

**CHAIRMAN WHEELER**: WELCOME TO THE FEBRUARY MEETING OF THE FEDERAL COMMUNICATIONS COMMISSION. MADAME SECRETARY WOULD YOU INTRODUCE THE AGENDA.

>> THANK YOU, MR. CHAIRMAN. GOOD MORNING TO YOU AND GOOD MORNING COMMISSIONERS. FOR TODAY'S MEETING YOU WILL HEAR THREE ITEMS FOR CONSIDERATION. FIRST YOU WILL CONSIDER A NOTICE OF INQUIRY ON THE PROGRAMMING DIVERSITY AND PRINCIPAL OBSTACLES THAT INDEPENDENT PROGRAMMERS FACE IN OBTAINING CARRIAGE ON VIDEO DISTRIBUTION PLATFORMS. SECOND, YOU WILL CONSIDER A NOTICE OF PROPOSED RULEMAKING THAT SEEKS COMMENT ON A FRAMEWORK FOR PROVIDING INNOVATORS DEVICE MANUFACTURERS AND APP DEVELOPERS INFORMATION THEY NEED TO DEVELOP NEW TECHNOLOGIES TO ACCESS VIDEO CONTENT. THIRD, YOU WILL CONSIDER A SECOND REPORT AND ORDER THAT ALLOCATES RESPONSIBILITIES FOR THE DELIVERY OF CLOSED CAPTIONS ON VIDEO PROGRAMMING AND HANDLING OF CAPTIONING COMPLAINTS. YOU WILL ALSO CONSIDER A CONSENT AGENDA AS LIST IN THE FEBRUARY 2016 SUNSHINE NOTICE. THIS IS YOUR AGENDA FOR TODAY. THE FIRST ITEM ENTITLED PROMOTING THE AVAILABILITY OF DIVERSE AND INDEPENDENT SOURCES OF VIDEO PROGRAMMING WILL BE PRESENTED BY THE MEDIA BUREAU. BILL LAKE WILL GIVE THE INTRODUCTION.

**CHAIRMAN WHEELER**: THANK YOU, MADAME SECRETARY. YOU MAY NOW CATCH YOUR BREATH.

**WILLIAM**: TODAY WE HAVE A NOTICE OF INQUIRY SEEKING COMMENTS ON THE PRINCIPAL CHALLENGES INDEPENDENT VIDEO PROGRAMMERS FACE IN GAINING CARRIAGE OF CONTENT VIA BOTH TRADITIONAL AND EMERGING DISTRIBUTION PLATFORMS. THIS NOTICE OF INQUIRY FURTHERS THE ONGOING EFFORTS TO ENHANCE THE DIVERSITY OF PROGRAMMING AVAILABLE TO CONSUMERS. INDEPENDENT VIDEO PROGRAMMERS REPEATEDLY HAVE INVESTIGATED CONCERN THAT CERTAIN PRACTICES OF CABLE OPERATORS AND OTHERS MAY LIMIT AVAILABILITY R ABILITY TO REACH VIEWERS AND STIFLE COMPETITION IN THE TKWREUB OF VIDEO PROGRAMMING. A OBJECTIVE OF REGULATION IS TO FOSTER A DIVERSE ROBUST AND COMPETITIVE PROGRAMMING MARKETPLACE. AS THE AGENCY CHARGED BY STATUTE WITH IMPLEMENTING THIS OBJECTIVE WE SEEK TO BEGIN A FACT FINDING ENTERPRISE ON THE CURRENT STATE OF PROGRAMMING DIVERSITY AND TO CONSIDER POSSIBLE ACTIONS THE COMMISSION MIGHT TAKE TO ADDRESS THE CONCERNS THAT HAVE BEEN RAISED. AND THEREBY FOSTER INDEPENDENT SOURCES OF PROGRAMMING. JOINING ME AT THE TABLE ARE MARTHA HELLER, RAELYNN REMY AND

**CALISHA**: OF THE POLICY DIVISION. CALENDAR LISCH SOMEWHAT WILL PRESENT -- CALISHA WILL PRESENT THE ITEM.

**CALISHA**: WE ARE PLEASED TO PRESENT THIS NOTICE OF INQUIRY THAT PROVIDES AN OPPORTUNITY FOR STAKEHOLDERS AND CONSUMERS AND OTHERS TO VOICE CONCERNS ABOUT THE STATE OF DIVERSITY, COMPETITION AN INNOVATION IN THE VIDEO MARKETING PLACE. THE LAST QUARTER CENTURY WE HAVE SEEN SIGNIFICANT CHANGES IN THE MEDIA LANDSCAPE THAT FUNDAMENTALLY ALTERED THE WAY AMERICANS ACCESS AND CONSUME VIDEO PROGRAMMING. CONSUMERS CAN ACCESS VIDEO PROGRAMMING OVER MULTIPLE COMPETING PLATFORMS AND DOMINANCE OF CABLE OPERATORS AND OTHER INCUMBENT PAID TV DISTRIBUTORS HAS ERODED. HOWEVER, INCUMBENT OPERATORS RETAIN A VERY IMPORTANT POSITION IN THE VIDEO PROGRAMMING MARKETPLACE AND OBTAINING CARRIAGE FROM TRADITIONAL MVPD'S IS VITAL FOR THE GROWTH OF MANY EMERGING PROGRAMMERS. THROUGH THERE NOTICE OF INQUIRY WE INVITE COMMENTS ON THE STATE OF INDEPENDENT PROGRAMMING IN THE MARKETPLACE AND CHALLENGES THAT NEW AND EMERGING PROGRAMMERS FACE IN ATTEMPTING TO LAUNCH OR GROW. WE ALSO SEEK COMMENT ON SEVERAL SPECIFIC CHALLENGES THAT HAVE BEEN IDENTIFIED IN OTHER PROCEEDINGS. FIRST, WE SEEK COMMENT ON CERTAIN TYPES OF CONTRACTUAL PROVISIONS THAT ARE TYPICAL IN PROGRAM CARRIAGE TKPWHRAEPLTS INCLUDING MOST FAVORED NATION AND ALTERNATIVE DISTRIBUTION METHOD PROVISIONS. INDEPENDENT PROGRAMMERS HAVE ASSERTED THAT BOTH TYPES OF PROVISIONS OFTEN HINDER THEIR ABILITY TO OBTAIN DISTRIBUTION OF THEIR CONTENT. WE SEEK COMMENT ON ISSUES RELATED TO CARRIAGE BY OVER THE TOP OR O.T.P. PROVIDERS. INCLUDING THE COST AND BITS OF FORGOING TRADITIONAL CABLE OR ARTHRITIS TO PURSUE O.T.T. CARRIAGE. NEXT WE SYNC COMMENT ON THE PROGRAM BUNDLING MAY HAVE ON PROGRAMMERS AND MPVD'S MAINTAIN THAT SOME LARGE MEDIA COMPANIES INCLUDING VERTICALLY INTEGRATED PROGRAMERS ARE ABLE TO FORCE THEM TO CARRY LESS DESIRABLE CONTENT THROUGH BUNDLING ARRANGEMENTS. SOME PARTIES AVER THAT SUCH BUNDLING ARRANGEMENTS MAKE PROGRAM CHOICES AND COSTS FOR CONSUMERS BY FORCING THEM TO ACCEPT LESS DESIRABLE CONTENT THAT IS DISPLACES INDEPENDENT PROGRAMMING. IN ADDITION WE SEEK COMMENT ON NEGOTIATION PRACTICES OF MVPD'S AND WHY THE DISCRIMINATION IS OCCURRING AGAINST PROVIDERS OF PUBLIC, EDUCATIONAL AND GOVERNMENTAL PROGRAMMING. FINALLY, WE SEEK COMMENT ON THE COMMISSION'S LEGAL AUTHORITY IN THIS AREA AND ON WHAT ROLE IF ANY WE SHOULD PLAY IN ADDRESSING THE OBSTACLES THAT HINDER PROVIDERS AND INDEPENDENT DIVERSE PROGRAMMING IN REACHING CONSUMERS. THE MEDIA BUREAU RECOMMENDS THE COMMISSION ADOPT THE NOTICE OF INQUIRY AND REQUEST EDITORIAL PRIVILEGES.

**CHAIRMAN WHEELER**: THANK YOU, CALISHA AND WELCOME TO YOUR FIRST PRESENTATION. COMMISSIONER CLYBURN.

**COMMISSIONER CLYBURN**: WHILE MUCH HAS CHANGED IN THE VIEWING HABITS OF AMERICANS SINCE THE PASSAGE OF THE 1992 CABLE ACT MOST OF THE CHANNEL VIDEO PROGRAMMING DISTRIBUTORS MAINTAIN SIGNIFICANT INFLUENCE IN THE EVER EXPANDING VIDEO PROGRAMMING MARKETPLACE. SINCE MY ARRIVAL HERE AT THE F.C.C. IN THE SUMMER OF 2009 I HAVE MET WITH AND SPOKEN TO DOZENS OF INDEPENDENT PROGRAMMERS FROM EXTREME ENDS OF THE IDEOLOGICAL SPECTRUM. POLITICS AND PROCEEDS ASIDE THEY FIND AGREEMENT ON THREE CORE ISSUES. EACH SAYS THEY ARE FINDING FACING INSURMOUNT ABLE CHALLENGES AND IT IS A DIFFICULT FOR THEM TO RECEIVE FAIR OR REASONABLE CONTRACT TERMS AND THE GROWTH IN THEIR ONLINE DISTRIBUTION MODEL IS INHIBITED BECAUSE PROGRAM DISTRIBUTION ACCESS IS OFTEN RESTRICTED BY CONTRACT. DURING THE RECENT AT&T DIRECTTV MERGER A NUMBER OF THESE ISSUES WERE RAISED YET AGAIN BY MANY PARTIES INCLUDING INDEPENDENT AND NETWORK AFFILIATED PROGRAMMERS AND SMALL COUPLE PRAEURBTS WHO REPEATEDLY REQUESTED RELIEF. WHILE WE FOUND THE ISSUES RAISED WERE PERHAPS NOT BEST HANDLED IN THE CONTEXT OF THAT MERGER THE LEVEL OF CONCERN I FELT MERITED A SEPARATE PROCEEDING WHERE WE COULD EXPLORE AND GAIN A BETTER UNDERSTANDING OF THE VIDEO PROGRAMMING MARKETPLACE AND WHETHER CERTAIN PRACTICES BY OPERATORS AS CLAIMED ARE LIMITING THE ABILITY FOR THEM TO REACH THEIR VIEWERS. WHILE I REMAIN UNSURE THE COMMISSION IS THE BEST PLACE TO ANSWER OR RESOLVE THE ISSUES RAISED IN TODAY'S NOTICE OF INQUIRY AWARE ENABLING DISCUSSIONS ABOUT WHAT ROLE IF ANY THE COMMISSION SHOULD PLAY IN ADDRESSING OBSTACLES THAT MAY BE PREVENTING GREATER ACCESS BY CONSUMERS TO INDEPENDENT AND DIVERSE PROGRAMMING. THIS IS A CONCERN BECAUSE FOSTERING DIVERSITY OF PROGRAMMING IS AN IMPORTANT GOAL OF OUR WORK. SECTION 257 OF THE COMMUNICATIONS ACT TASKS THE COMMISSION WITH CARRYING OUT THE NATIONAL POLICY OF SEEKING TO PROMOTE THE PURPOSES OF FAVORING DIVERSITY OF MEDIA VOICES VIGOROUS ECONOMIC TECHNICAL ADVANCEMENT AND PROMOTION OF THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY. DOES THIS PROVISION GIVE THE AGENCY THE NORTH TO ACT IN THIS AREA OR ARE THE SAME ISSUES THAT INDEPENDENT PROGRAMMERS BRING FORTH BEST RESOLVED BY OTHER AGENCIES OR BY INDUSTRY DRIVEN SOLUTIONS? THE GOAL OF THIS NOTICE OF INQUIRY IS TO LAUNCH A FACT FINDING EXERCISE THAT WILL START A CONVERSATION ON HOW BEST TO PROMOTE THE AVAILABILITY OF DIVERSE AND INDEPENDENT SOURCES OF VIDEO PROGRAMMING INCLUDING PUBLIC, EDUCATIONAL AND GOVERNMENTAL PROGRAMMING. ANY ISSUE THAT BRINGS TOGETHER A CONTENT PROVIDER WHO CAMPAIGNED VERY HARD FOR MY OUSTER AND ANOTHER WHO SINGS MY PRAISES SURELY MERITS A ROBUST DISCUSSION. AGAIN I WOULD LIKE TO THANK THE MEDIA BUREAU FOR THIS ITEM ESPECIALLY MARTHA HELLER, RAELYNN REMY, CALISHA MYERS AND HOLLY.

**CHAIRMAN WHEELER**: SO YOU ARE THE POINT WHERE EVERYTHING COMES TOGETHER, RIGHT?

**COMMISSIONER CLYBURN**: THEY CALL THAT CONVERSION .

**CHAIRMAN WHEELER**: COMMISSIONER ROSENWORCEL.

**COMMISSIONER ROSENWORCEL**: WE HAVE A DIZZYING ARRAY OF CLAMS AVAILABLE TO SKAURLS. WE EXPECT PROGRAMMING TO BE AVAILABLE ANY TIME, ANYWHERE AND ON ANY SCREEN. ON TOP OF THAT NOVEL PLATFORMS FOR CONTENT ARE CROPPING UP HERE, THERE AND EVERYWHERE. THE FUTURE OF WATCHING WILL NOT LOOK LIKE THE PAST AND THAT IS EXCITING. BUT DESPITE ALL OF THIS CHANGE OLD PROBLEMS LINGER. TIME AND TIME AGAIN WE HEAR THAT INDEPENDENT PROGRAMMERS FACE A DAUNTING CHALLENGE SECURING REAL ESTATE ON CABLE AND SATELLITE SYSTEMS. THE SYSTEMS STILL DOMINATE OUR VIDEO EXPERIENCES AND SECURING CARRIAGE CAN BE A PREREQUISITE TO BUILDING THE VIEWERSHIP THAT SUPPORTS INVESTMENTS IN MORE DIVERSE CONTENT. THIS NOTICE OF INQUIRY TACKLES THESE ISSUES AND ASKS HARD QUESTIONS ABOUT NEW VOICES, NEW VIEWPOINTS AND STATE OF THE MARKET FOR UNDER PROGRAMMING. THIS IS IMPORTANT. BECAUSE WHAT WE SEE ON THE SCREEN SAYS SO MUCH ABOUT WHO WE ARE AS INDIVIDUALS, AS COMMUNITIES AND AS A NATION. IN THIS SEASON OF OSCARS SO WHITE AND FEMALE DIRECTORS SO FEW, STARTING A CONVERSATION ABOUT PROGRAMMING DIVERSITY AND INDEPENDENT VOICES MIGHT BE HARD BUT IT IS THE RIGHT THING TO DO. CUTE -- KUDOS TO COMMISSIONER COMPLY CLAY FOR GETTING THERE STARTED.

**COMMISSIONER O'RIELLY**: WHEN I WAS GROWING UP I DIDN'T SEE MANY PEOPLE ON THE SCREEN WHO LOOKED LIKE ME. ONE I REMEMBER WAS ON THE CARTOON JOHNNY QUEST WHICH WAS RERUN IN THE LATE 1970'S. IT FEATURED HODGEY JOHNNY PSYCHIC WHO PICKED UP HIS SMARTS AND HAD MYSTIC POWERS. THE ONLY REAL LIFE RECURRING INDIAN I CAN RARELY FROM THE 1980'S WAS ONE OF THE CLASSROOM OF GIFTED STUDENTS ON HEAD OF THE CLASS. THEN THE EARLY 1990'S THERE WAS THE QUICKIE MART OWNER FROM THE SIMPLES WHO IS VOICED BY THE INDIAN AMERICAN HANK . THINGS YOU DIFFERENT TODAY. NETFLIX HAS MASTER OF NONE STARRING THE CO-CREATOR AND WRITER. IT FOCUSES ON THE AMERICAN BORN SON OF INDIAN IMMIGRANTS IN NEW YORK CITY. IT TELLS STORIES I HAVE NEVER SEEN BEFORE ON AMERICAN TELEVISION. AS AN AMERICAN BORN SON OF IMMIGRANTS I ENJOYED EPISODE TWO TITLED PARENTS AND EXAMINED THE RELATIONSHIP BETWEEN ASIANS WHO CAME TO THE COUNTRY IN 19SOFA AND 1960'S AND AMERICAN CHILDREN. IT IS NOTABLE THAT TWO OF HIS CLOSEST FRIEND ARE A CHINESE AMERICAN AND AFRICAN-AMERICAN LESBIAN. NEEDLESS TO SAY IT IS A FAR DECREE FROM LEAVE IT TO BEAVER. THE CONTRAST BETWEEN THE WAY THINGS ARE AND MUCH INFORMS MY APPROACH TO THIS N.O.I. THERE ARE MORE OUTLETS THROUGH WHICH CREATORS OF VIDEO CAN DISTRIBUTE PROGRAMMING THAN EVER BEFORE. OVER THE TOP VIDEO IN PARTICULAR HAS BEEN GAME CHANGER GIVING DIVERSE VOICES A NEW WAY TO BE HEARD AND GIVEN AMERICANS NOVEL CONTENT THEY PREVIOUSLY MAY NEVER HAVE SEEN. CONSIDER THE YOUTUBE SENSATION AND HER HIT SERIES THE MISADVENTURE OF AWKWARD BLACK GIRL. WHEN ASKED WHY SHE CREATED IT SHE SAID I FELT LIKE MY VOICE WAS MISSING AND OTHER VOICES THAT I WANT TO SEE ARE MISSING. THE FIRST PART HER SERIES FILMED WITH TRENDS GOT ATTENTION -- FRIENDS TKPWLT ATTENTION ON YOUTUBE THANKS TO A SUCCESSFUL KICK STARTER SHE RAISED OVER $65,000 THROUGH 2,000 DONATIONS AND COULD COMPLETE THE REST OF THE FIRST SEASON. TO DATE RAY HAS OVER 208,000 SUBSCRIBERS ON HER YOUTUBE CHANNEL AND HER SHOWS HAVE AMASSED OVER 20 MILLION VIEWS. LAST YEAR SHE PUBLISHED A COLLECTION OF SHORT STORIES AND LATE LAST YEAR HBO PICKED UP THE NEW SERIES, INSECURE. DIVERSITY IS NOT LIMITED TO PRODUCTION SIDE. CONSUMERS ARE RESPONDING TO WIDE VARIETY THROUGH OVERTHE TOP SERVICES. MULTICULTURAL VIEWERS ARE MORE LAKELY TO HAVE MADE OVER THE TOP OR O.T.T. AN INTEGRAL PART OF THEIR VIEWING LIFE STYLE. 45% OF AFRICAN-AMERICAN VIEWERS, 46% OF ASIAN AND 51% OF HISPANIC VIEWERS SPEND MORE THAN 20% OF TOTAL TV VIEWING TIME WATCHING O.T.T. AS COMPARED TO 39% OF WHITE VIEWERS. TO BE SURE THERE MAY BE SOME CHALLENGES IN THIS BRAVER NEW WORLD OF VIDEO. THE N.O.I. STATES SOME UNDER PROGRAMMERS INVESTIGATED CONCERN THAT CERTAIN CARRIAGE PRACTICES OF CABLE OPERATORS AND OTHER DISTRIBUTORS MAY LIMIT THEIR ABILITY TO REACH VIEWERS. I HAVE HEARD THESE CONCERNS IN MY OWN MEETINGS WITH INDEPENDENT PROGRAMMERS LIKE R.F.D. TV. I'M PLEASED THE COMMISSION IS GIVING ALL STAKE HOLDERS THE CHANCE TO EMPLOY FEEDBACK ON THE PROGRAMS WE TEE UP IN THIS N.O.I. AS I SAID MANY TIMES WE ARE CURRENTLY LIVING IN THE GOLDEN AGE OF TELEVISION. ONE OF THE REASONS FOR THAT IS AMAZING RANGE OF DIVERSE CONTENT AVAILABLE TO AMERICANS TODAY WITH THE PUSH OF A BUTTON. THE CLICK OF A CURSOR OR CONNECTION OF A DONGLE. IT IS IMPORTANT TO REMEMBER PROGRAMS LIKE MASTER OF NONE OR MISADVENTURE OF AWKWARD BLOCK GIRL ARE NOT THE PRODUCT OF GOVERNMENT REGULATION BUT THEY THRIVE BECAUSE OF FREE MARKET WHERE CREATIVITY AND TECHNICAL INNOVATION ARE RECOGNIZED AND REWARDED. AS WE MOVE FORWARD IN THIS AND OTHER PROCEEDINGS WE SHOULD BE CAREFUL NOT TO HOLD BACK THIS VIDEO REVOLUTION. FOR INDIAN AMERICANS TODAY KIDS CAN SEE THEMSELVES ON THE SCREEN IN ROLES MORE VARIED AS SNAKE CHARMERS. THAT IS A GOOD THING AND WE SHOULD NOT HOLD IT PACK. THANK YOU, MR. CHAIRMAN.

**CHAIRMAN WHEELER**: COMMISSIONER O'REILLY.

**COMMISSIONER O'RIELLY**: IN READING THE ITEM AS SEARCH AND SEIZURE LATED THERE MUCH A NUMBER OF EDITS THAT I BELIEVE WERE NEEDED. ONE OF THE FIRST WAS SLIGHTLY MORE CONCRETE LANGUAGE IN THE STATEMENT OF THE PRIMARY GOALS OF THE PROCEEDING. THE AVOWED GOAL IS TO BEGIN A CONVERSATION MY COLLEAGUES ON STATE OF INDEPENDENT AND DIVERSE PROGRAMMING AND I HAD ASKED THIS TO BE CHANGED FROM BEGINNING TO SEEK INFORMATION WHICH IS A MORE APPROPRIATE GOAL FOR AN INQUIRY OF A FEDERAL REGULATORY AGENCY. OF ALL MY PROPOSED EDITS THIS SEEMED LIKE THE EASIEST BUT SURPRISING TO ME THIS MINOR WORDSMITHING WAS DENIED MORE THAN ONCE WHICH LEFT ME TO WONDER WHY THE COMMISSION MAJORITY WAS SO DEEPLY WEDDED TO THIS PHRASE BEGIN A CONVERSATION. THE MORE I THOUGHT THE MORE IT BECAME CLEAR BEGINNING A CONVERSATION IS NOT EXACTLY ACCURATE DESCRIPTION OF WHAT IS OCCURRING HERE. BEGIN IMPLIES IT IS A NOVEL TOPIC THAT INTERESTED PARTIES HAVEN'T HAD THE OPPORTUNITY TO WEIGH IN ON YET. HOWEVER, ANYONE WHO EVER FOLLOWED MEDIA REGULATION IS AWARE THE DEBATE AROUND PROGRAM CARRIAGE IS AS CLOSE TO AS IT GETS TO A CONSTANT FIXTURE. ALMOST AS LONG AS THERE HAVE OPINION CABLE AND SATELLITE SYSTEMS PROGRAMMERS HAVE BEEN ARGUING THEY NEED MORE CARRIAGE. WE SHOULD ALL BE ABLE TWO -- TO AGREE THIS CONVERSATION BEGAN LONG AGO AT LEAST 1989 WHEN THE N.O.I. HAD ASSERTIONS SOME PROGRAM SUPPLIERS ALSO COMPLAINED THAT RISING CONCENTRATION IN CABLE SYSTEM OWNERSHIP HAS LED TO THEIR INABILITY TO GAIN ACCESS TO LARGE CABLE SYSTEMS. PROGRAMMERS HAVE FOUND MANY SYMPATHETIC EARS TO COMPLAINTS IN THE CONGRESS AND AT THE COMMISSION OVER THE DECADES. FROM THE LEAST ACCESS SYSTEM ESTABLISHED BY THE 1984 CABLE ACT AND PROGRAM CARRIAGE REQUIREMENTS OF THE 1992 ACT TO THE 2011 MODIFICATION TO CARRIAGE RULES AND RULES AS CONDITION OF NVPD MERGERS NUMEROUS ATTEMPTS TO ADDRESS THE CHALLENGES FACED BY INDEPENDENT PROGRAMMERS FROM MANY ANGLES. THE TECHNOLOGY HAS CHANGED A LOT SINCE THE DEBATE BEGAN BUT THE ARGUMENTS HAVEN'T CHANGED SUBSTANTIALLY. WE ARE NOW LIVING IN AN AGE OF THOUSAND CHANNEL LINEUPS AND MANY CONSUMERS SEEKING A DIFFERENT STRUCTURE RAPIDLY ADOPTING OVERTHE TOP OFFERINGS OF LINEAR PROGRAMMING. ADDITIONALLY COMPELLING CONTENT IS MONEYIZED TO PREVIOUSLY UNIMAGINED DEGREES ON THE WEB AND MOBILE DEVICES IN A WORLD THAT BROUGHT EXPLOSIVE GROWTH IN TERMS OF SHEER NUMBER OF POTENTIAL PLATFORMS FOR CONTENT. WITH THERE DEBATE IT SEEMS THE MORE THINGS CHANGE THE MORE THEY STAY THE SAME. IF THIS ITEM IS NOT THE BEGINNING OF A CONVERSATION WHAT IS IT BEGINNING? MANY OF YOU THAT HAVE INTEREST OF COURSE HAVE NOT BEEN ABLE TO READ THE DOCUMENT YET. BUT IT SHOULDN'T COME AS A SURPRISE TO SAY WHAT WE ARE BEGINNING IS A MORE ACCURATE DESCRIPTION OF THE LATEST REGULATORY PUSH LAYING OUT QUESTIONS TO GIVE PLATFORM MORE DIALOGUE. ALMOST EVERY PARAGRAPH WAS SLANTED IN THE DIRECTION OF THAT PUSH. I APPRECIATE THE MANY EDITS THE COMMISSIONER PAI AND I SUBMITTEDED A WERE ABLE TO BE ADOPTED SO I APPRECIATE THE WORK OF THE MAJORITY IN ADOPTING OUR CHANGES AND ALLOWS ME TO CONCUR WITH THIS ITEM. ULTIMATELY HOWEVER I HOPE THAT THESE EDITS WILL BE ABLE TO STEER THE PROCEEDING INTO A CONVERSATION TERRITORY. THANK YOU, MR. CHAIRMAN.

**CHAIRMAN WHEELER**: THANK YOU, COMMISSIONER. I HAVE A STATEMENT FOR THE RECORD BUT LET ME BEGIN BY THANKING COMMISSIONER CLYBURN FOR KEEPING THIS FRONT AND CENTER WITH US. AND BEING THE ADVOCATE THAT IS THE REASON WHY IT IS ON THE AGENDA TODAY AND FOR ALL OF YOUR LEADERSHIP. THIS IS A SIMPLE ISSUE OF HOW DO WE EXPAND DIVERSITY OF CHOICE AND OPPORTUNITY AND IT GOES HAND IN HAND WITH THE NEXT ITEM WE WILL BE DISCUSSING, SET TOP BOXES. SO, ALL THOSE IN FAVOR SAY YEA. OPPOSED? THE EYE THE AYES HAVE IT. THE ITEM IS ADOPTED. REQUEST FOR EDITORIAL PRIVILEGES IS GRANTED WITH THE OBJECTION NOTED. CARRIED. THANK YOU VERY MUCH TO THE BUREAU FOR ALL OF YOUR EFFORTS ON THIS. MADAME SECRETARY.

>> MR. CHAIRMAN AND COMMISSIONERS THE NEXT ITEM WILL BE PRESENTED BID MEDIA BUREAU ENTITLED EXPANDING CONSUMER INFORMATION CHOICES COMMERCIAL AVAILABILITY OF INFORMATION DEVICES.

**CHAIRMAN WHEELER**: YOU KNOW, BILL AND MARTHA, SOME THINGS NEVER CHANGE, DO THEY? BILL, IF YOU WANT TO START.

**WILLIAM**: GOOD MORNING AGAIN, MR. CHAIRMAN AND COMMISSIONERS. TODAY THE MEDIA BUREAU PRESENTS A NOTICE OF PROPOSED RULEMAKING AND MEMORANDUM OPINION AND ORDER THAT APPROACHES RULES TO ENSURE A COMPETITIVE MARKET FOR DEVICES AND APPS THAT CONSUMERS CAN USE IN LIEU OF LEASED EQUIPMENT TO ACCESS CABLE AND SATELLITE VIDEO PROGRAMMING. THEY ARE INTENDED TO MEET THE COMMISSION'S OBLIGATIONS UNDER 629 OF THE COMMUNICATIONS ACT. JOINING ME ARE MARTHA HELLER, STEVE BRUNSBERG,

**BRENDAN**: AND LYLE ELDER OF THE MEDIA BUREAU POLICY TEUFRGS AND SCOTT JORDAN CHIEF TECHNOLOGIST. BRENDAN WILL PRESENT THE ITEM.

**BRENDAN**: WE ARE PLEASED TO PRESENT THIS NOTICE OF PROPOSED RAUL MAKING THAT IS INTEND -- RULEMAKING TO ENSURE ABILITY OF COMPETITIVE SOURCES OF EQUIPMENT USED TO ACCESS PAY TV PROGRAMMING AS THE COMMISSION DIRECTED BY 629 OF 9 COMMUNICATIONS ACT. SECTION 629 WHICH CELEBRATED ITS 20TH BIRTHDAY WITH THE OTHER PROVISIONS OF THE TELECOMMUNICATIONS AGENT DIRECTS THE COMMISSION TO ADOPT REGULATIONS TO ASSURE A COMMERCIAL MARKET FOR DEVICES AND APPS THAT CAN ACCESS VIDEO PROGRAMMING FROM SOURCES OTHER THAN THE SUBSCRIBER PAY TV PROVIDER THAT IS CABLE AND SATELLITE PROVIDER. IN SHORT IT DIRECTS THE COMMISSION TO UNTETHER CONSUMERS FROM THE PAY TV PROVIDERS LEASED SET TOP BOX. TO ACHIEVE THIS WE PROPOSE MULTICHANNEL PROGRAMMING DISTRIBUTORS TO OFFER TREE FLOWS USING TRANSPARENT FORMAT THAT CONFORMS TO SPECIFICATIONS SET BY OPEN STANDARDS BODIES. THESE INFORMATION FLOWS WILL ALLOW MANUFACTURERS AND OTHER COMPANIES THAT ARE NOT AFFILIATED WITH AN MVPD TO DESIGN AND BUILD COMPETITIVE DEVICES AND APPLICATIONS TO ACCESS THE PROGRAMMING UNDER THE SAME TERMS OF USE UNDER WHICH THE LEASED EQUIPMENT OR APPS CAN ACCESSION THE PROGRAM. UNDER THIS PROPOSAL MVPD'S CAN USE DIFFERENT STANDARDS FOR THEIR INTERFACES TO NOT IMPEDE THE EVOLUTION OF MPVD DEVICES AND APPS. IT GIVES MVPD FLEXIBILITY IT CHOOSE SO THEY CAN ENSURE ALL PROGRAMMING IS PROTECTED AND ONLY THOSE THAT SUBDESCRIBE CAN ACCESS PROVIDED THEY EACH SUPPORT AT LEAST ONE CONTENT PROTECTION SYSTEM THAT IS LICENSED ON REASONABLE AND NONDISCRIMINATORY TERMS BY AN ORGANIZATION THAT IS NOT AFFILIATED WITH MVPD'S. THIS APPROACH IS INTENDED TO BALANCE MVPD RIGHTS TO CHOOSE THE CONTENT PROTECTION SYSTEMS TO PROTECT PROGRAMMING WITH THENEED OF MANUFACTURERS TO BUILD DEVICES THAT CAN ACCESS PROTECT THE CONTENT FROM A VARIETY OF MVPD'S. NEXT THE MVPD -- IT PROPOSES PARITY RULES THAT REQUIRE EACH MPVD WITHOUT THE NEED FOR MVVD TO ALSO OFFER THE FREE INFORMATION KNOWS TO UNAFFILIATED APPLICATIONS WITHOUT THE NEED FOR MPVD SPECIFIC EQUIPMENT. WITH An EYE TOWARD CONSUMER PROTECTION IT SEEKS COMMENT ONPROPOSALS TO ENSURE CHILDREN'S PROGRAMMING ADVERTISING LIMITS EMERGENCY ALERTS AND PRIVACY PROTECTIONS WILL APPLY REGARDLESS OF WHETHER THECONSUMER LEASE AS SET TOP BOX OR USE AS COMPETITIVE SOLUTION. THE MPRM PROPOSES A BILLING TARRANT SI -- TRANSPARENCY RULE SO YOU KNOW HOW MUCH YOU WILL PAY FOR PROGRAMMING SERVICE AND EQUIPMENT LEASE FEES AND WHAT THE TRADE AFTER IS BETWEEN THE LEASED DEVICE AND COMMERCIAL ALTERNATIVE. IT SEEKS A SERIES OF -- ASKS QUESTIONS ABOUT WAYS TO IMPLEMENT 629 SUCH AS THE APPAPPROACH. IT SEEKS COMMENT ON THE BEST WAY TO PROTECT COPYRIGHT AND LICENSETERMS AND ABILITY OF VARGAS TYPES AN SIZES TO COMPLY WITH THE PROPOSAL. FINALLY THE ITEM INCLUDES A MEMORANDUM OPINION AND ORDER TO REMOVE THE SO-CALLEDINTEGRATION BAN LANGUAGE FROM THE CODE OF FEDERAL REGULATIONS AS REQUIREDUNDER SECTION 106. IT RECOMMENDS THE COMMISSION ADOPT THE MPRM AND MEMORANDUM OPINION AND ORDER AND REQUESTS EDITORIAL PRIVILEGES.

**CHAIRMAN WHEELER**: THANK YOU, BROKEN BRENDAN. COMMISSIONER CLYBURN.

**COMMISSIONER CLYBURN**: IN 1996 AS MENTIONED CONGRESS ADDED SECTION 629 TO THE COMMUNICATIONS ACT WHICH MANDATED THIS AGENCY TO TAKE STEPS TOWARDENSURING THAT A COMPETITIVE NAVIGATION DEVICE MARKET EXIST FOR ACCESS TOMULTICHANNEL VIDEO PROGRAMMING. WHILE PRIOR COMMISSION ATTEMPTS IN THIS AREA HAVE BEEN LESS THAN SUCCESSFUL, STANDARDIZATION AND TECHNOLOGICALADVANCEMENTS HAVE MADE IT EASIER TO INTRODUCE COMPETITION AND INNOVATION INTHIS SET TOP MARKET. WHILE THESE DEVELOPMENTS HAVE RESULTED IN SOME COMPETITION, CONSUMERS DESERVE MORE. TODAY'S NOTICE OF PROPOSED RULEMAKING SEEKS TO GIVE CONSUMERS MORE CONTROL IN HOW THEY ABSCESS VIDEO SERVICES --ACCESS VIDEO SERVICES AND ATTEMPTS TO PROMOTE INNOVATION IN THE DISPLAY SELECTION AND USE OF THIS PROGRAMMING. IN SHORT CHOICE. ALLOWS FOR THE DEVELOPMENT OF MORE USER FRIENDLY INTERFACES, OPENING THE MARKET TO ADDITIONAL PLATFORMS NOT STRICTLY UNDER THE PURVIEW AND MANAGEMENT OF ASINGLE DISTRIBUTOR. TODAY 99% OF THE PAID TV CUSTOMERS RENT A SET TOP BOX FROMAN MVPD AT A COST THAT EXCEEDS $200 PER YEAR. WHILE THE COST OF OTHERTECHNOLOGIES HAVE FALLEN AS COMPETITION INCREASED, THE COST OF THE SET TOP BOX HAS RISEN BY MORE THAN THREE TIMES THE RATE OF INFLATION FOR AMERICAN PAIDTV SUBSCRIBERS OVER THAT SAME PERIOD. THIS ITEM APPROACHES NOT ADOPTS BUT PROPOSES TO PROVIDE A TECHNOLOGY NEUTRAL MEANS FOR CONSUMERS TO CHOOSE HOW THEY INTERACT WITH THE MULTI-KHAOPBL VIDEO PROGRAMMING SERVICES THEY PAY FOR. IF A CONSUMER WISHES TO PURCHASE A DEVICE OR APPLICATION TO ACCESSPROGRAMMING, THIS PROPOSAL WILL EMPOWER THAT CHOICE. IF A CONSUMER CHOOSES TO CONTINUE TO RENT A BOX OR APP FROM THEIR MVPD THEY HAVE THE OPTION TO DO THAT ALSO. THIS ITEM DOESN'T PROPOSE A SPECIFIC TECHNICAL STANDARD LIKE THE PROPOSAL THAT THE COMMISSION CONSIDERED IN 2010. INSTEAD, A STANDARD SETTING BODY IN CONSULTATION WITH THOSE AFFECTED WOULD LAY OUT TECHNICALSPECIFICATIONS ENABLING MANUFACTURERS, RETAILERS AND COMPANIES INCLUDING THE CABLE OR SATELLITE PROVIDER TO BUILD AND DESIGN NAVIGATION DEVICES. THERE'S BEEN MUCH DISCUSSION ABOUT HOW THIS PROPOSAL WILL AFFECT CONTENT DIVERSITY WITH SOME EXPRESSING CONCERN THAT IT COULD LEAD TO DECREASES IN THE LEVEL OF DIVERSE PROGRAMMING CHOICES. SADLY WE ARE ONLY SPEAKING ABOUT A PALTRYNUMBER OF DIVERSE EXAMS THAT CAN BE CURRENTLY FOUND OVER THE SYSTEMS TODAY BUT FOR THE HANDFUL OF THOSE WHO HAVE HAD SUCCESS IN BEING CARRIED BY ANMVPD I SEE NO LEGITIMATE BUSINESS OR ECONOMIC REASON WHY THIS ITEM SHOULD MAKE THEIR PROGRAMMING OR RELATIONSHIP WITH THE DISTRIBUTOR ANY MOREVULNERABLE THAN THEIR COUNTERPARTS. WHAT I HOPE WILL OCCUR IS CREATORS OF CONTENT WHO HAVE BEEN UNABLE TO GET MVPD CARRIAGE MAY SOON HAVE A WAY TO REACH CONSUMERS DIRECTLY SIMILAR TO THE WAY INTERNET SEARCHES PROVIDE CONSUMERS WITH INFORMATION FROM VARIOUS SOURCES A GET SOLUTION WITH IMPROVED SEARCH FUNCTIONALITY COULD ALLOW CONSUMERS TO FIND PROGRAMMINGTHAT IS AVAILABLE OVER-THE-TOP. SOMETHING YOU CANNOT DO WITH TODAY'S SET TOP BOXES. THESE DEVELOPMENTS SHOULD RESULT IN CONSUMERS HAVING A WIDER RANGE OF OPTIONS. I THANK THE MEDIA BUREAU FOR THEIR HARD WORK ON THIS ITEM.ESPECIALLY THE EFFORTS OF BRENDAN MURRAY AND LYLE ELDER. THANK YOU VERY MUCH.

**CHAIRMAN WHEELER**: THANK YOU, COMMISSIONER. COMMISSIONER ROSENWORCEL.

**COMMISSIONER ROSENWORCEL**: HERE IS AN EXPERIMENT. YOU CAN DO IT AT HOME. JUST SIT IN YOUR FAVORITE COMFORTABLE CHAIR, YOU KNOW, THE ONE IN FRONT OF THE TELEVISION AND IN ONE HAND HOLD THE REMOTE CONTROL FOR YOUR SET TOP BOX. IN THE OTHER HAND HOLD YOUR MOBILE PHONE. NOW, ASK YOURSELF WHICH OF THESE TWO DEVICES HAS CHANGED SUBSTANTIALLY OVER THE PAST TWO DECADES? WHICH HAS SEENEXTRAORDINARY INNOVATION? AND WHICH HAS BENEFITED FROM COMPETITION? THE ANSWERS ARE OBVIOUS. THE BULKY GRACELESS MOBILE PHONE FROM TWO DECADES AGO HAVE BEEN REPLACED BY SLEEK NEW MODELS BUT IT IS MORE THAN JUST ESTHETICS.WHAT WE CAN DO WITH THEM NOW IS INCREDIBLE. SMART PHONES HAVE CHANGED OURLIVES AND ARE CHANGING OUR WORLD. BUT THE CLUNKY SET TOP BOX AND REMOTE HAVE NOT EVOLVED AT THE SAME PLACE NOR FACED THE SAME COMPETITION. THE NUMBERS MAKE THIS VERY CLEAR. 99% OF CONSUMERS STILL PURCHASE -- EXCUSE ME -- RENT THEIR SET TOP BOXES FROM THEIR PAID TELEVISION PROVIDER. THE TYPICAL HOUSEHOLD SPENDS MORE THAN $231 A YEAR ON THOSE SET TOP BOX RENTAL FEES. COSTS ARE HIGH, INNOVATION IS SLOW AND COMPETITION IS TOO LIMITED. CONGRESS DIDN'T WANT IT TO BETHIS WAY. TWO DECADES AGO IN THE TELL VACATIONS ACT OF 1996 AGENCY WAS CHARGED WITH ENSURING THE COMMERCIAL AVAILABILITY OF NAVIGATION DEVICES. CREATING A COMPETITIVE MARKET FOR SET TOP BOXES. THERE ARE TIMES WHEN LEGISLATIVEDIRECTIVES ARE NOT CLEAR. THIS IS NOT ONE OF THEM. I THINK THAT WE CAN DO BETTER SO I SUPPORT THE RULEMAKING TODAY. BUT I ALSO THINK WE HAVE A LOT OF WORK TO DO.IMPORTANT QUEST HAVE BEEN RAISED ABOUT COPYRIGHT, PRIVACY, DIVERSITY AND A WHOLE HOST OF OTHER ISSUES IN MARKETPLACE THAT HAS BEEN TOUGH FOR COMPETITORS TO CRACK. WE WILL NEED TO EXPLORE HIM IN THE RECORD THAT DEVELOPS. LET ME RAISE ONE OTHER. THIS RULEMAKING IS COMPLICATED. IT DESCRIBESTHREE INFORMATION STREAMS FOR NAVIGATION DEVICES, WORK THAT NEEDS TO BE DONE BY STANDARDS BODIES A MEDICINESLY OF SECURITY SYSTEMS AND TRIO OF PARITY REQUIREMENTS. THE MOST SUCCESSFUL REGULATORY EFFORTS ARE SIMPLE ONES. MORE WORK NEEDS TO BE DONE TO STREAMLINE THIS PROPOSAL BECAUSE IN THE END FORCONSUMERS TO BENEFIT AND ENJOY THE BOUNTY OF WHAT WE HAVE PROPOSEDEXECUTION IS ALL. SO WHAT WE HAVE MAY OR MAY NOT BE THE PRECISE WAY FORWARD BUT SOMETHING HAS GOT TO GIVE. I SUPPORT CHAIRMAN WHEELER'S EFFORTS TO GET THERE PROCEEDING STARTED BECAUSE IT IS PAST TIME TO LIVE UP OUR STATUTORYOBLIGATION AND GIVE CONSUMERS THE COMPETITION AT THE DESERVE.

**CHAIRMAN WHEELER**: THANK YOU, COMMISSIONER ROSENWORCEL. AND YOUR OBSERVATIONS ARE WELL TAKEN AND AS YOU POINT OUT THE REASON WE HAVE RULEMAKINGS LIKE THERE SO WE CAN GET THE RECORD BUILT. COMMISSIONER PAI.

**COMMISSIONER PAI**: THANK YOU, MR. CHAIRMAN. SOMEONE WITH THREE SET TOP BOXS IN MY HOME I SHARE THE FRUSTRATIONS FELT BY MILLIONS OF AMERICANS. THEY ARE CLUNKY, EXPENSE SIMPLE AND I FEEL THE PAIN EVERY MONTH WHEN I PAY THE BILL. AS AN F.C.C. COMMISSIONER I KNOW THE CURRENT SET TOP BOX MARKETPLACE IS THE PRODUCT OF AN INTRUSIVE REGULATORY REGIME. SOMETHING HAS TO CHANGE. WHAT SHOULD THAT CHANGE BE LIKE? WHAT IS THE AIM WHEN IT COMES TO THIS MARKETPLACE? WHAT WOULD BE THE BEST FOR CONSUMERS IN MY GOAL IS PRETTY SIMPLE. OUR GOAL SHOULDN'T BE TO UNLOCK THE BOX. IT SHOULD BE TO ELIMINATE THE BOX. IF YOU ARE A CABLE CUSTOMER AND YOU DON'T WANT TO HAVE A SET TOP BOX, YOU SHOULD NOT BE REQUIRED TO HAVE ONE. THIS GOAL IS TECHNICALLY FEASIBLE AND REFLECTS MOSTCONSUMERS' PREFERENCES. INCLUDING MY OWN. IN THIS NOTICE THE F.C.C. TAKES A MUCH DIFFERENT TACK. IT DOUBLES DOWN ON THE NECESSITY OF HAVING A BOXSUBSTITUTING ONE INTRUSIVE REGIME FOR ANOTHER. IT WOULD INTRODUCE AN ENTIRELYNEW SET OF BOXES INTO CONSUMERS' HOMES. BECAUSE THIS PROPOSAL MOVES USFURTHER AWAY FROM THE OBJECTIVE OF DROPPING THE BOX AND TAKES A 20TH CENTURYAPPROACH TO A 21ST CENTURY PROBLEM YOU RESPECTLY CANNOT SUPPORT THIS NOTICE. LET'S START WITH ONE FACT. WHEN IT COMES TO NAVIGATION DEVICES THE F.C.C. HASN'T EMBRACED FREE MARKET POLICIES. INSTEAD IT EMBRACED A FORM OFCENTRALIZED PLANNING BY IMPLEMENTING THE SO-CALLED CABLE CARD REGIME AND INTEGRATION BAN THE F.C.C. SOUGHT TO MOLD THE SET TOP BOX MARKETPLACE TO ITSSTKAOEURBD SHAPE. BUT THERE'S WIDE SPREAD AGREEMENT THAT THE COMMISSION'SINTERVENTION HAS BEEN A MASTER FAILURE. THIS NOTICE REPEATEDLY ADMITS THE RULES FAILED TO ACHIEVE THEIR OBJECTIVE. F.C.C. REGULATIONS HAVE REVISED THEPRICE OF SET TOP BOXES COSTING AMERICANS BILLIONS DOLLARS IN ADDITIONAL FEES.THEY HAVE INCREASED CABLE CUSTOMERS' ENERGY CONSUMPTION BY 500 MILLIONKILOWATT HOURS EACH YEAR ENOUGH TO POWER EVERY HOME IN THE WASHINGTON, D.C. AREAOR THREE MONTHS. AND THEY HAVE FAILED TO PRODUCE ROBUST COMPETITION IN THE SET TOP BOX MARKET. LESS THAN 2% OF CUSTOMERS HAVE PURCHASED THE SET TOP BOX AT RETAIL. THE FATHER-IN-LAW OF THE F.C.C. -- THE FAILURE OF THE POLICIES IS WHAT BRINGS US HERE TODAY. AS WE SEEK TO TRADE ONE COMPLEX REGULATORY SCHEME FOR ANOTHER WE SHOULD PAUSE AND ASK OURSELVES A SIMPLE QUESTION. WILL THE RESULT BE ANY DIFFERENT THIS TIME AROUND? WILL THE SEQUEL BE ANY BETTER THAN THE ORIGINAL? IN MY JUDGMENT THE ANSWER IS NO. THIS IS FOR SEVERAL REASONS. FIRST AND FOREMOST THIS PROPOSAL IS LAKELY TO PRODUCE A STALEMATE NOT A NEWLY COMPETITIVE MARKET. THE CORNERSTONE OF THE NOTICE IS HEAVY RELIANCE ON OPEN STANDARD BODIES OPERATING THROUGH CONSENSUS. ACCORDING TO THE COMMISSIONPROPOSALS MVPD'S ARE REQUIRED TO SUPPLY INFORMATION IN FORMATS THAT CONFORM TO SPECIFICATIONS SET BY OPEN STANDARDS BODIES. THESE OPEN STANDARD BODIES WOULD CONSIST OF MEMBERS REPRESENTING ALL STAKEHOLDERS A UNDER WOULDDEVELOP STANDARDS BY CONSENSUS. BUT WOULD THIS CONSENSUS EVER REALLY HAPPEN? TODAY THE DEFINING CHARACTER OF THIS IS VIGOROUS DISAGREEMENT WITH VIDEO DISTRIBUTORS AND CONTENT CREATORS ON ONE SIDE AND CONSUMERELECTRONIC INDUSTRY ON THE OTHER. WE SAW THIS IN THE DOWNLOADABLE SECURITY TECHNOLOGY COMMITTEE. WE HAVE SEEN THIS IN RUN-UP TO TODAY AND I'M SURE WE WILL SEE IT IN THE COMMENTS SUBMITTED IN RESPONSE TO THIS NOTICE. SHOULD WE HAVE CONFIDENCE THAT A HIGHLY OPEN STANDARD BODY WILL BE HARMONIOUS AFTER THE COMMISSION ISSUES FILE RULES? IF ANYTHING WHEN IT IS TIME TO GET DOWN TO THE NITTY-GRITTY OF IMPLEMENTING THE REGULATIONS I BELIEVE IT WILL BE HARDER NOTEASIER TO REACH CONSENSUS. INDEED THE ODDS ARE PROBABLY BETTER THAN MARK ZUCKERBERG WILL AGREE TO KANYE WEST'S DESIRE FOR $1 BILLION. SECOND THERE'S A PROBLEM OF TIMING. THE COMMISSION RULES WON'T HAVE ANY IMPACT FOR YEARS. FOR EXAMPLE, THE NOTICE PROPOSES MVPD'S WOULDN'T HAVE TO I WANT THESE UNTIL TWO YEARS AFTER THEIR ADOPTION SO EVEN IF ALL GOES ACCORDING TO PLAN AND I THINKREASONABLE MIND COULD DOUBT THAT IT WILL, CONSUMERS PROBABLY WOULDN'T FEEL THE EFFECT FOR ANOTHER THREE YEARS. THINK ABOUT WHAT THREE YEARS MEANS IN THE DYNAMIC VIDEO MARKETPLACE. THREE YEARS AGO THERE WAS NO SUCH THING AS THE AMAZON FIRE TV STICK. THERE'S NO TELLING WHAT FURTHER INNOVATION WILL OCCUR THE NEXT THREE YEARS BUT IT WILL HAPPEN AND WE KNOW IT WILL HAPPEN FAST.SO, WHILE MVPD'S, CONSUMER ELECTRONICS INDUSTRY AND CONTENT CREATORS SPEND YEARS TO TRY TO IMPLEMENT TECHNOLOGY COULD RENDER IT OBSOLETE BY THE TIME IT IS READY TO ROLL OUT. THAT WOULD BE A WASTE MUCH TIME, INSURANCE AND MONEY FOR-- TIME, ENERGY AND MONEY. THIRD IF THE STANDARD ENVISIONED BY THE PROPOSAL ARE EVER ACTUALLY IMPLEMENTED THE LIKELY RESULT IS CONSUMERS WILL HAVE TO DEAL WITH TWO BOXES INSTEAD OF ONE. MUCH OF THE CONTROVERSY SURROUNDING THIS PROPOSAL HAS INSERT ON WHETHER IT WOULD REQUIRE AN ADDITIONAL BOX TO BEDEPLOYED IN AMERICANS' HOMES. TO BE SURE THE NOTICE DOESN'T SAY IN SO MANY WORD MVPD'S WOULD BE REQUIRED TO PROVIDE ANOTHER BOX. BUT THAT UNFORTUNATELY IS LIKELY TO BE THE OUTCOME IF THESE RULES ARE ADOPTED AND IMPLEMENTED. HERE IS WHY. IN ORDER TO CARRY OUT THE STANDARD CALLED FOR IN THIS NOTICE MVPD'S WOULD LIKELY HAVE ONE OF TWO OPTIONS. FIRST THEY CAN MAKE SUBSTANTIAL CHANGES TO THE NETWORK ARCHITECTURE OR, SECOND, THEY COULD PROVIDE EACH CUSTOMER WITH AN ADDITIONAL BOX. DURING MY DISCUSSIONS WITHMVPD'S IN THE WEEKS LEADING UP TO THIS MEETING EACH COMPANY SAID IT WOULD BE LESS EXPENSIVE TO DEMY ADDITIONAL BOXS IN THEIR CUSTOMERS' HOMES. IF THE COMMISSION'S PROPOSAL IS IMPLEMENTED THE AMERICAN PEOPLE WILL PROBABLY END UP PAYING FOR MORE BOXES, NOT FEWER. FOURTH, THE PROPOSAL COULD HURTCONTENT CREATORS. THIS PROPOSAL WOULD ALLOW SET TOP BOX MANUFACTURERS TO PROFIT FROM THE CONTENT PRODUCED BY OTHERS WITHOUT PAYING THEPROGRAMMERS. FOR EXAMPLE, NOTHING IN THIS WOULD PREVENT THEM FROM REPLACING COMMERCIALS IN A TELEVISION SHOW WITH COMMERCIALS SOLD BY THAT MANUFACTURER AND IT WOULD NOT PREVENT THE MANUFACTURER FROM ADDING COMMERCIALS TO A PROGRAM. WAOEPBLGD HAVE FORECLOSED THOSE POSSIBILITIES. THE DRAFTERS OF THE NOTICE COVER ADDRESSED THAT CONCERN WITHOUT COMPROMISING THE CORE OF THEPROPOSAL. BUT THEY DIDN'T. MINORITY PROGRAMERS ARE PERHAPS THE MOST AT RISK.THAT MAY EXPLAIN WHY A WIDE VARIETY OF CIVIL RIGHTS ORGANIZATIONS INCLUDING THERAINBOW PUSH, LEAGUE OF UNITED LATIN AMERICAN CITIZEN, MULTICULTURAL TELECOM AND INTERNET COUNCIL AND LGBT TECHNOLOGY PARTNERSHIP HAVE INVESTIGATED OPPOSITION TO THIS PROPOSAL. THAT IS WHY MINORITY PROGRAMMERS ARE OPPOSED TO IT AS WELL. THIS MORNING I BELIEVE THAT VICTOR SERTA IS WITH US. ARE YOU HERE? VICTOR IS THE HEAD OF THE M.E. TV THE FIRST NATIONAL SPANISH LANGUAGE TELEVISION NETWORK TO PARTNER WITH PUBLIC TELEVISION. IT BRINGS HIGH QUALITYENTERTAINMENT TO LATINO FAMILIES. WITH REPRESENTS OF OTHER LATINOORGANIZATIONS HE SIGNED A LETTER OPPOSING THE COMMISSION'S PROPOSAL. HE SAID THE COMMISSION'S PROPOSAL COULD IN HIS WORDS LEAD TO A NEW ROUND OF TV RED LINING IN WHICH SET TOP BOX DEVELOPERS PICK AND CHOOSE WHAT NETWORKS TOSHOW AND DROP LATINO PROGRAMMING OR BURY IT DEEP IN THE LINEUP OR SEARCH RESULTS. NOTHING IN THE PROPOSAL ADDRESSES THAT CONCERN. TAKING A STEP BACK THIS NOTICE PROMISES A LOT BUT IT PROBABLY WILL NOT DELIVER MUCH. AND MOST OF WHAT IT WILL DELIVER IS LIKELY TO BE BAD FOR AMERICAN CONSUMERS AND CONTENTCREATORS. NONE OF THIS HAD TO BE. FOR RIGHT NOW WE ARE EN ROUTE TO ELIMINATING THE NEED FOR A SET TOP BOX ALTOGETHER AND APP CAN TURN THE IPAD OR PHONE INTO A NAVIGATION DEVICE. MVPD'S ARE IN THE PROCESS OF DEVELOPING MORE ADVANCED ONES. THE COMMISSION SHOULD BE ENCOURAGING THOSE EFFORTS. BUT THIS PROPOSAL WOULD DO THE OPPOSITE. IT WOULD DIVERT THE INDUSTRY'S ENERGIES FROM APP DEVELOPMENT AND TOWARD THE SLOG OF COMPLYING WITH THE NEW REGULATORY SCHEME FOR UNWANTED HARDWARE. THE NOTICE GOES FURTHER. IT PROPOSES A NUMBER OF REGULATIONS THAT WOULD DISCOURAGE THE DEVELOPMENT ANDDEPLOYMENT OF MVPD APPS. THAT'S NOT WHAT THE AMERICAN PEOPLE WANT. I'M CONFIDENT MOST CONSUMERS WOULD RATHER ELIMINATE THE SET TOP BOX THAN EMBRACE A COMPLEX REGULATORY SCHEME THAT WILL REQUIRE THEM TO HAVE ANOTHER BOX IN THEIR HOME AND THAT WON'T TAKE EFFECT FOR AT LEAST THREE YEARS. I DARESAY MOST CONSUMERS WOULD URGE THE F.C.C. TO ADOPT A VERSION OF NE OFTEN'SCONVERSATION IN THE MATRIX. DO NOT TRY TO BEND THE SET TOP BOX MARKETPLACE.THAT IS IMPOSSIBLE. INSTEAD, ONLY TRY TO REALIZE THE TRUTH. WHAT TRUTH? THERE ISNO SET TOP BOX. THERE IS NO SET DONE POX? THEN YOU WILL SEE THAT IT IS NOT THE SET TOP BOX THAT BEND. IT IS ONLIOVER. ALL OF THIS MIGHT EXPLAIN THE BIPARTISAN CONCERN ON CAPITOL HILL ABOUT THE F.C.C. APPROACH TO SET TOP BOX REGULATION.CENTER BILL NELSON THE RANKING MEMBER OF THE COMMITTEE ON COMMERCE, SCIENCE AN TRANSPORTATION HAS TOLD TO US AVOID TAKING ANY ACTION THAT COULD ULTIMATELY THREATEN THE MARKET FOR QUALITY VIDEO PROGRAMMING. A DIVERSE GROUP OF 25 DEMOCRATIC REPRESENTATIVES LED BY TONY CARDENAS COUNSELLED RESTRANDSAYING IT IS IMPORTANT NOT TO BE OVERLY PROCEED CRIP ACTIVE. TWO EAR CONGRESSMEN WARNED THIS COULD UPSET THE SYSTEM THAT UNDERLIES THECREATION, LICENSING AND DISTRIBUTION OF COPYRIGHTED TELEVISION PROGRAMMING AND POTENTIALLY JEOPARDIZE EFFORTS TO PREVENT COPYRIGHT INFRINGEMENT. OTHER REPRESENTATIVES HAVE INVESTIGATED THEIR CONCERNS OVER THE PROPOSAL'S POTENTIALLY ADVERSE IMPACT ON INDEPENDENT MINORITY AND RELIGIOUS CONTENTCREATORS. I WISH THE COMMISSIONER HAD LISTENED TO THESE VOICES BECAUSE IT DOESN'T I RESPECTFULLY DISSENT.

**CHAIRMAN WHEELER**: COMMISSIONER O'REILLY.

**COMMISSIONER O'RIELLY**: OVER THE YEARS I HAVE SPENT CONSIDERABLE TIME ON THE POLICY ISSUES INVOLVING SET TOP BOXES. PAST EXPERIENCED ALONG WITH SERVING THE CURRENT LANDSCAPE LED ME TO CONCLUDE SET TOP BOXES ARE A RELIC OF THE PAST.THEY ARE WELL ON THEIR WAY TO THE FATE OF THE VIDEO RENTAL STORE. SO WHY IN 2016COMMISSION BE DOING A SET TOP BOX ITEM WITH THE IDEA OF MAINTAINING CONTROL WITHOUTDATED REGULATION ON THE RIGHT TRACK. WE HAVE BEEN SUBJECTED TO A STEADY STREAM OF HYPE ABOUT THERE UNLOCKING THE BOX. NEVER LET IT BE SAID THISCOMMISSION'S PROPAGANDISTS HAVE A HARD TIME STAYING ON MESSAGE BUT THIS CATCH PHRASE ONLY PARAMEDICS OVER THE DESTRUCTIVE RESULT TO COME IN THE VIDEOMARKET PLACE IF THE COMMISSION ADOPTS THE RULES PRESENTED TODAY. THIS PROPOSAL WOULD BE RARELIFUL TO SOME EXTENT FOR CONSUMERS AS WELL AS TO ALMOST EVERY TYPE OF BUSINESS INVOLVED IN PRODUCING AND DISTRIBUTING VIDEO CONTENT IN MANY PREDICTABLE WAYS NOT TO SAY, NOT THE LEAST THE UNPREDICTABLE AND UNPREDICT THE FACTS. IT COULD OPEN MVPD NETWORKS TO SERIOUS SECURITY VULNERABLES EXPOSING THEM TO NETWORK DAMAGE AND CONTENT THEFT. IT COULD STRIP CONTENT PRODUCERS OF THEIR RIGHTS TO CONTROL THE DISTRIBUTION ANDPRESENTATION OF CONTENT. IT COULD ULTIMATELY SUBJECT O.T.T.'S TO THE SAME REGIME AS I WILL DISCUSS LATER. WORST OF ALL, IT WOULD CERTAINLY DEVALUE THE CONTENT PRODUCED BY PROGRAMMERS LARGELY SMALL BY ENABLING ANYONE CAPABLE OF WRITING A COMPLIMENT APP IT TURN ON SOMETHING COBBLED TOGETHER BY AN MVPD AT GREAT EXPENSE THE ULTIMATE FREE RIDER PROBLEM. MVPD'S, BROADCASTERS ANINDEPENDENT PROGRAMMERS WOULD ALL LOSE SOME INCENTIVE TO KEEP DOING WHAT THEY DO AND SOME WOULD OPT FOR THE SIDELINES LEAVING CONSUMERS WITH FEWEROPTIONS. THE COMMISSION'S RESPONSE TO MOST OF THESE CONCERNS BOILS DOWN TO TRUST US. IT WILL BE OK. OR RATHER TRUST CURRENTLY NONEXISTENT ENTITIES LIKE ANORGANIZATION THAT IS NOT AFFILIATED WITH MVPD'S TO COME UP WITH A SECURITY SYSTEM TO PROTECT CONTENT AND TRUST OPEN STANDARD BODY TO SET UPACCEPTABLE SPECIFICATIONS FOR AN APP DEVELOPER TO INTERACT WITH AN MVPD NETWORK. TRUST MARKETPLACE FORCES TO KEEP THINGS INTACT. THE ITEM IS FORCED ON TO A FEW DETOURS RESIGNED TO SEEK COMMENT ON WHETHER LICENSING CAN ENSURE ADHERENCE TO COPY CONTROL AND OTHER RIGHTS INFORMATION ANDADEQUATE CONTENT PROTECTION. CAN IT EVEN BE DONE? WE DON'T KNOW. YET SOMEHOW DESPITE ALL THE OPEN QUESTIONS ABOUT WHO, HOW, WHERE, WHEN, THE MAJORITY HAVE SO MUCH FAITH IN THE ABILITY OF OUTSIDE UNFORMED ENTITIES TO SAVE THE DAY THAT THE ITEM CONCLUDES THERE SHOULD BE A TWO-YEAR DEADLINE FOR COMPLIANCE. THERE IS REGULATION BY SPECULATION. THE STATUTORY AUTHORITY ON WHICH THIS FANTASY RESTS IS EQUALLY FAR FETCHED. THE SECTION WILL LONG LIVE ATESTAMENT TO BE A SURRENDEREDITY THAT CAN BE ACHIEVED IN FOUR PARAGRAPHS WHEN THAT STATUTES FALL DOWN A RAT HOLE WHERE WORDS HAVE NO MEANING. WHILE BILLED AS AN ATTEMPT TO ENHANCE COMPETITION IN THE SET TOP BOX MARKET IT SHOOTS MILES BEYOND THAT NARROW FRAME ON THE FIRST PAGE REDEFINING STATUTORYTERMINALS, PLAINLY REFERENCING HARDWARE SUCH AS NAVIGATION DEVICE, INACTIVE COMMUNICATION EQUIPMENT AND OTHER EQUIPMENT TO MEAN HARDWARE OR SOFTWAREINCLUDING APPS. I DON'T KNOW HOW MUCH CLEARER THE TERMS DEVICE OR QUILT COULD BE IN THEIR INTENT TO REFERENCE TANGIBLE PHYSICAL HARDWARE. IF THOSE WORDS DON'T RESTRICT THE COMMISSION ARE THERE ANY THAT COULD? I DON'T THINK ANYBODY ELSE STELLAR COVER MADE IT OUT OF A SINGLE COMMISSION IN 2014 IF THEMEMBERS HAD KNOWN IT WOULD BE SPWEFRPTED TO ALLOW THE F.C.C. TO FORCE MVPD'S TO STREAM ALL CONTEND FOR FREE TO ANY APP DEVELOPER WILLING TO JUMP THROUGH A FEW HOOPS. GETTING BACK TO THE ORIGINAL QUESTION, WHY THIS PROPOSAL? THERATIONALE STATED IS TO ACHIEVE PARITY AMONG COMPETING INTERFACES BUT AT FIRSTGLANCE ANYONE CAN SEE THE EXACT OPPOSITE IS WHAT WOULD RESULT. THE FREE CONTENT FLOW MANDATED BY THE ITEM WOULD BE THE ONE-WAY STREET FROM MVTD'S TO O.T.T. ALLEYS TO HAVE PARITY

**COMMISSIONER CLYBURN**: FOR IT TO BE COMPETITIVE THAT INTEGRATE VIDEO FROM OTHER MPVD'S O.T.T.'S WOULD BE NEED TO BE BOUND BY THE SAME RULES AND SEND ALL THEIRCONTENT TO THE MVPD'S FOR FREE AND EACH OTHER FOR FREE. I WAS TOLD AT ONE OF THE EARLY MEETINGS THIS WAS BROUGHT UP. IT WAS QUICKLY DISMISSED AS OUTSIDE THE SCOPE OF BOTH STELLAR AND COMMISSION TITLE SIX AUTHORITIES. SO, NO ONE HERE IS TALKING ABOUT MAKING THE ONE-WAY STREET A TWO-WAY STREET, OR ARE WE? AS WITH 3-D MOVIE YOU NEED TWO LOOK THROUGH BOTH RED AND BLUE SIDES OF THE GLASSES TO SEE THE WHOLE PICTURE TO MAKE SENSE OF THE ITEM IT MUST BE VIEWED TOGETHER WITH THE OTHER HALF. THE COMMISSION'S PROPOSAL TO RECLASSIFY O.T.T. AS MVPD. IF BOTH ARE FOLLOWED TO THE LOGICAL CONCLUSIONS AN ENTIRE CLASS OF INNOVATORSWHO BEAR NO SIMILARITY TO MVPD'S -- DISCUSS ME -- ALSO OFFER VIDEO WILL BEREDEFINED AS MPVD'S AND SUBASSUMED IN TITLE DECISION AND OTHERS WILL BE FORCED TO EMPLOY ALL CONTENT TO EACH OTHER UNDER AN F.C.C. MANDATED SCHEMEPROVIDING THE FREE THROWS TO ALL COMERS WOULD ONLY BE THE BEGINNING OF A NEW REGULATORY BURDEN ON O.T.T.'S CAPTURED BY TITLE SIX. WHO WINS? THE F.C.C. THIS ENTIRE ITEM IS ABOUT TRYING TO SUPER IMPOSE A 1990 CONCEPT ON THE CURRENTTECHNOLOGY WHEN THE IDEA IS NO LONGER RELEVANT TO THE INNOVATORS AVAILABLE.SET TOP BOXES EFFECTIVELY HAVE BEEN OVERTAKEN BY EVENTS OR O.B.E. TODAY'S CONSUMERS WANT ACCESS IT VIDEO ON ANY DEVICE THEY OWN. IN RESPONSE CONTENT PROVIDERS ARE MEETING THIS THROUGH NUMEROUS OFFERINGS INCLUDING OVER THE TOP AND INTERNET BASED APPS. ISN'T IT TELLING THEY CAN WATCH FROM MULTIPLE SOURCES ON ALL DEVICES WITHOUT AN F.C.C. MANDATED SET TOP BOX REGIME? THEY CAN EVEN STREAM WHEN WATCHING BETWEEN DEVICES. THE MARKETPLACE SEEMS TO BEDOING JUST FINE AND CREATE SOMEHOW WHEN IT COMES TO AN MVPD SUBSCRIPTION SERVINGS WE NEED TO REGULATE THE INTERFACE. NONSENSE. I ARGUE WE SHOULD EMBRACE THE FUTURE, NOT THE PAST. THE APPLICATION ECONOMY IS WEAKENING THE MVPD PACKAGE BEFORE OUR EYES. IT IS NO LONGER IN CHANNELS AT ALL. MANY CONSUMERS ARE WATCHING PROGRAMMING BY THE INDIVIDUAL PROGRAMMER EVEN SHORTER SEGMENTS. THE ENTIRE VIDEO INDUSTRY IS MOVING AWAY FROM A BOXMENTALITY AND AS SUCH WE SHOULD RECONSIDER THE NEED FOR REGULATIONS TOMAINTAIN A COMPETITIVE SET TOP BOX MARKETPLACE. CHANGE IS A REAL CHALLENGE WHEN THE GOAL IS TO MAINTAIN CONTROL OVER THE FUTURE USING THE PARADIGMS OF THE PAST. AS WE HAVE SEEN THE PURSUIT OF THIS CAN LEAD TO POLICY PROPOSALS BASED ON ORWELLIAN STATUTORY STATUTORY. BUT GIVEN THE CHOICES NO ONE SHOULD HAVE ANY DOUBT ON WHICH SIDE I'M ON. THANK YOU .

**CHAIRMAN WHEELER**: YOU KNOW, THIS ISSUE REALLY IS NOT COMPLEX. CONGRESS HASEXPLICITLY INSTRUCTED US TO ASSURE THAT THERE ARE COMPETITIVE INFORMATION DEVICES , BE IT A BOX OR AN APP. THERE'S NO -- ONE IS SOFTWARE, ONE IS HARDWARE.THE FUNCTIONALITY IS THE SAME. THE ISSUE IS WHETHER YOU ARE FORCED TO RENT THAT BOX EVERY MONTH AFTER MONTH AFTER MONTH, OR WHETHER YOU ARE FORCED TO RENT THAT APP EVERY MONTH AFTER MONTH AFTER MONTH. CONGRESS WAS CLEAR. THEY SAID THERE SHOULD BE COMPETITION. NOW, TECHNOLOGY HAS ADVANCED TO A POINT WHEREIN IS POSSIBLE WITHOUT CHANGING THE FUNCTIONING OF THE PAY TV SYSTEM AND ITSCOPYRIGHT PROTECTIONS AND ITS SECURITY. WHETHER AN APP OR A BOX. AND IN FACT, WHAT WE ARE BEGINNING TO DISCUSS TODAY IS SOMETHING THAT IS VERY SIMILAR TO WHAT THE CABLE INDUSTRY ITSELF HAS PROPOSED. BUT LET'S DIG DOWN ON EACH OFTHOSE POINTS FOR SECOND. FIRST OF ALL, SECTION 629 OF THE COMMUNICATIONS ACT HERE ON THE SCREEN MINCES NO WORDS AND LEAVES NO DOUBT AS TO OUR STATUTORY RESPONSIBILITY, THOUGH THEY DIDN'T PRINT "SHALL" IN RED IN THE STATUTE. BUT IT IS CLEAR -- BUT IT IS CLEAR, THE COMMISSION SHALL. WE HAVE HEARD FROM SOME FOLKSWHO ALWAYS TO TALKING ABOUT HOW THEY ARE STRICT CONSTRUCTION THE LIST --CONSTRUCTIONALISTS ABOUT WHAT CONGRESS TOLD US WHAT TO DO AND NOT TO DO. IN REACHING OUT TO ALL KINDS OF WILD, EXPENSIVE SUPPOSITIONS. BUT IT IS PRETTY CLEAR, CONGRESS SAID THE COMMISSION SHALL. THERE HAVE BEEN LOTS OF WILDASSERTIONS ABOUT THIS PROPOSAL BEFORE ANYBODY SAW IT. LET'S REMEMBER, THIS IS THE BEGINNING OF AN INFORMATION GATHERING PROCESS. WHICH IS WHY, FRANKLY, IT ISDISAPPOINTING THAT MY TWO COLLEAGUES HAVE MADE UP THEIR MINDS BEFORE ALL THE FACTS ARE IN AND EFFORTS ARE MADE TO WORK ON ISSUES THAT HAVE BEEN IDENTIFIED.BUT LET'S STOP FOR A SECOND. THERE IS BEEN A LOT OF TALK. LET'S STOP AND LET'S LOOK AT HOW A SET-TOP BOX WORKS. AGAIN, ON THE SCREEN. AND LET'S BE CLEAR THAT THERE IS NOTHING THAT IS DIFFERENT IN THE FUNCTIONALITY BETWEEN A HARDWARE BOX AND A SOFTWARE APP. NUMBER ONE, THE CABLE SYSTEM SENDS A MESSAGE TO THE BOX THAT SAYS WHAT'S ON. NUMBER TWO, THE CABLE SYSTEM TELLS THE BOX WHAT IT ISENTITLED TO, WHAT THE SUBSCRIBER -- THE KIND OF RIGHTS THE SUBSCRIBER HAS.NUMBER THREE, THE SUBSCRIBER TELLS THE BOX WHAT THEY WANT. NUMBER FOUR, THE BOX REALIZE THAT CHOICE -- RELAYS THAT CHOICE BACK TO THE CABLE SYSTEM. NUMBER FIVE, THE CABLE SYSTEM DELIVERS THE PROGRAMMING. NOW LET'S LOOK AT WHAT THESTRUCTURE WOULD LOOK LIKE UNDER THIS PROPOSAL. THAT IS A NEW SLIDE THAT JUSTGOT PUT UP, EXCEPT FOR THE FACT THAT IT LOOKS IDENTICAL TO THE PREVIOUS SLIDE.THERE IS IDENTICAL SERVICE DELIVERY. THERE IS IDENTICAL ENTITLEMENTAUTHORIZATION. THERE IS IDENTICAL RELAYING OF CHOICE BACK TO THE CABLE SYSTEM.AND THERE IS IDENTICAL DELIVERY OF PROGRAMMING. SO WHAT IS THE DIFFERENCE?THESE ARE 2 SYSTEMS THAT WORK IN THE SAME. THE DIFFERENCE IS ONE IS CLOSED AND ONE IS OPEN. THE CONSUMERS HAVE NO CHOICE TODAY. THE CONGRESS MANDATED THATCONSUMERS SHOULD HAVE CHOICE. SO IF THE COMPETITIVE BOX OR APP FUNCTIONS EXACTLY LIKE THE BOX OR APP, THE CABLE SYSTEM FORCES YOU TO RENT TODAY, THENTHE PROTECTIONS FOR COPYRIGHT AND SECURITY ARE THE SAME. BUT LET'S BE SPECIFIC ABOUT SOME OF THE RED HERRINGS THAT WE HAVE HEARD RACE. NOTHING IN THIS ITEM REQUIRES A SECOND BOX IN THE HOME. SAY IT AS MANY TIMES AS YOU WANT , TRY AND SPIN IT EVERYWHERE YOU WANT. NOTHING IN THIS ITEM REQUIRES A SECOND BOX IN THE HOME.NOTHING IN THIS ITEM, LIKEWISE, REQUIRES CONSUMERS TO STOP USING THE SYSTEM THEY HAVE RIGHT NOW. IT ONLY CREATES THE OPPORTUNITY FOR THEM TO HAVE CHOICE.THERE IS NO MULTIBILLION-DOLLAR REENGINEERING OF CABLE SYSTEMS, AS WE HAVE HEARD, THAT IS REQUIRED. THERE IS NOTHING IN HERE THAT ALLOWS THIRD PARTIES TO THIS AGGREGATE TO -- TO DISAGGRE GATE CABLE CONTENT, SELL ADVERTISING AROUND IT. THERE HAS BEEN MISREPRESENTATION MADE TO DATE WITH THE ASSERTION THAT THIS ITEM DOES ALLOW THAT. THE ASSERTION THAT IT CREATES ALL KINDS OF OPPORTUNITIES FOR FREE WRITERS -- FREE RIDERS. IT TAKES THE SAME SYSTEM THAT GOES TO THE CABLE BOX TODAY WITH THE SAME STRUCTURES AND MOVES IT THROUGH A DIFFERENT BOXREQUIRING THE SAME STRUCTURES. AS A RESULT, EXISTING COPYRIGHTS , PROGRAMMING AGREEMENTS, ARE UNAFFECTED. CONSUMER PRIVACY IS PROTECTED. EMERGENCY ALERTS ARE PASSED THROUGH. AND CHILD PROTECTION LAWS ARE IN EFFECT. AND NOTHING IN THIS PROPOSAL SLOWS DOWN OR STOPS CABLE INNOVATION. IN FACT, WE ALL KNOW THAT HISTORY HAS BEEN CLEAR THAT INNOVATION IS A RESULT OF COMPETITION, NOT A RESULT OF A FORCED "YOU MUST READ THIS BOX -- RENT THIS BOX FOR ME MONTHAFTER MONTH AFTER MONTH." AND NOTHING CHANGES MINORITY PROGRAMMER RELATIONSHIPS WITH THE CABLE COMPANIES, BUT IT SURE DOES CREATE MORE OPPORTUNITIES FOR MINORITY PROGRAMMERS TO REACH CONSUMERS THROUGH THEINTERNET. FINALLY , THIS IS NOT A NEW TOPIC FOR THIS AGENCY. IN 2010, THE CABLE INDUSTRY'S OF OR DID, AND I -- THE CABLE INDUSTRY SUPPORTED, AND I Q QUOTE, CROSS INDUSTRY APPROACHES TO DEVELOP A COMPETITIVE AND INNOVATIVE RETAIL DEVICE MARKETPLACE. THE PEOPLE WHO SAID THIS IS THE END OF THE WORLD ACTUALLYSUPPORTED A COMPETITIVE VIDEO DEVICE AND MADE 7 RECOMMENDATIONS, WHICH ARECONSISTENT WITH TODAY'S PROPOSAL. I WILL JUST HIGHLIGHT A COUPLE OF THEM. THE OPTION TO PURCHASE VIDEO DEVICES OTHER THAN THOSE SUPPLIED BY THE CABLE COMPANY -- THAT IS THE CABLE INDUSTRY SAYING THEY SUPPORT THAT. THE OPTION TO ACCESS VIDEO CONTENT ON THE INTERNET. THE OPTION TO SEARCH FOR CONTENTACROSS MULTIPLE SOURCES, INCLUDING THE INTERNET. THIS IS WHAT THE CABLE INDUSTRY PROPOSED. THE LIST GOES ON TO THE NEXT SLIDE. AS I SAY, THIS IS NOTINCONSISTENT WITH WHAT WE ARE OPENING THE DISCUSSION ON. AND PROPOSING TODAY. LET'S GO BACK TO WHERE WE STARTED. THIS IS NOT COMPLEX. THE LAW MANDATES IT. TECHNOLOGY ALLOWS IT. THE INDUSTRY AT ONE TIME PROPOSED SOMETHING SIMILAR TO IT. AND CONSUMERS DESERVE BREAK AND A CHOICE. SO WE WILL CALL FOR THE VOTE ON THE ITEM. ALTHOUGH SURVIVORS IT -- ALL THOSE IN FAVOR SAY AYE. OPPOSED? AYES HAVE IT, THE MOTION IS ADOPTED, THE REQUEST FOR EDITORIAL MOTION IS GRANTED.THANK YOU VERY MUCH TO THE BUREAU. MADAM SECRETARY.

>> THIRD ON YOUR AGENDA TODAY, THE ITEM BY THE CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU ENTITLED "CLOSED CAPTIONING OF VIDEO PROGRAMMING,TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING."

**CHAIRMAN WHEELER**: THANK YOU VERY MUCH. LOOK AT THIS, CJB HAS DECIDED TO CHANGE THE SIZE OF THE NAME CARDS. THEY ALSO WHAT? MOVE LEFT. ALL THINGS ARE RELATIVE HERE. ALLISON, GO AHEAD, PLEASE.

>> NEARLY 20 YEARS AGO, THE COMMISSION ADOPTED THE FIRST SET OF RULES GOVERNING THE COMMISSION OF CLOSED CAPTIONING ON TELEVISION, ENABLING VIEWERS WHO WERE DEAF AND HARD OF HEARING TO ACCESS TELEVISION PROGRAMMING ALONG WITH THE REST OF THE GENERAL PUBLIC. AT THE TIME THE COMMISSION STATED IS EXPECTED TO REVISIT THESE RULES IN CHANGES IN TECHNOLOGY AND INDUSTRY PRACTICE IS MADE POSSIBLE TO IMPROVE THE AVAILABILITY AND QUALITY OF CAPTIONING.THE EXPERIENCES OF VIEWERS OVER THE PAST SEVERAL YEARS HAVE CONFIRMED THE NEED TO UPDATE THESE RULES TO ACHIEVE CONGRESS' RULE FOR ALL AMERICANS TO HAVE ALEXIS TO VIDEO PROGRAMS, PARTICULARLY AS THESE BECOME AVAILABLE ON THE INTERNET PURSUANT TO THE COMMUNICATIONS AND ACCESSIBILITY ACT. TODAY THE CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU PRESENT TO YOU A REPORT ANDORDER THAT WOULD ASSIGN SOME OF THE RESPONSIBILITI ES FOR THE DELIVERY OF HIGH-QUALITY CAPTIONS TO ENTITIES THAT HAVE DIRECT CONTROL OVER THEPRODUCTION OF CAPTIONS ON VIDEO PROGRAMMING. THIS ITEM ADDRESSESCERTIFICATION BY VIDEO PROGRAMMING ENTITIES IN THE HANDLING OF CAPTIONINGCOMPLAINTS. THE ITEM PROVIDES FOR FLEXIBILITY ON WAYS TO ACHIEVE COMPLIANCE AND BALANCES THE BENEFITS THAT FULLY ACCESSIBLE PROGRAMMING CAN ACHIEVE FORPEOPLE WHO ARE DEAF AND HARD OF HEARING WITH THE IMPACT THESE ACTIONS WOULD HAVE ON INDUSTRY. JOINING ME AT THE TABLE TODAY ARE THE DEPUTY CHIEF OF CG B ATTHE DEPUTY CHIEF OF THE DISABILITY RIGHTS OFFICE. KAREN WILL GIVE US CONTACTS AND THE HISTORY OF THE PROCEEDING, AND ELLIOTT WILL PRESENT THE ITEM. IN ADDITION TO KAREN AND ELLIOTT , I WOULD LIKE TO THANK THE CHIEF OF THE DISABILITY RIGHTS OFFICE , MICHELLE, MARY, MARIA, DIANA, AND JEFFREY NEWMAN OF THE MEDIA BUREAU, SHARON AND TRACY OF THE ENFORCEMENT BUREAU, AND MARILYN AND SUSAN OF THE GENERAL COUNSEL'S OFFICE, FOR THEIR WORK TO SUPPORT THIS ITEM.

>> THANK YOU. GOOD MORNING, MR. CHAIRMAN AND COMMISSIONERS. WE HAVE OFTEN HEARD IT SAID THAT OF ALL THE IMPROVEMENTS IN ACCESSIBILITY ACHIEVEMENT FORPEOPLE WHO ARE DEAF AND HARD OF HEARING, CLOSED CAPTIONING WAS THE MOST YOU AGAIN. AS WAS TRUE -- CLOSED CAPTIONING WAS MOST SIGNIFICANT. THE OBLIGATION CAME FROM THE 1996 AMENDMENT TO THE COMMUNICATIONS ACT, CELEBRATING ITS 20TH ANNIVERSARY. UNTIL FEBRUARY 2014, PROBLEMS WITH THE QUALITY OF CAPTIONING HAD BEEN MAKING TELEVISION VIEWING WITH CLOSED CAPTIONING INCREASINGLY DIFFICULT. IN THE YEARS LEADING UP TO THIS ORDER, CONSUMERS REPORTED INCONSISTENCIES IN THE WAYS THAT CAPTIONS WERE BEING PROVIDED, WITH MANY PEOPLE REPORTING THATTHE CAPTIONS WERE OFTEN INACCURATE, INCOMPLETE, AND IT DELAY BEHIND THE PROGRAM AUDIO TRACK. 2 YEARS AGO, THE COMMISSION LANDMARK STEPS TO ENSURE THAT TV PROGRAMMING CONTAIN HIGH-QUALITY CAPTIONS THAT ACCURATELY REFLECTTHE DIALOGUE AND OTHER SOUNDS AND MUSIC ON THE AUDIO TRACK ARE SYNCHRONOUS WITH THE PROGRAMS AUDIO COME ARE COMPLETE FROM BEGINNING TO THE END OF THEPROGRAM, TO THE FULLEST EXTENT POSSIBLE, AND DO NOT BLOCK OTHER IMPORTANT INFORMATION OR CONTENT IN THE PROGRAM ON THE SCREEN, SUCH AS CHARACTER FACES, TEXT, OR GRAPHICS NEEDED TO UNDERSTAND THE PROGRAM CONTENT.HOWEVER, THAT FEBRUARY 2014 ORDER LEFT OPEN WHO WOULD BE RESPONSIBLE FOR ACHIEVING COMPLIANCE WITH THE NEW CAPTIONING QUALITY RULES. BACK IN 1997, WHEN THE COMMISSION FIRST ADOPTED THE RULES GOVERNING TV CAPTIONING, THE COMMISSION PLACED SOLE RESPONSIBILITY FOR THE PROVISION OF CAPTIONS ON VIDEO PROGRAMMING DISTRIBUTORS COULD BUT IT IS VIDEO PROGRAMMERS, NOTDISTRIBUTORS, THAT OF ONCE YOU EXERCISE THE MOST CONTROL OVER CAPTION QUALITY. THEY ARE THE ONES WHO WORK WITH CAPTIONING AGENCIES TO DEVELOPCAPTIONS ON TV PROGRAMS. FOR THIS REASON, IN A NOTICE THAT ACCOMPANIED THE 2014 ORDER, THE COMMISSION SOUGHT COMMENT ON WHETHER IT WAS APPROPRIATE TODIVIDE THE RESPONSIBILITIES AND PLACE SOME OF THE RESPONSIBILITIES ON VIDEOPROGRAMMERS. THE ITEM BEFORE YOU CONTINUES TO PLACE PRIMARY RESPONSIBILITY ON THE PROVISION -- FOR THE PROVISION OF CLOSED CAPTIONING ON DISTRIBUTORS, BUT RECOGNIZES THAT MANY PROBLEMS DEALING WITH CAPTIONING QUALITY ORIGINATEDURING THE PRODUCTION PHASE, WHICH IS UNDER THE CONTROL OF VIDEO PROGRAMMERS. FOR THIS REASON, THE ITEM ALLOCATES RESPONSIBILITY FORCAPTIONING QUALITY TO BOTH DISTRIBUTORS AND PROGRAMMERS, MAKING EACH ENTITY RESPONSIBLE FOR THE ISSUES PRIMARILY WITHIN EACH'S CONTROL. WE BELIEVE THIS ALLOCATION OF RESPONSIBILITY WILL BRING ABOUT BETTER COMPLAINTS AND MAKEENFORCEMENT OF THE NEW CAPTIONING QUALITY RULES EASIER AND MORE EFFECTIVE.ELLIOTT WILL NOT PROVIDE YOU WITH GREATER DETAILS ABOUT THIS ITEM. THANK YOU -- WILL NOW PROVIDE YOU WITH GREATER DETAILS ABOUT THIS ITEM. THANK YOU.

**ELLIOTT**: GOOD MORNING, MR. CHAIRMAN AND COMMISSIONERS. WE ARE PLEASED TO PRESENT THE SECOND REPORT ON THE CAPTION QUALITY PROCEEDING. IT EXTENDS THE RESPONSIBILITY'S FOR THE QUALITY AND PROVISION OF CLOSED CAPTIONING TO OTHERENTITIES INVOLVED IN THE PRODUCTION AND DELIVERY OF VIDEO PROGRAMMING, REVISES PROCEDURES FOR THE HANDLING OF COMPLAINTS, REVISES VIDEO PROGRAMMERSCERTIFICATION REQUIREMENTS, AND MAKES OTHER PROCEDURAL MODIFICATIONS, SPECIFICALLY , THE SECOND REPORT AND ORDER ASSIGNS RESPONSIBILITY FOR THE QUALITY OF CLOSED CAPTIONING TO VIDEO PROGRAMMING DISTRIBUTORS AND VIDEO PROGRAMMERS MAKING EACH ENTITY RESPONSIBLE FOR CLOSED CAPTIONING ISSUES PRIMARILY WITHIN ITS CONTROL. VIDEO PROGRAMMERS ARE RESPONSIBLE FOR CLOSEDCAPTIONING PROBLEMS THAT STEM FROM PRODUCTION OF THE CAPTIONS AS WELL AS TRANSMISSION OF THE CAPTIONS UP TO THE POINT WHERE THEY ARE HANDED OFF TO VIDEO PROGRAMMING DISTRIBUTORS. VIDEO PROGRAMMING DISTRIBUTORS, IN TURN, ARE RESPONSIBLE FOR THE QUALITY PROBLEMS THAT OTHER RESULT OF THE DISTRIBUTOR'SFAULTY EQUIPMENT OR THEIR FAILURE TO PASS THROUGH THE CLOSED CAPTIONING DATA INTACT. THE ITEM ALSO MAINTAINS CURRENT RULES THAT PLACE PRIMARY RESPONSIBILITY FOR THE PROVISION OF CLOSED CAPTIONING ON VIDEO PROGRAMMING DISTRIBUTORS, BUT ALSO HOLDS VIDEO PROGRAMMERS RESPONSIBLE FOR THE LACK OF CAPTIONS WHERE THEY HAVE FAILED TO PROVIDE CAPTIONS ON NONEXEMPT PROGRAMS. IN ADDITION, IT REQUIRES EACH VIDEO PROGRAMMER TO FILE WITH THE COMMISSION CERTIFICATION THAT THE VIDEO PROGRAM OR IS IN COMPLIANCE WITH THE RULESREQUIRING THE INCLUSION OF CLOSED CAPTIONS AND EITHER IS IN COMPLIANCE WITH THE CAPTIONING QUALITY STANDARDS OR HAS ADOPTED AND IS FOLLOWING BEST PRACTICES, OR IS EXEMPT FROM THE CAPTIONING OBLIGATIONS. IF EXEMPT, THE VIDEO PROGRAMMER MUST INCLUDE IN ITS CERTIFICATION THE SPECIFIC EXEMPTIONS CLAIM.UNDER CURRENT PROCEDURES, VIDEO PROGRAM IS TO BIDDERS ARE REQUIRED TO MAKE BEST EFFORTS TO OBTAIN WIDELY AVAILABLE CERTIFICATIONS FOR VIDEO PROGRAMMERS.THE SECOND REPORT AND ORDER WOULD REMOVE VIDEO PROGRAMMING DISTRIBUTORS FROM THE CERTIFICATION PROCESS. AND INSTEAD OBLIGATE VIDEO PROGRAMMERS TO FILE CERTIFICATION DIRECTLY WITH THE COMMISSION. THIS WOULD RESULT IN HAVING ALLCERTIFICATIONS LOCATED IN ONE PLACE, MAKING IT EASIER FOR VIDEO PROGRAMMING DISTRIBUTORS AND COMMISSION STAFF TO LOCATE THE CERTIFICATIONS. THE ITEM ALSO REVISES THE PROCEDURES FOR RECEIVING, SERVING, AND ADDRESSING TELEVISION CLOSED CAPTIONING COMPLAINTS IN ACCORDANCE WITH A BURDEN SHIFT COMPLIANCE MODEL. THIS REQUIRES VIDEO PROGRAMMING DISTRIBUTORS TO INITIALLY ADDRESS COMPLAINTS, ALLOWS THE PROGRAMMING DISTRIBUTOR TO SHIFT RESPONSIBILITY FOR RESPONDING TO A COMPLAINT IF THE VIDEO PROGRAMMING DISTRIBUTOR, AFTERCONDUCTING AN INVESTIGATION, DETERMINES THAT THE PROBLEM WAS NOT WITHIN ITS CONTROL. THE SECOND REPORT AND ORDER ALSO ESTABLISHES A COMPLIANCE LETTERFOR THE COMMISSION'S TELEVISION CLOSED CAPTIONING QUALITY REQUIREMENTS. THE COMPLIANCE LETTER PROVIDES DISTRIBUTORS AND VIDEO PROGRAMMERS WITH OPPORTUNITIES TO TAKE INFORMAL AND PROMPT CORRECTIVE ACTION TO REDUCE THENEED FOR ENFORCEMENT ACTION BY THE COMMISSION. FINALLY, THE ITEM REQUIRES EACH VIDEO PROGRAMMER TO REGISTER WITH THE COMMISSION CONTACT INFORMATION FOR THE RECEIPT AND HANDLING OF WRITTEN CLOSED CAPTIONING COMPLAINTS USING THE COMMISSION'S WEB PORTAL. WE BELIEVE THE ACTIONS TAKEN IN THE SECOND REPORT AND ORDER BY CLEARLY DEFINING THE RESPONSIBILITIES FOR THE QUALITY AND PROVISION OF CLOSED CAPTIONING AND ADOPTING OTHER PROCEDURAL REFORMS WILL HELP ENSURE COMPLIANCE WITH THE COMMISSION CLOSED CAPTIONING RULES. THE BUREAU RECOMMENDS THE ADOPTION OF THIS ITEM AND REQUESTS EDITORIAL PRIVILEGES.

**CHAIRMAN WHEELER**: THANK YOU TO ALL OF YOU AND EVERYONE IN THE BUREAU FOR YOUR EFFORTS. COMMISSIONER CLYBURN.

**COMMISSIONER CLYBURN**: JUST OVER 19 YEARS AGO, THE COMMISSION ADOPTED ITS FIRST SET OF CLOSED CAPTIONING RULES. THIS MARKED A MAJOR FIRST THAT IN GRANTING FULL ACCESS TO VIDEO PROGRAMMING FOR DEAF AND HARD OF HEARING -- HARD OF HEARING OR HEARING IMPAIRED CITIZENS. MUCH HAS CHANGED SINCE 1997, AND TODAY IT IS MOST FITTING FOR US TO UPDATE THESE RULES TO REFLECT THE INSIGHTS GAINED FROM THEEXPERIENCES BY INDUSTRY, ADVOCATES, AND THE FCC. FIRST, THIS ITEM WILL PLACERESPONSIBILITY FOR CLOSED CAPTIONING QUALITY ON VIDEO PROGRAMMING DISTRIBUTORS AS WELL AS VIDEO PROGRAMMERS. EACH WILL BE HELD ACCOUNTABLEBOTH FOR THE PROVISIONING AND QUALITY OF CLOSED CAPTIONING ISSUES THAT ARE PRIMARILY WITHIN THEIR CONTROL, COMMON SENSE UPDATE, TO BE SURE. VIDEO PROGRAMMING DISTRIBUTORS WILL CONTINUE TO BE RESPONSIBLE FOR THE PROVISION OF CLOSED CAPTIONING, BUT NO VIDEO PROGRAMMERS WILL BE HELD RESPONSIBLE -- BUT NOW VIDEO PROGRAMMERS WILL BE HELD RESPONSIBLE FOR THE ABSENCE OFTHOSE CLOSED CAPTIONS IF THEY FAIL TO PROVIDE THEM. THIS ALSO ADDRESSES TRANSPARENCY OF COMPLIANCE CERTIFICATION AND UPDATES COMPLAINTS PROCEDURES WHEN THE COMPLAINTS ARE RECEIVED BY THE COMMISSION OR THE VIDEOPROGRAMMING DISTRIBUTOR. IT IS MY HOPE THAT THESE UPDATES WILL NOT ONLY HELP IN COMPLIANCE WITH OUR CLOSED CAPTIONING RULES, BUT WILL ASSIST IN STREAMLINING THE RESOLUTION OF CLOSED CAPTIONING COMPLAINTS OR PROBLEMS GOING FORWARD.MANY THANKS ARE DUE FOR THIS ITEM, AND AS THE BUREAU CHIEF MENTIONED, THOSE NAMES, I WANT TO THANK THE PLAY ALSO AS ALWAYS WOULD LIKE TO INCLUDE THANKS TOKAREN AND -- TO KAREN PELTZ-STRAUSS AND ELIOT GREENWALD FOR AN EXCELLENT ITEM.

>> A LOT HAS CHANGED IN THE PAST TWO DECADES, INCLUDING THE EVOLUTION OF TELEVISION SETS AWAY FROM THOSE THAT WERE BIG WITH FAKE WOOD PANELING AROUNDTHEM TO WHAT WE HAVE TODAY, RAZOR THIN SCREENS AND OF COURSE, THEY ARE NOT THE ONLY GAME IN TOWN. WE LIVE IN A WORLD WHEN THE SCREENS SURROUND US ANDOPPORTUNITIES FOR VIEWING CONTINUE TO MULTIPLY. ALL THIS CHANGE IS TERRIFIC BUTWE HAVE GOT TO MAKE SURE THAT WE CONTINUE TO HONOR THE VALUES THAT WE HAD 20 YEARS AGO, OR 19 YEARS AGO, WHEN WE FIRST PUT IN PLACE OUR NEW CLOSED CAPTIONING POLICY. AND IT IS IMPORTANT BECAUSE THERE ARE AN ESTIMATED 30 MILLION AMERICANS WHO ARE DEAF OR HAVE HEARING LOSS, AND THERE ARE 40 MILLION MORE OVER THE AGE OF 65 WHO EXPERIENCE VARYING DEGREES OF HEARING LOSS AT SOMEPOINT IN THEIR LIVES. THEY ALL RELY ON ACCURATE, SYNCHRONIZED, COMPLETE, ANDWELL-PLACED CAPTIONS TO ENJOY VIDEO PROGRAMMING. TWO YEARS AGO WE TOOKSIGNIFICANT STEPS TO UPDATE OUR CLOSED CAPTIONING POLICIES. TODAY WE CLOSE AND ENFORCEMENT CAP SO THE FCC -- WE CLOSE AN ENFORCEMENT GAP SO THE FCC CAN STEP IN WHEN NEEDED BE, AND WE RECOGNIZE THAT DISTRIBUTORS ANDPROGRAMMERS ALIKE WORK HARD TO PROVIDE HIGH-QUALITY CLOSED CAPTIONS. WE IMPOSED STRICT TIMELINES FOR CONSUMER COMPLAINTS TO BE ADDRESSED. AND THIS IS IMPORTANT -- WE IMPLEMENT A COMPLIANCE LADDER SO IMPROVEMENTS CAN BE MADE WITHOUT IMMEDIATE THREAT OF ENFORCEMENT. SO THANK YOU TO THE CONSUMER ANDGOVERNMENTAL AFFAIRS BUREAU, NOT JUST FOR THE EXCELLENT WORK TODAY, BUT FOR YOUR ABSOLUTELY UNYIELDING COMMITMENT TO IMPROVING THE QUALITY OF CLOSEDCAPTIONING.

**CHAIRMAN WHEELER**: COMMISSIONER PAI.

**COMMISSIONER PAI**: PROGRAMMERS AND DISTRIBUTORS PLAY AN IMPORTANT ROLE WITH RESPECT TO THE PROVISION OF QUALITY OF CAPTIONS. TODAY'S ORDER IS A COMMONSENSE APPROACH TO ALLOCATING RESPONSIBILITY FOR COMPLYING WITH THE COMMISSION'S CLOSED CAPTIONING POLITY RULES. A DISTRIBUTOR WILL BE RESPONSIBLE FOR THOSE ASPECTS OF QUALITY FOR WHICH IT HAS PRIMARY CONTROL, AND A PROGRAMMER WILL BE RESPONSIBLE FOR THE ASPECTS OF QUALITY OVER WHICH IT HASPRIMARY CONTROL. OF COURSE, THE DEVIL IS IN THE DETAILS. FOR EXAMPLE, THIS ORDERESTABLISHES A COMPLIANCE LETTER FOR OUR CLOSED CAPTIONING POLITY RULES, WHICH IS DESIGNED TO ENCOURAGE PARTIES TO QUICKLY ADDRESS AND REMEDY PROBLEMS WITHOUT INVOLVING THE AGENCY'S ENFORCEMENT BUREAU. I CONCERNS ABOUT LANGUAGE IS THE ORDER THAT WOULD HAVE DELEGATED VAST DISCRETION TO AVOID THE COMPLIANCE LADDER AND REFER MATTERS DIRECTLY TO THE ENFORCEMENT BUREAU. THIS WOULD HAVE DEFEATED THE ENTIRE PURPOSE OF THE COMPLIANCELADDER. BUT THROUGH TOUGH NEGOTIATIONS WE WERE ABLE TO LIMIT THE POSSIBILITY OF EVADING THE LADDER. TAPE MAY NOT BE IDEAL BUT IT IS GOOD ENOUGH TO GAIN MY -- IT MAY NOT BE IDEAL BUT IT IS GOOD ENOUGH TO GET MY CONCURRENCE.

**CHAIRMAN WHEELER**: COMMISSIONER O'REILLY.

**COMMISSIONER O'RIELLY**: OUR MAIN ORDER IS TO SHIFT THE BURDEN AND QUALITY OF CLOSED CAPTIONING FROM THE PROGRAMMING DISTRIBUTORS TO THE PROGRAMMERSTHEMSELVES. WHILE I GENERALLY AGREE WITH THE CONTENT, I SUSPECT IT WILL BE MUCH MESSIER AND MORE PUNITIVE THAN WHAT IS SUGGESTED IN THE TEXT. I ALSO WONDER IF THE ITEM DOESN'T MAKE IT SIMILAR SHIFT FOR THE BURDEN TO PROVIDE CLOSEDCAPTIONS PIT THE SAME ARGUMENT SHOULD APPLY TO THE PROVISIONING . IN ANY EVENT, I WILL SUPPORT THESE PROVISIONS NOTWITHSTANDING. DISAPPOINTINGLY, THE ITEM GETSINTO 2 TROUBLING AREAS. IT CREATES A CONVOLUTED MECHANISM BY WHICH A CONSUMER'S CLOSED CAPTIONING QUALITY COMPLAINT COULD BE FORWARDED FROM VIDEO DISTRIBUTOR TO THE PROGRAMMER AND BACK AGAIN. UNDER THIS STRUCTURE, THE CONSUMER INFORMATION WOULD BE REDACTED BEFORE THE FORWARDING COULD OCCUR. DURING CONSIDERATION OF AN ITEM LAST MONTH, IT WAS TOO DIFFICULT TO REDACT PERSONAL INFORMATION FOR BROADCASTERS CORRESPONDENCE FILES. THE CHAIRMAN GRACIOUSLY AGREED TO MOVE A SEPARATE ITEM TO ELIMINATE THE CORRESPONDENCE FILE IN ITS ENTIRETY. HOW CAN IT BE THAT REDACTING PERSONAL INFORMATION IN THE CREATION OF A UNIQUE IDENTIFIER IS EASY FOR VIDEO DISTRIBUTORSARE NOT BROADCASTERS? DOES ANYONE NOT CHECK THE ITEMS FOR CONSISTENCY? THE ITEM CREATES A THREE-TIERED COMPLIANCE LADDER FOR PROCEDURES AND SUBSEQUENTLY REJECTED BY ESTABLISHING A SPECIAL, AND I QUOTE, RULE ALLOWING THE CD B TO REFER THE VIOLATION DIRECTLY TO THE ENFORCEMENT BUREAU OR FORTHE ENFORCEMENT BUREAU TO PURSUE IT ON ITS OWN WITHOUT FIRST GOING THROUGH THE COMPLIANCE LADDER FOR CERTAIN VIOLATIONS. THANKS TO COMMISSIONER PAI WEHAVE A HIGHER STANDARD OF INTENTIONAL AND DELIVERY. ANYONE WANT TO GUESS HOW IT IS GOING TO BE APPLIED BY THE BUREAUS? WHY WOULDN'T THE COMPLIANCE LADDER CAP SUCH A VIOLATION? INSTEAD, THE ITEM CREATES A FAKE COMPLIANCE LADDER THAT THE CDB OR BUREAU WILL CLIMB OVER ANYTIME THEY WANTED IT CREATES THE ILLUSION OF A THOUGHTFUL AND JUDICIOUS REGULATOR BUT PRESERVES THE RIGHT TO THROW OUT THE WINDOW WITHOUT ANY QUESTIONS ASKED WHENEVER THE BUREAUS FEEL LIKE IT. NO THANK YOU. THANK YOU, MR. CHAIRMAN.

**CHAIRMAN WHEELER**: OH, OK. . I HAVE A STATEMENT FOR THE RECORD, BUT IN SUMMARY, THIS IS BASICALLY ABOUT RESPONSIBILITY, RESPONSIBILITY TO THOSE WHO HEAR WITH THEIR EYES, AND RESPONSIBILITY OF THOSE WHO PROVIDE CLOSED CAPTIONING,WHETHER THEY CREATE IT OR DISTRIBUTE IT. I THINK THE BUREAU HAS DONE A GREAT JOB ON THIS. LET'S CALL FOR THE VOTES. ALL IN FAVOR SAY AYE. OPPOSED? AYES HAVE IT, THE ITEM IS ADOPTED, THE REQUEST FOR EDITORIAL PURPOSES IS GRANTED. THANK YOU VERY MUCH.

 **CHAIRMAN WHEELER**: WE STAND ADJOURNED. THANK YOU