

UNITED STATES  
INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
 )  
RAW FLEXIBLE MAGNETS FROM ) Investigation No.:  
CHINA AND TAIWAN ) 701-TA-452  
 ) 731-TA-1129-1130  
 ) (Final)

Pages: 1 through 245

Place: Washington, D.C.

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Thursday,  
 July 10, 2008

Room 101  
 U.S. International  
 Trade Commission  
 500 E Street, SW  
 Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable SHARA L. ARANOFF, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

SHARA L. ARANOFF, CHAIRMAN (presiding)  
 DANIEL R. PEARSON, VICE CHAIRMAN  
 DEANNA TANNER OKUN, COMMISSIONER  
 CHARLOTTE R. LANE, COMMISSIONER  
 IRVING A. WILLIAMSON, COMMISSIONER  
 DEAN A. PINKERT, COMMISSIONER

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## APPEARANCES (continued):

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SHARON D. BELLAMY, HEARINGS AND MEETINGS ASSISTANT

Staff:

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RALPH WATKINS, INTERNATIONAL TRADE ANALYST  
IOANA MIC, ECONOMIST  
JOHN ASCIENZO, ACCOUNTANT/AUDITOR  
MARK BERNSTEIN, ATTORNEY

## APPEARANCES (continued):

In Support of the Imposition of Antidumping and  
Countervailing Duties:On behalf of Magnum Magnetism Corp. ("Magnum"):

ALLEN LOVE, President, Magnum

TOM LOVE, Vice President, Magnum

GARY MURPHY, Consultant, Magnum  
(former president, Magnetic Specialty, Inc.)BRUCE MALASHEVICH, President, Economic  
Consulting Services, LLC

ROBERT R. DENNIS, President, Rochester Magnet Co.

BRANDON FIXSEN, Vice President, Operations,  
TradeNet Publishing, Inc.

## Of Counsel:

RITCHIE T. THOMAS, Esquire  
IAIN R. McPHIE, Esquire  
Squire, Sanders & Dempsey, LLPNon-Parties In Support of the Imposition of Antidumping  
and Countervailing Duties:

SCOTT LEWIS, President, Adams Magnetic Products

THOMAS J. GORGONNE, Chief Operating Officer and  
Vice President, The Magnet GroupBRIAN BAIRD, Purchasing Manager,  
Magnet Street, Inc.

JACK NELSON, President, Master Magnetism

I N D E X

	PAGE
OPENING REMARKS OF RITCHIE T. THOMAS (Squire, Sanders & Dempsey)	6
TESTIMONY OF ALLEN LOVE, President, Magnum	11
TESTIMONY OF BRUCE MALASHEVICH, President, Economic Consulting Services, LLC	25
TESTIMONY OF TOM LOVE, Vice President, Magnum	33
TESTIMONY OF BRANDON FIXSEN, Vice President, Operations, TradeNet Publishing, Inc.	48
TESTIMONY OF ROBERT R. DENNIS, President, Rochester Magnet Co.	51
TESTIMONY OF SCOTT LEWIS, President, Adams Magnetic Products	151
REBUTTAL/CLOSING REMARKS OF RITCHIE T. THOMAS (Squire, Sanders & Dempsey)	239

P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN ARANOFF: Good morning. On behalf of the United States International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-452 AND 731-TA-1129-1130 (Final) involving Raw Flexible Magnets from China and Taiwan.

The purpose of these investigations is to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports of raw flexible magnets from China and less-than-fair-value imports of raw flexible magnets from China and Taiwan.

The schedule setting forth the presentation of this hearing, notice of investigation, and transcript order forms are available on the public distribution table. All prepared testimony should be given to the secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations, and any questions regarding the time allocations should be

1 directed to the Secretary.

2 Finally, if you will be submitting documents  
3 that contain information you wish classified as  
4 Business Confidential, your request should comply with  
5 Commission Rule 201.6.

6 Madam Secretary, are there any preliminary  
7 matters?

8 MS. ABBOTT: Madam Chairman, all witnesses  
9 for today's hearing have been sworn. There are no  
10 other preliminary matters.

11 CHAIRMAN ARANOFF: Very well. Let us begin  
12 with opening statements.

13 MS. ABBOTT: Opening remarks on behalf of  
14 Petitioners will be by Ritchie T. Thomas of Squire,  
15 Sanders & Dempsey.

16 CHAIRMAN ARANOFF: Good morning, Mr. Thomas.

17 MR. THOMAS: Good morning, Madam Chairman.

18 Madam Chairman, Mr. Vice Chairman,  
19 distinguished Members of the Commission, my name is  
20 Ritchie Thomas, and I am senior counsel with the law  
21 firm of Squire, Sanders & Dempsey. We are counsel for  
22 Petitioner Magnum Magnetics Corporation.

23 The statute says, in making its injury  
24 determinations, the Commission is to take account of  
25 the dumping margins found by the Commerce Department.

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1 In this case, Commerce has found very high margins of  
2 dumping by the raw flexible magnetic producers in both  
3 China and Taiwan, between 105 percent and 185 percent  
4 of the Chinese producers and between 31 and 38 percent  
5 for the Taiwanese producers.

6 It is also relevant that Commerce found that  
7 Chinese producers were heavily subsidized by their  
8 government, to the level of 110 percent of the value  
9 of their exports.

10 These margins and what we understand to be  
11 the virtual cessation of subject imports since  
12 issuance of the determinations show that subject  
13 imports cannot compete in the U.S. market if fairly  
14 traded.

15 The staff has done an admirable job in  
16 collecting and presenting the relevant data in these  
17 investigations. The case those data present for  
18 affirmative determinations by the Commission is  
19 compelling. Virtually every adverse trend and  
20 evidence of industry injury and threat upon which the  
21 Commission based its affirmative determination in the  
22 preliminary phase, and reliance on data extending  
23 through the first half of 2007, worsened in full year  
24 2007.

25 The volume of the subject imports from China



1 and Taiwan increased sharply. This occurred against  
2 the background of declining apparent domestic  
3 consumption, the classic "double whammy" for the  
4 domestic industry.

5 The unfairly traded imports captured a  
6 sharply increased and clearly significant share of  
7 aggregate apparent domestic raw flexible magnet  
8 consumption. They seized an even greater share of  
9 consumption in the merchant market, where they  
10 attacked the domestic product head to head.

11 There is solid evidence of underselling of  
12 the domestic product by the subject imports in two-  
13 thirds of the price comparisons for sales based on  
14 importers' selling prices, and in more than 90 percent  
15 of comparisons for sales at the level where the  
16 domestic industry principally competes with the  
17 Chinese producers.

18 The underselling is significant and has  
19 resulted in a cost-price squeeze on the domestic  
20 producers. Underselling, especially in the sheeting  
21 segment of the market, in which domestic shipments and  
22 subject imports are concentrated, is also the reason  
23 the subject imports have captured market share from  
24 the domestic industry.

25 All measures of the domestic industry's

1 condition worsened substantially from 2005 to 2007.  
2 At the conclusion of this period, the picture was of  
3 an industry in very serious trouble.

4 The pressure eased somewhat, and several  
5 factors improved in the first quarter of 2008, but any  
6 such improvement clearly was the result of the filing  
7 of the petition, this Commission's affirmative  
8 preliminary determination, and the preliminary  
9 measures imposed by the Commerce Department on imports  
10 from China in February 2008. That period is,  
11 therefore, of little analytical value, except possibly  
12 as a demonstration of the improvement in the domestic  
13 industry circumstances that can result in even limited  
14 relief for part of a period.

15 The evidence that the domestic industry  
16 faces a threat of imminent further material injury by  
17 reason of the accused imports is overwhelming, given  
18 the massive excess capacity on the part of the Chinese  
19 producers in China and Taiwan, the foreign producers'  
20 pricing practices, the subsidies the Chinese producers  
21 enjoy, the foreign producers' success in rapid  
22 penetration of the U.S. market, efforts by importing  
23 printers and flexible magnet distributors to use the  
24 low import prices to expand their market share at the  
25 cost of their competitors, who are still buying from

1 domestic raw flexible magnet producers, and the  
2 weakened state of the U.S. industry.

3 Thus the record fully supports affirmative  
4 determinations by the Commission, whether based on  
5 current material injury or on threat.

6 No importer or foreign producer appears as a  
7 party in these final phase investigations.

8 The Commission will hear testimony from a  
9 group of importers of the unfairly traded imports, but  
10 none has made the investment of time and funds  
11 necessary to participate fully as a party.

12 Obviously, that does not relieve the  
13 Commission of its responsibility to apply the  
14 statutory standards to the facts of the case, but I  
15 hope you will forgive us if we observe that, to us, it  
16 implies recognition that the domestic industry is, in  
17 fact, being materially injured, and its future is  
18 imperiled by the subject imports. Thank you.

19 CHAIRMAN ARANOFF: Thank you, Mr. Thomas.

20 We are proceeding directly to the first  
21 panel now, are we not, Madam Secretary?

22 MS. ABBOTT: That is correct. Will our  
23 first panel, in support of the imposition of  
24 antidumping and countervailing duties, please come  
25 forward?

1 (Pause.)

2 CHAIRMAN ARANOFF: Please proceed.

3 MR. THOMAS: Madam Chairman and Members of  
4 the Commission, we have our panel in front of you. We  
5 have a number of witnesses, and we will try to move  
6 them along as expeditiously as we can.

7 Just to briefly introduce them, to my left  
8 is Allen Love, the president of Magnum Magnetics; to  
9 my right is Tom Love, the vice president of Magnum; to  
10 his right is Bruce Malashevich, president of Economic  
11 Consulting Services; behind me, to the far right, is  
12 Gary Murphy, who is a consultant and the former  
13 president of Magnetic Specialty, Inc.; to his left is  
14 Robert Dennis, president of Rochester Magnet Company;  
15 then my colleague, Iain McPhie; and next to him is  
16 Brandon Fixsen, vice president of operations, TradeNet  
17 Publishing. We will start with Allen's testimony.

18 MR. ALLEN LOVE: Good morning. I'm Allen  
19 Love, president of Magnum Magnetics. Magnum is the  
20 largest U.S. producer of unprinted flexible magnets  
21 and the Petitioner in these investigations.

22 I want to thank you for your time today and  
23 the opportunity to discuss how the unfairly traded  
24 imports from China and Taiwan have severely damaged  
25 our business. They threaten even greater harm to us

1 and other U.S. flexible magnet producers and,  
2 ultimately, the destruction of much or all of our  
3 industry unless these investigations result in  
4 antidumping and countervailing duty orders. We need  
5 the guarantee of fair competition those laws are  
6 designed to provide.

7 We filed our petition because we found our  
8 market being assaulted by imports from China and  
9 Taiwan, selling at prices we simply could not meet.  
10 We were losing customers and market share to the  
11 imports. Those customers we were holding were asking  
12 us to meet or approximate import prices.

13 Efforts to raise prices to keep pace with  
14 increasing materials and energy prices were frustrated  
15 by the imports' very low prices. We felt the imports  
16 were being sold at dumping prices, and we were right.

17 The unfair imports are a pressing issue for  
18 Magnum because we seem to be in their crosshairs. Our  
19 sales are concentrated in flexible magnetic sheeting  
20 and in sales to printers. The imports seem to be  
21 concentrating there, too. That is the part of the  
22 market where magnet price is of the greatest  
23 importance to the purchaser. For printers, whose  
24 product is a printed magnet, the price of the magnet  
25 makes up an unusually large part of the cost of the

1 finished product.

2 Magnet price is a much smaller part of  
3 overall cost when the finished product is something  
4 like a refrigerator gasket that are an even smaller  
5 part of a refrigerator. A large portion of these  
6 gaskets are made by the U.S. producer and captive  
7 consumer, Home Industries. This puts Magnum in the  
8 first rank of the industry as it feels the impact of  
9 the unfair imports.

10 The Chinese and Taiwanese magnet producers  
11 seem to have targeted the U.S. magnet industry. With  
12 the exception of flexible magnets, all other magnets  
13 sold in the U.S. are dominated by Chinese  
14 manufacturers or others buying from Chinese factories.

15 U.S. production of ceramic button magnets,  
16 for example, has gone offshore. AIC Magnets, Ltd., of  
17 China features this quote, "Low-priced, raw flexible  
18 magnetic sheeting," on its Web site and boasts there  
19 that it is "the world's largest manufacturer in the  
20 flexible magnet industry and already dominates the  
21 flexible magnet markets in Europe, the Middle East,  
22 Asia, and Australia."

23 AIC appears to be related to New Life and  
24 Mag One, a major producer and importer of Chinese  
25 material, which has been very active in the U.S.

1 market.

2           The producers of the unfair imports  
3 intentions to dominate the U.S. market are indicated  
4 by the rapid rate at which they increased their  
5 exports to the U.S., their establishment of warehouses  
6 and selling agencies in the U.S., and their below-  
7 market prices.

8           In their drive to dominate the U.S. market,  
9 the Chinese and Taiwanese producers are being aided by  
10 some purchasers in the U.S. These purchasers have  
11 adopted a strategy of seeking to expand their U.S.  
12 market share by using the low-priced, unfairly traded  
13 imports to take sales from their competitors, who  
14 continue to buy from Magnum and other U.S. producers.  
15 We'll talk more about that later.

16           First, I will provide a brief description of  
17 raw flexible magnets because the product is a new one  
18 to the Commission.

19           The terminology "raw flexible magnet" was  
20 adopted for purposes of this investigation. The  
21 purpose was to distinguish the unprinted products of  
22 the U.S. raw flexible magnet producers, such as  
23 Magnum, Flex Mag, and Holm, from the printed magnets  
24 and other products of our nondistributor customers.

25           Raw flexible magnets come in three basic

1 forms: magnet sheeting, strips, and profile shapes.  
2 All three are made by Magnum.

3 Flexible magnetic sheeting are sheets of  
4 highly flexible material with permanent magnetic  
5 properties. By "permanent magnetic properties," I  
6 mean capable of being permanently magnetized by  
7 exposure to a strong magnetic field. The material has  
8 this property, whether it is magnetized or not,  
9 because it is built into the material itself.

10 Sheeting most commonly is made by running  
11 flexible magnet material through a colander, a machine  
12 with rolls that creates continuous thin material with  
13 a smooth, even surface.

14 Flexible magnet strips are like sheeting,  
15 except for being substantially narrower in width and  
16 possibly thicker. Strips can be made by cutting  
17 sheeting into narrow products, or they can be  
18 extruded. Extrusion is usually used for thicker  
19 strips.

20 Flexible magnet profile shapes have a  
21 nonrectangular cross-section. An example would be a  
22 C-shaped profile used to hold labels on metal  
23 shelving. Magnetic pencil holders, with a slot for  
24 the pencil, are another example. We've brought  
25 samples of each of these forms of raw flexible magnet



1 to share with you after our presentation to help you  
2 understand the products.

3 Flexible magnets are flexible because they  
4 are composed of a flexible binder, generally a  
5 polymer, such as synthetic rubber, and a magnetic  
6 element. Generally, the magnetic element is a  
7 ferrite, such as strontium or barium ferrite. Other  
8 magnetic material can be substituted, for example, if  
9 significantly higher energy is required.

10 Magnum and others in the U.S. raw flexible  
11 magnet industry can and do make flexible magnets in  
12 the higher energy ranges when called for. The U.S.  
13 producer, Electrodyne, specializes in these products.  
14 However, such high energy generally is not a  
15 requirement for the principal uses of flexible  
16 magnetic sheets and strips. These are used as  
17 refrigerator magnets and other advertising specialty  
18 and novelty items.

19 Another significant use of sheeting is as  
20 magnetic signage on the doors of cars or vans.

21 Raw flexible magnets are manufactured and  
22 sold in a variety of different forms, depending on the  
23 customer's requirements. It may be sold as plain,  
24 unlaminated, raw flexible magnet. In the case of  
25 sheeting, the plain magnet usually has some sort of

1 printed material applied to it by a printer.

2           Alternatively, the magnet may have an  
3 adhesive covered by a release liner placed on it by  
4 the manufacturer. The adhesive allows the user to  
5 apply the magnet to something they want to have adhere  
6 to a metal surface. It is also used to apply  
7 preprinted material to the magnet.

8           Another alternative is for the manufacturer  
9 to apply a paper, vinyl, or other synthetic laminant  
10 to the surface of the magnet. The laminated products  
11 are substantially more expensive than plain,  
12 unlaminated magnets and are typically used for  
13 printing applications. The laminant supplies the  
14 surface that is printed with whatever the user wants  
15 to put on it.

16           The examples on the table include examples  
17 of 12-mil.-thick plain and vinyl laminated magnets.  
18 In our pricing system, the 12-mil. laminated product  
19 is 80 percent more expensive than the 12-mil. plain  
20 product.

21           Finally, the magnet may be coated in one way  
22 or another. One example of a 12-mil. plain magnet we  
23 have provided has been back coated. It is the smooth,  
24 shiny surface on one side of the magnet. Unlike  
25 lamination, back coating is an inexpensive addition.

1           Magnum is large in the U.S. flexible magnet  
2 industry, but, in a broader sense, it is a relatively  
3 small company, with limited resources to combat the  
4 tactics of the producers of the unfairly marketed  
5 imported materials.

6           Magnum was founded in 1991 in Marietta,  
7 Ohio, when my brother and I convinced a group of local  
8 investors to back us. Flexible magnet began to be  
9 produced in the 1950's by B.F. Goodrich at their  
10 Marietta plant. That appears to have been in response  
11 to demand for magnetic refrigerator gaskets, first  
12 developed by General Electric as a method of closure  
13 for refrigerator doors that would not provide a trap  
14 for unwary children who might find abandoned  
15 refrigerators and use them as playthings.

16           We identified the raw flexible magnet market  
17 in the U.S. as a growth market for U.S. manufacturers,  
18 and, for many years, it was. Because of the unfair  
19 imports, it no longer is.

20           Our first manufacturing facility was set up  
21 on a piece of land that had been part of our family  
22 farm. We are sixth-generation residents of Marietta,  
23 and our ancestors came to the area when it was first  
24 settled. Marietta was the first permanent settlement  
25 in the Northwest Territory and still is.

1           We are committed to our community and our  
2 employees, but we do not have the extensive resources  
3 of large, broadly based, manufacturing concerns, such  
4 as Arnold Magnets, which owns the second-largest U.S.  
5 raw flexible magnet producer, Flex Mag, and itself has  
6 manufacturing facilities in China for, we believe,  
7 other types of magnets.

8           We understand that a representative of Adams  
9 Magnetic Products intends to testify in opposition to  
10 our petition later today. Adams also testified at the  
11 staff conference in the preliminary phase. As that  
12 testimony faulted Magnum's product for something  
13 called "blocking" or "bricking," I will talk briefly  
14 about that subject. Before doing so, I would like to  
15 make an important point.

16           We intend no slight to Adams, or its  
17 subsidiary, Magnetic Attractions, Inc., which you may  
18 hear us refer to as "MAI." They have been an  
19 important customer, and we hope they will be again.  
20 However, the fact is that it is not any blocking or  
21 any other issue Adams or MAI may claim to have  
22 experienced with Magnum's product that is the reason  
23 that they have replaced Magnum with one or more  
24 Chinese suppliers.

25           The real reason, and the reason they are

1 here today, is the price at which they can obtain  
2 product from the foreign supplier. We were told by  
3 back channels in early 2007 that our back-coated  
4 material worked, but we were going to lose MAI's  
5 business anyway because they were able to get Chinese  
6 material at a much lower price.

7 The peers import data available to us  
8 indicate that neither Adams nor MAI nor any other U.S.  
9 purchaser representing themselves here today are  
10 currently buying Chinese or Taiwanese material, which  
11 now, of course, requires a substantial bond or cash  
12 deposit to import. This makes clear that their  
13 purchases were driven by price. If that were not the  
14 case, and some other compelling reason were  
15 responsible, they would still be importing.

16 As the president of Magnet Technology, who  
17 opposes the petition, testified at the staff  
18 conference back in October, "It's kind of like the old  
19 joke about real estate. There's three things that  
20 matter: location, location, location. And in  
21 magnets, there's three things that matter: price,  
22 price, and price."

23 Returning to the subject of blocking,  
24 "blocking" or "bricking" is the name given to an  
25 instance where the magnet, or part of a roll or stack

1 of raw flexible magnet sheets, does not feed smoothly  
2 into printing, cutting, or feeding equipment but,  
3 instead, the layers or sheets stick together, causing  
4 interruptions in the process.

5 This occurs primarily in the case of plain  
6 magnetic sheets and is more prevalent in the summer  
7 months. Any one or more of several reasons may be  
8 responsible.

9 If raw flexible magnet is stored in  
10 conditions of elevated heat or humidity, the polymer  
11 used as a binder may cause some adherence of the  
12 sheets to each other.

13 If the magnet is stacked in storage, the  
14 weight of the magnet may tend to press the individual  
15 sheets together, contributing to blocking and the  
16 conditions just mentioned. Heat, of course, magnifies  
17 that.

18 This also can help to material near the  
19 compressed centers of very large rolls of sheeting.

20 Blocking has been an inherent problem with  
21 plain material. For a long time, Magnum's customers  
22 overcame blocking issues with equipment and operating  
23 procedures designed to minimize the effect. Back  
24 coating has become a product improvement at minimal  
25 cost that is now readily accepted as standard in the

1 industry on plain material to practically eliminate  
2 blocking issues.

3 The long ocean voyage from China or Taiwan  
4 subjected the foreign producers to conditions ideal  
5 for causing blocking. Accordingly, they routinely  
6 applied a coating to the back that is the magnetized  
7 side of their plain, raw flexible magnets.

8 Magnum traditionally has not had a serious  
9 problem with its product blocking. However, some time  
10 after our acquisition of Magnetic Specialty in 2005,  
11 we began to receive complaints about blocking from  
12 Adams's subsidiary, MAI. We were puzzled as to why  
13 MAI reportedly should experience that problem with our  
14 product when it maintained it had not done so with  
15 MSI's magnet.

16 We studied historical records and found, as  
17 expected, there had always be some blocking complaints  
18 from MAI regarding MSI's material. Our solution was  
19 to offer MAI back-coated product used by other  
20 customers. This was rejected by MAI, confirming our  
21 understanding that the blocking story was simply an  
22 excuse for breaking their contract with us in order to  
23 buy cheaper imports from China.

24 That so-called "quality" should be raised as  
25 an issue by the importers of the unfairly traded

1 imports is particularly galling to us because quality  
2 control is such an important part of our production  
3 operations.

4           Magnum has a strong, total, quality-  
5 management program that begins with the design and  
6 testing of its processes and equipment. We believe  
7 that by controlling our processes and equipment, we  
8 can achieve exceptional quality, consistency, and  
9 repeatability during our manufacturing process.

10           Every order that flows through Magnum is  
11 checked at every work center to maintain the quality  
12 and integrity of the product. In addition, our lab  
13 and operators routinely test all binders, powders, and  
14 laminants to be used in the process.

15           If a customer complaint relates to a  
16 product, as contrasted with a delivery or invoicing  
17 complaint, our quality-control laboratory tests the  
18 product to determine whether the complaint is  
19 warranted and, if so, what steps may need to be taken  
20 for correction.

21           When we find a problem is ours, we fix it  
22 quickly and try to minimize the inconvenience to our  
23 customers.

24           Two of our loyal customers are here today to  
25 tell you about the quality of our products and our



1 responsiveness in dealing with any issues that might  
2 arise. Both they and I will be happy to answer any  
3 questions about quality that the Commission may have.

4 Overall, our product quality record is very  
5 good. During the past 12 months, better than 99  
6 percent of our total invoiced amounts have resulted in  
7 no customer credits, whether for quality or any other  
8 reason.

9 We are proud of our company and its  
10 products. We believe we have the best flexible magnet  
11 products on the market today. Much of our  
12 manufacturing equipment is custom designed and  
13 manufactured in house by our employees.

14 We recognize our people as our biggest  
15 asset. We have open-book managed our company since  
16 its inception. Our employees are informed in all  
17 aspects of our business. They are involved in a  
18 culture of continuous improvement, and they are  
19 rewarded through profit sharing. They are dedicated  
20 and care about their jobs and the products that they  
21 produce.

22 But they and our company are in grave danger  
23 because of the inroads in our market and the pressure  
24 on our prices imposed by the unfair imports from China  
25 and Taiwan. They compete with us head to head

1 nationwide. As evidence of things to come, if relief  
2 from the unfair imports is not provided, the Taiwanese  
3 manufacturer, Jasdie, had established warehouses at  
4 two locations in the U.S. Chinese manufacturers were  
5 following suit, and related companies are opening  
6 sales offices in the U.S. Their selling point is  
7 price, China prices.

8 Prior to the preliminary determination, the  
9 number one concern voiced to me by our customers was,  
10 "Are my competitors buying Asian products?" We need  
11 to be competitive with the unfair imports at every  
12 account.

13 I will stop at this point for our economist  
14 to point out that the data collected by the  
15 Commission's staff strongly supports our case. Then  
16 my brother, Tom, will pick up the narrative, beginning  
17 with the channels through which we sell our products.  
18 Thank you.

19 MR. THOMAS: Bruce?

20 MR. MALASHEVICH: Good morning, Madam  
21 Chairman and Members of the Commission. I'm Bruce  
22 Malashevich with Economic Consulting Services. Our  
23 firm has been retained by counsel to Petitioners in  
24 these proceedings to evaluate an offer our views on  
25 the economic aspects of the case.

1           Given that opposing parties submitted no  
2 prehearing brief on issues relevant to the  
3 Commission's inquiry, my brief testimony today will  
4 highlight just some of the key economic findings  
5 discussed in the Petitioners' prehearing brief and  
6 offer some additional information.

7           I hope you have before you the APO version  
8 of Petitioners' brief, to which I'll be referring, and  
9 also we've submitted in advance certain confidential  
10 exhibits that I also hope you have before you during  
11 my testimony.

12           During the earlier phase of this proceeding,  
13 and on certain questionnaire responses, some importers  
14 and purchasers claimed that the rapid growth in  
15 subject imports at the domestic industry's expense  
16 occurred in response to issues of quality, timeliness  
17 of delivery, and/or other so-called "nonprice factors"  
18 associated with the domestic industry's conduct.

19           The full record now makes clear that, in  
20 fact, the imports' low price was the central force  
21 causing purchasers to turn down domestic shipments in  
22 favor of subject imports.

23           On this subject, I direct your attention to  
24 pages 3, 8, and 38 through 40 of Petitioners'  
25 prehearing brief.

1           In its simplest terms, evidence supporting  
2 this conclusion is found in staff's calculation of  
3 underselling. In the aggregate, underselling occurred  
4 in 68 percent of all instances, but more important is  
5 that underselling occurred in more than 90 percent of  
6 all instances at the level of trade in which domestic  
7 producers and subject imports compete most directly,  
8 which is at the so-called "purchase price level."

9           Please see Exhibit C and Exhibit F to  
10 Petitioner's prehearing brief, and I'm making these  
11 references because of the APO nature of the material  
12 they contain.

13           Underselling was widespread over time, very  
14 substantial in magnitude, and shared by imports from  
15 both subject countries. It's in this context that the  
16 Commission should consider the combined significance  
17 and effect of the margins of dumping and  
18 countervailable subsidies found by Commerce in the  
19 range of 215 to 295 percent for China and 31 to 38.5  
20 percent for Taiwan.

21           You should then ask the question: How can  
22 underselling margins of dumping and subsidies of these  
23 magnitudes not be having, and be threatening to have,  
24 a material, adverse impact on the competing domestic  
25 industry in this case, given the conditions of

1 competition identified in staff's very well-done  
2 prehearing report?

3 There is additional compelling evidence of  
4 the role price plays in this market elsewhere in the  
5 record. For example, the prehearing report observes  
6 that only 11 importers account for nearly all subject  
7 imports, so you can really take a microscope up to  
8 these particular players.

9 My colleagues at ECS carefully reviewed each  
10 importer's and/or purchaser's questionnaire of these  
11 11 and compared the import price paid in relation to a  
12 contemporaneous benchmark of comparable domestic  
13 prices. This is all laid out in Petitioners'  
14 prehearing brief.

15 In virtually all cases, the reported import  
16 prices undersold the domestic benchmark at the same  
17 level of trade for these importers or purchasers.

18 This finding is discussed in detail at pages  
19 36 through 40 of Petitioners' brief and is supported  
20 by the data in that brief's Exhibit B.

21 One anecdote that may be drawn from one of  
22 these 10 or 11 most important customers is  
23 particularly instructive for the Commission's  
24 deliberations in this case. It's discussed on page 8  
25 of Petitioners' brief.

1           In general terms, the Commission has  
2 evidence showing that subject imports of laminated  
3 magnets were being priced during the POI at less than  
4 the domestic price of the raw unlaminated magnet.  
5 This is very significant.

6           The process of lamination involves  
7 significant incremental costs of production and, in a  
8 normal market, attracts a higher price to compensate  
9 the producer. Therefore, import underselling of the  
10 nature that I just described is particularly damaging  
11 to the entire domestic pricing structure. It is akin  
12 to selling a Cadillac for the price of a Chevy.

13           The Commission also should consider the  
14 targeted impact of subject imports in that U.S. market  
15 segment in which both U.S. and imported commercial  
16 sales are concentrated; that is the segment of so-  
17 called "sheeting products."

18           According to the prehearing report, domestic  
19 commercial shipments and subject imports were  
20 concentrated in this segment. Although not  
21 specifically addressed in the prehearing report, the  
22 data available allow a separate calculation of subject  
23 import penetration in this segment for sheeting  
24 products.

25           My Confidential Exhibit 1 shows the result.

1       Whereas, overall subject import penetration in the  
2       commercial market certainly rose dramatically during  
3       the POI, the rate of change of penetration and the  
4       magnitude in the sheeting segment were much greater.

5               The link of this rapid growth to unfair  
6       import prices is made even more obvious by the fact  
7       that every single one of the six products for which  
8       price comparisons were calculated were sheeting  
9       products. So you have a rather precise match between  
10      the set of products for which you have pervasive  
11      underselling and the set of products where both  
12      subject imports and domestic activity are  
13      concentrated.

14             To be quite candid, I do not know what  
15      further evidence of adverse price effects the  
16      Commission could want in this case in support of an  
17      affirmative determination.

18             The overall conclusion from the foregoing  
19      points is that price certainly matters in this market  
20      and that subject imports leverage their low prices to  
21      rapidly accumulate market share at the domestic  
22      industry's expense.

23             It also follows that claims advanced by  
24      those opposed to the petition, to the effect that  
25      nonprice factors were paramount in the switch to

1 subject imports, simply do not stand up in the light  
2 of the contrary evidence.

3 Together with the obvious presence of  
4 adverse volume effects discussed at length in  
5 Petitioners' brief and in the staff's prehearing  
6 report, it should go without saying that subject  
7 imports have caused, and threatened to cause, material  
8 injury to the domestic industry's overall condition.

9 Although such injury should be apparent from  
10 the data and the narrative and the prehearing report,  
11 the document does not take into account differences in  
12 the product mix and resulting market exposure of  
13 individual U.S. producers.

14 These differences explain the different  
15 degrees to which the injurious impact of unfair  
16 imports adversely affects the industry's members over  
17 time. Nonetheless, material injury to the industry,  
18 as a whole, is manifest in the prehearing report and  
19 is brought into relief in my Confidential Exhibit 2  
20 now before you.

21 I believe that exhibit is self-explanatory.  
22 In effect, it adjusts for differences in product mix  
23 among U.S. producers. It shows the upward growth in  
24 the volume of subject imports over time in relation to  
25 the percentage of U.S.-produced sales volume sold at



1 the profit margins indicated in the graph.

2 To coin a phrase frequently employed by the  
3 Commission, there is a strong correlation between the  
4 rapid growth in subject imports and the adverse trend  
5 in the domestic industry's overall condition, and, at  
6 this point, I would like to draw for you a  
7 hypothetical, and I emphasize that it is a  
8 hypothetical, but one that I think could assist you in  
9 evaluating the effect of the imports on the domestic  
10 industry's condition.

11 Now, I should tell you my father was a  
12 commercial artist on Madison Avenue in New York, but  
13 not one iota of his artistic talents managed to  
14 migrate into my genes, so bear with me with the  
15 crudeness of my story here.

16 (Pause.)

17 MR. MALASHEVICH: Think of this large circle  
18 as the domestic industry, as a whole. It's a bubble.  
19 These are the subject imports. These are the  
20 individual U.S. producers in the industry, each of  
21 which has a different product mix, each of which has,  
22 in some cases, different proportions of captive  
23 consumption versus commercial sales, and, therefore,  
24 it's natural to expect the producer with the product  
25 mix most closely overlapping with the subject imports

1 to be heard first.

2 So this is the producer at the edge of the  
3 bubble in the front line, or the phalanx, that the  
4 Petitioners' prehearing brief represented, and they  
5 are getting hit first, but the effect is to burst the  
6 bubble for the domestic industry entirely over time.  
7 So that's an important concept I would urge you to  
8 keep in mind as you make your determination.

9 In closing, my Exhibit 3, which is public,  
10 contains certain comments regarding staff's elasticity  
11 estimates. I won't dwell on that further. There are  
12 other points that I can discuss, but, in the interest  
13 of brevity, I'll conclude my testimony here. Thank  
14 you.

15 MR. THOMAS: Thank you, Bruce. Could we  
16 pause for a moment? May I ask the secretary how much  
17 time we have left?

18 MS. ABBOTT: Twenty-eight minutes remain.

19 MR. THOMAS: Thank you very much. Tom?

20 MR. TOM LOVE: Good morning. Allen has  
21 provided background on our product and methods of  
22 manufacture. Bruce has provided some of the numbers  
23 that show that it has been the low prices of imports  
24 of raw flexible magnet from China and Taiwan that have  
25 led to the dramatic increase in the imports in the

1 last three years and demonstrated the correlation  
2 between the growth of the imports and injury to the  
3 U.S. raw flexible magnet industry. I will try to add  
4 a little flesh to these bones.

5 We understand that five importers of the  
6 unfairly traded magnets from China and Taiwan are to  
7 be here today in opposition to our petition. In part,  
8 therefore, I will tell our story with reference to  
9 Magnum's experiences with those companies. They  
10 illustrate the impact we have suffered from the  
11 imports and the threat we face.

12 To begin, it may be helpful to review the  
13 raw flexible magnet market in the U.S. and the various  
14 channels of distribution where we face the unfair  
15 imports.

16 We sell to four general classes of  
17 purchasers: printers, original equipment  
18 manufacturers, high-volume retailers, and  
19 distributors.

20 Printers are the largest segment of the  
21 market. They typically buy raw flexible magnet for  
22 purposes of printing such items as magnetic business  
23 cards, magnetic calendars or sports team schedules,  
24 and business signage for cars and vans. Printers come  
25 in all sizes. Some purchase raw flexible magnet in

1 small lots; others purchase in large volumes.

2           Magnum typically serves the large-lot  
3 customers. Flexible magnet distributors typically  
4 serve the small ones.

5           Adams's subsidiary, Magnetic Attractions,  
6 usually referred to as "MAI," is an example of a large  
7 printer. Magnet Street and Rainbow Magnetics are also  
8 printers.

9           The preponderance of our sales is to  
10 printers and, as illustrated by the companies in the  
11 opposition chairs, this is a sector being especially  
12 strongly attacked by the Chinese and Taiwanese  
13 producers.

14           There are, of course, many more printers in  
15 the U.S. market than appear in opposition to our  
16 petition. In fact, from conversations with them, we  
17 believe many support our effort to deal with the  
18 unfair imports. They fear that access to cheap  
19 imports is allowing their competitors to undersell  
20 them for desired jobs. They would like the  
21 competitive playing field to be leveled.

22           Another category of purchaser consists of  
23 original equipment manufacturers. We use raw flexible  
24 magnet in manufacturing such products as shower doors,  
25 toys, games, and cabinets. High-volume retailers,

1 such as Wal-Mart or K-Mart, purchase retail-packaged,  
2 raw flexible magnets for sale as craft items or for  
3 use in homes, schools, or small businesses. This is a  
4 market sector we have been seeking to develop and  
5 grow. However, just as in the printing and OEM  
6 markets, we now find imports in this sector as well.

7           Distributors purchase for stock and resale,  
8 as well as for direct drop shipments for customers who  
9 typically purchase in smaller lots. Some perform a  
10 conversion function, making smaller raw flexible  
11 magnets out of larger sheets or rolls. Adams, Master  
12 Magnetics, and Rochester Magnetics are all examples of  
13 converting distributors.

14           Distributors sell our products largely to  
15 printers but also to some original equipment  
16 manufacturers and retail outlets. The Chinese and  
17 Taiwanese imports have significantly disrupted this  
18 sector.

19           Under pressure from low-priced imported raw  
20 flexible magnets from China and Taiwan, the hazy line  
21 between higher-volume users being served by raw  
22 flexible magnet manufacturers, such as Magnum, and  
23 smaller users being served by magnet distributors is  
24 becoming ever less distinct.

25           Their extremely low prices have made it

1 possible for some of the larger distributors to buy  
2 the imports and to target the high-volume users who  
3 have traditionally purchased from producers such as  
4 Magnum. Some distributors have made it clear that  
5 that is exactly what they intend to do.

6 We compete nationwide directly with Chinese  
7 and Taiwanese raw flexible magnet producers and their  
8 U.S. sales arms for sales to the larger users in the  
9 printing, OEM, distributor, and retail markets. That  
10 competition has become a fight for survival. Until  
11 the Commerce Department's recent actions in these  
12 proceedings, Chinese and Taiwanese raw flexible magnet  
13 was being sold in the U.S. markets at what seemed to  
14 be ever-lower prices, prices that sometimes were below  
15 our cost of production.

16 Several long-time, large-volume customers of  
17 Magnum have deserted to Chinese and Taiwanese  
18 suppliers, in whole or in large part, and the reason  
19 is always the imports' prices. The erosion of our  
20 sales base has taken place over several years and is  
21 accelerating.

22 An example is our loss, in the second half  
23 of 2007, of sales to MAI, the printer subsidiary Adams  
24 Magnetics. MAI had been a long-time customer of  
25 Magnetic Specialty, Inc., or "MSI," another U.S.

1 producer also located in Marietta. MSI, which was  
2 then the high-cost, domestic producer, experienced  
3 difficulty competing in the changing competitive  
4 conditions brought about by the imports from China and  
5 Taiwan.

6 We acquired MSI in 2005 and, with it, the  
7 MAI account. We were informed informally that the  
8 reason Adams MAI wanted out of the contract was that  
9 they could buy Chinese material at much lower prices.

10 According to peers' data, in 2007, Adams MAI  
11 imported as much raw flexible magnet from China as it  
12 historically purchased from us.

13 Given an apparently declining U.S. market,  
14 this indicates to us that Adams MAI was not merely  
15 displacing Magnum with the Chinese magnet; it was  
16 increasing its market share in the U.S., to the  
17 detriment of our other customers, using unfairly  
18 traded Chinese magnet.

19 Another sign of Adams's intention to expand  
20 with the use of the unfairly traded imports is the  
21 announcement it made, on March 31st of this year, that  
22 it was opening a new production line in Sonoma,  
23 California, in order to "offer West Coast customers  
24 quick-time, flexible magnets, plus its full-service  
25 production and converting capabilities."

1           Adams is not the only importer with a  
2 business plan calling for expansion based on  
3 leveraging low-priced, unfairly traded imports.  
4 Another is Master Magnetics. This distributor  
5 contacted Magnum's former general manager in 2007 with  
6 the proposition that he should join Master in an  
7 enterprise based on using low-priced Chinese product  
8 to take away customers from Magnum.

9           The compelling reason Adams MAI and other  
10 customers have turned to the imports from China and  
11 Taiwan is their low prices. That is what we hear time  
12 after time from those who are buying the imports and  
13 from those who fear that their competitors are buying  
14 the imports and want us to match the import prices.

15           For example, we have an e-mail from our West  
16 Coast sales representative reflecting a telephone  
17 conversation with Rainbow Magnetics in late 2004.  
18 Rainbow, which was then buying sheet from MSI, the  
19 company we later acquired, said that it was having a  
20 hard time competing with the foreign presence in the  
21 sheet sector. It was losing orders daily and was  
22 highly threatened.

23           Our representative was told that, for one  
24 sheet product, Rainbow was paying 40 cents a sheet to  
25 MSI and had been quoted 23 cents a sheet, CIF, Los



1 Angeles, by Polyflex, one of the Chinese producers.

2 Rainbow stated that it did not want to buy  
3 foreign material, but every day it was becoming more  
4 attractive.

5 Until imposition of the Commerce  
6 Department's preliminary measures a few months ago, we  
7 frequently heard from other customers who were  
8 experiencing the same threat from competitors buying  
9 the unfairly priced imports. Our customers were  
10 pressing us constantly to help them. We believe that  
11 success in these proceedings will remove the threat  
12 Rainbow and others complained of and give Rainbow and  
13 others the fair market in its magnet supply that  
14 Rainbow wanted in 2004.

15 The Commission's underselling data confirm  
16 that it is price that is the imports' selling point.  
17 The prehearing report states: "Prices for imported  
18 raw flexible magnet from subject countries were lower  
19 than those for U.S.-produced raw flexible magnets in  
20 the majority, 68.5 percent, of instances where  
21 comparisons were possible."

22 Our lawyers tell me comparable levels of  
23 underselling have been found by the Commission to be  
24 significant in other dumping investigations.

25 The unfair imports' underselling is even

1 greater than the quote reveals. The quoted  
2 comparisons were made at the trade level at which the  
3 importers are selling the imported magnet to  
4 purchasers in the U.S. With the exception of a couple  
5 of importers, such as Jasdie's U.S. agent, those sales  
6 typically are at the level at which U.S. distributors,  
7 such as Adams, sell, not the level at which we sell to  
8 Adams and other distributors, OEMs, big box stores,  
9 and larger printers, such as Adams's subsidiary, MAI,  
10 or Rainbow.

11 We compete directly with the foreign  
12 producers for those sales at the level at which these  
13 importers purchase the unfair imports. The prehearing  
14 report states that "purchase prices of imports from  
15 China reported by printers were lower than sales  
16 prices for comparable U.S. products in 42 of 46  
17 instances."

18 This underselling in more than nine of 10  
19 comparisons is much more representative of our  
20 encounters with Chinese and Taiwanese product in the  
21 market, and yet, at the staff conference, we heard  
22 those opposing the petition seemingly argue that they  
23 buy the unfair imports for reasons other than price,  
24 or, at least, that they had complaints about Magnum  
25 that they wanted to air.

1           We already have addressed one of these,  
2 Adams's blocking complaint. Another aired at that  
3 time was a complaint that, in late 2005, during the  
4 traditional busy time of the year, our delivery dates  
5 stretched out, and we put customers on allocation. We  
6 called and sent our distributor customers a letter at  
7 that time advising them that they were temporarily put  
8 on allocation of 120 percent of their previous year's  
9 orders, but we never were required to enforce the  
10 allocation.

11           The supply constriction was a temporarily  
12 one and has not been experienced since. In fact, we  
13 have been experiencing significant and growing excess  
14 capacity in every year of the investigation period.

15           Magnum's temporary order stretch-out, in the  
16 fall of 2005, was itself an example of injury  
17 attributable to the imports because it was due, in  
18 significant part, to production problems arising from  
19 the consolidation of MSI and Magnum caused by the  
20 pressure imposed on MSI by the unfair imports.

21           More importantly, it is very old news. It  
22 could not have been responsible for the sharp rise in  
23 the unfair imports, for example, in 2007.

24           During the same period, in 2005, we  
25 experienced large spikes in our raw material costs,

1 many of which are petroleum based or consume  
2 significant amounts of energy in their production.  
3 Consequently, at the end of 2005, we were forced to  
4 try to raise our prices for 2006, the first general  
5 price increase in our company's history.

6 We encountered stiff resistance, with many  
7 customers threatening us with Chinese and Taiwanese  
8 pricing. Overall, we were unable to secure the  
9 general five-percent increase we needed and had to  
10 settle for an increase in the two-to-three-percent  
11 range.

12 At the same time, we realized we had not  
13 been assessing our usual setup charges for small  
14 orders from one of our customers, Master Magnetics,  
15 and we advised them that these charges would be  
16 applicable in the future.

17 In 2006, our lead times and quality were at  
18 acceptable levels. We continued to work on improving  
19 our internal systems and efficiency on product  
20 development and staff training in preparation for the  
21 busy season in the fall. We were ready, but the busy  
22 season never happened. It became clear that imports,  
23 specifically, the imports from China and Taiwan, that  
24 had become ubiquitous in the market had taken a  
25 significantly larger bite out of our market. Overall,

1 in 2006, our sales were significantly off.

2 2007 continued the trend set in 2006, with  
3 sales declining and prices under pressure from the  
4 Chinese and Taiwanese imports. Again, in 2007, we had  
5 hoped to raise our prices, but, given the impact of  
6 the import prices, we dropped the effort.

7 In late spring, we learned that MAI was  
8 planning to switch from us to the imports. In  
9 addition, we learned that Adams was also planning to  
10 import from China, in their words, "to get some of the  
11 bigger orders they weren't able to get before." In  
12 other words, they could compete with us directly.

13 Again, in the fall of 2007, we did not see  
14 the busy season that formerly was routinely  
15 experienced at this time of the year. The imports had  
16 taken that volume away from us. As a consequence, we  
17 did not run several colandaring and extruding lines  
18 that normally would have been at full production in  
19 the fall of the year.

20 In 2008, the outlook for the year's, and  
21 future year's, sales volumes was ominous until the  
22 Commerce Department actions and the countervailing  
23 duty and antidumping investigations.

24 From the peers' reports that we reviewed,  
25 those actions seemed to have had the effect of

1 virtually halting imports from China and Taiwan.  
2 However, it also appears that, until relatively  
3 recently, importers had been working off inventory  
4 built up prior to the Commerce actions.

5           Recently, several customers have returned to  
6 us. Some are customers we have not seen in several  
7 years. We are receiving increasing inquiries and  
8 entered into price negotiations with others. Still  
9 others, presumably, have turned to our domestic  
10 competitors, such as Flex Mag.

11           What will happen during the busy season this  
12 year, whether there will be a recovery of Magnum and  
13 others in the U.S. flexible magnet industry, depends  
14 on what happens as a result of these investigations.  
15 If antidumping and countervailing duties are imposed  
16 on imports from China and Taiwan, we will see a busy,  
17 busy season. If not, the busy season will almost  
18 certainly represent a disaster for us.

19           There can be no doubt that price, and price  
20 alone, is the weapon Chinese and Taiwanese producers  
21 have used to take over an increasingly large share of  
22 the U.S. raw flexible magnet market. This is clear  
23 from the offerings of the foreign producers  
24 themselves.

25           The Web page for Polyflex Magnets, Ltd., of

1 Hong Kong, whose plant is located in Chin Zen, China,  
2 continues to boast that magnets sold by Poly Flex  
3 offer German-quality magnetic sheeting at China  
4 prices. "China prices" says it all. Everyone in the  
5 industry knows that to be shorthand for the lowest  
6 prices available.

7           If any of the various reasons, other than  
8 price, for buying the Chinese and Taiwanese imports  
9 that will be offered by the opposition today were  
10 valid, there would be no need for the comprehensive  
11 underselling of the U.S. industry's product such as we  
12 have experienced and which is confirmed by the price  
13 data collected by the Commission.

14           The imports would be selling at a premium,  
15 but they are not. In fact, the unfair imports have to  
16 satisfy certain quality requirements, but they sell  
17 principally on the basis of their prices. Prices that  
18 the Commerce Department's final results established  
19 are both, in the case of the Chinese imports, highly  
20 subsidized by various levels of the Chinese government  
21 and dumped at very large dumping margins.

22           The fact that unfairly traded imports  
23 virtually ceased following the Commerce Department  
24 actions shows that they cannot compete in the U.S., if  
25 fairly traded.

1           If action were not taken as a result of  
2 these investigations, the future for Magnum and the  
3 U.S. raw flexible magnet industry would be grim.  
4 Prior to the Commerce actions, the unfair imports had  
5 rapidly gained a substantial share of our market and,  
6 at the same time, had made it impossible for us to  
7 implement needed price increases.

8           These trends were bound to continue and  
9 worsen in the immediate future. There is no other  
10 factor on the horizon that would reverse the adverse  
11 trends. The contrary is true. With demand in the  
12 market apparently falling as a consequence of general  
13 economic trends, the pressures exerted by Chinese and  
14 Taiwanese imports would only become greater.

15           There are a substantial number of raw  
16 flexible magnet producers in China and apparently  
17 substantial available production capacity. They  
18 clearly are export oriented. In addition, the Chinese  
19 magnet industry has been identified by the Chinese  
20 government as an industry to be encouraged, and it  
21 receives a variety of government subsidies.

22           China producers and their selling agents  
23 have established distribution networks and facilities  
24 in the U.S. The principal Taiwanese exporter, for its  
25 part, had established two distribution facilities in



1 the U.S. Until the filing of our petition and  
2 subsequent determinations by the Commission in  
3 Commerce, it was active at U.S. trade shows and  
4 exhibited every sign of intending to expand its sales  
5 here.

6 As discussed earlier, the Chinese and  
7 Taiwanese producers and the U.S. distributors selling  
8 their products have been seeking to capture our  
9 customers across the board. The strategies with which  
10 Magnum has met this competition are likely to enjoy  
11 diminishing success in the future.

12 Our efforts to squeeze costs out of our  
13 system were successful but have reached the point of  
14 diminishing returns. Our efforts to move into more  
15 value-added products have somewhat mitigated the  
16 adverse effects of the imports, but we are now  
17 experiencing competition from the unfair imports in  
18 those areas as well.

19 It is clear that, without effective action  
20 in these proceedings, we will suffer further  
21 substantial injury in the future, with extremely  
22 harmful impact on our ability to continue as a viable  
23 enterprise. Thank you for your attention.

24 MR. THOMAS: Brandon?

25 MR. FIXSEN: Good morning. My name is

Heritage Reporting Corporation  
(202) 628-4888

1 Brandon Fixsen. I am the vice president of operations  
2 for TradeNet Publishing. TradeNet is a major printed  
3 magnet manufacturer doing business through  
4 distributors and resellers. Currently, we have about  
5 \$25 million in sales, and about 90 percent of that  
6 uses flexible magnet in one form or another.

7 TradeNet purchases over three million pounds  
8 of raw flexible magnet annually, and all of this  
9 flexible magnet is purchased directly from Flex Mag  
10 and MSI Magnum.

11 TradeNet has been solicited by foreign  
12 producers of flexible magnet, and we've even tested  
13 some of the foreign material. I was getting calls and  
14 price quotes from Chinese magnet manufacturers almost  
15 weekly. That being said, we've never actually  
16 purchased any foreign material.

17 Quality issues that we perceived would  
18 devalue our finished product was a major deterrent.  
19 We found much of the foreign material to have an  
20 offensive odor, and the American-made magnet we use is  
21 virtually odorless.

22 Since the preliminary measures in this case  
23 were put in place, the soliciting has completely  
24 stopped.

25 Competition in promotional magnets is

1 strong. Price competition is prevalent throughout the  
2 industry. Companies that are using the cheapest  
3 magnetic material available will often have a price  
4 niche. I've seen pricing in this industry that we  
5 cannot match using quality, American-made magnets.

6 I think the use of inexpensive foreign  
7 materials has suppressed prices, making it harder and  
8 harder to realize profits in our industry. There are  
9 some products that we used to be competitive in the  
10 marketplace with that we are no longer competitive  
11 because the buyers of the products have switched to a  
12 version that are using cheaper, foreign magnet  
13 materials.

14 I'm aware that some companies have claimed  
15 there to be quality issues with the Magnum product.  
16 We have not experienced such problems. We bought  
17 material from MSI for years before the merging of the  
18 two companies and have had no problems with any  
19 materials since the merge. I would even go so far to  
20 say that their quality has never been better.

21 I mentioned we also purchase magnet from  
22 Flex Mag, Magnum's competitor. Their quality is very  
23 good as well, and any problems we've had have been  
24 resolved very quickly. Thank you.

25 MR. THOMAS: Our last witness is Robert

Heritage Reporting Corporation  
(202) 628-4888

1 Dennis.

2 MR. DENNIS: Good morning. My name is Bob  
3 Dennis, and I'm the owner of Rochester Magnet Company,  
4 which is a converter of flexible magnet material and  
5 also distributes hard magnet materials and magnetic  
6 assemblies.

7 Since starting business 20 years ago, I've  
8 bought MSI material and am currently buying MSI Magnum  
9 material. Any minor quality problems that we may have  
10 experienced over those 20 years were quickly responded  
11 to and resolved by MSI and now MSI Magnum.

12 Over the 20-year period, we had maybe three  
13 or four minor quality problems. The last time, I  
14 believe, was four or five years ago, where there was a  
15 blocking issue. At one time, we bought some meter-  
16 wide rolls of Chinese material specifically for one  
17 customer that needed the width. They also had  
18 blocking problems.

19 Blocking problems have always been a part of  
20 the flexible magnet business, but, as heard earlier,  
21 that has been pretty much resolved. It particularly  
22 happens on plain magnetic material where the plain  
23 magnet makes contact with itself and the rolls.

24 In February of '08, Scott Lewis, the owner  
25 of Adams Magnetic, bought my two key employees,

1 resulting in me returning to Rochester from a semi-  
2 retirement. Adams then placed them in an office  
3 around the corner from Rochester Magnet Company. Our  
4 feeling is that Adams is after the business of  
5 Rochester Magnet Company and can't wait to buy cheap  
6 Chinese material so that it can be competitive.

7 If allowed to do so, it would only be for a  
8 short period of time since it will force other  
9 converters and distributors to buy the same cheap  
10 material.

11 As owner of Rochester Magnet Company, I want  
12 no part of purchasing Chinese flexible material and  
13 increasing lines of communication by 10,000 miles.  
14 Since the escrow has been put on the Chinese material,  
15 we have picked up several customers who used to buy  
16 direct from China. We do buy the hard magnetic  
17 materials from China only because their cheap pricing  
18 forced the closure of the hard magnetic mills in the  
19 United States.

20 Flexible magnet material which is  
21 manufactured in the United States is really the last  
22 bastion of the magnetic business which has not gone  
23 offshore. It would be a shame if flexible magnets  
24 were no longer manufactured in this country. Thank  
25 you.

1           MR. THOMAS: Thank you very much, Bob. May  
2 I ask how much time we have left?

3           MS. ABBOTT: Just under four minutes.

4           MR. THOMAS: Thank you very much. With the  
5 Commission's permission, I'm going to finish up with  
6 just a few technical points to kind of cover some of  
7 the ground we have to cover, and I'll do this as  
8 quickly as I can.

9           First, it is Petitioner's position that the  
10 Commission should find a single domestic like product  
11 coextensive with the scope of the investigations, as  
12 defined by Commerce. In the preliminary  
13 investigation, no Respondent suggested an alternative  
14 to the proposed definition, none is being suggested in  
15 the final phase investigation, and the facts warrant a  
16 finding of a single domestic like product.

17           The Commission's traditional six-factor test  
18 is briefly addressed at pages 12 and 13 of our  
19 prehearing brief.

20           Second, for the reasons stated at pages 13  
21 to 17 of our prehearing brief, the distributors that  
22 convert rolls and large sheets of raw flexible magnet  
23 into smaller pieces of raw flexible magnet should not  
24 be included in the definition of the domestic  
25 industry. The nature and extent of the activities of

1 converters are not sufficient in comparison with the  
2 operations of integrated producers, such as Magnum and  
3 Flex Mag, to warrant their inclusion.

4 I should add, by the way, that whether they  
5 are included or not doesn't make a great deal of  
6 difference.

7 Third, as regards related parties, if this  
8 issue is raised, we believe the treatment of magnet  
9 technology in the preliminary determination should  
10 continue in the final determination. If, contrary to  
11 our recommendation, the Commission determines to  
12 include converters in the definition of the domestic  
13 industry, we urge the Commission to exclude any  
14 converters that are significant importers of subject  
15 merchandise.

16 We submit that it is wholly inappropriate to  
17 incorporate into the domestic industry data the  
18 results of operations of importers who benefit from  
19 the unfairly low-priced subject imports. Pages 17 and  
20 18 of our prehearing brief refer.

21 Fourth, we encourage the Commission to reach  
22 the same conclusion regarding the application of the  
23 statutory captive production provision in its final  
24 determination as it did in the preliminary  
25 determination. As discussed at pages 26 to 29 of our

1 prehearing brief, the information collected in the  
2 final phase of these investigations provides no basis  
3 for altering that determination, and the statutory  
4 factors continue to be satisfied.

5 Fifth, as discussed at pages 63 to 65 of the  
6 prehearing brief, the Bratzk Replacement Benefit Test  
7 does not apply in these investigations.

8 The threshold requirement for price-  
9 competitive, nonsubject imports being present as a  
10 significant factor in the market is clearly not  
11 satisfied.

12 Finally, the Commission's attention is  
13 invited to the evidence of pervasive underselling by  
14 the subject imports and the fact that, given the  
15 magnitude of the antidumping and countervailing duty  
16 margins, that underselling simply would not be  
17 possible if the subject imports were fairly traded.

18 Thank you for your attention. We welcome  
19 your questions.

20 CHAIRMAN ARANOFF: Thank you, Mr. Thomas,  
21 and thank you to all of the members of the panel for  
22 taking the time away from your business and traveling  
23 to be with us today and answer our questions. These  
24 hearings are always incredibly helpful to us,  
25 especially in cases such as this one that involve a



1 product with which we are not that familiar. So we're  
2 very glad to have you with us today, and we will begin  
3 the questioning with Commissioner Williamson.

4 COMMISSIONER WILLIAMSON: Thank you, Madam  
5 Chairman. I, too, want to express my appreciation to  
6 the witnesses for their testimony today.

7 I want to begin with Mr. Fixsen while it's  
8 fresh in my mind. On the question of the blocking, I  
9 was wondering, how did you say that was resolved? I  
10 think you mentioned that it was resolved a number of  
11 years ago. I think you and Mr. Love both testified on  
12 that.

13 MR. FIXSEN: The blocking was resolved by  
14 putting a back coating on the magnetic side of the  
15 material, and it prevents it from blocking with the  
16 material that it's touching.

17 COMMISSIONER WILLIAMSON: Thank you. You  
18 also mentioned that, I guess, certain types of cheaper  
19 products that were being produced in your segment, the  
20 Chinese were moving to that and expanding. I was  
21 wondering, what would be the cheaper applications as  
22 opposed to what you're doing?

23 MR. FIXSEN: Specifically, it would be  
24 generally magnets that you hopefully have on your  
25 refrigerator at home that have a calendar, either

1 printed on them or attached, or maybe a sports  
2 schedule or a school schedule or something like that.  
3 The magnetic backing, before from China, can be  
4 discounted quite a bit versus we buy the magnetic  
5 backing from Magnum.

6 COMMISSIONER WILLIAMSON: What would be an  
7 example of the things that you would need a much  
8 better quality?

9 MR. FIXSEN: The quality, as far as the  
10 magnetic attractiveness of the material, is not that  
11 much different between the Magnum and the Chinese  
12 product. It's just that the price of the Chinese  
13 product is quite a bit less, so U.S. printers that  
14 print and use this Chinese material are able to price  
15 their product at a much lower price because they are  
16 using the Chinese material, adhering it to their  
17 printed product. Does that answer your question?

18 COMMISSIONER WILLIAMSON: I think so. I was  
19 just trying to get a clearer picture there.

20 Mr. Dennis, you mentioned the hard magnetic  
21 mills are gone from the U.S. I just wanted to get an  
22 understanding of how that is different from the  
23 flexible magnetic industry. I don't think we've had  
24 any testimony on that.

25 MR. DENNIS: Well, the process for

1 manufacturing hard magnets is different. It's  
2 typically a centering process or a cast process with  
3 materials like al-nickel, materials like the rare  
4 earth materials, neodenium.

5 COMMISSIONER WILLIAMSON: And that's used  
6 for what types of products?

7 MR. DENNIS: Well, they are used typically  
8 by OEM companies, but they can be used by many other  
9 companies for other reasons. They are used for  
10 fishermen to retrieve ferrous metal parts that they  
11 have lost, whether it be fishing reels or anchors or  
12 what, in the ocean or in the lakes.

13 But the hard materials, like the neodenium,  
14 rare earth materials, are being used more and more by  
15 bookbinders as closures by mating two magnets  
16 together. That's become very popular in usage for  
17 that.

18 The al-nickel materials may be used by  
19 molding houses for holding parts that are being molded  
20 because they stand up to very, very high temperatures.

21 All of that business, for the most part, has  
22 gone to China. All of the mills have gone to China  
23 there, and that movement started, like, 20 years ago  
24 or so, and it pretty much destroyed the domestic  
25 mills.

1                   COMMISSIONER WILLIAMSON: Thank you. That  
2 sort of helps me put the flexible magnet industry into  
3 context.

4                   I would like to turn to the Petitioner and  
5 their counsel, and you might have to do this in post-  
6 hearing, but how should the Commission weigh the  
7 apparent levels of -- among domestic producers for  
8 imposition of the duties on subject imports?

9                   MR. THOMAS: We will have to respond to that  
10 with the post-hearing brief, if that's all right --

11                   COMMISSIONER WILLIAMSON: Fine. That's  
12 fine.

13                   MR. THOMAS: -- because that's all APO  
14 information.

15                   COMMISSIONER WILLIAMSON: I just wanted to  
16 make sure that you address it.

17                   I was also curious about the Magnum's  
18 acquisition of MSI, and what were your objectives in  
19 pursuing that acquisition at the time you did it?

20                   MR. TOM LOVE: At that time, MSI was  
21 struggling, and, to us, there appeared to be an  
22 opportunity to consolidate operations, as well as  
23 increase efficiencies and, hopefully, reduce costs, to  
24 some degree. They had been struggling, and, I think,  
25 as Gary may or may not want to say, they were just

1 barely hanging on. It appeared to be a good  
2 opportunity for us.

3 MR. ALLEN LOVE: Also, with that, it was a  
4 very good buy. It was an inexpensive purchase, and he  
5 was in a market, the retail market, which we had no  
6 exposure to, and the retail market is a higher-added-  
7 value market, and we wanted in it, and the price was  
8 right.

9 COMMISSIONER WILLIAMSON: Okay. Thank you.  
10 I was wondering why the domestic industry  
11 increased capacity in light of the decline in demand,  
12 and when the new capacity was planned, did domestic  
13 producers believe that demand would increase, and, if  
14 so, why?

15 MR. ALLEN LOVE: Well, we did believe that  
16 it would increase, I guess, because it always had, and  
17 we saw new applications growing, but we had seen that  
18 kind of taken from us. I know, in business, we don't  
19 know what our competition is going to do, and they  
20 don't know what we're going to do. We happen to view  
21 the world the same, so we both went after the same  
22 carrot. Where we counted it twice, they counted it  
23 and recounted it, and then it didn't come to actually  
24 happen.

25 COMMISSIONER WILLIAMSON: Why didn't the

1 demand appear, recession?

2 MR. ALLEN LOVE: Well, I think the recession  
3 had something to do with it. I know, and I would let  
4 Brandon say more about it, that our customers are tied  
5 to things like the housing industry, and I'll let him  
6 explain that, but that and increased imports took a  
7 lot of our business, but I would like him to explain  
8 that.

9 COMMISSIONER WILLIAMSON: Mr. Fixsen?

10 MR. FIXSEN: One thing that we've seen in  
11 the printed magnet industry is the decline of real  
12 estate, and how that has related is, as you guys may  
13 know, in the recent past, competition between realtors  
14 was very strong, and realtors are one of the large  
15 users of the printed magnets, printed calendars, and  
16 such products. It, at one point, probably accounted  
17 for 30 to 40 percent of our business, and we've seen  
18 that drop down to about 10 percent of our business,  
19 with the real estate being the way it is in today's  
20 economy.

21 COMMISSIONER WILLIAMSON: It's always  
22 amazing to us how things are interconnected in this  
23 economy.

24 Given the seasonality of the raw flexible  
25 magnet market, and your view that preliminary duties

1 reduce subject import volumes, do you believe that the  
2 first quarter of 2008 data are of any probative value,  
3 and, if so, how are these data useful?

4 MR. THOMAS: Mr. Commissioner, we commented  
5 on that briefly in our remarks. We think those data  
6 do show, as I say, at least some of the impact of the  
7 preliminary measures taken with respect to China. We  
8 also think, and there is some anecdotal evidence,  
9 based on what the Loves have heard, that it also  
10 affected imports from Taiwan at that period.

11 With respect to how it should be used by the  
12 Commission, we think it certainly shouldn't be seen as  
13 an indicator of what the trend in imports would be,  
14 except to the extent of demonstrating the impact of  
15 even the partial measures that were taken.

16 COMMISSIONER WILLIAMSON: Thank you very  
17 much.

18 CHAIRMAN ARANOFF: Commissioner Pinkert?

19 COMMISSIONER PINKERT: Thank you, Madam  
20 Chairman, and I would like to thank this panel for  
21 coming here to testify today and helping us to  
22 understand what's going on in the industry.

23 I would like to begin with the company  
24 witnesses, perhaps Mr. Love and Mr. Love, and ask you,  
25 when your company contemplates capital expenditures,

1 what sort of rate of return do you need to have to  
2 justify the capital expenditures?

3 MR. THOMAS: I think we had better answer  
4 that with the post-conference brief, as that would be  
5 Business Confidential.

6 COMMISSIONER PINKERT: Absolutely. Thank  
7 you. Now, I heard you say also that the subject  
8 producers can't compete in the United States without  
9 the dumping. In other words, they can't compete at a  
10 fairly traded price, and I'm wondering, would you also  
11 say that they can't compete in the United States  
12 without underselling?

13 MR. ALLEN LOVE: I believe that.

14 COMMISSIONER PINKERT: Can you give me some  
15 idea? I realize that this is somewhat speculative, on  
16 your part, but give me some idea of why you think they  
17 can't compete in the United States without  
18 underselling.

19 MR. ALLEN LOVE: Because they are  
20 underselling by so much. They have gone lower and  
21 lower until people start buying.

22 COMMISSIONER PINKERT: Is it because their  
23 product is not desirable to the purchasers, or is  
24 there some other explanation that you can think of?

25 MR. ALLEN LOVE: I think that we're easier



1 to deal with, communicate with, and we're closer.

2 COMMISSIONER PINKERT: Perhaps some of the  
3 purchasers could comment on that issue as well.

4 MR. FIXSEN: We are major a purchaser, and a  
5 couple of notes with the Chinese material. Of course,  
6 it is harder to get it into the country, especially if  
7 you're in the Midwest, like our company is. But it  
8 also, as I stated in my statement, it also seems to  
9 often have a bit of an odor, and we were afraid that  
10 our customers may not appreciate that.

11 So although they are interchangeable, there  
12 are some differences between the domestic-made product  
13 and the Chinese-made product, in general.

14 MR. THOMAS: Mr. Pinkert, let me add  
15 something else, which I think is probably obvious to  
16 everybody here, so they don't think it needs to be  
17 said, but remember that, going back a few years, the  
18 Chinese and, for that matter, the Taiwanese were  
19 entering the market, trying to penetrate a market and  
20 grow their sales. Certainly, ever sign has been that  
21 that is exactly what they have had in mind, and,  
22 indeed, that's what they have accomplished.

23 So how do you take away a customer from  
24 somebody else? The way that that's typically is done  
25 is offering a lower price, and that's what they have

1 consistently done, time after time. So it would be  
2 our view that that's the real reason why you're seeing  
3 lower prices from the Chinese and Taiwanese.

4 COMMISSIONER PINKERT: Mr. Dennis, any  
5 comment on this issue?

6 MR. DENNIS: Well, again, I have no  
7 intention of buying flexible material from China, for  
8 the most part, but they are very easy to negotiate  
9 prices down with. They will do just about anything to  
10 get your business. I do get e-mails from different  
11 Chinese companies on a daily basis. I can ask for a  
12 quote, and they will go ahead and quote me. I can  
13 e-mail them back saying the quote is too high, and  
14 they will drop it.

15 So they are after the business, no matter  
16 what it takes to get it.

17 COMMISSIONER PINKERT: Thank you. Now,  
18 there has been a lot of emphasis here today on Chinese  
19 product and Chinese pricing. I'm not saying that you  
20 haven't talked about Taiwan as well; you certainly  
21 have. But the emphasis has been on Chinese pricing.  
22 Is there any reason to think that Taiwan is exporting  
23 Chinese product, or are you saying that they are  
24 exporting at Chinese prices? What exactly are you  
25 saying there?

1 MR. TOM LOVE: Yes. Chinese prices, in our  
2 marketplace, kind of implies Chinese and/or Taiwanese.  
3 It's used somewhat interchangeably because they are  
4 both low, and it's more of a generalized term.

5 COMMISSIONER PINKERT: Mr. Dennis?

6 MR. DENNIS: I have a comment on that, in  
7 that we have a couple of customers that have given up  
8 buying from Taiwan. They are buying from us. The  
9 fact is, the Taiwanese material that they were buying,  
10 they were buying for half the price that we sell to  
11 them for. So there is a very significant difference  
12 with the Taiwanese pricing also, through my limited  
13 experience there.

14 COMMISSIONER PINKERT: Mr. Thomas, do you  
15 have a comment on that?

16 MR. THOMAS: I believe that part of your  
17 question was, do we think that mainland Chinese  
18 product is being sold through Taiwan, and the answer  
19 to that is no. There are some very significant  
20 producers on Taiwan itself who have their own selling  
21 agencies in the United States.

22 COMMISSIONER PINKERT: Thank you for that  
23 clarification. Mr. Love?

24 MR. TOM LOVE: I could illustrate that.  
25 Years ago, I attempted to visit one of their plants in

1 Taiwan and, of course, asked if I could see it, and he  
2 wouldn't let me. I said, "Well, I'm just curious how  
3 many people you have working," and he told me, and I  
4 was able to count that exact number of bicycles in the  
5 lot. That was perhaps 10 years ago or so. They do  
6 have facilities there in Taiwan.

7 COMMISSIONER PINKERT: Thank you.

8 Now, Mr. Malashevich, if you could refer  
9 back to your artistic representation over here, and I  
10 recognize that you're not asserting its artistic  
11 merit, but if you could refer back to that, I wonder  
12 whether the story that you're trying to tell through  
13 that graphic representation is more of a threat story  
14 than it is a present injury story.

15 What you said is that, eventually, the arrow  
16 that's making it in from the side of the bubble will  
17 have an impact on all of the subunits within the  
18 circle. Could you elaborate on whether that's a  
19 threat argument or a present-injury argument or some  
20 combination of the two?

21 MR. MALASHEVICH: My intent is that the last  
22 point, I believe, is relevant, both to the issue of  
23 demonstrating current injury, as well as threatened  
24 injury. The point is, and recognizing that this, of  
25 course, is a hypothetical, it's a very interesting

1 case for a number of reasons, one of which is the  
2 importance of the product mix and the difference in  
3 commercial exposure to the current product mix coming  
4 in from the subject imports.

5 Details are in are prehearing brief and, to  
6 some extent, a light is shed from the confidential  
7 exhibits I discussed earlier today. But my intent was  
8 to use the hypothetical as a suggested means of your  
9 valuation of both current injury and threatened injury  
10 in this case.

11 COMMISSIONER PINKERT: Staying with you  
12 perhaps, Mr. Malashevich, given the increase in  
13 subject imports and import market share, together with  
14 underselling by subject imports, what are we to make  
15 of the trend in the industry's operating income as a  
16 share of net sales?

17 Now, obviously, I can't talk about  
18 proprietary information here, but what I'm trying to  
19 get at is, are the imports having a negative impact on  
20 profitability within the industry presently; in other  
21 words, for purposes of the present injury issue?

22 We can talk about the threat issue at some  
23 other point, but just for purposes of that, are they  
24 having a negative impact on the profitability of the  
25 industry?

1                   MR. MALASHEVICH: I believe that's  
2 unquestionably true, and I recognize, as you might  
3 imagine, that the Commission generally is very  
4 reluctant to go back before its normal three-year  
5 period of investigation, but, in this case, there are  
6 some unusual factors to bear here that warrant looking  
7 back to 2004, and, as the brief discusses, that really  
8 is pretty much the nearest-term indication of what a  
9 "normal rate of profit in relation to sales" was.

10                   So am I suggesting that you extend the POI  
11 backwards one year for purposes of your final phase  
12 investigation? No. I think it's important, solely on  
13 the issue of the financial indicators, to look back as  
14 the best measure of normal profit in this industry  
15 that exists on the record, and, purely for that  
16 purpose, take into account returns in '04, and I think  
17 you'll find that, speaking only of trends, the trend  
18 would be sharply downward in relation to 2004, and  
19 even if you, in your judgment, decided not to look to  
20 2004, I think it's pretty clear that the industry-wide  
21 returns are not healthy.

22                   And also I would call your attention to one  
23 of my confidential exhibits discussed this morning,  
24 looking at the percentage of industry-wide quantities  
25 sold at the margins indicated in the exhibit, which I

1 think is another very compelling indication of the  
2 financial stress in the industry, given the  
3 differences in product mix among the U.S. producers.

4 COMMISSIONER PINKERT: Thank you. I've got  
5 the red light on, so we'll come back to this.

6 MR. MALASHEVICH: I'm not going anywhere.

7 CHAIRMAN ARANOFF: You may not even want to  
8 turn your microphone off because I think I'm going to  
9 turn to you for this next question, although others  
10 can chime in.

11 I'm a little perplexed, in this case, trying  
12 to figure out exactly what Petitioners' theory is of  
13 pricing injury. You've discussed at length, both in  
14 the brief and this morning, the underselling evidence,  
15 and we have that in front of us, and we consider what  
16 it tells us and which is the most probative, but the  
17 brief doesn't really address price depression or  
18 suppression.

19 If you look at the record, the prices of  
20 most domestically produced products, or the prices of  
21 products that we've looked at, rose during the period  
22 of investigation or didn't change much, and the  
23 confidential financial data show fairly small changes  
24 in the industry's ratio of cost-to-goods-sold-to-net  
25 sales.

1           So can you tell me how underselling by the  
2 subject imports has affected the industry's pricing or  
3 sales strategy? Is this a case where you're arguing  
4 price suppression, or is this a case where you're  
5 arguing that the domestic industry held the line on  
6 prices, and we're going to see all of the affected  
7 volume?

8           MR. MALASHEVICH: Well, I think it's both.  
9 Let me start out answering the question this way.

10           The basic ingredients of a flexible magnet  
11 consist of ferrite material, which is basically rust.  
12 It's a byproduct of steel production. It's energy-  
13 intensive material, and we all know what's happened to  
14 the cost of energy. The other basic material is  
15 petrochemical-based material, and we all know what's  
16 happened to that.

17           So I think the pressures of those items have  
18 been immense, and I think that's another reason for  
19 looking back, in a limited fashion, to the record for  
20 2004 because that's for the big acceleration of the  
21 underlying ingredients for making the product.

22           I think, yes, the prices are roughly flat or  
23 slightly increasing, but if you look, even in terms of  
24 the general level of inflation, putting aside oil,  
25 putting aside steel -- we all are familiar with those



1 -- I think it's a very suppressed pricing environment  
2 in light of what's going on in the general economy  
3 and, particularly, the cost of those underlying, basic  
4 materials. Also, the rate of operating income is  
5 sharply down during this period, and I also think that  
6 the absolute levels, even if you were to put your hand  
7 over 2004, are, shall we say, anemic.

8 MR. THOMAS: Madam Chairman, if I might also  
9 add, if you'll look at pages 46 and 47 of the  
10 prehearing brief, there is a discussion of a cost-  
11 price squeeze that the data show.

12 CHAIRMAN ARANOFF: I did see that. You  
13 argued it in the context of looking at the financials  
14 in the impact section.

15 MR. THOMAS: Yes. It may not be in the  
16 right place, but, certainly, that is very much, from  
17 the standpoint of Magnum, a serious effect of the  
18 pricing of the imports.

19 CHAIRMAN ARANOFF: That actually leads into  
20 my next question, which is, normally, when we do look  
21 at a cost-price squeeze, we look at the ratio of the  
22 cost of goods sold to net sales, and that's not what  
23 you've focused on in your discussion. Can you tell us  
24 why?

25 MR. THOMAS: I think we would have to

1 discuss that with the post-hearing brief.

2 CHAIRMAN ARANOFF: Okay. I would appreciate  
3 it if you did that, and if you are going to rely on  
4 something different to show a cost-price squeeze than  
5 what we usually look at, if you could tell us why and  
6 whether there is any precedent for our looking at it  
7 that way, that would be very helpful.

8 MR. THOMAS: We'll be happy to do so. I,  
9 certainly, would also point to the trend in gross  
10 profit.

11 CHAIRMAN ARANOFF: Okay. Let me turn to a  
12 few questions that I had, coming out of the testimony  
13 this morning, that I was curious about, and, in  
14 particular, Mr. Fixsen, you talked about this issue  
15 that you have with odor of some of the Chinese product  
16 that you had seen. That's not something, I think,  
17 that other questionnaire respondents mentioned to us;  
18 at least, I didn't see it in the staff report. Has  
19 that been a problem you've seen from multiple Chinese  
20 suppliers?

21 MR. FIXSEN: Yes, it has, and I actually  
22 have some, if you would like to make a judgment for  
23 yourself. I did bring some. But, yes, I've seen it  
24 from multiple Chinese manufacturers.

25 CHAIRMAN ARANOFF: Do you have any idea what

1 causes that problem?

2 MR. FIXSEN: The domestic people that I've  
3 talked to, including the Love Brothers and Flex Mag,  
4 say it's a form of chlorine, and it does smell like an  
5 overchlorinated pool. So it's something they use in  
6 the synthetic rubber that causes the odor.

7 CHAIRMAN ARANOFF: Mr. Dennis, is that  
8 something that you've ever run into?

9 MR. DENNIS: I did not run into it, but then  
10 we did not convert what little Chinese material we had  
11 to the extent that Brandon's company would have. We  
12 sold it in complete rolls that were kept in boxes.

13 CHAIRMAN ARANOFF: Okay. Have either of you  
14 had experience with the product from Taiwan sufficient  
15 to assess whether this is also a problem with product  
16 from Taiwan?

17 MR. FIXSEN: I've never tested the product  
18 from Taiwan. They were all Chinese manufacturers.

19 MR. DENNIS: Nor do I have any experience  
20 with the Taiwanese.

21 CHAIRMAN ARANOFF: Let me ask either Mr.  
22 Love, the market for magnets; is it a mature market,  
23 or do you see that there are new products or new uses  
24 on the horizon that may expand the customer base for  
25 this product?

1           MR. TOM LOVE: We see, generally, that there  
2 is always something new coming along. People find  
3 something else to do with it. I think, most recently,  
4 we've heard of people actually putting it on and in  
5 magazines, which is somewhat of a new use. So we see  
6 these -- it could be anything. You can do so many  
7 things with a magnet that you just don't even think  
8 about. They are everywhere.

9           CHAIRMAN ARANOFF: We have many examples in  
10 my home --

11          MR. TOM LOVE: Yes, yes.

12          CHAIRMAN ARANOFF: -- including my  
13 children's artwork laminated onto magnets that make my  
14 refrigerator look like the National Gallery.

15          MR. TOM LOVE: Sure, and I understand that,  
16 in automobiles, at least a few years ago, the average  
17 car had, I think, 60 motors, and all of those have  
18 magnets. Of course, many of them wouldn't have the  
19 flexible magnets; some could. But they are all over.

20          CHAIRMAN ARANOFF: So when it comes to new  
21 applications, it's not your job to think of them; it's  
22 your customers who are coming up with these new  
23 applications.

24          MR. TOM LOVE: Most generally. Now, we try  
25 to think of something new, and we've even suggested

1 some in the past, and I think one has taken 10 years,  
2 but somebody has finally caught onto it. Most often,  
3 it's our customers who think of the additional uses.

4 CHAIRMAN ARANOFF: Okay. Commissioner  
5 Williamson had asked you a little bit about demand and  
6 your ability to project what demand is likely to be.  
7 Are there any particular economic indices or  
8 publications that you follow in trying to figure out  
9 where the market is going? Obviously, real estate --  
10 I don't know if you sort of look at housing starts or  
11 something like that when you think about demand, or  
12 whether there are any sort of indices that talk about  
13 the printing industry.

14 MR. TOM LOVE: Yes. The real estate kind of  
15 caught us by surprise. I think it caught a lot of  
16 people by surprise. After having the Internet bubble  
17 in 2000-2001, we didn't really anticipate a housing  
18 bubble, and, actually, we really didn't know the  
19 extent, the percentages, of what the realty market was  
20 affecting our customers. We knew that it was big for  
21 them, but we didn't know that it was, in some cases,  
22 up to 30 percent of what they were doing.

23 Historically, we've watched refrigerator  
24 sales because that's a very big use for the sheeting,  
25 and they have been steadily rising for years, and

1 then, generally, we watch the economy because we have  
2 found that, with the recession of 2001, it was the  
3 first year in our history where we ever had a sales  
4 decline until, of course, these last few years.

5 MR. MALASHEVICH: If I may add, Madam  
6 Chairman, in preparing the petition, we looked for  
7 exactly the kinds of indicators that you're searching  
8 for. There is no trade association for this material.

9 We did examine -- there is a publication  
10 whose name -- forgive me -- Tom, you might remember --  
11 follows advertising dollars.

12 MR. THOMAS: Advertising Age, I think, is  
13 what you're thinking of.

14 MR. TOM LOVE: The Promotional Products  
15 Association has occasionally some statistics, and,  
16 interestingly, I believe their volume is down a little  
17 bit for all promotional products, but magnets actually  
18 grew its percentage of the promotional products share  
19 last year. So magnets are strong; it's just the  
20 economy, in general, is definitely affecting us right  
21 now.

22 MR. MALASHEVICH: When we looked at that  
23 time series, which includes, I emphasize, things like  
24 paperweights and other kinds of promotional items,  
25 roughly speaking, very roughly, it tracks GDP.

1                   CHAIRMAN ARANOFF: Okay. All right. I  
2 appreciate those answers, and, as my light is red,  
3 I'll come back in the next round and turn to Vice  
4 Chairman Pearson.

5                   VICE CHAIRMAN PEARSON: Thank you, Madam  
6 Chairman. Let me also extend my welcome to this  
7 panel. I have never been in a flexible magnet plant.  
8 Like others, I see them on my refrigerator and find  
9 them often interesting and amusing, sometimes even  
10 helpful, perhaps not as helpful as your testimony, but  
11 we will find out.

12                   Following up on the discussion about demand,  
13 we measure demand in our analysis as apparent  
14 consumption in the U.S. market, from what we can see,  
15 and this is in the public version, so I can refer to  
16 it. We saw an increase between 2005 and 2006 of maybe  
17 three and a half million pounds of consumption and  
18 then a drop of 11 million pounds between 2006 and  
19 2007. What was driving those changes? Is all of that  
20 drop attributable to a fall-off in the real estate  
21 market, which I don't think we really -- I'm not sure  
22 whether we saw that much in 2007?

23                   MR. THOMAS: Everybody is looking puzzled  
24 here.

25                   MR. TOM LOVE: I was just trying to add

1 things up in my head. If our customers' sales  
2 percentage of the real estate items dropped roughly 20  
3 percent, then that could be a significant explanation  
4 for a lot of it, but then also the economy falling  
5 around it, as well as the combined effect of both, I  
6 think, would be part of it as well.

7 VICE CHAIRMAN PEARSON: Yes, of course, but  
8 the data we have for the economy does not yet indicate  
9 a contraction for the economy overall, and yet, for  
10 apparent consumption of flexible magnets, we see, in  
11 our data, a very definite contraction.

12 MR. MALASHEVICH: I think the answer is that  
13 there is no one single factor. Having done some work  
14 entirely unrelated to this case, but involving the  
15 advertising industry, there is something of a  
16 disproportionate impact by the advertisers. When the  
17 economy slows, the first thing they cut is the  
18 advertising budget, and I think there might be an  
19 element of that here for those ordering the  
20 promotional items because they are really, literally,  
21 give-aways, from the point of the advertiser. Either  
22 it's from an auto body shop or a dry cleaners or the  
23 real estate person dropping things in your mailbox.

24 So I think it's a function of a general  
25 reluctance to expend on promotional items and also the



1 disproportionate impact of the real estate people, who  
2 always have their calendars and business cards in a  
3 flexible magnet format. I think it's a combination of  
4 those, but, as I indicated earlier, there are no  
5 statistics specific to this industry other than what  
6 the Commission has gathered.

7 MR. THOMAS: Mr. Vice Chairman, I have to  
8 say that what I'm going to say now is rank perception.  
9 We have no solid evidence of this, but it certainly is  
10 conceivable that there are unreported subject imports  
11 which have also accounted for some consumption, which  
12 doesn't appear in the Commission's data. The  
13 Commission staff estimates that they have captured a  
14 very substantial share of the imports, but I don't  
15 think we all really know for sure what that percentage  
16 capture is.

17 So, as I say, I admit it's speculation, but  
18 there could be some explanation there as well.

19 MR. ALLEN LOVE: Can I add something?

20 VICE CHAIRMAN PEARSON: Please.

21 MR. ALLEN LOVE: I haven't looked  
22 specifically at the data because, typically, I'm not  
23 the best person to look at numbers, but I do know that  
24 the trend in our industry has been for people to go to  
25 thinner and thinner material to fight with price, and

1       there is a trade-off in that. But as the material  
2       gets thinner -- this is 12 mil. -- several years ago,  
3       we didn't even make it; 15 mil. was considered the low  
4       end, and now it's, you know, a 12-mil. product.  
5       There's significantly less pounds of magnet in it.

6                So if you're looking at pounds of magnet  
7       material, that trend would make a big difference. I  
8       don't know specifically what it is, but I'm sure we  
9       could find that for the brief.

10               VICE CHAIRMAN PEARSON: There are references  
11       in the staff report to some program that was run by  
12       Capital One for some period of time. None of you have  
13       mentioned that as a factor in affecting demand in the  
14       U.S. market. Could you explain it to me, please?

15               MR. TOM LOVE: Yes. I was thinking about  
16       that, but I'm not sure that it is. Capital One was a  
17       very large job that had started in '05, and I believe  
18       it continued into '06. I'm not sure, and I'm not sure  
19       exactly when it stopped. It might have stopped in --  
20       I don't know. Do you remember, Allen? Sometime in  
21       '06 or '07 perhaps.

22               But there were other things that came along  
23       to replace it, other large, similar type jobs that I  
24       would rather not name publicly, but we can in the  
25       report afterwards. I can give the exact entities that

1 were buying and are still in in '06 and '07 and, I  
2 believe, continue to buy today.

3 As well, during that time period, the use in  
4 magazine inserts and covers also started within the  
5 last year. So there were things to replace the  
6 Capital One job. I'm not sure that it alone would --

7 MR. ALLEN LOVE: We often, and more than  
8 likely, almost the majority of the time, we have no  
9 idea what our material is being used for. In the case  
10 of Capital One, we had one particular customer,  
11 actually two, where we did know they were using  
12 material for Capital One, and we ceased supplying that  
13 material for Capital One, and I believe it was in late  
14 '05 that we said, "We're not doing it anymore,"  
15 because we had so many other opportunities, and it was  
16 a very low-margin prospect for us.

17 So, after that, we may have had other  
18 customers making Capital One. I don't know, but we  
19 went on to other things that looked more profitable to  
20 us. So it was there, we knew it was there, we did  
21 some of it, and I'm sure that there were other  
22 customers that continued, but they don't tell us who  
23 they are doing their work for. We don't know that all  
24 of the time.

25 VICE CHAIRMAN PEARSON: Okay. If, for

1 purposes of the post-hearing, you could say anything  
2 more about the size of the Capital One program, from  
3 what time periods it ran, and if it did have a  
4 significant influence on our measure of apparent  
5 consumption, it would be helpful to know that. I'm  
6 correct in understanding that it was kind of one-off  
7 project. A big project came, it happened, and it's  
8 gone. Right?

9 MR. TOM LOVE: For Capital One, yes, it was.  
10 It was a rather lengthy one, and it may or may not  
11 come around again, but, at the same time, another  
12 similar type of direct-mail company began a similar  
13 program, almost at the same time that Cap One was  
14 ceasing their program.

15 VICE CHAIRMAN PEARSON: Well, the trend that  
16 we are seeing in apparent consumption is down,  
17 including in the interim periods. Are you  
18 anticipating that that will level off or start to  
19 increase, or do you anticipate that demand will  
20 decline?

21 MR. TOM LOVE: Well, we anticipate it's  
22 going to follow the economy in general and also, to  
23 some degree, be affected by the housing market  
24 recovering, being that that is such a significant part  
25 of many of our customers' sales volume. Overall, the

1 economy is going to affect us a good bit.

2 VICE CHAIRMAN PEARSON: Okay. Well, my  
3 light is changing, so rather than plunging forward, I  
4 think I'll thank the Chairman and turn it back.

5 CHAIRMAN ARANOFF: Commissioner Okun?

6 COMMISSIONER OKUN: Thank you, Madam  
7 Chairman, and I join my colleagues in welcoming all of  
8 you here today. I appreciate you taking the time to  
9 be with us and answer our questions and supply  
10 information.

11 When we hear from the next panel, one of the  
12 arguments that they have raised is that, in looking at  
13 the financial condition of the industry, that, rather  
14 than being the impact of subject imports that Magnum  
15 suffered from the acquisition of MSI, and I know that  
16 you've had a chance to talk about the acquisition a  
17 little bit and some of the things, including the  
18 response to Commissioner Pinkert about anticipated  
19 rate of return, are confidential.

20 I don't know if there was anything you  
21 wanted to say in the public session any more about  
22 just in terms of how do we look at the financial  
23 impact of the acquisition versus what was going on in  
24 subject imports and what we should be most focused on  
25 when we're looking at the financial date for the

1 domestic industry.

2 MR. THOMAS: Commissioner Okun, I think  
3 we're going to have to respond to that with the post-  
4 hearing brief, but I must say, it's unclear to me what  
5 the panel following us knows about the financial  
6 condition of the industry.

7 COMMISSIONER OKUN: Okay. One thing, and I  
8 think these were requested in the questionnaire, and I  
9 don't know -- I'm, obviously, not talking about big,  
10 multinational corporations here -- if there were any  
11 business documents that were prepared as part of the  
12 acquisition, in terms of you talked, Mr. Love, about  
13 there was the opportunity to get into the retail  
14 sector that you didn't have, and that was one of the  
15 areas of growth of value-added product.

16 If there is anything else, including maybe  
17 demand projections at that time or anything about why  
18 the acquisition -- I heard you say it was cheap, and  
19 that may justify it enough, but if there's any  
20 contemporaneous documents that would have been  
21 prepared, it would be, I think, useful to our  
22 examination of this particular point.

23 MR. THOMAS: We'll be happy to take a look  
24 and supply what we find.

25 COMMISSIONER OKUN: Okay. I appreciate

1 that.

2 One of the other points in the written  
3 testimony that I have from Mr. Lewis indicates that,  
4 in talking about their decision, or the problems that  
5 they experienced after MSI was acquired -- he talked  
6 about working with MSI for almost two years -- "during  
7 that time, we received tremendous pressure from our  
8 customers who threatened to take their business  
9 elsewhere if we could not resolve our quality  
10 problems. We incurred over \$100,000 in customer  
11 credits due to the complaints about the quality of our  
12 magnets."

13 Is that something that they shared with you,  
14 in particular, any written communications or anything  
15 else, indicating that they were having those types of  
16 problems?

17 MR. TOM LOVE: They communicated problems  
18 about blocking, and we had suggested the back coating  
19 as a solution for that, and we knew the back coating  
20 would fix it. From our viewpoint, it appeared as  
21 though they had made their mind up that they wanted to  
22 buy the cheaper Chinese material.

23 MR. THOMAS: But let me just ask the  
24 question, to be sure that we have it. The question  
25 would be, did MAI come to you and ask for \$100,000

1       worth of credits?

2                   MR. ALLEN LOVE:  Not that I'm aware of.  
3       Gary, do you know anything?

4                   MR. MURPHY:  I was aware that they did have  
5       the problem -- Scott Lewis and John Dowling at MAI  
6       shared that with me -- but we never got to the point  
7       of asking for a credit.

8                   MR. TOM LOVE:  I should point out that, in  
9       the conversation that we had over the phone with them  
10      within the past two months, because we were trying to  
11      work out another deal, and perhaps he misspoke, but he  
12      suggested that his quality complaints was \$10,000  
13      during that phone conversation.

14                  COMMISSIONER OKUN:  I'll talk to him later,  
15      but since I had him here, I did want him to have a  
16      chance while you were up here.

17                  Another thing from the written statement  
18      indicates that Adams had said they bought "from one  
19      source based on their incredible service and the  
20      relationship that he had with them, as I am with you,  
21      Mr. Murphy."  Mr. Lewis continues that "all of this  
22      changed with Magnum's acquisition in 2005."

23                  Were there services that MSI provided that  
24      were no longer provided with the acquisition?

25                  MR. MURPHY:  Well, we sure tried to provide



1 all of the services that we could. Just because I was  
2 acquired by Magnum doesn't mean that I changed my  
3 position on trying to keep the customer first.

4 MR. TOM LOVE: I don't recall anything  
5 specifically that we canceled and not in relation to  
6 MAI. They asked us to keep material in stock, and we  
7 did that, even though our lead times had expanded  
8 during that time period, and the expanded lead times  
9 was also part of the reason that we quit servicing the  
10 Cap One job, because we wanted to reserve all of the  
11 capacity for the existing business that had always  
12 been there.

13 COMMISSIONER OKUN: Okay. They also note,  
14 in this testimony, that there were particular products  
15 that domestic suppliers cannot produce at this point.  
16 Are you aware of any of those? Have you been  
17 requested to produce anything specifically that you  
18 were unable to do?

19 MR. TOM LOVE: I'm not aware of anything.

20 COMMISSIONER OKUN: Okay. Again, if  
21 something more detailed comes up in the testimony, if  
22 I can submit a question, post-hearing, on that, but I  
23 appreciate --

24 MR. THOMAS: We'll assume that that's a  
25 question, and we'll respond, yes.

1                   COMMISSIONER OKUN: Okay. I appreciate  
2                   that.

3                   Let me ask you a pricing question. Again,  
4                   you referenced in your testimony, Mr. Thomas and Mr.  
5                   Malashevich as well, the additional data that you  
6                   provided in these exhibits. I know you talk about the  
7                   different channels and which channels you think are  
8                   most appropriate for us to look at.

9                   I'm having a little bit of trouble figuring  
10                  out if this alternative kind of underselling  
11                  information you provide is something that the  
12                  Commission has ever looked at or would normally look  
13                  at. It looks to me like you're not using the type of  
14                  data, pricing data, that the Commission would normally  
15                  look at for these types of comparisons. In other  
16                  words, using AUV data where there are product-mix  
17                  differences looks problematic to me.

18                  So I want to make sure I really understand  
19                  what you're doing in your alternative charts and  
20                  exhibits so that I can have comfort that it's  
21                  something that the Commission should look at or has  
22                  looked at before.

23                  MR. THOMAS: Well, first, it's our position  
24                  that looking at the price of the underselling data the  
25                  Commission has and has reported in the status report,

1 at the level of trade at which those data are  
2 presented, there is significant underselling shown,  
3 point one.

4 Point Two: It's our position that the  
5 Commission should also look at the so-called "purchase  
6 price data" that are presented on essentially, I  
7 believe, the same page of the report because those  
8 data are showing prices at the level at which Magnum  
9 would make most of its sales to its customers, and the  
10 level at which those customers are currently buying  
11 from abroad. So we think those numbers are very  
12 relevant, and that shows a very high level of  
13 underselling.

14 We have a couple of other anecdotal pieces.  
15 All of the other data that are in our prehearing  
16 report -- there is Commission data presented the way  
17 the Commission would normally look at it. I believe  
18 there is only one piece of data that is there that is  
19 otherwise, and that is a couple of price comparisons  
20 with respect to a particular customer, and, yes, we  
21 think that's something that the Commission should look  
22 at, and I guess I'm going to have to expand on that  
23 with the post-hearing brief.

24 But also, Commissioner, if someone on your  
25 staff could kind of elaborate on your question a

1 little bit so that we're absolutely sure we're  
2 responding to the right question, that would be  
3 helpful.

4 COMMISSIONER OKUN: I will look at that and  
5 make sure that you have that in front of you. I see  
6 my yellow light is ready to turn. My follow-up, I  
7 believe, was already covered by the Chairman with  
8 regard to the analysis when we're looking at whether  
9 it's price suppression or depression.

10 You've kind of gone to this, you know, if  
11 you're looking at what, to me, is not the normal way  
12 the Commission looks at costs-to-net sales -- you're  
13 advocating something different, and, again, I would  
14 just follow up on her question, is there something the  
15 Commission has done before? If so, point us there,  
16 and, if not, tell us why it would be an appropriate  
17 way to evaluate the condition of what's going on in  
18 the financials? And, with that, thank you very much.  
19 Madam Chairman?

20 CHAIRMAN ARANOFF: Commissioner Lane?

21 COMMISSIONER LANE: Good morning. It's nice  
22 to see all of you.

23 Mr. Love and Mr. Love, I would like to  
24 start, first, with the history of your company. As I  
25 understand it, you started business in 1991. Did you

1 buy an existing business, or was it a spinoff of an  
2 existing business?

3 MR. ALLEN LOVE: We were a startup.

4 COMMISSIONER LANE: Why don't you tell me a  
5 little bit about it?

6 MR. ALLEN LOVE: We were a startup company.  
7 I had been a plant manager at MSI years ago. I had  
8 been out of the industry for a years. Our parents --  
9 my mother passed away with cancer. My dad was  
10 diagnosed with lymphoma. My brother and I talked. He  
11 was teaching college. We said, "Let's go home and  
12 start a business," because we didn't know how long our  
13 dad was going to be around, and we decided to make  
14 magnets, and we actually started in a barn, building  
15 equipment and doing advertising work and trying to get  
16 started.

17 We got some local investors to back us, and  
18 we built a building, built equipment. We started in  
19 '91. We didn't produce until '92. So we had several  
20 months where we were just building, and grew from  
21 there.

22 COMMISSIONER LANE: And so MSI was already  
23 in operation in Marietta, and you had worked for them,  
24 and so then, in 2005, you bought MSI.

25 MR. ALLEN LOVE: Yes.

1           COMMISSIONER LANE: Now, did you merger your  
2 facilities? Tell me what you actually did with regard  
3 to the operation after you bought MSI.

4           MR. ALLEN LOVE: We merged our facilities.  
5 We actually went to a new, larger facility where we  
6 could put the main production equipment to make  
7 magnet. We bought some new equipment that was more  
8 automated and planned to start up there and put the  
9 manufacturing together. That gave us more volume for  
10 purchases and all kinds of advantages and got us in  
11 one location.

12           At the same time, we kept the sales force.  
13 Gary and his sales force were intact, and they were  
14 operating as MSI, and we later, which we're still  
15 completing because sometimes it's hard to get it  
16 completely done. That's why you hear people say "MSI  
17 Magnum" and have for quite a while is because we're  
18 now getting all of the sales force merged, and you've  
19 got to go kind of slow with that. But we've basically  
20 just combined them.

21           COMMISSIONER LANE: Okay. You kept all of  
22 the MSI employees.

23           MR. ALLEN LOVE: We kept the sales force.  
24 We did not keep all of the people that worked in the  
25 plant; we kept some of them. We didn't need them all.

1 Magnum had quite a bit of excess capacity also at the  
2 time.

3 COMMISSIONER LANE: Okay. Thank you. I  
4 find that very helpful.

5 Now, I have some really obscure questions  
6 because it caught my interest. In the staff report,  
7 they talk about magnets being used for pain-relief  
8 support. Could you explain that to me, please?

9 MR. ALLEN LOVE: I don't know how it  
10 relieves pain, but we used to supply people that used  
11 our flexible magnet. We would put a foam gown and  
12 then a Cool Max over laminant and die-cut out shoe  
13 insoles, and we had some other magnets that companies  
14 were using to put in, like, clothing that they said  
15 relieved pain or wraps to put around your elbow. I  
16 don't know if they worked. People did buy them.

17 COMMISSIONER LANE: Are you still selling  
18 them?

19 MR. ALLEN LOVE: No. That pretty much has  
20 all been taken by foreign supply, that whole market.  
21 We don't do anything in that anymore.

22 COMMISSIONER LANE: Okay. Now, the other  
23 question I had was, more costly magnetic materials can  
24 be used to produce higher-energy magnets, so what are  
25 "higher-energy magnets"?

1                   MR. ALLEN LOVE: They are just stronger.  
2 They stick a little harder, harder to pull off.

3                   MR. TOM LOVE: I could add a little to that.  
4 There are some different materials that get much  
5 higher energy ranges. Wow, maybe Bob might be the  
6 best one to talk about it since he buys so many  
7 different ranges of energy products, especially the  
8 ceramic neos, but our standard product, just to use a  
9 number, is around a point-seven energy.

10                  A higher-energy, flexible magnet that's made  
11 from ferrite can be in the 1.2 to 1.6 range, to  
12 compare it.

13                  When you get into the more exotic raw  
14 materials, such as the neo-irons, I have seen some  
15 flexible magnet produced with that that's in the five  
16 to six range, whereas if you were to make a ceramic  
17 magnet out of that same product, you might get 35  
18 to -- I don't know what the maximum is now these days.  
19 The last time I looked, it was in the forties. It's a  
20 lot stronger.

21                  MR. THOMAS: Well, with respect to the so-  
22 called "higher-energy magnets," are they made by  
23 Magnum or other members of the domestic industry?

24                  MR. TOM LOVE: Yes. In the flexibles, yes.  
25 We can produce -- currently, I think we can go up to a



1 1.6. It's 1.4 or 1.6 that we go up to with the  
2 ferrite. We're exclusively working with ferrites, but  
3 another company, Electrodyne, will do the neos and  
4 other more exotic compounds. The neos, as a cost  
5 factor, can be 40 times the cost of ferrite, so you  
6 pay for that energy.

7 MR. THOMAS: And, as a consequence, I  
8 believe I'm correct in saying that those are a  
9 somewhat limited market for very special uses, perhaps  
10 some of the motor applications that you've heard  
11 about. Somebody told me the other day that there are  
12 lots of magnets in Xerox machines. Exactly where they  
13 are and what their energy is, I don't know, but I  
14 suspect that's where you find more of the high-energy  
15 applications.

16 COMMISSIONER LANE: Following up on a  
17 question that Vice Chairman Pearson had about the  
18 weight, and, Mr. Love, I think you said that some of  
19 your products have gone to a thinner magnet, and that  
20 would weigh less.

21 MR. ALLEN LOVE: Yes.

22 COMMISSIONER LANE: Is it possible? Has  
23 that been an overall trend, that you've gone to a  
24 thinner magnet, and that would make a difference in  
25 what we're seeing, as far as quantity?

1                   MR. ALLEN LOVE: Well, you know, it could,  
2 but, in general, the trend that we've seen along those  
3 lines is, for the last 15 years, people have gone from  
4 a 30 to perhaps down to a 27, and they have been using  
5 the 27 instead of the 30 for the last 10 years, and  
6 the same thing with the 12 mil. I think we started  
7 selling the 12 mil. back in '95 or '96, quite a long  
8 time ago, and, occasionally, somebody might want an 11  
9 or a 10.

10                   The material that's used for the magazine  
11 inserts is more like a 7-mil. product, but that's kind  
12 of a new use.

13                   COMMISSIONER LANE: Now, the real estate  
14 market may be down. I used to be a consumer of your  
15 product back when I was a politician and always had to  
16 have my name on everything, so, since we're in this  
17 big election cycle right now, have you seen a demand  
18 up for your product?

19                   MR. ALLEN LOVE: We're getting some  
20 inquiries about that, yes.

21                   MR. TOM LOVE: Brandon might be able to  
22 answer that more. I don't know how much of a spike he  
23 sees during an election year.

24                   MR. FIXSEN: In general, election years are  
25 always a good year for the promotional products

1 industry. I can only speak to our company. The sales  
2 have been about flat because politics have replaced  
3 some of the real estate losses, but we haven't seen  
4 huge gains overall, but, in political, yeah, we've  
5 seen large gains.

6 COMMISSIONER LANE: Okay. Thank you. Thank  
7 you.

8 CHAIRMAN ARANOFF: Commissioner Williamson?

9 COMMISSIONER WILLIAMSON: Thank you, Madam  
10 Chairman.

11 Mr. Lewis from Adams, who apparently  
12 testified this afternoon, that one reason it stopped  
13 buying from Magnum was your attempt to get customers  
14 to sign exclusivity contracts. I understand you also  
15 may say that Magnum was competing with its customers.  
16 I wonder if you could respond to both of those  
17 allegations.

18 MR. ALLEN LOVE: He signed an agreement.

19 COMMISSIONER WILLIAMSON: Okay. So  
20 exclusivity was not a problem?

21 MR. ALLEN LOVE: No. I don't remember  
22 anything exclusivity. We may have asked for it, but  
23 those are all negotiating -- standard negotiating,  
24 with any contract, you negotiate.

25 COMMISSIONER WILLIAMSON: So such types of

1 arrangements, if people could get them, are not  
2 uncommon in the industry.

3 MR. ALLEN LOVE: No. We have exclusivity  
4 agreements with other customers.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. TOM LOVE: But we don't require them  
7 either.

8 COMMISSIONER WILLIAMSON: And, I guess,  
9 another question is, was the request for exclusivity,  
10 with respect to Adams or any other customers, was that  
11 something that suddenly started at some point, or was  
12 it a longstanding practice to ask for that in sales  
13 negotiations?

14 MR. TOM LOVE: Well, I think you would  
15 always ask for it in a sales negotiation, if you could  
16 get it.

17 MR. ALLEN LOVE: We have exclusivity  
18 agreements and sales agreements with most of our major  
19 supply line, and it's a really good idea to have that  
20 because if you're partnering with somebody, and you're  
21 getting innovations, and you want to keep those  
22 innovations, you work some sort of agreement like  
23 that. We do it. There are some people that don't  
24 want anything to do with it, and there are some people  
25 that like it. It's certainly a secure way of planning

1 your future, knowing you have business for a certain  
2 period of time.

3 MR. TOM LOVE: Well, at least to the extent  
4 that somebody needs material. I don't think any  
5 agreements that we have specify an amount. It might  
6 say, like, a percentage of what you need, but if you  
7 don't need it, then there is no commitment of a  
8 volume. I don't know if that helps or not.

9 MR. THOMAS: One final thing. I think we  
10 might ask Mr. Fixsen to advise the Commission as to  
11 whether he has an exclusivity agreement with Magnum.

12 MR. FIXSEN: I don't have an agreement with  
13 Magnum or Flex Mag or any of the companies that we buy  
14 magnet from. Basically, we have a price, and we issue  
15 one, two, or three months' worth of PO so they know  
16 when they need to be producing our product, and we're  
17 not locked in with any one company, and they are not  
18 necessarily locked to us either.

19 COMMISSIONER WILLIAMSON: So are you saying,  
20 then, that you can't attribute the Chinese suppliers'  
21 success to the fact that the U.S. companies are less  
22 flexible in terms of their arrangements with their  
23 customers?

24 MR. ALLEN LOVE: We'll do whatever the  
25 customer wants.

1                   COMMISSIONER WILLIAMSON: Okay. What about  
2 this question about whether Magnum was competing with  
3 its customers?

4                   MR. ALLEN LOVE: I understand what it's  
5 about, and every one of our customers -- I can't think  
6 of any market that we supply where there aren't  
7 multiple users in that market that compete with each  
8 other. Each one of them, as Brandon just indicated,  
9 he has not interest in a contract. Other people do  
10 have an interest in a contract.

11                   The amount of service that we provide to  
12 Customer A might be entirely different than Customer B  
13 because of what they ask us to do. Some of the things  
14 that customers ask us to do in a market, other  
15 customers might not like. But if it is something that  
16 is important to that customer, and we have the  
17 capability to do it, we try to help.

18                   Our customer base, they compete with each  
19 other, and they are looking for the most they can get,  
20 and sometimes they ask us to add value, and sometimes,  
21 like in the case of Rochester Magnet, I would love it  
22 if he would let me put all of the adhesive down to his  
23 magnet and send it to him, but he doesn't want that;  
24 he wants plain, and he wants to do all of that extra  
25 work, which we supply him plain.

1           And there's other people that will want the  
2 adhesive. If I'm more efficient at putting the  
3 adhesive down for the other customer, Bob might not  
4 like that, but he can get it, too, and I cannot supply  
5 one customer over another, and these are all standard  
6 capabilities that we offer to the marketplace:  
7 laminating, die-cutting, slice-dice.

8           MR. THOMAS: Mr. Commissioner, I think we  
9 have to hear the testimony this afternoon, or later  
10 this morning, whenever it is, but, with your  
11 permissions, we may be able to be somewhat more  
12 specific in a confidential response with the post-  
13 hearing brief.

14           COMMISSIONER WILLIAMSON: That's fine.  
15 Thank you.

16           Along the same lines, I was going to ask,  
17 how much competition is there among the different  
18 domestic producers? I get the impression that there  
19 is, but does anyone want to add to that?

20           MR. ALLEN LOVE: Solid.

21           MR. TOM LOVE: It covers everywhere. I  
22 don't know of any or many accounts that don't know  
23 both of the major suppliers, us and Flex Mag. I think  
24 everybody is pretty much aware and has been contacted  
25 by both of us.

1                   COMMISSIONER WILLIAMSON: In the sheeting  
2 market --

3                   MR. TOM LOVE: In the sheeting market, for  
4 sure, which is the biggest market and our primary  
5 market.

6                   MR. THOMAS: I'm sorry. I just want to be  
7 sure. Are you suggesting that there is less  
8 competition in the market for extrusions or profile  
9 shapes?

10                  MR. TOM LOVE: I think it depends upon the  
11 use, and Bob might be able to expand upon that, but  
12 there are certain OEMs out there that we might not  
13 know if they are using a magnet, and perhaps they have  
14 been buying from Flex Mag for 20 years, and they just  
15 happen to never have called us. There's going to be  
16 some of those out there, where the use is hidden.

17                  It's pretty easy to tell when somebody is  
18 selling refrigerator magnets. You can just search  
19 "magnets," and there you go, but you can't search  
20 "refrigerator" and find refrigerator gaskets on the  
21 Web. It's just a little harder to find.

22                  MR. ALLEN LOVE: And just yesterday, talking  
23 with Bob, Bob Dennis here, he expressed that there's a  
24 lot of flexible magnets in a copier that are still  
25 here being made, and we didn't know that. Some



1 applications, we wouldn't even know to approach for  
2 that, but, in time, we'll get there, as anybody else  
3 that gets in the market would get there in time.

4 COMMISSIONER WILLIAMSON: I appreciate those  
5 answers. Thank you.

6 There are several factors of the market that  
7 could, arguably, be considered other causes of injury,  
8 and some of them have been addressed, but I was  
9 wondering, either now or in post-hearing, if you could  
10 raise the question, to what extent might one say the  
11 decline in U.S. demand during the period of review was  
12 the cause of injury?

13 MR. THOMAS: Well, I would say that that's a  
14 market condition with which the domestic producers  
15 have to deal, and if, as a result of that, they are  
16 able to sell less, that only makes them more  
17 vulnerable. So it seems to me that that contributes  
18 to the injury or sets up the injury which they suffer  
19 from the subject imports. We can try to work up some  
20 numbers for you with the post-hearing brief, if that's  
21 all right.

22 MR. MALASHEVICH: I'm sorry. If I might  
23 add, historically, the Commission has considered what  
24 many have referred to as the "double whammy" of  
25 increasing imports in a declining market environment

1 as being particularly injurious by the nature of that  
2 combination. But I believe, in our prehearing brief,  
3 or it might be in one of our other submissions -- I  
4 would have to clarify that -- there is an arithmetic  
5 calculation of decline in demand versus the increase  
6 in the imports, and the increase in the imports is  
7 quite significantly greater than the decline in  
8 demand.

9 So I think that's pretty definitively  
10 answers your question.

11 COMMISSIONER WILLIAMSON: Thank you very  
12 much for that. I think my time is up. I can come  
13 back to it.

14 MR. TOM LOVE: Well, quick. I was just  
15 going to say, as times get harder, people look for  
16 ways to reduce cost, and buying the cheap imports  
17 instead of the U.S. product is a quick and easy way to  
18 reduce cost.

19 COMMISSIONER WILLIAMSON: Thank you. Thank  
20 you, Madam Chairman.

21 CHAIRMAN ARANOFF: Commissioner Pinkert?

22 COMMISSIONER PINKERT: Thank you, Madam  
23 Chairman.

24 I want to follow up on one of Commissioner  
25 Williamson's questions, the one about domestic

1 competition.

2 Is Flex Mag's role in the market one of  
3 being the low-priced U.S. competitor?

4 MR. ALLEN LOVE: I don't recognize them that  
5 way, no.

6 MR. TOM LOVE: No. We don't believe that.

7 COMMISSIONER PINKERT: So is the  
8 competition, domestically -- I'm not talking about the  
9 imports right now -- is it over price, is it over  
10 service, is it over quality? Just characterize that  
11 for me, if you could.

12 MR. ALLEN LOVE: I would like Brandon to  
13 answer it. He deals with both us and Flex Mag.

14 MR. FIXSEN: I don't really perceive Flex  
15 Mag to be any lower priced. Actually, the products  
16 that they produce for our company, anyway, are very  
17 similar in nature. The quality is very good in both  
18 companies, and, frankly, as a buyer, if you have a  
19 problem with one that you cannot resolve, which has  
20 never happened in my experience, you can always look  
21 to the other one to solve that problem or basically  
22 keep each other honest. But as far as price goes,  
23 they are very similar: service very similar, quality  
24 very similar. They are real good competitors.

25 COMMISSIONER PINKERT: Thank you. Now, in

1 the preliminary phase of these investigations, the  
2 Commission defined the domestic like product as all  
3 raw flexible magnets consistent with the scope of the  
4 investigation. I understand that you believe that  
5 that's the right result, but could you explain why  
6 extruded magnets used for refrigerator gaskets and  
7 shower doors should be included within the domestic  
8 like product?

9 MR. THOMAS: Well, my answer to that would  
10 be, in the first place, a magnet that is extruded, as  
11 compared with a magnet which is colandered, can have  
12 some of the very same applications in kind of the  
13 middle of the product mix. For example, talking about  
14 flexible magnet strips, a flexible magnet strip can be  
15 made either by slitting magnet sheeting into thinner  
16 strips, or it can be extruded using an extrusion  
17 process. So there is a very significant overlap  
18 between the products of the two production methods.

19 At the far end, where you have an extruded  
20 profile shape, certainly that is very different from a  
21 magnetic sheet, but that's at the far end of a  
22 spectrum of products. So, in our view, there is a  
23 very substantial overlap. It is a product spectrum,  
24 and they are all essentially one product.

25 MR. ALLEN LOVE: We make refrigerator gasket

1 material. We make shower door material. We use the  
2 same raw materials. We use the same equipment that  
3 we're doing some extruded product for advertising  
4 specialties. We extrude advertising specialty product  
5 that goes in. It's narrower.

6 I don't know if you can do this or not, but,  
7 in the first hearing we did, whatever it was called,  
8 Larry Mosteller from Magnet Technologies stated very  
9 clearly, without the supply from China, he wouldn't be  
10 able to compete, and that's because there's  
11 manufacturers here.

12 MR. THOMAS: I think another example, and,  
13 again, I hope I'm right about this, the business card  
14 magnets can be either extruded, or they can be cut  
15 sheet. Isn't that true?

16 MR. ALLEN LOVE: They would typically be  
17 sheeting, but they could be extruded.

18 MR. TOM LOVE: Yes. Different people have  
19 different capabilities. On extruding, I think we go  
20 up to four-inch wide, but a person could extrude 24-  
21 inch wide if they had the dies and experience in using  
22 the dies that size, if they wanted to. So the  
23 extrusion is just a method of manufacturing what could  
24 be manufactured the same way as sheet with a colander,  
25 for example.

1           One distinction of extrusions that you can  
2 do is you can have a three-dimensional profile shape,  
3 such as we mentioned with the C profile that was kind  
4 of like a clamp where you can slide a label in there  
5 and stick it on a shelf.

6           We don't always know what they are going to  
7 do with the magnet that we produce for them.

8           MR. ALLEN LOVE: We have a product in  
9 Staples, Office Max, Office Depot. It's one that we  
10 direct supply to Staples, and some of our customers  
11 supply the other two, but it is an adhesive-backed,  
12 business-card magnet, and it is an extruded product,  
13 and it just is a business-card-sized magnet with a  
14 peel-off liner, and you can stick your business card  
15 on it, and it's a very solid product and market for  
16 us, and it is an extruded product.

17           MR. THOMAS: And you also make business-card  
18 magnets out of sheeting that's cut. Right?

19           MR. ALLEN LOVE: Yes, sir, we do.

20           COMMISSIONER PINKERT: Is there a price  
21 premium for one over the other method of manufacturing  
22 that product?

23           MR. ALLEN LOVE: For us, it's cost based.  
24 Because we're making that very small piece, normally  
25 we're providing something to somebody. They are going

1 to do something with it and make a small piece.

2 Since we're making a small piece, it's most  
3 cost effective for us to start small, so we'll have a  
4 long, continuous, thin web rather than starting with a  
5 lighter one and cutting it down and then dealing with  
6 all of the cut-down pieces. So we're able to do it in  
7 a very automated way, which I probably shouldn't talk  
8 about anymore.

9 COMMISSIONER PINKERT: Okay. Well, thank  
10 you for talking about it as much as you did.

11 Now, you argue that the domestic producers  
12 have attempted to combat the cost-price squeeze by  
13 reducing their costs. Can you talk specifically,  
14 either in the public hearing or in the post-hearing,  
15 about the efforts that you've made in that area?

16 MR. TOM LOVE: Just, in general,  
17 consolidation back in 2005. Then, it was completed in  
18 2006. We bought equipment that was more efficient.  
19 We, also, upgraded the existing equipment. We,  
20 basically, picked the best of both in this -- at that  
21 time and combined them, as well as bought some new  
22 equipment that we knew was more efficient.

23 We continue to do things like that. We have  
24 a process of continuous improvement. We're always  
25 looking for ways to cut cost. We've adopted Lee and

1 we are using that. So, those are the general things  
2 that we do. But during all of that time, we've had  
3 significant increases in raw materials that have, you  
4 know, pretty much used up anything that we were able  
5 to save with other methods.

6 MR. THOMAS: With your permission, sir, we  
7 will respond more fully in our post-hearing brief?

8 COMMISSIONER PINKERT: That would be very  
9 worthwhile. And to the extent that you can talk  
10 specifically about the quantitative impact of those  
11 efforts, that would also be suitable. Thank you.

12 Now, I'd like to address this next question  
13 to Mr. Malashevich and I note that earlier we were  
14 talking about the trends and possibility of threat  
15 analysis in this case. Is there any evidence that  
16 suggests an imminent increase in the volume of imports  
17 from Taiwan specifically, as opposed to from the  
18 subject countries as a whole?

19 MR. MALASHEVICH: Yes, in several respects,  
20 at least. One is the historical experience that's in  
21 the record: their increase over time; their presence  
22 in the market significant; distribution network  
23 capability; the frequency of underselling so that  
24 Taiwan is well set out in record; and, also, I frankly  
25 can't remember whether it's APO or not, so to be on



1 the safe side. But, the pre-hearing brief has several  
2 pages addressing the traditional threat factors that  
3 lies, in part, on the partial information that's been  
4 submitted by the Taiwanese industry does not represent  
5 the entire industry. But, the analysis performed on  
6 what has been submitted to the Commission, I believe,  
7 is quite compelling in that regard.

8 MR. THOMAS: Quickly, if I may add just a  
9 couple of other points. One would be that we are  
10 aware that there is a new sales agency for the  
11 Taiwanese manufacturer, who was being most present in  
12 the U.S. market, who took over in February of this  
13 year, I think it was. Certainly, it was some time in  
14 the first quarter. And, in addition, as Bruce points  
15 out, there has been principally one Taiwanese  
16 manufacturer called Jasdie, who has been active in the  
17 U.S. market. However, there are other very  
18 significant -- one or more very significant Taiwanese  
19 manufacturers who certainly could be active in this  
20 market. And, again, we can say more with the post-  
21 hearing brief.

22 COMMISSIONER PINKERT: Thank you.

23 MR. THOMAS: We, also --

24 COMMISSIONER PINKERT: I think I am at the  
25 end of my time here, but I can come back to this issue

1 in the next round. Thank you.

2 CHAIRMAN ARANOFF: I want to ask Mr. Love  
3 and Mr. Love to just walk me through the different  
4 categories of customers in this case and with which  
5 ones you're competing with importers and in which  
6 cases to make sales you're competing with people who  
7 might be your own customers or other domestic  
8 entities. I'm a little bit confused about how that  
9 works. For example, you've got the printing segment,  
10 the retail segment. Can you walk me through each of  
11 those and tell me from whom each of those segments  
12 buys their magnets?

13 MR. ALLEN LOVE: We might want to do that  
14 post-hearing brief.

15 MR. TOM LOVE: I'm not sure I completely  
16 understand the question. Could you refrain that a  
17 little bit more for me?

18 CHAIRMAN ARANOFF: Well, for example,  
19 looking at retailers, who sell magnets, you sell  
20 directly to some retailers or at least you said that  
21 was one of the inducements to buy MSI, because they  
22 had retail customers. Some of the large retailers  
23 are, as I understand it, are, themselves, direct  
24 importers. Some of them may be buying from  
25 distributors, who may be your customers or maybe

1 buying from importers. I'm trying to sort of chase  
2 this web and understand who is --

3 MR. ALLEN LOVE: Okay, yes.

4 CHAIRMAN ARANOFF: -- buying from who.

5 MR. ALLEN LOVE: Do you want to do that?

6 MR. TOM LOVE: Well, I can give it a shot.  
7 I mean, we do sell to the large retailers and we have  
8 faced -- you know, we've been beat over the head,  
9 basically, by many of them, because many of them do  
10 buy so much from overseas and we've been beat over the  
11 head by pricing from them. We, also, have some  
12 customers, who sell a retail brand, very much like --  
13 in our viewpoint, it would be like a 3M versus some  
14 other brand of product. We have our brand and other  
15 customers have their brand and our brands compete  
16 based upon the merits of the brand, very much like  
17 what happens with -- in different types of glue or any  
18 other product on the market. So, that's what happens  
19 in the retail market.

20 CHAIRMAN ARANOFF: So, when you sell to a  
21 retailer, are you selling your own brand name or are  
22 you doing private label for that retailer?

23 MR. TOM LOVE: There are some that require  
24 or demand private label. In fact, there is one that  
25 we have that demands a private label and they told us

1 that it was either us or the Chinese and we had a  
2 shot. And --

3 MR. ALLEN LOVE: We were fortunate that they  
4 told us what we had to sell it to them for.

5 MR. TOM LOVE: Yeah.

6 MR. THOMAS: Let me just ask a couple of  
7 questions and see if we can get this clear. To take,  
8 as the example first, people, who buy flexible magnet  
9 and use it to print things, printers, as regards to  
10 large printers, do you sell directly to large  
11 printers?

12 MR. ALLEN LOVE: Yes.

13 MR. TOM LOVE: Yes. That's our primary  
14 market.

15 MR. THOMAS: Do foreign exporters sell  
16 directly to large printers?

17 MR. ALLEN LOVE: Yes.

18 MR. TOM LOVE: Yes.

19 MR. THOMAS: Do large printers typically buy  
20 from distributors in the U.S.?

21 MR. ALLEN LOVE: No.

22 MR. THOMAS: Do small printers buy from  
23 distributors?

24 MR. ALLEN LOVE: Yes.

25 MR. TOM LOVE: Yes.

1 MR. THOMAS: Do you sell to smaller  
2 printers?

3 MR. ALLEN LOVE: Sometimes.

4 MR. TOM LOVE: Sometimes. It depends on the  
5 sales.

6 MR. TOM LOVE: It depends on the sales.

7 MR. THOMAS: Do some of the smaller printers  
8 buy from foreign producers?

9 MR. ALLEN LOVE: Yes.

10 MR. TOM LOVE: With increasing frequency  
11 they were and that's what we had been saying.

12 MR. THOMAS: Okay. Let's move to  
13 distributors.

14 CHAIRMAN ARANOFF: Before you get there, I  
15 know that when large retailers, for example, buy  
16 direct from a foreign producer, the retailer, itself,  
17 acts as the importer of record. Is that also the case  
18 with printers, who are buying direct from foreign  
19 producers?

20 MR. TOM LOVE: Not necessarily. Many of the  
21 foreign producers were setting up warehouses.

22 MR. THOMAS: I think the fact of the matter  
23 is, we have no way of knowing who is down as the  
24 importer of record. What we do know is what the Peers  
25 data show and the Peers data often show or typically

1 show. For example, in the case of Adams or MSI, the  
2 Peers data -- they'll show you the consignee, that's  
3 all. Who is the consignee in those cases?

4 MR. TOM LOVE: In those cases, it is MSI.  
5 So, it's very clear what they were importing.

6 MR. THOMAS: I believe, Madam Chairman, that  
7 to my knowledge, Jasdie, the Taiwanese producers, who  
8 has been the principle exporter, had a company, a  
9 related company in the U.S. that was acting as the  
10 selling agent. I believe that one of the Chinese  
11 producers, MagOne, has a selling agent in the U.S. Is  
12 there anybody else to your knowledge?

13 MR. ALLEN LOVE: Magnet -- I know that  
14 Magnet sales on the west coast had some sort of  
15 relationship or a distributor foreign Asian company,  
16 but I have no idea what that is.

17 MR. TOM LOVE: D. Grimm, I believe, has  
18 sales office or at least sales people in New York.  
19 And I think at one time, AIC did. I don't know if  
20 they still do, because at different times, people  
21 tried to work out different deals.

22 CHAIRMAN ARANOFF: Okay. So, we've gone  
23 through the printing segment of the market and we've  
24 discovered that there is competition at sort of  
25 multiple levels. So, maybe go on and talk to me about

1 OEMs.

2 MR. TOM LOVE: And there is even a little  
3 bit more there. It depends on the amount of service a  
4 printer might get. Now, if we offer -- and Allen  
5 mentioned this earlier, if the customer asked for it,  
6 we'll do it, if we're capable.

7 MR. THOMAS: Okay. Let's go on to the --  
8 you were asking about distributors or OEMs? OEMs, I  
9 guess, is what we --

10 CHAIRMAN ARANOFF: We talked a little bit  
11 about retail. We talked a little bit about printers.  
12 So, let's do OEMs.

13 MR. ALLEN LOVE: It's through distributors  
14 and some direct for us.

15 MR. THOMAS: What about the importers?

16 MR. ALLEN LOVE: Don't see much of it when  
17 we have an OEM direct. I don't recall ever getting  
18 foreign competition on an OEM direct yet, because  
19 they're undefined.

20 MR. THOMAS: AS has been testified, most of  
21 the competition that is being seen appears in the  
22 shooting market, a very high percentage of it. So,  
23 it's not surprising that they would see something less  
24 in the OEM market. Indeed, that's what one would  
25 expect.

1           CHAIRMAN ARANOFF: Okay. I want to make  
2 sure I understand the full parameters --

3           MR. THOMAS: You're trying to find what the  
4 level of trade is, where the competition is.

5           CHAIRMAN ARANOFF: But, I'm detouring from  
6 that, actually, for a minute, just to make sure I  
7 understand what is going into the OEM market. I  
8 understand the refrigerators and the shower doors.

9           MR. ALLEN LOVE: There's others, but will  
10 not discuss them in public.

11          CHAIRMAN ARANOFF: Okay.

12          MR. THOMAS: We'll put them in the brief.

13          CHAIRMAN ARANOFF: One of the ones that's  
14 been mentioned in the staff report is the label holder  
15 for file cabinets. Is that considered an OEM product?

16          MR. ALLEN LOVE: No.

17          CHAIRMAN ARANOFF: That's a retail product?

18          MR. ALLEN LOVE: Yeah, that's a retail  
19 product and it's also a component product for a  
20 customer of ours that makes planning boards and  
21 scheduling boards.

22          CHAIRMAN ARANOFF: Okay. I'm just trying to  
23 understand what products are in the OEM market. All  
24 right, let's go away from my detour and back to what  
25 we were talking about, about different levels of



1 competition. I guess maybe we've exhausted OEM. That  
2 leaves us with distributors, right?

3 MR. THOMAS: Right. With respect to  
4 distributors, do you sell directly to large  
5 distributors?

6 MR. TOM LOVE: Yes.

7 MR. THOMAS: Are there large distributors in  
8 the U.S., who buy directly from foreign producers?

9 MR. TOM LOVE: Yes.

10 MR. THOMAS: What about smaller  
11 distributors? And by smaller distributor, I suppose -  
12 - what do I mean as between large and small  
13 distributors?

14 MR. ALLEN LOVE: A small distributor can be  
15 a sign supply distributor, where they're selling rolls  
16 of material to sign shops to make car signs, I think.

17 MR. THOMAS: Is this a market in which large  
18 distributors sell to small distributors?

19 MR. TOM LOVE: Not generally. Generally,  
20 the large distributors just -- they sell a wide  
21 variety to many different users, including some of the  
22 sign shops. The sign supply distributors, they're  
23 pretty much focused just on the sign shops.

24 MR. THOMAS: So, the small distributors are  
25 like large distributors only smaller?

1           MR. ALLEN LOVE: I think more regional,  
2 maybe in a city.

3           MR. TOM LOVE: More regional. And they will  
4 also import directly.

5           MR. THOMAS: So, large distributors will  
6 import directly. Would they buy from sales agents or  
7 somebody like Jasdie?

8           MR. ALLEN LOVE: Yeah.

9           MR. TOM LOVE: Yes.

10          MR. THOMAS: I'm getting there.

11          CHAIRMAN ARANOFF: Okay, yeah. If you have  
12 -- I mean, you obviously sell to distributors of  
13 various sizes, but would you, also, be in a situation  
14 where you might be selling to someone, who would be a  
15 distributor's customer?

16          MR. ALLEN LOVE: Yes, it can happen.

17          MR. TOM LOVE: It's a fuzzy line.

18          MR. ALLEN LOVE: But one thing that happens  
19 and there's not much that we can do about it, if  
20 somebody comes to one of our salespeople and says,  
21 here's how big I am, I buy magnets, I'm looking for a  
22 new supplier, we'll ask who their supplier is. They  
23 don't always tell us, but my salespeople will quote  
24 it. We might find two months later that that was a  
25 customer of one of our distributors. We have no way

1 of knowing. We don't have our distributor's customer  
2 list, so we don't have anything to know to stay away  
3 from. If we do find it is one of our distributors, we  
4 try to help them keep it anyway we can. But, if it's  
5 in the hands of our competitor or the Chinese, there's  
6 not much either of us can do.

7 MR. THOMAS: I think the market is one in  
8 which distributors perform a useful function and it's  
9 certainly more efficient for the large domestic  
10 producer, such as Magnum or Flexmag, to sell to  
11 distributors, who then perform a function in selling  
12 to smaller units, mom and pop print shops around the  
13 country, et cetera. Companies like Magnum and Flexmag  
14 aren't set up to sell to those customers and it would  
15 be inefficient for them to try to do so. So, it's in  
16 their interest to maintain -- to have distributors  
17 around and to sell it as distributors.

18 CHAIRMAN ARANOFF: All right, let me stop  
19 you there, because my light is red. But, I appreciate  
20 that. That has all helped me get a better overview on  
21 the market. I am going to turn to Vice Chairman  
22 Pearson.

23 VICE CHAIRMAN PEARSON: Thank you, Madam  
24 Chairman. Mr. Malashevich, let me direct this to you,  
25 if I could. There were some concerns in my first

1 round of questions regarding the measure that we have  
2 for apparent consumption, here showing at roughly at  
3 11 million pound drop between 2006 and 2007. If for  
4 purposes of the post-hearing, you have any additional  
5 information that would help us understand that, by all  
6 means please provide it.

7 MR. MALASHEVICH: I will make every effort  
8 to do so.

9 VICE CHAIRMAN PEARSON: Okay. Then, since  
10 you and I have access to the confidential staff  
11 report, do you have any doubts about the data that we  
12 are showing for domestic production for this period?

13 MR. MALASHEVICH: Domestic production?

14 VICE CHAIRMAN PEARSON: Yes.

15 MR. MALASHEVICH: I am trying to figure out  
16 a way to put this publicly, but I think I can. First  
17 of all, I don't know any producer out there in the  
18 United States, who, at some point, did not submit a  
19 questionnaire at all. I do know of one producer,  
20 which submitted a producer's questionnaire in the  
21 preliminary phase, but not in the final phase. That  
22 producer, however, is small. I believe staff has done  
23 an excellent job of compiling data for the domestic  
24 industry. I think we all share a certain amount of  
25 frustration by some degree of under reporting of the

1 subject imports, both owing to the same phenomenon.  
2 There were some importers, who identified -- submitted  
3 a questionnaire in the preliminary, but not in the  
4 final, and we believe there are other importers that  
5 simply have not cooperated with the investigation for  
6 whatever reason.

7 VICE CHAIRMAN PEARSON: Okay. Well,  
8 following up on the point that was touched on by  
9 Commissioner Williamson, we are required to try to  
10 make sure that we don't attribute to subject imports  
11 some injury that might be caused by other factors.  
12 And so, in that context, how should we interpret the  
13 reduction -- how should we interpret the financial  
14 performance of U.S. producers, in light of the  
15 reduction that we see in apparent consumption? And  
16 you may want to elaborate in the post-hearing, but I  
17 will throw it out there now.

18 MR. MALASHEVICH: I will take the liberty to  
19 elaborate, but I can respond in part now. I believe,  
20 once again, I think it is useful, and I'm not  
21 suggesting to expand the POI per say, but to take into  
22 account information on the record of the most recent  
23 year of normal profit, which, in my opinion, was 2004.  
24 And you can see a decline. I don't think I should be  
25 more specific, but there is decline that commenced in

1 2004 that has no relationship in time to the decline  
2 in demand that you described earlier. So, if you  
3 will, the barber is on the floor before the decline in  
4 apparent consumption noted in the staff report and I  
5 believe that's a pretty compelling way of attributing,  
6 if you will, that decline to the growth  
7 contemporaneously with subject imports, not the much  
8 weighted decline in apparent consumption.

9 VICE CHAIRMAN PEARSON: Okay. Now,  
10 continuing with you, but I want to make reference to a  
11 comment that I believe was in the testimony of Mr.  
12 Allen Love, where he made reference to increased raw  
13 material cost. And in looking at the confidential  
14 data, it's difficult to me to discern that trend. I'm  
15 wondering whether you have any insights on that, that  
16 you can share?

17 MR. MALASHEVICH: I would like to take the  
18 liberty of adding to my remarks in the post-hearing  
19 brief, relying on APO material. But, I think a more  
20 important aspect that has not been discussed so far in  
21 this hearing is you've heard about various investments  
22 that have made cost reduction measures put into place,  
23 at least by Magnum, and I assume by other producers,  
24 as well, in the industry. And one would expect that  
25 all of those efforts would have led to an increase in

1 profitability over the period. In one aspect of the  
2 injury that has not been discussed so far is the  
3 benefits of those investments that were lost on  
4 account of the subject imports, rather than producing  
5 a growing trend of income that one would associate  
6 with cost reduction.

7 So, that's another aspect of the injury that  
8 is lost. If you simply look at the net reported  
9 results of profitability, the other question asked is  
10 how much higher would that profitability have been if  
11 they were allowed to enjoy the benefits of cost  
12 reduction in greater margins.

13 VICE CHAIRMAN PEARSON: Okay. You are aware  
14 that generally, we look at the change in cogs to  
15 sale's ratio, as ain indicator of price suppression or  
16 the opposite. And in this instance, I'm wondering  
17 whether that -- whether we ought to interpret the  
18 numbers just as we see them. And the reason is, it's  
19 at least possible that the cogs to sales ration is  
20 being influenced significantly by the decline in  
21 apparent consumption, if, indeed, there is one, such  
22 that the -- some of the costs -- some of the portions  
23 of cogs that are fixed or relatively fixed, those  
24 costs are being spread across fewer units, thus we  
25 could see an increase in the cogs to sales ratio that

1 doesn't reflect the sorts of issues that we normally  
2 would interpret as being price suppression.

3 MR. MALASHEVICH: Well, arithmetically, of  
4 course, that's true. But once again, there is the  
5 importance of the observable data for 2004, before the  
6 acceleration of the subject imports. As we all know,  
7 non-subject imports are not an issue in this case.  
8 So, there's a one-for-one split between increase in  
9 imports and decline in domestic volume, and I think  
10 taking into account 2004, in particular. But, also,  
11 there is an arithmetical calculation in the pre-  
12 hearing brief that examines the change in cogs, I  
13 believe on a cents per pound basis. That, in our  
14 view, demonstrates significant price suppression.

15 CHAIRMAN ARANOFF: Okay. But, as you look  
16 at that, for purposes of the post-hearing, in the  
17 context of the decline --

18 MR. MALASHEVICH: Decline in demand.

19 VICE CHAIRMAN PEARSON: -- in apparent  
20 consumption, the declining -- what we see as the  
21 decline in domestic production quantity, I'm wondering  
22 whether, given that ratio, the type of interpretation  
23 we might give it in other circumstances, whether  
24 that's indeed the correct way to evaluate it.

25 MR. MALASHEVICH: As you were speaking, I



1 had a few possible techniques in mind that will help  
2 to quantify that and I'll do my best to apply them in  
3 the post-hearing.

4 VICE CHAIRMAN PEARSON: Of course, I don't  
5 know exactly what the Respondents will say later, but  
6 if they would say something along the lines that  
7 commercial disputes have occurred throughout history,  
8 why should we not see this case as simply an extension  
9 of a normal commercial dispute between firms in an  
10 industry dealing with issues of product quality or  
11 customer service or something like that, commercial  
12 dispute that's brought before us in this tribunal as  
13 an antidumping case.

14 MR. THOMAS: Well, let me take a stab at  
15 that to begin with. I guess what strikes me in the  
16 first place is that we have laws that say particular  
17 kind of trade is something that is disfavored, if it  
18 has an adverse impact on the domestic industry. That  
19 kind of trade consists of selling at less than fair  
20 value or exporting to the United States a merchandise  
21 that is heavily governmentally subsidized. So, the  
22 Commission's question then is do those imports have an  
23 adverse impact on the industries concerned.

24 VICE CHAIRMAN PEARSON: We, also, deal with  
25 causation and that is what is unclear to me here,

1 because if a domestic user is wanting product and  
2 going out and looking for it overseas and bringing it  
3 in, that would have a different effect on our analysis  
4 of causation than if a foreign supplier is putting --  
5 is shoving key product into the United States.

6 MR. THOMAS: It would; but in that case, one  
7 would expect to see essentially equivalence of pricing  
8 or even a price premium for this product if the victim  
9 of the so-called trade dispute went and found  
10 somewhere. That's not the case. What we see is  
11 pervasive underselling. So, that's evidence that it  
12 is price not some other factor, which is what is  
13 bringing the imports into this market.

14 VICE CHAIRMAN PEARSON: Okay. Well, my time  
15 has expired. Thank you, Madam Chairman.

16 CHAIRMAN ARANOFF: Commissioner Okun?

17 COMMISSIONER OKUN: Thank you and thank you  
18 for the responses we've received thus far. Let's see,  
19 I wanted to follow-up just on some capacity questions.  
20 I obviously don't want to go into anything  
21 confidential here, but I'm just trying to understand  
22 what was going on in the industry and what to make of  
23 capacity and capacity utilization for purposes of our  
24 analysis. So, I guess the post-hearing part, not with  
25 the confidential, Mr. Malashevich, is to just go

1 through for me why in looking at this, a little bit of  
2 the attribution, the causation issue, as well, which  
3 is given where the capacity utilization numbers are --  
4 and what's going on with apparent consumption, how  
5 much weight we should give to the capacity  
6 utilizations? If there is anything you want to say  
7 publicly, go ahead and do that. But, if that needs to  
8 be just on confidential, that's fine, as well.

9 MR. MALASHEVICH: I can address it in part  
10 publicly. This question was raised by staff in its  
11 normal due diligence in following up and reconciling  
12 questionnaire responses. And there's a particular e-  
13 mail, whose date I, frankly, cannot recall here and  
14 now, that directly addresses the issue of capacity  
15 utilization. And I will call your attention to that  
16 and also will consult among ourselves and add whatever  
17 we can in the post-hearing. But, that e-mail, I  
18 think, if it doesn't 100 percent address your  
19 concerns, it's probably 90 percent there.

20 COMMISSIONER OKUN: Okay. That's helpful to  
21 know that's there. And then just to Mr. Love or Mr.  
22 Love, in terms of, again, just a follow-up a little  
23 bit on the MSI acquisition, when you had talked about  
24 the ability to move into a larger facility as part of  
25 that, and we know that businessmen don't have crystal

1 balls, but, I mean, you're getting a lot of questions  
2 about what you anticipate apparent consumption or  
3 demand was going to be. In terms of making this  
4 acquisition, were you anticipating increased demand at  
5 that point and that just didn't come true or would it  
6 have made sense --

7 MR. ALLEN LOVE: We justified the purchase  
8 on a much less volume than the volume that we obtained  
9 with the merger.

10 COMMISSIONER OKUN: Okay.

11 MR. ALLEN LOVE: It still had everything  
12 gone, being able to pass on price increases,  
13 everything had gone smoothly. Even at the level of  
14 business we're at right now, it's a very good purchase  
15 for us.

16 COMMISSIONER OKUN: Okay. I just wanted to  
17 make sure I had heard you on that particular part of  
18 it and I appreciate that response. I guess for Mr.  
19 Thomas or Mr. Malashevich, Mr. Malashevich, you  
20 referenced 2004 several times and I meant to go back  
21 and look at the charts, but are you asking us to use a  
22 four-year POI or you are just trying to say, if you  
23 look at 2004 just for how they did in their  
24 financials, that that gives you a good benchmark of  
25 where they should have been?

1                   MR. TOM LOVE: In the context of my  
2 testimony, it related solely to the financial data for  
3 2004 and it's in the spirit of a benchmark. And I  
4 would say it's like the question, I'm sorry, I forget  
5 which Commissioner asked it, about what's the hurdle  
6 weight, the rate of return for magnum, and that's  
7 something of an abstract principle, whereas the return  
8 of operating income on sales, which the Commission  
9 routinely looks at very carefully, that's a real rate  
10 for 2004 and it's a rate that reflects the aggregated  
11 experience of the industry, as a whole, not simply the  
12 hurdle rate of any one company. So, in that respect,  
13 I think it deserves more attention it would otherwise  
14 get going further back than the normal three years.

15                   COMMISSIONER OKUN: Okay. I guess I would  
16 think maybe four -- well, for post-hearing, obviously,  
17 to address that, Mr. Thomas, as a legal matter, and  
18 point to Commission precedence for when we have done  
19 that. I mean, if we have a period of investigation,  
20 we have at times used a different one, times looked at  
21 different benchmarks, but usually if there was a  
22 particular -- the ones I'm trying to think of, there's  
23 been some particular event that made it necessary to  
24 look to a different benchmark. I'm trying to figure  
25 out what that is here, because we always run the risk,

1 if you just pick a certain time, you could say, well,  
2 what was going on and maybe that was an aberrational  
3 year. I mean, I'm not sure that I know enough and so  
4 I need more context for why that -- I should give  
5 weight to that.

6 MR. MALASHEVICH: That's a fair point,  
7 Commissioner. I would say, though, the event was that  
8 in 2004, subject imports were, for practical purposes,  
9 zero, and they accelerated very rapidly after that.  
10 So, if you believe there needs to be an event that  
11 would cause you to take into account certain  
12 information of 2004, I submit that would be it.

13 COMMISSIONER OKUN: You haven't had a week  
14 of long hearings and stuff, but it is maybe something  
15 that my fellow Commissioners are also observing. But  
16 for some reason, 2004 has been raised in almost every  
17 case we've had that I can think of right now. So,  
18 with that, I will look for more support for that post-  
19 hearing.

20 Let's see, I have -- I believe Respondent  
21 took part of this, but the other question I am still  
22 trying to think about here is just evaluating  
23 financial performance over the period and how that  
24 relates to the subject imports. And one can look at  
25 this record and say that we saw the greatest increase

1 in subject import volume and market penetration, which  
2 you've referenced between 2006 and 2007, but the  
3 decline in operating performance came in the prior  
4 year, the 2005-2006. And so, I wanted to have you  
5 kind of link together for me how to look at those  
6 trends, which don't correlate perfectly.

7 MR. THOMAS: We'll address that with the  
8 post-hearing brief.

9 COMMISSIONER OKUN: Okay.

10 MR. MALASHEVICH: Although I would say in  
11 public hearing that one of the confidential exhibits,  
12 the percent of sales, I believe is one way, among  
13 others, of demonstrating the correlation that the  
14 Commission saw from 2004.

15 COMMISSIONER OKUN: Okay. I have looked at  
16 some of those. Let's see, I think that's all I have  
17 for right now. I may come back on a couple of things,  
18 but thank you for those responses.

19 CHAIRMAN ARANOFF: Commissioner Williamson?

20 COMMISSIONER WILLIAMSON: Thank you, Madam  
21 Chairman, just a couple of additional questions. I  
22 and other Commissioners have asked -- is looking at  
23 what might be alternate causes of injury. We had  
24 talked about declining U.S. demand during the period  
25 of review. We had asked about the difficult

1 experience with the MSI acquisition and someone else  
2 had talked about the allegations about service and  
3 delivery problems. The fourth one would be the  
4 capacity expansion in 2005-2006 and to what extent  
5 that could be considered a cause of present injury.  
6 You can either address it here or in post-hearing.

7 MR. ALLEN LOVE: I'm not sure I completely  
8 understand.

9 COMMISSIONER WILLIAMSON: Well, I think in  
10 2006, part of your capacity expanded, part of it was  
11 because of the acquisition of MSI, but I think it may  
12 have been some other expansion, too, or was all of the  
13 growth in capacity --

14 MR. ALLEN LOVE: It was for efficiencies.  
15 It was a good thing to do. It's still a good thing  
16 that we did it, because we're a lot more efficient.

17 COMMISSIONER WILLIAMSON: Okay. So, in  
18 terms of -- you don't think you were injured by this?  
19 It has not caused any problems?

20 MR. ALLEN LOVE: By that we expanded?

21 COMMISSIONER WILLIAMSON: Yes, given the  
22 sales now.

23 MR. ALLEN LOVE: We spent capital and we  
24 bought equipment and upgraded equipment and expected  
25 certain payback. We've had real costs go up, had not



1       been able to pass it on. We did get results of more  
2       efficiency, but we used them. I would say that's a  
3       form of injury to me.

4               MR. THOMAS: I would agree, that certainly  
5       is a form of injury. They made certain investments in  
6       combining the facilities and buying more efficient  
7       equipment. As they did that, they should have  
8       reasonably expected to achieve greater profits as a  
9       result of that and they didn't occur.

10              MR. ALLEN LOVE: We pretty much had to give  
11       any efficiency to get up in price.

12              COMMISSIONER WILLIAMSON: Okay. So, I'm  
13       thinking about it and you're saying, what, that you  
14       would have succeeded with those, if there had not been  
15       the dumped imports; is that --

16              MR. ALLEN LOVE: Absolutely.

17              MR. MALASHEVICH: If I may add,  
18       Commissioner, a point. I recognize the attention  
19       that's in the interest in the MSI acquisition. But,  
20       it isn't like Magnum went off and built a green field,  
21       a new facility. Really, it was an exchange of  
22       ownership that left very little net change in the  
23       industry-wide capacity. So, an acquisition has  
24       different kind of impact in the marketplace than if  
25       there was a brand new totally additional facility

1 adding incremental supply in the market.

2 COMMISSIONER WILLIAMSON: Okay.

3 MR. THOMAS: And, also, I believe you listed  
4 a few areas of question, sir. One was the impact of  
5 the drop of the demand. We will be talking about that  
6 with the post-conference brief.

7 COMMISSIONER WILLIAMSON: I know that it had  
8 already been addressed.

9 MR. THOMAS: Understand.

10 COMMISSIONER WILLIAMSON: There are four  
11 issues and I just wanted to --

12 MR. THOMAS: Certainly, because what needs  
13 to be made, that the subject imports increased  
14 dramatically against the background of the drop in  
15 demand.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. MALASHEVICH: Commissioner, could I  
18 impose upon you to say once again the four issues?  
19 Sorry.

20 COMMISSIONER WILLIAMSON: U.S. demand during  
21 the period of review, difficulties experienced by  
22 Magnum due to the 2005 acquisition, 2005-2006 capacity  
23 expansion, which I think you said is really not --  
24 that it can't be viewed apart from the --

25 MR. MALASHEVICH: Okay. We will certainly

1 address each one.

2 COMMISSIONER WILLIAMSON: -- and the  
3 allegation about problems with meeting delivery and  
4 quality, in terms of use.

5 MR. MALASHEVICH: Well, that I can address  
6 here.

7 COMMISSIONER WILLIAMSON: And I think it's  
8 already been addressed.

9 MR. MALASHEVICH: Oh, okay.

10 COMMISSIONER WILLIAMSON: Unless you want to  
11 add something to it.

12 MR. MALASHEVICH: In 30 seconds. As Magnum  
13 testified, they are the largest U.S. producer and I  
14 don't think the market is as competitive as the United  
15 States. You can become the largest producer of  
16 anything while putting out shoddy products. And the  
17 other thing, once again, as I call your attention to  
18 my testimony to the 11 customer analysis contained in  
19 Petitioners' pre-hearing brief, it's APO, but I think  
20 it's very, very clear that whatever else may be going  
21 on there, differences in price is the driving force in  
22 this market.

23 MR. THOMAS: Finally, sir, I would also like  
24 permission to address those issues that you raised in  
25 the context of threat, as well as current material

1 injury.

2 COMMISSIONER WILLIAMSON: Good, fine. Thank  
3 you. Just one final question and I'm not sure to what  
4 extent that addresses this here. Are you aware of any  
5 further consolidation or restructuring that is likely  
6 to occur in the industry in the near term?

7 MR. THOMAS: I'm not aware of anything.

8 COMMISSIONER WILLIAMSON: Okay. I'll accept  
9 what you're saying. You don't necessarily know what  
10 the other competitor is doing, but I am just --

11 MR. THOMAS: Well, I think one of the  
12 questions would be that it may depend upon what  
13 happens as a result of these proceedings, because  
14 under higher pressure from imports, certainly, I  
15 suppose there could be further consolidation or loss  
16 of producers in the domestic industry.

17 COMMISSIONER WILLIAMSON: Okay, thank you.  
18 There are some industries where everybody says this is  
19 the clear trend. Okay, good. With that, I have no  
20 further questions and I thank everyone for their  
21 responses.

22 CHAIRMAN ARANOFF: Commissioner Pinkert?

23 COMMISSIONER PINKERT: Yes. I believe Mr.  
24 Love had some additional comments to make on the  
25 threat of -- I should say on the possibility of

1 increased imports from Taiwan. Go ahead.

2 MR. TOM LOVE: Yes. I think it would be  
3 good to know their history. They've been around for  
4 quite a while, but with not much marketing presence.  
5 And I would say beginning in 2003-2004, they started  
6 to market more.

7 MR. THOMAS: Tom, just to clarify, we're  
8 talking about one company, Jasdie?

9 MR. TOM LOVE: We're talking about Jasdie.  
10 As it happens, we saw some more things happening with  
11 the Chinese companies at the same time beginning in  
12 2004 and 2005, where they began to market more. They  
13 came to a lot more trade shows, national trade shows.  
14 Rather than just having a warehouse in Los Angeles,  
15 they put a warehouse in Miami and I believe they also  
16 started one in Atlanta and they were pushing their  
17 product a lot more. So, the threat from them was  
18 increasing dramatically. Both they and the Chinese  
19 basically began in California and basically took over  
20 that market, which I think is a prime example of what  
21 happened with Randal Magnetics. They just got  
22 swallowed up. Everybody around them started buying  
23 the cheap imports and they were left in the position  
24 were they also had to do it. And now going forward,  
25 in 2005 and 2006 and 2007, with both the Taiwanese and

1 the Chinese establishing sales offices and warehouses  
2 in Miami, Atlanta, Cincinnati, Chicago, and L.A., and  
3 you combine that with the pressure they were putting -  
4 - the constant presence that they were putting on the  
5 market with their low prices, we saw more and more  
6 people buying their product. And then finally, the  
7 really big hit in 2007 was when we had MSI, a very  
8 large and influential player in the market switch to  
9 the Chinese product and actually push the Chinese  
10 product with the lower price to the detriment of our  
11 other customers. What's going to happen is everyone  
12 else is going to need the lower-priced product to  
13 compete and it was just happening with accelerating  
14 speed during that time period.

15 COMMISSIONER PINKERT: For purposes of the  
16 post-hearing, I would like to get additional  
17 information relevant to the question of cumulation in  
18 the context of a threat analysis. And, in particular,  
19 I would like to see your discussion, your analysis of  
20 whether the volume and price trends from the two  
21 countries are similar or different, which is an issue  
22 that is often relevant to the exercise of discretion  
23 in the threat context in determining whether to  
24 cumulate. So, I would appreciate that and if you  
25 could do that in the post-hearing, then I have no

1 further questions.

2 MR. THOMAS: We will be happy to do so, sir.

3 COMMISSIONER PINKERT: Thank you. Thank  
4 you, Madam Chairman.

5 CHAIRMAN ARANOFF: I have one follow-up in  
6 the nature of a question for the post-hearing. I  
7 observed that one of the things that is going on in  
8 this case is sort of a classic he said, she said, on  
9 the account of what happened with respect to Adams and  
10 what we'll be hearing this afternoon about why that  
11 business shifted to imports. And because of that, I  
12 want to direct counsel's attention to sort of the  
13 classic recent Commission case in those kind of  
14 circumstances, which was calendar slides from Japan,  
15 and ask you to take a look at that case, which  
16 actually resulted in a negative determination, and  
17 tell me what is different in this instance.

18 MR. THOMAS: Actually, I will be happy to do  
19 some of that right now --

20 CHAIRMAN ARANOFF: Okay.

21 MR. THOMAS: -- if you don't mind. One of  
22 the critical differences in the case of the calendar  
23 slide case was that if you recall, there was only one  
24 purchaser in the U.S., who bought the subject  
25 merchandise, and that purchaser had initiated the

1 search for foreign suppliers, itself. So, you had a  
2 situation, in which the -- and the foreign supplier  
3 had not previously sold into the U.S. market.  
4 Therefore, they knew nothing about pricing in the U.S.  
5 market. So, you had a case where there was one  
6 purchaser, the foreign seller said it was not going to  
7 sell to any other purchasers in the United States.  
8 And so, it was not apparent that there was any impact  
9 on the market in the U.S. from those imports, except  
10 for the fact that the one customer's sale was lost to  
11 the domestic producer. As I say, I'm a little bit  
12 familiar with that case, but we'll be happy to address  
13 that further in the post-conference brief, ma'am.  
14 But, I can say that it's just -- that the operations  
15 of the markets, the figures of the buyers and sellers  
16 are just totally different in this situation.

17 CHAIRMAN ARANOFF: Okay. Obviously, I know  
18 you're familiar with it and you've picked up on some  
19 of the main things that are clear differences. I  
20 think the thing we're going to need help with is if it  
21 does come down to a credibility determination between  
22 what one witness tells and what another witness tells  
23 us, any guidance on how to make that determination is  
24 going to be helpful.

25 MR. THOMAS: Absolutely, fine. I think at



1 the end of the day, the Commission has to look at the  
2 objective facts it has before it. I think getting  
3 into he said, she said is very difficult indeed.

4 CHAIRMAN ARANOFF: Okay.

5 MR. THOMAS: I think the facts are telling  
6 in this case. Thank you.

7 CHAIRMAN ARANOFF: Thank you. I have no  
8 further questions. Vice Chairman Pearson?

9 VICE CHAIRMAN PEARSON: Thank you, Madam  
10 Chairman. I have a couple. In your brief, you argue  
11 that the Commission should not put much weight on the  
12 pricing comparison involving sales rather than  
13 purchase prices and we've talked about that. But most  
14 of the conversation, if not all of that, has had to do  
15 with China. And my question for you is, does the same  
16 reasoning apply to Taiwan, either -- does that same  
17 difference in there or does it not?

18 MR. THOMAS: Sir, I'm afraid I missed the  
19 first part of your question. I didn't hear it very  
20 well.

21 VICE CHAIRMAN PEARSON: I will go through  
22 it. In your brief, you argue that the Commission  
23 should not put much weight on the pricing comparisons  
24 involving sales rather than purchase prices, because  
25 the reported sales prices of imported product are made

1 at a different level of trade than domestic producers'  
2 prices to their customers. Is this problem limited to  
3 sales prices of Chinese products or either reported  
4 sales prices for Taiwanese products similarly  
5 affected?

6 MR. THOMAS: I'm not sure how much we can  
7 say about that, but I believe that it is principally  
8 the Chinese producers where that was an issue, because  
9 the selling arrangement that the Taiwanese producer  
10 had established was somewhat different from what seems  
11 to be the model for the Chinese. I think I had just  
12 better stop. We'll have to address that in the post-  
13 conference brief, because I'm not clear how much is  
14 APO and how much isn't.

15 VICE CHAIRMAN PEARSON: Okay. That's fair  
16 enough. My last question, this is confidential. So  
17 for the purposes of the post-hearing, could you  
18 comment on the information referred to in footnote  
19 five on page 4-4 of the pre-hearing report, in terms  
20 of its impact on the ability of the Taiwanese industry  
21 to penetrate the U.S. market going forward? That's  
22 footnote five, page 4-4.

23 MR. THOMAS: We will do so.

24 VICE CHAIRMAN PEARSON: Okay, thank you.

25 With that, Madam Chairman, I believe I have no further

1 questions.

2 CHAIRMAN ARANOFF: Commissioner Okun?

3 COMMISSIONER OKUN: Thank you. I did have  
4 one other question. In listening to you walk through  
5 with the Chairman the nature of competition for the  
6 different customers and the different -- I don't know  
7 whether it was retailers or distributors or printers,  
8 the one thing I think I'm still trying to understand  
9 is, Mr. Malashevich, in your -- talking about Magnum  
10 as being kind of the front line, but once the bubble  
11 burst, you hurt the other ones. I'm still trying to  
12 understand, is that because Magnum and Flexmag and the  
13 other producers don't compete head-to-head for these  
14 customers? I'm trying to understand why -- I'm trying  
15 to understand this argument and how it relates to how  
16 we evaluate the industry as a whole and the other  
17 players. So --

18 MR. MALASHEVICH: Well, it's not unusual, in  
19 my experience, the cases they happen to be involved in  
20 over the years, for there to be a particularly  
21 important player that is more or less, for whatever  
22 reason, positioning other product, their relevant  
23 channel distribution, whatever that may be, that it is  
24 the first to be harmed by the subject imports. And  
25 through the harm to it, because they are so important

1 to the industry as a whole, it amounts to actual or  
2 threatened injury to the industry, as a whole. And  
3 the case that just comes off the top of my head was  
4 hand trucks from China. And I don't know how much  
5 detail I can go into sitting here now about that case,  
6 but there is a similar fact pattern in that respect.  
7 And I should probably say no more about it, at this  
8 point in time, but I would urge you to consider the  
9 reasoning they entered into, the Commission's  
10 affirmative determination in that case.

11 COMMISSIONER OKUN: Mr. Love, are your  
12 customers -- I mean, is there -- and, again, I'm just  
13 trying to understand, is your argument that -- a lot  
14 of it is confidential, but are you competing against  
15 other domestic producers, not going into specifics?

16 MR. ALLEN LOVE: We do, but not in all  
17 markets.

18 COMMISSIONER OKUN: Okay, okay. I mean,  
19 some of it, I mean, obviously customers and how much  
20 you sell. But for post-hearing -- because one of the  
21 things, Mr. Thomas, I'm going to the brief and I'm  
22 looking at Exhibit J, in particular, and I'm having --  
23 I am still having difficulty understanding why the  
24 imports -- why you're making this particular argument.  
25 And so, I just need for post-hearing, you to explain

1 that for me.

2 MR. THOMAS: Yes. We'll be happy to do  
3 that. I think it has to do, in large part, because of  
4 the different product concentration of various  
5 domestic producers. And, obviously, we can't discuss  
6 individual producers' circumstances in this public  
7 context. But, we will be happy to address it with the  
8 post-hearing brief.

9 MR. MALASHEVICH: Another thing to consider,  
10 by the way, is color television receivers, something  
11 of an older case, but it happens that in the original  
12 investigation, the bulk of the imports were  
13 concentrated in 19-inch screen size. And there were  
14 certain U.S. producers in operation at the time, who  
15 only made big console sets, which wooden boxes  
16 contained screen sizes much larger, that were  
17 relatively immune from the import competition because  
18 of the nature of the product they sold. I think there  
19 is something similar going on here.

20 COMMISSIONER OKUN: Okay. I will look  
21 forward to seeing that. And with that, Madam  
22 Chairman, I don't have any further questions. But,  
23 thank you for all of those responses.

24 CHAIRMAN ARANOFF: Commissioner Williamson?

25 COMMISSIONER WILLIAMSON: Just one other

1 questions and this is earlier to the 1990s, where you  
2 sometimes saw Taiwanese firms, who would move their  
3 production to China, factories and all. And I was  
4 wondering, are there any relationships here between  
5 the Taiwanese producers and the Chinese producers that  
6 you're aware of?

7 MR. ALLEN LOVE: We're not aware of any.

8 COMMISSIONER WILLIAMSON: Okay.

9 MR. ALLEN LOVE: I wondered in the past, but  
10 we don't know of any.

11 COMMISSIONER WILLIAMSON: Okay, thank you.  
12 I was just thinking about that earlier example. Thank  
13 you. I have no further questions.

14 CHAIRMAN ARANOFF: Are there any further  
15 questions from the dais?

16 COMMISSIONER PINKERT: I would just like to  
17 thank the panel for the testimony today and I look  
18 forward to the post-hearing.

19 CHAIRMAN ARANOFF: Do members of the staff  
20 have any questions for this panel?

21 MS. HAND: Olympia Hand, Office of  
22 Investigations. Staff have no questions.

23 CHAIRMAN ARANOFF: All right. I think at  
24 this point, we will take a lunch break. Mr. Thomas?

25 MR. THOMAS: Madam Chairman, just two

1 housekeeping things. We have a series of samples on  
2 the table in front of the Commission, so if you would  
3 like, at the beginning of the lunch break, by all  
4 means, come by and take a look at them and we'll have  
5 somebody there to discuss what they are, if you would  
6 like. Also, could I have an indication from the  
7 Secretary whether we have any time left from --

8 MS. ABBOTT: No, you do not.

9 MR. THOMAS: Thank you.

10 MR. MALASHEVICH: The answer is appreciate  
11 for its clarity, if not it's content.

12 CHAIRMAN ARANOFF: We will take a one-hour  
13 lunch break, returning to five minutes to 2:00. I  
14 need to remind you all that this room is not secure  
15 and you should not leave any confidential business  
16 information in the room unattended during the lunch  
17 hour. We will reconvene the hearing in one hour.  
18 Thank you, very much.

19 (Whereupon, at 12:55 p.m., the hearing was  
20 recessed, to reconvene this same day, Thursday, July  
21 10, 2008, at 1:55 p.m.)

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24 //

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

2                   CHAIRMAN ARANOFF: Call the hearing back  
3 into session. We are now prepared to hear from the  
4 second panel.

5                   MS. ABBOTT: The second panel, the non-  
6 parties in opposition to the imposition of the  
7 antidumping and countervailing duties have been  
8 seated. All witnesses have been sworn.

9                   CHAIRMAN ARANOFF: Thank you. Mr. Lewis, is  
10 it you, who is going to be speaking? Please proceed.

11                  MR. LEWIS: Good afternoon, Madam Chairman  
12 and Commissioners. My name is Scott Lewis and I am  
13 the President of Adams Magnet Products. I am here  
14 today in opposition to the petition and look forward  
15 to answering your questions. With me today are Mr.  
16 Jack Nelleson, President of Master Magnetics; Mr.  
17 Brian Baird, President of Magnet Street, Inc.; and Mr.  
18 Tom Gorgonne, Chief Operating Officer and Senior Vice  
19 President of the Magnet Group. They are here as  
20 independent voices in opposition to the petition and  
21 also wish to make themselves to answer your questions.  
22 Although we have had several conversations regarding  
23 this petition and share many of the same concerns, I  
24 am not here to speak on their behalf.

25                  Although our companies are unique in many

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1 ways, we represent a broad cross-section of the users  
2 of flexible magnet. This material is used and/or sold  
3 by each of our companies and, in one way or another,  
4 represents a significant percentage of our overall  
5 sales. Consequently, we felt compelled to be a part  
6 of this process. We are here today because you, the  
7 Commission, must decide if the Chinese and Taiwanese  
8 flexible magnet imports are a threat to the domestic  
9 flexible magnet industry, as a whole. Beyond the  
10 mountains of information that you have had to sit  
11 through, there are a few points that I would like to  
12 reenforce, as you formulate your decision.

13           Number one, first and most importantly, this  
14 petition was sought by one domestic producer, Magnum,  
15 without the affirmative support of any other domestic  
16 producers, including the only other major U.S.  
17 producer, Flexmag.

18           Two, the timing and thus the motivation for  
19 this petition are questionable. Jasdie, the Taiwanese  
20 company, has been selling into the United States for  
21 several years and various Chinese companies have made  
22 attempts to sell into the United States for at least  
23 two or three years, that Magnum filed their petition  
24 in 2007. In 2005, there were three primary producers  
25 of flexible magnet in the United States: Flexmag,

1 Magnum, and MSI. In early 2005, Magnum purchased MSI.  
2 The acquisition created a myriad of problems for  
3 Magnum that ultimately cost them a great deal in lost  
4 business. It is my opinion the financial woes  
5 experienced by Magnum have more to do with their  
6 poorly managed acquisition, the purchasing flawed  
7 integration of a new facility and production  
8 equipment, the lost of some key people, and their  
9 heavy handed tactics towards their customers, than  
10 does the imports from China and Taiwan. The imports  
11 from China and Taiwan increased during this period.  
12 We feel it's more the result of the problems  
13 associated to Magnum, rather than the cause of  
14 Magnum's problems. Regardless, we have also always  
15 felt Flexmag benefitted more from Magnum's poor  
16 decisions than did the Chinese manufacturers.

17 Number three, we feel that Magnum, for  
18 obvious reasons, has overstated the true extent of the  
19 Chinese and Taiwanese imports by relying upon basket  
20 category imports statistics. Much of what was  
21 included in their estimates were not bulk raw flexible  
22 magnet sheet or strip. Discussions I had with the two  
23 primary Chinese producers of flexible magnet, New Life  
24 Magnet and Polyflex, during my most recent visit to  
25 China in April of this year, reenforce our opinion and

1 I am confident this was also confirmed through the  
2 questionnaires.

3 Another important point to consider as you  
4 dissect this information is the products that have  
5 been included in this petition and, consequently, the  
6 questionnaires, that domestic suppliers cannot produce  
7 at this point. I am particularly sensitive to wide  
8 format, meter-wide flexible sheet. But, there are  
9 other products that the Chinese suppliers can produce  
10 that the domestic producers cannot, so their inclusion  
11 in this petition provide misleading statistics. The  
12 reason why these products are purchased from China is  
13 not because they are less expensive, it's because they  
14 cannot be obtained from the U.S. suppliers. It is  
15 even more disturbing that U.S. companies are currently  
16 precluded from purchasing these items, even though the  
17 Petitioner cannot produce them.

18 Four, Magnum would have you believe that our  
19 motivation in seeking out the Chinese supply of  
20 material was based solely upon price. I can only  
21 speak for Adams Magnetic and Magnetic Attractions and  
22 that is just not the case. As an organization, Adams  
23 Magnet began looking to China as a potential source  
24 for various products in 1997. We continued these  
25 sourcing visits throughout the years. We visited New

1 Life Magnet, a Chinese manufacturer of flexible magnet  
2 for the first time in 2002. We became well aware of  
3 their capabilities and could have begun purchasing  
4 from them at that point. Frankly, we did not feel we  
5 even needed to sample their products, as we were being  
6 serviced very well by our domestic supplier. In 2003-  
7 2004 and into 2005, we purchased virtually all of our  
8 flexible magnet from one domestic supplier, MSI. The  
9 decision to only buy from one source was based upon  
10 their incredible service and the relationship I had  
11 with the then owner/president, Gary Murphy. MSI was  
12 not known as the low-cost producer and although price  
13 is always a factor, it was not what kept us with MSI.

14 Our decision to seek alternative sources was  
15 forced upon us through the problems we experienced  
16 after MSI was acquired by Magnum in 2005. It is  
17 important to note that this was not a knee jerk  
18 reaction. We tried to work with Magnum/MSI for almost  
19 two years. During that time, we received tremendous  
20 pressure from our customers, who threatened to take  
21 their business elsewhere if we could not resolve our  
22 quality problems. We incurred over \$100,000 in  
23 customer credits due to the complaints about the  
24 quality of our magnets. It became apparent to us that  
25 Magnum/MSI could not or would not get us the type of

1 material we needed.

2           After a great deal of consideration, we  
3 decided to seek out alternatives. We were obviously  
4 already familiar with Flexmag, but we were concerned  
5 about putting all of our eggs again in one basket.  
6 During the 2006 visit to China, we had met with the  
7 representatives from Polyflex. Although we were not  
8 impressed with their facilities, we were impressed  
9 with the owner's knowledge of the industry, his  
10 business model, and his apparent commitment to  
11 quality. We decided to give them a sample order.  
12 That shipment arrived in February of 2007. Despite  
13 our concerns, we were very pleased with the quality  
14 and decided to place a few more orders.

15           In July of 2007, as relations with  
16 Magnum/MSI continued to deteriorate, we decided to  
17 terminate our long-term relationship and split our  
18 business between Flexmag and Polyflex. This  
19 relationship continued until we could no longer  
20 purchase from Polyflex due to the Department of  
21 Commerce's decision. It is very important to note  
22 that during this time, we did not experience one  
23 quality problem, one delayed shipment, or one customer  
24 complaint. Again, if our decision was based solely  
25 upon price, we would have purchased exclusively from

1 Polyflex.

2           Although the quality issues are ultimately  
3 what drove us from Magnum/MSI, we had other concerns  
4 that certainly did not endear us to the new  
5 relationship. At the time of the acquisition, with  
6 the uncertainty of supply as their ammunition,  
7 Magnum/MSI attempted to strong arm their customers  
8 into signing exclusivity contracts, which many refused  
9 to sign. There were also whispers throughout the  
10 industry that Magnum was competing with their  
11 customers. This has always been a concern of ours and  
12 one that I felt was only going to get worse, as their  
13 customer base eroded due to their heavy-handed tactics  
14 and the filing of this petition. This petition has  
15 aggravated an already alienated group of customers.  
16 It is obviously difficult to buy from a supplier, who  
17 does not respect the relationship you have with your  
18 customers.

19           Six, finally, and what is on the mind of  
20 anyone, who uses flexible magnet, is what we are left  
21 with if this petition moves forward. With only two  
22 options available, we have a very limited  
23 diversification of supply, very little leverage  
24 against price increases, expanded lead times, and the  
25 pirating of our customers. From our perspective, we

1 aren't even sure if Magnum/MSI can supply us with  
2 material that will work for our customers. If that  
3 is, in fact, the case, we may be limited to one  
4 supplier and that is not a healthy market, in which to  
5 conduct our business.

6 So, it is my opinion that if this petition  
7 moves forward, the users of flexible magnet will  
8 suffer significantly. That should not be allowed to  
9 occur because of the poor decisionmaking of one  
10 company that is manipulating the system for personal  
11 gain. I am hopeful that your analysis of this  
12 investigation will ultimately reveal that the small  
13 amount of actual imports, when compared to our  
14 industry as a whole, is not a threat and that  
15 Magnum/MSI must deal with the consequences of their  
16 bad decisions. Thank you for giving our group the  
17 opportunity to present our side of the story. We look  
18 forward to your questions.

19 CHAIRMAN ARANOFF: That completes your  
20 presentation?

21 MR. LEWIS: Yes.

22 CHAIRMAN ARANOFF: Okay. Thank you, very  
23 much. We appreciate all of you taking time away from  
24 your businesses to join us today and be available to  
25 answer our questions. It really is so much more

1 helpful when we have people that answer questions on  
2 both sides of an issue. So, we are very grateful that  
3 you've chosen to be here. And then we will start the  
4 questioning this afternoon with Commissioner Pinkert.

5 COMMISSIONER PINKERT: Thank you, Madam  
6 Chairman, and I join the Chairman in thanking you for  
7 being here and being available to answer our  
8 questions. It is very helpful to be able to ask  
9 questions of both sides in a case like this one.

10 I want to begin by asking something that was  
11 prompted for me by some of the testimony earlier today  
12 and that is, if you could think back to 2004, was that  
13 a particularly good year for the U.S. flexible magnet  
14 industry?

15 MR. LEWIS: You know, our sales of flexible  
16 magnet, really from an Adams Magnetic and a Magnetic  
17 Attractions perspective, has been relatively constant  
18 for this period of time. From 2004 moving forward,  
19 it's volatile. So, it's -- as we heard earlier, you  
20 know, things like Capital One, although we didn't  
21 participate in that particular project virtually at  
22 all, has a major impact on the industry, as a whole,  
23 and there are different opportunities that come and go  
24 that aren't always consistent. So, I wouldn't say,  
25 from our perspective, that it was particularly a



1 better year than what we've experienced over the last  
2 few years.

3 COMMISSIONER PINKERT: Any other comments on  
4 that?

5 MR. NELLESON: I think 2004 was our second  
6 best year for flexible magnet sales. That is all I  
7 would know about.

8 COMMISSIONER PINKERT: Let me just follow-up  
9 on that. When you say it was second best year, are  
10 you comparing it to, what, the past 10 years? Or --

11 MR. NELLESON: Well, we've been in business  
12 32 years and we have grown slowly in all of our  
13 departments. We are basically broken down into three  
14 categories: flexible magnets, hard magnets, and then  
15 consumer products. So, in the flexible magnets that  
16 we sell and distribute, 2004 was our best year for  
17 sales -- our second best year for sales and 2005 was  
18 our best year of domestic product or any product,  
19 actually.

20 COMMISSIONER PINKERT: Go ahead.

21 MR. GORGONNE: Yes. Speaking for Magnet  
22 LLC, in 2004, we gave them \$100,000 less in business  
23 than we had the previous year, and that business went  
24 to Flexmag.

25 COMMISSIONER PINKERT: Do you want to

1 comment on the conditions in the industry, as a whole,  
2 back in 2004?

3 MR. GORGONNE: I thought they were pretty  
4 good.

5 MR. BAIRD: Yes. For us at Magnet Street,  
6 that was a time period when we were experiencing rapid  
7 growth. So, 2004 was a time of growth, although it  
8 paled in comparison then to the growth we had in 2005.

9 COMMISSIONER PINKERT: And can you compare  
10 that with other periods in your company's history?

11 MR. BAIRD: Well, I would say that we -- you  
12 know, we had a period of five, six, eight years where  
13 we were experiencing really steady rapid growth, where  
14 it wouldn't be uncommon to experience 30 to 50 percent  
15 growth year over year. Although from 2004 to 2005,  
16 the growth would have accelerated. And, in part, that  
17 was due to the Capitol One project that's been  
18 referenced several times earlier.

19 COMMISSIONER PINKERT: Thank you. Now,  
20 looking more generally at your company's roles within  
21 the industry, I understand that you are all importers.  
22 But, are you also distributors of flexible magnets in  
23 the United States market or are you end users, who  
24 transform the magnets into other products, such as  
25 printers?

1                   MR. LEWIS: Well, at Adams and Magnetic  
2 Attractions, we kind of cover both of those ends of  
3 the street. Adams is a distributor fabricator, so we  
4 buy from the producers. Some of the stuff, we just  
5 put on the shelf. We buy it in large quantities and  
6 sell it in small quantities. Some of that material,  
7 we will convert into cut pieces. We'll add adhesive.  
8 We'll split it. We'll score it. We do a variety of  
9 different things to the material. So, we handle that  
10 -- both of those. And then from a Magnet Attraction's  
11 perspective, virtually 100 percent of what we do there  
12 is we laminate, print to the magnet and then dye cut  
13 for promotional specialties.

14                   COMMISSIONER PINKERT: Mr. Gargonne?

15                   MR. GORGONNE: We do the same. We print, we  
16 cut, we provide our services, graphic services. In  
17 2004-2005, we had probably 45 artists on our staff.  
18 But, we were, I guess you would call us printers or  
19 converters. I don't really consider us printers,  
20 because we don't sell printed paper. We only print  
21 for magnet use.

22                   MR. BAIRD: We are also a printer-converter,  
23 converting the vast majority of our product from  
24 printed sheets into finished magnets that are dye cut.

25                   COMMISSIONER PINKERT: Okay. Now, based on

1 what you've just testified to, I would like each of  
2 you to give me your view about what level the domestic  
3 producers compete with imports at, at what level of  
4 trade do they compete with the imports?

5 MR. LEWIS: I'm not sure I understand.

6 COMMISSIONER PINKERT: Well, for example, is  
7 it for sales to you or is it for sales to your  
8 customers? Or how exactly do the domestic producers  
9 compete with the imports?

10 MR. LEWIS: It would be to sales to us,  
11 sure. I think at this point, if -- you know, as we  
12 purchase from -- as we bring in imports, as we buy  
13 from the Chinese suppliers, the domestic people are --  
14 the domestic producers are competing against that,  
15 sure.

16 COMMISSIONER PINKERT: Mr. Nelleson?

17 MR. NELLESON: What we found is that we are  
18 not able to compete with the domestic producers even  
19 when we were buying from the Chinese people, because  
20 as a distributor, when we bring that material in,  
21 we're also an importer, but we're also a producer,  
22 according to the broad scope of the definition of raw  
23 flexible magnetic materials. But, we found that we --  
24 in most -- probably 50 percent of the product lines  
25 that we were carrying or the types of flexible magnets

1 that we were carrying, we still wouldn't be able to  
2 compete with the producers.

3 COMMISSIONER PINKERT: I'm sorry, I didn't  
4 hear that last part.

5 MR. NELLESON: We still would not be able to  
6 compete with the U.S. domestic producers, if we  
7 purchased material from China. It is different --  
8 certain types, like magnetic sheeting. And I think  
9 when we prepared our questionnaire, it showed in there  
10 that the products that we were selling in the magnetic  
11 sheeting area, we were just barely able to compete  
12 with the domestic producers price-wise and our sells  
13 to all our customers and all our market. Did that  
14 answer it?

15 COMMISSIONER PINKERT: Yes, thank you.

16 MR. NELLESON: Okay.

17 MR. GORGONNE: At the height of -- we are, I  
18 believe, the largest consumer of sheet material. And  
19 at the height of our importing, I think it's probably  
20 less than seven percent of our total volume. And we  
21 never imported from Jasdie, because we thought they  
22 were too expensive.

23 COMMISSIONER PINKERT: Mr. Baird?

24 MR. BAIRD: For us, importing from China has  
25 represented, over the last five years, about 20

1 percent of the material that we are using in our  
2 production. And the Chinese have represented an  
3 alternative source of -- another supplier, in addition  
4 to the two, which used to be three, primary suppliers  
5 here in the U.S.

6 COMMISSIONER PINKERT: Now, is there any  
7 difference in your selling practices depending on the  
8 nature of the customer? In other words, if the  
9 customer is a printer or if the customer is a  
10 retailer, how does your -- how do your selling  
11 practices vary depending on the nature of the  
12 customer?

13 MR. LEWIS: Really, for us, the selling  
14 practice really is volume driven. If a customer  
15 represents a large percentage of our sales volume,  
16 they usually carry a little bigger hammer and can beat  
17 us up a little bit. So, really, it's more driven by  
18 volume than it is a particular customer.

19 COMMISSIONER PINKERT: Mr. Gargonne?

20 MR. GORGONNE: Yes. Most of our business is  
21 in advertising specialty. So, the majority of our  
22 business is sold through distributors of the ASI  
23 industry or promotional products industry. So, if we  
24 do -- we do a lot of small orders and we do some big  
25 orders in the several millions. Big at 50 percent --

1 of the distributor on a small order of 500 magnets, I  
2 get 50 percent.

3 COMMISSIONER PINKERT: Mr. Baird?

4 MR. BAIRD: Our model of selling is a little  
5 bit different than Mr. Gorgonne, because we are just -  
6 - we're almost always selling directly to the end  
7 customer, whether that's a realtor or a plumber,  
8 whoever that might be. We're selling directly to  
9 them, rather than through distributors. Occasionally,  
10 we would be producing magnets for large print brokers  
11 on some of those orders that we referenced that are  
12 quite a bit larger.

13 COMMISSIONER PINKERT: And how do your  
14 selling practices vary depending on the customer?

15 MR. BAIRD: I would say, as Scott did  
16 earlier, that it's driven by the volume. You know,  
17 when we're selling to those end users, they're usually  
18 going to be ordering small quantities and so it's  
19 priced accordingly. The margins are going to be  
20 higher when you're looking at that, as compared to a  
21 very large order, where the margins become much  
22 thinner.

23 COMMISSIONER PINKERT: Thank you. Thank  
24 you, Madam Chairman.

25 CHAIRMAN ARANOFF: For the benefit of the

1 court reporter, when you answer a question, if you  
2 could, please, identify yourself. We have a smaller  
3 group than usual, so she can see you, which is  
4 helpful. But, even so, I know it's tedious, but try  
5 to start with your name. Thank you. How important --  
6 and let me ask each of you in turn, how important is  
7 it in your business to have multiple suppliers for  
8 flexible magnets? And if it is important, why? Let  
9 me start with Mr. Lewis.

10 MR. LEWIS: Since you said my name, I won't  
11 say it. But, it's very important. Competition has a  
12 way of keeping everybody on their toes. And so for  
13 us, the fact that we went from -- years ago, there  
14 were four suppliers of flexible magnet. This dates  
15 back to when there was a company called RJF. They  
16 were still around, I believe, after Magnum had come on  
17 board in 1991. I'm pretty sure of the timing. So,  
18 then when it went from four to three and now from  
19 three to two, it does narrow the -- you know, it makes  
20 us -- makes me, anyway, concerned. The more  
21 competition you have, it keeps -- all aspects of the  
22 business keeps everybody on their toes.

23 CHAIRMAN ARANOFF: So, you're talking --  
24 when you say "keeps people on their toes," you're  
25 talking price and quality?



1           MR. LEWIS: Price, quality. You know,  
2           again, it's -- you know, this whole idea of competing  
3           with your -- you know, we're competing with our  
4           suppliers. I mean, that's a very, very slippery  
5           slope. You know, if -- and we've heard for years  
6           about the Marietta mentality -- and I use the Marietta  
7           mentality because all of these suppliers are basically  
8           in Marietta, Ohio -- and if somebody was -- if we had  
9           a customer that decided to call one of our suppliers,  
10          we would hear that they felt that they needed to take  
11          that customer directly, because if they were calling  
12          this particular supplier, chances are they were  
13          calling the other particular supplier. And if that's  
14          the case, we wanted to get the job instead of the  
15          other supplier and you guys didn't have a chance at it  
16          anyway, so we just took it. Now, that may be a neat  
17          excuse, but I still lose business. So, having more  
18          options and being able to work with -- or try to work  
19          with a supplier that is more customer friendly or more  
20          willing to work with us is very helpful. But --

21                 CHAIRMAN ARANOFF: Is -- go ahead.

22           MR. LEWIS: -- going back to, I think it was  
23           a previous question earlier today, you know, you were  
24           inquiring about the incredible service that I  
25           referenced regarding MSI. And MSI for years, for

1 years, was very distributor friendly. They went way  
2 beyond the other guys, as far as trying to work with  
3 you, so that you salvaged your customers. And that  
4 was unique and that was very important to us.

5 CHAIRMAN ARANOFF: The one thing I haven't  
6 heard you say when you talk about the importance of  
7 having multiple suppliers is anything about security  
8 of supply, getting product on time. Is that an issue  
9 in this industry? We hear in a lot of industries  
10 where people don't like to keep inventories and they  
11 want to have just in time supply, that they want to  
12 have multiple suppliers in case somebody's  
13 distribution system breaks down or whatever. Is that  
14 an issue for you?

15 MR. LEWIS: Well, we have a distributor  
16 mentality. You know, again, Adams is a distributor.  
17 Magnet Attractions is a producer. So, I have a  
18 distributor mentality, so inventory is -- I've just  
19 kind of grown accustomed to inventory. I mean,  
20 obviously, I know it's a cost. I know other things  
21 that go about -- that are part of doing that. But,  
22 that's our job. You know, we're supposed to have it.  
23 So, our inventories are usually pretty high.

24 But, it is an issue. But, again, we were  
25 always somewhat fortunate, in that we bought a fair

1 amount of magnet. You know, I don't know where we fit  
2 in the grand scheme of things, but we were one of the  
3 larger purchasers of magnet. So, we were always  
4 treated fairly well. And even when in 2005, when lead  
5 times became an issue, they did affect us, but it  
6 wasn't as bad as somebody, who maybe didn't buy as  
7 much as we did, who maybe were put on allocation or  
8 lead times got stretched, you know, very far.

9 CHAIRMAN ARANOFF: Okay. Let me go over to  
10 Mr. Nelleson.

11 MR. NELLESON: Jack Nelleson. Well, I  
12 believe that it's really important to have three or  
13 four suppliers, actually, but we are limited right now  
14 with just the two. And the reason is, is because what  
15 we found is when I first started out in this business,  
16 the flexible business about in 1989, 1988, somewhere  
17 there, there was Gary Murphy with MSI and then there  
18 was B.F. Goodrich, and then it evolved to a couple  
19 other ones. And then Arnold came on board and became  
20 Flexmag. And so as these people were changing, they  
21 had problems up and down as far as delivery, price.  
22 In fact, the reason why we started buying from Magnum  
23 originally was price. They had the best price in the  
24 industry when we first started buying from them and  
25 our biggest complaint with them, at that time, was

1 that they didn't provide the same service that MSI  
2 did. At that time, Gary Murphy had MSI. And so --

3 CHAIRMAN ARANOFF: What kind of service?

4 MR. NELLESON: Well, always being there,  
5 when we called and asked a question; never having to  
6 wait for deliveries; always having the product  
7 knowledge for our customers. When we would call up  
8 and ask them about a particular application, they  
9 always knew the application and what we should  
10 recommend to our customer. So, it was a lot of --  
11 they had done a lot of research and a lot of product  
12 development. And as the market -- as the number of  
13 suppliers becomes limited, when you have just two  
14 suppliers, you wonder who is going to take up the  
15 slack as far as new product development. Some of the  
16 things that we've seen from China, from the Chinese  
17 suppliers, have gone beyond the scope of this -- well,  
18 they're within the scope of the flexible magnet  
19 materials definition within the petition, but it  
20 really shouldn't be in there, because the foreign  
21 suppliers have gone beyond in the development and  
22 research area and have come out with some new products  
23 that aren't available from these two suppliers. So,  
24 having just two suppliers limits our ability to sell  
25 in the U.S.; whereas as in European, Japanese, and

1 Australian markets have access to these products. So,  
2 that means our domestic growth is not going to be the  
3 same as in these other countries.

4 CHAIRMAN ARANOFF: We will come back to the  
5 new products, because I want to first just get through  
6 everyone on the panel, in terms of the utility of  
7 having multiple suppliers. And as the other two  
8 answer, if you could also tell me whether -- you know,  
9 I'm hearing that it's an advantage to have multiple  
10 suppliers, because you have a more service-oriented  
11 and innovative industry. If that is the concern, is  
12 there any benefit at all in having a domestic supplier  
13 versus an overseas supplier? So, as you tell me why  
14 you think it's important or not to have multiple  
15 suppliers, please answer that, as well. And we can  
16 start with Mr. Gargonne.

17 MR. GORGONNE: Speed would be the answer to  
18 that. You wouldn't have to wait for material; but, in  
19 many cases, as was in the earlier testimony, you have  
20 the Chinese, who have set up warehouses. So, that  
21 didn't become an issue.

22 As far as capacity is concerned, during the  
23 2004-2005 period, that Capital One and Amex, their  
24 forecast, there was no way either of the -- any of the  
25 domestic companies would have been able to supply that

1 material in the United States. They didn't have the  
2 capacity. Being the largest, we did -- we enjoyed no  
3 interruption in service. But, I know the smaller  
4 firms were pushed out several weeks and we were still  
5 on basically a seven to 10-day turn. So, we didn't  
6 suffer those problems.

7 CHAIRMAN ARANOFF: Okay. So, once -- if a  
8 foreign supplier is willing to set up a warehouse in  
9 the United States, then that eliminates any advantage  
10 really to having a domestic supplier?

11 MR. GORGONNE: Yes, for a time, yes. And  
12 they are before -- or the Chinese, they did have  
13 warehouses in the United States.

14 CHAIRMAN ARANOFF: Do you know how many of  
15 them?

16 MR. GORGONNE: I'm sorry?

17 CHAIRMAN ARANOFF: How many Chinese or  
18 Taiwan suppliers have set up warehouses within the  
19 United States?

20 MR. GORGONNE: Two that I know of that I  
21 dealt with.

22 CHAIRMAN ARANOFF: Okay. My time is almost  
23 up, but let me let Mr. Baird get a word in.

24 MR. BAIRD: Competition drives us all to be  
25 better and I believe that's true when it comes to our

1 suppliers, as well. And I believe that having  
2 multiple suppliers is very important when it comes to  
3 things that have already been mentioned, like quality  
4 and service, but certainly it has an impact on  
5 pricing, as well. Having multiple suppliers to keep  
6 each other in check and get to that level where the  
7 pricing is fair is important piece. And for us, with  
8 our Chinese supplier, the difference there is  
9 certainly the lead time and our supplier doesn't have  
10 a warehouse in the U.S. And so, we would have to plan  
11 a little further in advance and warehouse a little  
12 more material in working with them. But, over the  
13 five years we've been working with them, we've  
14 developed a really good relationship with them. And  
15 so, we've been able to keep things running smoothly.

16 CHAIRMAN ARANOFF: Okay. I appreciate all  
17 of those answers and I am going to turn now to Vice  
18 Chairman Pearson.

19 VICE CHAIRMAN PEARSON: Thank you, Chairman.  
20 I am glad to have you here. Do any of you have any  
21 previous experience with antidumping or countervailing  
22 duty cases?

23 MR. LEWIS: No.

24 VICE CHAIRMAN PEARSON: I guessed as much.  
25 When I was in the private sector, I had an opportunity

1 once to appear in front of a public tribunal, where I  
2 didn't know much either. Well, I still don't. But,  
3 you know, you're here without counsel and we're aware  
4 of that. We appreciate it. Even though my colleagues  
5 are all attorneys, none of them bite, so work with us  
6 here. I'm finding this very interesting.

7 Just to clarify, are there any cross  
8 relationships among your firms? Are you firms all  
9 independent of each other?

10 MR. GORGONNE: Absolutely.

11 VICE CHAIRMAN PEARSON: Okay. So, you each  
12 speak independently. Okay, thanks. In your buying  
13 and selling in the marketplace, have you become aware  
14 of an increase in the availability of imported  
15 product? I mean, over the last several years, have  
16 you seen more either Chinese or Taiwanese product in  
17 the marketplace, whether you are importing it or  
18 someone else is? I mean, is the marketplace becoming  
19 aware of an increase in availability of imports?

20 MR. GORGONNE: Absolutely.

21 VICE CHAIRMAN PEARSON: Over what time frame  
22 would that have bene happening?

23 MR. GORGONNE: I may have been one of the  
24 first to go over. That was in 2000-2001. I started  
25 working with the Chinese, who produced the sheet



1 product, but it was a very poor quality. And so, I  
2 worked with several people there to develop a  
3 qualified product. They all thought that if they  
4 could make it for me, they could make it for anybody  
5 in the United States, because I had very strict  
6 standards, which we still do.

7 VICE CHAIRMAN PEARSON: Okay. Would your  
8 imports from China, then, have been some of the first?

9 MR. GORGONNE: Yes.

10 VICE CHAIRMAN PEARSON: Okay. How about  
11 Taiwan, have any of your firms dealt with Taiwan and  
12 did that start earlier?

13 MR. GORGONNE: We never. Their pricing was  
14 too high.

15 MR. LEWIS: We've never dealt with Taiwan.

16 MR. NELLESON: We have only purchased one  
17 item from Taiwan and it's a patented magnetic product  
18 that's not produced in the U.S. So, other than that,  
19 all we have is quotations from them. But, like they  
20 say, their prices were too high.

21 VICE CHAIRMAN PEARSON: Okay, because in our  
22 confidential staff report, which of course you don't  
23 have access to, we do show some imports from Taiwan  
24 over the period of investigation. And so, I'm just  
25 wondering, do you have knowledge of whether there has

1       been Taiwanese product in the marketplace longer or  
2       did it come in about the same time as the Chinese  
3       product?

4               MR. GORGONNE:   Jasdie was one of the first  
5       offshore suppliers to have entered the market,  
6       definitely.  The Chinese -- mainland China didn't get  
7       involved until later.

8               VICE CHAIRMAN PEARSON:  Okay.  So, maybe the  
9       Taiwanese, sometime in the 1990s and then the Chinese  
10      after the turn of the century.

11              MR. GORGONNE:  Jasdie also sold mostly to  
12      the sign-making business.  There were small orders.  
13      In fact, I tried to negotiate with them once and they  
14      explained to me that they had great margins with only  
15      small orders and if a person of substantial volume  
16      came in, he would demand -- take a lot of their  
17      capacity and would have to produce a lower margin.  
18      So, we never did business with them.

19              VICE CHAIRMAN PEARSON:  Okay.  So, the  
20      Taiwanese producer, to some extent, has a niche  
21      position in the U.S. market with certain customers,  
22      relationships that now have last several years?

23              MR. GORGONNE:  Small 100-foot rolls, things  
24      like that mostly.

25              VICE CHAIRMAN PEARSON:  Okay.  So, would you

1 consider the Taiwanese product to be currently  
2 somewhat of a stable presence in the marketplace or  
3 growing or shrinking? Obviously, in response to the  
4 preliminary antidumping duty, we probably have seen  
5 some shrinkage, but right after that?

6 MR. GORGONNE: I think it's stable or  
7 shrinking.

8 VICE CHAIRMAN PEARSON: Okay. And then the  
9 product from China, has that still been on a growth  
10 track or is that --

11 MR. GORGONNE: Yes, yes, and substantially  
12 so; substantially so, to the point where since we  
13 can't import material from China, U.S. customers of  
14 ours are going to China to have it produced. So,  
15 you've stopped one path, for the raw material coming  
16 in, now I am competing with them. So, if at the end  
17 of this hearing, you rule in favor of Magnum, then I  
18 will go on the other side of the aisle and join with  
19 them to fight the Chinese imports of decorated  
20 magnets. I have no choice.

21 VICE CHAIRMAN PEARSON: No, I understand  
22 that the marketplace works in marvelous ways, not all  
23 of which are profitable for us. So, the increased  
24 that we've seen in Chinese imports, has that been  
25 driven by the availability of low-priced product that

1 is being marketed somewhat aggressively? I mean, are  
2 the Chinese in this market working hard to sell --

3 MR. GORGONNE: I believe --

4 VICE CHAIRMAN PEARSON: -- product at  
5 competitive prices?

6 MR. GORGONNE: It's a commodity and I  
7 believe that it was Allen Love that said price, price,  
8 price. So, since they're on a level-playing field as  
9 far as quality is concerned, then it strictly comes to  
10 price.

11 VICE CHAIRMAN PEARSON: Mr. Nelleson?

12 MR. NELLESON: Yes. In 2004, we were  
13 receiving some quotations from Polyflex in China. And  
14 at that time, they had very good prices compared to  
15 where we were purchasing from, which would have been  
16 Magnum at that time. And at that time, it just wasn't  
17 -- that price was not that significant to us, even  
18 though it was less, because we were going into an  
19 unknown as far as who we were going to be buying from,  
20 a company without a good track record. And we had  
21 been working with Magnum from day one to improve  
22 service, which they did. I have to admit that they  
23 ended up in the end having good service, but poor  
24 business skills, as far as dealing with us, at the  
25 final moment when we received their ultimatum to sign

1 a contract. But, in 2004, we received that low price,  
2 we weren't -- we didn't have any reason to go and buy  
3 it from China. And as things started developing and  
4 we saw some of our competition and some of our  
5 customers going to China, also, we started thinking  
6 about it. But even as late as October 2006, we had  
7 not been to China. We had not even spoken with  
8 anybody, except that one trade show. So, that's our  
9 limited area for that question.

10 VICE CHAIRMAN PEARSON: Mr. Baird?

11 MR. BAIRD: I believe part of the reason for  
12 the increase in the Chinese product in the U.S. market  
13 has been their increase in quality. When we -- our  
14 first trip to China was in January of 2003 and so it  
15 was really 2004 before we began importing product. In  
16 2004, we were experiencing quality problems and it  
17 limited us in some of our abilities with converting  
18 the product. But, as we worked with them over the  
19 years, the quality of their product has gotten much  
20 better and I think that the product that I've seen  
21 from other Chinese suppliers has improved  
22 dramatically, as well. So, once some of those quality  
23 issues were taken care of, then it was a much more  
24 attractive product for the U.S. market.

25 VICE CHAIRMAN PEARSON: So, as the Chinese

1 have improved their quality and become aware that  
2 their quality is good enough to compete in the United  
3 States, it would be fair to say that they've not been  
4 bashful about soliciting sales opportunities in the  
5 United States?

6 MR. LEWIS: I don't think -- this is Scott  
7 Lewis. I don't think that they were ever bashful. I  
8 mean, we would receive a fax, dating back to 2000,  
9 unsolicited faxes going back then saying that we want  
10 your business, buy from us, like we heard before,  
11 cheap, cheap, cheap, cheap, you know, buy, buy, buy.  
12 And just to reiterate it, Adams, we started going to  
13 China in 1997, looking for alternative sources for  
14 some of the other products that we buy, as well, hard  
15 magnets, magnet assemblies, different things. So, we  
16 were very familiar with the lay of the land over  
17 there. And as I said in my statement, had met with  
18 New Life, one of the Chinese producers, as early as  
19 2002. We just had no reason to start that process up.  
20 We were very comfortable with where we were at.

21 VICE CHAIRMAN PEARSON: My light is about to  
22 change. But, in your situation, it wasn't -- you were  
23 aware of competitive offers, but what prompted you to  
24 do the first business with China was a concern about  
25 your domestic supplier; is that correct?

1 MR. LEWIS: Correct. That is the sole  
2 reason why we started to purchase from China. We  
3 could have as early as 2002, but did not until -- our  
4 first sample order of flexible material did not come  
5 in until February of 2007.

6 VICE CHAIRMAN PEARSON: Okay. But for the  
7 others of you, there were one or more who did -- were  
8 interested just because of price; is that correct?

9 MR. GORGONNE: Not at first. I was very  
10 concerned about the number of suppliers. Mr. Murphy's  
11 company was for sale for several years. So, I knew  
12 the market was going to dwindle, so there would only  
13 be two. And to keep everybody honest, then I went to  
14 China to try to develop sources, which took me over a  
15 year to get the quality up. And I think my  
16 competitors face the same issue.

17 VICE CHAIRMAN PEARSON: Okay. Well, I'm on  
18 red light now, so I will say thank you, Madam  
19 Chairman.

20 CHAIRMAN ARANOFF: Commissioner Okun?

21 COMMISSIONER OKUN: Thank you, Madam  
22 Chairman, and I join my colleagues in welcoming all of  
23 you and your willingness to answer our questions this  
24 afternoon. I very much appreciate it.

25 Let's see, Mr. Lewis, let me start with you,

1 but I would be interested in everyone's commenting on  
2 this, which is can you help me understand the nature  
3 of the competition between the two domestic producers,  
4 in terms of what types of products they sell? I mean,  
5 I'm sure as you've listened this morning, one of the  
6 things that the Petitioners have argued is that  
7 they're kind of -- imports are competing with them  
8 most directly, because of their product line. And I  
9 don't know if you're in a position, any of you, to  
10 talk about that, in terms of what the other U.S.  
11 producer sells, or in terms of what you purchase.

12 MR. LEWIS: For the most part, as Tom  
13 mentioned earlier, this stuff is pretty much viewed as  
14 a commodity. Across the board for the two remaining  
15 domestic suppliers, I really don't think that, you  
16 know, if we laid this stuff out on the table, that you  
17 would be able to determine which one came from which  
18 supplier.

19 You know, each company has a little bit of a  
20 different approach to manufacturing. Some will  
21 produce sheet and slip that into strip. Some of them  
22 will extrude. Some will do both; or they will both do  
23 both. But I think, you know, one might be more  
24 comfortable with splitting versus extrusion. So by  
25 and large, we feel anyway, that we could buy from



1 either one, from a material perspective.

2 COMMISSIONER OKUN: Okay, could buy and have  
3 purchased in the past --

4 MR. LEWIS: Correct.

5 COMMISSIONER OKUN: -- the same type of  
6 products from the same domestic producers --

7 MR. LEWIS: Correct.

8 COMMISSIONER OKUN: -- from the two  
9 different producers.

10 MR. LEWIS: Correct, and you know again,  
11 from a distribution perspective, we are somewhat  
12 limited. We don't get into a lot of exotic shapes.  
13 We don't get into a lot of exotic profiles. We pretty  
14 much buy sheet and strip; and then we will take the  
15 strip and we'll cut it into little pieces or we'll put  
16 adhesive on it.

17 But Adams does not get involved in any  
18 refrigerator gasketing or any kind of profile shapes  
19 that are used in a variety of different applications;  
20 maybe OEM type applications that we're just not  
21 familiar with.

22 So we really have a limited number of  
23 products that we would buy, and from magnetic  
24 attractions, as well. It's pretty limited. It's just  
25 basically a magnetic sheet in role form, with some

1 slight variation in thickness. So it's really limited  
2 in scope, and we would feel comfortable buying from  
3 either company, from a materials perspective.

4 COMMISSIONER OKUN: Okay, does anyone else  
5 on the panel have any comments on that; Mr. Nelleson?

6 MR. NELLESON: Yes, we have 3,000 to 3,500  
7 customers in the flexible magnet area. So we cover a  
8 very wide scope of applications, different type of  
9 product uses. Some of it is in the printing area, but  
10 not very much.

11 But what we've found is that we could  
12 purchase about 85 percent of our products from one of  
13 these two suppliers. But we always have 15 percent  
14 that will be required to purchase from the other;  
15 because of the types of tooling or the access to the  
16 material, the dyes that they have, the processes that  
17 they use and so forth. So it's a little bit limited,  
18 so they're not 100 percent.

19 COMMISSIONER OKUN: Okay, yes, Mr. Gorgonne?

20 MR. GORGONNE: They were inter-changeable  
21 when I was dealing with them; and I would give 80 to  
22 85 percent of my business to the Love Brothers, and  
23 always kept Flexmag for 15 to 20 points. It wasn't  
24 until 2005 that I made the change.

25 COMMISSIONER OKUN: Okay.

1           MR. BAIRD: Brian Baird -- we could buy all  
2 of our products that we use from either one of the two  
3 suppliers, and we do. We buy from both of them. Our  
4 current agreement for a little longer calls for us to  
5 buy the vast majority of that from Magnum. But any  
6 of the products that we need, we could buy from either  
7 U.S. supplier.

8           COMMISSIONER OKUN: Okay, I'll come back to  
9 that question. Mr. Lewis, I had a chance to review  
10 your statement, and asked some questions of the  
11 Petitioners about that. I'd had asked them about the  
12 point you had raised about them not being able to  
13 produce at least one of the products you reference.

14           I think it was the wide format one, and you  
15 heard their response. I don't know if there's  
16 anything you had on that; and I was also curious --  
17 and this is kind of a lawyer's question and probably  
18 one that Commission Pinkert is probably better to  
19 pose, since he worked at the Department of Commerce.

20           But have you asked them for an exclusion, if  
21 there's a product that the domestic industry doesn't  
22 produce; you know, there's a process by which certain  
23 products could be excluded so that they could come,  
24 even if duties were imposed?

25           MR. LEWIS: Yes, I did. Actually I asked

1 Olympia about, you know, the wide format magnetic  
2 sheet. She basically said that it would be waste of  
3 time, because it's too much of a like product. It's a  
4 magnetic sheet. It's just provided in a wider format.

5 Why it was near and dear to me, Adams spent  
6 a fair amount of money advertising that product. We  
7 had a big thing on our website, and started to get  
8 some nice business from that. Now, you know, we can't  
9 do anything with it.

10 COMMISSIONER OKUN: Okay, I think I  
11 understand what you're saying now. The other point  
12 that I was interested in your testimony had to do with  
13 a specific figure you put in there about the \$100,000  
14 in customer credit, because it complains about the  
15 quality of the magnets when you were trying to work  
16 with Magnet MSI. Is that something that is  
17 documented, that could be submitted to us.

18 MR. LEWIS: Absolutely; no I didn't miss a  
19 zero.

20 COMMISSIONER OKUN: Okay, all right, well,  
21 if you have it, that would be good if you could submit  
22 that post-hearing, we would appreciate seeing that.

23 Have you had the opportunity to talk about  
24 what you see going on with demand in this market,  
25 going forward; what your projections are?

1           MR. LEWIS:  Scott Lewis -- it's very  
2           difficult to say.  You know, I agree with what I heard  
3           earlier today; that there's always something that  
4           comes up.  But you know, from our own perspective  
5           right now, our sales of flexible magnets are  
6           relatively flat.

7           We've very much like a job shop though.  One  
8           year we might do a nice order for a particular  
9           customer.  Then the next year, they just don't run  
10          that same promotion; don't do the same thing, you  
11          know, the economy; a lot of different factors.

12          But over the last, I don't know, whatever,  
13          four or five years, you know, there's always been  
14          something that has kind of come into the market place.  
15          I think it was 2001 or 2002 where we had the flags.  
16          Then we had the ribbons.  Then we had the Capital One.  
17          Then we had the American Express.  So there are things  
18          that come along every once in awhile that really throw  
19          a lot of demand into the marketplace.

20          Then you have a lot of things that are just  
21          on a much smaller scale.  You might get a company that  
22          decides to run a promotional campaign, and they decide  
23          to use magnets instead of pens.  So you have this ebb  
24          and flow of demand.

25          COMMISSIONER OKUN:  I'm going to ask the

1 other folks up there to respond to that, as well. But  
2 have you seen, I think as Mr. Gorgonne had mentioned  
3 and I'm sure if it's happened already -- but have you  
4 seen any movement of downstream; in other words,  
5 people taking their business, the end product, off  
6 shore and bringing it back in? Yes, we'll start with  
7 you, Mr. Lewis.

8 MR. LEWIS: Yes, you know, it's hard to put  
9 your fingers on it. I mean, we've had a few customers  
10 that obviously lead time is a huge issue in that. But  
11 if a customer has the ability to project out four to  
12 six months what they primarily printed requirements  
13 are going to be, they can certainly place those orders  
14 with Chinese firms.

15 COMMISSIONER OKUN: Okay, Mr. Nelleson,  
16 demand looking forward, what do you see in the  
17 industry?

18 MR. NELLESON: It's kind of hard for us to  
19 tell. Because in our business, we kind of focus on  
20 packaging products. So we have a lot of flexible  
21 magnetic materials that we actually package and go to  
22 the retail market with.

23 Our business is way down because some of the  
24 items we were purchasing from Magnum, they took about  
25 a million dollars worth that business away from us

1 when we didn't sign the agreement with them prior to  
2 that time. That was one of the reasons why we left  
3 Magnum, also. Because in July of 2006, they took away  
4 one of our largest customers that we had.

5 So buying from China was not price driven by  
6 us. But as far as the market itself, I really am not  
7 sure. Because we're suffering from lost sales.

8 COMMISSIONER OKUN: My red light is on.  
9 With respect to the last point you made about losing a  
10 customer, so that would be where they went to your  
11 customer, or you were competing against them for a  
12 customer you had.

13 MR. NELLESON: Right, we had the customer.  
14 They were producing the product for us, packaging it  
15 in our package, and we were selling it to this  
16 customer. They took over that business, and we  
17 decided we didn't want to deal with them any more.

18 COMMISSIONER OKUN: Okay, if you have any  
19 specific about that, that you could submit in a  
20 proprietary manner.

21 MR. NELLESON: I already have.

22 COMMISSIONER OKUN: You did? Okay, I missed  
23 that part. Okay, my red light has come on, Madam  
24 Chairman. Could I just get the demand from them, just  
25 to finish out; or should I come back? I can come

1 back.

2 CHAIRMAN ARANOFF: Well, you know,  
3 Commissioner Lane is after you, and she's not here  
4 right now.

5 (Laughter).

6 COMMISSIONER OKUN: I could just keep going.  
7 Well, I'll come back. Because I want to ask about  
8 them about that downstream. Okay, Mr. Gorgonne, could  
9 you talk about demand going forward. Looking forward,  
10 what do you see going on?

11 MR. GORGONNE: I think it's a maturing  
12 market, but not matured. I think the demand will  
13 continue to grow. But now I find myself competing now  
14 only with the Chinese, because decorated magnets are  
15 allowed. But I also find myself competing with the  
16 Love Brothers, because they're provided the graded  
17 magnets, which is one of the reasons why I left them.

18 COMMISSIONER OKUN: Okay; Mr. Baird?

19 MR. BAIRD: As had been referenced earlier,  
20 the real estate market has impacted us, as well, with  
21 a large percentage of our customers being realtors and  
22 so many of them leaving the business. That has  
23 impacted our business.

24 So in the short term, I think we'll, you  
25 know, in the coming years, still feel that impact.



1 But there are others areas that continue to grow and  
2 new ways people are using magnets.

3 So I think as the others, I would say the  
4 crystal ball is hard to read. While some markets are  
5 declining, like real estate, there are other markets  
6 that are growing. So I think we're all experiencing  
7 relatively flat sales currently, and it's hard to  
8 predict the future.

9 COMMISSIONER OKUN: Okay, I appreciate all  
10 those responses.

11 CHAIRMAN ARANOFF: Commissioner Williamson?

12 COMMISSIONER WILLIAMSON: Thank you, Madam  
13 Chairman; I do want to express my appreciation to the  
14 witnesses for coming today and giving their testimony.

15 Just to finish up on this question of Magnum  
16 taking your customers, I was wondering in the cases  
17 that you mentioned, were these things where, you know,  
18 usually it takes two to tango. So to what extent  
19 could you say that your customers would be looking  
20 for, you know, trying to maybe cut you out or  
21 something? I don't want to get all of the details.  
22 But I just wanted to get a brief idea.

23 MR. NELLESON: It was really a very simple  
24 business decision that they made, and that we had to  
25 make after that. That was that an employee that was

1 working for us went to work for them, and told them  
2 that he could get them into that particular customer.  
3 All they would have to do is tell them that they were  
4 the manufacturer, and they could get that business  
5 away. That's basically what happened. It was simple  
6 business.

7 COMMISSIONER WILLIAMSON: I see, okay. I  
8 don't know if anyone else has something they would  
9 like to say on this.

10 MR. GORGONNE: When they had asked me to  
11 sign a contract, it was a three year contract. I had  
12 asked them, for me to consider it, I need you to put  
13 in a clause that said you're not going to compete with  
14 me. Because I would be damned if I was going to give  
15 them money, so that they could compete against me.  
16 They didn't want to do it. So neither did I, and  
17 that's when I left them.

18 COMMISSIONER WILLIAMSON: Okay, thank you  
19 for the clarification. Apparently, the conception was  
20 that all flexible magnets declined between 2006 and  
21 2007 and was lower again in the first quarter of 2008  
22 than it was in 2007. I was wondering if you had any  
23 ideas on why this decline took place; Mr. Baird?

24 MR. BAIRD: Brian Baird -- I believe that  
25 some of it has been the result of things like the

1 housing market in the more recent decline. I think  
2 that could speak to maybe the end of 2007, the  
3 beginning of 2008, why it's continued to decline. I  
4 think going back further, that maybe some of the  
5 testimony earlier today maybe understated some of the  
6 impact of jobs like the Capital One project and the  
7 impact that had.

8 I know for example, for us, from one year to  
9 the next, there was probably a million dollars in  
10 material that we bought, and we were a relatively  
11 small player in that project. But we bought about a  
12 million dollars worth of material from Magnum and  
13 Flexmag in that one year, and one of it was coming  
14 from China, for that one project, which didn't exist  
15 for us the following year.

16 So I would think that if there are other  
17 companies that have had similar experience, that that  
18 could be part of the reason for some of that steep  
19 decline that you've seen in those statistics.

20 COMMISSIONER WILLIAMSON: Okay, so in other  
21 words, one big promoter or one big advertiser may have  
22 a big impact, if they did the right campaign.

23 MR. BAIRD: We're a relatively small  
24 industry. So when you talk about someone who is  
25 spending, you know, millions of dollars in a campaign,

1 when that goes away from one year to the next, it does  
2 have a significant impact.

3 COMMISSIONER WILLIAMSON: In that campaign,  
4 were they sending some flexible magnets to credit card  
5 applicants?

6 MR. BAIRD: Yes.

7 COMMISSIONER WILLIAMSON: I forget how many  
8 of these things I probably ended up with. Okay, I was  
9 just curious about that.

10 All of you have done business with China.  
11 So I was wondering, how important is the American  
12 market to them? Do you see any relationships with  
13 them? I mean, are they saying oh, yes, we've got lots  
14 of other customers? Is that complication from dealing  
15 with them?

16 MR. BAIRD: Brian Baird -- I believe it's  
17 been important to them, as they've grown up as  
18 companies. The company in particular we've dealt with  
19 is a real small company. When we first started  
20 dealing with them, they were kind of making their way  
21 and learning the things that they needed to do in  
22 order to be able to do business with other companies  
23 in the U.S. They've still had to work through a  
24 trading company, up until now. to do that.

25 But I think that the importance for them has

1       been in their growing up as a company and learning  
2       what it means to be able to do business  
3       internationally.

4               COMMISSIONER WILLIAMSON:   Have any of you  
5       others had experience in that?

6               MR. GORGONNE:   I think it's somewhat  
7       important to them.   But you have to understand, these  
8       are all very small companies; and in my opinion, the  
9       value of the imports from these companies in sheet has  
10      to be less than \$10 million.   I, you know, wouldn't be  
11      too surprised if it was \$5 million.

12              COMMISSIONER WILLIAMSON:   I'm sorry, the  
13      value of what?

14              MR. GORGONNE:   The value of the imports -- I  
15      would believe for sheet, okay, that it has to be under  
16      \$10 million for importing sheet raw material.

17              COMMISSIONER WILLIAMSON:   Into the U.S.

18              MR. GORGONNE:   Right.

19              COMMISSIONER WILLIAMSON:   I'm thinking about  
20      the Chinese supplier.   You're saying those exports to  
21      the U.S. appear as a small part of their business

22              MR. GORGONNE:   They're a very small part.  
23      They're a large part of their business, because that's  
24      basically all they do.   So a firm is maybe, in terms  
25      of U.S. dollars, very, very small, but supporting 400

1 employees.

2 COMMISSIONER WILLIAMSON: Okay.

3 MR. GORGONNE: They're all small firms.  
4 None of the Chinese suppliers are really large firms.  
5 They are not.

6 COMMISSIONER WILLIAMSON: Mr. Lewis?

7 MR. LEWIS: With the experience that I've  
8 had with both New Life and Polyflex, New Life shared  
9 with me some of their statistics when we were over  
10 there, as far as what was sold into the United States  
11 versus other places in the world. You know, again,  
12 whether that's to be believed, that's maybe another  
13 discussion.

14 But you know, their sales in the United  
15 States were really minor, compared to what they had  
16 going on around the rest of the world. Polyflex  
17 didn't share any of that information with us, so I  
18 couldn't really speak to that.

19 But I do know that Polyflex has a  
20 partnership with a German firm. So I'm assuming, too,  
21 that they also have sales around the world. So to  
22 what extent their sales to the United States, what  
23 that percentage would represent, I can't speak to  
24 that. I mean, I think the United States is always  
25 kind of the prize, if you will.

1                   COMMISSIONER WILLIAMSON: Surprise in the  
2 sense of?

3                   MR. LEWIS: The prize -- no, I think they  
4 think that the United States is kind of the utopia  
5 when it comes to some of those types of things.

6                   But you know, also, to Brian's point, they  
7 all have had to learn about how to deal with the  
8 United States, what kind of quality aspects that we're  
9 looking for; and that has taken time for them to come  
10 to that.

11                   The other thing that kind of makes it a  
12 mixed bag is, you know, there are a tremendous amount  
13 of traders. So trying to sell into the United States  
14 becomes very confusing. You know, from an Adams'  
15 perspective, we always wanted to know whom we were  
16 dealing with, and that we were actually dealing with  
17 the factory. Because I didn't want to have to be  
18 dealing through all kinds of sales channels that I had  
19 no idea where this stuff was coming from.

20                   COMMISSIONER WILLIAMSON: Mr. Nelleson?

21                   MR. NELLESON: I think I could add to that a  
22 little bit. I received a letter from New Life which  
23 also went to IETC. They had told me that their total  
24 sales worldwide were \$19 million, and sales to the  
25 U.S. of this material was \$1.5 million. So they said

1 that the last market for them to enter would be the  
2 U.S., and now it looks like that won't be.

3 COMMISSIONER WILLIAMSON: Okay, do you  
4 dispute the claims that are made that long  
5 transactions of any comparable material and volume;  
6 that all flexible magnets from China and Taiwan are  
7 priced lower than those produced in the United States?

8 MR. LEWIS: Can you repeat that?

9 COMMISSIONER WILLIAMSON: Do you consider  
10 the magnets from China to be priced lower than those  
11 in the United States?

12 MR. LEWIS: Sure, sure.

13 COMMISSIONER WILLIAMSON: Okay, my time is  
14 up; thank you.

15 CHAIRMAN ARANOFF: Commissioner Pinkert?

16 COMMISSIONER PINKERT: My first question is  
17 addressed to anybody on the panel that would like to  
18 respond to it. How quickly do you become aware of  
19 changes in prices being offered by your competitors?

20 MR. BAIRD: Brian Baird -- well, I know I  
21 got an email today, telling me that I was going to be  
22 getting an increase, as of July 31st, from one of the  
23 U.S. suppliers.

24 MR. LEWIS: Scott Lewis -- historically, the  
25 prices have been very stable from the domestic



1 suppliers. I remember one fateful afternoon a long  
2 time ago, we had to call Mr. Murphy down. Again, we  
3 had dealt with MSI virtually exclusively, and really  
4 didn't feel the need to switch over a few percentage  
5 points in price.

6 One of the other domestic suppliers had come  
7 in with some extremely low pricing. So we felt that  
8 because of the relationship that we had with Mr.  
9 Murphy, we kind of sat him down and said, hey look,  
10 this goes beyond that circle of friendship. So we  
11 need to talk about that a little bit, and see if he  
12 could come in with some pricing.

13 He was able to accommodate us. He wasn't  
14 able to meet all these prices and that was fine,  
15 because of the service that we were getting from him,  
16 beyond that. But other than that, really, the prices  
17 have been fairly stable for quite some time.

18 MR. NELLESON: Did you say competitors or  
19 suppliers?

20 MR. BAIRD: I said competitors.

21 MR. NELLESON: That's what I thought.

22 MR. BAIRD: Oh, I'm sorry.

23 (Laughter.)

24 MR. GORGONNE: I'll answer that. I mean, we  
25 are all very competitive, and some of us compete with

1 each other and others don't. But it is to the tenth  
2 of a penny that we compete for like a business card  
3 magnet -- 50,000, 100,000, whatever. It's very  
4 competitive.

5 Up until a 5,000 or 10,000 piece quantity,  
6 that's each in our catalog. So we know what the  
7 others are charging. But once you get beyond that, it  
8 is highly, highly competitive.

9 COMMISSIONER PINKERT: Now just speaking in  
10 terms of the U.S. producers, how would you  
11 characterize the price competition between the  
12 competitors that produce in the United States, between  
13 those?

14 MR. GORGONNE: You mean Flexmag and Magnum?

15 COMMISSIONER PINKERT: Yes.

16 MR. GORGONNE: It's just as fierce as it is  
17 with anyone else here.

18 COMMISSIONER PINKERT: Would anybody like to  
19 elaborate on whether there's a price leader, or is  
20 there a pattern in the price competition between the  
21 U.S. producers?

22 MR. NELLESON: We really don't see any  
23 difference in the price between one or the other.  
24 It's usually one or two percent. Usually, if you want  
25 to deal with one of them and you ask them for an extra

1 one or two percent, they can give it to you. There's  
2 not a whole lot of difference.

3 MR. GORGONNE: In my case, it could be up to  
4 several points difference between the two. So they  
5 are highly competitive. Now I think without the  
6 Chinese influence, it could get really interesting.

7 COMMISSIONER PINKERT: Now turning to the  
8 question that you alluded to just, Mr. Gorgonne, in  
9 your comment, I'm wondering, I understand that you all  
10 believe that there are other factors that have  
11 presented difficulties for the U.S. producers.

12 But what I'm wondering is whether we should  
13 consider increasing imports from China also because of  
14 the industry's problems; or whether you're saying that  
15 no, it's not a cause at all of the industry's  
16 problems. The causes are all attributable to the  
17 things that you were talking about earlier in your  
18 testimony.

19 MR. GORGONNE: Well, I think you have to  
20 either do it or not do it. Because now I find myself  
21 competing with my suppliers, both the Love Brothers  
22 and to a much smaller extent, Flexmag; to provide  
23 finished product to either retailers or other  
24 customers.

25 So I can't buy cheap Chinese product

1       any more. So they're decorating and sending it over  
2       here. Now my suppliers have an advantage over me,  
3       because they supply the material and they have more  
4       flexibility in their pricing, now that they're  
5       vertically integrating and able to print and do all  
6       the decorating things that I do. So I'm competing  
7       with everybody.

8                So either do it or don't do it. Either ban  
9       everything or ban nothing, and we're going to have our  
10      level playing field.

11               MR. LEWIS: I think one of the things that I  
12      mentioned back in October when I was here was that if  
13      I could purchase from the Chinese at the same price  
14      that I'm currently purchasing from the domestic  
15      suppliers, with no advantage whatsoever, I would  
16      continue to purchase from the Chinese.

17                I mean, we need more options. So that's  
18      really what, again, to reiterate Tom's point, we're  
19      kind of stuck here. We're worried about our suppliers  
20      competing with not, not having any other options to go  
21      to. You know, it becomes a difficult place for us to  
22      exist.

23                COMMISSIONER PINKERT: I'm not surprised.  
24      But I'm a little bit struck by the testimony. Because  
25      you're saying on the one hand that the Chinese product

1 is under-selling; and then on the other hand, that  
2 there doesn't need to be under-selling, because you'd  
3 purchase it anyway, even if there weren't under-  
4 selling.

5 So can you help me to understand the  
6 economics? I understand that you're not here as an  
7 economic consultant. But can you help me to  
8 understand the economics of how it is that there's the  
9 continued under-selling, when in your testimony, there  
10 doesn't need to be under-selling?

11 MR. LEWIS: I would imagine that the Chinese  
12 suppliers think that the only way that they can do  
13 business here is if they're at a low price. You know,  
14 that's maybe more of a question for them. You know,  
15 like I say, our experience with Polyflex -- and that's  
16 really the only one that we've dealt with -- the  
17 quality, we had absolutely no quality issues.

18 So from a vendor perspective, I was  
19 perfectly happy with them. With the price, I'm not  
20 going to kid you. The price, certainly, it's  
21 something that, you know, becomes the icing on the  
22 cake. But for us, we were very concerned about  
23 quality.

24 Like I say, I had visited those facilities.  
25 They're still breaking rocks with rocks over there,

1 and it was scary. But we felt we had no other choice.  
2 So it became a very nice surprise when the material  
3 showed up and it was the quality that we just couldn't  
4 believe.

5 COMMISSIONER PINKERT: Can anyone else help  
6 me with the economics of the under-selling?

7 MR. BAIRD: Brian Baird -- you know, I think  
8 Scott was saying that if the price is the same, he  
9 would use them as an alternative supplier; not that  
10 they would be his only supplier, and that would be my  
11 perspective.

12 I'm not sure I would go as far as to say  
13 that, you know, if it was a totally equal price, that  
14 I would chose to buy a lot from China. I would want  
15 to continue to buy some from them, because we really  
16 developed a really good relationship with them over  
17 five years.

18 But I think it's been important to have an  
19 alternate supplier, and I think I would have the  
20 option of having a couple suppliers here in the U.S.  
21 and one supplier overseas, to know that they were  
22 going to be keeping each other honest when it came to  
23 pricing and service and everything that we need from  
24 them.

25 COMMISSIONER PINKERT: Thank you; Mr.

1       Gordonne?

2                   MR. GORGONNE:  I've always used multiple  
3       suppliers for many good business reasons.  But never  
4       before did I have to compete against my supplier in  
5       what I do.  So I had no other choice; and when I have  
6       no other choice now, to be highly competitive with  
7       them, if they can produce the material cheaply, then I  
8       need to buy it cheaply.  So I need to buy it over in  
9       China.

10                   Now if you stop everything from coming in  
11       from China, like I tell you, I'll go over on the other  
12       side of the aisle.

13                   COMMISSIONER PINKERT:  If there are no other  
14       comments on that issue, I'm in my yellow light.  So  
15       I'll continue with the next round; thank you.

16                   CHAIRMAN ARANOFF:  I'm interested to hear  
17       that all of you gentleman have referred to the  
18       domestic industry as containing only two producers:  
19       Magnum and Flexmag.  Our record shows that there are  
20       seven producers in the United States; although a  
21       number of them are very small or consume most of what  
22       they make.

23                   So I wanted to just ask you, have any of you  
24       had any contact with domestic producers, other than  
25       Magnum and Flexmag -- current producers, not ones who

1 are no longer in business, either before or after the  
2 filing of this case? Have you approached them; have  
3 they approached you?

4 MR. GORGONNE: I have only been in the  
5 business 10 years, and I've never found another  
6 domestic producer that can produce the materials that  
7 we use. I mean, the whole magnetic world is in  
8 Marietta. I mean, that's it. I never even knew of  
9 them. So if you could share those with me later on,  
10 I'll check on it.

11 CHAIRMAN ARANOFF: They're in our public  
12 staff report. There are names and addresses, and  
13 they're actually not all in Ohio; anyone else?

14 MR. LEWIS: Scott Lewis -- you know, the  
15 only other producer that we've had interaction with is  
16 Electrodyne. We pretty much use them for limited  
17 amounts of high energy flexible requirements. So  
18 outside of some very small requirements for our  
19 purposes, I believe that now Magnum and Flexmag are  
20 really the only two producers that are meaningful to  
21 our needs.

22 MR. NELLESON: Jack Nelleson -- the only  
23 producer that we're aware of that we're actually  
24 purchasing from is the Electrodyne. That's because  
25 the items that have are not manufactured by the other



1 two suppliers. The other one that I do know about is  
2 Magnet Technology, which I've never bought from them.  
3 But we're aware of them, and they do compete in the  
4 strip area.

5 CHAIRMAN ARANOFF: Okay, Mr. Baird?

6 MR. BAIRD: Brian Baird -- no, we've never  
7 dealt with anyone else. I've seen the names and, you  
8 know, talked to a few people. But we've just never  
9 had any question that we could get what we needed from  
10 those other companies. So in our minds, there really  
11 are two U.S. suppliers who can produce what we need.

12 CHAIRMAN ARANOFF: Okay, now one of the  
13 themes that I've heard running through the  
14 conversation this afternoon has been that one of the  
15 things and perhaps the principle thing that has driven  
16 a number of you to seek suppliers outside the United  
17 States has been a relatively new phenomenon of finding  
18 that you're competing with your domestic suppliers for  
19 customers. I know you've told me that in connection  
20 with your experiences with Magnum. Has that been the  
21 case with Flexmag, as well?

22 MR. LEWIS: Scott Lewis -- over the years,  
23 there's been some of that, as well. It was always our  
24 opinion that they were not as aggressive in that  
25 endeavor, as Magnum was. As I mentioned earlier, the

1 most customer-friendly company, at least from our  
2 experience, was MSI. They worked with us quite well.

3 But we always joked with manufacturers that  
4 if they would let me look at their customer base, I'm  
5 sure there would be a number of accounts in their  
6 that, you know, would fall into what we would consider  
7 distributor-type customers.

8 Now having said that, I'm sure I have a few  
9 customers in my customer list, too, that they would  
10 welcome as what they would consider supplier-type  
11 customers. So it kind of cuts both ways.

12 But the concern, you know, as I stated in my  
13 statement, that as what we've perceived anyway, and  
14 this is my perception or Adams' perception, that  
15 Magnum has lot a significant amount of business, and  
16 that they've become a lot more aggressive in pirating  
17 our type of business.

18 CHAIRMAN ARANOFF: This is sort of the case  
19 where some of your customers might in the past have  
20 been too small for them to send their sales force to  
21 pursue.

22 MR. LEWIS: Correct.

23 CHAIRMAN ARANOFF: But smaller customers are  
24 now more interesting.

25 MR. LEWIS: I think any business that, you

1 know, if you're hurting financially --and again, I'm  
2 not privy to any of that information; it's just  
3 suspect on my part -- but if you're hurting, you'll  
4 take any business that you can get your hands on.

5 CHAIRMAN ARANOFF: Okay, do any of the  
6 others want to comment; Mr. Nelleson?

7 MR. NELLESON: We've had assurances from the  
8 suppliers that they wouldn't sell to our customers;  
9 and it did protect us for several years and they kept  
10 that agreement. But when it got down to push come to  
11 shove, only one of them stuck with their word. So you  
12 can only trust half of your suppliers.

13 CHAIRMAN ARANOFF: Well, this is sort of the  
14 chicken and egg thing, right? Did they go after your  
15 customers after you went and replaced them with the  
16 Chinese supplier or before; Mr. Gorgonne, Mr. Baird,  
17 do you want to add something?

18 MR. GORGONNE: I agree with Lewis that of  
19 our brothers, Magnum is much aggressive. They've  
20 entered all fields of distribution, and they're going  
21 after the larger amounts of business. You know, I  
22 don't think that they're taking orders from the 500  
23 pieces that the pizza guy needs. But they are going  
24 after the big pizza players and other people like that  
25 -- the AmExs and the Capital Ones. So they are

1 competing directly with us.

2           Whereas, Flexmag is doing it to a much  
3 lessor extent; but they're starting to get more and  
4 more into the retail sector.

5           CHAIRMAN ARANOFF: Okay.

6           MR. BAIRD: Brian Baird -- we haven't had  
7 any of that experience with Flexmag. I'd also want to  
8 say, it's not what drove us to China. Because really,  
9 we had started to work with the Chinese supplier  
10 before we became aware of some of what was going with  
11 Magnum, and were becoming aware that they were doing  
12 some of the converting in their own shop.

13           CHAIRMAN ARANOFF: Okay, let me change to  
14 another subject then. This is specifically directly  
15 to Mr. Lewis. It comes with sort of a lengthy  
16 introduction, since you don't have counsel, and I want  
17 to tell you where I'm coming from.

18           I mentioned this morning this case about  
19 calendar slides. In some ways, this was a strikingly  
20 similar case. This was a piece that was given to a  
21 printer to bind together a calendar which somewhere  
22 down the line got given away as a promotional item.

23           You had a real "he said/she said" between  
24 the manufacturer who said, we have this great product.  
25 There's nothing wrong with it. We always take care of

1 any quality complaints very promptly.

2 Then we had a customer who said, we have had  
3 years of working with the supplier. They never listen  
4 to us. We told them what the problem was. They  
5 wouldn't fix it; and we finally, in desperation,  
6 looked to an off-shore supplier.

7 In that case, it really came down to who was  
8 telling the truth and could document their side of the  
9 story. In that case, we ended up deciding that the  
10 customer is always right. That was mainly because the  
11 customer walked us, step by step, with emails and  
12 phone records and all these things and said, here was  
13 the problem. This is what we called them about. This  
14 is what they told us, in return. We went through this  
15 really at length with them. In the end we said, you  
16 know, that is we think what really happened.

17 So my question to you is, can you walk me  
18 through what happened after Magnum acquired MSI, and  
19 what the problems were? Really, the more detail that  
20 you can provide either today or even better through  
21 any emails or other letters, documents, and show us  
22 what happened to that relationship; that would be, I  
23 think, enormously helpful.

24 MR. LEWIS: Scott Lewis -- certainly; one of  
25 the things that will be somewhat helpful in that, and

1 so I'm going to have to provide you with some of this  
2 information afterwards, the general manager that I  
3 have down at Magnetic Attractions is, well, for lack  
4 of a better word, anal, and has, I'm sure, access to  
5 all of that documentation.

6 In a thumbnail, what started to occur, when  
7 we bought material from MSI previously, it was an  
8 unbacked, coated material, no back coding. Are we  
9 going to be okay?

10 CHAIRMAN ARANOFF: Yes, I did come into this  
11 sort of late in my time.

12 VICE CHAIRMAN PEARSON: Believe me, you'll  
13 be okay. I'll cede the time

14 MR. LEWIS: Okay, it was an unbackcoated  
15 material. Stepping back, maybe 10 years prior to that  
16 or even five, you know, the domestic suppliers used to  
17 basically sell against backcoated material. They said  
18 that, you know, the reason you use backcoating is  
19 because the foreign suppliers at that time didn't know  
20 how to make magnet, and so they had to backcoat it or  
21 it would cause damage to vehicles. The material would  
22 leach through and cause problems.

23 So we were very familiar and very satisfied  
24 with unbackcoated material. We would have blocking  
25 issues occasionally, but they were all worked out.

1 Things would, you know, vary. But generally, Gary  
2 would correct the problems.

3 CHAIRMAN ARANOFF: Just to clarify, he would  
4 correct the problem by changing the product, by giving  
5 you a credit, by taking the product back?

6 MR. LEWIS: All of the above -- and he had  
7 the ability to walk out into the plant because he  
8 owned it and say, make this right; and I'm sure he did  
9 that and it happened.

10 After he sold the company and we started to  
11 have problems, their answer to our particular problem,  
12 which was blocking and bricking, was you needed to buy  
13 backcoated material.

14 Well, when Gary came to us and told us he  
15 was selling the company, he said that this thing was  
16 going to be seamless. There would be no changes in  
17 the material, no problem. Everything was going to be  
18 exactly the same; don't concern yourselves.

19 Well, obviously, that wasn't the case. We  
20 were very pleased with the nonbackcoated material that  
21 we were getting previously. Now we were working with  
22 a very large customer, our biggest customer for the  
23 whole company. To try to upset that apple cart and  
24 introduce new material was a bit frightening to us, as  
25 well, because of the nuances involved in what we were

1 doing for this customer.

2 So we told them, we just don't want it. We  
3 want it the old way, and they refused. Now like I  
4 say, this went on for two years. So after a long  
5 period of time, we said, okay, let's try your  
6 backcoated material. We would like it in maybe a more  
7 matt format, so it's not so glaringly ugly and what  
8 not.

9 So we got some of this material. We tried  
10 it with our customer. The adhesive that the customer  
11 was using in their application would not stick to the  
12 backcoat. So we went back to them and said, hey, you  
13 need to change your backcoat formula. Our customer  
14 doesn't like it. It won't work; whatever. Their  
15 response to us was, tell the customer to find a  
16 different adhesive.

17 Well, you know, where I come from, I don't  
18 tell our customers anything but thank you. So to  
19 force them to do something different just didn't work  
20 for us. This was about the time that we started to  
21 run out of patience with that whole process.

22 Again, stepping back a little bit, it was  
23 that customer and during that time where we had  
24 shipped out magnets to these people and they're under  
25 tremendous time constraint; and there was a bunch of



1 product that they couldn't use that started the  
2 \$100,000 credit that I referenced in my statement.

3 So we have that documented and we have all  
4 that information, and the many trips that Magnum MSI  
5 personnel went down to our Durham, North Carolina  
6 facility to try to work out these problems. So this  
7 didn't happen overnight.

8 CHAIRMAN ARANOFF: Well, thank you for that  
9 answer. Again, any documentation that you can provide  
10 in the back and forth, I think, will be invaluable to  
11 us.

12 MR. LEWIS: Yes.

13 CHAIRMAN ARANOFF: I want to thank my  
14 colleagues for their patience with me, and ask the  
15 Secretary if you would, in my next round, cut me short  
16 by however long I went overtime; and I'll turn it over  
17 to Vice Chairman Pearson.

18 VICE CHAIRMAN PEARSON: Thank you, Madam  
19 Chairman.

20 Mr. Lewis, I'm not sure whether you've  
21 mentioned this. When you were in a position of paying  
22 the \$100,000 in customer credits that you referred to,  
23 did Magnum MSI compensate you for all or part of those  
24 credits?

25 MR. LEWIS: Early on, part of the credit --

1 Mr. Murphy did provide some support in one of the  
2 credits that made up this amount.

3 The other portion, and the major portion of  
4 that credit, you know, as the relationship started to  
5 deteriorate, Magnum MSI was keeping some inventory for  
6 our needs at Magnetic Attractions. When we basically  
7 fired Magnum MSI, Gary called me up and say, hey, we  
8 have this inventory. Actually, he spoke to John  
9 Dowling initially. We have this inventory of product  
10 for you.

11 John had said, we'll take it. But you have  
12 to guarantee that it's going to work; and he couldn't  
13 provide us with that guarantee. So part of Gary's  
14 settlement of our credit was to wash that inventory  
15 and use that inventory as compensation for the  
16 problems that we had; and we just chose not pursue it  
17 after that.

18 VICE CHAIRMAN PEARSON: Okay, in the post-  
19 hearing, you might elaborate on that a bit, as part of  
20 your response to Chairman Aranoff's inquiry.

21 As long as you've been the subject of  
22 questions, let me just continue a little more along  
23 this line. I'm curious about when you were shifting  
24 purchases away from Magnum MSI to a combination of  
25 Flexmag and Chinese producers, to Polyflex.

1 MR. LEWIS: Correct.

2 VICE CHAIRMAN PEARSON: This would be  
3 something for the post-hearing, also, But to the  
4 extent that you were shifting volume from MSI to  
5 Flexmag, there's really no effect an on anti-dumping  
6 case, because it's all a business within the domestic  
7 industry, as we define it.

8 So what I would be interested in is, if you  
9 could go back to 2005, 2006, and 2007, and help us  
10 understand what was going on with the volumes of  
11 business you were doing with Magnum MSI; and then how  
12 did it shift over to Polyflex and to Flexmag, just to  
13 give us a better understanding of what the effect  
14 might have been on the overall domestic industry of  
15 that shift.

16 MR. LEWIS: Just to clarify, we did not  
17 shift until 2007. So 2004, 2005, and 2006 were  
18 exclusively Magnum MSI materials.

19 VICE CHAIRMAN PEARSON: Well, show me what I  
20 need to see, before and after, so that I can  
21 understand what was going, if you could.

22 MR. LEWIS: Okay.

23 VICE CHAIRMAN PEARSON: Of course, all of  
24 this will be confidential business information. So  
25 your secrets are safe with us.

1 MR. LEWIS: All right.

2 VICE CHAIRMAN PEARSON: I'll let you of the  
3 hook and I'll direct the question elsewhere, at least  
4 for starters. Are there any viable suppliers from  
5 countries other than China and Taiwan? I understand  
6 you're not doing business with Taiwan. So maybe the  
7 question is, are there any viable suppliers other than  
8 China; or what we would call non-subject suppliers;  
9 Mr. Nelleson?

10 MR. NELLESON: In fact, there is a company  
11 called from Japan called MagX that provide pretty much  
12 the same materials. They have taken over a little bit  
13 of the market since this began. Other than them, I  
14 don't know of anybody else.

15 VICE CHAIRMAN PEARSON: Mr. Lewis?

16 MR. LEWIS: I'm not that familiar with MagX.  
17 But I'm just going to maybe ask. I don't know if  
18 their facilities are in Vietnam. Because I have heard  
19 that there are some flexible magnet facilities that  
20 are in Vietnam at this point. So I'm not sure if  
21 that's the MagX connection or not.

22 VICE CHAIRMAN PEARSON: Mr. Gorgonne?

23 MR. GORGONNE: I met with the President of  
24 that company several months ago, and he does have a  
25 factory in Vietnam. He does have a factory in China.

1 His pricing is much higher than what we were paying.

2 VICE CHAIRMAN PEARSON: Japanese pricing  
3 over Chinese pricing.

4 MR. GORGONNE: Japanese pricing, yes -- and  
5 he had not yet experienced producing the lengths of  
6 materials. We sometimes buy materials in  
7 2,500/3,000/4,000 foot rolls. He was only accustomed  
8 to producing 500 foot roles. They were experimenting;  
9 but he never got back to me.

10 VICE CHAIRMAN PEARSON: Mr. Baird, do you  
11 have any perspective?

12 MR. BAIRD: Other than the supplier they've  
13 mentioned here, I've heard that there are options in  
14 India. But I haven't heard good things about options  
15 in India, and I have never pursued them.

16 VICE CHAIRMAN PEARSON: Okay, well,  
17 following-up on that, in the event that a final anti-  
18 dumping countervailing duty order would go in place in  
19 this investigation, the marketplace would have to  
20 adjust with it and somehow live with it.

21 What would those adjustments be, and would  
22 seeking qualified suppliers from non-subject countries  
23 be part of that; or would you just deal with domestic  
24 suppliers and do your best?

25 MR. BAIRD: Brian Baird -- I think I would

1 have to be at least open to looking at those options.  
2 I wouldn't look forward to that. I feel like I've  
3 worked really hard over the last six years to develop  
4 the relationship in China and to feel comfortable with  
5 the quality we are receiving there.

6 So the idea of starting over there scares me  
7 a little bit. But I would be very concerned about  
8 being left with two U.S. suppliers, you know, as being  
9 our only source; and would be concerned about what  
10 that might mean for our prices in the future.

11 VICE CHAIRMAN PEARSON: Mr. Gorgonne?

12 MR. GORGONNE: Well, it took a year or more  
13 to qualify every supplier that I found overseas. I'm  
14 not that familiar with India. My understanding is,  
15 the quality isn't very good. They do produce in  
16 Brazil, but their quality is not very good.

17 So what I would be doing is dealing with the  
18 two domestic suppliers, and trying to be very nice to  
19 both of them. Well, especially since I compete head-  
20 to-head with one.

21 VICE CHAIRMAN PEARSON: Right.

22 MR. GORGONNE: That would be very  
23 interesting, yes.

24 VICE CHAIRMAN PEARSON: Yes, it would be  
25 hard to get them to sell you product at a price that

1 would allow you to go compete with them.

2 MR. GORGONNE: Yes, against the same  
3 customer.

4 VICE CHAIRMAN PEARSON: Okay, Mr. Nelleson?

5 MR. NELLESON: Yes, Jack Nelleson -- I think  
6 that you would see the market actually go down.

7 VICE CHAIRMAN PEARSON: The total  
8 consumption that we see in the United States?

9 MR. NELLESON: The total consumption used in  
10 the U.S. of that material would go down substantially,  
11 and so would the printed product that is produced. I  
12 think that a lot of that material would go to China.  
13 Anything that isn't delivery sensitive, it would be  
14 gone. So you have two markets that will go down,  
15 instead of just the one.

16 VICE CHAIRMAN PEARSON: Okay, so my  
17 calendars, for instance, that are on a magnet sheet,  
18 you know some years in advance what the calendar will  
19 look like.

20 MR. NELLESON: Right.

21 VICE CHAIRMAN PEARSON: So with a product  
22 like that, there would be sufficient time.

23 MR. NELLESON: Sure.

24 VICE CHAIRMAN PEARSON: So if you wanted to,  
25 you could go directly to China to get those printed,

1 bring them in.

2 MR. NELLESON: All of that type, yes -- you  
3 could probably use it for that.

4 MR. GORGONNE: It's not a six month waiting  
5 period. I mean, I can get anything I want produced in  
6 China in 60 to 90 days. I can get small quantities  
7 produced and shipped within two to four weeks.

8 VICE CHAIRMAN PEARSON: But when you say  
9 small quantities, is this of calendar magnets that  
10 stick on any surface?

11 MR. GORGONNE: Of any kind.

12 VICE CHAIRMAN PEARSON: Or is that the sub-  
13 straight, the basic product that we're talking about  
14 here.

15 MR. GORGONNE: It's any kind of magnet --  
16 mostly decorative.

17 VICE CHAIRMAN PEARSON: So you can get  
18 either raw or customer-ready?

19 MR. GORGONNE: Absolutely.

20 VICE CHAIRMAN PEARSON: Okay, Mr. Lewis, did  
21 you have anything to add?

22 MR. LEWIS: Well, the only other thing that  
23 kind of is created, because of the issue that the  
24 printed magnet is not part of this petition, as Tom  
25 said, one of the things that we would then have to



1 consider is doing this all over again for the printed  
2 magnet, as well.

3 Because it would also open up Canada and  
4 Mexico as options, more competition. Some printer up  
5 in Canada could be sending in printed materials;  
6 again, more eroding of our customer base. So there  
7 are issues like that, that also present themselves  
8 with the printed not being part of the petition.

9 VICE CHAIRMAN PEARSON: Okay, well thank you  
10 for those responses. It helps us to understand what  
11 we call conditions of competition in the marketplace.  
12 So it's very helpful. Back to you, Madam Chairman.

13 CHAIRMAN ARANOFF: Commissioner Okun?

14 COMMISSIONER OKUN: Thank you, Madam  
15 Chairman; and by the Chairman going over time to let  
16 you finish, Mr. Lewis, that actually took one question  
17 that I still had out there. So I think I only have  
18 one question left.

19 That was, just again, help me understand the  
20 difference, in your mind, between MSI and the non-MSI  
21 acquisition. Was MSI competing with you with your  
22 customers? You may have talked about this before.  
23 But did any of you have the same issues with MSI, in  
24 terms of your customer competing with you?

25 MR. LEWIS: You know, I would imagine again,

1 if you look back into MSI's customer base, there would  
2 be customers in there that we would certainly say were  
3 distributor-type customers. But you know, over the  
4 years, MSI was always the more distributor-friendly of  
5 the three at the time.

6 COMMISSIONER OKUN: Okay, and do any of the  
7 other of you have any comments on that or experience  
8 with that?

9 MR. BAIRD: I'm not aware of any issues like  
10 that with MSI.

11 COMMISSIONER OKUN: Okay; Mr. Gorgonne?

12 MR. GORGONNE: No, I have no issues.

13 COMMISSIONER OKUN: Okay; Mr. Nelleson?

14 MR. NELLESON: The only issue we ever had  
15 with MSI was that they were in some of the retail  
16 markets that we were in also. But as far as our  
17 distributor/producer relationship, it was good and I  
18 don't think we ever had any issue with any other types  
19 of customers, other than in the retail sector.

20 COMMISSIONER OKUN: Well, I appreciate all  
21 those answers. I will, with my colleagues, look  
22 forward to the post-hearing submissions. I'll  
23 reiterate many of the requests that were made earlier;  
24 that you can provide additional contemporaneous  
25 information about the things that you have testified

1 about. That would be helpful to our analysis, and I  
2 thank you very much.

3 VICE CHAIRMAN PEARSON: Commissioner  
4 Williamson?

5 COMMISSIONER WILLIAMSON: Thank you, Mr.  
6 Chairman.

7 I don't think any of you have dealt with  
8 Taiwan. But do you consider flexible magnets from  
9 there to be in overlap with Chinese magnets in terms  
10 of competition? Suppose Taiwan wasn't in this case.  
11 Would they be some place you might consider going?

12 MR. BAIRD: Brian Baird -- if they weren't  
13 part of the case, it would be something I'd consider.  
14 But I'm really not familiar, and I haven't ever dealt  
15 with the Taiwanese company that we've been talking  
16 about here. So I don't know that I would even be able  
17 to tell you that I could tell the difference between  
18 material from Taiwan versus China.

19 MR. GORGONNE: I don't know if they could  
20 supply the capacity, if we were all to turn to them.  
21 Their pricing was very much higher, which is why I  
22 never did business with them.

23 COMMISSIONER WILLIAMSON: And you don't know  
24 about other companies, that might have a different  
25 business model.

1                   MR. GORGONNE: No; to me, the Taiwanese were  
2 not a factor.

3                   COMMISSIONER WILLIAMSON: Okay, I have  
4 another question that's kind of speculative. We're  
5 all talking about the Internet and advertising on the  
6 Internet. Since you're in the Internet advertising  
7 business for the promotional materials, is that going  
8 to have an effect on your business over time and  
9 demand for your products?

10                  MR. GORGONNE: Yes, it has. We have our own  
11 Internet site. We also supply, I think 14 or 15  
12 Internet sites with the magnets. So they get the  
13 orders. They give it to us, and we ship it back to  
14 them.

15                  It has become a factor. Because now,  
16 anybody that wanted a magnet, they don't have to call  
17 a distributor. They can just go on the Internet and  
18 buy 500, 1,000, 2,000, 10,000.

19                  COMMISSIONER WILLIAMSON: I was wondering  
20 whether or not, you know, people would say, okay, our  
21 advertising is on the Internet; rather than investing  
22 in the promotional magnets. But you're telling me,  
23 it's just created more business.

24                  MR. BAIRD: Brian Baird -- yes, I thought  
25 that was the angle that you were asking; was if it was

1 taking away from our business. I would agree with  
2 Tom; that it hasn't taken away from our business. It  
3 gives us new opportunities; and if we handle our  
4 Internet strategy well, it gives us an opportunity to  
5 sell to people who may not have know about us  
6 otherwise.

7 MR. GORGONNE: I think it has more shifted  
8 our business. They get a piece of it. Now if they  
9 give it to other people, I couldn't say.

10 COMMISSIONER WILLIAMSON: Okay, thank you;  
11 well, I have no further questions, Madam Chairman. I  
12 want to thank the witnesses for their testimony.

13 CHAIRMAN ARANOFF: Commissioner Pinkert?

14 COMMISSIONER PINKERT: I just have a couple  
15 of questions remaining. Can you tell me about whether  
16 your inventories of imports from China have been  
17 increased, either in 2007 or in the first part of  
18 2008?

19 MR. LEWIS: Scott Lewis -- from the Magnetic  
20 Attractions' perspective, yes, the inventories did  
21 increase through 2007 into 2008. You know, it would  
22 just become a natural.

23 Because of the lead times involved in  
24 getting the material from China, we felt it was  
25 important. Because again, with the job shop nature of

1 our business, we could walk in tomorrow and have a  
2 million piece order sitting on our desk. So we needed  
3 to be able to respond to that. So our inventories did  
4 increase.

5 MR. NELLESON: Jack Nelleson -- our  
6 inventories increased from January of 2008 to April of  
7 2008, and then that was it; and we still have most of  
8 that inventory. We haven't passed that on to many of  
9 our customers. Because we're afraid to start them out  
10 with the Chinese material, and then have to switch  
11 them back to domestic suppliers.

12 MR. GORGONNE: I only purchased \$200,000 in  
13 2007 and 2008 of magnetic material. But it was all  
14 vinyl and it was non-magnetized, because I had been  
15 ruled against by the Customs to bringing in magnetized  
16 material. So I brought the same material in and  
17 magnetized it myself. But now I can't bring it in.

18 It was vinyl. My rule of thumb was, if  
19 there's a five percent difference in price, I'm going  
20 to buy in the U.S. But when it got to be between 15  
21 and 20, which the vinyl material was because there was  
22 value added to it, there was a substantial difference.  
23 That's what I was bringing in, in 2007/2008.

24 MR. BAIRD: Brian Baird -- our inventory  
25 levels didn't increase in 2007/2008, as compared to

1 previous years. I think, as a percentage, in 2007, we  
2 brought in quite a bit less material as a percentage  
3 than we had even back in 2004.

4 You know, we did bring in a little bit of  
5 material at the beginning of 2008. But I know at this  
6 point, we don't have any Chinese. I don't think we  
7 have any Chinese inventory left. I think we've worked  
8 our way through everything that we had.

9 COMMISSIONER PINKERT: Well, then for the  
10 follow-up question, I'm going to leave Mr. Baird to  
11 one side, because I don't think it applies to you.  
12 But for everybody else, does this case have anything  
13 to do with the increase in the inventories that you've  
14 talked about?

15 MR. LEWIS: The case as far as -- I mean, I  
16 guess I'm not following you.

17 COMMISSIONER PINKERT: Well, in other words,  
18 is there a concern that you don't know how the case is  
19 going to turn out; and that maybe one should hold the  
20 inventory, rather than trying to get the customers to  
21 buy the imported product during that period?

22 MR. LEWIS: No, obviously, with the  
23 Department of Commerce ruling, we haven't bought any  
24 material since then. So we've worked through all of  
25 the inventory of the Chinese material that we had

1 brought in. That's long gone.

2 So as far as moving forward, you know,  
3 depending on which direction this case goes, I would  
4 expect that if it's a ruling in Magnum's favor, you  
5 know, it will just be business as usual and we'll look  
6 to the lead times that the domestic suppliers have  
7 provided us in the past.

8 If it's against Magnum moving forward, I  
9 would imagine that our inventories will have to go up  
10 little bit to compensate for the lead times.

11 COMMISSIONER PINKERT: Mr. Nelleson?

12 MR. NELLESON: Yes, our inventory, like I  
13 said, it went up in the first part of 2008, and we  
14 still have most of that material. We would like to  
15 get rid of it. But we're a little hesitate to start  
16 pushing. We can't advertise. Because if we go out  
17 and advertise it as being Chinese material, they'll  
18 expect the same prices later on.

19 If you find for the Petitioner, then we're  
20 not going to be able to get that material again. Then  
21 our customers will not be happy with us, because we  
22 won't have that available. So we've kind of been  
23 holding back on trying to sell that. So we're stuck  
24 with, what, \$500,000 worth of Chinese material.

25 MR. GORGONNE: I have no Chinese material.



1 I consume as I buy. I don't have any more than three  
2 or four weeks' supply in my factory. So when I buy  
3 it, I consume it; and I have no Chinese material now.  
4 It's long gone.

5 COMMISSIONER PINKERT: All right, well, my  
6 last question is whether any of the panelists are  
7 aware of significant changes in the industry structure  
8 that you believe will be happening in the immediate  
9 future -- say, within the next year or so -- that may  
10 have any bearing on the question of threat of imports  
11 from China or Taiwan in the next year or so.

12 MR. GORGONNE: Speaking for my business,  
13 absolutely -- the decorated magnet business, since  
14 we've stopped the raw material from coming in, is just  
15 growing and growing and growing, and hurting my  
16 business significantly.

17 I don't see that stopping. It's increasing.  
18 They've joined all the associations. They have access  
19 to the same 13,000 distributors I have access to at  
20 our trade shows, so yes.

21 COMMISSIONER PINKERT: Thank you; well, if  
22 there are no further comments on that issue, I'd just  
23 like to thank this panel. I appreciate your  
24 willingness to come before us and answer our  
25 questions.

1                   CHAIRMAN ARANOFF: Okay, this time I'm going  
2 to try not to go over my time. As a matter of fact, I  
3 only have two questions. The first one is, as  
4 purchasers of Chinese product, have any of you ever  
5 had an experience, or has one of your customers had an  
6 experience, with a bad smelling product; one that  
7 smells like chemicals?

8                   \*\*\*\*\* MISSING TESTIMONY, TAPE CHANGE \*\*\*\*\*

9                   MR. LEWIS: No, the Chinese material is all  
10 marked with, you know, "Made in China." We thought we  
11 might even get a handful of people asking about that.  
12 I don't think in however many years its been since  
13 that ruling came down, we've had a handful of  
14 customers actually ask us about that. So we haven't  
15 had any of those kind of complaints.

16                   CHAIRMAN ARANOFF: Okay, and the last  
17 question, I know some of my colleagues had asked you  
18 about where else, other than the United States, the  
19 Chinese suppliers were selling their product, and they  
20 had mentioned other export markets. Are any of you  
21 aware, is there a domestic market in China for this  
22 product; using promotional refrigerator magnets in  
23 China?

24                   MR. GORGONNE: Yes.

25                   CHAIRMAN ARANOFF: I mean, I know they have

1 refrigerators now.

2 MR. GORGONNE: Yes, there's a domestic  
3 market, and it's been growing. Also, the last time I  
4 was there, they were doing a huge order, 20 million  
5 pieces, for Japan, so they were decorating it  
6 differently.

7 CHAIRMAN ARANOFF: Okay, with respect to the  
8 Chinese home market, do you know what sort of channels  
9 the product is going through? Is it going into  
10 promotional products; or is it going into OEMs that  
11 are making refrigerators? Because there's a lot of  
12 white goods made in China.

13 MR. GORGONNE: All of them; and most  
14 European people import from China. Because obviously,  
15 they have a freight advantage, and that's where they  
16 get their material. All the European people that I  
17 know, when I've traveled through Europe, looking to do  
18 business there, import directly.

19 CHAIRMAN ARANOFF: Okay, does anyone else  
20 have an observation on that?

21 (No response.)

22 CHAIRMAN ARANOFF: Okay, well then with  
23 that, I think I have concluded my questions and want  
24 to thank you all very much for the time that you've  
25 spent with us, and turn to Vice Chairman Pearson.

1                   VICE CHAIRMAN PEARSON: Thank you, Madam  
2                   Chairman.

3                   I think I have just one question. This  
4                   morning we heard that MSI had run into some financial  
5                   difficulty, and that was a factor that contributed to  
6                   the purchase by Magnum. At least some of you were  
7                   doing business with MSI. Do you have any knowledge of  
8                   what MSI's circumstances were, that might have  
9                   contributed to selling the business to Magnum; Mr.  
10                  Gorgonne?

11                  MR. GORGONNE: I've known Gary for 10 years  
12                  and shared many meals with him. When I would greet  
13                  him, his first response would be, want to buy my  
14                  company? But I don't know the reasons why he wanted  
15                  to sell.

16                  In my opinion, they were the least advanced  
17                  of the three, and he's probably going to really get  
18                  upset with me for saying that. The other two  
19                  companies are much more efficient and automated.

20                  VICE CHAIRMAN PEARSON: So in this would be  
21                  in terms of the production technology; the actual  
22                  processing in the plant.

23                  MR. GORGONNE: Absolutely; right.

24                  VICE CHAIRMAN PEARSON: Mr. Baird?

25                  MR. BAIRD: Brian Baird -- I think part of

1 maybe what happened there was, the other two  
2 companies, Flexmag and Magnum, were looking to expand  
3 their capacity in a time where they were being  
4 inundated with requests for material to handle this  
5 Capital One job and the AmEx job.

6 So I think that it was an opportunity for  
7 one of those two companies to expand their capacity.  
8 In turn, they both expanded their capacity  
9 significantly; and then they were, you know, probably  
10 fearing a lot of over capacity, once huge of business  
11 went away.

12 VICE CHAIRMAN PEARSON: Just following up on  
13 this, given what was going on in the marketplace, in  
14 the time period to and when MSI was purchased, would  
15 it be possible that imports from China and Taiwan  
16 played some role in MSI's decision to sell the  
17 business? Relative to everything else that was going  
18 on in the market, did the imports make a difference?

19 MR. LEWIS: Scott Lewis -- I was not that  
20 close to the Chinese imports. In looking at some of  
21 this information, as I say, we didn't start buying  
22 until 2007. We knew some of these companies were in  
23 China, obviously because of our visits. But we didn't  
24 know what the extent of imports were at the time. I'm  
25 talking 2003, 2003, 2004, 2005, 2006.

1           You know, maybe Gary had a little bit of a  
2 hands-on, a little more of a heads-up with that, and  
3 that might have been some of the motivation for him to  
4 want to get out when he did.

5           You know, he had tried to sell the company a  
6 few years earlier, and that didn't happen. I always  
7 just kind of, you know, credited his motivation to  
8 selling. You know, I think once you kind of mentally  
9 get over that hurdle to sell your company, I think  
10 it's tough to kind of go back and re-group and run  
11 your business.

12           So I always thought that after the company  
13 didn't sell the first time, that it was going to be  
14 sold somehow. Because that's just a tough mental  
15 hurdle to get over.

16           VICE CHAIRMAN PEARSON: Mr. Gorgonne?

17           MR. GORGONNE: Gary's shop was the only shop  
18 that was unionized, and I know they caused him a great  
19 deal of pain over the years.

20           VICE CHAIRMAN PEARSON: Mr. Baird?

21           MR. BAIRD: We had just signed a three year  
22 agreement to buy 80 percent of our material from MSI.  
23 So at least from our perspective, he was probably  
24 feeling less of a threat from the Chinese than he  
25 maybe had previously. So in answer to your original

1 question, I'm not sure that that would have had a lot  
2 to do with it.

3 VICE CHAIRMAN PEARSON: Okay, but just from  
4 your knowledge of the market place, this wasn't  
5 happening at a time after there had been some surge of  
6 imports, decline in the domestic price, that domestic  
7 producers could be expected to be having a hard time?  
8 Those weren't the circumstances that seemed to be in  
9 place when this purchase occurred?

10 MR. BAIRD: No.

11 VICE CHAIRMAN PEARSON: Head motions don't  
12 get picked up so well on the transcript. But thank  
13 you all very much. I have no further questions. I  
14 appreciate very much that you've been here with us.

15 CHAIRMAN ARANOFF: Are there any further  
16 questions from Commissioners?

17 (No response.)

18 CHAIRMAN ARANOFF: Does the Staff have any  
19 questions for this panel?

20 MS. HAND: Olympia Hand, Office of  
21 Investigations -- Staff has no questions.

22 CHAIRMAN ARANOFF: Okay, seeing as  
23 Petitioners have used up all of your direct time, we  
24 will then be proceeding directly to the closing  
25 statement. So I want to thank this panel, yet again,

1 for all of your time this afternoon. I can dismiss  
2 you from the front seats ask you to go further back to  
3 other seats in the room, so that we can have Mr.  
4 Thomas come forward for his closing statement.

5 MR. LEWIS: I do have one question. As it  
6 relates to the information that you want from me  
7 regarding that, when do you need that and how do I go  
8 about doing that?

9 CHAIRMAN ARANOFF: I am actually going to  
10 read off the deadlines, as soon as we hear from Mr.  
11 Thomas. But if you have any specific questions,  
12 please call Ms. Hand of our Staff and she can help  
13 you.

14 MR. LEWIS: Okay, thank you.

15 MR. THOMAS: Thank you; once again, I wish  
16 to thank the Commission for its attention throughout  
17 this hearing. While flexible magnets are a new  
18 product and the domestic industry is a new industry to  
19 the Commission, I note that few Commissioners  
20 anticipated that the material that ends up holding  
21 family pictures and notes on your refrigerators would  
22 turn out to be so interesting.

23 Nevertheless, at bottom, this is a simple  
24 case. As we observed the opening of the hearing,  
25 virtually every adverse trend in evidence of industry



1 injury and threat considered by the Commission in the  
2 preliminary phase of this investigation, based on data  
3 extending through the first half of 2007, worsened in  
4 full 2007.

5 Yet, those opposing the petition, who wish  
6 to continue to exploit the cost advantage over their  
7 domestic competitors, and enjoy using the unfairly  
8 traded imports and that has been made clear from their  
9 own testimony, have presented a litany of complaints  
10 and allegations regarding the domestic industry's  
11 product, services, and prices.

12 Our witnesses disagree with what those  
13 opponents have said. Indeed, in response, we could  
14 tell some very interesting stories that would clarify  
15 the situation for you. I would request leave if I  
16 may, for us, as Vice Chairman Pearson requested of the  
17 other witnesses, to supply some documentation that  
18 would shed some additional light on the circumstances  
19 that they talked about.

20 The so-called quality arguments have been  
21 squarely contradicted by other customers of  
22 Petitioner, who have testified as to the high quality  
23 of its products and services. Of course, complaints  
24 about Magnum do not explain why there is concern about  
25 the imports, rather than magnets from Flexmag, the

1 other domestic producer.

2 Rather than addressing each and every  
3 complaint raised, we simply refer the Commission to  
4 the most telling evidence of the principle incentive  
5 that led each of the opponents to buy the unfairly  
6 traded imports. That is the evidence of pervasive  
7 under-selling by the subject imports.

8 That evidence that, in the context of a  
9 reasonably well informed market, such as the one in  
10 which raw flexible magnet purchaser are acting, are  
11 distinguished from the metal calendar slides case, is  
12 utterly inconsistent with claims that imports are  
13 being purchased for reasons other than their low  
14 prices.

15 There is no reason why the unfairly traded  
16 imports' prices are low, other than low prices are  
17 what the importing U.S. distributors and printers  
18 demand, and what the Chinese and Taiwanese producers  
19 and their agents must offer U.S. purchasers in order  
20 to make the market inroads they made in the POI.

21 Finally, one more detail, any assertion by  
22 Adams that it has substituted that it has substituted  
23 the subject imports from Magnum's product without  
24 regards to the low price of the imports is similarly  
25 contradicted by the price comparisons that are

1 discussed at pages 89 and 38 and 39 of our pre-hearing  
2 brief. Prices differences of such a magnitude are too  
3 compelling to provide no significant incentive to the  
4 buyer.

5 Furthermore, the cessation of imports  
6 following the Commerce Department's imposition of  
7 suspension of liquidation and preliminary bonding of  
8 duty deposit requirements also provides powerful  
9 evidence that it was the prices of the imports that  
10 secured for them their rapid growth in the U.S.  
11 market.

12 It's also clear that the domestic raw  
13 flexible magnet industry has been materially injured  
14 and is threatened with imminent further material  
15 injury by reason of the subject imports. That  
16 documentation is also provided in our brief.

17 As regards threat, it is relevant that one  
18 of the Chinese materials, ferric oxide, is a bi-  
19 product of the pickling process used by the Chinese  
20 steel industry. That industry has been rapidly  
21 growing, increasing the quantities of ferric oxide  
22 generated. These represent either disposal cost for  
23 the steel producers, or possibly a revenue stream  
24 where more flexible magnets are manufactured and  
25 exported.

1           Along with the domestic raw flexible magnet  
2 producers, Magnum appears to be that most clearly at  
3 risk from the unfairly traded imports. This is due to  
4 the concentration of its sales that precisely affects  
5 flexible magnet sheeting area in which those subject  
6 imports are also concentrated. But while Magnum is at  
7 the head of the domestic industry failings, injury to  
8 Magnum is injury to the industry; and the others in  
9 the domestic industry cannot be and are not far  
10 behind.

11           Given the margins of dumping in the economy  
12 in subsidies found by Commerce, the subject imports  
13 simply would not have been present in the U.S. market  
14 if fairly traded. The abrupt departure of the imports  
15 from the market, following the Commerce Department's  
16 preliminary measures, manifestly demonstrates this.  
17 The domestic industry is regaining customers and  
18 beginning to recover as a result.

19           We ask the Commission to issue the  
20 affirmative determinations necessary to confirm that  
21 relief and ensure the domestic industry's stability  
22 and recovery. Thank you very much.

23           CHAIRMAN ARANOFF: Thank you, Mr. Thomas;  
24 and I will once again thank all of the witnesses  
25 present today. It's been a very informative day. I

1 think we've all made great progress in educating  
2 ourselves about your industry. So we appreciate your  
3 time.

4 Post-hearing briefs, statements responsive  
5 to questions and requests of the Commission including  
6 any documents that we've asked you to submit and  
7 corrections to the transcript must be filed by July  
8 17th, 2008.

9 Closing of the record and final release of  
10 data to the parties will take place on August 5th,  
11 2008, and final comments are due on August 7th, 2008.  
12 With that, I believe we have completed today's  
13 business, and this hearing is adjourned.

14 (Whereupon, at 4:00 p.m., the hearing in the  
15 above-entitled matter was concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Raw Flexible Magnets from China  
**INVESTIGATION NOS.:** 701-TA-452  
**HEARING DATE:** July 10, 2008  
**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:** July 10, 2008

**SIGNED:** LaShonne Robinson  
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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:** Mona McClellan  
Signature of Court Reporter