

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CERTAIN COLOR TELEVISION) Investigation Nos.:
RECEIVERS FROM CHINA AND) 731-TA-1034-1035 (Final)
MALAYSIA)

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Thursday,
 April 15, 2004

Room No. 101
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

The hearing commenced, pursuant to notice, at
 9:31 a.m., before the Commissioners of the United States
 International Trade Commission, the Honorable JENNIFER
 A. HILLMAN, Vice Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

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 MARCIA E. MILLER, COMMISSIONER
 STEPHEN KOPLAN, COMMISSIONER
 CHARLOTTE R. LANE, COMMISSIONER
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In Support of the Imposition of Antidumping Duties:

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P R O C E E D I N G S

(9:31 a.m.)

1
2
3 VICE CHAIRMAN HILLMAN: Good morning. On
4 behalf of the United States International Trade
5 Commission, I welcome you to this hearing on
6 Investigation Nos. 731-TA-1034 and 1035 (Final),
7 involving Certain Color Television Receivers From
8 China and Malaysia.

9 The purpose of these investigations is to
10 determine whether an industry in the United States is
11 materially injured or threatened with material injury
12 by reason of less than fair value imports of subject
13 merchandise.

14 However, I note that on April 12, the
15 Department of Commerce issued its final dumping
16 determinations in these investigations in which it
17 assigned a de minimis dumping margin to Malaysia. As
18 a result, the Commission will terminate No.
19 731-TA-1035 concerning Malaysia.

20 Schedules setting forth the presentation of
21 this hearing and testimony of witnesses are available
22 at the Secretary's desk. I understand that parties
23 are aware of the time allocations. Any questions
24 regarding time allocations should be directed to the
25 Secretary.

1 As all written testimony will be entered in
2 full into the record, it need not be read to us at
3 this time. All witnesses must be sworn in by the
4 Secretary before presenting testimony.

5 Copies of the notice of institution, the
6 tentative calendar and transcript order forms are
7 available at the Secretary's desk. Transcript order
8 forms are also located in the wall rack outside the
9 Secretary's office.

10 Finally, if you will be submitting documents
11 that contain information you wish classified as
12 business confidential, your requests should comply
13 with Commission Rule 201.6.

14 Madam Secretary, are there any preliminary
15 matters?

16 MS. ABBOTT: No, Madam Chairman.

17 VICE CHAIRMAN HILLMAN: Very well. Let us
18 proceed with the opening remarks.

19 MS. ABBOTT: Opening remarks on behalf of
20 Petitioners will be by David A. Hartquist, Collier
21 Shannon Scott.

22 MR. HARTQUIST: Good morning, Madam Vice
23 Chairman, members of the Commission and staff. I'm
24 David A. Hartquist of the law firm of Collier, Shannon
25 Scott representing the petitioning unions, the

1 International Brotherhood of Electrical Workers, the
2 IUE-CWA, Industrial Division of the Communications
3 Workers of America, as well as Five Rivers Electronic
4 Innovations, LLC, a manufacturer of color televisions
5 based in Greeneville, Tennessee.

6 We appreciate the opportunity to appear
7 before you today to discuss the injury that has been
8 suffered by the domestic color television industry and
9 its workers as a result of the unfairly traded imports
10 from China.

11 This case was brought by and primarily is
12 about the workers in domestic color television plants
13 throughout the United States. It's a vitally
14 important case not only because its disposition will
15 determine whether or not those workers will be able to
16 maintain their jobs, but also the case will test the
17 viability of those provisions of the law permitting
18 U.S. workers to bring Title VII cases and establish
19 legal standing on their own, even if their corporate
20 managements elect not to come forward and provide
21 public support for these cases.

22 It is a unique challenge bringing a case
23 primarily on behalf of workers in an industry. You
24 can see from the public import data that subject
25 imports have grown at unprecedented rates while import

1 prices as reflected in the average unit values have
2 declined dramatically.

3 Also, management has told the union
4 employees that their jobs are being eliminated because
5 of Chinese imports. Otherwise your only source of
6 information is the local Wal-Mart or Best Buy where
7 you can see firsthand the Chinese product that is
8 replacing our own.

9 Fortunately, we now have a clearer picture
10 of the domestic industry as reflected in the
11 prehearing staff report. Not surprisingly, virtually
12 every economic indicator the Commission relies upon to
13 determine injury shows a dramatic adverse trend over
14 the course of the period of investigation. For
15 example, imports are up by 3,000 percent in the face
16 of demand increases for the product of only about five
17 percent.

18 Subject import market share is up 10.4
19 absolute percentage points during the POI. Declining
20 prices and price underselling shows up in virtually
21 every product category for which the data was
22 collected. Capacity utilization in the industry is
23 down from 60.9 percent to 43.6 percent. Production is
24 down 27 percent, shipments down 24 percent by volume
25 and about 31 percent by value. Domestic market share

1 is down about 13 percent. Hundreds of lost jobs,
2 production lines shut down and a major plant closed.

3 Significantly, the future of this industry
4 will be even more bleak as Chinese producers have
5 added millions of units of additional excess capacity.
6 That capacity is primarily directed at the United
7 States, given that the only other major export market,
8 the European Union, has been essentially shut off to
9 Chinese imports because of stiff antidumping duties
10 and negotiated import quotas.

11 Several years ago, U.S. producers
12 essentially ceded or gave up the small and medium
13 sized screen TV market to imports. The only area left
14 for U.S. producers is the large and very large screen
15 size sector. Now the Chinese producers have
16 demonstrated capability to produce the larger screen
17 sizes and have shown a willingness to sell those
18 products at unfair prices, forcing U.S. producers to
19 either lower their own prices and lose money or
20 forcing producers out of those product lines
21 altogether.

22 You'll hear a number of diverse arguments
23 about emerging new technologies, about market tiers,
24 brand name premiums, opening price points and non-
25 subject imports, but these arguments are calculated to

1 divert your attention from the real overwhelming
2 evidence of injury that is reflected in the staff
3 report. We'll address all these issues before you
4 this morning.

5 Thank you very much.

6 MS. ABBOTT: Opening remarks on behalf of
7 the Respondents will be by Alan H. Price, Wiley, Rein
8 & Fielding.

9 MR. PRICE: Good morning. I am Alan Price
10 with the law firm of Wiley, Rein & Fielding.

11 All of the U.S. producers, with one
12 exception, are sophisticated, well-funded, global
13 brand owners. The one exception is Five Rivers, the
14 only petitioning domestic producer. Five Rivers is a
15 subcontract assembler that makes CTVs for other global
16 brand owners.

17 Five Rivers neither sells directly in the
18 market nor develops its own products. This company's
19 real problem is that its largest customer is
20 deemphasizing analog CTVs as it shifts into new non-
21 subject technologies. In considering Five Rivers'
22 claims, I urge the Commission to look at the presence
23 or absence of confirmed lost sales or revenues.

24 It is changing technology, not subject
25 imports, that is driving developments in this

1 industry. If subject imports were truly a source of
2 concern, you would expect to see the real domestic
3 producers -- Sony, Panasonic, Toshiba, Sanyo and Orion
4 -- testifying here today. You would expect them to be
5 eager to answer questions about their increasing
6 profits, sourcing decisions and substantial investment
7 in new non-subject technology.

8 They are not here because they are too busy
9 making money. The U.S. industry as a whole is highly
10 profitable. The corrected financial data establishes
11 that operating profit margins increased throughout the
12 POI.

13 Petitioners focus on the fact that certain
14 domestic production trends for CTVs are down.
15 Petitioners fail to explain that the Federal
16 Communications Commission is implementing a radical
17 regulatory and technological change that is reshaping
18 the entire television industry.

19 In response to this change, all of the
20 global companies are restructuring their operations as
21 they phase out subject merchandise, which are CTVS
22 based on cathode ray tubes, and phase in new
23 technologies. In essence, we are finally seeing the
24 transistor replace the picture tube. This
25 restructuring of the industry is wholly unrelated to

1 subject imports.

2 Petitioners have told you that domestic
3 production is down. They haven't told you that when
4 you add up the domestic industry's own production,
5 their sourcing from non-subject countries and
6 expanding production in imports of non-subject plasma,
7 LCD and DLP products, their volumes and values are up
8 dramatically.

9 Five Rivers complains that underselling
10 harms the U.S. industry. In fact, total U.S. industry
11 sales increased by 57 percent for the products both
12 countries sold to retailers, the only potential area
13 of competitive overlap.

14 People buy TVs based upon their brands.
15 This isn't a commodity like steel. If brands don't
16 matter, you would expect to see Five Rivers selling
17 hundreds of thousands of CTVs directly to retailers.
18 It doesn't.

19 Chinese imports are not having a significant
20 impact on the domestic industry because the
21 domestically produced brands overwhelmingly compete in
22 different market segments. Chinese imports simply
23 aren't in the same league as global brand names like
24 Sony, Panasonic, Toshiba and Sanyo. An antidumping
25 order against China will benefit imports from Thompson

1 in Mexico, Funai in Malaysia and Orion in Thailand.
2 It will not benefit the U.S. industry.

3 CTVs from China do not threaten the domestic
4 industry. The U.S. brand owners are investing tens of
5 billions of dollars in new TV technology as we speak.
6 On Monday, for example, Toshiba announced that it
7 would spend more than \$9 billion in the next three
8 years on new TV technology.

9 It is the U.S. producers in the top tiers --
10 Sony, Toshiba, Panasonic and Sanyo -- as well as Five
11 Rivers' principal customers that are moving most
12 decisively and quickly into the new technologies.
13 Because they sell in the upper tiers, their production
14 capacity for old-fashioned CTVs has not been and will
15 not be redirected into the OPP segment as they shift
16 into new products.

17 The industry as a whole is not affected by
18 nor threatened by imports from China of CTV using
19 technology that is already becoming obsolete.

20 Thank you.

21 VICE CHAIRMAN HILLMAN: Madam Secretary,
22 will you please call the first panel?

23 MS. ABBOTT: In support of the imposition of
24 antidumping duties, the first panel will be seated.
25 The members have been sworn.

1 (Witnesses sworn.)

2 VICE CHAIRMAN HILLMAN: Good morning, Mr.
3 Hartquist, and welcome to all of the members of your
4 panel.

5 MR. HARTQUIST: Good morning, Commissioner.

6 VICE CHAIRMAN HILLMAN: You may proceed when
7 you are ready.

8 MR. HARTQUIST: Thank you very much. Before
9 I introduce our witnesses to you this morning, I'd
10 like to introduce my colleague, Larry Lasoff, to make
11 some brief remarks about the legal standard with
12 respect to the merits of this case.

13 Mr. Lasoff?

14 MR. LASOFF: Thank you. Thank you, Skip.

15 The law provides that injury from dumped
16 imports can manifest itself in many ways. A critical
17 aspect of the law is that the Commission must consider
18 whether imports have been a cause of injury or pose a
19 threat of injury not just to U.S. firms, but also to
20 U.S. workers.

21 U.S. workers should not be disenfranchised
22 in this injury analysis. In fact, the statute was
23 specifically amended to give the workers standing to
24 bring these cases. When jobs are lost or when job
25 loss is threatened, with the U.S. manufacturing base

1 is eroded such that workers are no longer employed in
2 an industry, injury or the threat thereof has
3 occurred, and an affirmative decision should be
4 reached by the Commission.

5 Moreover, the law makes clear that injury to
6 U.S. producers can manifest itself in different ways.
7 The Respondents' contention that this industry is
8 healthy and strong because profitability has shown
9 some minor increases is simply wrong. If stable and
10 low profit levels were sufficient to show the domestic
11 industry, including the workers, were not suffering
12 injury then the statutory definition of injury and the
13 Commission's job would indeed be very simple.

14 But, the statute is not so superficial. In
15 this case, the profit levels of the industry both in
16 absolute terms and relative to the cost of goods sold
17 have been at very low levels and by no means indicate
18 that the industry is healthy and strong. Moreover,
19 every other economic indicator that the statute
20 requires the Commission to examine shows significant
21 declines.

22 Furthermore, as we noted earlier, the
23 statute anticipates that injury will manifest itself
24 in many forms. Some producers may lower prices to
25 maintain market share, thereby suffering losses and

1 depressed profitability. Other producers may simply
2 give up product lines, maintaining some level of
3 profitability, but eroding the overall U.S.
4 manufacturing base.

5 Here, both of these situations have
6 occurred. Prices have been declining, and U.S. sales
7 have been declining. When considering the
8 Respondent's arguments that Chinese imports have
9 played no role in these declines, the legal and
10 factual question that should be asked is if brand
11 names are so important as the Respondents contend, why
12 have Chinese imports increased so rapidly and
13 exponentially, and why has U.S. production dropped so
14 precipitously in the last two to three years.

15 The answer is simple. The Chinese producers
16 are seeking to buy market share at all costs. They
17 have dumped their product into this market at the
18 expense of U.S. workers and the U.S. manufacturing
19 base. If these unfair trading practices are not
20 stopped, U.S. producers will shut their doors. While
21 some of the foreign owned producers may open them up
22 again in China, as a legal matter that fact should not
23 support a finding of injury.

24 To the contrary, the loss of U.S. jobs and
25 the erosion of the U.S. manufacturing base in this

1 case is the linchpin of the correct legal and factual
2 conclusion that Chinese imports are causing and
3 threatening to cause injury to the U.S. industry.

4 MR. HARTQUIST: Larry, thank you.

5 I'd now like to introduce to your our
6 witnesses this morning. First, Tom Hopson, the chief
7 executive officer of Five Rivers, will testify. He
8 will then be followed by the gentleman on my left, Mr.
9 Mike Bindas, international president of the IUE-CWA.

10 Next, Troy Johnson, international
11 representative of the International Brotherhood of
12 Electrical Workers, will testify, followed by Al Davis
13 representing Sanyo workers. Jeff Johnson, chairman of
14 the Electronic Display Division of the Electronic
15 Components Association will I think have very
16 interesting testimony on the market structure, and Dr.
17 Pat McGrath and Gina Beck of Georgetown Economic
18 Services will present the economic factors.

19 Mr. Hopson?

20 MR. HOPSON: Good morning. My name is Tom
21 Hopson. I'm the president and CEO of Five Rivers
22 Electronic Innovations, LLC. I've been involved in
23 all aspects of the color television business,
24 including investment justification, facility
25 construction, start up, production and marketing for

1 25 years.

2 Let me begin with a brief discussion of our
3 production operations. As many of you viewed during
4 your recent plant tour of our facility in Greeneville,
5 Tennessee, Five Rivers is one of several U.S.
6 manufacturers of color television sets. Our
7 Greeneville plant has been making television sets
8 since 1963.

9 In 1997, Five Rivers, a privately held
10 company, purchased the plant from Philips. Since
11 then, we have continued on in the tradition of
12 Magnavox and Philips of making color televisions in
13 the United States.

14 Five Rivers currently produces a wide range
15 of color televisions with screen sizes ranging from
16 21v and greater. Although we previously made smaller
17 screen sizes, U.S. producers had to give up the small
18 and medium screen size TV market several years ago due
19 to imports.

20 Previously, the 25 and 27v analog color
21 television were our most popular selling televisions,
22 and these models were close to 50 percent of our
23 business. We also make analog and high definition
24 ready projection and direct view TVs. In 2003, we
25 began the mass production of flat screen tube TVs.

1 In sum, we are capable of producing any type
2 of TV that is made with a cathode ray tube as covered
3 by this case, as well as many of the TVs made with the
4 new technologies.

5 As you well know, the U.S. television
6 industry has experienced competition from abroad over
7 the past 30 years and has consolidated and changed
8 ownerships. Color TVs from other countries,
9 particularly Mexico, have played an increasing role in
10 the U.S. market over the years.

11 Despite their presence, we have been an
12 extremely efficient producer, and, based on our
13 experience in this industry, we have always been a
14 major producer and participant in the domestic color
15 television market and made a satisfactory return.

16 Five Rivers has been successful in competing
17 with producers not only from the U.S., but with
18 products from other countries. Our newest competitor,
19 however, in China has been different. Throughout my
20 career, we have never been faced with such an
21 astronomical rise in low-priced imports. This rise
22 has caused our business to change from a thriving one
23 to a struggling one.

24 Five Rivers is a highly-efficient, low-cost
25 color television producer, but we simply are not able

1 to compete with the flood of imports from China. We
2 have continually decreased costs and done as much as
3 we can in our efficiency to continue to be a low-cost
4 producer.

5 Over the years, we knew the Chinese were
6 building substantial capacity to produce TVs, but we
7 really felt we'd be able to compete with them until
8 their ever declining price began penetrating the
9 domestic market.

10 The impact of this substantial capacity has
11 become particularly noticeable in the U.S. marketplace
12 during the first half of 2001. By the end of 2002,
13 imports from China have become a dominant low-price
14 force in the marketplace, driving prices lower and
15 lower.

16 Once color televisions are produced in
17 accordance with various specifications, they are
18 interchangeable whether produced by a domestic or
19 foreign company. As a result, the principal basis on
20 which purchasing decisions for CTVs are made in the
21 U.S. marketplace is price, and the lowest price wins
22 the sale. Lowest price has repeatedly been imports
23 from China.

24 Due to the import competition, we cannot
25 sell off a price list or set contract prices, but

1 instead are forced to sell at price levels prevailing
2 in the market at the time. As our questionnaire data
3 shows, there has been serious erosion in the price of
4 color televisions during the past three years, and
5 imports have been responsible for leading that
6 downward pricing spiral.

7 These price declines have led to our
8 operating losses and dismal financial performance of
9 the industry that you see. These price declines far
10 exceed the historical and annual declines in prices
11 for televisions. Historically, CTV price declines
12 amount to between three to five percent annually.
13 With the introduction of Chinese product being dumped
14 in the U.S. marketplace, U.S. price deterioration has
15 increased dramatically from year to year.

16 As we report in our questionnaire, Five
17 Rivers' sales are made on a short-term contract basis.
18 Technically and contractually, the quantity and prices
19 are fixed within these contracts. In reality,
20 however, when the volume committed by our customers is
21 not attained and when Five Rivers requests price
22 increases to compensate for the lack of committed
23 volumes, our customers reject these increases and
24 instead usually demand price reductions.

25 Our customers have little incentive to

1 commit to a price, given the continual decline in the
2 selling price of CTVs that have occurred in the U.S.
3 marketplace over the past few years. On the other
4 hand, foreign producers have been willing to guarantee
5 low prices for extended periods without regard to
6 volume or market changes.

7 As you can see, imports from China have
8 created a major disruption in the marketplace for
9 several reasons. Five Rivers has been forced to lower
10 prices on all makes and models of our televisions just
11 to stay in the business. We have been hardest hit in
12 our mainstream product line of 25 and 27v color TVs.

13 I think it's important to reemphasize the
14 point that while I'm discussing these price declines,
15 the production process for televisions made with color
16 picture tubes, although constantly evolving, is based
17 on a well-established technology.

18 As a result, this product line is distinct
19 from other consumer electronic products that are made
20 with new, cutting edge technologies; for example,
21 calculators introduced in the marketplace 30 years ago
22 at a cost of hundreds of dollars, but now are given
23 away for free.

24 When a new technology incurs start up costs,
25 the initial price may be high and decline after the

1 start up costs are covered. The price declines we've
2 experienced since 2001, however, were in no way due to
3 the elimination of start up costs or reduction in our
4 company's costs. Instead, the reasons were, without a
5 doubt, unfairly traded imports from China and the
6 pressure by our customers to match those prices.

7 Our constantly declining costs have not kept
8 up with the rapid price declines. In addition, the
9 sheer volume of these imports invading the U.S. market
10 in a short period of time has caused us to lose sales.

11 Over the past two years, we have experienced
12 massive reductions in sales orders from our customers.
13 Our customers typically commit to a certain volume of
14 units during a short-term contract negotiation, and
15 the prices we agree upon are based on the customer
16 purchasing that volume.

17 After being offered lower prices from
18 importers, however, our purchasers have reduced their
19 sales volumes even within the framework of a
20 negotiated short-term contract. These reductions have
21 severely impacted us, including increases in inventory
22 and a decline in capacity utilization, which resulted
23 in deepening operating losses and eroded the value of
24 our company.

25 The volume decline caused shutdowns

1 amounting to multiple weeks, as well as complete
2 shutdowns of certain product lines. In turn, our
3 company has had to lay off production workers and
4 management staff and to not call back others because
5 of lack of orders as they compared to volume committed
6 by the customer. The resulting multiple reductions in
7 our work force also included going to four day work
8 weeks.

9 Most of you have heard about the potential
10 change in the TV industry, including new technologies
11 and digital broadcasting. In the years ahead, we
12 believe the television industry will continue to
13 evolve first to digital TV capable of high definition
14 reception, then to different non-zero T based
15 technologies.

16 We want to stay in this business and must
17 have investments in place to stay on top of these
18 changes. We have the capabilities and plans to
19 modernize to make the direct view LCD and plasma TVs
20 and projection LCOS and DLP TVs, but, given our
21 mounting losses, we just do not have the cash flow to
22 make these investments.

23 Our company has been able to build a
24 substantial equity base that has evaporated over the
25 last year. We are now at the brink of bankruptcy. No

1 factor other than Chinese imports really explains this
2 decline in our industry's performance. Indeed, there
3 has not been a downturn in demand for color television
4 despite an economic slowdown, making all the more
5 apparent adverse effects of imports.

6 I am confident that Five Rivers can compete
7 with any producer in the world on a fair trade basis,
8 but unless fair trade is restored to our market the
9 declines that our industry has experienced in the past
10 three years will only intensify.

11 The antidumping duty orders covering TVs
12 saved the industry many years ago. If nothing is done
13 to stem the tide of illegal imports into the U.S., our
14 company will be out of business by the end of this
15 year, if not before.

16 To a community that has depended upon our
17 factory to provide a living for 1,500 to 3,000
18 employees for the last 55 years, the closure of Five
19 Rivers would be devastating. Relief is needed to
20 ensure that our industry will remain viable and that
21 fair trade is restored.

22 Thank you.

23 MR. HARTQUIST: Thank you, Tom.

24 We now turn to Mike Bindas.

25 MR. BINDAS: Good morning. My name is Mike

1 Bindas. I am president of the IUE-CWA. For 50 years,
2 our union has represented workers at Five Rivers
3 Electronic Innovations and Philips located in
4 Greeneville, Tennessee. I'm here today to testify
5 about the problems that have been created for our
6 members at Five Rivers because of unfairly traded TVs
7 of Chinese origin.

8 By way of background, Five Rivers operates a
9 state-of-the-art, highly modernized television set
10 manufacturing plant, which, when fully operated,
11 employees over 2,000 workers. They make a variety of
12 TV models and their components.

13 Our Greeneville members have been making TVs
14 since 1954. Some of its workers have been there just
15 that long. In fact, for some of the employees, making
16 televisions at the Greeneville plant has been the only
17 job they've ever had in the plant throughout the
18 years.

19 Both the union and the workers have remained
20 constant. Indeed, in 1994, the plant was the top
21 employer in east Tennessee. It has always been vital
22 to the local community. IUE-CWA has worked hard to
23 keep the plant open, profitable and our members
24 working. We have made tough decisions, and our
25 members have made sacrifices of wages and benefits.

1 But, it's not enough when we are faced with
2 competition from unfair imports from China. As Five
3 Rivers has been forced to cut back production of
4 televisions, there have been layoffs. The remaining
5 workers have had to accept shorter work weeks,
6 resulting in reduction in our members' paychecks.

7 At the beginning of 2001, the plant employed
8 approximately 700 workers making televisions and 1,300
9 other workers making components whose jobs depend on
10 television production. In 2001, Five Rivers operated
11 nine final production lines on two shifts. Today, the
12 plant employs approximately 550 workers. The plant
13 has closed six production lines and operates three
14 lines on one shift. The company's composition stands
15 in stark contrast to its potential. The situation
16 will get worse if unfair imports continue to flood the
17 U.S. market.

18 Our members at Five Rivers are well aware of
19 the impact that the imports have had on other U.S.
20 producers. In particular, we have made them aware of
21 the Sharp plant closing and the layoffs that affected
22 other workers in the television industry. Since 2001,
23 hundreds of workers making televisions throughout the
24 United States have lost their jobs as Chinese TV
25 imports have flooded the market.

1 We are left with a very simple question.
2 Can anything be done to stop the loss of color
3 television manufacturing jobs throughout the United
4 States? The answer is yes. This investigation
5 provides the key.

6 The IUE-CWA believes that color television
7 manufacturing jobs in the United States can and must
8 be saved, and a further finding of inquiry of this
9 investigation will be the first step to saving not
10 only thousands of jobs, but the entire industry in the
11 United States and a community of hard working
12 Americans in Tennessee. We must be vigilant and
13 decisive defending U.S. manufacturing jobs, and you
14 all hold the power in your hands to do that.

15 On a personal note, I have worked with these
16 families in Greeneville for over 20 years as
17 secretary-treasurer and president of IUE District 7
18 and now as international president. Together the
19 company and unions have struggled through concessions
20 and loss of jobs. Our Greeneville members are like
21 family to me. I ask that you please help save these
22 jobs for the community, our members' children and
23 their grandchildren.

24 I hope you find this testimony helpful, and
25 I thank you for your time and attention.

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1 MR. HARTQUIST: Thank you, Mike.

2 Now we'll hear from Troy Johnson.

3 MR. T. JOHNSON: Good morning. My name is
4 Troy Johnson. I'm an international representative for
5 the International Brotherhood of Electrical Workers.
6 I work under the direction of international president
7 Edwin Hill, and I'm assigned to the manufacturing
8 department.

9 My responsibilities include assisting local
10 unions with contract negotiations and other issues
11 facing the work force in many industries of
12 manufacturing, as well as developing working
13 relationships with management of corporations who
14 employ our members. One of those is the television
15 industry.

16 I'd like to begin by emphasizing that the
17 U.S. television industry, including both television
18 set manufacturers and television component
19 manufacturers, is vital to the U.S. manufacturing
20 base. This industry employs thousands of workers,
21 both represented and non-represented. The majority of
22 these workers have been employed in the television
23 industry for many years. These employees are some of
24 the most highly trained and skilled workers in the
25 world.

1 All but one of the U.S. television set
2 producers today are multinational corporations that
3 have operations worldwide. Global interests aside,
4 these multinational companies employ a large number of
5 U.S. workers who manufacture television sets, yet
6 these companies will no doubt remain in business in
7 these other countries whether a single TV is made in
8 the U.S. or not.

9 As unfairly traded imports from China
10 continue to surge into the marketplace, it's the U.S.
11 workers who will be out of jobs, essentially replaced
12 by Chinese workers. Thus, in this antidumping case,
13 more so than many other cases, U.S. workers have much
14 at stake. In fact, we have already witnessed a huge
15 loss of jobs.

16 While it might be reasonable to think that
17 this loss of jobs is due to the poor economy we've
18 been witnessing over the past three or four years,
19 television sales in the U.S. actually have grown. As
20 the Commission staff report indicated, television
21 sales increased by five percent in 2003 in comparison
22 to 2001 levels.

23 Yet despite these increasing sales, at the
24 end of 2002 Sharp Electronics stopped television
25 production at its Memphis, Tennessee, plant. Although

1 Sharp still produces microwave ovens there, when TV
2 production ceased in November of 2002, approximately
3 500 of our members lost their jobs. Despite their
4 efficient work force, Sharp couldn't compete with
5 unfairly traded imports from China.

6 Toshiba workers are also experiencing harm
7 now and continue to be threatened by unfairly traded
8 imports. The company's Lebanonon, Tennessee, plant
9 employs approximately 700 skilled set makers who have
10 had jobs there for many years. Indeed, the plant is
11 well established and is an important employer in the
12 local community, yet Toshiba workers find themselves
13 in the same situation as many other television
14 workers. Between 2000 and 2003, Toshiba's employment
15 levels declined due to the saturation of television
16 sets into the market.

17 According to my conversations with Toshiba
18 workers, the management of Toshiba has made
19 adjustments to compete with dumped Chinese imports.
20 For example, while Toshiba used to produce 27v sets in
21 Tennessee, they stopped producing that screen size and
22 now only produce sets with screen sizes greater than
23 32v.

24 While Toshiba as a global producer has the
25 ability to make this strategic decision to stop

1 producing sets in the U.S. as Chinese imports
2 escalate, it is the U.S. workers who suffer. As
3 Toshiba shuts down production lines, U.S. workers are
4 laid off.

5 While the workers at the plants making U.S.
6 television sets are experiencing these troubles, they
7 are not the only workers who have been harmed and are
8 threatened by unfairly traded imports from China.
9 U.S. workers in related upstream industries are also
10 affected. Over 10,000 U.S. glass and tube workers
11 contribute materials to TV set manufacturing and
12 assembly facilities here in the United States.

13 The difficulties caused by unfairly traded
14 imports impact these workers as well. Substantial
15 decreases in production and whole plant closures have
16 resulted in the loss of thousands of jobs. Within the
17 past two years, Philips ceased TV tube production at
18 its Ottawa, Ohio, facility, which was represented by
19 IBEW Local 1654 at the cost of nearly 2,000 workers.

20 Corning Asahi Video recently announced the
21 shutdown of its plant dedicated to the production of
22 TV glass in Pennsylvania and actually sold the
23 equipment to a company in China. Another 1,100 jobs
24 gone.

25 Most recently, Thompson, Inc., a French

1 company better known for its RCA brand name, announced
2 a joint venture with the second largest Chinese TV
3 producer. Then, three weeks ago they announced the
4 closure of their glass production plant in Ohio and
5 tube operations in Indiana, both of which were
6 represented by the IBEW local unions at a cost of
7 nearly 1,500 jobs.

8 I recently spoke with IBEW member Arzella
9 Huffman. She and her husband, David, had worked at
10 the Thompson plant in Marion, Indiana, virtually their
11 whole adult lives. This couple now finds themselves
12 out of work in a town that is suffering high
13 unemployment levels. It comes as no comfort to them
14 to think that after a combined total of 60 years in
15 the U.S. manufacturing sector they will now have to
16 compete with hundreds of other workers in that
17 community to get a minimum wage job. Both are only 51
18 years old. They feel they're too young to retire, yet
19 too old to begin new careers.

20 The U.S. TV industry and its workers have
21 faced difficult times in the past. While they have
22 been able to meet and overcome these past challenges,
23 this new challenge poses something quite different.
24 China has labor bases reaching into the millions.
25 Thousands of these workers are already dedicated to

1 the TV industry, and China would like nothing better
2 than to add more. Indeed, China has the will and
3 capacity to do so.

4 Given that the majority of TV production in
5 China is export oriented, unfair trade will only
6 increase the volume of exports. For U.S. producers,
7 that translates not only into an increase of unfairly
8 traded imports with which they cannot compete, but
9 also an exponential increase in lost jobs.

10 Based on the current plant closures and
11 layoffs, the injury and threat of injury to U.S.
12 television producers and laborers is of major concern
13 to the IBEW.

14 Thank you for your time.

15 MR. HARTQUIST: Thank you, Troy. We now
16 turn to A.J. Davis, who is a union representative and
17 employee of Sanyo.

18 A.J.?

19 MR. DAVIS: Good morning. My name is A.J.
20 Davis. I am the vice president of IUE-CWA, Local
21 1106. We represent workers making TV sets at Sanyo
22 Manufacturing Corporation. Sanyo is located in
23 Forrest City, Arkansas. I've been employed at the
24 Forrest City plant for over 30 years and have been
25 making color televisions during that time.

1 As you have just heard from Mr. Bindas and
2 Mr. Troy Johnson, workers making televisions in the
3 United States are in serious trouble. Imported
4 televisions from China have flooded the U.S. market,
5 and jobs are being taken away.

6 We at Sanyo have also experienced serious
7 difficulties as a result of these imports. Before I
8 describe the problems that we have been facing, I
9 would first like to say that I agree wholeheartedly
10 with my union colleagues' description of the workers
11 making TV sets in the United States.

12 As I mentioned earlier, I have been making
13 TV sets for 30 years. Sanyo could not have stayed in
14 business for so long without its dedicated, highly
15 skilled work force. My co-workers and I have many,
16 many years of experience and much pride in our work.
17 We operate in a very efficient, modern facility. We
18 make a wide variety of TV models, all with screen
19 sizes over 21v. Our product line includes TVs made
20 with flat tubes.

21 We make a high-quality, competitive product,
22 but our experience and training is no match for the
23 recent flood of cheap Chinese TVs. Sanyo has six
24 production lines, but currently only two are
25 operating. This shutdown in production has been very

1 recent, over the last few months.

2 While Sanyo had 624 workers at the beginning
3 of 2002, now we have only 391. As a consequence, the
4 hours and wages of all Sanyo workers have been hurt by
5 these shutdowns. At an official union meeting, our
6 production manager told me and six members of our
7 negotiating committee that Sanyo had been forced to
8 take these steps because Sanyo is losing business to
9 imports from China.

10 To sum up, we are a highly competitive, very
11 efficient work force, but our jobs are now at stake
12 not because of competition from more efficient
13 workers, but from dumped imports. We believe that the
14 Commission should make an effective finding that these
15 imports have caused us serious injury.

16 Thank you.

17 MR. HARTQUIST: Thank you, A.J.

18 Jeff Johnson is now going to present to you
19 testimony which I think you'll find is in stark
20 contrast to Mr. Price's opening description of the
21 industry.

22 Jeff?

23 VICE CHAIRMAN HILLMAN: I'm sorry, Mr.
24 Johnson. Could you make sure that microphone is on?

25 MR. J. JOHNSON: Sorry.

1 VICE CHAIRMAN HILLMAN: Pull it close
2 particularly for the court reporter. Thank you.

3 MR. J. JOHNSON: I am chairman of the
4 Electronic Display Division of the Electronic
5 Components Association, which is the electronic
6 components sector of EIA representing more than 2,400
7 companies encompassing the North American electronics
8 industry.

9 The Electronic Display Division represents
10 companies that manufacture and support electronic
11 technologies in North America, including direct view
12 and projection CRTs and the new display technologies.

13 In the course of my career, I have worked
14 for three U.S. companies selling components to the
15 U.S. color television industry spanning a period of
16 over 30 years. The companies for which I worked sold
17 TV components to most U.S. producers of color
18 television sets, who used these components to
19 manufacture color TVs in the U.S.

20 As in marketing any product, it was
21 necessary for me to study and know as much about our
22 customers' markets as they do so that we could provide
23 the products and services they required to be
24 successful.

25 I would like to begin my remarks by

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1 reiterating the main point you have heard today. Over
2 the past three years, the U.S. television market has
3 been seriously disrupted by the overwhelming influx of
4 Chinese televisions. No one familiar with this
5 industry would seriously contest the fact that the
6 flood of Chinese imports has taken market share away
7 from U.S. producers. The import volume speaks for
8 itself.

9 We have seen many transitions in the TV
10 market in the last 30 years. Changes from black and
11 white to color, from small screen TVs to large and
12 then very large and to projection TVs over 70 inches.
13 There is certainly more change to come.

14 In analyzing the impact that these changes
15 have had and will have on the U.S. marketplace, I will
16 focus my comments on three major points. First, color
17 televisions made with tubes, both direct view and
18 projection, are the core television products now and
19 will be for many years to come.

20 Second, the television market cannot be
21 segmented into separate autonomous markets. Consumers
22 expect reasonable price ratios between low featured
23 and high featured sets. If the prices on low featured
24 sets drop, prices on high featured sets must also drop
25 to maintain what the consumer perceives to be a fair

1 price premium for the additional features.

2 Third, the Thanksgiving blitz at Wal-Mart is
3 not a stand alone, independent event. Sets sold are
4 part of, not in addition to, the U.S. set market and
5 epitomize the highly competitive nature of this
6 industry.

7 Expanding on the first point, the sales of
8 tube based color TVs remained strong from 2001 through
9 2003 and will continue to remain strong for the next
10 several years. Our industry association uses a
11 variety of models administered by an independent
12 consultant to forecast the U.S. TV market.

13 Historically, our forecasts have been quite
14 accurate, usually within five percent of the actual
15 results. The most recent forecast anticipates a
16 decline in the percent of CRT based TV sets from 94
17 percent of sets sold in 2003 to 72 percent in 2007.
18 However, because the set market is anticipated to
19 grow, the absolute number of CRT based sets will only
20 drop from about 28 million in 2003 to about 26 million
21 in 2007, still a substantial business.

22 Regarding the impact of pricing by new
23 display technologies, 97 percent of direct view sets
24 sold in the U.S. in 2003 were CRT based. It is
25 illogical to believe that the price declines seen in

1 these sets could have been caused by price pressures
2 from the three percent of sets sold with LCD and
3 plasma displays. The much more logical and reasonable
4 cause is the huge volume of low-priced imports.

5 To be sure, there are many exciting new
6 display technologies in the marketplace -- plasma and
7 LCD direct view TVs, DLP, transmissive LCD and LCOS
8 projection TVs. Most of the press articles you will
9 see focus on these new technologies simply because
10 they are more interesting to read about than CRT
11 based, direct view or projection TVs, but it is very
12 important to keep this in perspective. Sales of tube
13 based color TVs will be an important part of this
14 marketplace for years to come.

15 To keep the new technology issue in
16 perspective, it is helpful to recognize that the
17 average number of television sets per household in the
18 U.S. exceeds two and a half sets per the Nielsen
19 survey and is growing consistently. Consumers who
20 purchase a new technology set will most likely
21 purchase this as their prime viewing set, while the
22 rest of the household sets will remain tube based.
23 For these non-prime viewing sets, price is an even
24 more important factor in the consumers' purchase
25 decision.

1 I would also like to address two other
2 common misperceptions when distinguishing between tube
3 based TVs and the new products. The Respondents have
4 correctly noted that there is an ongoing transition to
5 digital TVs as a result of federal regulation.
6 However, they have taken this one step further by
7 suggesting that digital sets will use only new display
8 technologies, making tube based color TVs obsolete.

9 While this is a common perception, it is
10 wrong. The digital technology is part of the
11 electronic componentry of the television. The initial
12 higher cost of digital sets and the anticipated rapid
13 cost reduction as volume grows is related to the cost
14 of circuitry to receive and process digital signals.
15 It has nothing to do with the display technology.

16 CRTs are already being made in 16x9 wide
17 screen aspect ratio. Twenty-eight inch, 32 inch and
18 36 inch 16X9 CRT sets are currently sold in
19 substantial volumes in Europe and in Japan. Digital
20 TVs are currently being made with tubes as well as
21 other technologies. While analog TVs are being
22 replaced by digital, this change is completely
23 distinct from the change between tube based displays
24 and other display technologies.

25 Respondents have contended that the quality

1 of the new technologies is far superior to the quality
2 of the tube based products. Certainly there are many
3 advantages to the new technologies, but there are also
4 competitive advantages to the tube based product.

5 With respect to the quality of the picture,
6 which generally means resolution, color, contrast and
7 brightness, there are many differing opinions as to
8 whether the quality of the picture on a tube based TV
9 is substantially different from the quality of the
10 picture on a new technology product.

11 In fact, achieving the picture performance
12 of a CRT has long been the most difficult challenge
13 for aspiring new display technologies. Today, the
14 quality of the picture is more a factor of the signal
15 that is being received and the set circuitry than it
16 is the display device in the set.

17 In addition to picture quality, another
18 quality factor is product life. Some of the new
19 display technologies are still working to address this
20 issue while the product life of CRTs is well
21 established.

22 Expanding on my second point regarding
23 attempts to segment the TV market, I would like to
24 address the TV supply chain. Producers of color
25 televisions sell primarily to retailers that in turn

1 sell to consumers. The major retailers as a group
2 have increased their market share of TV sales over the
3 years at the expense of the mom and pop local stores.

4 Today, the top five retailers account for
5 about 65 to 70 percent of all sets sold in the U.S.
6 versus about 40 percent 10 years ago. Price is by far
7 the single, most important selling point used by
8 retailers in promoting television sets. In most
9 retail stores and Sunday supplement fliers, the prices
10 of sets are displayed in large, eye catching print,
11 but the brand names and features can only be seen
12 through much closer inspection.

13 Given this emphasis on price as a sales tool
14 and the intense competition among the major retailers,
15 understandably their main concern in purchasing color
16 TVs from their suppliers is obtaining the lowest
17 possible price. Even when a retailer wants to
18 purchase a brand name, it is unimportant whether the
19 brand name product is made in China or the U.S. Price
20 is the key factor.

21 Note that many TV producers have more than
22 one brand name often with only minor differences in
23 features and performance to address different
24 marketing needs. U.S. producers have minimal
25 participation at the lower end of the market not from

1 free choice, but because their low end brands have
2 been driven out by low cost imports.

3 In a market dominated by a small number of
4 high volume retailers, U.S. color TV companies simply
5 cannot afford to lose their accounts. Thus, U.S.
6 producers are forced to match the prices of the
7 imports. Even more importantly, they are forced to
8 lower prices on higher performance sets in order to
9 maintain a price differential that consumers will
10 perceive to be a reasonable premium to pay for the
11 higher performance and features.

12 My final comment today expands on my third
13 point, the impact of the so-called Thanksgiving blitz
14 by Wal-Mart. Wal-Mart's Thanksgiving blitz sells a
15 very large number of TVs at very low prices. This
16 sale should not be considered a separate phenomenon
17 from the overall market for TV sets. The total number
18 of sets sold in the U.S. is nearly fixed, unaffected
19 by the price of sets. The prices and features of sets
20 determine the mix of the sets sold, not the volume.

21 The Thanksgiving blitz sales are part of the
22 total set market, not incremental to it, and to the
23 extent that these sets are supplied by extremely low-
24 priced imports, they take away sales from other
25 producers.

1 Similarly, putting a label on a low-priced
2 product of opening price point does not mean that it
3 has no impact on higher feature product. As I
4 explained earlier, it does. If U.S. producers are
5 eliminated from participating in the Thanksgiving sale
6 because of unfair price competition from China or
7 anywhere else, they are hurt two ways -- by loss of
8 volume and by the cascading impact on the prices of
9 the products which they do sell.

10 Based on all this information, the result of
11 low-priced imports are obvious to any industry
12 observer. Chinese made product has made serious
13 inroads. U.S. producers are suffering as a result.

14 I appreciate very much the opportunity to
15 appear before you today and hope that my testimony
16 will be helpful. Thank you.

17 MR. HARTQUIST: Thank you, Jeff.

18 Our last presentation will be by Pat Magrath
19 and Gina Beck of Georgetown Economic Services.

20 MR. MAGRATH: May I have a time check, Madam
21 Secretary?

22 MS. ABBOTT: Forty minutes elapsed.

23 MR. MAGRATH: Forty minutes, so 20 minutes
24 left. I'm supposed to figure that out myself.

25 Good morning, members of the Commission,

1 Commission staff and ladies and gentlemen. I'm
2 Patrick Magrath of Georgetown Economic Services. With
3 me is Gina Beck, also of GES. Together we will be
4 providing testimony on economic and data issues in
5 this case.

6 The Commission chose to list and comment on
7 an unusually large number of conditions of competition
8 in its preliminary determination. We would like to
9 comment on those factors and add one of our own.

10 These comments will not take as long as you
11 fear. For example, the first handout that I had given
12 you, a chart, explains several of the conditions of
13 competition. It also serves as rebuttal to what some
14 of the Respondents will try to convince the Commission
15 of later today.

16 First, we see that consumption of color
17 televisions rose somewhat over the period. In
18 contrast, subject imports, which is always the red
19 line, rose. Well, it rose in a spectacular fashion
20 year after year.

21 Finally, the third lagging line, the S, is
22 the trend in domestic shipments, which were flat in a
23 rising market in 2002 and then declined considerably
24 more than overall demand. They declined by 25 percent
25 in 2003.

1 What conclusions can we draw from this
2 simple chart? First, the Commission should compare
3 the five and one-half percent demand increase to the
4 far greater 24 percent drop in domestic shipments, the
5 17 percentage point drop in production capacity to
6 very low levels and, most importantly for our
7 petitioning workers, the 12 percent drop in the number
8 of hourly employees.

9 These data speak to the general condition of
10 the U.S. industry and its workers, which is
11 contracting, and, conversely, the trend and condition
12 of subject imports, which is soaring.

13 Second, Respondents state that cathode ray
14 tube TVs are being displaced by other new
15 technologies, and that's a condition that you cite in
16 your preliminary determination.

17 Respondents create the impression that these
18 new products could explain the snowballing declines
19 that the U.S. producers have experienced, but again
20 very similarly referring to this high flying red line
21 indicating the increase in subject imports, why is it
22 that the new technologies are not taking sales away
23 from imports from China? Why has demand for these
24 allegedly obsolete products actually increased, and
25 why has demand for the Chinese product increased by

1 over 3,000 percent over three brief years?

2 Respondents also note and also allege that
3 brand trumps price in purchasing decisions. Again,
4 why does this red line go into the stratosphere over
5 the period? As the Commission knows, to this point
6 these huge increases from China are predominantly Apex
7 brand. Apex, hardly a household name until the deluge
8 of imports from China started in the period of
9 investigation.

10 In fact, other Chinese brands cited by
11 purchasers that have signed up with Respondents --
12 Hisense, Konk, Advent, Haier -- don't exactly roll off
13 the tongue either when one thinks of TV brands. The
14 spectacular increase in imports and import market
15 share of these no-name brands, as well as their
16 rapidly declining prices, is proof that it is price,
17 along with acceptable quality, that is the critical
18 factor in the great majority of buying decisions.

19 In fact, the importance of price is affirmed
20 by responses to Commissioners' purchaser
21 questionnaires, and Mr. Johnson has provided much more
22 evidence this morning.

23 Finally, the way TVs are marketed are a
24 validation of the importance of price and sales, as
25 Mr. Johnson's testimony pointed out and as the

1 Commissioners can see every Sunday -- every Sunday in
2 their Sunday supplements.

3 We have all gone to retailers, and we have
4 all bought TVs. Yes, even ITC Commissioners have been
5 rumored to buy TVs and go to places like Best Buy.
6 You see there that all the brands are lined up
7 together, and they are grouped by screen size with
8 prices prominently on display -- Sony next to
9 Panasonic next to Samsung next to Apex. The brands
10 aren't segregated. Unlike say autos, there aren't
11 Sony stores, Samsung stores, Apex stores, what you
12 would expect if a brand factor was dominant.

13 As to the importance of so-called tiers, the
14 staff report notes there is confusion on the part of
15 purchasers as to what tiers mean or even how many
16 tiers there are. Some associate tiers with brands,
17 some with features.

18 Second, as your preliminary determination
19 notes, Apex and other Chinese brands are offered and
20 are sold in a full range of screen sizes, a full range
21 of features from the most basic to those with all the
22 advanced features; all screen sizes, projection as
23 well as direct view.

24 Please, again this is not furfuryl alcohol.
25 This is not oleo resins. Just go to Best Buy, go to a

1 Wal-Mart or go to the company websites to see all
2 these TVs, all these features.

3 Finally, the record shows and Respondents
4 admit that U.S. producers make and compete in all
5 so-called tiers in the case. Hence, Respondents are
6 reduced to the claim that the U.S. availability is
7 limited in the lowest tier in the opening price point.

8 This is the classic defense Respondents use,
9 the Lizzie Borden defense. You've dumped TVs, you've
10 rapidly grabbed volume and market share, and you have
11 blown U.S. producers out of several of the lower price
12 point models, so now the defense is that the U.S.
13 producers can make enough that U.S. TVs aren't
14 available in that particular tier or price point.
15 Capacity utilization in this industry is 44 percent.
16 U.S. producers can and would make anything if not for
17 these high volume, low-priced imports.

18 The final condition of competition listed in
19 your preliminary determination is that the domestic
20 producers, except Five Rivers, are owned indirectly or
21 directly by Japanese companies, and many have
22 affiliates to produce CTVs in other countries,
23 including China and Mexico.

24 The fact that six of seven U.S. producers
25 are global in production, scope and strategy is a key

1 condition. It imbues the entire database you have
2 before you in this case. It is the reason those
3 producers aren't here today. It is the reason that
4 sitting behind me and sitting along side me are mostly
5 U.S. television workers, not executives, and that this
6 case was brought by and for the workers.

7 In every case before the Commission, the way
8 injury manifests itself depends on the response of the
9 U.S. industry to the onslaught of volumes and prices
10 of unfair imports. Please refer to my second handout.
11 By far, the most prevalent response of an industry
12 that you see in your cases to the shock of imports is
13 to try at first to compete on price and defend market
14 share, the stand and fight response we will call it.

15 What the Commission is used to seeing is a
16 U.S. industry trying to maintain shipments, trying to
17 maintain capacity utilization, but lowering its prices
18 to retain market share and compete with imports toe-
19 to-toe. Prices decline, or they can increase to cover
20 higher cost. Injury indicators then show
21 deterioration on a value basis; for instance, revenues
22 and profitability as a first instance.

23 This isn't what has happened here yet
24 because the large multinationals that dominate the
25 U.S. industry have chosen not fight, but flight; not

1 to defend market share against imports, but to abandon
2 color TV production in smaller sizes where pressed by
3 the Chinese influx and retreat up the product chain to
4 the larger, more feature laden color television
5 products where they could still find margins.

6 This piecemeal abandonment of production of
7 smaller screen sizes has been facilitated by the
8 flexible assembly type nature of color television
9 production. Hence, the response to China has been to
10 withdraw progressively and retreat screen size by
11 screen size, feature by feature. This progressive
12 withdrawal from the smaller screen sizes by U.S.
13 producers is well illustrated in the introduction to
14 our prehearing brief.

15 How the multinationals have tried to cope
16 with imports from China is not by abandoning the
17 market, but only by abandoning U.S. production. They
18 turn to lower price and include unfairly traded
19 imports from China and other countries in order to
20 keep their products before you, the consumers, on the
21 shelves in 25 inch, 27 inch opening price point and in
22 later periods in the period of investigation, and you
23 can see this in your pricing tables, the 27 inch step
24 up model, the 32 inch step up models, to keep those
25 available to U.S. consumers.

1 This strategy to switch out of U.S., to
2 non-subject or to Chinese import sources is
3 illustrated by the charts you will see from
4 Respondents later today. Thank you very much.

5 By following this flight and not fight
6 strategy, value indicators such as unit values and
7 some margins on shrinking product lines can be
8 maintained for a while at a cost of greatly reduced
9 U.S. operations. In this case, it is the quantity
10 indicators -- production, shipments, sales units,
11 capacity utilization and, most important to us,
12 employment -- that bear the immediate brunt of unfair
13 imports.

14 The form of injury is in the database in
15 front of you, and that is why that part of the
16 industry that is most deeply injured now and first
17 felt the brunt of Chinese import volumes and prices,
18 the workers, have come forward as the Petitioners in
19 this case.

20 It is virtually important that the
21 Commission acknowledge this form of injury and that it
22 will be just as fatal if allowed to continue. The
23 people around this table, they are the industry, and
24 they are being injured by imports from China.

25 Gina?

1 MS. BECK: Good morning. My name is Gina
2 Beck of GES.

3 The volume of unfairly traded imports has
4 increased substantially and has stood at significant
5 levels during each year of the POI. Not only have CTV
6 imports from China grown by over 3,000 percent, but
7 these imports have captured a large and increasing
8 share of domestic consumption over the POI, standing
9 at .3 percent in 2001, growing to 6.9 percent in 2002
10 and further to 10.4 percent in 2003, while U.S.
11 producers' share of the domestic market declined each
12 year.

13 It is important to note that a review of
14 import volumes based on full year 2003 data, however,
15 does not display the effects of Commerce's November
16 2003 announcement of the imposition of preliminary
17 duties. As official Commerce monthly data show,
18 imports from China plunged in December 2003, all but
19 disappeared in January 2004 and stood at very low
20 levels in February 2004.

21 The Commission should also be aware that
22 Respondents presented their market share analysis on a
23 value basis in order to show lower market share
24 percentages. Of course, China's market share will be
25 smaller on a value basis since imports from China are

1 being sold at low and declining prices. As
2 Respondents attempt to belittle the growth in subject
3 import penetration, they actually highlight the ever
4 declining import prices.

5 Now I will turn to the impact of subject
6 imports on U.S. producers' prices. It is clear that
7 U.S. prices were driven down by surging volumes of low
8 import prices for several reasons. First, the
9 dramatic increase in import volume of price sensitive
10 CTVs led to U.S. price depression and suppression.

11 Second, low and declining prices of subject
12 imports also drove down and held down U.S. prices,
13 and, third, subject imports significantly undersold
14 U.S. producers' prices in a variety of products. Any
15 increase in volume of a low-priced product within an
16 intense price-based market will have a dramatic
17 effect.

18 As the Commission noted in its preliminary
19 views in reference to the growing purchasing power of
20 mass merchandisers like Wal-Mart, there is no doubt
21 that the underselling and low prices of subject
22 imports have caused U.S. price declines to levels that
23 have resulted in the domestic industry's inadequate
24 profitability levels.

25 As the Commission also noted in its

1 preliminary determination, the typical annual decline
2 in television prices for comparable models was only
3 4.3 percent. As described in Petitioners' prehearing
4 brief, annual U.S. price declines were well in excess
5 of four percent, particularly from annual 2002 to
6 2003.

7 The Commission's pricing record also
8 demonstrates significant underselling by subject
9 imports across various CTV models. The Chinese
10 product was priced less than the domestic product in
11 26 of 28 possible price comparisons or in 93 percent
12 of the instances.

13 The Commission should in no way be
14 influenced by Respondents' attempt to desegregate
15 pricing data and make comparisons based on so-called
16 tier levels, as opposed to comparing specific
17 products. Given the strong degree of underselling by
18 imports shown in the record data, it is no surprise
19 that Respondents are inventing ways to ignore the
20 facts.

21 Respondents have also set forth arguments
22 based on excluding import sales for Wal-Mart's
23 Thanksgiving blitz. Why should certain pricing data
24 for a particular Thanksgiving sale be removed when
25 these sales directly compete for sales from U.S.

1 producers? What next? Will Respondents argue to
2 exclude special events sales on President's Day or
3 Labor Day by other retailers?

4 I will next examine the impact of subject
5 imports' low prices on the U.S. industry's trade and
6 financial performance. Nearly every indicator
7 reported by U.S. producers showed stark declines and
8 deterioration. The increase in imports from China
9 clearly resulted in this loss of sales volume and
10 resultant production cutbacks.

11 Production reductions in 2002 and 2003
12 resulted in falling capacity utilization rates to
13 severely low levels. Not surprisingly, U.S. CTV
14 companies have implemented numerous production
15 cutbacks. The loss of the U.S. producers' market
16 share and shutdown of CTV production lines caused
17 layoffs and the loss of numerous jobs to U.S. workers.

18 The Commission's record displays significant
19 declines in the number of production related workers,
20 hours worked and wages paid over the last three years.
21 Two producers' employment data, however, were excluded
22 from the Commission's compilation as noted in
23 Petitioners' prehearing brief, so total job losses
24 were even worse than reported in the staff report.

25 In an effort to compete with imports, U.S.

1 producers have made significant closures that have
2 directly affected the livelihood of U.S. workers.
3 There can be little doubt that U.S. producers have
4 been hit hard as Chinese imports worked their way into
5 the large screen sizes and very large sized TVs.

6 Faced with these large and rapid increases
7 in subject imports, U.S. producers were forced either
8 to reduce prices or withdraw from their basic product
9 lines and retreat into larger screen size and more
10 value added CTVs.

11 Although neither option is acceptable, U.S.
12 producers fought to remain in business at severely
13 reduced levels. As producers dropped their prices and
14 attempted to maintain market share, profitability
15 immediately and adversely was affected, as
16 demonstrated in the Commission's preliminary report
17 with a slightly above break even operating profit to
18 sales ratio through first quarter 2003.

19 In an effort to reverse the downward trends
20 in profitability, U.S. producers retreated into newer,
21 more value added product lines and moved up to the
22 next screen size. This strategy represents only a
23 temporary fix as a technical limit on size for direct
24 view CTVs is approximately 40 inches.

25 In addition, foreign producers are

1 manufacturing and importing direct view CTVs
2 approaching that size and are offering large volumes
3 of projection televisions. Consequently, U.S.
4 producers are losing sales and market share even in
5 the most advanced product categories.

6 Thank you for your attention.

7 MR. MAGRATH: Thank you, Gina.

8 Data on the record provide ample evidence of
9 a real and imminent threat of injury by reason of
10 imports from China as well. First, though capacity
11 utilization in China has increased over the period,
12 there is still ample unused capacity in China to
13 displace substantially all U.S. production, and that
14 is only among or from the half dozen or so Chinese
15 producers who filled out questionnaire responses.

16 Uncounted by the staff report in terms of
17 total unused capacity are the 80 or so other producers
18 of televisions in China, the world's largest producer
19 of color televisions. In terms of sheer size and
20 production capability, it is China, after all.

21 Additionally, we note the staff report
22 references to subcontracting in the Chinese industry,
23 meaning that Chinese producers and exporters are going
24 to avail themselves or have availed themselves already
25 of this huge, but unreported, capacity in order to

1 export to the United States.

2 Finally, the staff report lists several
3 Respondents who are set to expand capacity. In terms
4 of other threat factors, we see a significant increase
5 in the volume and market share of imports over 34
6 fold. We see continued price depression of subject
7 imports as evidenced by the large and generally
8 increasing margins of underselling. We see a large
9 increase in importers' inventories and, finally, we
10 see change in the television industry from analog to
11 digital and the new technologies.

12 This industry at this stage is precisely
13 what was contemplated by the derivative product
14 amendment in the threat statute that seeks to protect
15 the ability of U.S. producers to develop a more
16 advanced version of the domestic like product.

17 Thank you. We will say more in our brief.

18 MR. HARTQUIST: Thank you, Madam Chairman.
19 That concludes our presentation. We'll be happy to
20 respond to the Commission's questions.

21 VICE CHAIRMAN HILLMAN: Thank you. And I
22 think on behalf of all of us we thank you very much
23 for taking the time to be us this morning. We
24 appreciate all of your testimony as well as all of the
25 material that was submitted in advance of this

1 hearing.

2 This morning's hearing, we will begin the
3 questions with Commissioner Koplan.

4 COMMISSIONER KOPLAN: Thank you, Madam
5 Chairman.

6 First, I would just like to acknowledge and
7 thank the witnesses, Mr. Hobson, for the opportunity
8 that we have had, a number of my colleagues and
9 myself, to actually visit the Greenville plant, and
10 watch your operation, spend the time to see the
11 technical process involved, and return back to
12 Washington. So thank you for that.

13 I also want to thank each of the witnesses
14 for their testimony. It's been extremely helpful for
15 me.

16 Now, I will just begin by saying I
17 appreciate the arguments that I have heard this
18 morning and in the briefs that have preceded my
19 questioning as to why the other U.S. producers are not
20 here today.

21 I must say, though, I am required, I
22 believe, to look at the domestic industry as a whole,
23 and I have not heard arguments that the Commission
24 should exclude any of the other six U.S. producers as
25 related parties in this case. So as I say, as counsel

1 knows, I am required to look at the total U.S.
2 industry.

3 MR. LASOFF: Commissioner, we are not
4 suggesting that you should ignore the data from the
5 other six companies.

6 COMMISSIONER KOPLAN: I appreciate your
7 saying that for the record. If you hadn't, I would
8 have followed up by asking you if you disagreed with
9 that. Thank you, Mr. Lasoff.

10 But that's precedent for my going into my
11 first line of inquiry. I note that on April 6th
12 Commission staff released revised numbers, some public
13 and some business proprietary, for the domestic
14 industry. I can't get into individual company numbers
15 because that's business proprietary, but I can discuss
16 with you all the aggregate, some of the aggregate
17 numbers that I am looking at.

18 And what I am referring to here is the
19 domestic industry's operating income both by value and
20 as a ratio to net sales value. It increased during
21 the years 2001 to 2003 as follows:

22 Operating income by value increased from
23 \$119,199 to \$128,722, and its ratio to net sales value
24 in percentage terms increased from an average of 4.3
25 percent to 5.2 percent.

1 In addition, during those same years the net
2 sales of units by quantity decreased from 5,107,000 to
3 4,203,000.

4 Now, as I read this, I conclude that
5 although the domestic industry was selling fewer units
6 during our period of investigation it was making more
7 money.

8 Does this, at least in part, account for why
9 none of the other domestic producers are here?

10 MR. MAGRATH: In our opinion, Commissioner,
11 it does not. Our view within my testimony of -- that
12 the majority of U.S. producers are global producers
13 who can shift production to other import sources,
14 including the subject import sources.

15 COMMISSIONER KOPLAN: You don't disagree
16 that they are properly included as part of the
17 domestic industry?

18 MR. MAGRATH: No, they are part of the
19 domestic industry, and I mean, I would like to say
20 too, and this is an obvious point going back to the
21 beginning of the case, and the standing test that this
22 group had to go through, the respondents may say that
23 none of these companies are supporting the case, but
24 at least in terms of the standing requirement they
25 didn't didn't support the case either as you well

1 know. You're familiar with that --

2 COMMISSIONER KOPLAN: I can't get into that
3 though here.

4 MR. MAGRATH: -- standing requirement.
5 Well, the fact that we're here says certain things
6 about that.

7 COMMISSIONER KOPLAN: Yes.

8 MR. MAGRATH: Finally, I would like to refer
9 you, and this isn't what I didn't get to say in my
10 testimony, you should look, and this is APO data, at
11 the responses in the questionnaires by all the
12 companies, not just Five Rivers, all the companies to
13 the question that was posed to them in your
14 questionnaires about the anticipated negative effect
15 of Chinese imports going forward. You should look at
16 those answers.

17 COMMISSIONER KOPLAN: I appreciate that, and
18 I assure you those are being looked at. But I still
19 needed to ask you about these numbers.

20 I take it, as far as the numbers are
21 concerned, you don't dispute the numbers that appear
22 in the April 6th release; you accept those?

23 MR. MAGRATH: Yes, Commissioner, we do.

24 COMMISSIONER KOPLAN: Thank you.

25 MR. HOPSON: Commissioner Koplan, if I may,

1 you know, some of the reason also in this could be the
2 macro display SED products and a lot of these
3 factories are growing. So for instance, I think Mr.
4 Troy Johnson's testimony testified about one of the
5 factories that discontinued the 27-inch product, which
6 is one of the highest volume products that you build
7 today, and they discontinued that product, but they
8 are replacing it with DLP, L-COS, some of those kinds
9 of products that are currently a lot lower volumes and
10 will be for quite some time.

11 COMMISSIONER KOPLAN: I appreciate that, and
12 actually my line of questioning was going to touch on
13 some of that, so you have anticipated, Mr. Hopson.

14 MR. LASOFF: Commissioner Koplan, if I
15 might, and again we can all engage in a lot of
16 speculation.

17 COMMISSIONER KOPLAN: Mr. Lasoff. If each
18 of you could re-identify yourselves for the record
19 because it's easier for the reporter --

20 MR. LASOFF: Yes.

21 COMMISSIONER KOPLAN: -- where we have this
22 many witnesses at the table.

23 MR. LASOFF: Okay, Larry Lasoff, counsel for
24 petitioners.

25 COMMISSIONER KOPLAN: I know who you are.

1 MR. LASOFF: We can all speculate as to the
2 reason why these global companies are not present.
3 Again, I would suggest you look at some of their
4 individual qualitative responses beyond the data
5 regarding anticipated impact.

6 But as Dr. Magrath also suggested, the are
7 global companies. They have international interests,
8 and so in doing some of our research we recently came
9 across an article in the People's Daily, the official
10 organ of the Chinese government, which addressed this
11 case at great length, and went into great detail about
12 discussions that occurred between the Chinese
13 government and the Japanese multinationals regarding
14 what they would be saying in this particular
15 investigation, including referring to the clarity
16 regarding their positions that they would put before
17 this agency.

18 Now, I don't want to go and read this, but
19 we can all speculate as to why they are not here.
20 Respondents have suggested they are not here because
21 they are not being injured. We suggest there is a
22 story behind that, and we will provide this
23 information for the record, that there may be other
24 factors at play here as well.

25 COMMISSIONER KOPLAN: Thank you. I

1 appreciate that.

2 Mr. Hartquist?

3 MS. STALEY: Commissioner Koplan, if I can
4 just also add to that answer.

5 I think though our point has been that we
6 don't believe that that trend of less than an increase
7 in profit over a two-year period suggests that the
8 industry overall, all these producers --

9 COMMISSIONER KOPLAN: We look at a three-
10 year period.

11 MS. STALEY: Right, from 2001 to 2003, that
12 an increase of less than one percent in profitability
13 indicates that the U.S. industry is strong and
14 healthy. Instead what it indicates is, as Mr. Johnson
15 had suggested, that these companies have stopped
16 producing products like the 25- and 27-inch product.
17 They have gotten -- instead of using the sight
18 technique, they have used the flight technique, and
19 they have gotten out of the products where they were
20 losing money, and so they were able to maintain a low
21 level of profitability instead of sinking deeper into
22 losses, but as a result the manufacturing basis then
23 eroded here.

24 Yes, they can go over and they can join in
25 joint ventures with the Chinese, but that's exactly

1 why this case is being brought, to stop that erosion
2 of the manufacturing base and the loss of jobs. That
3 is not just Five Rivers' situation, it's every single
4 one of these U.S. producers' situation.

5 COMMISSIONER KOPLAN: Thank you for that,
6 Mr. Staley. I appreciate it.

7 If I could move on, and I appreciate your
8 total responses to that question.

9 Mr. Hartquist, if I can come back to you.
10 You argue in your prehearing brief at page 7 that, and
11 I quote, "Although five of seven domestic producers
12 noted that they sold 100 percent of their color
13 television receivers via contract, U.S. producers were
14 forced to lower prices and volume within the framework
15 of those negotiated contracts due to low-priced
16 offerings of subject imports."

17 My question is, how many U.S. producers does
18 your allegation cover?

19 I note that the staff report indicates that
20 only one U.S. producer, whose identity is BPI,
21 reported any specific lost sales or lost revenue
22 allegation. And I note in his opening statement Mr.
23 Price threw into question the Commission's ability to
24 verify those lost sales allegations.

25 Do you disagree, and if you agree that only

1 one producer even made an allegation of lost sales,
2 what quantitative effect does Commerce's negative
3 determination with respect to Malaysia have in your
4 argument?

5 I don't have the other producers to ask that
6 question now today, but I do have you.

7 MR. HARTQUIST: Well, first of all, we think
8 that the staff report shows substantial instances of
9 lost sales, and in fact, you have considerable
10 evidence of U.S. producers having to cut their prices
11 because of the Chinese import prices throughout the
12 staff report.

13 COMMISSIONER KOPLAN: Could you provide
14 additional documentation for purposes of the post-
15 hearing submission on that point?

16 MR. HARTQUIST: Sure, we'll be happy to.

17 Secondly, I think it's fair to say that the
18 Malaysian situation has had some effect, but by far
19 the dominant effect has been the Chinese imports in
20 terms of the pricing and lost sales.

21 COMMISSIONER KOPLAN: Thank you. I
22 appreciate that. I see that my light is about to come
23 on, and I've got a long one next, so I'll wait until
24 the next round.

25 Thanks, Madam Chairman. Thank you for your

1 answer, Mr. Hartquist. I appreciate it.

2 VICE CHAIRMAN HILLMAN: Commissioner Lane.

3 COMMISSIONER LANE: I, too, appreciate all
4 of you coming today and appearing before us. I have a
5 few questions, and it may be in the record already. I
6 just can't put my fingers on it.

7 How much of the U.S. market today of the
8 domestic product, how much of that is made up of LCDs
9 and the plasma technology?

10 MR. J. JOHNSON: The LCD part comes in two
11 pieces. I'll address them separately.

12 About -- if I can find my table here --
13 about 95 percent of televisions sold in 2003, this is
14 based on data from the Consumer Electronics
15 Associations, were direct view sets. About five
16 percent were projection sets.

17 Of the direct view sets, about 95 percent of
18 those were tube-based. The rest were split between
19 plasma and LCD. There was -- there is my chart, give
20 you the exact numbers.

21 There were 29.5 million total television
22 sets sold in 2003. 26.8 million of those were direct
23 view, 2.7 were projections, so that's 91 and nine. My
24 memory was not quite right.

25 Of the 26.8 million direct view sets, 25.9

1 were tube-based, .3 were plasma, and .6 were LCD.

2 In the projection set data, they do not --
3 CEA does not report a breakdown by technology, so this
4 is just the best estimate that we could come up with
5 by talking to our members. That about 70 percent of
6 those 2.7 million projection sets were CRT-based.
7 That means about 2 million, 1.9 million, and the rest
8 were about equally split between the other
9 technologies, DLP and LCD technologies.

10 So that would mean about 4 million LCDs --
11 sorry 400,000. So total LCD would be 600,000 direct
12 view and 400,000 projection sets, about a million,
13 with plasma, about 300,000.

14 COMMISSIONER LANE: And roughly what would
15 be the difference in price between a standard size
16 LCD, I mean the most popular size as compared to the
17 25- to 27-inch color TV in just percentage? Is it two
18 to one?

19 MR. J. JOHNSON: It's more than that, but it
20 is also difficult to make that direct comparison
21 because at least so far most of the LCD sets are
22 smaller sizes. That will not be true in the future,
23 of course, but so far most of those have been smaller
24 sizes, not 25/27-inch but something -- 13, 15, 17.

25 With plasma, it's a little bit more direct

1 because the plasma sets tend to be around 42 inches,
2 and they are generally running around \$5,000. You can
3 find something more, something less than that, but
4 roughly \$5,000, where most CRT-based sets are less
5 than a thousand, even the big ones are less than a
6 thousand, so it's about five to one.

7 COMMISSIONER LANE: Okay. And as I
8 understand your testimony, it is your projection that
9 the regular TVs, the tube-based TVs are going to be
10 what the public uses for a long time in the future.

11 Are you saying for the next 10 years or do
12 you think more than that or less than that?

13 MR. J. JOHNSON: Well, that, of course, is a
14 question that everybody in this industry is trying to
15 answer. I don't know that tubes will ever completely
16 disappear. The question is how fast they will decline
17 to a level that is no longer really significant.

18 I have a longer answer to give, and I'm not
19 sure that's really relevant to your specific question.

20 COMMISSIONER LANE: No, my real question I'm
21 leading up to is, as I understand what most of you are
22 saying is that the customer is basically interested in
23 price as opposed to a lot of other factors, including
24 brands, et cetera. And I just wanted to know if you
25 think the LCD and the plasma technology is going to --

1 the price is going to come down, and then that is
2 going to also be the focus of the consumer market as
3 opposed to the tube, the standard tube television.

4 MR. J. JOHNSON: Certainly in time the
5 direct view sets, the percentage of direct view sets
6 that are plasma or LCD will grow. There is no
7 question about that. But at the same time the market
8 is also growing.

9 So one way to look at it is that basically
10 the growth in the market will go to the new
11 technologies, and then the question is how much will
12 the newer technologies invade the base market, and
13 that one is certainly debatable.

14 We believe that, as I said, in 2007, that
15 percentage of direct view TVs that are tube-based will
16 drop from 97 percent in 2003 to about 70 percent in
17 2007. You could extrapolate that out then and say
18 that in another three years, let's say by 2010, it
19 might be 50 percent, somewhere between 50 and 60
20 percent, and then beyond that it could drop even
21 further, but it's certainly not going to fall off a
22 cliff and go to zero in the next five years.

23 COMMISSIONER LANE: Okay. Now, Mr. Hopson.

24 MR. HOPSON: Commissioner Lane, I would like
25 to comment on that a minute, too.

1 Also, I think some of the information that
2 we have had and heard about tube factories, of course,
3 large, multinational companies that are very good
4 companies, such as Thompson, Phillips and Samsung,
5 have in the last several -- just last few years
6 invested in CRT manufacturing operations in Mexico to
7 supply NAFTA region.

8 So these companies believe that this CRT-
9 based technology is going to be around because the
10 picture tube factory is a very significant investment.
11 It's not something that you can set up very easily and
12 very cheaply. So at least three of the largest
13 companies, multinationals, they must believe that CRT-
14 base is going to be around for awhile or I don't think
15 they would have made that investment.

16 MR. T. JOHNSON: Can I add to that, please?

17 COMMISSIONER LANE: Yes.

18 MR. T. JOHNSON: In my statement, I had made
19 mention of Thompson, who owns the RCA brand name,
20 which they are a French company, but I made mention
21 that they are closing their glass facility in Ohio,
22 and their tube facility in Marion, Indiana. They have
23 a joint venture with the second largest Chinese
24 company.

25 The facility, the tube facility in Marion,

1 Indiana, they are not just closing it because there is
2 no demand for it. What they are doing, and they have
3 asked our workers, our IBEW workers who are
4 disassembling the equipment, to move to China, to go
5 to China and reassemble it in their facilities in
6 China, so they are going to be producing the same
7 thing that they are producing here there.

8 I just wanted to add that.

9 COMMISSIONER LANE: Okay. Mr. Hopson, I had
10 another question for you. Has Five Rivers considered
11 getting into the newer technology market?

12 And the second question is, have you
13 considered just manufacturing and selling TVs under
14 your own brand?

15 MR. HOPSON: Well, the second part of the
16 question I'll answer first.

17 The brand, for Five Rivers to come up with a
18 brand and go out to marketing companies, we don't have
19 that expertise, and when we took this business venture
20 we started with one company that had a guaranteed
21 contract for three years that rolled over to other
22 companies, you know, so we could expand our customer
23 base and do that.

24 COMMISSIONER LANE: I guess you will have to
25 wait until my next round to get to the next --

1 MR. HOPSON: Sorry.

2 COMMISSIONER LANE: No, that's okay. Thank
3 you.

4 VICE CHAIRMAN HILLMAN: Commissioner
5 Pearson.

6 COMMISSIONER PEARSON: Thank you, Madam Vice
7 Chairman.

8 Welcome to the panel. I am finding this
9 quite interesting.

10 Let me start, Mr. Hopson, with a question
11 about your operations. Is it correct that you acquire
12 your components from a variety of sources both
13 domestic and imported, and assemble the TVs to tight
14 specifications at your facility in Greenville?

15 MR. HOPSON: Yes, sir. We have various
16 arrangements with different customers, but some
17 customer base we get raw materials from the breakdown
18 and start from scratch. We're all PC board and
19 assemble. These materials come from all over the
20 world.

21 Some materials are only single source
22 because there is one source or two sources in the
23 world that build it, so you don't have a choice.
24 Others, we have arrangements where we have
25 subassemblies that come from other areas in the world.

1 COMMISSIONER PEARSON: Now, given the
2 variety of televisions that you produce, this might be
3 a difficult question to give a simple answer to, but
4 can you give some idea of what percentage of the value
5 of components going into a TV might be imported
6 relative to being domestically sourced?

7 MR. HOPSON: Probably we'd be better off to
8 -- we'll give you that in our post-hearing brief just
9 so I don't misquote some numbers.

10 COMMISSIONER PEARSON: Are there any TVs
11 that you assemble that are entirely made with
12 components sourced domestically?

13 MR. HOPSON: It couldn't happen, because the
14 supply base isn't here. So a lot of resistors and
15 small parts are not made in the United States period.

16 COMMISSIONER PEARSON: And that's the
17 impression that I have gotten, that the business of
18 television manufacturers in many respects are really
19 quite globalized with the marketplace across quite a
20 number of countries being very integrated, and that
21 would be a correct understanding?

22 MR. HOPSON: Yes.

23 COMMISSIONER PEARSON: Okay. What are the
24 import duties that apply on some of the components
25 that you would import?

1 For instance, is it correct that if you're
2 importing picture tubes, would that be one of the most
3 expensive components?

4 MR. HOPSON: Again, I don't know the
5 details. I know there is some duties that would be at
6 five percent or 15 percent, depending on -- I think
7 some duties are -- and I'm not a duty expert, let me
8 make sure -- make clear. But I think some duties are
9 based on if there are -- that product is offered in
10 the U.S., say if a company produces a 32-inch picture
11 tube, it may have a duty different from a 13-inch that
12 no one produces.

13 COMMISSIONER PEARSON: Okay.

14 MR. LASOFF: Commissioner Pearson, if I
15 might add to that.

16 COMMISSIONER PEARSON: Okay.

17 MR. LASOFF: The regular U.S. duty on
18 picture tubes is 15 percent. However, if the picture
19 tube is built in Mexico, as many picture tubes are,
20 then those, of course, would be duty free. Most of
21 the electronic components, I believe, are duty free,
22 either, you know, they have been phased out over time.
23 Some of them have been incorporated in there as a
24 result of the information technology arrangement where
25 some of these dual use components that are used in

1 both computer monitors and televisions end up being
2 duty free.

3 We can address this is very specific detail
4 perhaps maybe with respect to some of the items that
5 Mr. Hopson will raise in the post-hearing brief.

6 But generally, the tube is subject to a 15
7 percent duty, which in many instances, and Mr. Hopson
8 may want to respond in terms of his sourcing on
9 picture tubes as well, because -- well, I can let him
10 address that.

11 COMMISSIONER PEARSON: Yes, and I would just
12 clarify. I don't think we need extreme detail on the
13 duties applying to all the components, because I think
14 you make a very good point that under the information
15 technology agreement that a lot of those duties have
16 been phased out completely.

17 So maybe we should talk about picture tubes
18 because it's correct that the picture tube constitutes
19 a significant percentage of the value of the finished
20 TV, yes?

21 MR. HOPSON: Yes, and most of our picture
22 tubes are sourced in the NAFTA region, either Mexico
23 or the U.S.

24 COMMISSIONER PEARSON: And just a ball park,
25 do you have half the value of components consisting of

1 the picture tube itself?

2 MR. HOPSON: I would estimate it could be
3 half the value on a 24-inch; depending on the screen
4 size.

5 COMMISSIONER PEARSON: Sure.

6 MR. HOPSON: And you know, projection --

7 COMMISSIONER PEARSON: I'm not going to hold
8 you to this.

9 MR. HOPSON: Yeah. Projection TV -- well, I
10 want to make sure I'm not misleading you in any way,
11 so projection TV, you know, would have a lot lower
12 value for the CRT its overall cost as a 27-inch would,
13 but I would say the 27-inch you could get 50 - 60
14 percent.

15 COMMISSIONER PEARSON: Okay. I'm only
16 asking to make sure that I have the correct basic
17 understanding. I know that picture tubes are an
18 expensive component, and I was just trying to get a
19 sense of how expensive. That's helpful.

20 So what import duties then apply to imports
21 of whole televisions, completed televisions?

22 MR. MAGRATH: Five percent, except for
23 NAFTA, in which case they are duty free.

24 I might also add, although it's not relevant
25 to this proceeding, there are certain smaller screen

1 sized televisions that because they are no longer
2 produced in the United States have a lower duty rate;
3 I think 3.7 percent, something in the three percent
4 range.

5 COMMISSIONER PEARSON: This is the first
6 case that I've had an opportunity to deal with where
7 we have an inverted tariff structure on major
8 components versus finished product, and so I've not
9 gone through this before, and perhaps you can help me
10 with it.

11 I mean, I assume that it's an issue of
12 source, Mr. Hopson, to the fact that television set
13 produced in China can come in at a five percent duty,
14 and yet if you wanted to import a picture tube from
15 China to assemble at Greenville, it would cost you 15
16 percent.

17 MR. HOPSON: Yes, that's correct.

18 COMMISSIONER PEARSON: Are you currently
19 importing any tubes from China or does the duty just
20 make it prohibitive?

21 MR. HOPSON: The duty makes it prohibitive,
22 plus the supply base in Mexico is -- with some of the
23 other suppliers going out of business over the years
24 the picture tube supply base is fairly good.

25 But the only imports we would get are screen

1 size that currently aren't in production or maybe
2 limited production in the U.S. that we would import
3 with duties.

4 MR. J. JOHNSON: If I could add just a
5 couple of comments related to that -- Jeff Johnson --
6 just for informational purposes.

7 Importing of tubes, although certainly not
8 impossible, is difficult for television manufacturers
9 for a couple of reasons above and beyond the duty.

10 One is -- one is the fact that because they
11 are bulky and tend to be a little bit heavy, the
12 transportation costs are high, so that adds to the
13 cost even though you could buy them at a much lower
14 price you still have to pay to get them here.

15 The second thing is that, again, because
16 they are bulky and heavy, they have to be shipped by
17 sea, not by air, and that takes time, and of course
18 they have to be on somebody's inventory while they are
19 sitting on the water for 12 weeks.

20 Picture tubes are generally delivered just
21 in time. They take them off the truck, put them on the
22 production line. Nobody wants to have these bulky,
23 valuable things sitting in inventory on a factory
24 floor.

25 So that the importation of television tubes,

1 again, not impossible, is constrained by the fact that
2 you can't predict delivery down to the hour when it's
3 coming across the ocean and somebody has got to carry
4 those things in inventory while they are sitting idle.

5 COMMISSIONER PEARSON: And could you
6 contrast the import of picture tubes in that regard
7 with the import of whole televisions? The whole
8 televisions might be at least as bulky and heavy and
9 complicated to transport as the tubes, yes?

10 MR. J. JOHNSON: Yes, that's true, and there
11 is the same kind of cost factors although generally
12 speaking the delivery factor is not quite as
13 contracted.

14 Generally speaking, the television industry,
15 and again this is EIA data, has an inventory of about
16 four weeks. It's going to vary a lot in the season
17 and by the size of the set, of course, but the idea of
18 having an inventory of television sets is not as
19 difficult as having an inventory of tubes.

20 And then also, I believe, and this would
21 have to be answered more by the retailers, that the
22 cost of that inventory is carried by the set
23 manufacturer, not by the retailer. The set
24 manufacturer doesn't take delivery of the set until
25 it's actually on their premises, so the producer in

1 China will bear the cost of those things sitting on a
2 boat.

3 COMMISSIONER PEARSON: And is the same not
4 true of picture tubes that might be coming to the
5 United States?

6 MR. J. JOHNSON: That would be part of the
7 negotiation. Certainly people would try to do that,
8 but the producer of the tube would obviously try to
9 get the transfer of ownership to occur when it leaves
10 their factory as opposed to when it hits the shore
11 over here, but that's a negotiated issue. I can't
12 speak to that in general.

13 COMMISSIONER PEARSON: Mr. Hopson, did you
14 have a comment?

15 MR. HOPSON: Well, yeah, the transportation,
16 you would try to keep it in the supplier's -- just
17 because -- not only transportation, but when a
18 container goes off a ship overseas it's yours.
19 Whoever owns it loses it.

20 COMMISSIONER PEARSON: Thank you.

21 VICE CHAIRMAN HILLMAN: Thank you.

22 I guess if I could start with a question.
23 You've all touched on this issue of the fact that this
24 case has been filed by or on behalf of the workers. I
25 just want to make sure I understand exactly in terms

1 of looking at the U.S. producers here where the
2 overlap is between the representation of the various
3 unions that are here and the domestic facilities that
4 we're talking about.

5 Obviously, Mr. Bindas, you spoke to the
6 issue at Five Rivers, and I know, Mr. Davis, you spoke
7 to the issue at Sanyo.

8 Of the other U.S. facilities, can you help
9 me understand whether, again, there is representation,
10 you know, here and it's part of the petition at those
11 facilities. I don't know, Mr. Bindas, whether you're
12 the best, or Mr. Johnson.

13 MR. T. JOHNSON: The IBEW represents workers
14 at Toshiba. We also had Sharp. Of course, Sharp
15 stopped production of television sets at that
16 facility.

17 VICE CHAIRMAN HILLMAN: Okay. now, how
18 about Sony or Matsuchita or Orion?

19 MR. T. JOHNSON: They are nonrepresented
20 employees.

21 VICE CHAIRMAN HILLMAN: They are
22 nonrepresented. Okay. Thank you very much. I just
23 wanted to make sure I understood where those overlaps
24 are.

25 If I can then go to some extent to this

1 issue of branding and price just to make sure I
2 understand it because, obviously, we are going to hear
3 a lot, as I think Mr. Price alluded in his opening
4 statement, to their argument that these brands are
5 very, very significant, that the Chinese are largely
6 in the lower tier market, and that the domestic
7 production is in a different kind of tier, and that so
8 much of this is determined by brands and the price is
9 related to the brand. And I guess I need to make sure
10 I understand your perspective on this.

11 You started, Mr. Hopson, in response to
12 Commissioner Lane to address this issue of why doesn't
13 Five Rivers do its own branding, and I wondered if you
14 could expand a little bit more on that, but then help
15 me understand this issue of the relationship between
16 brands and prices.

17 MR. HOPSON: Well, I think in the branding
18 issue, developing a brand name is very expensive.
19 Number one, we don't have the expertise. Our company
20 was never set up to be a marketing/sales company, so
21 we would have to develop a whole infrastructure. And
22 one of the reasons we were able to be competitive as a
23 contract manufacturer is because we took out
24 everything that wasn't important to the factory as far
25 as anything else except building televisions.

1 So in order for us to compete in this -- you
2 know, there is a lot of companies, mostly computer
3 companies, for instance, most all of them use contract
4 manufacturers. You know, these companies don't have
5 factories that they set up. They have companies that
6 have agreements like Flextronics and Selectron, and
7 companies that only do contract manufacturing.

8 So our whole vision was no one does that in
9 the television business. They do it in the computer
10 business. All kinds of board building business is
11 contract manufacturing. So we focused only on being
12 the television contract manufacturing, and that was
13 our niche in the marketplace.

14 As far as the brands to price, you know, I
15 know, you know, major -- Wal-Mart is one of the major
16 retailers of consumer electronics, color televisions.
17 They are also constantly advertising to be in the low
18 price leader, so there has to be -- and not that every
19 brand is there. You know, I think there are some
20 brands that might be a stand out in peoples' minds
21 that the quality is exceptionally better, but in
22 general, the run-of-the-mill products are -- you know,
23 I don't know that the brand is important.

24 If you look in some of these circulars, you
25 not only see that, you know, there is not a brand

1 name. I think Mr. Johnson said, you know, you have to
2 look close for the brand name. Look in a lot of
3 circulars, I was looking at one from Brands Mark,
4 Florida. They never put the brand name of the lowest
5 price leader in there. They have a price, and what it
6 is and what are the features, but you can't find the
7 brand name anywhere.

8 VICE CHAIRMAN HILLMAN: Okay. All right.

9 Mr. Johnson, you had commented a fair amount
10 of this in some of your testimony. I didn't know
11 whether -- again, whether you accept the notion that
12 there is -- I mean, I will say looking at our data it
13 seems to me that while there may be some differences,
14 there does appear to be a range, and whether it's
15 correlated with brand, but there certainly are, you
16 know, tiers -- I shouldn't say tiers -- there
17 certainly is a continuum of consumer perception, and
18 again I'm trying to make sure I understand consumer
19 perception of what.

20 Presumably it relates to this issue of
21 quality, and the quality of the picture that you're
22 going to get, but clearly there appears to be a
23 continuum. People are willing to pay more money for a
24 Sony whatever size television that arguably has the
25 same features, you know, the same number of jacks, the

1 same et cetera, et cetera, same size, same this, same
2 that, as they are for some of the other brands.

3 Now, I'm trying to make sure I understand
4 sort of why is that. I mean, from your perspective
5 why is a consumer willing to pay more money for a
6 television that has arguably the exact same features
7 if you look at the kind of products that we've priced?
8 And we were being specific about exactly what kind of
9 jacks, what kind of video plug-ins, what kind of this,
10 that and the other, size, whether its aspect ratio,
11 all those things the same, the same, and yet there's a
12 difference in price. Attributable to what?

13 MR. J. JOHNSON: That, of course, is an
14 excellent question, and it's something that marketers
15 ask themselves all the time when you are trying to
16 compete in a marketplace.

17 I can give a couple of reasons. One is
18 history. The famous old ad, "your father's
19 Oldsmobile."

20 VICE CHAIRMAN HILLMAN: Right.

21 MR. J. JOHNSON: RCA and Zenith were the
22 original television manufacturers in the U.S., and
23 those brand names are well known by everybody, and so
24 there is a certain confidence level that's associated
25 with those brands. Oh, when I was a kid, we had an

1 RCA set, so it must be -- and they're still around,
2 therefore they must be okay. That's certainly one
3 factor.

4 Another factor is efforts by the companies
5 themselves to position different brands at different
6 points in the marketplace. Perhaps the best example
7 is again the Thompson Company who has three brands.
8 They have the GE brand. GE brand television sets are
9 not made by GE. They are made by Thompson. And they
10 have deliberately positioned that to be the low end of
11 their product line. Then they have the RCA brand
12 which is in the broad range in the middle, and then
13 they have a brand called Proscan that they try to sell
14 only at the very, very high end, compete with Sony
15 with that particular brand.

16 They will do things with regard to the
17 features and the electronics in each of those sets to
18 justify the price differences and the positioning of
19 those sets, and certainly those different levels
20 exist.

21 Interestingly enough, however, most of those
22 differences are in the electronics. One of the
23 companies that I worked for made television picture
24 tubes. We would sell those tubes to companies who put
25 that tube in a very high-end set, and to other

1 companies who put the exact same tube into a very low-
2 end set.

3 VICE CHAIRMAN HILLMAN: You're touching on
4 something that I was sort of interested in, and maybe,
5 Mr. Hopson, from your perspective. Again, I'm trying
6 to understand this issue of high end/low end, and what
7 makes it high end as opposed to low end.

8 Mr. Johnson is sort of saying that a lot of
9 the components may be exactly the same.

10 I'm trying to understand from a
11 manufacturing stand point does it cost more to produce
12 a high-end set, again, assuming same features, same
13 aspect ratio, same screen size, same number of jacks,
14 same features, but one is going to be high end and one
15 is going to be low end. Does it cost you more to
16 produce the high end, and if so, what costs are more?

17 MR. HOPSON: If you had exactly the same
18 features and you had something that was distinct
19 enough to be a high end, it would have to be
20 electronics changes, some filters, some things that
21 made it stand out.

22 Normally, a lot of these differences between
23 feature levels are built into an IC. So if you get a
24 three jack versus a 10 jack, you've got an IC that if
25 you had a factor program transmitter you could

1 actually turn those jacks on. I mean, the IC, the
2 electronics is exactly the same on that product.

3 But if you had a noticeably different
4 picture, you would have to have something like
5 features, comb filters, some enhancements like that,
6 some improvements on your --

7 VICE CHAIRMAN HILLMAN: And they would cost
8 you more?

9 MR. HOPSON: They would have to cost you
10 some more, yes.

11 VICE CHAIRMAN HILLMAN: I mean, you as a
12 producer, they would cost you more?

13 MR. HOPSON: Yeah. For instance, one thing
14 that -- when we first introduced in like 1990 picture
15 and picture, it cost about 20 bucks. Today it
16 probably costs less than five bucks; probably cost two
17 bucks. It's in an IC now. It used to be a board.

18 VICE CHAIRMAN HILLMAN: Okay. Okay.

19 MR. HOPSON: Picture and picture is PIP.

20 VICE CHAIRMAN HILLMAN: Yes.

21 MR. HOPSON: A lot of people buy it but
22 rarely use it.

23 VICE CHAIRMAN HILLMAN: Okay.

24 MR. HOPSON: But they collect a premium for
25 it, you know.

1 VICE CHAIRMAN HILLMAN: I appreciate that
2 answer.

3 MR. J. JOHNSON: Basically, those
4 differences are in the costs of materials to the
5 television set manufacturer, not in his actual cost to
6 assemble the set.

7 VICE CHAIRMAN HILLMAN: Right. Exactly.
8 No, I appreciate that point. Thank you.

9 Commissioner Miller.

10 COMMISSIONER MILLER: Thank you to all of
11 the witnesses today. This is an area that changes
12 constantly, so it's always interesting to learn where
13 it stands at any point in time, so thank you for being
14 here.

15 I have a number of different areas I want to
16 follow up on. Perhaps let me start here.

17 Mr. Johnson, your testimony has been very
18 interesting and very helpful, and I apologize if I
19 didn't listen closely enough at the beginning of your
20 testimony. I listened very closely through most of
21 it. I wanted to make sure I understood the
22 association that you represent, because you've been
23 referring -- help me again.

24 You're with the Television Picture Tube
25 Industry Association which is a division of -- I know

1 you said this that the beginning of your testimony,
2 and I apologize.

3 MR. J. JOHNSON: It's complex and it has
4 changed over the last couple of years.

5 COMMISSIONER MILLER: Okay.

6 MR. J. JOHNSON: And so your question is
7 very reasonable.

8 There is an industry group know as EIA,
9 which used to be the Electronic Industries
10 Association, that is now the Electronics Industries
11 Alliance.

12 COMMISSIONER MILLER: Okay.

13 MR. J. JOHNSON: Within EIA, when it was an
14 association, there were a bunch of divisions. Now
15 those individual divisions have become the
16 associations and they talk together, work together to
17 make the Electronic Industry Alliance.

18 COMMISSIONER MILLER: Okay.

19 MR. J. JOHNSON: Consumer Electronics
20 Association is the industry association that covers
21 television sets.

22 COMMISSIONER MILLER: Part of the alliance
23 or is separate?

24 MR. J. JOHNSON: That is part of the
25 Electronic Industry's Alliance.

1 COMMISSIONER MILLER: Okay.

2 MR. J. JOHNSON: Another group within the
3 Electronic Industry Alliance is the Electronic
4 Components Association. That association represents
5 many, many companies that make a variety of electronic
6 components.

7 Within the Electronic Components Association
8 there is a division that we call the Electronic
9 Display Devices. The Electronic Display Devices is
10 made up of members who either make display devices or
11 make components or materials used by the display
12 devices.

13 So we have members who make picture tubes,
14 who make glass for picture tubes, who supply materials
15 to the gas makers, who make metal parts that go to
16 tube makers. It's a broad variety of companies, and
17 we are also expanding now and including within that
18 industry association manufacturers of other display
19 technologies as they are coming along, and suppliers
20 to them, so that's all part of the Electronic Display
21 Division of the Electronic Components Association,
22 which is then associated with the Electronic
23 Industry's Alliance. It's complex.

24 COMMISSIONER MILLER: Oh, I'm so glad I
25 asked.

1 MR. J. JOHNSON: Yeah.

2 (Laughter.)

3 COMMISSIONER MILLER: Okay. All right.
4 Have any of these associations, by the way, taken a
5 position on the petition?

6 MR. J. JOHNSON: Not that I'm aware.

7 COMMISSIONER MILLER: Okay. I just wanted
8 to understand that, and I am still -- I don't even
9 want to ask the question. I'll ask it in a simple
10 way.

11 Mr. Hopson, is Five Rivers a member of one
12 of those different associations that Mr. Johnson just
13 described, and at what level?

14 MR. HOPSON: No. No, we are not.

15 COMMISSIONER MILLER: Okay. All right. I'm
16 just trying to understand where people come from. Mr.
17 Johnson, your knowledge of the industry has been very
18 helpful, so thank you.

19 You know, some of the questions prior to now
20 have sort of have been around this issue, and Mr.
21 Hopson, in your testimony you spoke about the hardest
22 hit part of your business being the 25- to 27-inch
23 TVs, correct?

24 I'm not sure -- searching through our data
25 to see if I can understand, and this may be a question

1 for you or just Mr. Hopson. I know you attribute that
2 to imports from China. What I'm not sure is whether I
3 have sort of seized on the data that tells me whether
4 the overall purchases, shipments, or whatever,
5 consumption of those sets have also declined
6 considerably as compared to the other sets that you
7 may make that are subject to this petition. Does that
8 make sense?

9 In other words, how much are we shifting
10 out, totally out of, or not totally out of, but away
11 from the 25 to 27? You know, everybody is going to
12 the big TVs these days. To what -- Mr. Johnson looks
13 like he might be able to give me some sense of this.

14 MR. J. JOHNSON: I'm going to have to work a
15 little bit from memory because I don't have all of the
16 data in front of me. It's buried in my computer over
17 under the table, but it would take me awhile to dig it
18 out.

19 But generally speaking, the television
20 industry breaks their sets into four groups, small,
21 medium, large, and jumbo. 25v and 27v make up that
22 large category. We have seen over the last couple of
23 years a dramatic shift away from 25v sets toward 27v.
24 I'm just looking at our forecast here.

25 I don't think that the total large category

1 has changed dramatically in the last few years.
2 Again, I can get the data out and tell you exactly.

3 COMMISSIONER MILLER: Okay.

4 MR. J. JOHNSON: But just from memory here
5 it looks like it's about eight to nine million sets in
6 2003, and I think it might have been at one point at
7 its peak, somewhere 10 to 11, so it's not a huge drop.
8 It's maybe down a little bit, and that's probably
9 because over time we have continually seen a migration
10 to larger and larger sizes.

11 So for example, the 32v sets now are a much
12 higher volume than they were 10 years ago. They
13 didn't exist, so you will see the 19v migrating up to
14 the medium size, migrating up to the large, the large
15 migrating up to the jumbo, and the jumbo migrating up
16 to projection sets.

17 MR. HOPSON: Commissioner Miller.

18 COMMISSIONER MILLER: Yes, Mr. Hopson.

19 MR. HOPSON: You know, I can tell you from
20 my experience in the past that 15 - 16 years ago,
21 maybe a little bit longer, 19-inch was the largest, I
22 mean, we were selling 19-inch and that was the screen
23 size that went because everybody was buying it for
24 their bedroom or whatever.

25 That started to shift, and it shifted, and

1 of course, 19- and 13-inch sent to the imports
2 basically. It started shifting to 25-inch. 25-inch
3 got to be the largest seller for a long time. Now
4 that started shifting to the 27-inch, and all the 25-
5 inch now are starting to be imported. So, you know,
6 every screen size that we go to when the volume starts
7 to increase, that's exactly where the imports or the
8 Chinese go to to build products. Today, they are even
9 in the 32-inch market because you can see that. You
10 can also see high definition, 52-inch, 57-inch
11 projection TVs.

12 So it's not -- at one time it was like a
13 segment they would go after the volumes. Today, they
14 are going after a whole array of things. And as we
15 mentioned earlier, you can look on the websites and
16 see feature for feature very high-end product.

17 But currently, today, the 27-inch, I think,
18 is very -- it migrates up. As soon as we get to that
19 screen size, there is a big attack by a lot of
20 importers, but China really.

21 COMMISSIONER MILLER: And you know, we all
22 can't help but recognize this as consumers, you know,
23 and this shift upwards. Like you, we all, you know,
24 had the 19-inch and whatever. You can tell how long
25 ago someone bought a TV just by what the size is,

1 right.

2 But what hasn't been clear to me was whether
3 the imports came in at the smaller sizes and the shift
4 up, whether -- how much of that was then a reduced
5 consumption of that particular size overall as opposed
6 to just the replacement of that consumption with an
7 imported product rather than a domestic product.

8 So the numbers are helpful, Mr. Johnson, and
9 to the degree that you do have them available, you
10 know, I appreciate that, and I know our staff has
11 developed with your help an enormous amount of data on
12 the different sizes, so much so that I am having a
13 challenge here. I know it's in here and it's like
14 finding it is what I'm in the midst of trying to do.
15 So I know we have a lot of data on the record and my
16 questions are partly to help -- it's to ask you help
17 me understand that data too.

18 My first round is finished. I appreciate
19 your answers. Thank you.

20 VICE CHAIRMAN HILLMAN: Commissioner Koplan.

21 COMMISSIONER KOPLAN: Thank you, Madam
22 Chairman.

23 President Bindas, can you update me on the
24 status of what the Chinese respondents' prehearing
25 brief describes as a proposal filed at USTR in

1 December 12, 2003, by the Committee to Preserve
2 American Color Television Compact, a group to which
3 respondents allege the petitioning unions in this
4 investigation belong?

5 I understand the Compact alleged
6 circumvention of the country of origin classification
7 rules of NAFTA by Mexico as applied to Asian glass.
8 I'm referring to pages 24 to 27 of the Chinese
9 respondents' brief.

10 I note that Compact's filing took place
11 about two and a half week before you actually became
12 president last year, last December.

13 And Mr. Johnson, if you want to get in on
14 this as well, I would be happy to hear, but I'm
15 curious what's going on with that.

16 MR. T. JOHNSON: Well, actually, it probably
17 would be best that I answer it. I'm a member of
18 Compact for the IBEW.

19 COMMISSIONER KOPLAN: Okay.

20 MR. T. JOHNSON: And when the document that
21 you're talking about was filed for whatever reason
22 normally these things are shared between -- there is
23 currently four members of Compact; two labor unions,
24 us and the IUE, and two companies, which would be
25 Corning and Techniglass. And somehow, for whatever

1 reason, that document got filed without the two labor
2 unions reviewing it.

3 And I think if you look further, after we
4 caught that I had requested that that get refiled.

5 COMMISSIONER KOPLAN: Was it withdrawn?

6 MR. T. JOHNSON: Yes.

7 COMMISSIONER KOPLAN: It was withdrawn?

8 MR. T. JOHNSON: Yes.

9 COMMISSIONER KOPLAN: When was it withdrawn?

10 MR. T. JOHNSON: Not the whole document, but
11 the section that you're talking about.

12 COMMISSIONER KOPLAN: The section that would
13 be relevant to this case?

14 MR. LASOFF: Yes, correct.

15 COMMISSIONER KOPLAN: Okay.

16 MR. LASOFF: That section was changed that
17 it was referenced in that document to, I believe, this
18 case, and that section was withdrawn, and refiled.

19 COMMISSIONER KOPLAN: Can you identify
20 yourself for the record?

21 MR. LASOFF: Yes. I'm Larry Lasoff.

22 On that submission, it was withdrawn,
23 amended and refiled.

24 COMMISSIONER KOPLAN: When was it refiled?

25 MR. LASOFF: Probably within the last month,

1 I would say.

2 COMMISSIONER KOPLAN: Since it's been
3 referred to, and you know, it's dealt with in
4 respondents' brief, if you could submit the relevant
5 portion of that for our record so that we could review
6 it, I would appreciate it.

7 MR. LASOFF: Right. And again, this
8 document reflected a proposal that was really being
9 advocated, articulated by the glass companies
10 regarding the rule of origin --

11 COMMISSIONER KOPLAN: Right.

12 MR. LASOFF: -- with respect to NAFTA on
13 glass.

14 COMMISSIONER KOPLAN: No, I understand that
15 from their brief, but it's characterized as a
16 proposal, and that it relates to glass.

17 MR. LASOFF: Correct.

18 COMMISSIONER KOPLAN: All right. Thank you
19 for that, Mr. Lasoff. I look forward to looking at
20 it. And thank you, Mr. Johnson.

21 Now, in our preliminary determination we
22 indicated that we would explore further the rule of
23 non-subject imports in the U.S. market, and that's
24 page 18 of our preliminary determination.

25 Mr. Hartquist, in your prehearing brief you

1 acknowledge that they are large on a volume end market
2 share basis due to imports from Mexico, but argue that
3 U.S. producers can compete with them on a price basis
4 because they are fairly traded, although you do note
5 their quarterly price comparisons compiled on imports
6 from Mexico reveal a mixed pattern of under selling
7 and over selling when compared to the U.S product.

8 You make no mention of non-subject imports
9 from Thailand, Korea or Japan, and of course, now as
10 a result of Commerce's recent final determination I
11 must add Malaysia to the non-subject totals.

12 Quite frankly, I view non-subject imports as
13 an 800-pound gorilla in this investigation. In 2003,
14 they represented nearly a 70 percent market share of
15 U.S. consumption both as to quantity and value as
16 reflected in table C-1 of our staff report, and that
17 portion of C-1 is public.

18 We also found that several domestic
19 producers manufacture color TV receivers in Mexico,
20 and import them into the U.S. In addition, domestic
21 producers manufacture components in Mexico and
22 assemble them in the U.S.

23 The Chinese respondents make much of the
24 role of non-subjects at pages 22 to 28 of their
25 prehearing brief. I would appreciate it if you and

1 Mr. Magrath would like to address my concerns about
2 the role of non-subject imports in this investigation
3 beyond what appears in your brief.

4 MR. HARTQUIST: We would be happy to do
5 that, Commissioner Koplan. Let me make a couple of
6 opening observations, and then ask Pat to join me on
7 this.

8 First of all, as we noted in the brief, the
9 imports from Mexico actually have been declining, and
10 the industry in Mexico, I think, as you will find in
11 questioning witnesses at this hearing today, is in a
12 considerable state of turmoil as the Mexican
13 operations themselves are threatened by what's
14 happening in China. They are losing business to the
15 Chinese, and they are very concerned about their
16 operations in China, and the future of those
17 operations even under the NAFTA circumstances.

18 So there is a lot of strategic thinking
19 going on among companies in the industries both in the
20 TV end and the picture tube industry down there as to
21 whether they are going to be able to cut it in the
22 future against China in particular.

23 With respect to some of the other countries,
24 Thailand, for example, may be a threat in the future.
25 Their imports have been small in the past, and they

1 were under the negligibility standard when we filed
2 the case.

3 Malaysia, of course, we did include in the
4 case. They are not nearly as significant as China,
5 but they may be a growing factor in the future.
6 However, our judgment is that of the two countries
7 China is overwhelmingly the more important in terms of
8 the investments that have been made in China, the
9 capacity in China, and what we know confidentially
10 about the situation in Malaysia that we can put in the
11 brief but can't discuss in an open hearing.

12 Pat, would you like to comment further on
13 that.

14 COMMISSIONER KOPLAN: If I could just jump
15 in for a second. When you do look at the public
16 figures in C-1, the Chinese importers' share rose --
17 of U.S. consumption quantity rose from three-tenths of
18 one percent to 10.4 percent over the period.

19 MR. HARTQUIST: Correct.

20 COMMISSIONER KOPLAN: The Mexico's share did
21 decline from 66.9 percent to 53.4 percent, but that's
22 still huge when compared to the subject.

23 MR. HARTQUIST: Oh, absolutely. There is no
24 question about that.

25 COMMISSIONER KOPLAN: And that doesn't take

1 into account the other non-subject imports' share that
2 brings it up to close to 70 percent of our market.
3 And by value, Mexico's share -- consumption value,
4 Mexico's share over the period actually rose from 58.7
5 percent to 60 percent over the period of
6 investigation. So you can see why I am troubled by
7 the role of non-subjects in this investigation, and I
8 am asking maybe for the post-hearing, but I'm asking
9 you to expand on what I have in front of me now on
10 this issue that you all have submitted.

11 MR. LASOFF: Commissioner Koplan.

12 COMMISSIONER KOPLAN: Mr. Lasoff.

13 MR. LASOFF: If I may make a comment. I
14 think it's critical that as you look at Mexico in
15 particular, because that might be 700 pounds -- 750
16 pounds of that 800-pound gorilla, you have to look at
17 that in the context of NAFTA, and what NAFTA was all
18 about.

19 NAFTA was intended to create an integrated
20 North American television market. The establishment
21 of a very complex regimes of rule of origin were
22 designed to encourage production sharing between the
23 United States and its North American trading partners.
24 That was NAFTA.

25 As a result of NAFTA and the rules that were

1 established creating these preferences to allow
2 components, tubes to back and forth at zero percent
3 duties, a regime was created. Production sharing was
4 created. That was the intent of the North American
5 Free Trade Agreement.

6 COMMISSIONER KOPLAN: Well, you jump in on
7 that, but I'm also interested, and that's why I asked
8 the first question I did on this round, I'm interested
9 in what this proposal before USTR says because that's
10 alleging circumvention of the NAFTA rules of origin as
11 they relate to this industry and glass in this
12 industry. So I'm coupling that with my question on
13 that subject.

14 MR. MAGRATH: We'll factor that in, but in
15 terms of that the key point, I think, from the
16 Commission's standpoint in looking at the non-subject
17 imports from Mexico, the bulk of those imports are the
18 direct results of the NAFTA regimes and the
19 relationships established between U.S. producers and
20 their Mexican affiliates.

21 As such, these imports and the trends
22 reflect this, and I think Mr. Hopson could even, you
23 know, address the fact in terms of his own ability to
24 compete with those imports, and even take business
25 away from them.

1 The bottom line is is these imports were
2 created by the domestic industry in the United States.
3 These imports were part of a free trade arrangement
4 that was designed to encourage production sharing.
5 As such, they have to be viewed very differently from
6 the unfairly traded imports that are coming in from
7 China. That is a different -- you know, maybe that's
8 a condition of competition that we would ask you to
9 look at.

10 You have to take into account NAFTA when you
11 look at the non-subject imports.

12 COMMISSIONER KOPLAN: Thank you for that.
13 Thank you, Madam Chairman.

14 VICE CHAIRMAN HILL: Commissioner Lane.

15 COMMISSIONER LANE: Look at these revised
16 numbers where we're talking about the net sales and
17 the operating income, et cetera. The operating income
18 shows a positive amount, and without regard to whether
19 or not you think that's adequate or not, in light of
20 those numbers, what factors would you emphasize to us
21 to show that this industry is being injured by the
22 subject imports?

23 MR. HARTQUIST: Let me start, if I may,
24 Commissioner Lane, and then ask Dr. Magrath to jump
25 in.

1 First of all, of course, we recognize that
2 the statute compels the Commission, properly so, to
3 evaluate the condition of the companies in the
4 industry as well as the impact on the workers, and
5 we're not suggesting anything otherwise.

6 When you look at the statutory factors
7 relating to injury, every one of those indicators is
8 negative except for a modest increase in
9 profitability, and as we have explained, what the
10 companies have been doing is they have been losing
11 production, there has been declining capacity
12 utilization, there have been declines in the
13 workforce, and they have moved up the food chain to
14 try to get into the larger sets and sets for which
15 they can sell at a somewhat higher margin to try to
16 stay ahead of the game as the deterioration in the
17 industry occurs as the Chinese, particularly, have
18 come into the marketplace.

19 So, yeah, there has been a modest increase
20 in profitability, and as you indicated, our belief is
21 it's not enough to sustain an industry, but you can
22 see the progression here, where all of the other
23 factors are deteriorating, and the impact on the
24 workers as well as the companies has been very
25 negative.

1 Pat, would you like to comment further?

2 MR. MAGRATH: Just to add to that point, as
3 we've emphasized, the quantity variables, --
4 employment, capacity utilization, production -- they
5 have all gone down, and they have all gone down
6 exceedingly rapidly. The only way this profitability
7 has been maintained at what I don't think are very
8 good levels at all is that the U.S. producers have
9 produced larger televisions that have higher price
10 points and more features. That is why their unit
11 values haven't exactly shrunk. But they are running
12 out of room, Commissioner Lane.

13 The technical limit for large, CRT-based
14 tubes is about 40 inches. The Chinese are in 25.
15 They are in 27 in a large way. They are in, as you
16 can see from their Web sites, these larger tube sizes
17 as well. The U.S. industry is running out of places
18 to hide here.

19 MS. STALEY: Also, Commissioner Lane -- I'm
20 sorry -- this is Mary Staley with Collier Shannon --
21 if I could also just add, -- I think that this
22 addresses some other points that also were raised by
23 Commissioner Miller -- if you look at the pricing
24 data, you'll see where the Chinese have come in in
25 2002, if you look at the particular pricing products

1 in the staff report, you'll see where the heavy volume
2 of imports are coming in in 2002. You'll see that
3 there is a progression in 2003 to other products, and
4 I think if you particularly look at those, if you
5 focus in on those pricing products, you'll see that
6 there has been a complete displacement, and it's
7 working its way up the food chain.

8 I think it's very clear from the pricing
9 data where the imports are coming in in particular
10 models, where they came in in 2002, where they came in
11 in 2003, and where they are going to be coming in in
12 the future as well.

13 MR. TROY JOHNSON: Ma'am, may I add? I'm
14 sure Mr. Hopson will agree. The labor costs in that
15 product doesn't change. The sales price of the 34
16 inch or 36 inch may be a lot more than the 27 inch,
17 but it takes no more workers to build that 36 inch as
18 it did the 27.

19 So when they get out of the 27-inch market,
20 they don't absorb those workers who were building all
21 of those 27-inch TVs into the larger screen sizes;
22 they get laid off. So once they get rid of their
23 losses on the smaller sizes because of the dumped TVs
24 from China and the workers, now they have got less
25 workforce building the higher priced television sets,

1 so they can make more money on the higher priced ones.

2 COMMISSIONER LANE: Okay. Mr. Magrath,
3 maybe you're the one I need to ask this. All of the
4 numbers are negative except for the operating income,
5 and the operating income at the level that it is right
6 now; how would you characterize that, and does that
7 amount allow the industry to do what it has to do to
8 remain competitive? I mean, is this a softball
9 question or what?

10 MR. MAGRATH: For me, Commissioner, nothing
11 is a softball question.

12 The answer is that it is inadequate, and it
13 is especially inadequate, and it is not allowing, and
14 you can see this in the data you've collected on
15 capital expenditures, it is not allowing the industry
16 in the United States to progress in this changing
17 industry. And as I said, this industry is a poster
18 child, a textbook definition, of what you have in the
19 threat statute, which is the derivative of product,
20 the imports denying them the ability to go to the next
21 generation and the next set of products down the line.

22 COMMISSIONER LANE: Okay. Mr. Hopson, a lot
23 has been said that the consumer is basically
24 interested in price, and low price as opposed to a
25 brand, and if that is true, then why have you not

1 really considered selling Five Rivers brand TVs to
2 Wal-Mart?

3 MR. HOPSON: Well, number one, as a company,
4 we don't own the technology, so we take other people's
5 technology and assemble it. So as far as the
6 electronics, insides of the TV, the chassis, all that,
7 we don't have a design group. We don't have that
8 overhead issue, but we don't have that design group in
9 house.

10 COMMISSIONER LANE: Maybe I'm missing
11 something here. Don't you just buy those parts and
12 assemble them?

13 MR. HOPSON: I buy them and assemble them,
14 but somebody has to design the circuitry and all of
15 the feature levels and the board layouts and do all of
16 that work.

17 COMMISSIONER LANE: I guess what I'm asking
18 is, instead of your having your contract and
19 assembling these TVs for other companies, have you
20 considered assembling all of these components and
21 calling them Five Rivers and trying to get a contract
22 with Wal-Mart?

23 MR. HOPSON: No, because these companies own
24 that intellectual property. In other words, the
25 electronics that I'm assembling together; the customer

1 owns that intellectual property. I can't take their -
2 - that's their property.

3 COMMISSIONER LANE: So the component part --

4 MR. HOPSON: The component parts, I own
5 because I buy, --

6 COMMISSIONER LANE: Right.

7 MR. HOPSON: -- but the design of the
8 assembly of that whole thing, the electronics layout;
9 that is all done by those companies, and that's their
10 intellectual property.

11 COMMISSIONER LANE: Okay. I understand now.

12 MR. HARTQUIST: Let me supplement that, if I
13 can, Commissioner, because this is a phenomenon that
14 is true in many, many industries. Tom referred
15 earlier to the computer industry. I'll use Dell as an
16 example, although I'm not certain that this is true
17 for Dell. But Dell contracts with ABC Electronics in
18 Puerto Rico, let's say, to make computers. They build
19 them. They are marketed under Dell's name.

20 ABC has no way of building a marketing
21 empire to compete with the mighty Dell or with IBM or
22 with other companies. You know, Nike makes shoes all
23 over the world, and they contract with companies to
24 make shoes, but they are the marketing arm, and they
25 are the designers of the product, and so it works that

1 way in Tom's business as well.

2 MR. MAGRATH: It's a viable --
3 subcontracting is very widespread -- a viable business
4 model. The largest maker of televisions in China,
5 Cheng Hong, sells to U.S. importer, Apex, that puts
6 the Apex brand on their TVs.

7 COMMISSIONER LANE: Okay. Thank you. I'll
8 wait until my next round. Thanks.

9 VICE CHAIRMAN HILLMAN: Commissioner
10 Pearson?

11 COMMISSIONER PEARSON: Mr. Hopson, we were
12 speaking earlier about importing from various
13 countries. I understand that China is both a large
14 producer and perhaps a rather low-cost producer.
15 Could you comment on how China stacks up in terms of
16 their production costs relative to other major
17 producing countries?

18 MR. HOPSON: A lot of this data that has
19 been generated, I wasn't privy to the detailed
20 information because it's private information, and as I
21 said in the preliminary hearing, when you have a 27-
22 inch television, for instance, you have three-tenths
23 of an hour of labor or something in that. Three-
24 tenths of an hour of labor is not very much, whether
25 it's \$3-an-hour labor or \$10-an-hour labor.

1 But we do know what the cost of
2 transportation is, and we know what our costs are for
3 parts, and that's what exactly led us to the dumping
4 charges. We said, wait a minute. We know what it
5 costs to get a container from China. We know how much
6 a picture tube costs. We know how much all of these
7 parts cost that we're buying from China, and we know
8 that if their labor cost was \$2 or 50 cents, it's
9 still lower than that cost.

10 So, you know, I'm not privy to some of the
11 information about the costs in China. I didn't get
12 that, but from the very beginning, one of the reasons
13 we filed the dumping is we could take all of the
14 elements that we did know, and we did know -- we
15 bought parts from China, and we did know what we paid
16 for parts from China, and we took it all together, and
17 when we did, we said, there is no way you can sell a
18 TV for this price. It's impossible unless you're
19 dumping. That's what started this.

20 COMMISSIONER PEARSON: Does the Malaysian
21 color TV industry manufacture all of its own
22 components, or do they import from others?

23 MS. STALEY: If I could add to that, we know
24 -- this is Mary Staley from Collier Shannon -- that
25 although we realize that Commerce reached a negative

1 result there, some of the major components of the TV
2 that are made by Funai in Malaysia were obtained in
3 China from affiliated entities there. So they were
4 able to obtain parts from China. But again, our view
5 is that what's happening here, especially in terms of
6 the China product, is just as Mr. Hopson said, was
7 that the costs just simply don't reflect the prices at
8 which the product is being sold at in the United
9 States.

10 COMMISSIONER PEARSON: So, Mr. Hopson, would
11 it help your competitiveness, as a very sophisticated
12 assembler of color TVs, if you were able to obtain, at
13 least in some circumstances, picture tubes from China
14 at the same tariff treatment that they would come in,
15 for instance, from Mexico or from other countries? In
16 other words, if the tariff was lower, would you find
17 yourself at times importing TV tubes from China to
18 take advantage of the fact that they do price them
19 competitively?

20 MR. HOPSON: We would look at our supply
21 basis for CRTs. The problem we would have with China
22 is we do picture tubes just in time. Our picture
23 tubes are delivered this morning for what we're going
24 to use tomorrow, and that's it. We don't have an
25 inventory. All of our suppliers deliver that way, and

1 we ran our business that way for almost 20 years.
2 It's a very high-cost item in the scheme of things, so
3 you don't want your money tied up in it. You don't
4 need inventory sitting around, so it's delivered
5 daily.

6 COMMISSIONER PEARSON: A point well taken.
7 I have a little bit of experience with inventories.
8 But there are people in the business of managing
9 supply chains who have the capability of sorting out
10 those issues.

11 MR. HOPSON: You may be able to. My
12 experience with inventories has been very difficult
13 and well learned, so we take inventory very seriously.

14 COMMISSIONER PEARSON: Okay. Mr. Hartquist,
15 going back to the inverted-tariff issue that I
16 mentioned earlier, clearly the Constitution gives
17 Commerce the ability to regulate the international
18 trade of the United States. Okay? And here, the
19 Congress has set up tariff relationships that, to me,
20 seem to favor the importation of complete TVs from
21 China rather than components from China, and, thus, to
22 work against the interests of at least the facility at
23 Five Rivers. Could you comment on that? Is my
24 understanding correct?

25 MR. HARTQUIST: Yes. Your understanding is

1 correct at this time, and there are many such
2 examples, of course, of inverted tariffs in the tariff
3 schedules, some for historical reasons, some because
4 particular industries have pressed to have tariffs
5 increased, some because of WTO negotiations with
6 respect to certain types of products, so this is not
7 an infrequent circumstance.

8 MR. HOPSON: Commissioner, can I make a
9 comment?

10 COMMISSIONER PEARSON: Please.

11 MR. HOPSON: We would request that you ask
12 the Chinese producers how many of their televisions
13 that end up in the United States that are exported to
14 the United States contain picture tubes that they
15 actually imported from other countries. This would
16 put a whole new light on your general line of concern
17 here.

18 COMMISSIONER PEARSON: Thank you. Mr.
19 Johnson?

20 MR. JEFFREY JOHNSON: One other comment on
21 data that is probably coincidental rather than
22 intentional, but generally speaking, the price of a
23 television set is roughly three times the price of a
24 picture tube. Therefore, in dollars, 15 percent duty
25 on a tube is about the same as 5 percent duty on a

1 set. So when you're all said and done, the duty
2 amount either way in dollars would be about the same,
3 even though the value, the percentage, is obviously
4 significantly different.

5 COMMISSIONER PEARSON: That is a good point.
6 Thank you for it.

7 What is at issue here is where that color TV
8 gets put together, where does it get assembled,
9 because the tariff difference may well drive the point
10 of assembly. The amount of tariff paid effectively
11 when either the tube or the completed television comes
12 into the United States is the same, but do we assemble
13 it here, or do we assemble it there?

14 MR. HARTQUIST: Well, that's why, of course,
15 as Mr. Lasoff explained, the whole NAFTA arrangement
16 was set up, in order to create a North American
17 television industry where materials can be shipped
18 back and forth without any duty. That's why you have
19 assembly plants here, and you have assembly plants in
20 Mexico. You have less and less operations here than
21 in Mexico, where most of the tubes come from that are
22 used in the United States.

23 So, you know, we can operate essentially in
24 a duty-free situation as to the major component of
25 television sets bringing them in from Mexico.

1 COMMISSIONER PEARSON: As I indicated
2 earlier, this is my first opportunity as a
3 commissioner to look at an inverted-tariff situation.
4 It's quite clear that Congress has established this
5 policy. It was impressed on me when I became a
6 commissioner that my job was not to make policy;
7 rather, I was supposed to apply policy developed by
8 Congress.

9 Now, in this case, you're asking us to
10 impose an antidumping duty, with the duties, I think,
11 ranging roughly from 30 to 80 percent, and so are you,
12 in effect, asking us to unmake the policy that
13 Congress has established regarding tariff treatment
14 for these products?

15 MR. HARTQUIST: Of course, not. We're
16 simply asking you to enforce the law. The Commerce
17 Department had concluded that dumping is occurring at
18 very substantial amounts, and we're asking that you
19 determine that that dumping is causing injury to the
20 domestic industry and its workers, and, therefore, a
21 temporary duty under the antidumping law should be
22 established to neutralize the unfair trade practices
23 of the Chinese producers.

24 COMMISSIONER PEARSON: I would be more
25 comfortable with that line of thinking if, indeed,

1 Congress had established a level playing field in
2 terms of tariffs. They did not. I don't know what
3 the intent is here, but I can see the design of the
4 policy, and the policy is very clearly designed to
5 favor overseas assembly of televisions under these
6 circumstances. So I am a little concerned that you're
7 asking us to make a change that would fundamentally
8 alter what Congress has put in front of us.

9 MR. HARTQUIST: But, Congressman, I don't
10 think it is appropriate for you to conclude that
11 Congress has established the tariff schedules as they
12 exist for the television industry.

13 COMMISSIONER PEARSON: Who has?

14 MR. HARTQUIST: Well, as I indicated
15 earlier, these tariff rates are set through trade
16 negotiations, they are set through arrangements like
17 NAFTA, and Congress really, while it has the authority
18 to govern trade, doesn't look at these kinds of
19 specific issues and determine that the tariff is going
20 to be 15 percent on a picture tube or zero in the case
21 of NAFTA or 5 percent on a finished television set.

22 COMMISSIONER PEARSON: I'll pass here, but
23 it's clear to me there is a policy problem here. It's
24 just not clear to me that you're bringing the issue to
25 the right body of government.

1 MR. JEFFREY JOHNSON: If I could make just a
2 very brief comment on this, I was not involved years
3 ago when these two different tariff rates were set up.
4 I know from talking to people who were around in the
5 industry at that time that my conclusion would be that
6 this was not thought through and that we said we're
7 deliberately going to do 5 percent here and 15 percent
8 there. They were two things that happened at two
9 different times and at two different circumstances,
10 and it just turned out to be that way.

11 Probably somebody could go back into history
12 and find out exactly when those two different tariffs
13 were set, but I'm told that they were not at the same
14 time, so it was not a consistent policy decision; it
15 was just the way it happened.

16 MR. LASOFF: Commissioner Pearson, I know
17 you're out of time. If you want to follow up on this,
18 there is some historical perspective I may be able to
19 give you, going back to even the eighties when there
20 was a series of dumping cases, first against sets, and
21 when dumping duties were imposed on sets, the foreign
22 producers shipped picture tubes, and a dumping case
23 was then brought against picture tubes.

24 So regardless of the tariffs, the policies
25 or the types of export programs that the U.S. industry

1 has had to face have occurred in both the tube sector
2 and the set sector, regardless of what the tariff
3 rates were.

4 VICE CHAIRMAN HILLMAN: If I can go back to
5 see if I understand, obviously, your case, Mr.
6 Hartquist, was argued very much looking, as Mr.
7 Magrath put it, on the flight response, the declines
8 on the quantitative side. But on the other hand, in
9 looking at the data, we unequivocally, in virtually
10 every product that we priced, also saw fairly
11 significant price declines as well. I just want to
12 make sure I understand or put this in some
13 perspective.

14 As I looked at this, and this gets to this
15 issue of tiering and branding, there is kind of a
16 price escalator as you start from the smaller, less-
17 featured TV, and, I think, Mr. Johnson, you spoke
18 about these relationships, and then you kind of move
19 up in price as you get to larger screened and/or more
20 features, more jacks, more this, more that. Then you
21 jump up to the projection TVs, and my understanding
22 is, over top of all of that, would be some of the new
23 technologies: the LCDs, the plasmas, the other things
24 that are sitting out there.

25 Now, as, you know, listened to all of this,

1 I think there has been an argument made that at some
2 level as the prices of these high-up-on-the-food-
3 chain, if you will, items -- the plasmas, the LCDs,
4 whatever -- are starting to come down, and, more
5 importantly, is the projection prices have come way
6 down, that they have created, to some degree, a
7 ceiling on the price for a CRT television; and,
8 therefore, these bands or these price relationships
9 between the lower end in terms of size and future, the
10 whole system has been kind of pushed down or
11 compressed in terms of prices.

12 And I guess I just wanted your reaction or
13 your response to that. Is that going on in the
14 market? Are we seeing these relationships between the
15 price of a 21-inch, blah, blah, blah feature compared
16 to a 27 compared to a 32? Are the differences between
17 them shrinking, and is the reduction in the very high-
18 end projection prices coming down, putting a cap on
19 the price of the very large, CRT television? Mr.
20 Johnson, I don't know whether that's best for you or
21 for others.

22 MR. JEFFREY JOHNSON: It's an excellent
23 question, and it's also very difficult to answer.
24 I'll try to answer it coming from a completely
25 different direction, but I'm still going to try to

1 answer your question.

2 Oftentimes, we tend to think of price
3 competition as like for like. I can buy the green
4 apple, or I can buy the red apple. And, therefore,
5 you say, "Well, what's the price of a 36-inch set? I
6 could buy a projection set or I could buy a plasma or
7 I could buy a direct view."

8 Another way to look at it, though, is to
9 think, from a consumer's standpoint, he walks into the
10 store, and he says, "I've got \$1,500 that I'm willing
11 to spend on a television set. What can I get for
12 \$1,500?" He doesn't necessarily go in with the idea
13 of I'm going to buy a 36-V set and then pick which one
14 of the 36-V alternatives he is going to buy. He is
15 going to see what he can get for \$1,500.

16 Now, that might be a very high-featured, 32-
17 V set, or it might be a very low-featured, 42-inch or
18 46-inch projection set. Then he has to make the
19 tradeoff: What do I value more, size or features?
20 And some people will choose size, and some people will
21 choose features.

22 So, historically, the performance of a tube-
23 based set was considerably better, the picture
24 performance of a tube-based set was considerably
25 better, than a projection set. Therefore, for the

1 same amount of money, the majority of people would
2 choose to buy a 36-V, CRT set as opposed to a 42- or a
3 46-inch projection set.

4 Now, the performance of projection sets,
5 both CRT based and the new technologies, the picture
6 performance, has improved so that a higher percentage
7 of the people now in that same situation are choosing
8 to buy the projection set rather than the tube-based
9 set. But it's difficult to say that there is
10 precisely a ceiling that's established because there
11 are so many other variables involved.

12 VICE CHAIRMAN HILLMAN: But would you say
13 the price of one affects the price of the other?

14 MR. JEFFREY JOHNSON: The answer is neither
15 unequivocally yes nor unequivocally no. Yes, there is
16 an impact, but that's not the sole impact on the
17 price. Generally, migrating up. People are generally
18 buying larger and larger sets, and the prices are
19 coming down so that the size of the set you could buy
20 10 years ago for \$1,000 and what you can buy now for
21 \$1,000, the size is much bigger, so that in any
22 particular size, you're really competing up and down.
23 You're trying to steal market share away from smaller
24 sizes and at the same time defend your market share
25 against the larger sizes. So that price impact comes

1 from both directions.

2 VICE CHAIRMAN HILLMAN: And to what do you
3 ascribe the declining prices? I think you're right.
4 We've seen prices coming down. I'm a very, very
5 infrequent consumer, but to the extent that I'm
6 looking for this, there is no question that you can
7 buy televisions for remarkably less than you used to
8 pay for them, five, 10, 15 years ago. So, yes, there
9 has been this persistent decline in prices. To what
10 you ascribe the price declines?

11 MR. JEFFREY JOHNSON: I can get into, again,
12 I'm afraid, a very long answer that's just no helpful.
13 But generally speaking, there is something called
14 "experience curve theory," which says that the price
15 of any given product will decline at a fixed
16 percentage rate for every doubling of the cumulated
17 volume, ignoring inflation. The slope for televisions
18 is following that theory, so it's just natural market
19 theory.

20 VICE CHAIRMAN HILLMAN: Okay, okay. Mr.
21 Hartquist and then Mr. Magrath. Go ahead.

22 MR. HARTQUIST: Just very briefly, Mr.
23 Johnson hesitated in giving his answer, and we talked
24 a lot about this in preparing for the hearing today.
25 The observation I would want to make is that I think

1 that there is so much disagreement among people in the
2 industry about the answer to this question. I think
3 you're going to find it this afternoon as well, and
4 it's reflected in the staff report in terms of the
5 purchasers' perceptions of how this market works and
6 the extent to which branding drives pricing, the
7 extent to which features drive pricing, the extent to
8 which different sets from different countries,
9 different manufacturers compete or don't compete with
10 each other.

11 It's unlike selling cars or refrigerators.
12 The responses are very different and very mixed, and I
13 think that's because there isn't a commonly accepted
14 perception in the industry of how all of this works.

15 VICE CHAIRMAN HILLMAN: Mr. Magrath?

16 MR. MAGRATH: Thanks. Two short points.
17 Skip was right in characterizing the staff report.
18 That question was asked of producers, importers, and
19 purchasers in the staff report, and the majority said
20 that -- there were opinions all over the place, but
21 the majority said that basically the price declines
22 were a result of product being pulled from below, in
23 other words, being pulled from the lower price points,
24 cheaper television sets.

25 Number two, you can see in the staff report

1 in your pricing tables, the Chinese are in the opening
2 price point, 27, 25 inch, in a big way, and they are
3 also in projection TVs, 60, 61 inches, -- that's in
4 your pricing tables -- in a big way, and there are
5 large and growing margins of underselling throughout
6 the period.

7 So no matter where the price pressure comes
8 from, below or above, the Chinese imports are there,
9 and the Chinese imports are underselling and are the
10 low ball in the market.

11 VICE CHAIRMAN HILLMAN: I appreciate that.

12 If I can, though, flip it a little bit to
13 make sure I understand, and, again, we've had a lot of
14 discussion about the operating income and its trends,
15 but clearly when I look at it, there's also some
16 issues in terms of costs. There is no question that
17 costs, as a general matter, costs of goods sold, have
18 also come down.

19 I think one of you commented earlier in your
20 testimony that the declines in costs were not as great
21 as the declines in price, but I'm trying to
22 understand, in this mix of all of these technologies,
23 et cetera, where do you, from your perspective, see
24 declines in costs coming into this issue of the
25 decline in prices?

1 There is no question, if we look at the
2 data, there has been fairly significant reductions.

3 MR. HOPSON: You know, in this business, in
4 manufacturing, my 25 years, all I've ever learned in
5 the consumer electronics is however cheap you build
6 it, it's not cheap enough because it always has to
7 improve. It's been, like I said, I think, earlier, a
8 3 to 5 percent price degradation for years, and early,
9 20 years ago, I would see chips that did things that
10 got rid of boards, and you kept making design changes,
11 and you would save \$10, you know, with that design.
12 But in the last probably six or eight years, you're
13 not going to get \$10 savings; you're going to get 50
14 cents savings maybe so you have to make the
15 productivity improvements.

16 But whatever cost improvements you have, you
17 still have -- the price pressures are coming, and they
18 are coming in every area, high and low. Like I said
19 earlier, when we've looked at the cost, we can see
20 that when products are delivered to the U.S., when 60-
21 inch projection TVs are delivered to a customer at the
22 price they are, there is no way. We couldn't do it if
23 we didn't have any labor in it. So there has to be
24 some other things happening. No matter what the cost,
25 prices always get the pressure.

1 VICE CHAIRMAN HILLMAN: I appreciate those
2 answers.

3 Commissioner Miller?

4 COMMISSIONER MILLER: Mr. Magrath referred a
5 few minutes ago to something. I think the staff
6 report does have an interesting table, just to
7 continue the discussion that you were having with Vice
8 Chairman Hillman on where the pricing pressure has
9 come from, the downward pressure. And there were
10 differences of views between the producers and the
11 importers and the purchasers.

12 When I look at what the purchasers say,
13 okay, basically, whether it's the high end pushing
14 prices lower or the low prices pulling prices down or
15 the new technologies or increasing purchaser power,
16 there are basically those four things. Those were the
17 four things that they cited in pretty equal ways.
18 It's not inconsistent with what I just heard you say,
19 Mr. Hopson, about the pricing pressures coming from
20 everywhere.

21 We haven't talked very much about the
22 pricing pressure that may be occurring because of the
23 changes in the retail sector, the increasing purchaser
24 power, which even the producers attributed more of the
25 pricing pressure to that relative to some of the other

1 factors. Perhaps I could ask you to talk about that a
2 little bit.

3 In one respect, when you initially, in your
4 direct testimony, several times you talked about your
5 customers and your customers pressuring you on prices
6 and all. I wanted to make sure I understood. When
7 you were talking about your customers, who were you
8 talking about?

9 MR. HOPSON: Not the retailer. My customers
10 would be the manufacturer or the brand name, is who I
11 would -- I might deliver to the retailer, but as far
12 as the retailer knew, it came from the brand-name
13 company, so they would not even know that we built the
14 product, basically.

15 COMMISSIONER MILLER: Okay.

16 MR. HOPSON: So my customer is the companies
17 who then sell to the retailers.

18 COMMISSIONER MILLER: Okay. But could you
19 talk a little bit about the effect of changes in
20 retailing on the TV industry and the price pressures
21 that you see? How much has the increased
22 concentration had an effect on prices, in your view?

23 MR. HOPSON: Well, let me say, probably 15
24 years ago, when I worked for Philips, when we began
25 relationships with, like, for instance, Wal-Mart, Wal-

1 Mart actually paid more than a place like Sears or
2 Circuit City, and the reason they did as because they
3 required a lower margin. So they had a price point
4 that they tried to get to, and we would sell it to
5 them -- maybe at Philips they would sell them to them
6 with 20 points' margin, but we would have to give
7 Circuit City 30 points' margin, so we could actually
8 make more.

9 Over the years, that's all changed. Now
10 when Wal-Mart got to be the dominant consumer
11 electronics retailer, then the pressure has come the
12 other way, that they say, we have products for this
13 price point, and you have to meet it. And with that,
14 Wal-Mart has grown to be a huge -- the largest
15 retailer, and by being that, companies like Apex can
16 walk into a market in the United States and get the
17 percentage of market share that they have grown to get
18 very quickly and very simply just by going through,
19 not that they are going through one, but just one
20 retailer could give a huge jump.

21 So that part of the business has changed.
22 Someone mentioned earlier the mom and pops. There's
23 no place that somebody comes out and delivers your TV.
24 You go, and you'd better get your truck, or you pay
25 them \$30 to deliver it, but the old Sturkey's or some

1 place like that doesn't happen anymore.

2 COMMISSIONER MILLER: Okay. I wanted to ask
3 you to talk about it a little bit because I know we
4 see it as a factor in many of our cases.

5 MS. BECK: And, Commissioner Miller, may I
6 also add? I think it's important to note that the
7 customers that Five Rivers, for example, are selling
8 to, the distributors, their customers, the retailers,
9 are now importing directly. So we'll go into this in
10 more detail in our brief, but there is a whole series
11 of Five Rivers' customers that are now importing
12 directly, so their distributor may not import directly
13 from China, for example, but their retailer customer
14 is.

15 MR. HOPSON: To that point, one thing that I
16 do know, because we have a distribution business, is
17 in the past, like in the VCR business, you used to get
18 VCRs in, you would distribute them out, somebody would
19 order 100, and you would take them. Today, DVDs, a
20 lot of customers, and I'm saying retailers, will order
21 container loads. So they go direct and get container
22 loads from China rather than coming through any other
23 kind of distribution whatsoever. That's changed.
24 That's a big change.

25 COMMISSIONER MILLER: I wanted to ask Mr.

1 Davis -- welcome to the Commission. I would just like
2 to ask you to talk a little bit more about what you've
3 seen at the Arkansas plant over time. In your initial
4 testimony, you talked about, at one point, there were
5 over 600 workers, and now you're down to 391, I think,
6 a little under 400.

7 MR. DAVIS: Yes.

8 COMMISSIONER MILLER: And you mentioned two
9 of six lines that are now producing. Tell me what the
10 range of products that are produced in that plant has
11 been and what it is today, how it's changed.

12 MR. DAVIS: We make a variety of sets. We
13 used to make 13's and 19's, but, of course, they are
14 gone. Now we make 25- to 35-inch TV sets there now.

15 COMMISSIONER MILLER: And all of the
16 products, the cathode ray tubes, the tubes that we're
17 talking about in this case.

18 MR. DAVIS: Yes. No projections.

19 COMMISSIONER MILLER: You do not do any
20 projections or any of the new technologies at that
21 facility.

22 MR. DAVIS: No. Well, we're beginning to go
23 into the high definition now. We've just begun to go
24 into it.

25 COMMISSIONER MILLER: Okay. And when that

1 happens, do the same workers in the facility, do they
2 do everything? I mean, the same workers were
3 making --

4 MR. DAVIS: Yes.

5 COMMISSIONER MILLER: -- the smaller TVs
6 that are making the larger ones.

7 MR. DAVIS: Yes, they do.

8 COMMISSIONER MILLER: And what do you see in
9 terms of it takes fewer workers to make the larger TVs
10 or the smaller TVs? You know, tell me a little bit
11 more.

12 MR. DAVIS: Basically, we use the same
13 amount of people until -- our engineers are pressured
14 to eliminate jobs all the time, and by that extent,
15 they eliminate people because they take one job that's
16 usually been done by two employees, and they make one
17 person do both.

18 In that facility, we are compensating
19 production for prices. We are constantly speeding the
20 production lines up with fewer people. Actually,
21 we're killing our own people in the facility trying to
22 compensate for the loss in prices.

23 COMMISSIONER MILLER: So the same number of
24 people making --

25 MR. DAVIS: Yes.

1 COMMISSIONER MILLER: Are the lower number
2 of people making the same number of units?

3 MR. DAVIS: Basically.

4 MR. HOPSON: And that's one of the price
5 pressures that you have in this industry. You have to
6 have targets. You have to have labor improvements.
7 You have to have cost-efficiency improvements. You
8 know, it can't even wait every year. You have to keep
9 it ongoing. So everyone that works for us has that
10 target every year that they have to make an
11 improvement in labor efficiency, whether it's
12 investment in equipment, whether it's designing a new
13 way to assemble something, or whatever, but it's
14 always -- it's just the way this life has been for a
15 long time.

16 COMMISSIONER MILLER: For most of the
17 industries we see here at the Commission, that would
18 be an accurate description, I think.

19 Mr. Davis, did you want to add something?

20 MR. DAVIS: Yes. We are constantly
21 threatened with these lower prices, even from our top
22 management, and it involves all of our negotiations,
23 whatever it takes to try to make a living in the
24 facility. We are always given the -- I don't want to
25 call it a threat, but the promise is that we've got to

1 continue to meet these prices. If we don't meet these
2 prices that are being supplied by China, then we're
3 going to lose production.

4 So it's hurting us in our wage increases and
5 also in the amount of people that we have. We are
6 cutting people, but we're upping production to try to
7 offset the prices because Wal-Mart, and that's
8 basically who we supply to is Wal-Mart, and Wal-Mart
9 might jump tomorrow and come and say, China has
10 lowered another price, and either you all meet it or
11 we're out. We're constantly faced with that all of
12 the time.

13 COMMISSIONER MILLER: Okay. My yellow light
14 is on. I want to ask one quick question of Mr.
15 Johnson. Actually, the question may not be for you;
16 it may be for Mr. Hartquist or Mr. Lasoff.

17 You mentioned what's been going on at a
18 couple of other facilities, the Thompson closures and
19 the Corning closures. I spent last week in
20 Indianapolis, which is my home town, and almost every
21 day there were articles about the Marion closure, so I
22 knew about that before I even started studying for
23 this hearing.

24 None of these closures, however, were of
25 facilities that make the product that's subject here,

1 I think, and I understand full well, Mr. Johnson, why
2 it's important to you and to the workers who lost
3 their jobs there, so don't take my comment the wrong
4 way. But I just want, maybe from the lawyers'
5 perspective, to tell me whether there is any way we
6 can take that into account, in their view, in this
7 proceeding under the law as it stands right now. Mr.
8 Johnson, I fully understand why it's important to you,
9 so don't take me wrong.

10 MR. TROY JOHNSON: I understand, and I'm not
11 taking it wrong. Do remember Sharp, --

12 COMMISSIONER MILLER: Yes.

13 MR. TROY JOHNSON: -- the Sharp facility
14 that we do still represent in Tennessee. They no
15 longer make any of their television sets in the U.S.

16 COMMISSIONER MILLER: Right. And I wanted
17 to ask you that question, too, but I'm going to do
18 that on the next round because I know that's a longer
19 answer. This could be a shorter answer from the
20 lawyers, even for post-hearing, if they want. Mr.
21 Hartquist, do you want to?

22 MR. HARTQUIST: Sure. We recognize that you
23 must consider the events that have occurred during the
24 period of investigation, and what you've seen is, in
25 the aggregate, significant declines in all of these

1 factors, as I indicated earlier, except profitability.

2 So part of our threat case that we're
3 arguing to you is that a lot of these operations are
4 teetering, and if relief is not given in this
5 situation, there are going to be shutdowns in the
6 future. Mr. Hopson has indicated his is one.

7 COMMISSIONER MILLER: The red light is on,
8 and my colleagues are giving me the evil eye, so we
9 had better stop. Thank you.

10 VICE CHAIRMAN HILLMAN: Commissioner Koplan?

11 COMMISSIONER KOPLAN: Thank you, Madam
12 Chairman.

13 First, Mr. Johnson, with respect to domestic
14 consumption of all TVs, I don't see projection TVs
15 being a significant part of the total market, and, in
16 fact, it would appear to me from what I've looked at
17 that sales of projection TVs are declining
18 substantially during the period I'm looking at. If
19 you have data to the contrary, could you submit that
20 for the post-hearing, or if you want to respond to it
21 now? But they don't really appear to be a significant
22 part of the total market.

23 MR. JEFFREY JOHNSON: I will certainly
24 provide the data. It's publicly available CEA data.
25 I think I might know why you're seeing something

1 there.

2 What CEA reports, and projection sets, they
3 reported in two different places. They report analog
4 projection sets in one report; they report digital
5 projection sets in another report. The analog
6 projection sets are dropping dramatically. The
7 digital sets, however, are growing at an even faster
8 rate so that the total projection set volume is going
9 up, and as I said, in 2003, it was about 9 percent of
10 the total television sets sold, 2.7 million out of
11 roughly 29 million, and well more than half of those
12 are now digital or digital-ready sets reported in a
13 different place than the analog sets are reported.

14 COMMISSIONER KOPLAN: If you could put the
15 things you're referring to on the record, the CEA
16 data, specifically, on this, I would price it.

17 MR. JEFFREY JOHNSON: Okay. No problem.

18 COMMISSIONER KOPLAN: Thank you.

19 Mr. Hopson, this morning, Respondent's
20 counsel spoke of substantial investments in new
21 technologies by several U.S. producers. For purposes
22 of our post-hearing submission, could you submit three
23 categories for me: investments that you've made since
24 2001; investments planned and investments canceled due
25 to lack of necessary capital in order to meet new

1 technology demands?

2 MR. HOPSON: Yes, sir.

3 COMMISSIONER KOPLAN: If you could document
4 that for me for the post-hearing.

5 MR. HOPSON: Absolutely.

6 COMMISSIONER KOPLAN: Thank you.

7 Mr. Hopson, let me stay with you for a
8 moment, and I would also like to hear from the union
9 on this. Does the assembly work performed by your
10 employees generally represent their primary source of
11 income or, rather, a second job? I'm asking that for
12 a number of reasons. I'm asking that because I'm
13 trying to understand, if you are able to increase the
14 number of your operating lines, move them back on,
15 will workers previously let go still be available to
16 you, or will they have most likely gone on to other
17 jobs? If the latter, how difficult would it be to
18 train replacements?

19 And I'm asking it also because I have some
20 understanding that a certain number of your workers
21 happen to be members of farming families, and the job
22 that they have at Five Rivers gives the family group
23 insurance benefits as well as a paycheck, but I'm
24 curious what percentage of your workforce view your
25 job as a second income rather than their primary job.

1 The other question that I have that's tied
2 to this is I understand that your workload has an
3 aspect of seasonality to it and that it's usually
4 heaviest in preparation for pre-Christmas shipping,
5 and so tying all of that together, I'm curious who the
6 people are that actually are working for you. Is
7 farming their primary --

8 MR. HOPSON: Well, farming, at one time,
9 that was absolutely true in our factory. At one time,
10 that could very well be true. Farming, tobacco
11 farming, of course, the last 20 years, that's all gone
12 away, so farming is not as prevalent. Dairy farms
13 have all but disappeared in our area, so we don't have
14 that. We don't have very many -- tobacco farmers have
15 got to be large people that only do tobacco farms.
16 That's all they do now. The small farmers are out of
17 that business, and they can't exist.

18 But currently, today, as of this week, my
19 average age of my workforce is 57.7 years' old. This
20 is their primary job. They have never been laid off
21 in 25 years. They have got 30-plus years of service,
22 and, quite frankly, if we close that plant, those
23 people aren't going to get a job somewhere else. They
24 will find a job at a place without benefits, without
25 any opportunity. But with the cutbacks -- if you

1 would like, I could give you some information as far
2 as retention of employees, when we call people back,
3 what percentage come back.

4 Currently, we're cut back to people that
5 have not been laid off in over 20 years, so those
6 people have worked there a large part of their life,
7 and, yes, they are coming back. Now, there will be a
8 few people that won't. I can't tell you that
9 wholeheartedly because some people have obligations
10 that if they got laid off, they would have to work
11 somewhere, no matter what. I mean, some people just
12 have that situation. But a lot of these people are
13 not in that situation.

14 Now, when we were at the 2,000 people level
15 for all of the companies, at 2,000 people, we would
16 have people come in. We would call people, and we
17 have never not started a production line because we
18 didn't have people. But we would have people the last
19 four months of the year, and they would get laid off.
20 There would be a large percentage of those people that
21 wouldn't come back, the very young people. But the
22 core, basic people were always -- that's their job.
23 That's their full-time job, and they didn't work
24 anywhere else.

25 COMMISSIONER KOPLAN: I thank you for that,

1 and I'm not going to ask you to go back 20 years, but
2 I would ask you to cover the period that we're looking
3 at, 2001, 2002, and 2003, --

4 MR. HOPSON: That's not a problem. We keep
5 that data.

6 COMMISSIONER KOPLAN: -- and respond to us
7 on that, and I would certainly welcome our union
8 witnesses to also respond for the post-hearing or
9 speak now.

10 MR. MAGRATH: Well, I can go back 20 years,
11 when Philips owned the plant, and we were called in
12 repeatedly because of NAFTA to negotiate contract
13 after contract because of the competition. I also
14 remember in 1997 when Tom purchased the plant and
15 saved 2,000 jobs in that area. We sat down and had a
16 tough negotiation, but he competed directly with the
17 folks making TVs in the Mekeladors and in NAFTA in the
18 Mexican area. So from 2000 from 1997, 1998, 1999,
19 2000, before the flood of imports, we maintained 2,000
20 folks either directly making those TVs or indirectly,
21 making parts to make those televisions.

22 So what impact that could have on a
23 community? I know folks that have their children
24 working there, the mother working there, and the
25 grandparents working there. That's the line, even in

1 the union committees, in the negotiating committees,
2 that I've been associated with.

3 So you have to understand the impact. It
4 was once the largest employer in the Greenville area,
5 the tax base that supports the community, the tax base
6 that supports the families and the school systems. So
7 it's very important to that community that those
8 people exist and those jobs exist. And very, very
9 frankly, without the Chinese threat, there is just no
10 question that we can compete favorably with the other
11 imports, especially from NAFTA or any other place.

12 COMMISSIONER KOPLAN: Thank you very much.

13 Mr. Johnson, I see you want to speak on
14 behalf of the IBEW.

15 MR. TROY JOHNSON: Thank you. I would just
16 like to add, probably back in the fifties, late
17 fifties, early sixties, you saw a large migration of
18 manufacturing industries away from your large cities
19 out into your rural areas, and going back that far, a
20 lot of these companies that have been around that many
21 years, and a lot of them have, they have been pretty
22 much the only employer in a lot of these communities.
23 As they leave these communities because they are
24 moving operations overseas or something like that,
25 it's basically destroying whole communities and towns

1 that were actually built around that corporation.

2 So, to answer your question, yes, these are
3 the primary and, in most cases, the only jobs that
4 these folks can find in those areas, unless some of
5 your small retailers do move in.

6 COMMISSIONER KOPLAN: Just one quick follow-
7 up, if I could.

8 If seasonality is a factor, as Mr. Hopson
9 has talked about, pre-Christmas, what happens to
10 people when you don't have that ramp up? Do they
11 maintain their jobs, or do you normally have to lay
12 folks off, or do you use seasonal workers in addition
13 to your regular workforce?

14 MR. HOPSON: In our factory, we have a
15 volunteer group that, you know, if you're a mother,
16 and you want to work part time, and you want to make
17 some money before Christmas, you can volunteer to be
18 laid off. So if it came your time in seniority, and
19 you said, "Well, really, I only want to work five
20 months a year because I want to supplement my
21 husband's income," then you would get called in
22 August, and you would work until Christmas, and you
23 would voluntarily go home. It worked perfect for
24 them.

25 MR. MAGRATH: We negotiated an inverted-

1 seniority system to accommodate that situation where
2 we could have some of the older folks choose the
3 layoff and let the younger folks stay in the plant,
4 and that way, when the time came to recall, you would
5 have the seniority folks come back in a four- or five-
6 month period.

7 MR. HOPSON: As long we have business, we
8 don't have a problem getting the people. We always
9 try to tell people what we expect the workload is
10 going to be. If we call people in in August, and we
11 say, "Hey, we're calling you back to work. It looks
12 like you're going to be able to work through
13 Thanksgiving," we tell them that so they can make a
14 choice because some people that get laid off,
15 especially now when you're cut back as far as we are,
16 they had to go find a job. But the ones in the good
17 times in the seasonality times, those people are
18 expecting to get laid off. As a matter of fact, they
19 plan to get laid off.

20 I have a lot of ladies that have been there
21 for 30 years that could stay, seniority wise, and
22 never get laid off, and they will go into personnel
23 and sign up for the voluntary layoff list. So they
24 will go home during that slow period, and someone
25 younger that needs to work gets to stay, and it's

1 helped our employee turnover, actually, is what it's
2 done. When you see our numbers, you'll see that in
3 the years that we've shown you, the employee turnover
4 is very low. When we call people back, they come back
5 to work, and that's because a lot of these people are
6 people that volunteer to be off. They don't need the
7 full-time income.

8 MR. MAGRATH: But I haven't seen numbers in
9 20 years like I've seen in that plant today, 535
10 people. I haven't seen numbers like that in the last,
11 you know, 20 years, not since 2001, 2002, when it
12 gradually went down.

13 COMMISSIONER KOPLAN: Thank you very much
14 for indulging me, Madam Chairman, and thank you for
15 your answers to what I thought was going to start out
16 as a short follow-up, but I appreciate the opportunity
17 to let you put that on the record. Thank you.

18 VICE CHAIRMAN HILLMAN: Commissioner Lane?

19 COMMISSIONER LANE: I don't have any further
20 questions.

21 VICE CHAIRMAN HILLMAN: Commissioner
22 Pearson?

23 COMMISSIONER PEARSON: Permit me to go back
24 briefly to this issue that was on my mind earlier.
25 Did anyone have further comments regarding the tariff

1 inversion and how I should look at that? Mr. Lasoff?

2 MR. LASOFF: Again, I think, as Mr.
3 Hartquist said, you have an historical situation that
4 goes back 50, 60 years. At the time, obviously, the
5 inverted tariff was the reflection of a need to
6 encourage the capital investment, the large capital
7 investment, that was necessary for purposes of tube
8 and glass investment.

9 That was big, big investment, and I think
10 the historical reason for the inverted tariff, which,
11 again, is contrary to the typical situation where
12 you're trying to encourage value added at the labor
13 end, in that situation there was a desire to encourage
14 the capital investment, and the way to do that in
15 glass and picture tube was to establish a 15 percent
16 tariff. That was the historical foundation on this.

17 What I was referring to, and this goes to
18 your point in terms of the policy aspect, and really
19 this is a policy issue, I think if you look at the
20 history of some of the trends in this industry and,
21 particularly, some of the trade litigation that has
22 occurred here, I think it's very telling.

23 In the late seventies, early eighties, there
24 were dumping orders in effect on TVs from Japan,
25 Korea, and Taiwan. As a result of that, those orders

1 were very successful. What happened, Korean and
2 Japanese producers set up assembly operations in the
3 United States. What then happened was a massive
4 inflow of color picture tubes. Regardless of the 15
5 percent tariff, color picture tubes came surging into
6 this country. A case was brought by the color picture
7 tube producers. The case was successful. Antidumping
8 duty orders were imposed on color picture tubes. A
9 result of that was the building of new color picture
10 tube plants by companies like Matsushita.

11 One of the great ironies -- I recall saying
12 this at another time -- is that the day the Commission
13 voted affirmatively on the color picture tube case,
14 the president of Matsushusta stood up in Tokyo and
15 announced that he was going to build the largest color
16 picture tube plant in the United States in Troy, Ohio.

17 The point here is that regardless of the
18 inverted tariff, the antidumping duty laws apply, and
19 those tariffs have not affected those trends over
20 time. They seem to result more from the imposition of
21 the antidumping duty orders. That was the direct
22 cause of the surge of imports of color picture tubes.

23 I could go on. In fact, after the color
24 picture tube case, there were circumvention issues
25 through Mexico where certain of the producers that

1 were covered by the color picture tube order started
2 bringing in picture tubes and set assemblies through
3 Mexico, calling them incomplete sets, and then getting
4 the 5 percent duty applied to them, even though they
5 were imported in separate boxes. We called that the
6 "Mexican kit caper," which Congress ultimately
7 addressed.

8 So, historically, you'll see the duties
9 don't really affect these trends. If they desire to
10 penetrate this market, they will do so. A little
11 historical perspective.

12 COMMISSIONER PEARSON: Thank you.

13 MS. STALEY: And just following up with what
14 Mr. Lasoff said, that the volume of trends of imports
15 that you're seeing, the overwhelming volume of
16 imports, are not affected by the 5 percent duty at
17 this point. They are dumping their products in here
18 at margins that are ranging at around 24 percent.
19 Obviously, they are willing to, at that point, absorb
20 that duty and dump their product here in the United
21 States. The volume is overwhelming, and what the
22 statute asks you to do is to look at what those
23 volumes of dumped imports are doing to the domestic
24 industry, regardless of the customs duties that are
25 being paid.

1 COMMISSIONER PEARSON: Thank you. I
2 appreciate those comments. I'm asking because I
3 didn't know.

4 Could I ask you to follow up in the written
5 briefs on perhaps a couple of points? One is, how
6 should we look at this question of the inverted tariff
7 as a condition of competition? In other words, should
8 we be asking ourselves, well, is the damage being done
9 to the industry primarily because of dumped imports or
10 primarily because of the tariff inversion? So
11 whatever thinking you have on that would be helpful.

12 The second one, you've already touched on,
13 Mr. Lasoff, and that is how the Commission has dealt
14 with inverted tariffs in previous cases, and,
15 obviously, there have been a number of them. You
16 don't need to make it exhaustive, but if you could
17 kind of put down some summary that would give me some
18 guidance on that point, that would be very helpful.

19 Did anyone else have anything they wanted to
20 say in regard to this issue?

21 (No response.)

22 COMMISSIONER PEARSON: Great. Then, Madam
23 Vice Chairman, I'll pass. Thanks.

24 VICE CHAIRMAN HILLMAN: Okay. Thank you.
25 I hope just a couple of quick follow-ups.

1 One is -- obviously, again, I've heard this argument
2 loud and clear in terms of the issue of the impact on
3 the workers. I just want to make sure that, in
4 looking at our data, we're not missing a shift in
5 workers from subject CRT technology to, again,
6 domestic production, workers shifting to the LCD, the
7 L-cost, the others.

8 I don't know whether there is a lot you can
9 say here, Mr. Hartquist, or whether this is something
10 that has to be dealt with entirely in a post-hearing
11 brief. But to the extent that we are looking at
12 declines in employment, and you're wanting us to focus
13 on that, has some of that employment shifted into
14 nonsubject technology but nonetheless would be U.S.
15 production workers producing televisions; they are
16 just not CRT televisions, and, if so, what do we make
17 of it?

18 MR. HARTQUIST: I think we're going to need
19 to put that in the brief, aren't we, Pat?

20 MR. MAGRATH: Yes, we will. Mr. Johnson and
21 I were just talking about this. Currently, in the
22 period of investigation you're studying, the
23 production and the shipments and sales of these
24 technologies were so small, such a small part of the
25 market, that besides some engineers, R&D people being

1 drafted to study and develop these new technologies, I
2 don't think there is much of an effect at all in the
3 assembly plants.

4 MR. HARTQUIST: The reason I asked Pat to
5 comment on this is I'm not sure that we have the data,
6 in terms of employment levels, with respect to
7 nonsubject products, that we can provide to you.

8 VICE CHAIRMAN HILLMAN: You probably have
9 production and shipment numbers, I think, are in
10 questionnaire responses. Again, you're making this
11 case largely on a lot of the quantitative numbers,
12 including this issue of employment losses. Fair
13 enough. There is no question that the statute speaks
14 to that. I just want to make sure the numbers I'm
15 looking at are giving me a true picture. I'm trying
16 to make sure there has not been a shift in U.S.
17 employment and production into nonsubject television
18 production.

19 MR. HARTQUIST: Understood.

20 MR. DAVIS: I think we're probably one of
21 the largest manufacturers in America right now, and we
22 don't produce any LCDs.

23 VICE CHAIRMAN HILLMAN: You don't produce
24 any of the plasma, the LCD, the L-cost. Okay. All
25 right.

1 Again, I understand that a lot of this deals
2 with individual questionnaire answers, but,
3 nonetheless, if there is anything that you want to
4 say, and again, more broadly on this issue of what do
5 I make of it, it would be very helpful.

6 Obviously, Respondents raised a somewhat
7 different argument as well in their brief, which is
8 that it's, again, these U.S. producers that are both
9 shifting to the nonsubject technology and shifting to
10 imports from nonsubject countries. You've had a lot
11 of questions about the nonsubjects, but, again, I
12 would ask you, on this issue of how do we look at it,
13 if we're focusing primarily on the job loss, the
14 production loss, the quantitative losses that you
15 suggest that we should be looking at, how does that
16 get impacted by this issue of domestic companies, U.S.
17 companies, shifting to greater volumes of nonsubject
18 imports and/or greater production -- it's not clear to
19 me where it is -- of nonsubject technology?

20 MR. HARTQUIST: I would be very pleased to
21 address that.

22 VICE CHAIRMAN HILLMAN: I appreciate that.
23 I've stayed a little bit away from this whole Wal-Mart
24 issue, but let me just ask, if I can, Mr. Davis, to
25 you, and, Mr. Hopson, maybe, do you know, in terms of

1 your customers? Have either of your companies bid on
2 this Wal-Mart blitz business, and if so, what came of
3 it? Mr. Davis?

4 MR. DAVIS: Yes. We're producing for Wal-
5 Mart, but I think that we wasn't included in the Wal-
6 Mart blitz; this last term, we were not.

7 VICE CHAIRMAN HILLMAN: You were not
8 included.

9 MR. DAVIS: No.

10 VICE CHAIRMAN HILLMAN: Do you happen to
11 know why?

12 MR. DAVIS: Because the Chinese sets were
13 lower.

14 VICE CHAIRMAN HILLMAN: I'm sorry?

15 MR. DAVIS: The Chinese TV sets were lower,
16 and they promoted that particular brand and not ours.

17 VICE CHAIRMAN HILLMAN: So your
18 understanding is that Sanyo, your company, did bid for
19 it but did not get the bid.

20 MR. DAVIS: Oh, yes.

21 VICE CHAIRMAN HILLMAN: But you otherwise
22 produce for Wal-Mart --

23 MR. DAVIS: Right.

24 VICE CHAIRMAN HILLMAN: -- for regular Wal-
25 Mart, normal sales.

1 MR. DAVIS: That's our major supplier, is
2 Wal-Mart.

3 VICE CHAIRMAN HILLMAN: Okay. Mr. Hopson?

4 MR. HOPSON: Probably one of our customers
5 in 2000 did bid, and my understanding was that they
6 did bid on the Thanksgiving blitz because they talked
7 to us about meeting the volume requirements, and we
8 made a plan to make those volume requirements, and
9 they didn't get the bid, but I couldn't tell you who
10 got the bid at that time.

11 VICE CHAIRMAN HILLMAN: And do you know
12 whether anything has been done since 2000?

13 MR. HOPSON: Since 2000, to my knowledge,
14 they weren't even asked to quote. I don't know that,
15 but --

16 VICE CHAIRMAN HILLMAN: Okay. I appreciate
17 that.

18 And then, lastly, on the issue of these new
19 technologies, the plasma, the LCD, et cetera, et
20 cetera, I appreciate, Mr. Johnson, your giving us the
21 figures that you've given us in terms of the numbers.
22 I presume those are for the U.S. market. Is that
23 correct?

24 MR. JEFFREY JOHNSON: Yes. That's correct.

25 VICE CHAIRMAN HILLMAN: Do you know, are

1 these technologies equally popular in markets around
2 the world? If I were in any of the Asian markets,
3 would it be kind of the same percentage of product
4 that would be in these alternative technologies?

5 MR. JEFFREY JOHNSON: I don't have that
6 data, so I can just give you impressions that in the
7 Asian market I think you would see higher percentages
8 of plasma and LCD sets than you do in North America,
9 particularly in Japan.

10 VICE CHAIRMAN HILLMAN: Higher.

11 MR. JEFFREY JOHNSON: Higher.

12 VICE CHAIRMAN HILLMAN: Okay.

13 MR. JEFFREY JOHNSON: Particularly in Japan.
14 Generally speaking, in this industry, the new
15 technologies, the new ideas, the new features seem to
16 come first in the Japanese market, and the Japanese
17 consumers are very eager to spend money to be right at
18 the cutting edge. And then after they are well
19 established in Japan, particularly a lot through the
20 Japanese set makers, once they have established
21 themselves with the product in Japan, then they will
22 bring it to the U.S.

23 That's for direct view. Now, for projection
24 sets, it's a little different story. Because of the
25 size of projection sets, the biggest market in the

1 world for projection sets is the U.S. Outside the
2 U.S., projection sets are not a major factor in any
3 other geographic area. So, therefore, the new
4 technologies would have less impact, not because of
5 the technology but simply because the projection sets
6 are not sold in those markets in any significant
7 volume.

8 VICE CHAIRMAN HILLMAN: Anyone else want to
9 comment on that?

10 MR. HOPSON: I can only say that one product
11 line that we do build is emerging technologies, the
12 micro display. We do send product to Europe for them
13 to assemble. We send them kits for them to assemble,
14 and the volume that we send to Europe is very small
15 compared to the U.S.

16 VICE CHAIRMAN HILLMAN: Okay. All right. I
17 appreciate those answers. I think, with that, I have
18 no further questions. Let me check with my colleagues
19 as to whether there are additional questions.

20 I'm sorry. Commissioner Miller. Excuse me.

21 COMMISSIONER MILLER: Just a little cleanup.
22 I'm still here on the third round of questioning. I
23 think that's what we're up to. I have just a couple
24 of sort of cleanup items that I wanted to do.

25 One, Mr. Johnson, when I asked you the

1 question earlier about the membership of your
2 organization, I didn't ask it very well. I asked
3 whether Five Rivers was a member, but are the other
4 U.S. TV producers that we're looking at members of the
5 association? Some like Toshiba and Sony, Sanyo,
6 Orion, and Matsushita; are they members of some part
7 of that large organization that you described?

8 MR. JEFFREY JOHNSON: I believe all of those
9 set manufacturers are members of the Consumer
10 Electronics Association, but they would not be members
11 of the Electronic Components Association because they
12 make the final product, not the components.

13 COMMISSIONER MILLER: Right, not the
14 components. And the components part is the part that
15 you work for.

16 MR. JEFFREY JOHNSON: Yes. That's correct.

17 COMMISSIONER MILLER: Okay. I just wanted
18 to make sure I understood that.

19 Mr. Magrath, take it as a compliment, on the
20 one hand, and a criticism on the other. Your chart
21 that describes the fight-or-flight response to
22 imports, I think, is quite recognizable to us here at
23 the Commission, you know. It's a nice little capsule
24 of many of the cases we see here, you know, and your
25 point on the light manufacturing. The only thing I

1 would differ with, I think, is, you know, in most
2 cases that we're seeing on light manufacturing where
3 the response is that flight response, you also see
4 declines in absolutely operating profits, which you
5 don't have in this industry. Otherwise, I think
6 you've put together a pretty accurate characterization
7 of what we see in our cases.

8 MR. MAGRATH: Thank you. Thank you very
9 much. As long as you didn't discover a typo.

10 All of the commissioners asked everybody in
11 this room, with all of these quantity variables down
12 like they are, just what do you think is going to
13 happen to operating profits next? What do you think?
14 What do you think is going to happen?

15 COMMISSIONER MILLER: Well, you can address
16 in your post-hearing brief the question we always
17 struggle with as well, and that is, our mandate is to
18 look at the industry as a whole, but in many cases we
19 see wide disparity among companies, and that's
20 something we always struggle with. So you're welcome
21 to address the issue in your post-hearing brief.

22 Now, my criticism, however, Mr. Magrath, is
23 your Chart 1, I find much less helpful, and I would
24 invite you to resubmit Chart 1 with absolute
25 quantities rather than percentages on the vertical

1 graph. Okay?

2 MR. MAGRATH: Sure.

3 COMMISSIONER MILLER: Thank you. I have no
4 further questions or comments. I appreciate all of
5 your answers today. Thank you.

6 VICE CHAIRMAN HILLMAN: Commissioner Koplan?

7 COMMISSIONER KOPLAN: I do have one left. I
8 would like to follow up -- you started it -- on Wal-
9 Mart, if I could, and, unfortunately, Mr. Magrath, I
10 did discover a typo, but I'm sure that it must have
11 been Mr. Hartquist's and not your responsibility. Let
12 me run through this, if I could, as a follow-up.

13 At the staff conference last May, Mr.
14 O'Connor of Wal-Mart, who we're going to be hearing
15 from this afternoon, testified that there is minimal
16 competition overlap between televisions produced in
17 the U.S. and sets that they import or plan to import
18 from China or Malaysia. He noted that Wal-Mart's
19 domestic operations include over 3,000 stores, that
20 Wal-Mart apparently has two distinct procurement
21 operations, one of their day-to-day business and a
22 separate process for their seasonal, once-a-year
23 Thanksgiving promotion. This was his testimony.

24 As to their every day business, he testified
25 that they do very little importing of subject

1 merchandise. However, as to their Thanksgiving
2 special promotion of one 27-inch set in 2002, and
3 that's the one he was talking about that was the sale,
4 the promotion, it was based on an open-bidding
5 process, which accounted for the vast majority of
6 their imports. The result of that accounts for the
7 vast majority of their imports. He said that Five
8 Rivers did not choose to compete, and I understood
9 from Mr. Hopson today why they don't compete.

10 But he also claimed that there is virtually
11 no direct competition between the brands that Wal-Mart
12 imports and the brands that they purchase from U.S.
13 producers. He, in effect, disputes the argument in
14 your brief, Mr. Hartquist, that U.S. producers are
15 competing for the same sales in the same
16 contemporaneous time period. That's at page 13 of
17 your brief.

18 We indicated in our preliminary
19 determination, we needed more information on the
20 effect those special promotional sales have on prices
21 and the rest of the domestic market. I know I'm going
22 to be hearing the opposite from him this afternoon,
23 and I'm wondering what you all can add. He is saying
24 there are apples and oranges here, and, day to day,
25 they are not bringing in the subject, but there has

1 been a history, obviously, of their bringing them in
2 because of the large quantity that they are looking
3 for.

4 And when I look at the fact that the
5 nonsubjects, the segment of the market that they have
6 got, I'm just wondering what you say is going on here.
7 Are you saying that other U.S. producers are competing
8 other than Five Rivers, and if so, if they are
9 competing for that promotional sale, can you document
10 it for us post-hearing?

11 MR. HARTQUIST: Well, I can't answer for
12 Wal-Mart, of course, nor can I answer for most of the
13 producers that we don't represent.

14 COMMISSIONER KOPLAN: I thought maybe the
15 union people could.

16 MR. HARTQUIST: Mr. Davis has indicated that
17 Sanyo certainly has competed and lost the competition,
18 in terms of domestic production, for that Thanksgiving
19 blitz.

20 COMMISSIONER KOPLAN: If I could just stop
21 for one second.

22 Mr. Davis, if you could expand on the
23 response you had done before and indicate when, if you
24 know, that bidding process took place. In other
25 words, was it during 2001, 2002, and 2003 period? Was

1 it prior to that? How recent was it?

2 MR. DAVIS: Of course, they don't normally
3 discuss their personal with us, not on the record,
4 anyway, but we, as the major supplier to Wal-Mart,
5 we're probably competing every year to be one because
6 that's our only customer, is Wal-Mart.

7 COMMISSIONER KOPLAN: Is it possible to put
8 some documentation on the record from your company
9 that --

10 MR. DAVIS: No, it's not possible.

11 COMMISSIONER KOPLAN: Not possible?

12 MR. DAVIS: No.

13 COMMISSIONER KOPLAN: Okay. I can
14 understand that, actually.

15 MR. MAGRATH: Commissioner?

16 COMMISSIONER KOPLAN: Yes.

17 MR. MAGRATH: Just as a general principle,
18 and this is a footnote in our brief, they want you to
19 go down a slippery slope here, a slippery slope.
20 There's Mother's Day sales. There's Father's Day
21 sales. There's Labor Day sales. All of them are
22 special. All of them have special shipments, special
23 acquisition requirements -- a slippery slope.

24 COMMISSIONER KOPLAN: I'm only asking
25 because they are claiming that as far as that special

1 promotional sale, the big one, that it's open bidding,
2 and that's why I'm trying to fill that in because I'm
3 going to be hearing it this afternoon. Mr. Hartquist?

4 MR. HARTQUIST: Well, I was just going to
5 comment further that the Wal-Mart blitz is one event
6 in a big market, and Wal-Mart certainly has
7 acknowledged that they look at domestically produced
8 TVs versus imports for the rest of the year.

9 COMMISSIONER KOPLAN: Yes.

10 MR. HARTQUIST: I think what's happening is
11 pretty clear. The imports come in and just bang the
12 domestic producers for the big promotion on
13 Thanksgiving Day weekend, and they lose the business.
14 That's part of the lost sales.

15 COMMISSIONER KOPLAN: Thank you. Mr.
16 Johnson, you have been waiting.

17 MR. TROY JOHNSON: I would just like to say,
18 I would challenge anyone to go into any Wal-Mart in
19 this country on any day and not find an Apex brand
20 television in their store, any day of the year. So
21 it's not just the blitz that we're talking about here;
22 it's any and every single day, every single Wal-Mart
23 that sells TVs.

24 COMMISSIONER KOPLAN: Thank you.

25 MR. TROY JOHNSON: You can look on the box

1 and tell where they are made.

2 COMMISSIONER KOPLAN: Thank you.

3 Mr. Lasoff, you had your hand up. Mr.
4 Johnson?

5 MR. JEFFREY JOHNSON: Just one further
6 comment with regard to the impact of those sets. I
7 just wanted to reiterate a point of my testimony that
8 those sales and the blitz can impact local producers
9 two ways. One is if they don't get the volume or
10 cannot participate in the bidding because of the low
11 prices, they lose the volume potential. That's what
12 we've been discussing so far.

13 The second impact, though, is the impact
14 that the pricing has on pricing of other products, the
15 products that the local producers do make. That low
16 price, granted it's one low price, and nobody expects
17 that price to exist all year round, nonetheless, it
18 becomes a benchmark, a reference point. Everybody
19 expects sets to be then referenced off of that low
20 point into the future so that the higher featured sets
21 are still impacted by that low price because they have
22 to bring their prices down on the higher featured
23 sets.

24 COMMISSIONER KOPLAN: Thank you.

25 Mr. Johnson, you're back again.

1 MR. TROY JOHNSON: I would like to comment
2 on the question about prices versus brand, just from a
3 consumer standpoint, not as an expert.

4 When I was a kid, we had one television, a
5 black and white one, and I remember it well. Today,
6 you would probably not go into many homes today and
7 find just one television. It's my opinion that the
8 name brands that these people are discussing as they
9 don't compete with may be for the primary television
10 in the living room that everybody watches every day,
11 but I can assure you, most people that make the kind
12 of money that I make, anyway, can go and pay that kind
13 of money for a television for every bedroom in their
14 house, and they put them there. So they are competing
15 for that part of the market as well. So I just wanted
16 to add that.

17 COMMISSIONER KOPLAN: Thank you. I have
18 nothing further.

19 VICE CHAIRMAN HILLMAN: Commissioner Lane?
20 Seeing that there are no further questions
21 from up here, I will turn to staff and see if there
22 are any questions from staff.

23 MR. BERNSTEIN: This is Marc Bernstein of
24 the Office of General Counsel. I have a couple of
25 questions, and because these questions essentially

1 concern how you parse statutory provisions, these are
2 really intended as things for you to address in your
3 post-hearing submission rather than attempt to provide
4 answers to here.

5 The first question relates to a statement
6 Mr. Magrath made at one point where he said something
7 to the effect that here the employees are really the
8 industry. Mr. Hartquist and Mr. Lasoff made similar
9 statements in their opening remarks. My question for
10 you to address is I would appreciate it if you could
11 explain whether and how you harmonize these types of
12 remarks with the provision in Section 771(4)(a) of the
13 Tariff Act of 1930 that defines the industry as the
14 producers as a whole of the domestic like product.

15 A related question is, generally speaking,
16 the provisions of the statute governing how the
17 Department of Commerce makes standing determinations
18 do not influence how the Commission defines a domestic
19 industry in an antidumping investigation. Is there
20 any reason why they should influence how the
21 Commission examines impact factors?

22 The final question I have concerns Sections
23 771(7)(f)(8), which is one of the threat factors.
24 Just to quote the statute, it states that one of the
25 factors that the Commission is to consider in making

1 threat determinations concerns the actual and
2 potential negative effects on the existing development
3 and production efforts of the domestic industry,
4 including efforts to develop a derivative or more
5 advanced version of the domestic like product.

6 The question for you to address is whether
7 this provision permits the Commission to consider the
8 domestic industry's development and production efforts
9 with respect to articles that the Commission is
10 expressly excluding from the domestic like product
11 because, for example, in this investigation because of
12 the scope definition. And, again, if you could just
13 address those in your post-hearing submission.

14 MR. HARTQUIST: We would be pleased to do
15 so. Thank you, Mr. Bernstein.

16 MR. DEYMAN: I'm George Deyman, Office of
17 Investigations. The staff has no further questions.
18 Thank you.

19 VICE CHAIRMAN HILLMAN: Thank you, Mr.
20 Deyman.

21 Mr. Price, do Respondents have any questions
22 of this panel?

23 MR. PRICE: No, we do not. Thank you.

24 VICE CHAIRMAN HILLMAN: Okay. Seeing that
25 there are no further questions, then, I think it is an

1 appropriate time to take a lunch break. The
2 Commission will stand in recess until two-fifteen.

3 I do want to remind all parties that the
4 room is not secure over the lunch hour, so if you have
5 business-proprietary information, you need to take it
6 with you. We will resume at two-fifteen.

7 (Whereupon, at 1:16 p.m., a luncheon recess
8 was taken.)

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1 trends to the subject imports. When you total --

2 It looks like this, okay?

3 When you total the U.S. industry's
4 production, imports from Mexico and Thailand and their
5 production of plasma LCD, DLP and the LiCOS products,
6 whether produced here or abroad, the volumes for the
7 U.S. producers are up and their value is way up.

8 Given that this is a public hearing, we
9 cannot discuss the individual producer trends, but
10 I urge you to look at our confidential brief in this
11 regard.

12 The only place that the pricing shows even
13 the theoretical possibility of competition between
14 China and the U.S. is for sales to retailers of
15 pricing products 2, 4, 5 and 6.

16 Now, if you'll look at Chart E of our
17 handouts, you will see that the domestic volumes in
18 these products in aggregate increased by 57 percent
19 over the POI. Again, this points to a lack of
20 competition.

21 Now, the Office of Accounting concluded that
22 the standard variance analysis was inappropriate
23 because of, quite frankly, variances in product mix.
24 We agree, but this also means that an analysis of
25 market share based upon quantity doesn't make a lot of

1 sense. Producers are concerned about sales revenues
2 and profits.

3 It makes more sense to use the value of
4 imports in determining the market share of China and
5 its relative importance in this case. China accounted
6 for an insignificant share of the U.S. market.

7 Finally, before we introduce our first
8 witness, I'd like to make one quick point.

9 Sharp essentially closed its entire U.S.
10 production line in January 2001, which was before the
11 Chinese imports ever showed up, and so we just say
12 this simple thing: Something else is going on here.
13 Something else is explaining what is really one of the
14 most fundamental and radical changes we are seeing in
15 this industry and it's an issue that we will discuss
16 as we move along today.

17 With that, I'd like to introduce Mr. Bill
18 Cody from Best Buy Company.

19 MR. CODY: Good afternoon. I'm Bill Cody,
20 Vice President for Television and Home Theater
21 Products for Best Buy. We are America's leading
22 specialty retailer of consumer electronics. We are
23 also the largest seller of T.V.s after Wal-Mart.
24 Besides Best Buy, we also sell through Magnolia Audio
25 Video, a high end audio video retailer located on the

1 West Coast, similar to Meyer Emco in the District
2 Court area. This means we must be familiar with all
3 segments of the U.S. television market.

4 It also means we are well positioned to
5 describe the role of Chinese imports in the U.S.
6 market and to explain why those imports are not
7 injuring the U.S. television industry.

8 Televisions are not commodities. I would be
9 skeptical of anyone who tells you that they are. In
10 fact, these products are branded and highly
11 differentiated. At Best Buy, we divide brands into
12 four tiers: OPP, Good, Better, and Best. We sell
13 different brands in different tiers because the
14 customers for each tier are different.

15 The prices are also very different. We have
16 found that there is little competition between brands
17 in different tiers precisely because they appeal to
18 different types of customers, even if the products are
19 essentially the same.

20 Brands are critical in selling T.V.s. Each
21 brand name has a unique reputation and a value
22 associated with it. Brand owners such as Sony and
23 Samsung spend millions of dollars annually to
24 reinforce their brand's image with the public.

25 There can be a price premium of as much as

1 100 percent for seemingly identical products based
2 solely on the brand name. The owners of well known
3 brands carefully manage the value of their brands
4 through the types of products they sell, the
5 distribution of their products and sales volume.

6 For example, highest end sub-brands like
7 Sony XPR or Pioneer Elite are distributed through our
8 Magnolia stores, but are not at Best Buy itself.
9 Brands like Toshiba, Panasonic, Philips, Samsung and
10 Zenith all have suggested retail prices which they use
11 to slot their products in the market. The brand
12 owners use sophisticated marketing methods and
13 research to introduce and position their products in
14 branded price points. Certain brands can be more
15 successful with certain types of products because of
16 their reputation.

17 Consumers may accept leading edge technology
18 from Sony or Samsung, for example, but not from Zenith
19 or LG. It can take years for brands to reposition
20 themselves in the marketplace, especially upwards.

21 Recently, several brands have deemphasized
22 traditional analog televisions to position themselves
23 as leaders in new technologies like plasma and LCD.

24 Sony, for example, won't sell curved tubes;
25 while Mitsubishi and Hitachi do not sell direct view

1 T.V.s at all. Samsung is focused on DLP, plasma and
2 LCD televisions.

3 Many brands will avoid certain product lines
4 and price points in order to avoid devaluing their
5 brand equity. Well known brands, including Sony,
6 Toshiba, Panasonic and Samsung, will not sell opening
7 price point products because OPP products are
8 inconsistent with the image they have carefully
9 cultivated with television buyers.

10 Pricing in the CTV market is driven from the
11 top down. There is a pricing gap or delta between
12 brand tiers. As a result, when price moves occur at
13 the top tiers, the relationship is maintained as
14 prices for products in the lower tiers adjust to
15 preserve the gap and remain competitive. OPP products
16 do not affect prices in the higher tiers.

17 Because the Chinese imports are concentrated
18 in the OPP and good segments, they do not force the
19 prices down for products in the Better and Best
20 segments.

21 In contrast, price moves by a dominant
22 manufacturer in the Best segment affect the pricing of
23 all the lower tiers. For example, since 2001, Sony
24 has lowered prices for its rear projection LCD set
25 from about \$6000 to a \$2700 price point so it could

1 bring its latest technology into mass market retailers
2 like Best Buy and preserve its image as a technology
3 leader. Before Sony cut its prices on rear projection
4 LCDs, many of Sony's rear projection CRT based T.V.s
5 and large screen direct view CRT T.V.s were priced at
6 the \$2700 price point. When Sony repriced its
7 advanced technology, it had to drop the prices on what
8 became its older technology to maintain the gap. This
9 forced everyone else to reposition their prices
10 downward.

11 Conversely, a price cut at the OPP price
12 point has no impact on the more expensive products in
13 other tiers because there is no overlap in price
14 points. The consumers, what they're looking for and
15 what they are willing to pay are all different.
16 Slight increases in the price gap between the OPP and
17 Good tiers does not steal sales from above.

18 The actual behavior of prices supports these
19 conclusions. Since 2001, plasma and LCD T.V.s have
20 experienced the greatest price declines, both
21 absolutely and proportionately; then rear projection
22 CRT T.V.s then pure flat CRT T.V.s and finally curved
23 T.V.s.

24 This is exactly the opposite of what you
25 would expect if Chinese imports, which are sold

1 overwhelmingly in the OPP segment, were driving the
2 market and causing price declines.

3 It has been our experience that OPP sales
4 actually enlarge the market. OPP sales do not
5 measurably affect well known brands sold in other
6 tiers such as Sanyo, Sony, Toshiba, Panasonic and
7 Samsung. Frankly, the customer doesn't come into our
8 store intending to buy a high quality Samsung 27-inch
9 pure flat and decide to buy an Apex instead just
10 because it is cheaper.

11 Further, while all of our OPP products are
12 imports, China is not the only source of OPP products
13 available. In fact, Best Buy has replaced 27-inch
14 Apex products produced in China with Orion products
15 sold under the Sansui name. Even though Orion has
16 U.S. facilities, it is making these products in
17 Thailand.

18 Best Buy has also shifted the sourcing of
19 it's 32-inch OPP product from Apex to Funai because
20 Funai was more competitive.

21 It has been Best Buy's experience that the
22 U.S. producers are focusing on higher tech, higher
23 value-added products that are the future of the T.V.
24 industry and not the bottom end of the market. If
25 antidumping duties are imposed, OPP products from

1 other countries will simply replace Chinese imports in
2 the U.S. market.

3 Thank you.

4 MR. PRICE: I would quickly like to draw the
5 commission's attention to that Sansui set over there
6 which literally came out of one Best Buy store right
7 around this area. You'll see the Thailand origin
8 label on it and that it's from Orion.

9 I would also like to draw your attention to
10 the latest import statistics for January and February
11 for these product lines and what you'll actually see
12 is that while Chinese T.V.s declined in volume, they
13 were more than offset by increases in imports from
14 non-subject sources.

15 I would now like to introduce Mr. Kevin
16 O'Connor with Wal-Mart.

17 MR. O'CONNOR: Thank you and good afternoon.
18 My name is Kevin O'Connor and I'm the Vice President,
19 Divisional Merchandise Manager with Wal-Mart Stores
20 and I'm in charge of our home entertainment division
21 there at Wal-Mart.

22 I oversee the Wal-Mart division in charge of
23 buying and merchandising electronics and I have been
24 with our company for seven years. One of principle
25 responsibilities is to supervise purchases of color

1 televisions for Wal-Mart. I also work closely with my
2 counterpart at Sam's and I am knowledgeable of their
3 operations. So on behalf of Wal-Mart I appreciate the
4 opportunity to address the commission this afternoon
5 regarding the antidumping injury investigation of
6 color televisions from China.

7 The color televisions we have imported from
8 China occupy a unique niche in the U.S. market. They
9 are in the lowest tier of features and perceived
10 quality and were specifically ordered for our
11 Thanksgiving blitz. We believe that these T.V.s do
12 not compete with domestically produced color
13 televisions and have not had any adverse effect on the
14 domestic color T.V. producers.

15 Wal-Mart purchases color T.V.s for two
16 distinct purposes, namely for everyday sales which are
17 the color T.V.s displayed on our shelves for consumers
18 to purchase as part of our daily business and then for
19 our Thanksgiving blitz, which is a special one-day
20 event.

21 The two types of sales are different with
22 regard to product, purchasing, pricing and product
23 availability. The blitz event does not compete with
24 everyday sales. In fact, it's a stimulus for our
25 everyday business.

1 Now I'd like to talk a little bit more about
2 our everyday business. Our everyday offering of color
3 T.V.s include numerous models and brands which cover a
4 range of features from basic sets to high end models.
5 We categorize the U.S. television market in terms of
6 three tiers, Good, Better and Best.

7 These tiers are predominantly determined by
8 brand and there generally is a correlation between a
9 brand's ranking and the brand's features, pricing and
10 perceived quality. Brand premium is not merely a
11 marketing concept; rather, it plays out in retail
12 pricing and display as well as in buying and selling
13 decisions every day.

14 Customers definitely perceive quality and
15 reliability differences based on brand names. In
16 fact, a significant number of customers shop by brand,
17 especially in the better and best tiers and we
18 perceive only minimal competition between good brands
19 on the one hand and better and best brands on the
20 other hand.

21 Because of their brands and features, U.S.
22 produced sets are predominantly in the Better and Best
23 tiers while the color T.V.s imported by Wal-Mart are
24 in the lower end of the Good category. Our customers
25 for everyday sales expect a choice of brands and

1 features in each screen size and tier and we display
2 our color T.V. offerings side by side on our sales for
3 examination, comparison and purchase by our customers.

4 When purchasing color T.V.s for our everyday
5 sales, we generally work with established suppliers
6 from which we purchase T.V.s on a regular basis. In
7 addition, we publicly invite potential business
8 partners to a new supplier conference where they can
9 meet with Wal-Mart buyers to discuss requirements and
10 opportunities at Wal-Mart.

11 While Wal-Mart does not formally request
12 bids for our everyday business, our buyers do meet
13 frequently with our suppliers to provide forecasts and
14 discuss the manufacturer's ability to supply our
15 needs.

16 We depend extensively on our U.S. suppliers
17 for our everyday sales, particularly for merchandise
18 in the Better and Best categories and we have
19 excellent and mutually beneficial relationships with
20 our U.S. suppliers.

21 In fact, Sanyo, which is one of our largest
22 suppliers of color T.V., is our supplier of the year
23 for 2003 and they will be recognized a week from
24 tomorrow in Bentonville, Arkansas.

25 Overall, our U.S. suppliers are experiencing

1 growth in their business with Wal-Mart. On the other
2 hand, certain U.S. producers have refused to do
3 business with Wal-Mart, apparently as part of a
4 strategy for maintaining brand separation and Five
5 Rivers has never approached us to sell color T.V.s.

6 I mentioned these facts at the preliminary
7 staff conference later last year and since then one of
8 the producers has agreed to sell to Wal-Mart on a
9 limited test basis; however, we have heard nothing
10 from Five Rivers.

11 We operate our stores under the principle
12 that at least 98 percent of all the products we sell
13 are available to our customers all the time. In order
14 to be considered a reliable supplier, the supplier
15 must produce and deliver all of its products to us on
16 a timely basis. Other key factors that we consider in
17 selecting suppliers include brand names sought by our
18 customers, styling and features, availability of a
19 family of products under the same brand, product
20 quality, and supplier responsiveness.

21 We buy a variety of brands and models. We
22 sell color T.V.s in all three tiers, Good, Better and
23 Best, and across a broad spectrum of prices in order
24 to respond to the broad range of consumer preferences
25 that we have in our stores.

1 Wal-Mart has not imported color T.V.s from
2 China for everyday sales. We did purchase a limited
3 amount of Chinese-made color T.V.s from a U.S.
4 importer and we did this only after our U.S. supplier
5 was unable to meet its delivery commitments to us. We
6 also imported color T.V.s for our everyday sales from
7 Malaysia, the other country named by Petitioners in
8 their antidumping complaint. As the commission knows,
9 the Commerce Department has made a negative
10 determination with respect to Malaysia, and therefore
11 color T.V.s from Malaysia are no longer subject
12 merchandise but are fairly traded third-country
13 imports.

14 Even when purchasing color T.V.s from U.S.
15 producers, we may receive imports from third
16 countries, as all of the major U.S. producers make
17 color T.V.s in the U.S. and are also affiliated with
18 or operate plants in third countries. In filling our
19 orders, our U.S. suppliers determine whether they're
20 going to provide us T.V.s produced in the U.S. or
21 import that merchandise. We do not make that
22 decision.

23 For our Thanksgiving blitz, I would like to
24 expand a little bit about what we do there. In
25 addition to everyday sales, we also sell color T.V.s

1 during our annual Thanksgiving blitz. This sale
2 differs from our everyday color T.V.s sales in several
3 significant respects and does not compete either with
4 our everyday sales or with the U.S.-produced color
5 T.V.s. Indeed, during the week of the blitz, our
6 everyday sales actually increase due to the increased
7 foot traffic in our stores.

8 The blitz is a once-a-year, one-day event
9 that takes place on the Friday immediately following
10 Thanksgiving, which is the beginning of the Christmas
11 shopping season. As for virtually all retailers, the
12 five weeks of Christmas season is a crucial
13 merchandising period and a strong Friday after
14 Thanksgiving is critical, as it's the busiest shopping
15 day of the year.

16 More importantly, heavy foot traffic on the
17 first official shopping day of the season when stores
18 have all the holiday merchandise set on display can
19 generate more repeat trips from the customers that
20 come in earlier that will come back later again in the
21 season.

22 The blitz is a heavily advertised,
23 nationwide promotion that features specific electronic
24 products, including basic entry level color T.V.s.
25 There are no frill, opening price point models which

1 are purchased specifically for this event. Given the
2 importance of the blitz to our business, the company
3 has a stringent process through which we solicit and
4 evaluate suppliers and their bids for the one-day
5 blitz promotion.

6 Wal-Mart meets with potential suppliers and
7 requests bids at the beginning of the year. Following
8 negotiations, orders are awarded in late winter or
9 early spring in order to ensure that supply is shipped
10 during the summer. This will allow us sufficient time
11 to arrange delivery to our 3000 retail locations.

12 To qualify as a potential supplier of blitz
13 merchandise, a vendor must meet several basic
14 requirements, including a proven track record of
15 producing a good tier unit with excellent reliability,
16 the ability to produce and ship a large volume of
17 merchandise within a relatively short period of time,
18 and the ability to offer a family of electronic
19 products.

20 In order to ensure that the merchandise is
21 in stores in time for the blitz event, the supplier's
22 production and logistics capabilities and reliability
23 are exceeding important purchase considerations for
24 us.

25 Merchandise for the blitz is delivered in

1 full containers to our staging areas over a period of
2 months prior to the sale. We warehouse the
3 merchandise at these staging areas and make all of the
4 logistical preparations necessary to ensure that the
5 entire quantity of the blitz order is in stores and
6 ready to be sold on the day after Thanksgiving.

7 Color T.V.s for the blitz sale are placed in
8 our stores in the middle of aisles, still in shrink
9 wrap, still on pallets, they're not displayed in our
10 electronics department. The sale officially lasts
11 only five hours, from six a.m. to eleven a.m. When
12 the doors open, the customers rush to purchase their
13 blitz T.V.s. Many of our customers purchase multiple
14 sets. Most of the blitz color T.V.s are sold within
15 four hours after the sale starts. Once they are sold
16 out or at the end of the five hours, the promotion is
17 finished.

18 Blitz promotion sales of color T.V.s do not
19 compete with our everyday sales, but rather expand the
20 color T.V. market. There are two reasons for this.
21 First, the sets are no frill, opening price point
22 models. Second, the blitz color T.V.s are not
23 regularly stocked merchandise. They are available
24 only during the one-day blitz event and even then they
25 are gone within hours and the customer only has one

1 brand to choose from and one set of features, that's
2 it.

3 We did not import color T.V.s from China for
4 the blitz until 2003. For the 2002 blitz, we sold an
5 opening price point 27-inch round tube analog model
6 imported from Malaysia. In 2003, the blitz again
7 covered an entry level 27-inch round tube analog color
8 T.V. but the sets were produced by two suppliers, one
9 in Malaysia and one in China.

10 Domestic suppliers have not been able or
11 willing to commit to producing 27-inch color T.V.s in
12 the U.S. for our blitz promotion. This presumably is
13 due to the specific characteristics of the blitz
14 order: namely, it's a large volume of relatively low
15 value sets with a critical delivery schedule. This
16 production commitment would displace higher end
17 production and would limit a producer's ability to
18 turn out its normal production line during the same
19 period of time that it would have to manufacture the
20 blitz merchandise.

21 So in summary, Wal-Mart's imports of color
22 T.V.s from China have not had an adverse effect on the
23 domestic color T.V. industry. They have been
24 exclusively for the annual blitz promotion. Due to
25 the unique characteristics of this promotion, blitz

1 sales do not compete with or detract from our everyday
2 sales of color T.V.s and therefore do not compete with
3 domestic color T.V. production.

4 The other Chinese-made T.V.s we sold during
5 the period of investigation were purchased from a U.S.
6 importer and were needed to meet our 98 percent in
7 stock requirement when a U.S. producer was unable to
8 keep up with its delivery schedule.

9 The bottom line is that Wal-Mart enjoys an
10 excellent relationship with its U.S. suppliers and we
11 purchase extensively from them. The fact that a U.S.
12 producer is our supplier of the year for 2003 and the
13 fact that none of the major U.S. producers are
14 appearing here today underscores the fact that color
15 T.V. imports from China are not causing or threatening
16 to cause injunction to the U.S. industry.

17 Thank you for this opportunity to appear
18 before you. I will be pleased to answer any questions
19 you have at that time.

20 VICE CHAIRMAN HILLMAN: Thank you.

21 Now we're going to hear from Jim Ninesling.

22 MR. NINESLING: Thank you and good
23 afternoon. For the record, my name is Jim Ninesling.
24 I'm Vice President of Marketing for Mainstream
25 Television, Philips Consumer Electronics, North

1 America.

2 I'm here to offer Philips' perspective on
3 competition in the U.S. market for color television
4 receivers.

5 You heard this morning from Petitioners'
6 witnesses, none of whom actually sells T.V.s to the
7 public. In contrast, Philips produces T.V.s itself,
8 including Magnavox brand T.V.s in several locations
9 globally, including Mexico and China.

10 Philips also purchases T.V.s from Five
11 Rivers badged under the Philips brand names and
12 imports T.V.s from a China producer badged under the
13 Magnavox name.

14 Philips also knows about Five Rivers, not
15 only as one of Five Rivers' major customers, but also
16 because Philips used to own the assembly plant that
17 Five Rivers now operates.

18 Finally, as one of the global leaders in the
19 development, production and marketing of both
20 CRT-based and flat paneled televisions, analog and
21 digital, Philips understands the dynamics of global
22 sourcing and marketing in the T.V. industry.

23 So today I'm going to focus on three points:
24 First, the importance of brand in the T.V. industry;
25 second, the role of new technologies; and, thirdly,

1 Philips' global sourcing strategy.

2 First, I'll address the importance of brand.
3 As a marketing executive for Philips, much of my job
4 is focused on building our brand names in the U.S.
5 market. At Philips, we have two brands, Philips and
6 Magnavox, and each brand caters to different types of
7 customers, those customers being both retailers or
8 consumers, and each brand is sold at different prices.

9 Why? Because the brand name embodies the
10 customer's perception of quality. As a result, the
11 consumer's perception of the higher quality of the
12 Philips branded T.V. is reflected in a higher price
13 than a similar Magnavox branded T.V.

14 The Petitioners' claim that brand doesn't
15 matter is actually silly. If it were true, as
16 mentioned earlier, you would see Five Rivers' branded
17 T.V.s at retail outlets.

18 Why would Philips or Sony or, for that
19 matter, Wal-Mart or Best Buy, spend millions of
20 dollars on advertising and promotion if brand name
21 didn't matter?

22 The importance of brand names has resulted
23 in a T.V. market divided into several tiers. The
24 bottom tier is represented by television brands
25 commonly known as opening price point or OPP products.

1 The OPP products generally consist of brand names that
2 are new and unfamiliar to the public or older brand
3 names that historically have been associated with the
4 lowest price, lowest quality televisions.

5 An example of a new name in the OPP category
6 is Apex and an example of an old name for a budget
7 branded television is Emerson.

8 At a higher tier, there are brands such as
9 Magnavox and at a higher tier still there are brands
10 such as Philips. Nearly all of the brand names with
11 U.S. assembly operations, Sony, Toshiba, Panasonic,
12 Sanyo, are above the OPP tier. Orion is the only U.S.
13 made brand that is generally considered an OPP
14 product.

15 The brand name largely drives consumer
16 conception of the quality of the product and it's this
17 perception that causes the products to fall into
18 different tiers, with different prices for products
19 with similar features.

20 Price competition within each tier is fierce
21 and price competition from one tier to an adjoining
22 tier is minimal but the price competition between the
23 top and the bottom tiers is essentially non-existent.

24 As a result, the Chinese-produced Apex model
25 competes vigorously with the Malaysian-produced

1 Emerson model because a customer who is willing to buy
2 a T.V. with the Apex brand on it is probably just as
3 willing to buy a T.V. with the Emerson brand on it,
4 and thus the decision will come down to features and
5 price.

6 However, it would be highly unusual for a
7 potential Philips customer to consider either an Apex
8 or an Emerson because a customer is willing to step up
9 to a Philips brand is prepared to pay more based on
10 the knowledge that they have that the Philips quality
11 is better.

12 Frequently, the customer will spend more to
13 get a Philips or Sony T.V. for the primary television
14 in the house and purchase the OPP Apex or Emerson
15 television for a guest bedroom or another secondary
16 use in the house. Sometimes the customer will
17 purchase the OPP television because it's all the
18 customer can afford. Or without the availability of
19 the OPP brand, the customer would not purchase a T.V.
20 at all. Thus, the price competition between
21 Chinese-produced Apex and Malaysian produced T.V.s
22 does not dictate prices for U.S.-produced Sony,
23 Panasonic, Toshiba or Sanyo.

24 As I see it, the only producer with U.S.
25 assembly operations that could possibly be competing

1 head-to-head with the Chinese product is Orion.

2 I was a bit amused that the Petitioners
3 argued in their brief that simply because Apex has a
4 full range of models in their catalog, including a
5 high definition projection T.V., that segmentation by
6 tiers does not exist and Apex competes with all of the
7 brands produced in the United States.

8 This is the kind of argument that we should
9 expect from people who only manufacture T.V. and don't
10 actually market them. The Petitioners are confusing
11 brand defined tiers with features. Separate tiers
12 exist for every type of television with the same
13 features. Apex is at the opening price point for
14 every size of high definition projection television,
15 just as they are with respect to every 24-inch direct
16 view television with no features.

17 So even though Apex's high definition
18 projection T.V. may be more expensive than the basic
19 24-inch Sony model, it doesn't mean that Apex is in
20 the same tier as Sony.

21 And, in short, brand does matter. Brand
22 results in separate tiers and the existence of
23 separate brand tiers attenuates price competition.
24 Don't let Petitioners confuse differences in features
25 with differences in brand.

1 One way in which I see price competition
2 between tiers is through the influence of new non-CRT
3 technologies, such as plasma, LCD and LCOS. I'm here
4 to tell you that I have seen the future of T.V.s and
5 the future is flat.

6 If I can draw your attention to the handouts
7 or the charts here just for one minute, what this
8 demonstrates in a snapshot is a product life cycle
9 curve with some of the consumer electronics products
10 thrown onto it.

11 The first thing that you might notice is
12 that on the back side of the curve, way down near the
13 bottom, is CRT monitors. That refers to those CRT
14 monitors we use with our computers. Why is it so far
15 down the back side of the life cycle curve? Because
16 LCD monitors you see approaching the top of what we
17 call the tornado phase of the product life cycle curve
18 has pushed them out there.

19 You see the same thing going on with CRT
20 T.V. It's past the apex, no pun intended. It's on a
21 downward slope of the curve and there are additional
22 influences with downward pressure on that side of the
23 curve that we can talk about during the Q&A session.

24 On the front side of the tornado curve, you
25 see flat T.V., plasma and LCD.

1 On the next slide, essentially what you can
2 see is our glimpse of the industry by display
3 technology in value over the years. So we can see the
4 flat T.V. or plasma and LCD products coming in in the
5 red portion of the chart growing dramatically year
6 over year, as CRT in green at the bottom of the chart
7 declines dramatically year over year with other
8 technologies in between.

9 Although these technologies were first
10 introduced in the late '80s, and I speak now of the
11 higher technology products, significant commercial
12 sales do not begin until about 200. As commercial
13 sales of the new flat technologies have increased,
14 producers have cut costs through efficient fabrication
15 techniques and economies of scale.

16 Price competition among producers of the new
17 flat technologies has intensified and that has forced
18 T.V. producers in the top tiers to reduce their
19 prices, both within the same brand and in comparison
20 to other brands in the same tier.

21 Philips has had to reduce its prices for
22 most of its top of the line CRT-based T.V.s in order
23 to maintain a meaningful price distance between those
24 products and Philips' plasma, LCD and LCOS
25 televisions, for example.

1 To be specific, less than two years ago,
2 Philips marketed a 30-inch wide screen digital CRT
3 product for \$2000. Then, plasma showed up at an
4 obtainable price point for the consumer. In order to
5 maintain an acceptable volume level for us on that
6 30-inch product, that product's retail price has been
7 eroded to well below \$1000, with zero pressure from
8 any Chinese source product. It was our reaction to
9 the plasma invasion. So Philips has decreased the
10 price of its best CRT-based T.V.s in order to maintain
11 a healthy distance from its plasma T.V.s. The
12 reverse, however, is not true. Philips has not
13 reduced its T.V. prices to compete with Apex or
14 Emerson models because Philips branded T.V.s simply
15 don't compete with these OPP brands.

16 The companies that make the brands in the
17 top tiers are leading the way in this technological
18 revolution and this should be no surprise. Companies
19 such as Philips and Sony are not deploying their
20 capacity for these new technologies in order to
21 compete in the OPP market, but instead we are gearing
22 up to compete in the top tiers.

23 Finally, let me give a few minutes about
24 Philips' global sourcing strategy and the role of Five
25 Rivers. As you know, Philips is one of Five Rivers'

1 biggest customers. Let me explain how Five Rivers
2 fits in with Philips' marketing strategy. Philips'
3 market is serviced primarily by Philips' own
4 production facility in Juarez, Mexico.

5 This is typical of many producers because
6 imports from Mexico generally dominate the U.S.
7 market. Philips' produced T.V.s in Juarez for the
8 U.S. market long before it sold its Tennessee
9 production operations to Five Rivers' parent company
10 in 1997. Philips formerly used Five Rivers primarily
11 as an overflow facility to produce products that
12 Juarez, Mexico cannot produce and as a convenience for
13 small production runs and the development of special
14 products. Currently, Philips uses Five Rivers only
15 for the production of non-subject products,
16 specifically, LCOS televisions.

17 Since 2001, with the exception of one
18 36-inch direct view T.V. model, Philips has purchased
19 only large projection televisions from Five Rivers
20 with the smallest projection television being a
21 50-inch model.

22 In contrast, Philips sources entirely
23 different T.V. from China. The details are discussed
24 in the pre-hearing brief, so I won't dwell on them
25 here.

1 Philips did decrease its orders of
2 televisions from Five Rivers during the period of
3 investigation. As detailed in Philips' pre-hearing
4 brief, however, these models were either discontinued
5 and sometimes replaced by updated versions produced in
6 Philips' plant in Juarez, Mexico, but in no way was
7 any model shifted from Five Rivers to China.

8 Finally, as a footnote, Philips has recently
9 decided to shift most of its Magnavox production of
10 subject T.V.s for the U.S. from TCL in China to
11 Philips' factory in Juarez, Mexico. Philips made this
12 decision for several reasons that have nothing to do
13 with antidumping proceedings against T.V.s from China.

14 In 2003, Philips sourced a 27-inch Magnavox
15 T.V. from TCL because of a shortage in 27-inch picture
16 tubes from LG.Philips Display in Mexico, the tubes
17 were on allocation, and because of a lack of T.V.
18 production capacity in the Juarez, Mexico assembly
19 plant. It made more sense to make the arrangement
20 with TCL to source the complete T.V. from China than
21 to ship the picture tubes from overseas and try to
22 make room for additional manufacturing in Juarez,
23 Mexico, which didn't exist.

24 The situation in 2004, however, is
25 different. Philips has secured sufficient 27-inch

1 picture tubes from LG.Philips Displays in Mexico and
2 sufficient T.V. assembly capacity in Mexico, so
3 Philips is now producing in Mexico all of the Magnavox
4 subject T.V.s that it sourced in 2003 from TCL in
5 China.

6 However, let there be no mistake: if
7 antidumping duties are imposed, the production from
8 other producers currently sourcing from China is
9 likely to go to Mexico or to other countries not
10 subject to antidumping duties such as Malaysia or
11 Thailand.

12 I see absolutely no reason to believe that
13 imposing antidumping duties on T.V.s from China will
14 save even one manufacturing job in the United States.

15 Thank you for your time.

16 MR. PRICE: Thank you.

17 I would now like to introduce Gary Bennett
18 of Apex Digital.

19 MR. BENNETT: Good afternoon. My name is
20 Gary Bennett and I'm Senior Vice President of Sales
21 and Marketing for Apex Digital, Inc. I've been in the
22 television industry for 29 years. Prior to working
23 for Apex, I spent 12 years with Hitachi Home
24 Electronics as Executive Vice President. I have also
25 worked for Mitsubishi and Sony.

1 Apex Digital is an American company based in
2 Ontario, California which employs more than 100 people
3 in addition to 60 independent sales representatives
4 across the country. Apex Digital has been a
5 significant importer of direct view analog televisions
6 as well as a very small number of projection T.V.s
7 from Chinese producers.

8 Apex has focused on the opening price point
9 segment of the market which distinguishes it from the
10 majority of U.S. color T.V. producers.

11 Apex entered the U.S. market because we saw
12 that the opening price point niche was under supplied.
13 We didn't push U.S. producers out of that segment, we
14 were pulled into it because U.S. producers had no
15 interest in supplying that type of product.

16 The domestic producers are more accurately
17 identified as belonging to the Better or Best segment
18 of the market. Given that we operate in a different
19 segment of the market than most of the domestic
20 producers, Apex Digital's products do not generally
21 compete with the merchandise produced in the United
22 States. Rather, Apex's competitors are other foreign
23 producers. Our two major competitors are Orion Power
24 with televisions produced by brand names like Sansui
25 from Thailand and Funai, product produced in Malaysia.

1 Producers at the opening price point need to
2 be able to offer confirmed supply and availability on
3 short notice. This is because in today's market,
4 promotion drives the consumer electronics industry.
5 Most retailers recognize a need to have promotions in
6 order to draw customers into their stores, especially
7 during the Christmas holiday shopping season. In
8 order to do so, retailers need value brands that they
9 can offer as a feature or promotional item.

10 The Petitioners have spent a great deal of
11 energy in their pre-hearing brief attempting to claim
12 that Apex's line of products are not limited to
13 opening price point televisions and that Apex is
14 encroaching into the more high end sets that will
15 eventually displace sales of U.S. produced
16 televisions. This simply not true.

17 On the few occasions when Apex has offered
18 models for sale at higher feature content, we have
19 been unsuccessful in penetrating those markets and we
20 were forced to withdraw.

21 As stated by the other witnesses, it is a
22 branding issue. Consumers have not been wiling to pay
23 higher prices for more highly featured Apex brand
24 products as compared to Toshiba's or a Sony or a
25 Panasonic or a Samsung.

1 One case in point is Apex's foray into sales
2 of large screen projection T.V.s. The Petitioners
3 have argued that Apex's participation in the
4 projection T.V. market is inconsistent with opening
5 price point brand.

6 When Apex entered the projection T.V.
7 market, we believed that there was a demand for
8 opening price point models. We were incorrect.
9 Apex's attempt to compete in the large screen
10 projection T.V. markets was a failure for a variety of
11 reasons. There was limited demand for an opening
12 price point model in the projection T.V. market and
13 consumers were reluctant to spend a large amount of
14 money on the Apex branded televisions. The majority
15 of the large screen projection T.V.s sold by Apex had
16 an aspect ratio of four by three. As the commission
17 is aware, four by three aspect ratio is an old style
18 format.

19 Demand in the large screen T.V. market has
20 shifted to the 16-by-nine aspect ratio of screens,
21 with a wide screen format, similar to that in a movie
22 theater. In essence, Apex was providing the market
23 with a T.V. model that was not state of the art in a
24 market segment where consumers typically demand the
25 most up to date features, technology and appearances.

1 Outdated technology had been used in manufacturing
2 these projection sets. The convergence focusing
3 system, for example, on the T.V. required extensive
4 manual adjustments, causing excessive service calls.

5 The result of Apex's unsuccessful attempt to
6 enter the large screen project T.V. market was that we
7 only sold a small number of units over a three-year
8 period, accounting for less than 1/100th of one
9 percent of the domestic U.S. T.V. consumption in 2003.

10 This negligible amount of large screen
11 projection T.V. sales hardly constitutes the large
12 volume of projection televisions that Petitioners
13 claim in their pre-hearing brief. This volume of
14 sales would have been even less had Apex not felt
15 obligated to purchase from Chen Hong the final batch
16 of projection T.V. units that had already been fair
17 dealing and were sitting in a warehouse in China, even
18 after Apex had made the decision to stop selling these
19 products.

20 Although not as dramatic as with projection
21 television, a similar scenario occurred when Apex
22 marketed a pure flat screen television. When we first
23 introduced pure flat T.V.s, we had two different
24 models with two different feature packages. One line
25 was very basic and was no different from our basic

1 opening price point television except that the round
2 tube was replaced with a pure flat tube.

3 The product line with higher feature content
4 was almost unanimously rejected by television dealers.
5 Retailers had no interest in carrying an Apex brand
6 television with a higher end feature package as they
7 were reserving those feature packages for name brand
8 sets, not value branded models such as Apex.

9 Moreover, we were told that the price point
10 of the Apex brand pure flat with the higher end
11 feature package was too close to the price point of
12 the better Japanese branded model with similar, if not
13 better, features and technology.

14 Finally, it is important to note that while
15 Apex do not offer models with the pure flat screen,
16 these sales do not represent a significant part of our
17 overall business and constitute only 1.3 percent of
18 U.S. television consumption in 2003.

19 It is also important for the commission to
20 understand that flat screen T.V.s are becoming the
21 industry standard. Curved screen model T.V.s are now
22 viewed by the retail and consumer alike as outdated
23 technology. It will not be too long before curved
24 screen T.V.s will no longer be sold within the U.S.
25 market in any market segment.

1 The tube manufacturers themselves are moving
2 towards mass production of pure flat tubes and
3 replacement round tubes. Given this transition away
4 from round tubes, it is entirely logical that at an
5 opening price point a pure flat screen television
6 would become available in the market.

7 In the future, we will continue to focus on
8 the opening price point segment of the market where we
9 have learned from experience that Apex branded product
10 can be successfully marketed. Apex has begun to
11 diversify its product range into a variety of other
12 electronic products such as digital cameras and
13 portable DVD players which we will offer at the
14 opening price point.

15 We do not plan to compete with the higher
16 end U.S.-produced television models and brands because
17 we cannot compete at that level.

18 Thank you for your attention. I'd be happy
19 to answer any questions that you may have.

20 MR. PRICE: Thank you.

21 Now we'll hear from Professor David Bell.

22 MR. BELL: Good afternoon. My name is David
23 Bell. I have a Ph.D. from MIT some time ago. I have
24 been a professor at Harvard Business School for the
25 last 25 years. I am now head of the marketing

1 department. I teach courses on marketing and
2 retailing. Brands and branding are an important part
3 of what I teach and think about.

4 I'm here to talk about T.V. buying behavior
5 by consumers and retailers with a particular emphasis
6 on the influence of lower priced sets.

7 VICE CHAIRMAN HILLMAN: Professor Bell,
8 I hate to interrupt, but can you pull that microphone
9 just a little bit closer? It's just hard to hear up
10 here.

11 MR. BELL: I'm sorry. You don't want me to
12 start over, I assume.

13 What I say here is based in part on my own
14 experience, as well as on a survey done by Charles
15 River Associates of 614 recent T.V. consumer purchases
16 and of eight large retail buyers. I assisted in the
17 design of the survey and in the analysis of the
18 results. I'm told that consumer surveys are not a
19 common feature in this hearing room, but I can attest
20 that this one was done in accordance with traditional
21 well accepted methods and forms of analysis.

22 I am pleased to report that in my
23 experience, the opinions of retailers we interviewed,
24 and the data we have on consumers are in agreement.

25 I would like to talk for a moment about the

1 importance of brands and branding in general. All
2 companies strive to be differentiated from their
3 competitors. They must do this or they will become a
4 commodity. Most companies create differentiation by
5 offering something special to a particular segment of
6 consumers. They try to appeal to the particular needs
7 of that segment.

8 Over time, a company will earn a reputation
9 among consumers for their consistent ability to
10 produce products for that segment. That is, they
11 develop a brand reputation.

12 In cars, Mercedes and BMW are luxury brands;
13 Kia and Hyundai are more basic brands. When people
14 are ready to buy, they gravitate naturally to the
15 brand they trust and that is appropriate for them. A
16 car buyer doesn't say "I was going to buy a Mercedes,
17 but I see the Kias are on sale."

18 Restaurantgoers don't say, "Well, we were
19 going to La Cirque but I hear that McDonald's now
20 offers salads."

21 These examples may seem a bit extreme, but
22 they illustrate a truism in marketing, that by
23 assiduous attention to branding, consumers won't
24 consider all cars or all restaurants when making
25 choices.

1 In fact, if a company wishes to sell
2 products in more than one segment, it will often adopt
3 different brand names for its products so as not to
4 confuse customers. Think Toyota and Lexus in cars or
5 Philips and Magnavox in T.V.s.

6 Allow me to show you some the results we got
7 from our consumer survey. Our consumer respondents
8 answered questions about what T.V. they bought and
9 what motivated them to buy those sets. Using comments
10 from retailers in the staff report and our own survey
11 of retailers, we separated T.V. brands into four
12 layers. We then separated the consumers into four
13 groups according to which tier of T.V. they had
14 bought.

15 We found some clear differences between the
16 kinds of people who buy from each tier, which is
17 exactly what I would have expected.

18 Table 3 from our report, if you look at the
19 first line just by way of example, we asked people how
20 important was the clarity of the picture in the store,
21 and everybody agrees that clarity of picture in the
22 store is pretty important and there's no difference
23 across the spectrums.

24 If we go down to a brand name I respect, we
25 see that tier 1 is a 4.2, 3.8, 3.08, it is different

1 for 4.2, but I wanted to point out the 2.6, which is
2 quite a bit lower, way significantly lower, than the
3 number in tier 3, suggesting that people in tier 4 are
4 not so concerned about brands.

5 Spending as little as possible on a T.V., we
6 see that the lower two tiers are much higher scores on
7 resonating to that as a motivation.

8 If I highlight all the differences between
9 the segments, you can see why this needs to be four
10 tiers. The first tier are people that are concerned
11 about brands and features. I had mentioned the step
12 at the bottom is people who are concerned about
13 features. The tier 2 are concerned about brands but
14 don't seem to be particularly motivated either by
15 features or price. When we get down to tier 3,
16 people are still concerned about brand, but they're
17 beginning to become worried about price, and in the
18 lowest level, price is the only thing we can get them
19 to resonate to.

20 Table 5 asked similar kinds of questions.
21 The first table I showed was more individual features,
22 this was overall motivation. If you move down that
23 list, you see a similar breakdown of exactly the same
24 kinds of motivations.

25 The people who answered the consumer survey,

1 we know their demographics so we're able to also look
2 at how demographics differs by tier. I have
3 highlighted these by color, but you notice that as we
4 go down from tier 1 to tier 4, you can see some
5 substantial differences in the demographics of these
6 two, so tier 4 brands are sold to more women, to lower
7 income people. Very few married with no children
8 buying tier 4 brands, they're all buying the tier 1
9 brands. A lot of the tier 4, 53 percent, are bought
10 by people with children at home. As you look at those
11 demographics, one can see that there are not just the
12 price brand tradeoff issues for these people with
13 demographics that are quite different. One can
14 perhaps understand or guess why people who buy
15 tier 4 brands will not be buying tier 1 brands.

16 The last table I would like to show you is
17 attitude toward brand name. Here, we asked the
18 question at the top left, "I cannot imagine myself
19 ever buying that brand of color T.V. or I'm not sure."
20 We see the people in tiers 1, 2, and 3, some people
21 apparently not prepared to buy Panasonic, but as we
22 get lower down, suddenly when we get to Apex, Prism,
23 Advent, et cetera, more than half our sample would not
24 consider or wouldn't be sure about buying a brand with
25 that kind of name.

1 Over on the right, in tier 4, although it
2 does increase as we go down this list, Apex, only 17
3 percent would not consider. We see a difference
4 between the tiers and their attitude towards brands.

5 So we conducted this survey on consumers.
6 We also had a more qualitative survey of retailers,
7 where we asked whether the general decline in prices
8 was due to downward price pressure from cheaper T.V.s
9 or because of downward price pressure from the better
10 T.V.s. In other words, have Sony's prices declined
11 because they have to compete with Apex or has Apex had
12 to lower prices to compete with Sony?

13 The answers were clear: Sony is the
14 undisputed king of the T.V. market and it sets the
15 pace. They set the price pattern in the industry and
16 everyone else follows.

17 A second question we asked was about
18 retailer's reason for offering very low priced T.V.s.
19 The reason they offer these T.V.s is to create a
20 favorable price impression for their stores when they
21 advertise. These opening price point T.V.s draw a lot
22 of traffic. While some of this traffic does buy the
23 cheap T.V.s, many of them buy better T.V.s so that
24 total sales of better T.V.s increase by offering the
25 lower priced T.V.s due to the increased traffic. In

1 effect, everyone wins.

2 To summarize, the data we collected confirms
3 that there are very clear customer segments and very
4 clear brand tiers that serve those segments. The T.V.
5 market is far from being a commodity market, thanks to
6 the brand building efforts of the companies involved,
7 so that for most consumers price is not the primary
8 motivator in their purchasing behavior.

9 Thank you.

10 MR. PRICE: I would now like to introduce
11 Mr. Seth Kaplan.

12 MR. KAPLAN: Good afternoon. I'm going to
13 talk a little bit about what didn't cause some of the
14 trends you see in the data and then a little bit about
15 what did.

16 I think there are three important facts that
17 the commission should focus on as conditions of
18 competition in this market. The first one, I think,
19 has been definitively shown by the witnesses
20 testifying before me and that is the importance of
21 brand. There are brands, there are tiers. All of the
22 brands produced in the United States except Orion are
23 in a different tier than the Chinese imports. Most of
24 them are in the top tier. The Chinese product is in
25 the bottom. These products do not compete.

1 As our study showed and our interview showed
2 and as experience shows, practically no one will
3 switch from a Toshiba, Sony, Panasonic, Philips or
4 Sanyo to an Apex.

5 Most importantly, the brand quality of Apex
6 is far from these other producers in perception and
7 actuality, based on both name recognition and consumer
8 tests available from well known magazines.

9 All of the evidence suggests that Chinese
10 imports expanded the market, that any potential
11 switching occurred within brand quality tiers.

12 A second important fact established in this
13 case is the availability of non-subject imports in the
14 same brand tier as the Chinese product. What our
15 study showed is that people switch within tiers and
16 that brands place themselves within tiers.

17 In a globalized industry run by and for
18 brands, all of the major competitors to Chinese brands
19 have production outside the United States with the
20 capacity, cost structure and distribution network to
21 immediately replace the OPP Chinese imports at very
22 favorable prices. Malaysia, no longer subject as a
23 major producer of CT.V.s with the Symphonic, Emerson
24 and Sylvania brands, brands in the bottom or near
25 bottom tiers. Thailand is a major exporter of low

1 tier CT.V.s. Mexico is now home of Magnavox, where it
2 now produces all CT.V.s greater than 21 inch so China
3 is through Magnavox no longer selling product in a
4 tier above the lowest tier.

5 A third important fact that can be observed
6 is the small share of Chinese T.V.s in the United
7 States. The value share is really the only
8 appropriate measure of share due to the differences in
9 product mix and brand premium. This is not a
10 commodity. It can't be weighed by the ton and T.V.
11 sets can't be counted. There are major differences in
12 price, features and quality between them and there is
13 a major brand premium that people have testified to
14 are up to 100 percent based on brand quality and
15 awareness, so you have to look at value.

16 The value of Chinese imports in this market
17 is about 5 percent. Taken together, the small subject
18 import share, the lack of substitutability with the
19 U.S. product based on brand perception, brand quality
20 and product features, and finally the enormous volume
21 of non-subject imports show that any effect of the
22 Chinese imports have been de minimis.

23 Now let me turn to the trends. Since the
24 statute looks at price and volume separately, I will
25 do it that way, but please bear in mind the underlying

1 drivers of supply and demand factors that affect both
2 prices and quantities do that simultaneously.

3 Over the POI, the financial condition of the
4 domestic industry has improved. This is not exactly
5 the picture of an industry in distress. While the
6 industry did experience declining shipments, these can
7 be explained by U.S. brands deciding to increase
8 imports under their own brand and switch to LCDs.

9 I would be more than happy to answer
10 questions about other trends later.

11 MR. PRICE: And, finally, I would like to
12 briefly address a few of the threat factors. The
13 subject imports will likely decrease, not increase,
14 imminently. We know that because of the fact that
15 China is not a recipient of the Wal-Mart contract for
16 this, we know that because of Magnavox.

17 Petitioners have not presented any evidence
18 of manufacturers having any intent to imminently move
19 into the low priced OPP market.

20 The vast majority of Chinese sets are
21 consumed in the Chinese home market. The major focus
22 of the Chinese producers will continue to be in China
23 and developing markets.

24 As the U.S. moves ever closer to digital
25 broadcasting, the basic market for analog CT.V.s in

1 the U.S. is disappearing. In contrast, in China and
2 India, there are about 2.3 billion potential consumers
3 for these products where no digital standard has been
4 adopted.

5 The domestic industry cannot say it is
6 vulnerable. It has remained profitable. The major
7 international producers and their suppliers are right
8 now investing billions of dollars in the core
9 technologies that are taking over this market. They
10 are starting to deploy manufacturing as Pioneer is
11 doing right now in the new technologies. The sums of
12 money being spent, quite frankly, are staggering.

13 The very nature of subject import
14 participation in the market is limited to the OPP
15 market, where there is essentially a lack of
16 competition of domestic production in any
17 significance.

18 Inventories are falling for the subject
19 merchandise. Capacity utilization in China is high
20 and there are few imports on order.

21 Thank you. One final thing, I would like to
22 just introduce my partner, John Burgett, who is also
23 available to answer any questions you may have about
24 changing FCC requirements.

25 VICE CHAIRMAN HILLMAN: Thank you.

1 I would like to thank everyone here on the
2 panel. The testimony has been extremely helpful and
3 we appreciate all the information provided both this
4 afternoon and in the pre-hearing brief.

5 We will begin this afternoon's questioning
6 with Commissioner Lane.

7 COMMISSIONER LANE: I, too, want to thank
8 all of you for participating in this hearing and being
9 here this afternoon.

10 I'd like to start, I think, with the
11 Wal-Mart and the Best Buy spokespeople.

12 As I understand it, Wal-Mart and Best Buy
13 sell all sorts of brands of televisions. Do you --
14 and I wasn't sure from listening to the testimony --
15 does Best Buy and Wal-Mart sell the high end Sony
16 brand?

17 MR. CODY: If you're referring to the Sony
18 XBR product, which is the highest level of Sony
19 product --

20 COMMISSIONER LANE: I don't know what it's
21 called. I'm just calling it the high end Sony.

22 MR. CODY: Okay. At Best Buy, we carry all
23 of Sony's high end product with the exclusion of, as
24 I said in my presentation, the Sony XBR product, which
25 is the highest tier of Sony product. We don't have

1 access to that product. That is sold through our
2 Magnolia audio video company but not through Best Buy.

3 COMMISSIONER LANE: Okay. And I am really
4 unfamiliar with Magnolia. Is that something that
5 I think you said was on the West Coast?

6 MR. CODY: Correct.

7 COMMISSIONER LANE: Is there something
8 comparable on the East Coast?

9 MR. CODY: Meyer Emco.

10 COMMISSIONER LANE: Okay.

11 MR. CODY: Are you familiar with that?

12 COMMISSIONER LANE: Yes, as a matter of
13 fact, I bought my flat screen T.V. from there.

14 MR. CODY: There we go.

15 COMMISSIONER LANE: Flat panel. I'm sorry,
16 flat panel.

17 And so at Best Buy, you do have all of the
18 brands?

19 MR. CODY: We do have an extensive portfolio
20 of brands.

21 COMMISSIONER LANE: Okay. Can you tell of
22 all of the T.V.s that you sell what percentage of
23 those T.V.s are Chinese imports?

24 MR. CODY: I couldn't give you a specific
25 percentage, but it's substantially small.

1 COMMISSIONER LANE: What do you mean by
2 "substantially small"?

3 MR. CODY: It's a small segment of our
4 business.

5 COMMISSIONER LANE: Less than 25 percent?

6 MR. CODY: I couldn't speculate in the
7 absence of -- I don't have any hard facts in front of
8 me.

9 COMMISSIONER LANE: Okay. So less than
10 substantial could be less than 50 percent?

11 MR. CODY: Yes, it's less.

12 COMMISSIONER LANE: Okay. Where is the
13 person from Wal-Mart?

14 MR. O'CONNOR: I'm right here.

15 COMMISSIONER LANE: Okay. Now, does
16 Wal-Mart sell all of the brands, including Sony?

17 MR. O'CONNOR: Yes, we carry all the brands.
18 Well, not as many as Best Buy does, but we carry the
19 brands that are available to us, yes. Some brands
20 select not to sell us, but Sony does sell us a limited
21 assortment of models.

22 COMMISSIONER LANE: Okay. And going to the
23 Thanksgiving blitz, which was something I guess has
24 bypassed me until I started studying this case, what
25 percentage of your T.V. sales, of your total T.V.

1 sales,
2 are represented by the Thanksgiving blitz?

3 MR. O'CONNOR: A percentage? I think we
4 have documented that.

5 COMMISSIONER LANE: Is that proprietary?

6 MR. O'CONNOR: It is proprietary and I would
7 prefer that we would present that to you afterwards.

8 COMMISSIONER LANE: Okay. Fine. Let's
9 stick with Wal-Mart a little bit.

10 When you said that you publicly go out for
11 bid or ask for people to offer to supply you T.V.s for
12 the Thanksgiving blitz, how do you make that offer
13 known to the public or to potential producers?

14 MR. O'CONNOR: Well, specifically, what
15 I said is that we make it available to the people that
16 we're doing business with. So all of our suppliers
17 understand that we'll be out looking for that.
18 They're open to bid for it if they'd like to or offer
19 us product.

20 We do more than just television. People
21 will come in and they'll bid television, they'll bid
22 DVD players, they'll bid stereo systems, they'll bid a
23 number of different items and then we take all those
24 different items and select which ones we think are the
25 most attractive offers that we'd like to have out

1 there for that day.

2 COMMISSIONER LANE: And so you only do
3 business with people that you're currently doing
4 business with?

5 MR. O'CONNOR: For the blitz, yes. And
6 that's due to the fact that, as I stated, we have got
7 to have a lot of confidence in a supplier's ability to
8 build and ship this product in a timely manner and
9 this would not be the time to go out and test a
10 relationship with somebody new.

11 COMMISSIONER LANE: Okay. Now I'd like to
12 go to the gentleman who did the survey.

13 As I understand it, that was a survey that
14 was done on line? Is that correct?

15 MR. BELL: Yes, it was.

16 COMMISSIONER LANE: And so has a survey been
17 done of customers coming in and looking at a bunch of
18 different T.V.s and saying, "Do you see a difference
19 between this Sony and this Apex? If this one is \$500
20 and this one has the same features for \$250, which one
21 will you buy?"

22 MR. BELL: My colleague would like to answer
23 this question, if you don't mind.

24 MR. KAPLAN: Just a little background on the
25 survey. What we did is we contacted a surveying firm

1 that has a pool that is connected to the Internet and
2 they do random surveys from this giant pool and the
3 first thing they did is screen people that recently
4 bought televisions and then the next thing they did is
5 ask them if they identified the person who made the
6 decision.

7 So we've got the person who bought it
8 recently who was the decision maker, then we found
9 out -- the company knew demographic information about
10 people in this pool, which is where we got the
11 demographics, and then we asked them questions about
12 the set they bought. So we found out information
13 about its price, its size, its features its brand.

14 And then we asked a series of questions
15 regarding what was important to them, how they
16 purchased it.

17 The survey is attached to -- I think it's
18 Exhibit 7 of the Wiley brief, the study with the
19 survey following it. So in that way we asked them did
20 you look at Consumer Reports, did you walk in and look
21 around the store and compare, you know, rate on a
22 scale what you did. So we have all that data, it's
23 available to you, it's been submitted, but I think the
24 important thing is these people did recently buy a
25 T.V. and they were the one that made the decision and

1 so if in fact they didn't do what you said, we could
2 tell what people in what tier didn't do that, what
3 people did more of it.

4 For example, people in tier 1, the people
5 buying the Sonys and the people buying the domestic
6 brands, the majority of the domestic brands, the
7 Sonys, the Panasonics, the Sanyos, they were looking
8 in Consumer Reports. The people buying the Apexes
9 were not looking in Consumer Reports.

10 There's a great detail of information there,
11 I'll be happy to discuss it at length, if you care.

12 COMMISSIONER LANE: Okay. Thank you.

13 I don't have any more questions.

14 VICE CHAIRMAN HILLMAN: Commissioner
15 Pearson?

16 COMMISSIONER PEARSON: Thank you.

17 Mr. Cody, would I be correct to surmise that
18 you might be from Minneapolis? Please turn on your
19 microphone.

20 MR. CODY: That would be correct.

21 COMMISSIONER PEARSON: Well, then as a
22 transplanted Minnesotan, I welcome you to Washington.

23 MR. CODY: Well, thank you.

24 COMMISSIONER PEARSON: I trust you arrived
25 yesterday?

1 MR. CODY: That's correct, too.

2 COMMISSIONER PEARSON: So the weather was
3 very much --

4 MR. CODY: Substantially better than here.
5 It truly was.

6 COMMISSIONER PEARSON: In Minneapolis?

7 MR. CODY: Yes.

8 COMMISSIONER PEARSON: I just thought that
9 for this time of April, the weather we had yesterday
10 would seem familiar to you.

11 MR. CODY: It does. For August.

12 COMMISSIONER PEARSON: Have you moved into
13 the new headquarters yet?

14 MR. CODY: Yes. Yes. We moved in about a
15 year ago.

16 COMMISSIONER PEARSON: Okay. Well, I've
17 been gone a little longer than that. Okay.

18 This morning, I was encouraged by
19 Petitioners to ask a question about the origin of T.V.
20 tubes used in the production of televisions that are
21 assembled in China. I wasn't sure exactly what to
22 make of that, so I thought I'd put the question out
23 there and see if anyone can explain it to me.

24 MR. PRICE: This is Alan Price from Wiley,
25 Rein & Fielding, counsel. I'm going to answer based

1 upon representing Sichuan Chang Hong at the Commerce
2 Department, okay?

3 We will endeavor to get information for
4 other producers, it will be difficult. We'll work on
5 that, but it will be impossible in a public session
6 for me to do that. We will provide information.

7 What I will say is that the overwhelming
8 majority of Chang Kong's tubes -- the very
9 overwhelming majority -- purchased in the POI that the
10 Commerce Department used were in fact Chinese produced
11 tubes and they were mostly sourced from basically the
12 global picture tube players which are LG.Philips,
13 Samsung, et cetera. Those types of companies because
14 those are the companies -- and Thompson -- that own
15 the facilities in China.

16 We will provide more details in confidence.

17 COMMISSIONER PEARSON: Okay. Thank you.

18 A question for Mr. O'Connor.

19 We were advised this morning that Wal-Mart
20 has Apex brand T.V.s available for sale in the stores
21 all year round. Was that a correct statement?

22 MR. O'CONNOR: Yes, it was. And I addressed
23 that a little bit in my discussion here. Orion was
24 our supplier for 27-inch curved tube T.V. through
25 2002. In 2002, Orion notified us that they would not

1 be able to supply us with all of our needs in that
2 27-inch curved tube T.V. We made arrangements with
3 Apex to supply us with that television set. Orion has
4 come back to us this year and said they've made some
5 changes to their production that would allow them to
6 supply us with a 27-inch television set. Apex knew
7 that would be a temporary situation and we are now
8 shifting production back with Orion. But I will tell
9 you that Orion is making those sets in Thailand, not
10 here in the United States.

11 COMMISSIONER PEARSON: Okay. Thank you.

12 This morning I asked some questions about
13 the inverted tariff between the picture tubes and the
14 complete sets.

15 Now, some of you have quite a bit of
16 experience in global production, marketing of T.V.s.
17 Is that an issue that we should pay some attention to
18 or am I barking up the wrong tree when I ask about?

19 MR. NINESLING: Commissioner Pearson, Jim
20 Ninesling with Philips. Quite frankly, yes, Philips
21 is a global manufacturer but I'm not very close to the
22 industrial process, so I'm going to refrain from
23 responding now.

24 MR. PRICE: We will respond in our
25 post-hearing brief. I'm trying to think it through

1 myself. I don't have an answer at this moment.

2 COMMISSIONER PEARSON: Okay. Well, if you
3 could particularly address the issue of how we would
4 consider the inverted tariff as a condition of
5 competition, how we would take that into our analysis,
6 that would be helpful.

7 MR. PRICE: We will do that. I think it is
8 important to note, as Commissioner Koplan noted
9 earlier this morning, that there are a lot of reasons
10 why the union, although it's now sort of shifted
11 positions, apparently, there are a lot of things going
12 on on the supply side and they themselves, initially
13 through COMPACT, obviously had that filing out there
14 that said it was Mexico and circumvention of tariffs
15 that was driving production of tubes down to Mexico.

16 I would also note that even though they may
17 have walked away from that filing a month ago, for
18 whatever reasons, recently they have had a number of
19 their workers certified for NAFTA TAA, again pointing
20 to Mexico. And I think there's a lot of discussion of
21 tubes that are not necessarily relevant here, what
22 happened in the tube industry, okay? But it is
23 curious that in other contexts the labor unions that
24 are petitioning here, or at least one of them, is
25 pointing to Mexico.

1 COMMISSIONER PEARSON: Petitioners have
2 argued that in a market that is known by the
3 established brand names the significant gain in market
4 share by new entrants could only have been achieved by
5 severe and persistent underselling. Could you address
6 that argument, please? Did the Chinese get their
7 niche in the U.S. market only by severe and persistent
8 underselling?

9 MR. KAPLAN: Our analysis of the market
10 shows that there are well defined segments by brands
11 and that there is little overlap between the customers
12 in each brand. So the extent that the Chinese unknown
13 producers entered the U.S. market they were competing
14 with products that were in the same market segment
15 that were made in the United States. The only overlap
16 there is Orion. The other major producers were from
17 Malaysia and Thailand from Orion.

18 So with respect to the great majority of
19 domestic production, because of the way the brand tier
20 quality structure works, there was no effect, then it
21 replaced sales from Sony, then it replaced sales from
22 Toshiba, from Panasonic and from Sanyo.

23 COMMISSIONER PEARSON: Okay. So you're
24 saying, basically, that the price competition by the
25 Chinese imports is very much at the low end of the

1 market and so if there is underselling, we should look
2 for underselling only in those brands that competed in
3 that tier. I don't think our price information will
4 allow us to do that.

5 MR. KAPLAN: I think there's even difficulty
6 there because certain of these products were brought
7 in with features that were so much lower or that were
8 different enough that even with the attempt to define
9 the pricing products narrowly there were difficulties.
10 And I would take a look at the pricing during certain
11 very high volume quarters of sets that might match up
12 with some of the issues we've been discussing now and
13 being a little cryptic, but I hope I'm signaling that
14 there are certain events that cause specialized
15 televisions to be imported from Malaysia or China and
16 even there you see the pricing changes that are more
17 indicative, I think, of feature differences within the
18 brand than of overselling or underselling. So I think
19 it's very hard to look at that data set, even with the
20 one U.S. producer that's in the tier, and draw any
21 conclusions.

22 MR. PRICE: And, again, even with the
23 minimal overlaps, and the commission staff really
24 asked some very probing questions in this purchaser
25 questionnaire and it really shows minimal overlaps out

1 there in the marketplace. The OPP segment,
2 essentially domestic industry, is just not servicing
3 to any significant degree; the questionnaire
4 establishes that. The law requires you to look at the
5 condition of the industry as a whole and as a whole
6 the impact of these products, which largely expand the
7 market, is just not significant or meaningful.

8 COMMISSIONER PEARSON: Okay. Thank you.

9 VICE CHAIRMAN HILLMAN: Thank you.

10 I am trying to make sure I understand or at
11 least I want to test out a little bit this issue of
12 how really segmented these tiers are.

13 I mean, if I listen to Professor Bell and
14 Mr. Kaplan, and even to some extent some of this
15 testimony, I mean, you all are describing fairly
16 completely segmented tiers.

17 I guess part of me, I will say, looking and
18 maybe it's that I have to confess that I'm not a
19 significant consumer of electronics products, it's not
20 something in my household that occurs a lot. But when
21 I look at 28 brands divided into four tiers, there's a
22 part of me that says, wait a minute here, yes, maybe
23 there's something at the extremes, but to say that --
24 particularly for all these products in the middle
25 where there are seven and eight and nine and ten

1 brands in a tier -- again, maybe I'm just the
2 aberrational consumer, but I'm not sure every consumer
3 really has in their mind fine distinctions between
4 eight or nine brands in any of these tiers.

5 So help me understand this. Maybe I could
6 try with Mr. Cody and Mr. O'Connor.

7 If I'm going to purchase, let's say -- I'll
8 pick one of the products that we priced, just to make
9 sure I understand it -- a 27-inch CT.V. with a curved
10 screen with some of what you would call the higher end
11 features in terms of a number of jacks, component
12 video jacks, S video inputs, those kind of features,
13 so let's say a fairly featured up but nonetheless
14 27-inch curved CRT television.

15 Give me a sense of the ranges. If I'm
16 purchasing that television in a tier 1 brand, how much
17 am I paying? If I'm purchasing tier 2, how much am
18 I paying? Tier 3 and Tier 4? What would be those
19 general ranges?

20 MR. O'CONNOR: Well, at Wal-Mart, we would
21 only offer a curved screen 27-inch in the opening
22 price tier. In the first tier.

23 VICE CHAIRMAN HILLMAN: So nothing above
24 that.

25 MR. O'CONNOR: No.

1 VICE CHAIRMAN HILLMAN: Okay. So how much
2 would it be in the tier 4? Again, just a ballpark.

3 MR. O'CONNOR: \$180.

4 VICE CHAIRMAN HILLMAN: What's that?

5 MR. O'CONNOR: \$180.

6 VICE CHAIRMAN HILLMAN: Okay.

7 Mr. Cody, you would presumably sell across a
8 range?

9 MR. CODY: No, not necessarily. The same
10 would be true for Best Buy. We would not --

11 VICE CHAIRMAN HILLMAN: You would only sell
12 a 27-inch in an opening price point.

13 MR. CODY: That's correct. A round tube. A
14 round tube. Or a curved tube. If you go to a flat
15 screen --

16 VICE CHAIRMAN HILLMAN: Okay. All right.
17 Then let's go to a flat screen. If I go to a flat
18 screen T.V., presumably I'm talking maybe more like a
19 32-inch. Again, I'm trying to understand how much of
20 a difference really is there between the tier 1, tier
21 2, tier 3 and tier 4 prices.

22 Go ahead, Mr. O'Connor.

23 MR. O'CONNOR: A 31-inch --

24 VICE CHAIRMAN HILLMAN: Do you sell a Sony
25 flat screen 32-inch T.V.?

1 MR. O'CONNOR: Yes, we do.

2 VICE CHAIRMAN HILLMAN: Okay. And how much
3 would that be?

4 MR. O'CONNOR: About \$800.

5 VICE CHAIRMAN HILLMAN: Okay. And if I go
6 down to tier 2, which again according to Professor
7 Bell would include Philips, Quasar, RCA, Samsung,
8 Sanyo, Sharp and Zenith?

9 MR. O'CONNOR: We have a Sanyo and I'm going
10 to be kind of guessing here.

11 VICE CHAIRMAN HILLMAN: Okay.

12 MR. O'CONNOR: Probably about \$550.

13 VICE CHAIRMAN HILLMAN: Okay. And then if
14 you go down to tier 3?

15 MR. O'CONNOR: We wouldn't offer a flat 32
16 in an opening price point.

17 VICE CHAIRMAN HILLMAN: And down at tier 4?

18 MR. O'CONNOR: We wouldn't offer it.

19 VICE CHAIRMAN HILLMAN: Okay.

20 Mr. Cody?

21 MR. CODY: We would have to cover that in
22 the post-hearing brief because I don't have that
23 information in front of me.

24 VICE CHAIRMAN HILLMAN: Okay. Fair enough.
25 Fair enough.

1 I am still again struggling with this issue
2 of how much of a gap is there in price. Again, it
3 just strikes me -- again, I'm looking at 28 brands
4 sitting here, the notion that there's no bleed over,
5 this one is here and this one is here and they're all
6 in their separate boxes and they don't ever cross
7 over, you know, it seems a little extreme to me. I'll
8 be perfectly honest. I'm struggling with whether a
9 market can really work like that, particularly when
10 there's this many brands. I mean, that to me says
11 tremendous amount of brand recognition.

12 Again, maybe I'm not the normal consumer,
13 but to me it strikes me as an awful lot of expecting
14 consumers to be having an awful lot of knowledge of
15 these brands such that they're prepared to always in
16 every instance pay \$250 more because it's got Sony on
17 it or whatever, \$75 less because it's somebody else.

18 Mr. Cody?

19 MR. CODY: Maybe I can help clarify some of
20 it. In that instance, you're using this 28 potential
21 opportunities for somebody to purchase a 27-inch T.V.
22 I don't know of any retailer that would carry that
23 many brands in a 27-inch television. For instance,
24 Best Buy in a size segment from 24 to 27 carries ten
25 brands. And so part of our job as a retailer is to do

1 a lot of work for the consumer and to sort through the
2 brands and so if you come to Best Buy, you would have
3 a selection of ten but not in one specific size
4 segment, but as a band of sizes, 27 to 24 inches.

5 I don't know if that helps.

6 VICE CHAIRMAN HILLMAN: Yes, but I'm going
7 to go into Best Buy and I'm going to see in one row
8 all of the 27-inch T.V.s and presumably they are going
9 to be this range. And what I'm struggling with is
10 what I'm hearing you all say is but the price of the
11 Sony is not going to affect in any way the price of
12 the Samsung, the Sanyo, the Sharp and there's a part
13 of me that says really?

14 MR. CODY: Well, I would say that the price
15 of the Sony would. If you were to maintain the gap,
16 as I explained in my presentation, that if Sony moved,
17 that all the others would move below it. Sony would
18 be at the upper tier of that specific segment and when
19 they move, the rest of the segment would move to
20 maintain that gap.

21 What we've seen is customers -- there's a
22 sort that customers go through. First and foremost,
23 typically, it's size. There's a certain screen size
24 that a customer needs or wants. And then within that
25 sort, brand is extremely important. Price is one of

1 the elements, features is another element. So a
2 customer comes in with the intention of buying a Sony
3 T.V., 27-inch T.V.

4 VICE CHAIRMAN HILLMAN: Okay. You're saying
5 first they're going to decide what size they want?

6 MR. CODY: That's correct.

7 VICE CHAIRMAN HILLMAN: And then secondly
8 they're going to decide on brand or is that later?

9 MR. CODY: There's a set of sort of that a
10 customer would go through. Brand is high in the
11 consideration set. I think Professor Bell shared that
12 in one of his charts. It depends upon what segment
13 you're in. Then price point would be a sort factor,
14 as would features would be a sort factor.

15 VICE CHAIRMAN HILLMAN: Okay.

16 Mr. O'Connor?

17 MR. O'CONNOR: Well, our assortment is a
18 little bit narrower. In a 27-inch assortment, we
19 would carry four different models with four different
20 brands and I think just as Bill was saying, that part
21 of our merchandising challenge is to be able to put
22 four brands on the floor that are distinctly different
23 and offer a distinctly different feature set, whether
24 that be styling, whether that be features themselves,
25 and branding. And then within the four, because of

1 the different brands and the different features,
2 you'll be able to step up in price.

3 VICE CHAIRMAN HILLMAN: I definitely can
4 understand this on the higher end and, if you will, on
5 the well known brands and the companies that have put
6 obviously a lot of money into branding. Maybe for a
7 minute help me understand. Do you think it's any
8 different in the lower tier, in the next to the bottom
9 or the bottom tiers? Again, I'm not going to say I'm
10 the perfect consumer, but I have to say some of these
11 brands I look at and I say at some level I've never
12 heard of them or I certainly wouldn't know where to
13 rank them in relationship to other brands. I mean,
14 does the sort of average consumer that's looking for a
15 moderately priced set in X -- help me get a sense of
16 the relative importance of price as opposed to brand
17 to that consumer, that's not ever going to look at a
18 Sony. I mean, that's not what they're in the market
19 for. They're the Magnavox consumer, if you will.
20 I mean, they're not going to be in that market.

21 For that consumer that wants a moderately
22 priced set, and, again, they're coming in, is price
23 more important or is brand more important?

24 MR. CODY: I would try to answer that this
25 way. There are customers who have a strong brand

1 preference. They're coming in as a destination for a
2 specific brand. There are other customers who --

3 VICE CHAIRMAN HILLMAN: I'm sorry to stop
4 you, but is that largely in the higher end tiers?

5 MR. CODY: Not necessarily.

6 VICE CHAIRMAN HILLMAN: In the higher tiers
7 where brand loyalty occurs?

8 MR. CODY: Not necessarily, although there
9 is a higher preference in the larger size products,
10 but there are Sony customers or Toshiba customers in
11 all sizes.

12 VICE CHAIRMAN HILLMAN: Okay.

13 Mr. O'Connor?

14 MR. O'CONNOR: I would just comment and say
15 to you it's been our experience that a customer
16 typically will come in and if you're asking if they
17 have \$200 to spend how they're going to make the
18 decision how to spend that and they'll come in and
19 they'll usually gravitate to a brand that they know or
20 have recognized or trust. So if you come in and
21 you're looking at three television sets, 27-inch
22 sitting on the shelf and they range from \$175 to \$200
23 and that's the price range you're in, nine times out
24 of the ten the customer will gravitate towards a brand
25 or something that they recognize, whether that's RCA,

1 whether that's Magnavox.

2 If they would recognize Magnavox and RCA and
3 Apex was sitting there and they didn't understand who
4 Apex was, nine times out of ten they gravitate towards
5 a brand that they know.

6 VICE CHAIRMAN HILLMAN: Okay. Is the
7 scenario you've just described common? I mean, a
8 Magnavox and RCA and an Apex between \$175 and \$200?

9 MR. O'CONNOR: Yes.

10 VICE CHAIRMAN HILLMAN: Okay. Part of it --
11 I'm sort of struggling with this -- I now look at
12 those three and RCA would be, according to Professor
13 Bell, a tier 2 television, you know, Magnavox would be
14 a tier 3, Apex would be a tier 4, and yet the price
15 range is \$25. So this is where I'm struggling, how
16 can there be this big price gap between these tiers if
17 you're talking about one television in three different
18 tiers with only a \$25 difference? That's what I'm
19 struggling with, but the red light has come on, I will
20 come back to this.

21 Commissioner Miller?

22 COMMISSIONER MILLER: Thank you, Madam
23 Chairman.

24 I don't necessarily want to leave it just
25 there, if anybody wants to respond to your last

1 comment.

2 MR. BELL: If I may, David Bell.

3 Madam Vice Chairman, in our survey we
4 actually -- Table 1, which I didn't show, has the
5 prices paid by our respondents and they're just
6 averaged by the tiers in which they are and the
7 numbers start at \$872 in tier 1, \$377, then 287 and
8 then 196. One reason the price compression is very
9 narrow at Wal-Mart is Wal-Mart has very good prices.

10 If I may talk about the branding just a
11 little more, retailers always do describe this good,
12 better, best product category way of thinking.
13 Another way of thinking about it is that some
14 customers are very knowledgeable about brands, some
15 consumers are very knowledgeable about brands. Some
16 people know exactly why Sony is better than Panasonic
17 or whatever or have their views on that.

18 These people are very knowledgeable about
19 brands because they care about brands and they will go
20 into the store and they will look for their brand.
21 They've done all that research, they have these
22 beliefs about the brands, they will want to buy that
23 brand.

24 There's another category, the middle
25 category, where people want some brand reassurance.

1 They may be more concerned about price, they don't
2 want to waste their money if it's not necessary, but
3 they're not prepared to buy something they've never
4 heard of, they don't want to get the set home and it
5 fails three days later and somebody says you bought a
6 what? You know, what is the brand of that?

7 This is common across many categories where
8 you just want some brand reassurance. So there are
9 some brands that are esteemed for the value, I don't
10 want to insult anybody here. One of our retailers
11 mentioned the old names that you knew when you were
12 growing up, RCA, those sorts of brand names, which you
13 may not in that middle tier, may not know much about.
14 You may not be someone who is steeped in brandings,
15 but you do know RCA, the name has been around a long
16 time so you think it's pretty good.

17 And then there's a third category where
18 people are so concerned about price that they are
19 prepared to neglect a brand.

20 I think it's very difficult to get people to
21 trade off between those categories. The people that
22 want just a little brand assurance aren't prepared to
23 pay the extra \$200 or \$300 to get a Sony. And those
24 same people are not prepared to save money to bring
25 home a brand that nobody has ever heard of.

1 COMMISSIONER MILLER: Let me go elsewhere,
2 if I could, for a minute because there are moments
3 when I think -- well, I believe I recognize the
4 relevance, I also think we're getting, at least for
5 me, a little too much into talking about what the
6 consumer walking in the door is buying and, frankly,
7 for purposes of our investigation, it is Wal-Mart is
8 the purchaser, Best Buy is the purchaser, not me, the
9 consumer. But obviously your buying patterns are
10 driven by your customers, so I'm not meaning to say
11 it's not relevant, because you're trying to serve your
12 customer and we need to understand how you do so.

13 I'm going to leave this all for a minute
14 because I can't figure it out, okay? I'm going to try
15 going to something sort of clear cut, make sure
16 I completely understand your argument on the core
17 issue, okay? Issues.

18 I don't think there's any dispute, we have
19 clear production decline of the subject products in
20 the United States. We have clear price declines of
21 the subject product in the United States. I need like
22 a very concise answer for why we have the production
23 decline and the price decline.

24 MR. BELL: I'll start and then Seth will
25 then answer.

1 COMMISSIONER MILLER: With my apologies to
2 the industry folks, because I'd rather listen to you,
3 but I'd actually -- I may want them to answer that
4 question.

5 COMMISSIONER MILLER: Mr. Ninesling, it's
6 been nice to have you here, maybe I should let you --
7 you know, just cut to the core, why do we have the
8 production declines in the United States and the price
9 declines in the United States?

10 MR. NINESLING: I'd like to refer to one of
11 the charts in my answer that I showed and it has to do
12 with the way technology is moving. For example, the
13 gentlemen from Wal-Mart and Best Buy spoke about the
14 fact that in a screen size 27-inch, SSQ which is
15 curved, which is a less expensive portion of that
16 category, requires less attention in terms of the
17 amount of linear space that any retailer will dedicate
18 to that because it caters to a different consumer
19 than, say, one of the higher end products.

20 The production required to cater to the
21 demand for that product, the Petitioners are saying
22 has moved to China and what I would suggest is that as
23 the product moves further down the life cycle curve,
24 you can see on the right-hand side within CRT
25 television, there's different segments even within

1 that. You have high definition CRT, you have a real
2 flat CRT and you have the curved glass, which is the
3 one I'm referring to now. The further down the life
4 cycle curve and the lower the technology, the more it
5 caters to the lower tier of consumer, therefore, the
6 lower the retail price point.

7 As the new technologies come into the NAFTA
8 marketplace, they are forcing down the retail price
9 points of the antiquated technologies and therefore
10 the brands that sell at the opening price points for
11 those technologies conceivably will increase their
12 production to satisfy that demand.

13 Let me give you an analogy, if I may.

14 Up until about 2001, the most exciting thing
15 that happened to television in previous decades was it
16 moved from black and white to color. When color came
17 on board, it was expensive but it quickly declined in
18 price point and then you couldn't give away a black
19 and white T.V. So the same analogy exists on this
20 chart.

21 We say, well, CD monitors for computers is
22 in the what we call tornado phase, it's exploding, so
23 you can barely give away a CRT monitor. So the
24 Petitioners argued that, well, they're hardest hit in
25 the 27-inch category and what I'm saying is that

1 production for the 27-inch category in the opening
2 price point, which is a large portion of that screen
3 size, is being catered to by those Chinese
4 manufacturers and it's because of compression from the
5 top, it's not because the market is being dragged down
6 by that product.

7 VICE CHAIRMAN HILLMAN: All right. So
8 that's your explanation for why prices are down.

9 MR. NINESLING: Yes.

10 COMMISSIONER MILLER: It's also your
11 explanation for why production is down? Does it
12 explain production declining as well?

13 MR. NINESLING: Well, I think there are
14 other explanations and one of them is the fact that --
15 Alan made reference to billions of dollars that are
16 being invested right now in supply from these upper
17 tier brands for other technologies and what I'm
18 suggesting is that when you get to final assembly,
19 there's only so much capacity that you have within a
20 factory. And if you start to dedicate more of that
21 capacity to other technologies other than CRT, then by
22 default you could have some production move somewhere
23 else.

24 COMMISSIONER MILLER: But is capacity really
25 a problem we have with production of these?

1 MR. NINESLING: Well, when you make capital
2 investments within factories to produce products,
3 you're going to start to shy away from antiquated
4 technology.

5 COMMISSIONER MILLER: I see other people
6 anxious to jump in, the yellow light is going to go
7 off, but I want to ask you one question. Do you
8 disagree with the forecast we heard from Mr. Johnson
9 this morning regarding the sort of proportion of the
10 market that would be served by the new technologies
11 versus the CRT?

12 MR. NINESLING: Yes. He seemed to indicate
13 that the CRT portion of the industry would remain much
14 larger than the way that we see it, which is also what
15 I indicated on the next chart. We see the CRT
16 industry declining at a much more rapid rate than he
17 would have indicated.

18 COMMISSIONER MILLER: Okay.

19 MR. NINESLING: I used the phrase in my
20 testimony the world will be flat and it will.

21 COMMISSIONER MILLER: Yes, I recall. But
22 flat can still be cathode ray tube, okay?

23 MR. NINESLING: That's true, but, I'm sorry,
24 it's market rhetoric, flat T.V.

25 COMMISSIONER MILLER: When you say flat, you

1 mean --

2 MR. NINESLING: Plasma LCD.

3 COMMISSIONER MILLER: Plasma LCD?

4 MR. NINESLING: Yes.

5 COMMISSIONER MILLER: LCD. Too many
6 acronyms, sorry. I get them all muddled up.

7 MR. NINESLING: That's my fault.

8 MR. PRICE: It's hard to keep them straight.

9 COMMISSIONER MILLER: Constantly.
10 Particularly within every case we have a different set
11 of them.

12 I know others wanted to speak. I'll come
13 back. I appreciate your answer.

14 VICE CHAIRMAN HILLMAN: Commissioner Koplan?

15 COMMISSIONER KOPLAN: Thank you.

16 If I could stay with this line of
17 questioning? What you've been saying to Commissioner
18 Miller I think is consistent with what I've read, for
19 example, at pages 57 and 58 of the Chinese
20 Respondents' brief.

21 You're arguing there that prices of CTVs
22 have been falling for an extended period of time due
23 to technical advances, economies of scale, new sources
24 of supply and, most importantly, falling import costs.
25 I'm looking at your material. You conclude that what

1 you describe as the natural acceleration of price
2 declines is due to the introduction of new technology.

3 The Petitioners argue that although U.S.
4 consumption has increased modestly and demand is up
5 about one million units over the period examined --
6 that's in their brief at page 5 -- that the majority
7 of domestic producers sold 100 percent of their CTVs
8 via contract and that the U.S. producers were forced
9 to lower their prices and volume within the framework
10 of those negotiated contracts due to low-priced
11 offerings of subject imports and that their purchases
12 were forcing them to lower their prices and renege on
13 promised volumes within supposedly set contracts.
14 That's in their brief at page 7.

15 Now, I expect that for purposes of the
16 hearing submission Petitioners are going to document
17 those arguments further for me. How do you respond to
18 those arguments?

19 I understand the premise or the argument
20 that you've made to Commissioner Miller. As I say,
21 it's consistent with what I've read in your brief, but
22 how does it get to the price suppression argument that
23 I've just outlined that Petitioners are talking about?

24 In other words, I understand what you say is
25 happening, but what I'm asking is I'm listening to

1 what they say the effect of all of this is having on
2 their sales, and I'd like to see how you respond to
3 that.

4 Mr. Kaplan?

5 MR. KAPLAN: First I'd like to address the
6 sales point. I hope I'm addressing your point and
7 Commissioner Miller's. I hope there's an overlap of
8 that question. If there's not, please stop me and
9 redirect the answer.

10 COMMISSIONER KOPLAN: Let me do this. Maybe
11 this would be helpful. I have a small addition to
12 this, okay? It's small.

13 It's the part about the declining falling
14 import costs, okay, that you referred to in your
15 brief. You say that's a very important part of your
16 argument.

17 If you look at Table 6-1 on page 6-2 of the
18 staff report, the ratio of cost of goods sold to net
19 sales has barely moved over the period examined from
20 85.9 percent in 2001 compared to 85.7 percent in 2003.

21 If you agree with those numbers, I'm
22 wondering what that does to that portion of your
23 position that deals with the falling import costs, so
24 now if you'd proceed?

25 MR. KAPLAN: Let me address the input cost

1 issue first.

2 COMMISSIONER KOPLAN: All right.

3 MR. KAPLAN: Often times Petitioners come
4 before the Commission and say I'm in a squeeze. My
5 prices are falling faster than my cost. You could see
6 that because there's a decline in my gross profit
7 margin. It's pretty straightforward.

8 You don't see that here. You do see price
9 declines, but in fact you see costs falling as
10 quickly, and you could tell because the gross margins
11 are actually creeping upward a little.

12 If you ask what is bringing prices down and
13 I say well, it's cost, and you might say well, is it
14 accounting for all of it or a lot of it I would say
15 well, if costs are falling as fast as prices you don't
16 have a profit squeeze, and that's not what's
17 happening. Profits are constant. I think the price
18 decline can in part be described by falling cost.

19 That's the first part of the question. I
20 hope that I've answered about the relationship between
21 cost and pricing.

22 COMMISSIONER KOPLAN: Thank you.

23 MR. KAPLAN: On the price side, there's an
24 argument we've made that prices are being compressed
25 from above for two reasons. The first is the

1 introduction of new technologies and the fact that you
2 have to recalibrate your other products as you
3 introduce these new technologies. Their argument is
4 that imports, which compete at the bottom level, you
5 know, curved 27 inches, are causing prices to come
6 down.

7 I would ask you to look to see where prices
8 are falling faster. That would give you I think some
9 indication of where the effect is coming from. When
10 you look, you see prices of LCDs falling the fastest,
11 then plasmas, the 16x9 HD CRTs, then 4x3 CRTs, then
12 flat screen, then curved screen.

13 The product whose price is falling the
14 slowest is 27 inch curved screen where the imports
15 are. The products where the prices are falling the
16 fastest, as has been testified to by some of the other
17 witnesses, are high technology products or products
18 with higher features where the imports are not
19 present.

20 So we have costs falling. We have new
21 technology pushing prices down. Then we have the Sony
22 effect, the effect of a brand leader dropping a price
23 and everyone having to match it.

24 There was a specific instance given of a
25 rear projection LCD where Sony dropped the price from

1 I believe the statement was \$6,000 to \$2,700. Then
2 Sony had to turn around and drop its rear projection
3 CRT TVs. Then they had to reposition their direct
4 view CTVs. Sony barks. Everybody jumps.

5 In our retailer survey there was a quote
6 that says just that; that when Sony moves, everyone
7 has to move. When Hisense drops the price of a 27
8 inch curved by \$100, there's kind of a shrug.

9 I think for market reasons, both the high
10 technology, the brand issue, the lower input cost
11 issue, all point to prices being driven from above and
12 by cost, and the size of the decline and the different
13 technologies indicate clearly that it's products where
14 imports don't compete, more evidence that it's not the
15 imports.

16 I hope I've covered your question. I don't
17 know if I have.

18 COMMISSIONER KOPLAN: I think you did. I'll
19 go back and check the transcript to make sure you did.
20 If you didn't, you'll get a post-hearing question from
21 me on that. You can count on that. Thank you,
22 though, very much. I appreciate it.

23 Let me come back very briefly to the issue
24 of the compact filing. I believe that was you, Mr.
25 Price. My understanding was that that was filed in

1 December. I heard the IBEW say this morning that when
2 it was filed it hadn't been run by the unions, the two
3 unions that were involved. After they saw it, they
4 had it withdrawn, and it was refiled a month ago.

5 Have you seen the refiled version?

6 MR. PRICE: No. That was the first I had
7 ever heard of that. We, frankly, picked up the filing
8 soon after it was made at USTR.

9 COMMISSIONER KOPLAN: So you don't know
10 what --

11 MR. PRICE: No, but do you know what? There
12 were several other filings at USTR, one of which was a
13 Sony filing.

14 It wants a series of tariff changes made
15 essentially to eliminate tariffs on imported plasma
16 and LCD substrates basically so it can start
17 manufacturing them here as those substrates are being
18 -- now that technology is perfected, so they're again
19 moving into that whole area. I figured I'd drop that
20 little tidbit.

21 COMMISSIONER KOPLAN: Thank you. If you
22 want to put something in the record on that?

23 MR. PRICE: Yes. I will file that in the
24 post-hearing brief. Yes.

25 COMMISSIONER KOPLAN: Very good. Now,

1 earlier I heard in response to a question that size is
2 the most important factor, and my yellow light just
3 came on.

4 Because the light has come on I won't start
5 another line of questioning. I'll wait until the next
6 round. Thank you for your answers thus far.

7 VICE CHAIRMAN HILLMAN: Commissioner Lane?

8 COMMISSIONER LANE: I'd like to go back to
9 Best Buy and Wal-Mart. When you sell your TVs, are
10 the warranties the same for all makes, sizes, brands
11 of your TVs?

12 MR. O'CONNOR: No. No, they are not.

13 COMMISSIONER LANE: What kinds of warranties
14 do you have for your different TVs? I'm talking about
15 just your standard warranty and not the opportunity to
16 purchase an extended warranty or something like that.

17 MR. O'CONNOR: It would vary, and to give
18 you accurate information I'd have to go back. I'd be
19 more than happy to do that for you.

20 COMMISSIONER LANE: Okay.

21 MR. O'CONNOR: In general, anywhere from six
22 months to one year. Some might be in-home service,
23 depending on the size of the TV. Some might be you
24 have to bring it back in or bring it to a service
25 company to get repaired.

1 COMMISSIONER LANE: What about your
2 Thanksgiving blitz TVs and other electronics? What
3 kinds of warranties do those have?

4 MR. O'CONNOR: The blitz TV would have a
5 similar warranty to any other 27 inch that's in that
6 lower tier.

7 COMMISSIONER LANE: And what is that?

8 MR. O'CONNOR: I'd have to go back and check
9 for you to be sure.

10 COMMISSIONER LANE: Okay.

11 MR. CODY: The same would hold true for Best
12 Buy. They're all manufacturers' warranties. The
13 ranges could be as short as 90 days, quite frankly, on
14 some products to a year seems to be the more average,
15 but we can get you specifics.

16 COMMISSIONER LANE: Okay. Maybe it was Mr.
17 Kaplan perhaps that talked about the prices of TVs
18 were coming down and the high end TVs. The LCDs were
19 coming down and then the plasmas and then something
20 else and then the TVs that were having lower prices,
21 the slowest were the 27 inch curved TVs.

22 Did I understand that correctly?

23 MR. KAPLAN: That's correct. I think Mr.
24 Ninesling spoke to that as well.

25 COMMISSIONER LANE: Okay. Could one of the

1 reasons for that be that the 27 inch curved TV is
2 already so low that there's no room for it to go any
3 lower?

4 MR. KAPLAN: If that was the case in cost,
5 it was that low before the imports ever entered the
6 market. If you look at once again the profits over
7 the period, they seem to be stable.

8 I think in a discussion yesterday Mr.
9 Ninesling was talking about what was happening to tube
10 costs that might be relevant here with respect to cost
11 declines in the CRT market. Maybe I've mis-spoken.

12 MR. NINESLING: No, that's correct.
13 Essentially within the 27 inch screen size for a
14 curved tube product, which is what we're talking
15 about, year over year the erosion of the cost of the
16 CRT itself is in the range of six to 10 percent, so
17 there is erosion in the most expensive key component
18 within that product and, therefore, there is erosion
19 in the retail price point as well.

20 COMMISSIONER LANE: Okay. It may have been
21 Mr. Kaplan or someone else who said that millions or
22 billions of dollars was needed in the industry to keep
23 up with the capital expenditures that were necessary
24 to keep up with the new technology. Was that you, Mr.
25 Kaplan?

1 MR. KAPLAN: I might have mentioned that in
2 my testimony.

3 For the new LCD technology, there have been
4 announcements by Samsung, LG, Philips, AU Optronics,
5 of investment plans of over \$45 billion. It's an
6 enormous sum of money, but that's for a new technology
7 facility to build new types of screens.

8 That's not the technology to assemble parts,
9 which is the technology that Petitioner is using in
10 this case.

11 COMMISSIONER LANE: Okay. Let me get back
12 on track here. We're talking about the industry as a
13 whole and not just the Petitioner, I think.

14 MR. KAPLAN: The industry as a whole is the
15 one making all those investments.

16 COMMISSIONER LANE: Okay.

17 MR. KAPLAN: It's Sony. It's Samsung. It's
18 LG. It's Philips.

19 COMMISSIONER LANE: So my question is that
20 if you look at the exhibit that we saw earlier talking
21 about the operating income, the operating income, and
22 I believe that this is not BPI, goes from 4.3 percent
23 to 5.2 percent in 2003.

24 Is that sufficient for the industry as a
25 whole to keep up with all of this new technology?

1 MR. KAPLAN: The industry is a worldwide
2 globalized industry, so Sony is not thinking of
3 investing with Samsung \$20 billion from their profits
4 of televisions produced in the United States.

5 They're a worldwide company with their
6 operations and their leadership in all consumer
7 electronics and developing the next generation. Those
8 companies are capitalized and are making expenditures
9 to step forward.

10 You shouldn't look at their U.S. operation
11 on the subject product as something that's funding a
12 whole new generation of technology. That's certainly
13 not the way these companies are looking at it.
14 They're keeping on the technical leadership edge of
15 developing the next new technology.

16 COMMISSIONER LANE: Mr. Price?

17 MR. PRICE: Thank you. I'm sorry. I think
18 that as you look at this global industry, and that's
19 what we're dealing with here, the concept that low-
20 priced Chinese imports at what is the end of the life
21 cycle of this product, is it in any way impacting
22 their investment decision to fundamentally
23 revolutionize this industry is just not there.

24 Now, there's two things going on, as Mr.
25 Kaplan said. There is the issue of investment in

1 technology for the substrate material, okay, and then
2 there is final assembly, okay? This case basically
3 covers final assembly, and there's no evidence
4 whatsoever that this case is having any impact on
5 anyone's ability to invest at this point.

6 COMMISSIONER LANE: Mr. O'Connell, I didn't
7 want to keep referring to you as the man from Wal-
8 Mart.

9 (Laughter.)

10 MR. O'CONNELL: Well, thank you.

11 COMMISSIONER LANE: But I can't see that far
12 either.

13 The petitioner mentioned a slippery slope as
14 to the Blitz or Blitz-type sales that Wal-Mart has.
15 How many times a year does Wal-Mart have this type of
16 event, and do you always sell OPP CTVs from China?

17 MR. O'CONNELL: We hold the event once a
18 year as I stated. We only run advertising once a
19 month, so at the most we run it 12 times a year just
20 our typical ads. This is the only time we run an
21 opening price point TV, and I would not share it
22 publicly, but if you would like to see the purchase
23 orders that we write for Blitz versus the purchase
24 order that we write for a typical sale, there is a
25 significant difference between them volume.

1 COMMISSIONER LANE: Okay, I have one more
2 question. I'm sort of interested in the different
3 kinds of TVs that are available. And my question goes
4 even further than Vice Chairman Hillman's.

5 What are the differences between the
6 different kinds of TVs?

7 When I look at a TV, I basically am
8 interested in what they look like, and I'm interested
9 in what the best looking one is. But what kind of
10 features are there on TVs that I should have been
11 looking at that I obviously didn't?

12 MR. O'CONNELL: Well, I guess it just
13 depends on what your need is and what kind of customer
14 you are. But a lot of them you'll want to know if you
15 can hook-up -- first of all, is it a digital TV. Are
16 you going to want to hook up digital TV in the future?
17 Is it something that you want to hook a home theater
18 system up to? The styling of the cabinet. Do you
19 want a remote that helps you run more than just your
20 TV? Is it the same remote that runs your DBD player
21 or your home theater system or your stereo system?

22 There is a number of different features that
23 are included in these different models. And so to
24 your point, styling plays a big role in it. And you
25 know, Sony, I think, was the first one to go to a

1 silver cabinet. For a long time they were all black
2 boxes, and then all of a sudden Sony went silver.
3 Then everybody else starts to go silver.

4 So I mean, there is a lot of different
5 features and it really depends on what you're looking
6 for.

7 COMMISSIONER LANE: Okay, thank you.

8 I'm sorry, I'll come back to you. My time
9 is up.

10 VICE CHAIRMAN HILLMAN: Commissioner
11 Pearson.

12 COMMISSIONER PEARSON: Mr. Cody, please go
13 ahead then on my time, answer the question.

14 MR. CODY: Well, I was going to try to paint
15 a picture of the landscape. If you roll the tapes
16 back say just three short years ago and you went into
17 a Best Buy TV department, you would basically be
18 looking at all black TVs, basically have a choice
19 between tube and projection TVs. That would be your
20 selection set.

21 You walk into a Best Buy Store today, and I
22 think it kind of elaborates your point, is that not
23 only do you have choices between colors, silvers and
24 blacks and all the sorted blends of both colors, but
25 you also have flat panel technology, both LCD and

1 plasma. You have micro display technology. You have
2 traditional CRT projection TV technology. You have
3 flat, you have round tube, you have digital flat tube
4 TVs. You have integrated versus non-integrated sets.

5 So the menu is incredibly diverse at this
6 point in time, and to support, you know, Kevin's
7 comment, each customer is an individual, and we would
8 certainly have to understand what's important to you,
9 what are you looking for in a TV set. Some of our
10 obligation to help you navigate through the changes
11 because there has been so many of them in the last
12 couple of years.

13 So it's a two-way process, quite frankly.
14 There is no blanket answer to that that I could give
15 you to that specific question.

16 Does that help a little bit?

17 COMMISSIONER LANE: Yes, thank you.

18 COMMISSIONER PEARSON: In listening to my
19 colleagues' questions, I can't help but think that
20 there is an opportunity for the retailers here to
21 invite them out to the store and see if you can't sell
22 them --

23 (Laughter.)

24 COMMISSIONER PEARSON: -- a new set.

25 MR. CODY: I was thinking the same thing.

1 COMMISSIONER PEARSON: A lot of issues here
2 and what's available on the surf.

3 I have another price question. The
4 petitioners have indicated that over a period of some
5 decades that the decline in prices of TVs has run
6 about three to five percent per year with a more rapid
7 decline during the period of investigation.

8 Do you see the numbers that same way?

9 MR. O'CONNELL: I'll answer that.

10 On the lower end of the scale, three to five
11 percent still seems to be fairly consistent. The
12 prices, I think, as we have discussed here today, on
13 the high end part of the scale and into the new
14 technologies are falling extremely fast. I mean, even
15 my friends at Sanyo where we carry a plasma TV from
16 them the prices dropped almost a thousand dollars in
17 the last year since we have had it. So technology is
18 moving price, and it's moving it fast at the high end
19 of the scale.

20 And if you've got a Sony 36-inch TV at a
21 thousand dollars that's just a 36-inch flat
22 convention, and you've got Sony or Panasonic putting a
23 wide-screen, high def. unit out there that's 50 inches
24 at 1200 bucks, you better move your price down on that
25 Sony for a thousand dollars because you're not going

1 to sell many of them.

2 COMMISSIONER PEARSON: Okay. So prior to
3 the period of investigation, did the prices for the
4 higher end TVs more or less track the declines that we
5 were seeing at the lower end?

6 MR. O'CONNELL: No, you didn't even have
7 that new technology a couple of years ago, so you
8 didn't see -- it's only with the advent of a lot of
9 this technology that you're seeing the price moves
10 starting to come as quickly as they have.

11 And I think that you've got a lot of people
12 that are early adopters, and it's not just -- I mean,
13 I heard this morning that IPOD -- Apple is selling
14 more IPODs right now than they are selling Apple
15 computers. That's how fast MP3 is moving.

16 You're looking at, you know, how quickly
17 people are adapting to DLP technology, and so people
18 are moving quick to technology, and it's moving
19 faster. Look at -- VCR stuck around for 25 years.
20 We've had DVD players for five years, and we've got
21 three generations of DVD players coming, and look
22 where the price points are on all this technology. I
23 mean, they fall pretty quick once the new technology
24 hits. So technology is moving and it gets better, and
25 so the next model comes along and so people are

1 adopting to it very quickly.

2 And I think that, quite honestly, you're not
3 going to see CRT-based television sets in another
4 seven years. I mean, if you look at the way computer
5 monitors are moving today, hardly anybody has got a
6 CRT monitor anymore. They are all flat panel
7 monitors, and I think you're going to see this move
8 pretty quick.

9 So I think the problem with the U.S.
10 industry right now is that they are not reacting to
11 the new technology, and that's going to be the
12 problem.

13 You know, I've got a -- because I look at,
14 first of all, we do a lot of business with Sanyo, and
15 we go to the Sanyo manufacturing facility a lot. And
16 I was very surprised to hear the testimony this
17 morning, first of all, I'm going to call the sales guy
18 as soon as I get out of here because when I was there
19 six weeks ago touring that plant they were running all
20 six lines, and the reason we were there is because for
21 the last five weeks we haven't been in stock on our
22 27-inch and 31-inch television sets. And if he's only
23 running two lines instead of six, then I can see why
24 we don't have our television sets in stock, so that
25 will be the first phone call I make when I get out of

1 here.

2 And they have never participated in the
3 Blitz. They have never even asked to participate in
4 the Blitz.

5 But there is a lot of things happening in
6 the industry and technology is really driving much of
7 it, and it's all at the high end pushing it down.

8 COMMISSIONER PEARSON: Okay. So if I
9 understand correctly what you're saying, you see a
10 significant structural change in the nature of the TV
11 market such that this longer term trend that was
12 described as three to five percent per year of price
13 decrease, that that may be now history, and we might
14 be looking going forward at some different pricing
15 pattern?

16 MR. O'CONNELL: No, I don't think I said
17 that. I don't think CRT product as we know it today
18 will exist five to seven years from now.

19 COMMISSIONER PEARSON: I read too much into
20 what you were saying then.

21 MR. O'CONNELL: And it won't be a price
22 thing. It will be just purely that you can an LCD TV
23 at a price that's probably comparable to some CRT-
24 based TV, and people are going to want the newer
25 technology and to be able to stand it up or put it on

1 a wall, or do whatever you want with it.

2 COMMISSIONER PEARSON: Okay, let me back up
3 and approach it this way.

4 Do you expect that we will continue to see
5 prices trending down in televisions?

6 MR. O'CONNELL: At the high end of the
7 scale, yes.

8 MR. CODY: And I would agree with that.

9 COMMISSIONER PEARSON: And at the lower end,
10 about all the blood has been squeezed out of that
11 turnip as one can squeeze, and so you won't see the
12 same percentage -- you may not see the same percentage
13 declines? And I understand this is speculative. I'm
14 just trying to get an understanding of the trends and
15 where you think the industry might be going.

16 MR. O'CONNELL: Well, it would be pure
17 speculation, but they always surprise us as to how low
18 they can go, but you know, I never thought we would be
19 able to buy a DVD player for cheaper than you can buy
20 a VCR right now.

21 But I would say there is going to be a lot
22 more price move on the top end of the line than there
23 will be on the bottom end of the line.

24 MR. CODY: I agree.

25 MR. NINESLING: May I piggyback on this?

1 COMMISSIONER PEARSON: Pardon? Please.

2 MR. NINESLING: Jim Ninesling.

3 The figure of three to five percent -- let
4 me back up. I've been with Phillips for over 12
5 years. Not in my memory can I remember a year where
6 the average erosion of retail price for TVs was in
7 three to five percent range. It was in double-digit
8 range. And primarily because as time went on the
9 demand moved to larger screen sizes, therefore the
10 prices were higher, and therefore if you have to move
11 from one retail to another downward as a percent to
12 make it meaningful to the consumer, it has to be a
13 larger percent.

14 So the three to five percent might be valid
15 for a 13- or a 19-inch television, but certainly not a
16 32 or certainly not a projection screen TV. Double-
17 digit.

18 So I just wanted to clarify that.

19 COMMISSIONER PEARSON: No, I appreciate that
20 because that's another way of reflecting that at the
21 more advanced technology end of the market there have
22 been more significant price effects.

23 MR. NINESLING: Correct.

24 COMMISSIONER PEARSON: Mr. Kaplan.

25 MR. KAPLAN: Just one point about the CPI

1 data. It does, in fact, cover non-subject sets, the
2 smaller sets that he was talking about, and the
3 Commission is usually loath to use data that doesn't
4 effectively match up with the industry definition. So
5 I just want you to be aware, and that also the
6 declines are smaller at the smaller end, and that's
7 where you're adding it.

8 So the Commission's own data shown
9 percentage declines on average when purchasers were
10 asked more in line with Jim's comments, and I think
11 that is on the product that's being investigated, not
12 a price series for a product that doesn't -- it
13 includes televisions not in this case.

14 COMMISSIONER PEARSON: Okay, thank you very
15 much. The light has changed, and I'll pass. Thank
16 you.

17 VICE CHAIRMAN HILLMAN: Thank you.

18 Mr. Ninesling, I don't know whether it's
19 available, but let me start with you. I appreciate
20 your presenting this chart, and I think it's very
21 useful to us to try to put some of these newer
22 technologies into some perspective. This chart is
23 done on a value basis, and so obviously to some extent
24 that, I don't say excuse it, but obviously some of the
25 higher end technologies are significant more expensive

1 than some of the smaller of the CRTs.

2 Do you know, could this data possibly be
3 resubmitted in volume form? Is it available in volume
4 form, the number of units?

5 MR. NINESLING: It could. I can tell you as
6 a precursor to submitting that, that the unit volume
7 year over year would decrease. All the volume
8 increased relative to the influx of new technology,
9 more expensive product.

10 VICE CHAIRMAN HILLMAN: All right. Say that
11 again. I'm sorry.

12 MR. NINESLING: If I ran the same chart --

13 VICE CHAIRMAN HILLMAN: Yes.

14 MR. NINESLING: -- in units, it would go the
15 other way. So it would -- in total, all display
16 technology stacked on top of each other in units would
17 go down, not up, because in value it will go up
18 because of the higher price of the new technology
19 products.

20 VICE CHAIRMAN HILLMAN: Okay. Well, if you
21 could submit it, and again, if it's available and you
22 can submit it on a volume basis, I think it would be
23 very helpful to us.

24 MR. NINESLING: Sure.

25 VICE CHAIRMAN HILLMAN: However, your

1 answer, I will say, raises an issue that is perhaps
2 more directed to you, Mr. Price, which is, again you
3 have asked us and you have used in your brief value
4 terms.

5 I think, as you know very well, this is
6 something that the Commission almost never does unless
7 we absolutely have to, because there is some problem
8 with the volume data, or in rare cases like bearings
9 where the unit values of the subject product -- the
10 values of the subject product range from literally,
11 you know, thousands of a penny per bearing to, you
12 know, hundreds, if not thousands, of dollars per
13 bearing. You don't have anything like the kind of
14 price range in this case.

15 I mean, if I look at the prices -- the
16 products we've priced, the vast majority are coming in
17 between 100 and 400 bucks, with some of the 50 inch at
18 a thousand. But even so that range of 100 to 1,000
19 dollars doesn't suggest anything like the need to move
20 away from traditional volume data.

21 Obviously, all Commission precedent and the
22 statute and everything else really pushes us in the
23 direction of looking at volume on a unit basis.

24 So if you want to try to help us understand
25 why it is that you think this case we should look at

1 in value terms, you know, you are free to do so either
2 here or in the post-hearing brief, but I haven't heard
3 it yet.

4 MR. PRICE: Okay. Well, we will definitely
5 respond further in the post-hearing brief, needless to
6 say. But what I would say is that you are looking at
7 pricing differentials without going into the
8 specific -- some of it's on the record and some of
9 it's not -- pricing differentials ranging from low mid
10 100, somewhere in there, to two - three thousand
11 dollars.

12 Even in the subject merchandise over the
13 POI, you're looking at significant brand values, brand
14 issues affecting valuation. You're looking at
15 significant feature differences.

16 It's hard to stack -- these are not -- this
17 not the best way -- I characterize it. This isn't
18 rebar. You know what, a No. 4 rebar is a No. 4 rebar,
19 and it's kind of easy to count it.

20 VICE CHAIRMAN HILLMAN: Well, but again,
21 you're asking us to look at this for purposes of
22 determining whether the volume and market share of
23 imports are significant.

24 MR. PRICE: Right. In the balance --

25 VICE CHAIRMAN HILLMAN: It's very different.

1 The points that you are making may be relevant as to
2 whether or not we're making fair price comparisons in
3 terms of underselling or price effects.

4 To me, they are not suggesting anything
5 that's appropriate in terms of looking at volume, what
6 is the volume of imports, is the volume of imports
7 significant. I'm not hearing anything to suggest to
8 me why I should look at it on anything then on unit
9 value.

10 MR. PRICE: When a producer -- what a
11 producer is concerned about, I mean, I obviously deal
12 with a lot of companies, and what it all comes down to
13 usually is the bottom line, to be blunt about it,
14 revenues and profits, okay?

15 VICE CHAIRMAN HILLMAN: Well, again, --

16 MR. PRICE: Let me, let me.

17 VICE CHAIRMAN HILLMAN: Go ahead.

18 MR. PRICE: And when they are concerned
19 about revenues and profits, they are concerned about
20 what that spread is, and that spread between their
21 cost and their prices are what counts. And in an
22 industry like this where you have a large distribution
23 of products with product ranges varying substantially
24 in what people are producing and the spreads, what
25 counts in there, it says to me what you really value,

1 okay, are really the values that are out there,
2 because this is a value that really counts.

3 VICE CHAIRMAN HILLMAN: Okay. You are
4 welcome to address it in the post-hearing.

5 MR. PRICE: Okay.

6 VICE CHAIRMAN HILLMAN: I will tell you
7 having heard the testimony obviously for these -- you
8 know, again, this is an industry that is being brought
9 largely on a production quantitative basis, and
10 obviously, you know, from an employee perspective, do
11 I have my job or not, you know, again, the notion that
12 we would look at the volume of imports on a value
13 basis, again, I would you to look at it and whether
14 you think there is anything resembling a precedent for
15 this, but I'm not sure we are there.

16 If I can go back to Professor Bell and Mr.
17 Kaplan a little bit. I mean, I have now heard this
18 argument about the compression of prices coming from
19 the top. I understand it. The technologies at the
20 top are obviously coming way, way down in price, and
21 that its, as I hear it, you know, creating a ceiling
22 or creating a downward pressure as you're describing
23 it.

24 I'm having a lot of trouble squaring that
25 again with this notion that nonetheless there are

1 these tiers. I understand that within each technology
2 there is there own of these ties is presumably what
3 you're telling me. But it's starting to feel very,
4 very complicated, this whole idea that, you know,
5 there is four tiers of each of the levels of
6 technology sort of cascading down into a very large
7 range.

8 So I'm trying to understand how you can
9 square the notion that the prices are being compressed
10 and have that be consistent with the notion that there
11 are tiers of product and that the prices never -- in
12 one tier never affect the prices in the other because
13 that's basically what I'm hearing you tell me.

14 No, no, no, no, these are tiers and brands,
15 and the pricing of one tier does not affect, does not
16 affect the other, and yet you are having this price
17 pressure coming down.

18 How are those consistent arguments?

19 MR. BELL: What I think is going on here is
20 I said some people are vaguely familiar with -- some
21 people are familiar with brands, some people are
22 vaguely familiar with brands. So it could be that
23 there are some people who would separate the market
24 into brands they have heard of and brands they
25 haven't. But I think most people will know that a

1 Sony is better than, forgive me, a Magnavox.

2 And so when the prices get very close, you
3 are certainly willing to trade up from the Magnavox to
4 a Sony. But I think it's less likely that if the
5 prices are close you are likely to trade down from a
6 Sony to a Magnavox.

7 If you know what you're talking about in
8 brands, you have taken the trouble, you have the
9 interest in the category to actually learn what these
10 brands are, moving down to is going to be very less
11 likely. Moving up, so if Sony lowers the price, and
12 you're a Magnavox, you are going to have to drop your
13 price so that the Magnavox buyer doesn't say, hey, I
14 might as well get a Sony for, you know, 20 bucks more.

15 VICE CHAIRMAN HILLMAN: Okay. No, I
16 appreciate that answer.

17 If I can come to the issue of digital, HD.
18 You know, the FCC requirements, this notion that we're
19 all going to be watching only digital in the very near
20 term for all of us that do not own digital technology
21 in our households.

22 I mean, obviously, you have made the
23 argument in your brief that this move to digital is
24 basically going to add to this, you know, movement out
25 of CRTs, but obviously I'm having trouble with that

1 because obviously you can have CRTs that are capable
2 of doing digital. So I'm struggling with this issue
3 of how much difference does it make that there is this
4 push to HD or to digital signals, and also, how
5 realistic is it. I mean, are we really going to be
6 there?

7 Like I said, I'm not a user of HD or digital
8 technology, but it doesn't strike that there is that
9 much broadcast media out there today for this. So
10 this whole great leap forward that's supposed to
11 happen in the near term, I'm curious, again, how
12 realistic it is, and then what does it really mean.

13 Does it really mean the end of CRT as you're
14 describing it in your briefs?

15 MR. BURGETT: I am John Burgett, a partner
16 with Wiley, Rein and Fielding, and deal with digital
17 television issues.

18 Certainly the world is going to digital
19 television. HDTV is here. There are 1400 broadcast
20 stations currently broadcasting digital signals. We
21 have a number of sets out there, mostly the wide-
22 screen sets which people are purchasing for the high
23 definition signals. We have lots of early adopters
24 out there. More than 9 million digital television
25 sets sold to date.

1 By congressional directive, we will be going
2 to digital television.

3 MR. PRICE: Now, let me continue for a
4 second. There is no -- there is the congressional
5 directive that this is happening in 2006. The tuners
6 24 to 13 don't have to be on the set until 2007, but
7 basically it's 2006 is where it is for all of the sets
8 that are basically being sold here, okay?

9 Now, with that directive you have what is
10 the form factor issue, which I actually -- Jim may
11 want to discuss or one of the other folks wants to
12 discuss, but what happens is, is as you go to HD you
13 get this issue that the set actually goes like this,
14 so a 27-inch set or 22-inch set gets very small, so
15 you've got to get these very big sets.

16 And so one of the problems that the whole
17 industry had in this whole cycle in trying to figure
18 this is out was how to get sets with form factors and
19 footprints that actually -- you know, that people
20 would accept in their house.

21 You know, in the business it's often --
22 sometimes called the wife acceptance factor. There is
23 a whole bunch of discussions of this. You can look at
24 in the Washington Post. But you get these huge sets,
25 these huge protection sets that frankly you just can't

1 usually put in your house, or huge CRT sets at 34
2 inches, which is about the maximum CRT that's right
3 now in the wide screen format, it's about 200 pounds.
4 So getting it in your house, and it's two and a half
5 feet thick, and it's a very compacted picture still.

6 So what the new technologies allow you to
7 do, okay, is create a light-weight, thin, form factor
8 in set sizes that really display digital better. And
9 the 16 by 9 better, and it's the 16 by 9 which really
10 drives you adding -- drives you into these new
11 technologies.

12 And you see it in two levels. You see it
13 going on with LCD and plasma, but if you read, for
14 example, what Thompson said, a lot of it's going to go
15 to DLP first, to these micro displays because they
16 have a price -- a very attractive price. You can put
17 a DLP unit out there now, and you're starting to see
18 them in the low twos, and they are going to down from
19 there, and they are seven inches thick. They kind of
20 look a plasma display, and you can get them in your
21 house and then be able to watch in a reasonable size.

22 So again, you're seeing this movement up in
23 size, and you're compelled to this movement up to size
24 in part by the whole -- by the whole screen size issue
25 as you have to stretch it this way. It's no longer

1 this. To get a 26-inch set, if you actually saw a 22-
2 inch shark, it's like this. It's like this really
3 small looking set. And so to get something that
4 really works, you've just got to go to another
5 technology.

6 VICE CHAIRMAN HILLMAN: Commissioner Miller.

7 COMMISSIONER MILLER: Mr. O'Connor, you
8 looked like you were wanting to comment during the
9 answer to Vice Chairman Hillman's question. So I'd
10 like to give you that opportunity.

11 MR. O'CONNOR: Oh, well, thank you. Yes, I
12 was. We just have some practical experience with --
13 because we sell high definition tube TV, CRT-based and
14 we sell high definition projection TV. And I'm sure
15 Bill would see the same results. Projection TV far
16 outsells tube TV, high definition tube TV, for a lot
17 of the reasons that Alan was talking about, but -- so
18 from a sales point of view, what the customer's voting
19 for today, that's another reason why I say CRT is gone
20 away. Because they're voting for it -- not even high
21 definition CRT. They're not buying it. They're
22 buying projection TV.

23 COMMISSIONER MILLER: Mr. Cody?

24 MR. CODY: I'll add a little more to that,
25 too, since we continue to confuse you.

1 COMMISSIONER MILLER: You can tell by my
2 look?

3 MR. CODY: I might as well keep that going.
4 You're not alone, I don't think. Yeah, we currently
5 sell two digital TVs also. The success -- the sales
6 success of that particular category isn't all that
7 robust, quite frankly, and it's our point of view that
8 it's an interim technology, it's a bridge to get us to
9 flat panel technology.

10 Today, I think if you ask most customers
11 today, given a choice between similar screen sizes
12 whether they would like a flat panel, and LCD or a
13 plasma TV, or a traditional CRT TV, and I think the
14 vote would be fairly unanimous that they would pick
15 the LCD or plasma TV, all things being equal. The
16 only barrier to entry right now in those product
17 categories is price. That is it. And we believe that
18 once the price points get into range, that the
19 existence of digital tube product will no longer be
20 necessary.

21 COMMISSIONER MILLER: Okay. Well, I
22 appreciate Vice Chairman Hillman asking the question
23 and you all answering it, because, you know, I was
24 sitting here thinking the last time we had a
25 discussion about where things stood in the TV

1 industry, the whole discussion, all day, was about
2 digital versus analog. And today we really haven't
3 touched it. All we're doing is talking about
4 displays, you know? So in four years' time, it's like
5 there was a totally different issue here before us.
6 It's displays rather than digital versus analog. And
7 partly it sounds to me like that's because digital is
8 taken for granted.

9 Digital doesn't play -- does digital play on
10 your Blitz TVs?

11 MR. O'CONNOR: No.

12 COMMISSIONER MILLER: That's the best TV --
13 not one of your Blitz TVs, but my comment about -- you
14 know, DVDs don't play well on your basic 27 inch round
15 screen TV. I've learned since Christmas.

16 But all right, let me go back to the
17 relevant issues for me. And my effort to get that
18 clear answer to my two burning questions there, about
19 production and price declines.

20 We've heard a lot of talk about price
21 declines, and I don't think I need anything else. Mr.
22 Kaplan, I heard your answer in response to
23 Commissioner Koplman, and -- but I want to go back a
24 little bit more to the production declines. And I
25 want to ask this question. And I think eventually

1 I'll be able to pull it out from our data, but it's
2 not quite put together in that way for me yet. So I
3 can't -- I haven't been able to figure this question
4 out.

5 That is to, probably Mr. O'Connor and Mr.
6 Cody, are you selling more or less 25 to 27 inch TVs?

7 MR. CODY: Less.

8 COMMISSIONER MILLER: Mr. O'Connor?

9 MR. O'CONNOR: Twenty-five inch, less for
10 sure. And 27 inch, it's starting to head that way.

11 COMMISSIONER MILLER: Okay. So I was
12 trying to get at, you know, price declines sometimes
13 create more demand. You know, you put them in the
14 second bedroom or places where maybe they didn't exist
15 before. But that's not what you're seeing, at least
16 at this point with the 25 to 27 inch?

17 And I may be making the wrong break. And
18 I'm doing that because Five Rivers -- the witness from
19 Five Rivers talks about losing mostly in the 25 to 27
20 inch market. I recognize there's a difference. The
21 27 tends to get grouped, you know, 27 to 30, and maybe
22 25 is lower. But I'm trying to figure out how much
23 size change is part of what's causing production
24 declines. That's what I'm trying to do.

25 MR. CODY: The comment I would make is that

1 for us, virtually all of the CRT tube segment of our
2 business is lower than it was in the prior year. And
3 the growth areas for us are the new technologies, and
4 bigger screen TVs.

5 COMMISSIONER MILLER: So you would share Mr.
6 Ninesling's view that that transition is going to
7 occur faster than we heard this morning?

8 MR. CODY: I certainly would. I certainly
9 would.

10 COMMISSIONER MILLER: And Mr. O'Connor,
11 you're in a totally different world, I have to say.
12 You know, even your comment about flat screen computer
13 monitors. We're not going to let you walk around the
14 Commission, okay? Well, they're scattered about.

15 MR. O'CONNOR: Nor in our office either.
16 We're a low-cost operator.

17 COMMISSIONER MILLER: Okay, all right, I
18 think I am done with my questions at this point in
19 time. It's been a lot of interesting answers, and I
20 appreciate it, and I may yet come back with something.
21 But at least what I had down that I still wanted to
22 explore, you've already responded to, and I appreciate
23 that. Thank you very much.

24 VICE CHAIRMAN HILLMAN: Commissioner Koplan?

25 COMMISSIONER KOPLAN: Thank you, Madame

1 Chairman. I think I'm down to one question. And this
2 is -- I hate to come back to you, Mr. O'Connor, but
3 you're still up.

4 You noted on page seven of your brief that
5 for the 2002 Blitz you all sold a single 27 inch
6 model. But in 2003 you noted that the Blitz covered
7 27 inch models, more than one, and during Commission
8 research at Wal-Mart this year, during the
9 Thanksgiving Blitz, conducted by our economist, Craig
10 Thompson, who's sitting right over there, so you can
11 all credit him for my question here. There were no 27
12 inch CTVs, but rather 20 inch CTVs that were the
13 promotional Blitz item. Also, non-subject, step-up 20
14 inch flat screen MTS SAP stereo units are shown in the
15 photos in Exhibit 5 of Funai's brief. If Wal-Mart
16 splits its business among television sizes, are you
17 able to split your purchases for the Blitz supplier,
18 and if so, why can't you split some of this with
19 domestic producers, especially if they couldn't meet
20 the large volume criteria necessary for the Blitz?
21 Was this open bid, by the way?

22 MR. O'CONNOR: Yes.

23 COMMISSIONER KOPLAN: It was?

24 MR. O'CONNOR: Yes, it was. I'll try and
25 answer all those questions in, hopefully, the order

1 you asked them.

2 First of all, whoever did the research work
3 is incorrect. We can show you that we had a 27 inch
4 and a 20 inch TV offered in the Blitz event, and we
5 have copies of that ad that we would be more than
6 happy to show you. And I have some of the scars of
7 that event as well. So that's the first thing.

8 The second thing is the 27 inch TV came from
9 two resources because each of the resources couldn't
10 give us the total quantity and delivery in the time
11 frame that we were looking for.

12 To answer your third question, can we select
13 -- the answer is yes, we can split what we're buying
14 and we can split our purchase orders. And as a matter
15 of fact, I would not like to go into this publicly
16 today, but our attorneys will brief you on what our
17 decisions are for 2004.

18 COMMISSIONER KOPLAN: We would appreciate
19 that.

20 MR. O'CONNOR: And I think that will answer
21 your last question.

22 COMMISSIONER KAPLAN: Thank you very much,
23 and if there is anything else to be covered on that,
24 I'll leave that to Mr. Thompson when it comes to him.
25 Thank you, Madame Chairman, I have nothing further.

1 Thank you all.

2 VICE CHAIRMAN HILLMAN: Thank you.

3 Commissioner Pearson?

4 COMMISSIONER PEARSON: The Petitioners have
5 argued that the United States is at risk from more
6 televisions coming in from China, in part because the
7 European Union market is largely closed to them due to
8 anti-dumping duties and negotiated import quotas.
9 Could you address that argument, please?

10 MR. PRICE: We'll address it in the post-
11 hearing brief. I'm not completely familiar with the
12 full details of the EU Suspension Agreement.

13 COMMISSIONER PEARSON: Okay, thank you. And
14 my last question is a threat question.

15 The Petitioners have stated that even though
16 the Commission has received data from 10 Chinese
17 producers, that there remain approximately 80
18 additional CTV producers in China with some uncounted
19 amount of excess production capacity, possibly
20 expansion plans, and maybe the thought of entering the
21 U.S. market at some point in the not too distant
22 future, okay?

23 So, with that as background, Petitioners
24 have argued that the Chinese producers have
25 significant excess capacity that could be directed to

1 the U.S. market, and thus the threat of damage in the
2 future is great. How would you respond to that?

3 MR. PRICE: I think the record shows that
4 the -- first of all, the principal Chinese producers
5 have supplied data to the Commission. So I think the
6 Commission has a very good record on the overall
7 supply availability for China. And we will supplement
8 anything that's out there.

9 China is a market with huge consumption, and
10 it's growing consumption, as GDP is rapidly increasing
11 in China. It is, interestingly, as you look at the
12 global supply, probably going to be one of the two
13 last places that CRTs are actually going to be
14 consumed, along with India, in the world, because it's
15 cheap and its growth rates are such. The idea that
16 the Chinese industry is operating at high rates of
17 capacity utilization, we've already seen that Magnavox
18 has switched to Mexico as a source, so that volume is
19 gone. We know from Changhong that it did not receive
20 the Blitz order for 2004, okay? And that was the only
21 basis upon -- their exports knocked the quantity
22 substantially in 2003, that one order.

23 So I think the idea that there's any
24 likelihood of an increase in imports is just not
25 supported by the record. If anything, the record

1 supports just the opposite conclusion.

2 COMMISSIONER PEARSON: Anyone else on that
3 issue?

4 Okay, thank you very much. Madame Vice
5 Chairman, I have no further questions.

6 VICE CHAIRMAN HILLMAN: Thank you.

7 Just one quick follow up on this FCC digital
8 issue, just to make sure I understand it. The
9 requirement is that in 2006, all new televisions being
10 sold have a digital tuner built in. Is that correct?

11 MR. O'CONNOR: All TVs produced.

12 MR. BURGETT: The requirement is that by
13 July of 2007 all televisions sold, 13 inches and
14 larger, will have a DTV tuner included. It's a phase-
15 in requirement that starts this year, July 1st, 2004,
16 with the largest models, those 36 inches and larger,
17 50 percent must have DTV tuners. And then it phases
18 in into 2007, with the smaller sized sets.

19 VICE CHAIRMAN HILLMAN: Okay, then what is
20 the status of the broadcast requirement, that all
21 broadcasts be digital if some percentage of households
22 or something have digital?

23 MR. BURGETT: Correct.

24 VICE CHAIRMAN HILLMAN: What is the status
25 of that?

1 MR. BURGETT: The FCC had originally said
2 December 31st, 2006 as the deadline by which all
3 analog broadcasting would cease, and that spectrum
4 returned to the government for use by the public for
5 other services. But Congress, in the 1997 Budget Act,
6 effectively extended that deadline, and said
7 broadcasters must return their analog spectrum by
8 December 31st, 2006, or until at least 85 percent of
9 the television households in a particular market are
10 capable of receiving a digital signal. Most industry
11 observers believe that the 85 percent penetration will
12 not be met until after 2006. It's anyone's guess:
13 2008, 2010 perhaps. But the FCC right now is
14 investigating ways and looking at ways in which they
15 might accelerate the transition, and reach that 85
16 percent penetration soon after 2006, if not by then.

17 VICE CHAIRMAN HILLMAN: Okay. But none of
18 that -- none of the broadcast side will affect the new
19 television, you know, built in requirement?

20 MR. BURGETT: Correct.

21 VICE CHAIRMAN HILLMAN: Let's see -- with
22 that, I have no further questions.

23 Seeing that there are no further questions
24 from up here, let me turn to staff and see if staff
25 have any questions of this panel.

1 MR. THOMPSON: Craig Thompson, Office of
2 Economics. I just wanted to follow up on that -- you
3 said that you could submit something that did have a
4 27 inch television? Was this for the Northern
5 Virginia area also?

6 MR. O'CONNOR: Yes.

7 MR. THOMPSON: Okay, because that seems to
8 be -- although you probably know better than I, but
9 just from my eyewitness testimony, I did go there and
10 there were none. I picked up the flyer and I did not
11 see any there. Now, it's different for -- now, maybe
12 it was not the Blitz item that was the 27 inch that
13 was advertised. But if you could submit that for the
14 record, that would be great.

15 MR. O'CONNOR: It would be our pleasure.

16 MR. THOMPSON: Great.

17 MR. BERNSTEIN: Marc Bernstein, Office of
18 General Counsel. I have a question that would be
19 either for Mr. Cody or Mr. O'Connor. It may go into
20 proprietary information, in which case, obviously, you
21 can answer in your post-hearing submission.

22 There was testimony by Mr. Hopson, the Five
23 Rivers witness this morning. As I recall the
24 testimony, and I apologize if my recollection is not
25 entirely accurate, Mr. Hopson's recollection was

1 something to the effect that the retailers of
2 televisions such as Wal-Mart or Best Buy would go to
3 the producers and say something like if I want to -- I
4 want the televisions sold at price point X. We need -
5 - we will pay no more than Y dollars in order to
6 achieve for ourselves a certain mark up. My questions
7 are -- is, first of all can you --

8 VICE CHAIRMAN HILLMAN: Mr. Bernstein, I'm
9 sorry. Can you check that microphone? I'm not sure
10 we're picking up everything for the court reporter.

11 Oh, she's all right. I'm sorry. Go ahead.

12 MR. BERNSTEIN: Okay.

13 My questions are, first of all, can you
14 respond whether your impression of how this process
15 works is the same as what I recall Mr. Hopson saying
16 this morning?

17 Second of all, what is the correlation
18 between the price you pay for a television set, and
19 the price you charge the consumer?

20 And third of all, and this would probably be
21 something in a post-hearing submission, if you could
22 explain in any way how you figure out what your mark
23 ups are going to be for this type of product, and
24 whether mark ups tend to vary by brand, or by type of
25 model sold.

1 MR. CODY: For Best Buy, that would all be
2 post-hearing.

3 MR. O'CONNOR: I'm trying to remember all
4 your questions. The first one, how do we negotiate,
5 or do we negotiate the way Mr. Hopson says we
6 negotiate?

7 MR. BERNSTEIN: The assertion, again, as I
8 recall it, was something that if you wanted -- if we
9 are to sell a television at price point X, the bid
10 must be no greater than Y, so we have a certain degree
11 of mark up.

12 MR. O'CONNOR: That's not true. No, that's
13 not true. I don't think I've ever been in a
14 negotiation with the man, but we've not -- we don't
15 negotiate that way, and we don't, you know, set a
16 retail and then drive it down to a cost. That's not
17 the way things are done. But we'll respond to all
18 that in a post-hearing brief.

19 MR. BERNSTEIN: Thank you.

20 MR. DEYMAN: I'm George Deyman, Office of
21 Investigation. The staff has no further questions.
22 Thank you.

23 VICE CHAIRMAN HILLMAN: Thank you, Mr.
24 Deyman.

25 Mr. Hartquist, do Petitioners have any

1 questions of this panel?

2 MR. HARTQUIST: No questions, thank you.

3 VICE CHAIRMAN HILLMAN: Okay, given that
4 that's the case, I would note at this point that
5 neither party has any time remaining for rebuttal.
6 Both sides have five minutes for their closing
7 statement. So, with that, I would like to thank this
8 panel very much for your testimony. It's been
9 extremely helpful. We appreciate all your time this
10 afternoon.

11 We will let you find your seats, and then
12 let Mr. Hartquist come forward to deliver his closing
13 statement.

14 MR. PRICE: Can I just ask for five minutes
15 to pull my statement together?

16 VICE CHAIRMAN HILLMAN: No. You can have
17 two minutes, Mr. Price -- one minute, Mr. Price.
18 You've got the five minutes that Mr. Hartquist will be
19 speaking.

20 Ms. Hartquist, you may begin.

21 MR. HARTQUIST: Thank you Madame Vice
22 Chairman.

23 Profitability. Respondents refer to the
24 highly profitable domestic industry -- 5.2 percent,
25 based upon a very recent revision of the profitability

1 data that was submitted. I think what you'll find if
2 you look at the individual P&L data is that a number
3 of producers are suffering losses, some significant
4 losses. Others are very barely profitable. The
5 aggregate profitability is overwhelmingly due to one
6 company.

7 The impact of new technologies in pricing.
8 In the period of the POI, the new technologies
9 accounted for a negligible amount of the total sales
10 of the product that's involved. It simply doesn't
11 make sense that that small amount of production could
12 have driven down prices between 2001 and 2003. The
13 staff report, in the pricing section, refers to
14 significant Chinese volume and underselling in five of
15 the six product categories on which you sought
16 information.

17 A little bit about the rigid brand and tier
18 theory. First of all, a general observation. This
19 theory is really contradicted by the fact that the
20 products that have grown in these various so-called
21 categories are the no-name Chinese products that you
22 never heard of. And why are they gaining share?
23 Because of price.

24 Mr. O'Connor has argued that the sales
25 during the Blitz period, the Thanksgiving Blitz period

1 have no affect on Wal-Mart's sales for the rest of the
2 year. But think about it. If a consumer comes in and
3 buys a cheap TV on the day after Thanksgiving, is that
4 consumer going to buy another TV in a week, or a
5 month, or two months or three months? It has to have
6 an effect.

7 We would also appreciate it if the
8 Commission would determine whether the Blitz models in
9 fact are sold by Wal-Mart in the remainder of the
10 year. We think that they are. That it's not a one-
11 day, one-product sale, but that, in fact, those
12 products are sold through the year.

13 Mr. Price, my friend and colleague, has said
14 that there's no evidence of any adverse effect of
15 Chinese imports on U.S. investment, U.S. capital
16 investment in this industry. Absolutely wrong. I
17 urge you to take a look at the proprietary data that's
18 in Appendix G of the staff report, which says there is
19 a significant impact on investment, both in the POI
20 and in terms of anticipated effects in the future.

21 In summary, the Chinese are dumping. That's
22 been determined. The foreign-owned producers that are
23 not at the table today essentially are afraid to
24 support this case because they've been threatened by
25 the Chinese government, and their investments in this

1 industry and other industries in China. And we'll
2 provide additional evidence of that in the record.

3 There's ample evidence of current injury.
4 And there's certainly a great indication of a
5 substantial threat of injury in the future. What
6 we're facing here is that the Chinese imports are
7 going to kill this U.S. industry, unless the
8 Commission determines an affirmative result in this
9 case. We thank you.

10 VICE CHAIRMAN HILLMAN: We're giving Mr.
11 Price his one minute.

12 MR. PRICE: Thank you. Let's start on one
13 point that we touched on extensively in our brief, but
14 didn't come up a lot today. And that is the brand
15 owners chose the location of their production. Now,
16 Five Rivers is here, not selling in the marketplace
17 directly to retailers, saying Oh, my God, our volumes
18 are down, it must be imports from China.

19 Well, go look at the record, and you might
20 find that their declines might be due to the fact that
21 their customer is simply not interested in their
22 product range.

23 You walk into a store, and you walk into a
24 Best Buy. And I walked into Best Buy and Circuit City
25 this weekend. And I looked at every single 27 inch

1 set they had. And, being a trade lawyer, I looked at
2 the origin of every single 27 inch set they had, okay?
3 And, you know, they had just about every major brand
4 there, and a couple of -- you know, an OPP brand out
5 there. Actually, it was that one right there, okay?

6 And what you found when you flipped the
7 boxes over, is that you found one American-made set in
8 the group. Okay? And, by the way, when you went to
9 Circuit City and looked at that same set, which
10 happened to be a Samsung set, it happened to come out
11 of Mexico. So when you look at this industry, and you
12 say what's going on, you have to recognize that the
13 brand owners chose their production locations. And
14 they're global producers. They have a variety of
15 facilities available.

16 In this period of investigation, in which
17 there is a tremendous, overwhelming transition going
18 on out there, the brand owners have clearly decided to
19 start to shift sourcing as they prepare for phasing
20 one technology and phasing out another technology.

21 Now, on the -- on the next point I want to
22 talk about is the Petitioners' arguments on branding
23 here. Now, their argument is that brand doesn't
24 count, and how -- excuse me, that brand doesn't count,
25 and that the brands out there are pretty much

1 irrelevant. Well, if that's the case, we would expect
2 to see Apex have 100 percent of the market, frankly.
3 We would everything to be priced at whatever their
4 price point is. And you're not seeing that, because
5 brands matter. You're not seeing that because there
6 are a variety of different products out there.

7 Finally, I want to turn to some basic issues
8 here. Let's start with the basic fact that this is a
9 profitable industry, and with all due respect to Mr.
10 Hartquist, in fact, profitability is not confined,
11 necessarily to a single entity out there. You will
12 have the data. You can look at it, and look at it --
13 and you can see it for yourselves. By and large you
14 have an industry as a whole that is doing well
15 financially. Their spreads between their costs and
16 their prices are improving. They're selling more sets
17 than they've sold before. They've just chose to
18 import some from non-subject countries. You can't
19 attribute that to subject imports. They've chosen to
20 move into the replacement technologies. You can't
21 attribute that volume effect to subject imports.

22 At the end of the day, subject imports
23 enlarged the market; they did not take the volume from
24 the domestic industry. We have a profitable industry.
25 The Petitioners have conceded that the brand

1 positioning is expensive and requires unique
2 expertise. Petitioners cannot speak as to price
3 erosion and price competition, frankly, because they
4 don't sell TVs in the marketplace to the retailers.
5 So you heard a lot of speculation from them.

6 In many respects, the worker decreases that
7 were cited were simply increasing productivity, is a
8 chunk of it, as was conceded. And we've heard a lot
9 about voluntary and temporary layoffs due to seasonal
10 issues.

11 And we come back to harm. And with all due
12 respect to my colleague, Mr. Hartquist, who -- he and
13 I usually work together in most times. I've read a
14 lot of questionnaire responses and so forth, and I've
15 seen actions.

16 When I look at the actions of an industry
17 that has global players that are investing monies,
18 sums of monies that I have never seen before in any
19 industry I have ever worked on, I can't see how
20 imposing a duty on the lowest end of the most obsolete
21 product somehow is going to affect the business model
22 and manufacturing decisions of someone moving into a
23 new, non-subject product, which, by its very nature
24 means that you won't have competition from the subject
25 merchandise.

1 Thank you.

2 VICE CHAIRMAN HILLMAN: Thank you. And I'd
3 like to thank everyone for your participation in this
4 long hearing. It's been extremely helpful and very
5 informative to the Commission. So we very much
6 appreciate it.

7 Post-hearing briefs, statements responsive
8 to questions and requests of the Commission, and
9 corrections to the transcript must be filed by April
10 22nd, 2004. Closing of the record and final release
11 of data to the parties will occur on May the 7th,
12 2004, and final comments are due May the 11th, 2004.
13 And with that, this hearing is adjourned.

14 (Whereupon, at 5:13 p.m., the hearing in the
15 above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Color Television Receivers
INVESTIGATION NO.: 731-TA-1034-1035 (Final)
HEARING DATE: April 15, 2004
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: April 15, 2004

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Donna Kraus
Signature of Court Reporter