are only accessible by riverboat or floatplane or snow machine -- that's it. So when people talk about highway systems and how to get to places, we have a very unique situation.

As you know, the FCC just released the National Broadband Plan. I have to say during that -- who's at the hearing when that was being released? I'm just curious. Anyone from this room?

When they were doing it and I finished my questions, this is how savvy -- and I'm not saying I am but my son is. He is 7.5 years old so I'm the broadband -- the chairman finished description, I asked my questions and my BlackBerry goes off and, you know, we're not supposed to look at them but, you know, I look at them -- it's from my son. It's the survey results that he has done on Google under Documents. I know he's probably not supposed to be on Google because there's an age-restriction issue but I don't know how he did that.

But I will say this -- that I'm looking -- I was saying, "How appropriate that I am sitting here, listening to the broadband plan, my son just sent me the results of the survey that he sent out earlier that he developed which I had no clue that he could do that under development or under documents tool." If you haven't done that, it's a great tool. So he sends me these surveys all the time. So I just thought it's very unique.

And If any of you saw me get up and go over to the chairman just after that, that's where I whispered into his ear, and he did his best job not to start laughing because the testimony was important. But I thought this is how ironic it is that we're in this world that we live in today and the advancement of technology and how a 7 year old has taught me more about the utilization of the Internet than I could ever

think about and what his generation after him will be doing.

So it's how technology will shape this country and especially in my state because broadband is very important. I'm trying to make sure we have connectivity. For us, it's about health care, it's about jobs, it's about building our economy, it's about delivering education.

When they pass laws like No Child Left Behind and they say every classroom needs to have a teacher proficient in a certain subject area, that is physically impossible in a rural community without high-speed broadband because we have teachers that teach multiple schools that are hundreds of miles apart at the exact same time delivering education material because there's no way for a school that has 20 kids that are ranging from 7th grade to 12th grade can have teachers in every subject area based on the law, so technology is critical.

For us, the ability to deliver technology and medical technology through the Internet is a powerful tool for us because again, the same situation. If you were to travel from one part of Alaska, say the Aleutian Chain by Kodiak-Dutch Harbor kind of on the chain that goes out like this when you go to the map of Alaska, they come to -- a hub on this case, for medical care, it will cause you \$1,000 roundtrip plane ticket. So I can travel to D.C. twice on a supersaver than what it would take for someone to travel.

So again, how we use telecommunications is powerful for us from an economic standpoint, from a medical delivery system and educational system. But we'd be very frank with you, we have delivery system issues in our state.

And so as I look at the new broadband plan, I think the goal is a good goal, but we are troubled by some of the issues. And we're going to continue to look at this and how it evolves but especially around the Universal Service Fund because as I just described to you, it is critical for our ability.

For example, we have people in rural Alaska who have goods that they want to sell, may it be the Alaskan artifacts and carvings and so forth which can bring extreme value. A simple carving could be anywhere from \$50 to \$200 to \$300 for one simple carving.

The utilization of the Internet to sell those goods is a powerful opportunity for our communities to survive. So for us, we'll be very close to examining this because as you know, again that people who are familiar with Alaska, I mean, we struggle now to maintain our copper

lines and sometimes 60-degree -- minus 60-degree with permafrost and a variety of very harsh conditions to work in, so we think as very important and how the USF fund is utilized in the future.

Also, I have to say that it is important this partnership that we're going to -- that we developed in the sense of the federal government. When I came into office, I was excited about broadband and what the potentials, but honestly, nothing was really happening. It was in January of last year that the Stimulus Bill started to move. And I was excited about it because I thought this was an opportunity that the government and private sector can work together to figure out how to build our network.

I mean, our goal in our office is Alaska 100 percent wired up with high-speed broadband from every village to every community because we know what the impact will be. But we also know the systems that we operate under, the federal bureaucracy is not a smooth system in delivering these resources and partnering with the government. We know there's a lot of challenges there.

But from my end, when I came a year ago and I saw that opportunity, I saw clearly this was an important step for the federal government to take as an investment into the infrastructure.

As you said in my opening, one of the jobs that we have is, for example, in Western Alaska, we're going to wire up. The highest poverty level in the state -- 30 percent to 35 percent poverty level, we're going to wire them up first, but we're expecting our dollars, private sectors supporting that then we get out of the way. Let them develop the next stages that will move those economies or move those medical technologies or those educational opportunities forward. Seed it, partner, step out of the way -- that's kind of our way of looking at business.

I will say another issue I'm sure you have seen or heard about, the letter that Frank and Schumer and Ben and myself have sent on regards to Facebook. To be very frank with you, I come from a state that -- I think we're only two states in the country that have actually embedded in our constitution the right to privacy. We're a very libertarian state in Alaska. We don't want the government messing with us. We don't mind them participating with us, but we don't want them telling us what to do.

And this issue, I get very nervous about. People I represent get very nervous about it, about how their information is utilized. It's probably one of the biggest issues we hear about on a regular basis.

It doesn't matter, you know, for example, as we -- as the Immigration Bill started to move around or discussion of it, the first thing we started to get in from people is what's this, you know, ID card we have to have. I mean, the other issues were out there but that's the first thing folks in Alaska, folks -- on why do they need that card.

In the case of Facebook, it was a concern and we are still concerned about how you use that privacy, that information that is shared with a company. I want you kind of be fair to everyone here. I'm an equal opportunity warner, and I like to just tell people we know how important that information is for you to determine and build your business models.

I would just caution you on how you use information as perceived to be private by the customer, the client, because I'm not bashful about telling if I think you've stepped over the line. Facebook, I don't know if anyone is from Facebook here and I apologize. But I will say that, you know, I'm not bashful of telling you if I think you stepped over the line.

We understand that these business models are constantly being developed and how you have to figure out how to make them successful. You can't do it the way it was done 10 years ago where it's done five years ago, let alone two years ago.

But I would just say be cautious of the information you use, the information that your clients have given you in the thought of privacy and how you build your business models. Your communication with your customer, to me, is probably the best way to resolve that and ensure that you have the best utilization of that information.

I will tell you as a Facebook user and my office is a Facebook user, you know, they brand their issues as they were trying to figure out how to disconnect from third party people utilizing it, so I would just encourage you as you think about that, as your business models evolve, I would encourage you to do the test ground, test your concept with some consumers in Alaska and you'll get the raw truth of privacy issues. And then from there, you can figure it out, I guess.

Let me really stop there because I know we are -- I'm not sure I want to talk about Wall Street reform, I'm happy to do that, and we're in the middle of that. There's multiple amendments. I think Amy has a couple of amendments she was rushing back to negotiate, and where -- I don't know where we'll be by the end of the day on it, but we're trying to move that piece of legislation and get it off the table and move on to the jobs' agenda which is critical for this country.

One comment I did hear and I will just kind of pre-answer it, I guess, or try to answer, and that's on patent reform. Here's how, at least my view of the way I -- at least the way I operate on this legislation, even though my assignments as a committee are not directly related to patent reform just like they're not related to energy for -- which is born to Alaska, we engage on every level that we think it's important to us.

I'm not bashful about participating committee meetings where I'm not invited. I just show up. That's what I did on the Energy Bill, and Alaska's interests are better represented today than they were six months ago, as they rolled it out yesterday.

On the issues of telecom, Internet, for Alaska, it's a huge part of our future. We were -- a lot of you don't realize this, we were on the cutting edge when teleconferencing was first thought of. Alaska launched their own satellites. We didn't wait for anyone else to do it -- we did it because it was important for us to communicate and do commerce throughout our state.

And for a state to own their own satellites for the purpose of communicating with one other in the 70's is unheard of, and what we did is we were on the cutting edge of that, so we see the value. We have four fiber optic lines coming into our state, which is again, when you think of the size of the state, the volume is unbelievable.

The competitive nature, I served on the Anchorage Assembly when the telephone company, one of the largest by population owned by government, we own the telephone company. And I can still remember I sat on the assembly, and we have this thing called Mactel, and it was our cell phone license.

I remember sitting in with a bunch of assembly members and I said, "We got to get rid of that thing, that's a money loser." And I remember sitting there, I was 26 years old, and I said, "I don't know about you, but I think this might have some future." That's a red line, we're losing money every year.

And in those days, you know, you had monopolies. I mean, we owned the market basically and, you know, of course, when we got ready to sell the company which we later did, the biggest revenue generator was our cell phone component which, of course, made the value of the company even more than what was planned. But I can still remember some of the folks I was serving with, they want to get rid of that license because it was expensive.

I was the only one at that time to have a pager, you know, which are non-existent today but -- and they banned me from the assembly meeting to have it because it interfered with their meetings. Now, today, you go to the same assembly meetings, they have computers, they got cell phone hookup, the agendas are all electronic.

And I just look back and I think, you know, I may not understand all the intricacies of technology, my job has always been on the backside, how to use it and make sure we can use it for the benefit of whatever business or government I'm in, and that's how we do the business.

So let me end there, and I'll be happy to take questions. I don't know how they'll be done or for me to just call on people. Is that -- OK, I'll be happy to do that.

And Ed, you are not allowed to ask one question. Just kidding, Ed. I'm just kidding.

(LAUGHTER)

I see any questions from folks.

Yes, you get two. You get a double. Any questions I can answer from folks? Yes?

QUESTION: Senator, you just said (OFF-MIKE) a lot of folks around the river are very supportive of net neutrality and what the commission's been proposing with respect to moving into a Title II "light" regime, and so just wondering if you have any thoughts on that or if that's come up in the community when you've been involved in discussions?

BEGICH: Yes. Those had no -- know my position that's why I campaign, and I'm a believer of net neutrality but at the same time they call it "light" or "third way" or all these different, you know, they're trying to figure out how to package it.

Part of me, I'm also, you know, maybe it's because as a former mayor and executive, I -- if you notice the hearing the occurred when the broadband was being debated, I didn't get into the, you know, is it one or two? Because I thought broadband has hundreds, if not thousands, of other issues.

That issue, we need to let it kind of continue to evolve. I hate to say this. Whatever evolves is going to get litigated. I don't

care what side you're on. I just had this distinctive -- not that I would say that I'm for litigation and I'm not an attorney, no disrespect to attorneys, but I think I have a feeling.

So, what I've done is -- it's kind of interesting as the word I was about to use -- I was going to say neutral on net neutrality, but I'm in support of net neutrality by not engaging in right now because I don't want to legislate. My view is, let's just see this process unfold a little bit more. Let's just see what FCC is really thinking about, and then let us have discussion for them. If there's a legislative fix, then we'll have that debate.

But, you know, the power -- again, I'm speaking and singing to the choir there. The power of the Internet and that flow of information has been unbelievable what it does. My staff hate it because I'm on, you know, I'm always looking up stuff. You know, I'm always thinking you get this information and by the time they get the memo to get the information, I've already gone on the net and pulled the reports and handing it to them, and they're like -- crazy, you know, they got to figure out faster how to get the information.

So, it's a powerful tool. Then of course seeing my seven and a half year old in the power of how we use that, his computer oddly enough is not connected because of course we believe in parent controls. I believe you do a lot of stuff with controls and mechanism, but at the end of the day the parents are responsible and, you know, way we do that is we don't connect them until we decide we're going to be sitting there with them.

So, that's a -- so, I think in a lot of ways, I want to see the FCC kind of move through a little bit more especially because they have now "light," "third way," "alternate," whatever they call it. But at the same time, if there's still a lot of issues, and I have no problem having discussion about what we need to do to work a legislate process. But the legislative process in the U.S. Senate is slower than molasses on a winter day, I'll tell you that, so and that's talking about how fast it is.

QUESTION: This is very refreshing to hear your comments about technology and the importance of the Internet and at Google, and since you just raised the legislative process...

BEGICH: Sure, my sense has broken some rules. If it's 13 (ph)...

QUESTION: I'm wondering if we can bring your son around you more

Senators and more of your colleagues to get them a little more familiar with...

BEGICH: If I can interrupt you for one second, I have to say, he's not bashful about and what he does, he also -- because my wife has four retail stores, I've been -- so this -- he works on Quicken also. So, he writes invoices.

Today, before I go to -- I walk him to school every day then I walk to work. And so here he is sitting next me and he brings out -- I have to talk to you about this because it's a little, still trying to figure this out, but he's doing a tax 941 out of Jacob's Business that he set up, and he's asking me all the questions on why does this keep coming up, and taxes.

I say, "That's good, you pay in advance." You somehow put in some numbers somewhere and the Quicken and so now he's back reviewing that because he goes -- he says, "I've got to figure this out."

But this morning, he had a 941 printed from his Jacob's Business and he was asking all the questions and he did have a \$99 million refund coming. That was hard to explain that's not really happening, but he loves technology. He, you know, my wife said he doesn't play computer games -- in a way he does. It's a different way he's using his brain and how he's delivering the outcome of it.

And he has done some things for Senators, I will tell you that. I'll just leave it at that. Because he likes to get their information so he can print out a receipt for them or a ticket which he has done. Poor Rockefeller, he got scammed by him. So, that's another story.

I can't believe Politico didn't pick up on it, actually. They did a write down by the train scene (ph), you know, let's leave it at that.

Did you have a question? I didn't mean to interrupt you. Did you reach him? No? Yes? And then I'll come over you.

SAPIRO: I'll ask a question. We had Blair Levin here earlier. He was speaking about the National Broadband Plan, effort of the FCC and a big component of that was spectrum and they have some very ambitious plans that they laid out in the broadband plan to make more spectrum available -- some coming from the broadcasters, some coming from the federal government.

Speaking for T-Mobile, you know, we would love to see more spectrum put into the marketplace. We think it's very good for the

economy and good for innovation. Good things come from making spectrum available.

So, I just wanted to see if you have any thoughts on that or any reactions to the commission's ideas about some of which involve things like incentive auctions where, you know, people will have spectrum mail might have to give it up but get some incentive for doing so. It was presumed that there will be some dollars and cents and things of that nature. Some of which sometimes is controversial because it, you know, it translate into so called windfalls and so forth.

BEGICH: Right.

SAPIRO: So, I wanted to just get your reaction to some of that.

BEGICH: Yes. Let me also add, if I can, another piece of spectrum, and that's the public safety spectrum. You know, as a former mayor, this was always an issue that we had how much you consume and, you know, how it's patched together and a variety of other elements issued, again, probably, you know way more than me the technical elements than I'll never understand.

Except I know all I got was a lot of complaints from my I.T. guys in the police department on what they needed to do. But putting all aside, you know, I haven't made any determination what's the right approach, but I know, you know, when you're all done and said, it's an economic issue of plus and a minus, and you have to keep that in equation.

And that does mean, you know, that we made it up in a situation where in order to get back spectrum, there's an economic piece of this equation. We have to be careful that were not overcompensating for something that maybe they paid very little for or got for nothing. So, we have to balance that, but I haven't really said here's the best way to do it. I have to be very frank with you.

The whole plan was delivered to us whenever it was, two weeks ago, we had a few other things but, you know, I kind of -- and that's why I actually would have prefer the committee that more discussion of those items. I mean, the net neutrality -- we're going to deal with that, you know, one way or another, but there are so much in the broadband plan that we should be thinking about that has huge economic impact, positive and potentially negative, depending on how it's implemented.

It's also my biggest complaint about the committee structure. We

spend more time kind of speaking to people than saying, "OK. What's the five things that work? What's the five things that don't work? Let's have a discussion." And actually have people at the meetings rather than coming in and out all the time, that's my own complaint about the system. But I still haven't really said, "Here's the right way to do it."

I'm interested in how we build that spectrum and expand that spectrum, but we know some people have a lot of it that aren't using it in full course. So, we've got to figure out how to extract it. And I don't know the right way yet but, you know, there's going to be economic issues around it, and we're going to have to deal with it.

QUESTION: Senator, as someone who's still somewhat new to the Senate having got elected in the last cycle, you came in to a fairly robust group in the Senate of -- there's various names for it, you mentioned the "third way" in a different context earlier, but sort of -- some folks call it the Sensible Center, the Pragmatic Center...

BEGICH: Or the Insane (ph) Center, depends on what we're doing.

QUESTION: But with primaries and everything else that center in the Senate is under somewhat of an assault and is being pushed up to the wall. Observations you might have on this election year?

BEGICH: Well, I think the danger is this election year may push sides too far to the right and too far to the left, and that's a very dangerous thing. That's not how you govern. That's not how you move issues forward. I don't care if you're progressive or conservative or liberal or whatever the title might be for the day, you got to really manage for the middle. That's where this country is.

But what's happening is you're polarizing the situation, and you're getting some people who are saying, you know, "I like that but, you know, I just saw what happened to XYZ, and I'm not sure if I associate with you I'll get blown out of the water." And so, that's very dangerous for us to govern.

And I've seen this picture before when I was mayor of anchorage and I had an assembly very split, and you have to forge these compromises. But part of it, it's a very touchy situation because at one hand you want to support kind of your group, but you also want to get to the issues. These days right now, they're in conflict because you can't get to a total number.

I mean if you think about the bill we're on right now, for the

first time, we're doing amendments that don't require 50 votes. When was the last time you saw -- I haven't seen that in a year and a half. You know, now we're doing it on Wall Street. Every amendment's only required 50 votes plus 1. That's the way we should do the business.

And I can tell you, one amendment passed everyone expected. The second amendment people thought would fail. It passed.

If you look at the mix, it's a mix of Republicans and Democrats because we actually -- a group of us were talking on the floor, and we heard the discussion not on the where I call the 2-minute sales pitch but actually it's some real discussion. And we then, you know, some of -- I can tell you, I saw some people who have their notes from the staff said no, and my note from my staff said no, and I didn't even read my staff's note because I knew what I wanted to do on this was a yes, and I appreciate my staff.

My staff gets very nervous about that. They try their best on those things but, you know, I knew about the issue a lot. It was about the whole issue of Moody's and Fitch, and Standard & Poor's and those ratings. I was a mayor. I have to deal with these rating agencies. I had to sit in front of them and figure out how I get my rating correctly done and all that, so I was very familiar with this.

And we had a great discussion. Several of that were anticipated no votes were yes votes by the end of the day. That's the way it should work. That's exactly the way it should work. But the way the system has been, until this item, it's been a whole different ballgame, and I think we're going to default right back into it because these elections had just occurred with Bennett and next week, I think we're going to see us swoosh (ph), go like this.

Some of us new guys who are freshman on both Republic and Democrat are going to be highly motivated to try to keep things kind of in that center and practical because if we don't do that, we're going to be in a world of hurt. We got some big issues in front of us. I mean, you know, put a Supreme Court nominee over here for a second, that's a whole different ballgame. But we have budgets, appropriations, education reform, you know, you name it, it's in front of us.

And we got to forge our abilities of work together, and if we don't, it might be that in November, the public should do what they need to do, kick out the people. If they're not doing the job, I said that two years ago when I was running for office; if I'm not doing my job, kick me out. You know, my life won't end but, you know, at the

end of the day, we got to figure this out. So, that's how I see it. But I think it's going to get a little more polarized and that's going to be dangerous.

Any other questions?

Yes, Ed, absolutely. I'm kidding you. Go ahead.

BLACK: (OFF-MIKE)

BEGICH: I think you're right.

BLACK: (OFF-MIKE)

BEGICH: I will tell you soon. I don't know if there's a remedy at this point. I just say that there is unawareness that continually has to happen.

You know, my nephew is in the Internet business. He has a shop in Alaska and a shop in India, you know, and he produces software and does a lot of stuff around this business and, you know, I get a lots of e-mails from him about the entrepreneur as well as his part of equation early on was angel investors, very important part of innovation. You know, it's not just walking down the street and you're going to get some big bank to say, "Yes, I like that idea. We'll go with it." That really does not happen. We wish that happen more often.

A lot of these investors that are really looking at that kind of innovation and taking the risk with you, that we, you know, in a Banking Bill, this is one of the pieces that we're hoping that doesn't get swept up into this Wall Street reform is these angel investors that are very important to innovation in this country because they're really partners, you know, and risk takers with the new technologies that are being developed. So oddly enough, the Banking Bill is becoming a recognition of how or what role they play in ensuring that innovation and future economy is developed in this country.

So in an indirect way, you're getting kind of promoted in a different way. But I think you have to look at those different avenues, honestly, of how to continue to bring the Senate, especially the Senate, more aware. Part of this will be a generational issue, to be very frank with you.

A lot of the newer guys, I mean, you know, we understand technology, we use it -- we live it, we understand it, you know, it's

nothing that scares us.

I mean use video conferencing all the time with Alaska. I use Skype quite a bit when I contact folks in the Alaska, when they want to connect with me, if they have Skype capacity, I'm doing it, you know. But I can tell you that's not the case with this chunk of my colleagues, let me just say that.

Skype was a new discussion point with a couple of them, and I can tell you that. I have, at times, showed members how to use their Blackberry with additional features. And that's just because it's a generational thing. That's just the way it is.

So I think, in a lot of ways, this newer group that's coming in, whatever the phrase you use is '08 class and really '06 class is bringing in that kind of -- they've been around it -- they've lived it, they understand it. I'll give you one quick example that I was outraged about, going back to Alaska; I'm going to get my annual physical and the capital clinic thing there. They want to do my physical. I said, "No. I do it in Alaska." They said, you know, "We'll send you the records once they're done, and you can have them."

And then I paused to my staff and I said, "I bet you they can't transfer it out their system medical records." And they said "No," and I said "I'll give you 3-to-1 on it." And sure enough, they can't.

Now, that's amazing. It took us four months to get our webpage up in the U.S. Senate -- four months. Our phones in Alaska still can get voice mail in them. And it the system -- it's not because of Alaska's system, its run under the Senate system. I mean that's insane.

So when you say, we are trying to get people to understand the small comers, big comers. We haven't heard enough -- given an understanding of the system of what we're doing.

And so, we push them all quite a bit in our office with administrators within the capital system. And I think there are a lot of people, for example, that know it, but the people who are making decisions are very slow to do it.

And, you know, there's an amendment coming up that they want to get all kinds of information regarding investor information online, live, so forth, which I think is great. We can input our disclosure forms live on the Internet, you know, but you have -- we want to require everyone else to do it. And my view is if we don't do it, they shouldn't do it.

And so, a part of it is we have to -- the small innovators, the smaller companies do have an uphill battle. I can feel it out there. And I think part of it is enforce -- you guys kind of constantly explain what you're doing.

And the big companies who used to be small have to also be part of that equation because I think the companies that are big today but maybe were small before, they have to remember their roots and what created where they are. So this is kind of -- and, you know, love that has to be created.

But I do think, I look at the Commerce Committee and you see the people that I seat on my end, it was four or five, it's a different generation of people that have a different view of telecommunications or understand it, I guess.

So thank you, Ed. Thank you very much.

BLACK (?): I think you all understand why the Commerce Committee is the choice committee -- why the Senator would be chosen to be on it. They only pick the creme de la creme to get on there.

BEGICH: Or I just happen to be coming at the tail end. They said, "Here's a seat, sit down."

Thank you all very much.

(APPLAUSE)

BLACK (?): Let me -- I'm sorry for the delay. We've, as you can see, we've had quite a flow of folks in here and haven't wanted to cut people too short. But I apologize to our next speaker, Jessica Rich, for the delay.

And I also do want to make a general announcement that we have been all day in correspondence by e-mail with Ron Wyden and it is still unknown whether it's possible he may show up. We should know in the course of the next few minutes.

But Jessica Rich is here as she is with the Federal Trade Commission and Bureau of Consumer Protection.

This is a very key place within the FTC. She basically run and organize the Exploring Privacy Roundtable. The issues that intertwine in the Internet and privacy are many. It is extremely important.

I think our history is the one we deeply respect consumers and want our industry to serve consumers. But we face complex issues of how data that is gathered, and used and controlled, and who can have access to what kind of data and to what kind of concern. We talked to Rick Boucher this morning.

But I think getting a perspective from the FTC and the people involved focusing on these key issues is important at this point. And it's a real pleasure to have Jessica with us today.

Thank you.

(APPLAUSE)

RICH: Thank you, and to those of who are still here, we didn't have too many people streaming out of the room, which is great, it's not too late. Thanks.

So, as you know, the FTC enforces the FTC Act which prohibits unfair and deceptive practices. It also -- we also enforce very special statutes such as the Fair Credit Reporting Act and Do Not Call, our most famous initiative.

And entities under our jurisdiction include a very wide swath of the entities in this county, but, as you well know, not common carriers to the extent they engage in common carrier activities.

We've used our broad authority to bring many different actions in many different types of areas. We've developed consumer and business education materials. We encourage self regulation in all these areas.

Some of our main areas are privacy -- which I'm going to focus on -- national advertising, marketing, and fraud.

And I'd like to highlight, as I said today, our work in the area of privacy and technology, which I expect is a particular interest to this group, and I can also answer questions about areas I don't touch on after I make my prepared remarks.

So privacy is an area where we've been extremely active. We have fairly diverse program since the mid-90s, and I've been working on it the whole time.

We hold workshops to examine new practices and technologies. We bring enforcement actions. We disseminate materials, as I said. And

we encourage self regulation. And we view this as a very challenging area as I think you do because practices and technologies are really changing everyday, especially online, and our goal is to address practices that cause harms to consumers that invade their privacy, but without stifling growth and innovation in the marketplace. And that can be challenging.

Let me start with enforcement, which is really the bread and butter of our program. We are an enforcement agency. We use enforcement to highlight and deter particularly harmful practices for consumers. Data security is a good example of an area where we've been particularly active in the privacy area.

We started -- when we started bringing cases in this area, some of the biggest companies out there really weren't investing the time and the resources to secure sensitive consumer data resulting in breaches or just, you know, very high-risk to consumer data. Some of our early cases were against Microsoft, Eli Lilly, PetCo, and there's many others.

And even today, despite many dozens of breach notifications laws in effect around the country, many companies simply aren't making it a priority, and recent cases include cases -- FTC cases against LexisNexis, TJX, CVS, and Dave & Buster's most recently. So it's still something we hope people will focus a lot on.

The core principle is that the company should secure the sensitive data that collect from consumers so it doesn't fall into the wrong hands. It's a simple principle, but it's harder to implement, and we understand that.

And since 2001, we've made this point by bringing close to 30 cases now against companies that failed to secure consumer information in violation of one of the laws we enforce. We enforce several laws that we can use in this area.

And most recently, we highlighted a risk that we're not sure everyone is sufficiently aware of which is risk of P2P networks and the misuse of them, you know, by your employees who may then inadvertently expose sensitive data on the networks.

We issued warning letters to close to 100 organizations, including companies, schools, and even local governments. We issued warning letters even to those we didn't have jurisdiction over. We wanted them to know the data was at risk, that sensitive data had been shared over the P2P networks likely because employees had downloaded

P2P software either when they were working from home or at work and therefore exposed the data.

And the compromised data included health records, social security numbers, financial records, and the most sensitive stuff around. And the real problem with P2P is once it's out on the networks, you can't get it back. It's very hard to find.

And we've opened nonpublic investigations into the most serious breaches, and we issued a very good brochure, which is available on our website for any of you who want to circulate that to companies -- to your own companies or to companies that might be interested.

Although enforcement is a critical piece of our program, so is education and self regulation. We're a small agency. We can't possibly do everything through enforcement. Also, some of the concerns we have don't necessarily clearly violate the laws, but there are still consumer issues, consumer concerns.

Education is very important. But because both consumer and business education can prevent violations before they happen and so we spent a lot of resources on that. And similarly, self regulation can bring about change in a way that's workable and flexible for business especially in areas where, you know, where there's a lot of rapid technological change.

Behavioral advertising, which is something we've worked on, is a very good example of our work in promoting self regulation.

As you know, behavioral advertising is the practice of tracking consumers online to deliver them personalized ads. And this practice has grown in recent years since personalization appears to lead to much more effective advertising. And, you know, we're also all aware that the advertising including behavioral advertising helps to finance the free content on the Internet. So this is an area we're very mindful of that and very careful about.

But the personalization also raises concerns about privacy. Consumer groups have filed petitions with us and with the FCC on this. Congress has held hearings. Actually, a bill was just circulated on it, although the bill is broader than behavioral advertising.

The FTC held a workshop. And there's been increasing number of articles and surveys about this as everyone's working through the issues. And the concerns are that this is a practice that affects privacy that is really invisible to consumers, maybe contrary to

consumers understanding or expectations as they're navigating the web, detailed profiles could be developed, and the data could fall into the wrong hands.

And we have seen breaches like the same as AOL breach where, you know, data that was thought to be both non-identifiable and confidential ended up out for anyone to see.

We've encouraged self regulation in this area to -- basically along the lines of four basic principles. Transparency and consumer control -- and by that, we're talking about developing ways to provide transparency and notice -- and choice to consumers that's not buried in the privacy policy.

Reasonable security -- you can't really argue with that. Affirmative expressed consent before companies use data in a way that's materially different than what they said when the data was collected, and also affirmative express consent before using sensitive data, health, financial, location data, and kids for behavioral advertising, and we also said that the data to be protected should be any information that can be reasonably associated with a particular consumer or device.

This is somewhat new although it was really just a collection of what a lot of people have been saying for a while now. It is a traditional approach; it distinguishes pretty clearly between personally identifiable information and non-personally identifiable, but with technological changes, the ubiquity of data, the increasing ease of re-identifying data once thought to be anonymous, that distinction is breaking down to a certain degree.

In terms of the response to our call for self-regulation, it's been quite good. There's been development of new self-regulatory standards. There have been a lot of efforts to develop new types of disclosures that are that are icons that basically are meant to say behavioral advertising is happening here and if you click through, you can get more details and you can opt out, and other new tools to give consumers choice. Certain companies have developed these profiling menus that consumers can go in and control.

Right now, there's a lot of experimentation being done. I can't say consumers can, you know, clearly know exactly what to look for online because there are a lot of different things being done. But we think there's a lot of, you know, growth and promise here in developing these new tools, and we're very encouraged by it. Of course, we get to see how it all shakes out and implemented.

So the last area I'd like to highlight is our ongoing, you know, policy work. I guess behavioral advertising is policy work too, but we were specifically calling for self regulation. And there's a lot of work we do where we're trying to just stay abreast to developments and help figure out what the right policy is. And we think that's an important role for us as the nation's consumer protection agency.

And one recent project that's still ongoing is our examination of the regulatory and conceptual frameworks governing privacy in the U.S. This is the big picture. Last fall we announced we would be doing three roundtables designed to examine whether these frameworks were keeping pace with current practices and technologies.

And when I talk about frameworks, I'm primarily talking -- well, there's always existing laws, but we weren't looking so much at existing laws as the two conceptual frameworks that really dominated at least the FTC's thinking on privacy since the 90s which is notice and choice and harm-based privacy model.

So, in notice and choice, the idea is that a company provides notice about its privacy practices and a consumer reads, understands, and agrees to the terms and notice. And as I alluded to you before, we're not so sure this is working for consumers anymore. The notices have really become quite long, and consumers really aren't reading them.

And in the harm-based model, which is something that we really have been pushing in recent years, there's no consumer choice but there's more emphasis on enforcement designed to target privacy practices that caused tangible consumer injury like financial loss, identity theft, a denial of credit. The theory here is that consumers really don't care so much about their privacy per se, but on the tangible harms that can come when their data is misused.

And for both of these models the question is do they address how consumers and businesses today are really experiencing data and privacy, and do they accommodate the incredibly burgeoning number of new types of business models and data practices that are developed in recent years? Social networking, which was discussed by the Senator just a few minutes ago, mobile, behavioral advertising, cloud computing. You know, I could go on. There's so many different business models that many of them very new.

And we just completed the three roundtables, and we're looking over the record. We also got a lot of comments on this. A lot of

people are interested in this, and I thought I'll just briefly summarize the general themes that have emerged.

First, you know, there's a lot of agreement that notice and choice is not working, not as a consumer tool. It's an important accountability tool. I don't think we're ever going to say privacy policies are bad, but it's not a good way to communicate with consumers.

Second, there's really a growing recognition that privacy really encompasses more than the financial harms that sometimes the harm-based model focuses on. People do care about their privacy. When they search online for information about, you know, health condition they may have or their children or parents may have, they want that information to be private or many people do.

And there was also a recognition that different types of privacy practices raise different concerns. And we address -- the FTC really recognizes in our behavioral advertising report and calls for self regulation where we said, for example, that first party advertising where it's not shared with any third-parties and contextual advertising where you receive an ad but the data really isn't captured or used for any other purposes doesn't raise the same kind of privacy concerns as profile across the web.

And I think there's a lot of agreement that we ought to be able to distinguish between data practices that raise concerns and those that don't so much. And that can alleviate some of the concerns people have about, you know, privacy enforcement and regulation too.

And there was also a great desire among many to simplify everything. You know, there's lot of companies dealing with laws abroad, dealing with laws in 50 states, and just dealing with the enormously complex and potentially conflicting rules. And, you know, regardless of whether they were talking about regulation or just how to manage privacy, they want it to be simpler, and as I said earlier, so do consumers.

And obviously there's a tremendous need to preserve flexibility and innovation regardless of what's, you know, even as you protect consumers, you need to preserve the flexibility and innovation that it helps these wonderful business models develop.

So, our next steps in these areas are to evaluate the record and develop a report. And we will likely, just as we did in our behavioral advertising initiative, whatever report we do we'll put out for public comment so we can get -- have further input on this

process. And I do want to emphasize this is not a regulator initiative. We're trying to be a thought leader, an honest broker. We're working with all the parties.

The timing is a little odd because Congressman Boucher just circulated a Bill, but that -- and we'll obviously be commenting on that, but our initiative is separate from that and it was planned a while ago. And so that's our roundtables.

Now, before closing I just want to mention three other items that might be of interest and we're -- for those of you who have an interest in our Children's Online Privacy Protection Rule, we're reviewing that rule, again, to kind of see if it keeps pace with current technologies. There are a lot of interactive technologies -- mobile, even your kids interactive games that it is not clear how well they're covered by COPPA so we need to look at that.

There are also issues about the definition of personal information in COPPA that we need to examine. And that's a public process with a comment period. The comment is open now. We'll also be having a roundtable on the topics on June 2 right over there at the FTC. Actually, in our satellite building is over there.

We're also examining the privacy and data security implications of cloud computing. You know, cloud has many benefits. It's cheaper, it's more efficient for both businesses and consumers, but, you know, the lower cost of data storage, the mobility of data, the increased access to data by third-parties obviously raises issues. We're looking at that.

And, obviously, since this kind, you know, one elephant in the room, we're following the FCC's proceedings. It affects us. I'm sure you all are following it. I heard a lot of discussion before I came up here.

And we're going to continue to do what we're doing regardless. We have jurisdiction over non-commentary (ph) activities, and we're going to rigorously pursue the same types of initiative that we've been pursuing all along and we're going to continue to confer with the FCC just as we've always done, but we're hoping to keep pushing ahead.

So, those are my remarks. And if you have any questions, I'd be happy to take them.

Any questions?

QUESTION: I have a question about handset exclusivity because I'm not sure handset exclusivity -- I'm not sure which agency has jurisdiction of this issue, FCC or FTC, or where it stands. But, obviously, it appears up to the -- such practice as for iPad in the States, but as you may be aware, in other jurisdiction inclusive of Japan, Spain or other European countries, up to the continuous such practice handset exclusivity. So they market to single operator.

So, then, my question is, is there something the FTC should investigate if at all it happens in the states in the future or -- I think, still, as for iPhone, only AT&T can market iPhones. And so, now, if it's, you know, in the future authorization, iPhone, I don't know how that range may be, but I think our folks in Sprint and T-Mobile may be interested in marketing next generation. So, can you share your view on this?

RICH: I would need -- I'd get in big trouble if I comment on a specific situation like that, but I'd be happy to give you my card, and if you want, we could talk more offline.

QUESTION: I just wanted to ask a little bit more about how you do coordinate with the FCC on consumer protection issues. I mean, I heard what you're saying about the common carrier exception, but it's getting very murky because, you know, I've had some friends at the FTC tell me that to the extent that the commission declared things to be broadband, for example, arguably, the FTC has jurisdiction in that space.

Now, some of that obviously have been thrown into disarray, but in Comcast case and the FCC, you know, coming up with a third way which, you know, will be disputed inevitably. So, I just wanted to see going forward in particular your thoughts on that because I think the world is getting a little more complicated in that.

For example, when a carrier, a T-Mobile office offer services, you know, we're offering some broadband and some non-broadband services. We're offering third-party services through our cellphones and applications and so forth. And so, it's getting a little more complicated. And, just in terms of where you see the FTC and the FCC coordinating on some of this how you might see that going forward.

RICH: We are talking to the FCC. We're talking to the FCC more than -- about this issue so we can understand the two and we're talking to the FCC more than we used to talk to the FCC.

You know, I think there's probably -- until this is all resolved,

there's going to be some murkiness, but -- and I certainly am not going to be the official interpreter of what their position is, but my understanding is that any application, you know, that carrier transmission is, they're trying to be as clear as possible, and that an application on top of that will not be commentarier (ph).

In which case we have jurisdiction because the classification of -- the word commentarier (ph) is what we don't have jurisdiction over. So, if it's not called a commentarier (ph) activity, we have jurisdiction over it. It's not whether or not it's broadband.

QUESTION: Right. You know, as a practical matter, you know, consumers are going to buy applications and download things from a variety of different sites and so forth, and so the transmission is just one piece of it and there's going to be, you know, they're going to get billed for different things.

And I can see that there could be, you know, some confusion and it's a little bit in the Wild West right now, quite frankly and so I think, you know, the FCC just came out, this Bill-shock thing and the wireless industry will be responding to that. I think we're trying to do a lot of things to put tools into consumer's hands through their handsets, online, through other notifications so they know what it is they're actually doing, but some of it is not, frankly, in the carrier's control. It's outside of the carrier's control.

RICH: Well, the other thing to clarify is that there's going to be areas where we have joint jurisdictions. So, the commentarier (ph), we're out of business on commentarier (ph), but other than that we have jurisdiction and so does the FCC in these areas. So there are areas with joint jurisdiction.

We're also hoping that if this shakes out there's greater clarity. I hope so because the whole statement was just issued last week so, you know, obviously there's more to be said on that. But, our hope and expectation is that we're going to be doing more and more things jointly with the FCC in areas of joint jurisdiction because that's a good way to do things.

QUESTION: Two questions if I may. The first has to do with false or misleading advertising.

The FTC entered into some consent increase a few years ago with a number of computer and consumer electronics companies over the size of the print and advertising for optional votings necessary to establish connectivity.

And my question is a simple one. Namely, what new developments are there and who on your staff would one talk to to find out and keep current with the latest in FTC standards for false advertising?

Second question has to do with a different case that came out of your San Francisco office where some techies decided they wanted to get an upgrade in a particular in computer product and they went to the websites for the company and decided there was an implicit promise of a free upgrade.

And they then did some Astroturf lobbying, established a web site, got a few hundred people to say, yes we like this and yes they have promised been that, and we were able to get that one to disappear. Of course it was disturbing to the company and I'm wondering how do you screen real consumer complaints versus Astroturf lobbying.

So the first is general advice on who do we talk to to get the latest on false advertising? And secondly, how do you deal with Astroturf lobbying?

Thank you.

RICH: I think both questions would best be answered by the person you talk to on advertising. And we have a division exclusively devoted to advertising headed by somebody named Mary Engle (ph). And I can give you her information. I don't have her number off-hand, but I think you can get FTC numbers online.

QUESTION: Let me maybe ask the last question if I could.

RICH: OK.

QUESTION: And it's a broader one which is, you're primarily focused on private sector, privacy issues, but there is an intersection with public sector access information in a very big way. One place where it comes together is data retention.

And whether or not there's compulsion they keep data for how long and there are different pressures and some entities want a short time some long time, is that something your office will be getting into commenting on data retention policy?

RICH: Well, yes. I mean, we've been very careful about that. For example, in our behavioral advertising, we're aware that not only

does -- do other parts of the government have, you know, demands and rules about data retention which we don't oversee, but state laws, certain types of state laws, not privacy laws, the other ones, require retention of data and even some federal laws so, we -- when a policy in the area -- not to compel a certain time period the way the Europeans do.

We have said you should keep data only so long as it's needed for legitimate business purpose or law enforcement purpose. And by law enforcement that includes, you know, all of those other things I was mentioning. We're mindful of that, and that's why we don't have policies that have specific time periods.

QUESTION: I guess I'm after whether or not you've maybe pushed back against law enforcement in this. The longer information is kept, the more likely it has -- get's used improperly...

RICH: Exactly. And we've been involved in those discussions. But, you know, we're -- we don't oversee those other agencies and, you know, there's obviously the push and pull that you might imagine.

QUESTION: OK. We'll, thank you.

RICH: Thank you.

So, is Senator Wyden coming?

Thanks everybody.

BLACK (?): I'm happy and sorry at the same time as Senator Wyden has promised to come back and do another event with us, but he can't get away at the moment.

But I think we've had a long day, and I appreciate everyone's attention. I hope you've gotten benefit out of it.

And I want to thank the staff -- all the staff, Danielle Yates (ph), in particular, for the great job she's done trying to keep this railroad, you know, on track and then going forward, and everybody else for all your participation.

Thank you. Good evening.

END  
.ETX

May 18, 2010 13:33 ET  
.EOF