

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
CERTAIN LIGHTWEIGHT THERMAL PAPER) 701-TA-451 AND
FROM CHINA AND GERMANY) 731-TA-1126-1127 (REVIEW)

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THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

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CERTAIN LIGHTWEIGHT THERMAL) 701-TA-451 AND
PAPER FROM CHINA AND GERMANY) 731-TA-1126-1127 (REVIEW)

Thursday, October 30, 2014
Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Meredith M.
Broadbent, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Vice Chairman Dean A. Pinkert

6 Commissioner Irving A. Williamson

7 Commissioner David S. Johanson

8 Commissioner Rhonda K. Schmidtlein

9

10 Staff Present:

11 Bill Bishop, Supervisory Hearings and Information

12 Officer

13 Sharon D. Bellamy, Program Support Specialist

14 Mikayla Kelley, Intern

15

16 Nathanael N. Comly, Investigator

17 Alberto Goetzl, International Trade Analyst

18 Amelia Preece, Economist

19 Mary J Klir, Accountant/Auditor

20 Robin Turner, Attorney

21 James McClure, Supervisory Investigator

22

23

24

25

1 CONGRESSIONAL APPEARANCES:

2 The Honorable Tammy Baldwin, United States Senator,
3 Wisconsin

4 The Honorable Thomas E. Petri, U.S. Representative, 6th
5 District, Wisconsin

6 The Honorable Michael R. Turner, U.S. Representative,
7 10th District, Ohio

8 The Honorable Reid J Ribble, U.S. Representative, 8th
9 District, Wisconsin

10

11 DELEGATION WITNESS:

12 Delegation of the European Union to the United States,
13 Washington, D.C.

14 Sibylle Zitko, Senior Advisor (Legal)

15

16 In Support of the Continuation of the Antidumping and
17 Countervailing Duty Orders:

18 King & Spalding LLP, Washington, DC on behalf of Appvion,
19 Inc.:

20 Mark Richards, Chairman, President and Chief Executive
21 Officer, Appvion, Inc.

22 Todd Downey, Vice President of Manufacturing, Appvion,
23 Inc.

24 James Hillend, Vice President - Thermal, Appvion, Inc.

25

1 APPEARANCES (Continued):

2 Doug Howarth, Senior Segment Manager, POS Division,
3 Appvion, Inc.

4 Stephen P. Hefner, President and Chief Executive
5 Officer, Kanzaki Specialty Papers, Inc.

6 John Geenen, International Vice President, United
7 Steel, Paper and Forestry, Rubber, Manufacturing, Energy,
8 Allied Industrial and Service Workers International Union

9 Mike Rapier, President, Liberty Paper

10 Gregg Mosby, Jr., President Greenleaf Paper Converting

11 Dr. Jerry A. Hausman, Professor of Economics,
12 Massachusetts Institute of Technology

13 Dr. Seth T. Kaplan, Senior Economic Advisor, Capital
14 Trade, Inc.

15 Bonnie B. Byers, Consultant, King & Spalding LLP

16 Joseph W. Dorn and Gilbert B. Kaplan, King & Spalding
17 LLP

18

19 In Opposition of the Continuation of the Antidumping and
20 Countervailing Duty Orders:

21 Hughes Hubbard & Reed LLP Washington, DC on behalf of
22 Papierfabrik August Koehler SE ("Koehler"):

23 Frank Lendowski, Chief Financial Officer, Koehler

24 Silvia Muller, Director of Controlling, Koehler

25

1 APPEARANCES (Continued):

2 Katja Frede, Product Manager for Thermal and Carbonless
3 Paper, Koehler

4 Orley Ashenfelter, Ph.D., Professor of Economics,
5 Princeton University

6 Ruth Gilgenbach, Ph.D., Economist, Ashenfelter &
7 Ashmore

8 Kivanc Kirgiz, Principal, Cornerstone Research

9 Emre Uyar, Senior Manager, Cornerstone Research

10 Jim Dougan, Vice President, Economic Consulting
11 Services, LLC

12 Cara Groden, Staff Economist, Economic Consulting
13 Services, LLC

14 Doug Endsley, Chief Executive Officer, Register Tapes
15 Unlimited, Inc.

16 Ed Swadish, President, Discount Paper Products, Inc.

17 F. Amanda DeBusk, Matthew Nicely and Eric Parnes,
18 Hughes Hubbard & Reed LLP

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1 PROCEEDINGS

2 MR. BISHOP: Will the room please come to
3 order?

4 CHAIRMAN BROADBENT: Good morning. On behalf
5 of the U.S. International Trade Commission, I welcome you to
6 this hearing on Investigation Nos. 701-451 and 731-1126 and
7 1127, involving Certain Lightweight Thermal Paper from China
8 and Germany. The purpose of these review investigations is
9 to determine whether revocation of the anti-dumping duty and
10 countervailing duty orders on lightweight thermal paper from
11 China and Germany would likely lead to the continuation or
12 recurrence of material injury within a reasonably
13 foreseeable time.

14 Documents concerning this hearing are
15 available at the public distribution table. Please give all
16 prepared testimony to the Secretary. Do not place it on the
17 public distribution table. All witnesses must be sworn in
18 by the Secretary before presenting testimony. I understand
19 that the parties are aware of time allocations, but if you
20 have any questions about time, please ask the Secretary.

21 Speakers are reminded not to refer to business
22 proprietary information in their remarks or answers to
23 questions. Please speak clearly into the microphones and
24 state your name for the record, so that the court reporter
25 knows who is speaking.

1 Finally, if you'll be submitting documents
2 that contain information you wish classified as Business
3 Confidential, you're requested to comply with Commission
4 Rule 201.6. Mr. Secretary, are there any preliminary
5 matters?

6 MR. BISHOP: No, Madam Chairman.

7 CHAIRMAN BROADBENT: Very well. Will you
8 please announce the first Congressional witness?

9 MR. BISHOP: The Honorable Tammy Baldwin,
10 United States Senator, Wisconsin.

11 CHAIRMAN BROADBENT: Welcome, Senator Baldwin.
12 You may begin when you're ready.

13 STATEMENT OF THE HONORABLE TAMMY BALDWIN

14 SENATOR BALDWIN: Good morning. I want to
15 thank the Commission for the opportunity to appear before
16 you on a matter of great importance to the state of
17 Wisconsin. In Wisconsin, we have one of the largest
18 manufacturing sectors in the Nation, supporting a large
19 share of our workforce and exporting goods all over America
20 and the world.

21 Wisconsinites work hard; they play by the
22 rules. Whether it's making paper products, diesel engines
23 or Navy ships, when Wisconsin manufacturers compete on a
24 level playing field, more often than not they win. As you
25 no doubt know, paper making is a part of Wisconsin's

1 manufacturing backbone, and has a long and cherished
2 tradition in my home state.

3 Appleton, Wisconsin, where Appvion, the
4 Petitioner in this case is headquartered, has long been at
5 the center of this industry. Appvion is a great American
6 company and its employee-owned. Appvion is strongly
7 represented and well-served by its United Steelworker
8 employees. In fact, one of the union members will be here
9 later today to testify, and many more across Wisconsin and
10 the United States are closely following these proceedings.

11 These workers are very concerned about the
12 decision before you today, and so am I. Appvion and their
13 employees have played the rules of international trade and
14 have done quite well. However, they are under constant
15 threat from foreign companies that play by a different set
16 of rules, and quite frankly companies that cheat.

17 I'm here today to ask the anti-dumping orders
18 on lightweight thermal paper from China and Germany, and the
19 countervailing duty order on lightweight thermal paper from
20 China be allowed to continue. The underlying issues in this
21 case have been blurred by a persistent pattern of fraud
22 engaged in by one of the Respondents, Koehler, based in
23 Germany.

24 I understand this is not a mere allegation,
25 but there have been two findings of fraud by the United

1 States government in final determinations. Allowing foreign
2 suppliers unrestricted access to our open market while they
3 are knowingly defrauding the U.S. government by dumping
4 undervalued products in our markets is unconscionable.

5 In doing so, not only have they lied to gain a
6 competitive advantage in our open market, but they have done
7 so at the expense of American manufacturers and workers.
8 This kind of conduct cannot be permitted, and must be taken
9 into account in your considerations. It shows to what
10 lengths Koehler will go to continue to illegally dump in the
11 United States.

12 The United States paper industry has suffered
13 financial losses, and lost thousands of jobs as a result of
14 persistent patterns of unfair trade across all segments of
15 the industry. Appvion in particular had to fight an uphill
16 battle to keep their prices competitive, when Chinese and
17 German companies began to sell their paper in the United
18 States at subsidized prices.

19 As we all know, consumers typically shop for
20 the best bargains, so Appvion sales and revenues were
21 threatened when Koehler dumped their products on the market.
22 Appvion is a key employer and economic contributor in
23 Wisconsin, supporting thousands of jobs. Yet if foreign
24 producers can cheat and sell in our market through
25 deception, fraud or unfair trade, its future and the future

1 of its workers will be greatly in jeopardy.

2 As Mark Richards, the CEO of Appvion said in
3 his testimony before this panel in 2008, "This unfair
4 competition has deprived all domestic producers of
5 lightweight thermal paper of sales revenue and driven down
6 prices. The unfair trade practices of foreign manufacturers
7 have negatively impacted the U.S. lightweight thermal paper
8 market outlook and damaged our business."

9 We cannot allow these conditions to return to
10 this vital part of the Wisconsin and American economy. You
11 have the ability to make a real difference for American
12 workers and producers in this case. There can be no reason
13 to allow unfair trade to take a further toll on the
14 industry. I strongly urge you to keep the orders on the
15 books, and request that you keep me informed as these
16 proceedings move forward.

17 I thank you for your time and for your careful
18 consideration in this case.

19 CHAIRMAN BROADBENT: Thank you, Senator
20 Baldwin. Are there any questions for the Senator?

21 (No response.)

22 CHAIRMAN BROADBENT: If no, we'll let you go
23 and thank you very much for appearing.

24 SENATOR BALDWIN: Thank you.

25 CHAIRMAN BROADBENT: Mr. Secretary, will you

1 please announce the next witness?

2 MR. BISHOP: The Honorable Thomas E. Petri,
3 United States Representative, 6th District, Wisconsin.

4 STATEMENT OF THE HONORABLE THOMAS E. PETRI

5 CONGRESSMAN PETRI: Well good morning.

6 CHAIRMAN BROADBENT: Welcome.

7 CONGRESSMAN PETRI: And I very much appreciate
8 the opportunity to testify today regarding the issue of
9 whether the unfair trade duties covering imports of thermal
10 paper from China and Germany should remain in effect for
11 another five years. I'm here to ask you to leave these
12 duties in place. The duties have allowed the U.S. industry
13 to compete on an equal footing with producers in China and
14 Germany, who have dumped and subsidized their products in
15 order to gain an unfair advantage in the American market.

16 U.S. thermal paper producers, including
17 Appvion, a company, operating a number of facilities in
18 Wisconsin, have had the opportunity to grow and thrive as a
19 result of the increased demand for their lightweight thermal
20 paper. This is not the time to remove the duties, and I
21 urge your support for keeping them in place.

22 I had the honor to testify before you or the
23 members of this Commission at that time almost exactly six
24 years ago, and at that time, I told the members of the
25 Commission about how important the paper industry is to me

1 and to Wisconsin. I've seen too many solid and competitive
2 paper mills in Wisconsin driven out of business because of
3 Chinese government subsidies.

4 Six years ago, the Commission understood the
5 threat that these subsidized imports posed to U.S. thermal
6 paper products and producers. The Commission also
7 understood that German producers interested in increasing
8 their market share in the U.S. market were willing to
9 significantly undersell their U.S. competitors to achieve
10 this goal.

11 Chinese and German producers continue to
12 engage in these unfair trade practices, in order to gain an
13 advantage over U.S. producers, as our Department of Commerce
14 has already determined. I'm particularly troubled by the
15 tactics of one German producer, which has been found by the
16 Department of Commerce to have concealed sales in its home
17 market, in order to lower its dumping margin.

18 As a result of this attempt to manipulate its
19 rate, the Department of Commerce imposed a 75 percent duty.
20 There's only one reason why this company would engage in
21 such manipulation, and that is to avoid dumping duties. I
22 think this demonstrates the need to maintain the mechanism
23 for monitoring the pricing practices of Chinese and of
24 German lightweight thermal paper manufacturers, and it
25 argues in favor of keeping the discipline of the duty orders

1 in place.

2 The improved competitive situation, supported
3 by the imposition of these duties, has helped Appvion's
4 profitability and has allowed the company to improve leading
5 manufacturing techniques to adapt to changing market
6 conditions, and to develop new products.

7 Today, Appvion is a leading producer of
8 lightweight thermal paper. It's notable that Appvion, as
9 the person before me testified before the Commission, our
10 Senator Baldwin pointed out, is wholly owned by its
11 employees through an employee stock ownership plan. The
12 employee-owners of Appvion, many of whom are my
13 constituents, are rightfully proud of their company.

14 These employee-owners have invested their
15 retirement assets in their company, literally staking their
16 future well-being on the success of Appvion. They deserve
17 the opportunity to compete fairly in this market.

18 As I said six years ago, this case is about
19 protecting a leading American manufacturer from the
20 predatory trade practices of certain foreign competitors.
21 American manufacturers, particularly those in Wisconsin, are
22 ready, willing and able to compete. They welcome the
23 opportunity to put their products up against those of other
24 nations.

25 The true competition is undercut when prices

1 are subsidized or products are sold below cost in order to
2 grab market share. Permitting companies to dump or
3 subsidize can only harm domestic manufacturers, leading to a
4 continued deterioration of our manufacturing base.

5 So I ask you to carefully consider the record
6 in this case, as well as the testimony that you hear today,
7 and I am confident you will come to the same conclusion that
8 I have, that the duties need to stay in place for another
9 five years. I thank you again for allowing me to address
10 you here today, and I'd be happy to do my best to respond to
11 any questions that you have.

12 CHAIRMAN BROADBENT: Thank you. Are there any
13 questions for Mr. Petri?

14 (No response.)

15 CHAIRMAN BROADBENT: If not, we'll let you go,
16 and thank you very much for coming. Mr. Secretary, will you
17 please announce our next witness?

18 MR. BISHOP: The Honorable Michael R. Turner,
19 United States Representative, 10th District, Ohio.

20 CHAIRMAN BROADBENT: Welcome, Mr. Turner.

21 STATEMENT OF THE HONORABLE MICHAEL R. TURNER

22 CONGRESSMAN TURNER: Excuse me. Thank you so
23 much for having me today, and really for your work and your
24 diligence. Chairman Broadbent and members of the
25 Commission, I want to thank you for the opportunity for me

1 to speak to you today. As you know, I testified before this
2 Commission in 2008 on the original thermal paper
3 investigation.

4 I thank you for that decision to level the
5 playing field for U.S. workers, especially those in my
6 Southwest Ohio community, in the face of unfair trade
7 practices. Today, I urge the Commission to keep the
8 anti-dumping and countervailing duties in place for another
9 five years.

10 At this time, I would like to recognize the
11 Appvion employees who have traveled from Ohio to witness
12 today's hearing. I was very pleased to speak to them today,
13 and it certainly shows their dedication, that they are here
14 representing all of the employees from the facility. Now
15 these employees are all United Steelworkers members, and are
16 here to show their support for the continuation of the
17 orders on thermal paper from China and Germany.

18 In 2008, Appleton Paper, now Appvion, made an
19 investment its own future by spending \$100 million on a new
20 state of the art thermal coater at its mill in West
21 Carrollton, Ohio, which is in my Congressional district. I
22 had the honor of attending the ribbon-cutting ceremony for
23 the new coater in August of 2008.

24 This initiative greatly increased Appvion's
25 competitiveness, and resulted in the creation of hundreds of

1 new jobs in a part of our state that has faced significant
2 challenges in recent years. However, Appvion knew that this
3 significant investment could only be successful if the
4 domestic market was not once again plagued with dumped and
5 subsidized imports.

6 Chinese and German unfair trade practices
7 drove prices down to unprofitable levels, jeopardizing the
8 very viability of this investment. I felt strongly then and
9 continue to feel strongly today that we must ensure that
10 companies like Appvion, which increased its investment and
11 commitment to manufacturing in America, are afforded the
12 protections that are available under our trade laws.

13 The anti-dumping and countervailing duty
14 orders on thermal paper have done what they were intended to
15 do. As a result of the duties, pricing for point of sale
16 paper has returned to more normal levels, which has allowed
17 Appvion to improve its sales and profitability.

18 The market discipline afforded by the
19 anti-dumping and countervailing duty orders allowed Appvion
20 to fully ramp up the West Carrollton coater in a market that
21 was not distorted by unfair trade. I would point out,
22 however, that it would be very easy for the market to
23 deteriorate if the duties were removed at this juncture.

24 Imports of thermal paper from China and
25 Germany continue to undersell U.S. products. I understand

1 that Chinese producers frequently try to bring products into
2 this market while evading the duties. That just
3 demonstrates the lengths to which importers will to bring
4 cheap, subsidized and below-cost products in our markets.

5 Moreover, the threat from China to the U.S.
6 thermal market has only grown since 2008, as in the interim,
7 China has more than doubled its capacity to produce thermal
8 paper. The primary German producer, Koehler, withdrew from
9 the market after the Commerce Department uncovered a fraud
10 scheme and actually increased the duties.

11 Those duties were subsequently reduced and now
12 Koehler is back in the U.S. market employing its old pricing
13 practices, which are here today. Madam Chairman, it is not
14 the time to eliminate the anti-dumping and countervailing
15 duty orders. Good manufacturing jobs in Ohio are dependent
16 on Appvion being able to continue to operate in a fair trade
17 environment.

18 I thank you for the time to consider my
19 remarks today, and I appreciate the hard work that you do in
20 protecting American workers. Thank you.

21 CHAIRMAN BROADBENT: Thank you very much.

22 MR. BISHOP: Our final Congressional witness
23 is the Honorable Reid J. Ribble, United States
24 Representative, 8th District, Wisconsin.

25 CHAIRMAN BROADBENT: Welcome Mr. Ribble. You

1 may begin when you're ready.

2 STATEMENT OF THE HONORABLE REID J. RIBBLE

3 CONGRESSMAN RIBBLE: Thank you, Madam Chairman
4 and members of the Committee for the opportunity to testify
5 before you today, on the domestic lightweight thermal paper
6 industry and its workers. Before I get into my written
7 testimony, I would like to say that I grew up and I reside
8 in Appleton, Wisconsin, and went to elementary school,
9 middle school, and high school there.

10 My commercial roofing company before I came to
11 Congress in 2011 had Appvion as one of its customers. I'm
12 well aware of Appvion's role in the City of Appleton and its
13 hard-working employee-owned workforce. I can tell you their
14 connection to this city is such that prior to being known as
15 Appvion, as they are today, they were known simply as
16 Appleton. There's a real connection to northeast Wisconsin
17 and Wisconsin's very robust paper industry. So I'm happy
18 and honored to be here and talk on their behalf.

19 While I'm a strong proponent of free and fair
20 trade, I also believe that countries ought to play by the
21 rules that they have agreed to with other nations, without
22 force and of their own choosing, and in the context of the
23 World Trade Organization. When companies dump their
24 products on our market or receive government subsidies as in
25 this case, they are not playing by the rules.

1 Appvion, the chief Petitioner in this case,
2 has been headquartered in Wisconsin's Fox River Valley for
3 over a century, and is currently one of the world's largest
4 producers of carbonless paper. It is also a leading global
5 producer of thermal paper and specially coated products.

6 Appvion is constantly in a process of
7 innovating, and has not shied away from reinventing itself
8 when it has needed to in order to maintain its competitive
9 edge. This makes Appvion a true bright spot among
10 Wisconsin's manufacturers.

11 Since 2001 Appvion, which has 1,000 employees
12 in my Congressional district, has been entirely owned by its
13 shareholders and employees who share in both the net income
14 and losses of the business. I want to welcome Appvion's
15 capable leadership, several of whom are appearing today
16 before the Commission, along with a number of Appvion
17 employees who have traveled a great distance to be here
18 today.

19 The Department of Commerce has already
20 determined that if the orders on Germany and China were to
21 go away, dumping and subsidization would return. Appvion is
22 even more vulnerable to renewed dumping and subsidization,
23 given that China has added substantial tons of new capacity
24 just since the duties went into effect in 2008.

25 As has been the case in many industries in

1 China, but in the paper industry in particular, the Chinese
2 government has paid significant subsidies to build and
3 expand capacity, for which there is insufficient demand in
4 their own country. One study on international thermal paper
5 production states that China increased its total capacity
6 from 230,000 tons in 2012 to 430,000 tons in 2014.

7 The same report notes that China has 23
8 percent of the world's thermal paper capacity. Consumption
9 in China accounted for only 190,000 tons in 2013, which
10 means the country has over twice the capacity it needs for
11 the demand in its home market. All of that capacity will
12 have to find an outlet somewhere, and if duties in China are
13 removed, much of it will likely find its ways into the U.S.
14 market, the most open economy in the world.

15 With respect to Germany, I would note that I
16 joined my colleagues from Wisconsin, Ohio and Pennsylvania
17 in a letter to the Department of Commerce condemning what
18 the Department of Commerce has also found as a deliberate
19 scheme to conceal home market sales and manipulate home
20 market price data on the part of Koehler, the largest
21 thermal paper manufacturer in Germany.

22 I hope that you would consider that this
23 company resorted to cheating to artificially manipulate its
24 dumping margin, when considering whether to keep current
25 policy in place. Overall, I believe that the current trade

1 policy has helped to appropriately level the playing field,
2 by ensuring that our paper industry doesn't lose market
3 share or opportunities simply due to subsidization by
4 foreign governments.

5 I very much appreciate the opportunity to
6 testify today, and with that, my comments are concluded.

7 CHAIRMAN BROADBENT: Are there any questions
8 for Mr. Ribble?

9 (No response.)

10 CHAIRMAN BROADBENT: Seeing none, we'll let
11 you go, and thank you very much. It means a lot to have you
12 here. Mr. Secretary, please announce our next witness.

13 MR. BISHOP: Our next witness is Sibylle
14 Zitko, Senior Advisor of Legal, the Delegation of the
15 European Union to the United States.

16 CHAIRMAN BROADBENT: Welcome, Ms. Zitko. You
17 may begin when you're ready.

18 STATEMENT OF MS. SIBYLLE ZITKO

19 MS. ZITKO: Good morning, Madam Chairman and
20 members of the Commission. Okay. My name is Sibylle Zitko,
21 and I'm the Senior Legal Advisor at the Delegation of the
22 European Union to the United States. I advise the
23 delegation, among other things, on a range of trade-related
24 legal and policy issues, including on multilateral WTO trade
25 remedy issues.

1 I was trained as a lawyer in both Germany and
2 the United States, and I worked in law firms in Munich,
3 Germany and Washington, D.C. prior to joining the European
4 Union Delegation here in Washington in 1997.

5 I am here today to speak in support of German
6 producers of lightweight thermal paper, and to urge you to
7 revoke the anti-dumping order. The lightweight thermal
8 paper industry is an important part of the European economy
9 and Koehler is one of the biggest and most reputable
10 producers of the product.

11 Koehler first started producing paper by hand
12 in 1807 in Oberkirch, Germany, and the company remains
13 headquartered there to this day. Today, the company has a
14 reputation for producing high quality premium products.
15 Koehler has been a model corporate citizen. For example, in
16 2010, Koehler's home state of Baden-W rttemberg awarded
17 Koehler its environmental prize, recognizing outstanding
18 performance in operational environmental protection.
19 Koehler has deep historic ties to Germany and Europe.

20 From the outset, allow me to respectfully
21 submit that the Petitioners' rhetoric about fraud is
22 inappropriate and very concerning to the European Union. We
23 have looked into the facts and commend Koehler for doing
24 everything possible to set right an unfortunate situation
25 brought about by rogue employees.

1 We respectfully ask the Commission to put
2 aside these poisonous allegations, which are legally
3 irrelevant for the pending proceeding. If the Commission
4 desires specific information, Koehler would of course be
5 glad to provide it. In this context, I would also add that
6 Koehler has challenged the U.S. Commerce Department findings
7 based on this alleged fraud before the U.S. courts.

8 Koehler has done so not because it has been
9 aggressive, as has been claimed by the Petitioners, but
10 because it does not agree with the characterization or
11 treatment of its limited sales.

12 Moving on to the substance of this hearing, I
13 would like to first address the issue of whether the
14 Commission should cumulate German lightweight thermal paper
15 with Chinese lightweight paper. There is no basis for
16 cumulation. Germany and China produce different products
17 that are not physically or functionally interchangeable at
18 the time of importation.

19 German lightweight paper produces jumbo rolls
20 which require further processing by converters before they
21 are usable in thermal printers. U.S. converters produce the
22 final end use product called the slit roll by cutting the
23 jumbo rolls to a size that will fit the printer. This has
24 always been the business model and sales channel of German
25 producers.

1 In contrast, we understand from Koehler that
2 imports of lightweight thermal paper from China consists of
3 slit rolls that can be used immediately by end users with no
4 further processing. The Commission cited this lack of
5 interchangeability when it declined to cumulate German and
6 Chinese imports in 2008, and the same reasoning still
7 applies today.

8 Second, the anti-dumping orders should be
9 revoked because the rationale given in 2008 no longer
10 applies. The original justification for the order was
11 extremely narrow. Significantly, the Commission unanimously
12 found that the domestic industry has not been materially
13 injured during the Period of Investigation.

14 Rather, the Commission concluded on a split 3
15 to 3 vote that German imports of lightweight thermal paper
16 posed a threat of material injury without an anti-dumping
17 order. In particular, the Commission was concerned about
18 the domestic industry's ability to compete with German
19 imports of 48 gram lightweight thermal paper, a product that
20 German producers had not been dumping.

21 The lead Petitioner, Appvion, had been widely
22 marketing its version of the 48 gram product only since
23 2007. To be competitive with a 48 gram product, it needed
24 certification from major customers and had received
25 certification just a month earlier in July 2008. Thus, the

1 Commission expressed concern about whether Appvion would be
2 competitive in this new product.

3 The domestic industry has now successfully
4 shifted to the 48 gram product, and is very competitive in
5 this segment of the market. In addition, the market is
6 shifting again, as demand for BPA and phenyl-free products
7 increases. In the U.S. market, we understand that some
8 customers, due to safety reasons, request products made with
9 more natural components which do not include BPA or other
10 phenyl-based chemistry.

11 Appvion is a pioneer in developing these
12 products, and was one of the first producers to offer a
13 BPA-free lightweight thermal paper product. Now the
14 situation is reversed from the original investigation, and
15 Appvion is the market leader in a popular new product.
16 Thus, the basis for the Commission's original threat
17 determination is no longer relevant.

18 Third, demand for lightweight thermal paper
19 from the German producers is strong in their home market and
20 is growing rapidly in other non-U.S. markets. Europe
21 especially is an important market for the German producers,
22 since they can utilize well-developed business networks and
23 sell their products at reduced shipping costs in the EU
24 internal market, devoid any tariff or non-tariff barriers.

25 The German producers export to nearly every

1 continent and have a worldwide distribution network to
2 support such exports. They have developed several other
3 valuable export markets during the period of review,
4 particularly in Europe and Latin America. The German
5 producers expect to see continued strong demand from these
6 markets, as they continue to develop.

7 The rate of increase in demand in these
8 critical markets is outpacing the increase in U.S.
9 consumption, which makes selling in these markets more
10 attractive. We understand from Koehler that it is
11 effectively at full capacity, and that according to the
12 export report of Professor Orley Ashenfelter, who wrote --
13 who you will hear from later today, it is unlikely that
14 Koehler will shift a substantial amount of other BTP sales
15 from other markets in the U.S. German producers have no
16 incentive to shift imports to the United States at the
17 expense of other markets they have developed.

18 Fourth, domestic industry has made significant
19 improvements since the anti-dumping order was put into
20 place, and these improvements are unrelated to the order.
21 In addition to successfully shifting to the 48 gram product,
22 one domestic producer, WTPS, increased to its pre-recession
23 levels as the economy has rebounded.

24 Second, the domestic quotas have reduced
25 operating costs by retiring inefficient production assets

1 and, as noted, three, the domestic industry has established
2 themselves as leaders in the production of the new BPA-free
3 and phenyl-free products.

4 In fact, market studies show that U.S. thermal
5 paper production increased 15 percent between 2011 and 2013.
6 Domestic producers expect this trend to continue as U.S.
7 consumption of RWTP increases into the foreseeable future.
8 Just as these improvements are unrelated to the German
9 order, lifting the Germany order would not disrupt these
10 positive trends.

11 The domestic industry has had sufficient
12 protection from the dumping order, and there is no
13 justification for extending the dumping order.

14 Finally, I would like to turn to the report of
15 Professor Orley Ashenfelter from Princeton University, who
16 is testifying on behalf of Koehler today. His report shows
17 that one, the order had no discernible price effect on jumbo
18 rolls of LWTP sold in the U.S. Two, it is unlikely that
19 revoking the order with respect to German imports would have
20 an impact on prices in the U.S.

21 Three, the domestic industry is not vulnerable
22 to imports of LWTP from Germany, and four, that revocation
23 of the order is not likely to lead to a substantial increase
24 in imports from Germany to the U.S. This analysis in this
25 case is persuasive, and demonstrates that the anti-dumping

1 orders should be revoked.

2 In conclusion, the European Union respectfully
3 requests that the anti-dumping order against the German
4 producers be revoked. No threat to the domestic industry
5 from imports of German lightweight thermal paper has
6 materialized over the period of review, nor would any harm
7 come to the domestic industry if the order were revoked.

8 The domestic industry is competitive with 48
9 gram lightweight thermal paper products, and is
10 well-positioned for the shift toward BPA and phenol-free
11 products. Moreover, since the order, the German producers
12 have devoted substantial time and expense to developing
13 several growing markets.

14 The Commission's reasons for narrowing
15 justifying the order in 2008 simply no longer apply, and the
16 order should be revoked. I thank you for your time and
17 careful consideration of this matter.

18 CHAIRMAN BROADBENT: Thank you, Mr. Zitko, we
19 very much appreciate your participation today.

20 Are there -- let's see, then we turn to opening
21 remarks.

22 MR. BISHOP: Opening remarks on behalf of those
23 in support of continuation of the orders will be by Joseph
24 W. Dorn, King and Spalding.

25 OPENING REMARKS IN SUPPORT OF CONTINUATION OF ORDERS

1 MR. DORN: Good morning. These review involve
2 lightweight thermal paper which is usually used -- mostly
3 used for point-of-sale receipts.

4 During the period of the original investigation
5 2005 to 2007, the U.S. economy was surging. Retail sales
6 were increasing and demand for lightweight thermal paper was
7 robust. The domestic industry, however, suffered declining
8 performance as subject imports increased. Given the
9 likelihood that subject imports would continue to increase
10 and have increasingly negative price effects, the Commission
11 determined that the industry was threatened with material
12 injury.

13 The imposition of the order allowed the domestic
14 industry to survive the great recession and to take
15 advantage of an improving economy in the last several years.
16 If the orders were revoked, subject imports would increase
17 from each country and have severe negative price effects.
18 The combined volume and price effects would injure the
19 domestic industry within a reasonably foreseeable time. The
20 conditions of competition make the domestic industry
21 susceptible to injury from unfairly priced imports. The
22 purchasers' questionnaires make clear that price is a very
23 important factor in purchasing decisions.

24 German and U.S. jumbo rolls are highly
25 interchangeable as are split rolls from China in the United

1 States. The United States is a very attractive market both
2 due to its large size and high prices relative to other
3 countries.

4 In its prior determination on China, the
5 Commission found that substantially increased imports were
6 imminent. Since 2008, China has added over 600,000 short
7 tons of thermal paper capacity. In these reviews the
8 Commission sent foreign producer questionnaires to 31
9 Chinese producers but it did not receive a single response.
10 No party has asked the Commission to revoke the orders on
11 China.

12 In its prior determination on Germany, the
13 Commission found that the United States was a significant
14 export market for the German industry which was highly
15 export oriented and that the gradual increase in imports
16 from 2005 to 2007 was likely to continue. The Commission
17 also found that the anticipated increase in imports would
18 have greater price effects than observed during the period
19 of investigation. The Commission found that 48 gram paper
20 would increasingly be the focus of both the domestic
21 industry and the German exporters. And that imports of
22 lower-priced 48 gram paper would likely lead to price
23 depression or price suppression due to this more-direct
24 competition absent the imposition of antidumping order.

25 The Commission's prediction was spot on, 48 gram

1 paper now dominates the U.S. market making the competition
2 even more intense today.

3 Revocation of the order on Germany would lead to
4 continuation or recurrence of material injury. First, the
5 volume of the imports would be significant. The German
6 producers remain export oriented. In its final comments
7 filed in 2008, Koehler told the Commission that with or
8 without an order its exports to the United States would
9 "decline drastically" as they were replaced by the
10 production of the U.S. plant that Koehler repeatedly told
11 this Commission it was going to build. Koehler, however,
12 built no such plant. They continue to serve this market
13 from Germany.

14 Since the end of last year, Koehler has been
15 facing intense competition from Hansel of Korea in its
16 European market. As a result, Koehler needs the larger,
17 higher-priced U.S. market more today than it did in 2008.

18 Second, imports from Germany would have
19 significant negative price effects. Given the conditions of
20 competition and the evidence of underselling in the original
21 investigation, dumped imports from Germany would force
22 domestic producers to lower their prices to maintain sales.
23 In fact, the likelihood that dumped imports would depress
24 and suppress domestic prices is much greater now than in
25 2008.

1 Unlike in 2008 the competition is now focused on
2 48-gram paper. Moreover, Koehler will have to reduce its
3 prices to regain the sales it lost to domestic coaters and
4 non-subject imports when the antidumping order forced it to
5 exit the market. Koehler concedes that its December 2012
6 announcement that it would exit the market caused prices to
7 rise in the United States in 2013. Likewise, Koehler's
8 announcement 12 months later that it would reenter the
9 market caused prices to fall. Without an antidumping order
10 prices would fall faster and prices would fall deeper.

11 Third, imports from Germany would have a severe
12 adverse impact on the domestic industry. The combined
13 negative volume and price effects would adversely affect the
14 domestic industry's output, employment, prices, and
15 financial results. This is made clear by a comparison of
16 the state of the domestic industry with and without Koehler
17 in the U.S. market.

18 In December 2012, Koehler announced that it would
19 cease exporting to the United States in April of 2013 when
20 its cash deposit rate would increase to 75 percent. You can
21 see from the confidential record how the domestic industry
22 performed in 2013 relative to prior years. The adverse
23 impact of Koehler's reentry into the market will be much
24 worse without an antidumping order.

25 In short, Appvion, its workers, and the domestic

1 industry as a whole request the Commission to make
2 affirmative determinations with respect to both Germany and
3 China.

4 Thank you very much.

5 CHAIRMAN BROADBENT: Thank you, Mr. Dorn.

6 MR. BISHOP: Opening remarks on those in
7 opposition to continuation of the orders will be by F.
8 Amanda DeBusk, Hughes, Hubbard and Reed.

9 CHAIRMAN BROADBENT: Welcome, Ms. DeBusk.

10 OPENING REMARKS IN OPPOSITION OF

11 CONTINUATION OF ORDERS

12 MS. DeBUSK: Good morning. Ladies and gentlemen
13 of the Commission, I'm Amanda DeBusk of Hughes, Hubbard and
14 Reed on behalf of Koehler.

15 The Commission will hear some highly charged
16 claims from Appvion. I suggest give issues for the
17 Commission to keep in mind.

18 First, the domestic industry is in a much
19 different and better position today than it was in 2008. In
20 the original investigation the Commission found no current
21 injury but decided on a three/three vote that there was a
22 threat of injury. Because the effects of the great
23 recession were beginning to be felt and the expectation was
24 that the demand would decline.

25 Koehler had recently introduced 48 gram paper

1 which was quickly growing in popularity. U.S. coaters
2 initially struggled to compete. The situation today is
3 almost the exact opposite of what it was in 2008. The
4 economy is recovering and the demand has been on an upward
5 trend that is expected to continue.

6 Appvion's ability to compete has changed too.
7 Early in the POR Appvion succeeded in making a competitive
8 48 gram product. Meanwhile Appvion has become the leader in
9 the new high demand product, BPA-free paper.

10 Second, the order as to imports from Germany had
11 nothing to do with the domestic industry's improved
12 condition during the POR. Princeton University Professor
13 Ashenfelter analyzed the relevant data. He found that the
14 order had no observable positive effect on the price of
15 imports from Germany or on the U.S. industry.

16 There are several reasons the domestic industry
17 improved that are unrelated to the discipline of the order.
18 One is the economic recovery. Another is the domestic
19 industry's switch to 48 gram paper and leadership on
20 BPA-free paper. Appvion also had old machinery and could
21 not efficiently make base paper to coat. During the POR
22 Appvion mothballed its old machinery and entered into a
23 long-term supply arrangement for base paper. That
24 dramatically reduced Appvion's costs and made it far more
25 competitive. None of this had anything to do with the

1 order.

2 Third, there is no reason to believe that Germany
3 will significantly reduce prices or increase volumes to the
4 U.S. if the order is revoked. And there is no merit to
5 Appvion's argument that prices declined in late 2013 because
6 Koehler announced its intention to return to the U.S.
7 market. Appvion's argument ignores non-subject imports.

8 As for price, in over 90 percent of comparisons,
9 German prices were higher than domestic prices in the U.S.
10 market. There is no evidence that Koehler needs to
11 undersell to compete or that it would have done so in the
12 absence of the order.

13 As for volume, the German industry has developed
14 non-U.S. markets that it has no plans to abandon. Koehler
15 has consistently operated at full capacity and plans to sell
16 less in the U.S. market in the future.

17 There also is no profit incentive for Koehler to
18 shift sales to the U.S. When product mix is taken into
19 account, Koehler's profits have traditionally been about the
20 same in the U.S. as elsewhere. Koehler is a 200-year-old
21 family business which looks at profits over the long term.

22 This brings me to our fourth point. Appvion's
23 inflammatory allegations of fraud have no resemblance to
24 reality or relevance to the Commission's analysis. While
25 Koehler regrets the conduct of certain rogue employees that

1 conduct was isolated and is in the past. You just hear a
2 representative from the EC testify about Koehler's strong
3 corporate citizenship. In the most recent review, Commerce
4 verified Koehler and gave it a zero rate.

5 Finally, the Commission should consider the
6 converters. Most converters favor lifting the order against
7 Germany. One of the largest coaters will testify today on
8 behalf of Koehler. When you listen to the converters
9 testifying for Appvion, please keep in mind their market
10 shares and the fact that they do not buy from Koehler.

11 We urge the Commission not to be distracted by
12 Appvion's unsupported claims and focus on the facts. The
13 facts will lead you to the conclusion that the order with
14 respect to Germany must be revoked.

15 Thank you.

16 CHAIRMAN BROADBENT: Thank you, Ms. DeBusk.

17 MR. BISHOP: Would the first panel, those in
18 support of the continuation of the antidumping and
19 countervailing duty orders please come forward and be
20 seated.

21 Madam Chairman, all witnesses have been sworn.

22 CHAIRMAN BROADBENT: Thank you, Mr. Secretary.

23 (Pause.)

24 CHAIRMAN BROADBENT: I want to welcome the panel
25 to the ITC. You may begin whenever you're ready.

1 (Pause.)

2 MR. DORN: Chairman Broadbent, Vice Chairman
3 Pinkert, Commissioners, Joe Dorn for Appvion.

4 I would like to begin by referring to some
5 confidential exhibits supporting some of the points made in
6 my opening statement and rebutting a couple of points made
7 in Koehler's prehearing brief. So I hope you have my
8 confidential exhibits in front of you.

9 Starting with the conditions of competition.
10 Confidential hearing Exhibit A shows the percentage of
11 converters who responded that paper from Germany and the
12 United States is always or frequently interchangeable.

13 Exhibit B shows the percentage of converters who
14 bought both U.S. and German paper in 2013.

15 These data points are unusual relative to most
16 cases that you have before you.

17 I noted that the domestic industry's performance
18 declined from 2005 to 2007 when subject imports were
19 increasing and improved from 2011 to 2013 when subject
20 imports were falling. The contrasting trends are summarized
21 on Exhibit C.

22 Koehler has suggested that the improvement in
23 profitability is due to a sharp reduction in Appvion's other
24 factory costs from 2012 to 2013, but as shown in Exhibit D,
25 that is not true and nonrecurring, one-time charges are

1 excluded. The improvement in Appvion's financial results
2 was purely due to higher prices in 2013 not lower costs.

3 In that regard Exhibit E highlights Professor
4 Ashenfelter's concession that Koehler's withdrawal from the
5 U.S. market had a positive price impact in 2013.

6 With regard to the attractiveness of the large
7 U.S. market Exhibit F compares the German producers' average
8 unit shipment values to the United States to all other
9 export markets from 2008 to 2014. Look particularly at the
10 difference in the most recent period.

11 Exhibit G shows the comparison -- the same
12 comparison, but with respect to each of the other regions
13 identified in the foreign producers' questionnaire and broke
14 out region by region.

15 In its prior determination the Commission found
16 that German producers would be able to continue increasing
17 their production capacity by shifting capacity previously
18 devoted to other products to lightweight thermal paper.
19 Exhibit H shows why Koehler could easily do that if the
20 order were revoked. You can see how Koehler shifted its
21 capacity when it withdrew from the United States. It could
22 shift back to support its reentry.

23 I'd like to now turn to my public slides and what
24 I'd like to do is to respond briefly to Koehler's statement
25 at page 2 of its brief, that, "the Commission should

1 disregard Appvion's inflammatory, misleading, and irrelevant
2 allegations of fraud" and also respond to the opening
3 statement in the remarks from the European Commission about
4 the fraud issue.

5 To begin with, our brief contains no allegations
6 of fraud. Instead, at Exhibit 3 we merely recited -- quoted
7 from the findings of the Department of Commerce that Koehler
8 had engaged in a fraudulent transshipment scheme to conceal
9 whole market sales and manipulate whole market price data to
10 lower its dumping margin.

11 Hearing Exhibit A repeats a couple of those
12 findings word for word. These are not allegations. These
13 are findings. The fraud occurred in both the second and
14 third administrative reviews which covered Koehler's import
15 entries during November 2009 to October 2011.

16 Exhibit B shows what Commerce stated in its
17 December 2012 preliminary results. Note that Commerce found
18 that Koehler deliberately coordinated with multiple parties
19 prior to the review to manipulate its sales prices.

20 Koehler argues at page 8 of its brief that the
21 fraud did not involve senior Koehler management. You've
22 heard that reference to "rogue employees" in the opening
23 statement, but as show, Exhibit C, the Court of
24 International Trade held that Koehler's argument is not
25 supported by Commerce's record. Interestingly, Koehler

1 failed to disclose that decision to the Court of
2 International Trade in its prehearing brief to this
3 Commission.

4 In addition, Koehler and Professor Ashenfelter
5 repeatedly characterized Koehler's 75 percent dumping margin
6 as, "punitive" and then suggest for that reason it is no
7 longer relevant to the sunset review. But, again, Koehler
8 is wrong. Both Commerce and the Court of International
9 Trade rejected Koehler's argument that the 75 percent margin
10 is punitive. As shown in Exhibit D, the Court of
11 International Trade held that the rate, "was not punitive
12 because it was properly corroborated".

13 Koehler also argues that the fraud did not have a
14 significant effect on actual margins and that its margins
15 would have been de minimus in 2.71 percent if its concealed
16 sales had been reported and if it's post-sale monthly bonus
17 adjustment were accepted. But there is zero record evidence
18 to support these allegations by Koehler.

19 Both Commerce and the Court of International
20 Trade rejected Koehler's unsupported claims that the fraud
21 had a minor affect on its margins. So why are these
22 findings by Commerce relevant to this sunset review? There
23 are several reasons.

24 First, as a result its fraud, Koehler was able to
25 offer lower prices to U.S. customers during at least two

1 years based on the expectation that it had manipulated its
2 home market sales in order to eliminate any antidumping
3 duties. Thus, the fraud reduced the benefit of the orders
4 to the domestic industry.

5 Second, the very fact that it was engaging in
6 this scheme to allow more flexibility on price implies that
7 -- or implicitly concedes the importance of price in
8 purchasing decisions in this market.

9 And third, the fact that Koehler committed fraud
10 to avoid duties demonstrates its strong motivation to
11 participate in the U.S. market. And you've cited evidence
12 of circumvention in prior decisions in saying that that
13 shows motivation.

14 Mark Richards is our first industry witness.

15 STATEMENT OF MARK RICHARDS

16 MR. RICHARDS: Good morning, my name is Mark
17 Richards. I'm the Chairman, President and CEO of Appvion.

18 I've held this position since April of 2005. Appvion has
19 1,700 employees with over a thousand represents by 5 USW
20 locals across five states. Some of our union employees have
21 traveled to be here today and I would like to acknowledge
22 them and thank them.

23 Appvion is owned by its employees who in most
24 cases invested their retirement savings to acquire the
25 company. Our employees depend on the company for their

1 daily livelihood and for their retirement. No one can doubt
2 our commitment to continued production of lightweight
3 thermal paper as evidenced by our ongoing efforts to improve
4 the production process using product quality.

5 Let me begin by saying revocation of the orders
6 on imports from China would be very damaging to the
7 converters, slit rolls from China rapidly increased from
8 2005 to 2007. Since the orders were imposed in 2008,
9 legitimate imports from China had been out of the U.S.
10 market but they would quickly return if the duties were
11 removed.

12 Since 2008 Chinese thermal production capacity
13 has sky-rocketed. The return of Chinese slit rolls would
14 directly harm the U.S. converters who would suffer lost
15 sales and lower prices that would cause Appvion to lose
16 sales of jumbo rolls to the converters and also to lower our
17 prices to make our converter customers more competitive with
18 the dumped and subsidized imports. The entire domestic
19 industry would suffer.

20 Appvion has been coating paper for over 100
21 years. We are a global leader in specialty papers and
22 other types of coatings. We make lightweight thermal paper
23 and other types of thermal paper in our facilities in
24 Appleton, Wisconsin and West Carleton, Ohio. We perform
25 extensive ongoing R&D and invest millions of dollars each

1 year for product innovation and new product development.

2 The production of lightweight thermal paper is
3 critical to our company and its future. Lightweight
4 thermal paper which is used mostly for point of sale and ATM
5 receipts is the largest thermal paper market segment. We
6 are committed to being in the forefront of innovation in the
7 production of and applications for thermal paper.

8 The Commission's affirmative decision in the
9 original investigation helped us withstand the downturn in
10 retail sales during the Great Recession by constraining
11 unfair pricing behavior. With the discipline of the order
12 in place, we were able to successfully ramp up our state of
13 the art West Carleton coater and transition most of our
14 production and sales to 48 gram paper.

15 We were also able to justify continued
16 investments to improve our quality, develop new products and
17 increase our production efficiency. In February of 2012,
18 we entered into a 15 year supply agreement with Domtar to
19 supply its base paper for a thermal and our carbonless paper
20 operations.

21 We did this for sound business reasons related
22 mostly to our carbonless operations, contrary to further
23 suggestion, this change has not lowered the material cost of
24 the base paper input for thermal paper production.
25 Likewise our product and operational improvements

1 demonstrate our commitment to continuously improve our
2 business to best serve our customers however it does not
3 make us immune to competitors like Kerr who take unfair
4 advantage derived from dumping.

5 Koehler's economists use our public statements
6 regarding our thermal paper operations to paint a picture of
7 robust health that cannot be damaged by unfair pricing. We
8 do not publish results specific to our lightweight thermal
9 paper operations. The Commission should rely on the data
10 that we have reported confidentially in our questionnaire
11 response.

12 I cannot say much more publicly, except that our
13 thermal paper operations for tag, label and entertainment
14 which are not part of this case, are doing well and strongly
15 influence the results relied on by Koehler's economists.
16 If the order on Germany were revoked, imports from Germany
17 would rapidly increase for several reasons.

18 First, the United States is a large market that
19 the German producers have served for many years. They have
20 existing U.S. customer relationships, U.S. sales
21 representatives and U.S. warehouses.

22 Second, based on our experience and what we know
23 from third party, prices for lightweight thermal paper are
24 generally higher in the United States than the rest of the
25 world.

1 Third, Koehler and Mitsubishi are facing new
2 competition from Hansol in Germany and the rest of Europe.
3 Due to this increasing competition in the German producer's
4 traditional markets, the United States is an even more
5 attractive market for them today than it was in 2008, except
6 there is one problem, the anti-dumping order. That is why
7 Koehler has appealed every adverse decision of this
8 Commission and Commerce Department and have hired a bevy of
9 economists to advocate the position in a pre-hearing brief
10 that weighs over 19 pounds and is about 7 inches thick.

11 Revocation of the order now would be severely
12 damaging to Appvion and the rest of the domestic industry.
13 There is a global oversupply of lightweight thermal paper
14 and a growth rate of new capacity exceeds the growth and
15 demand.

16 In the U.S. market competition between U.S.
17 producers, subject producers and non-subject producers is
18 getting more intense. U.S. demand appears to have
19 plateaued thus it is critical that all competitors play
20 within the rules. Koehler has demonstrated that they
21 cannot be trusted and the discipline of the order continues
22 to be necessary.

23 As for Mitsubishi it appears to have reduced its
24 exports to the United States given the difficulty of selling
25 at non-dumped prices. While the order has no doubt

1 constrained Koehler's prices and exports to the United
2 States, its reaction to the order has been extremely
3 disappointing. We are very concerned of course, that the
4 Commerce Department found that Koehler engaged in a scheme
5 to artificially manipulate its home market prices in order
6 to avoid anti-dumping duties.

7 Koehler's refusal to play by the rules has
8 deprived the domestic industry of some of the remedy that we
9 were expecting. Koehler is clearly a highly aggressive
10 competitor and is determined to grab a large share of the
11 U.S. market by whatever means possible, legal or illegal.
12 Because of the anti-dumping order we recently saw what can
13 happen when Koehler is absent from the U.S. market. Our
14 U.S. shipments increased, our prices increased and thus our
15 overall financial result improved.

16 But Koehler has publicly proclaimed a grand
17 return to the U.S. market while privately it has promised
18 special low-pricing to rebuild market share. How long and
19 how quick will be dictated by your decision in this sunset
20 review because Koehler is a major factor in the U.S. market
21 all other sellers must react to its pricing actions.

22 Converters buy from multiple sources. We
23 compete directly with Koehler and other supplies for sales
24 to the same converters. Even small price differences are
25 enough to shift sales from one supplier to another.

1 Koehler does not deserve an unfair advantage in this highly
2 competitive environment. On behalf of the 1,700 employees
3 and the 2,100 owners of our company, I respectfully urge
4 this Commission to continue the orders on lightweight
5 thermal paper from China and Germany.

6 We do not wish to foreclose any legitimate
7 competition here we simply want to compete in a market that
8 is not distorted by dumping and subsidies, thank you.

9 STATEMENT OF TODD DOWNEY

10 MR. DOWNEY: Good morning, my name is Todd
11 Downey. I'm Vice-President of Manufacturing at Appvion.
12 Previously I served as Executive Director and General
13 Manager of the POS business which is how we refer to our
14 production of lightweight thermal paper for POS receipts.
15 Paper becomes thermal paper through the coating process.
16 The coating permits thermal printers through the application
17 of heat to generate an image on the thermal paper.

18 The printing is typically a receipt showing your
19 purchase which might also include coupons, such as those
20 generated at your local drug store. Sometimes the back of
21 thermal paper, the non-coated side is printed with
22 advertising. We produce what is referred to as
23 jumbo-coated rolls as do the German producers. We do not
24 slit rolls and there are no slit rolls entering directly
25 from Germany rather jumbo rolls producers sell the

1 converters to slit the rolls to appropriate widths and
2 lengths.

3 The slitting or conversion process does not
4 change the coating of paper. Rather, the converters slit
5 the jumbo rolls to standardized sizes required for the use
6 in thermal printers. In the original investigation the
7 German Respondents argued that because 48 gram paper was
8 primarily supplied by Germany and 55 gram paper was
9 primarily supplied by the domestic industry, competition in
10 the U.S. market was attenuated.

11 The Commission did find differences in product
12 offerings during the period of investigation, but it
13 predicted that 48 gram paper would become the dominant
14 product in the U.S. market. The Commission was absolutely
15 correct. Both U.S. producers and both German producers now
16 offer 48 gram product as their primary product in the United
17 States. As a result the product has become more of a
18 commodity.

19 Competition is based even more on price today
20 than it was when we appeared before the Commission in 2008.
21 German and U.S. producers also offer BPA free paper in the
22 U.S. market. Appvion's coatings have been BPA free since
23 at least 2006 and Kanzaki has been an entirely BPA free
24 since the beginning of this year.

25 Likewise, Koehler and Mitsubitshi have been

1 offering BPA free paper for several years. While Appvion
2 was the first coater to offer BPA free paper in the U.S.
3 market, that distinction gives us no competitive advantage
4 today over German producers. The BPA free paper supplied
5 by Appvion, Kanzaki, Mitsubitshi and Koehler are fully
6 interchangeable and compete primarily on the basis of price.

7
8 Because converting equipment works equally well
9 with either U.S. or German jumbo rolls, large converters
10 typically buy jumbo rolls from multiple sources and use
11 simultaneous negotiations with multiple suppliers to obtain
12 lower prices.

13 Converters are very sensitive to price because
14 the jumbo roll is their key material input and cost driver.

15 If a converter is at a price disadvantage relative to other
16 converters on the jumbo roll input, there will be negative
17 consequences for that converter sales and profits. You
18 might think that U.S. producers have at least a lead time
19 advantage over their German competitors, but that is not the
20 case.

21 Most sales of both U.S. and German jumbo rolls
22 are made from inventories of standard size rolls maintained
23 in the United States, thus even small differences in price
24 are very important.

25 In some there are no significant non-price

1 factors to distinguish our jumbo rolls from German jumbo
2 rolls. We must keep our prices in line with those of
3 Koehler and Mitsubitshi to maintain our sales volumes.
4 Demand for POS receipts increased coming out of the Great
5 Recession but it has since flattened out. Use of
6 electronic receipts is increasingly impacting U.S. demand
7 for POS receipts.

8 I know that Koehler has pointed to the recent
9 increase in non-subject imports into the U.S. market. We
10 do not disagree with Koehler that that non-subject imports
11 have grown. They have grown because of the large size of
12 the U.S. market and the fact that prices in the United
13 States are generally higher than the other regions of the
14 world.

15 This additional import supply creates downward
16 price pressures in the U.S. market. Adding Koehler's
17 aggressively priced imports in the mix at this time would
18 make this situation worse. With its case deposit rate
19 reduced to zero in June of 2014, Koehler has already
20 re-entered the market. But they have seemed to show some
21 restraint. I believe that the only reason Koehler has not
22 been more aggressive to date is the timing of this hearing.

23 Koehler did not want to cause a major disruption
24 of the U.S. market with a flood of low-priced imports in
25 advance of the Commission's vote on whether to continue or

1 revoke the order. In other words, the pendency of this
2 sunset review is having a beneficial impact on Koehler's
3 behavior.

4 In addition when Koehler announced in December
5 2012 it would be withdrawing from the U.S. market in 2013,
6 Appvion was able to enter into some long-term contracts to
7 provide us some volume protection against Koehler's
8 potential re-entry. When those contracts expire in early
9 2015, we will face renewed competition with Koehler for
10 those accounts.

11 We do not object to competition. What we do
12 object to and what we hope this Commission will prevent is
13 competition with dumped imports. Koehler claims in its
14 brief that it has developed other valuable export markets
15 since the order was imposed. We know that no other market
16 is more valuable than the United States. Our market here
17 is very large and generally has higher prices than other
18 regions of the world.

19 If you look at the average unit values of
20 Appvion's U.S. sales and Appvion's export sales, as reported
21 on our questionnaire response, you will see why the U.S.
22 market is so attractive. In addition as Mr. Richards noted
23 the Korean producer Hansol has started competing vigorously
24 in the European market. Specifically in September of 2013,
25 Hansol acquired a European converter of thermal paper called

1 Schades. Hansol announced that it planned to get a 25%
2 share of thermal paper market in Europe. As Hansol gained
3 market share and depressed its prices in Europe, the U.S.
4 market will look that much more attractive to the two German
5 producers.

6 While Koehler may point to the increase in demand
7 and in developing regions of the world such as China and the
8 rest of Asia, those are the very regions that are already
9 over-supplied and where enormous excess capacity is located.

10 China alone has added over 600,000 short tons of thermal
11 capacity since we have appeared before the Commission in
12 2008.

13 As for Europe it would be lucky to void falling
14 into a recession. The near term prospects for demand or
15 price increases in Europe are poor, particularly as compared
16 to the U.S. market. Moreover, Koehler may have increased
17 its export to other markets, particularly in 2013 but we
18 know that increased supply and Koehler's aggressive pricing
19 contributed much lower prices in those markets.

20 If you revoke the order, Koehler will shift
21 quickly from other markets and bring as much volume as
22 possible into the high priced U.S. market. Koehler's
23 professed new lack of interest in the U.S. market is further
24 contradicted by existing U.S. sales representatives in
25 warehouses.

1 Imports from Germany are not needed to supply the
2 U.S. market. When Koehler announced in December 2012 that
3 it was withdrawing from the U.S. market due to the
4 anti-dumping order, we quickly ramped up additional coaters
5 to produce lightweight thermal paper. We increased our
6 production but the expected supply shortage never
7 materialized when Koehler was out of the market. In fact,
8 we built up excess inventories. Of course, non-subject
9 imports supplied a portion of that demand. To the extent
10 those non-subject imports were dumped, we are evaluating our
11 next steps.

12 Given the fact however, that non-subject imports
13 are already here, additional supplies from Koehler at this
14 time would have very serious adverse effects on our output
15 and prices. With no anti-dumping order, Koehler would be
16 able to quickly regain its lost market share by undercutting
17 the prices of domestic products.

18 This price competition for incremental German
19 supply would necessarily force down U.S. prices. As I have
20 explained, negotiations for sales to converters focus on
21 price. Koehler has a well-deserved reputation for
22 underselling its competitors to gain sales. With the order
23 in place, Koehler's underselling has been constrained,
24 notwithstanding the fact that it was willing to commit fraud
25 to avoid anti-dumping duties.

1 If you were to revoke the order on Germany prices
2 would be certain to fall in the U.S. market for two
3 fundamental reasons. First the U.S. market would attract
4 considerable additional supply because it is the high price
5 market. Second, Koehler would undersell our prices to gain
6 significant market share. Underselling would create a
7 downward price spiral at Appvion, Kanzaki and non-subject
8 imports react to the lower Koehler prices.

9 Jumbo roll producers must operate at high
10 capacity utilization rates to be profitable. Thus, jumbo
11 roll produces must compete based on price to move volume or
12 they will be forced to shut down their coaters. We have
13 already seen Koehler instigated price effects in 2014 and
14 their expectation of Koehler re-entering the market with
15 lower prices is enough to cause prices to drop. Koehler's
16 sales force made clear as early as December, 2013 that
17 Koehler would return to the U.S. market.

18 As a result, converters were extremely cautious
19 to avoid building inventories or entering into contracts to
20 avoid being trapped with relatively higher priced jumbo
21 rolls when Koehler re-entered the market with lower prices.

22 Converters had to demand lower prices from both
23 non-subject imports and U.S. producers as Koehler announced
24 it would be re-entering the U.S. market. I know that
25 Koehler has pointed to an increase in non-subject imports

1 when Koehler was out of the market in 2013 and 2014 but look
2 at our performance and financial results in those years.

3 We did much better after the Commerce
4 Department's administration of the order forced Koehler to
5 cease exporting even with non-subject imports increasing.
6 Revocation of the order on Germany would lead to intense
7 competition between the domestic industry and dumped imports
8 from Koehler and Mitsubitshi and non-subject imports.

9 If you were to revoke the order on Germany, we
10 would lose significant market share due to underselling.
11 The loss of volume would reduce our capacity utilization and
12 our pre-unit cost would rise. Lower market prices would
13 reduce revenues on sales that we do make. This would all
14 occur in the context of very modest growth, if any, in U.S.
15 consumption and very large increases in world supply.

16 The revocation of the order would result in
17 intensified competition in U.S. market among U.S. coaters,
18 German coaters and coaters from other countries. In short,
19 revocation of the order on Germany would threaten the
20 continued existence of our lightweight thermal paper
21 operations.

22 Similarly revocation of the orders in China would
23 directly harm U.S. converters and indirectly harm U.S.
24 coaters. The imposition of the provisional duties had
25 almost an immediate impact on imports from China which had

1 been increasing rapidly during the original period of
2 investigation. Subject imports from China decreased
3 following imposition of provisional duties in May of 2008
4 and have remained negligible ever since. There is plenty of
5 excess capacity in China which is one reason why prices in
6 Asia are the lowest of any region of the world.

7 It is almost certain that Chinese producers would
8 flood the U.S. market with extremely low priced slit rolls
9 if the orders are revoked. This would be very bad for U.S.
10 converters but as the Commission has recognized also for
11 U.S. producers of jumbo rolls. Appvion would lose sales to
12 converters as converters lost sales to imports of slit
13 rolls. We would also have to lower our prices to make
14 converters more competitive with imports.

15 In conclusion, the orders have greatly benefitted
16 Appvion. Since 2008 we have substantially increased our
17 production capacity, production, shipments and average unit
18 shipment values. Since coming out of the Great Recession
19 our financial results have greatly improved. We have
20 substantially increased our net sales, operating income and
21 cash flow. Due to the discipline of the orders we have
22 been able to increase our research and development
23 expenditures which are critical at keeping Appvion on the
24 cutting edge.

25 Despite this improvement in our lightweight

1 thermal business, we remain vulnerable to dumped and
2 subsidized imports. Even with more efficient operations
3 and a quality product, unfair price competition can quickly
4 turn positive operating results into negative ones. That
5 would certainly happen here if the orders are revoked, thank
6 you.

7 STATEMENT OF STEVE HEFNER

8 MR. HEFNER: Good morning, my name is Steve
9 Hefner and I am the President and CEO of Kanzaki Specialty
10 Papers. This is a position that I have held since July of
11 2003. I have been at Kanzaki for 24 years. Kanzaki is a
12 U.S. producer of direct thermal, thermal transfer and ink
13 jet coated papers and films. We have a very modern, state
14 of the art manufacturing facility located Massachusetts.

15 We have 214 employees, many of whom are
16 represented by the United Steel Workers Local 708.
17 Lightweight thermal paper is Kanzaki's largest business
18 segment. We are fully committed to the lightweight thermal
19 market if these orders are continued on China and Germany.
20 Since the beginning of 2008, thanks in large part to the
21 level playing field provided by the orders, we have been
22 able to justify making substantial capital expenditures to
23 upgrade coating and other equipment.

24 We have also made substantial R&D expenditures to
25 reformulate our products to become BPA free in order to meet

1 consumer demand. None of our production equipment is
2 antiquated and we have no production or supply disruptions.
3 German and U.S. jumbo rolls are highly interchangeable in
4 the view of my converter customers. As a result, my
5 customers make purchasing decisions primarily based on
6 price. This has always been the case in the U.S. jumbo
7 roll market but the increased focus on both U.S. jumbo roll
8 producers and importers of jumbo rolls from Germany on 48
9 gram product has made price more important than ever.

10 No matter where they are located geographically,
11 converters have ready access to both U.S. and German jumbo
12 rolls. Since the original investigation, the end users in
13 the U.S. market have been increasingly focused on 48 gram
14 product and also BPA free products. While Appvion was the
15 first to offer BPA free lightweight thermal papers in the
16 United States, Kanzaki has been doing so since 2013.

17 Koehler and Mitsubitshi have also been offering
18 BPA free products for at least several years. Appvion has
19 no competitive advantage over the Kanzaki, Koehler,
20 Mitsubitshi or Mitsubitshi with respect to BPA free
21 products. All BPA free products are highly
22 interchangeable.

23 As I explained to this Commission when you were
24 hearing the case in October of 2008, our operations were
25 adversely affected by the increase in imports from China and

1 Germany from 2005 to 2007. Demand for lightweight thermal
2 paper was strong and increasing during those years but
3 low-priced imports from China and Germany were taking market
4 share preventing Kanzaki from raising prices to keep up with
5 the rising costs.

6 Early in the period pricing pressures from German
7 producer Mitsubitshi caused Kanzaki to cancel planned price
8 increases. Subsequently as price undercutting by
9 Mitsubitshi continued, both Koehler and Appvion lowered
10 prices.

11 Thus, even though raw material and energy costs
12 were rising, Kanzaki was forced to cut prices on commodity
13 grades to all customers, including our largest customers who
14 were already receiving our best prices. Kanzaki's raised
15 prices to cover their increased costs were frustrated by the
16 increasing volume of low-priced imports from both China and
17 Germany.

18 In particular, Koehler aggressively cut prices to
19 gain new customers in the U.S. market. In short, even
20 though costs continued to rise until the case against unfair
21 imports started, all efforts by Kanzaki to raise prices
22 effectively failed due to the large and increasing volume of
23 imports from China and Germany.

24 From 2005 to 2007 the financial performance of
25 our lightweight thermal paper business deteriorated. This

1 happened despite increasing demand for lightweight thermal
2 paper. Given the negative effects of imports, Kanzaki was
3 forced to postpone and reduce the size of our capital
4 investments. The imposition of the preliminary duties in
5 March and May of 2008 stopped the downward spiral in our
6 business.

7 In this changed environment our announced price
8 increases were at least particularly successful and we got
9 increases from most customers. Despite the adverse effects
10 of the Great Recession we were able to stabilize our
11 lightweight thermal paper operations.

12 Like any company dependent on robust retail
13 sales, you suffer negative operating results during the
14 Great Recession. Would it have been far worse if the
15 orders had not been imposed? As we pulled out of the
16 recession from 2011 to 2013, we once again started to see
17 demand conditions like those that we had in 2005 to 2007.
18 This time, however, we were able to take advantage of the
19 rising demand and our performance improved.

20 The impact of imports from Germany can be seen
21 most directly in the improvement after Koehler announced in
22 December of 2012 that it was withdrawing from the U.S.
23 market due to the high anti-dumping duties that were going
24 to be imposed in 2013. Our market share prices and
25 financial results all improved.

1 Conversely, after Koehler announced in December
2 of 2013 that it would be soon to return to the U.S. market
3 our customers began to insist on lower prices in
4 anticipation of low price jumbo rolls from Koehler. If the
5 order is revoked we anticipate a swift return to the market
6 conditions that prevailed during 2005 to 2007. Imports
7 would surge from China and significantly increase from
8 Germany as the importers cut prices to increase market
9 share.

10 Imports of jumbo rolls would undersell our
11 products and imports of slit rolls would be priced so low as
12 to leave some U.S. converters no choice but to purchase
13 Chinese product rather than jumbo rolls to convert, just as
14 they did during the original period of investigation.

15 We would anticipate lower production due to the
16 lost sales as unfair imports take market share in the United
17 States. This would reduce our capacity utilization and
18 increase our unit fixed cost on the remaining sales.
19 Kanzaki would also suffer lower prices on its remaining
20 sales as we try to avoid lost sales due to lower priced
21 imports.

22 The loss of market share decreased -- loss of
23 market share decreased production and lower profits will
24 eliminate any economic justification to invest in our
25 lightweight thermal paper operations. In fact, our

1 operations would shrink within a short period of time that
2 is why I believe it is critical that the orders remain in
3 place.

4 In summary, Kanzaki's performance has
5 significantly improved thanks to the orders. We remain
6 very vulnerable to increased imports from Germany and China.
7 Our future success depends on a level playing field which we
8 will not have in the absence of these orders so therefore on
9 behalf of Kanzaki and it's 214 employees, I'm asking you to
10 please maintain the level playing field in the U.S.
11 lightweight thermal paper market by keeping these orders in
12 place for both China and Germany, thank you.

13 STATEMENT OF GREG MOSBY, JR.

14 MR. MOSBY: Good morning. My name is Greg Mosby.
15 I'm the President of Greenleaf Paper. We're a paper
16 converter located in Phoenix, Arizona.

17 My father purchased this business in 1987. When
18 we first started out, we had three employees. Today, we
19 employ 60 people. We convert lightweight thermal paper for
20 use in point-of-sale receipts and heavier weight thermal
21 paper for use in labels and tickets.

22 Lightweight thermal paper accounts for a
23 substantial portion of our business. Although we have sales
24 throughout the United States, our sales are concentrated in
25 the 11 most western states.

1 Six years ago, my father testified before the
2 Commission in the original investigations on thermal paper.
3 At that time, he told the Commission about the rapid influx
4 of Chinese slit rolls into the U.S. market and the adverse
5 impact this had on our business.

6 When slit rolls from China first entered the
7 market, they were at delivered prices that were about equal
8 to our production costs. However, within a short amount of
9 time, we started to hear reports of pricing for Chinese slit
10 rolls that were below even our raw material costs.

11 It is important to keep in mind the slit rolls
12 are a standardized product. The most common widths are
13 three and an eight and two and a quarter inch. The slit
14 rolls produced by conversion in the United States are
15 totally interchangeable with the slit rolls imported from
16 China.

17 Chinese quality is completely acceptable to our
18 customers. Chinese producers produce both BPA and BPA-free
19 product; thus, price always the key factor for our customers
20 in their purchasing decisions.

21 My family's been in the paper business for over
22 40 years. We are very familiar with the costs associated
23 with papermaking, including manufacturing and transportation
24 costs. Chinese slit rolls were entering in at prices that
25 were well below these input costs. Moreover, customers were

1 using these below-cost Chinese prices as leverage in asking
2 us for lower pricing.

3 The Chinese first penetrated the market by
4 selling to other U.S. converters who reaped a substantial
5 benefit by buying from them. Then they started selling
6 directly to our customers. The impact on prices was large
7 and swift. We were able to hang onto our loyal customers
8 for a time by providing a high level of service, but as
9 pricing moved lower and lower our customers switched to
10 lower priced imports.

11 After the preliminary duties were imposed on
12 Chinese slit rolls, the market began to normalize and prices
13 firmed up. We were able to regain the business of some of
14 our customers that had started purchasing Chinese rolls.
15 The orders have had a beneficial impact on our business.
16 Since they went into effect, our production and sales
17 volumes have increased and we have been able to invest in
18 new technology and equipment upgrades.

19 I worry about what would happen to our business
20 if the duties on China were revoked. We would see a flood
21 Chinese slit rolls coming in at prices that undercut ours,
22 prices that are below our manufacturing costs. Even with
23 the duties in place, we continue to see some Chinese slit
24 rolls in the market that must be entering the United States
25 without paying the duties that are in place.

1 If the orders were revoked, there would be
2 nothing to prevent much higher volumes from entering the
3 United States. This would be devastating for us and for
4 other converters. Our customers would become our
5 competition with very low overhead and no capital equipment
6 expenses. We would not be able to compete with them if they
7 were able to sell slit rolls from China.

8 In the short term, we'd lose customers and
9 revenue, and would suffer lower profits. In the long-term,
10 we'd have to reduce our workforce and abandon any new
11 investment plans.

12 Renewed imports of slit rolls from China would
13 also have a negative impact on U.S. coaters. If we have to
14 lower our prices for slit rolls due to competition from
15 China, we would have insist to lowered priced jumbo rolls
16 from U.S. converters. Thank you.

17 STATEMENT OF MICHAEL RAPIER

18 MR. RAPIER: Good morning. I'm Mike Rapier.

19 Since 2001, I've been the president and owner of
20 Liberty Paper Products. Liberty is a convert in Phoenix,
21 Arizona that converts and distributes point-of-sale
22 carbonless paper and other thermal paper products all over
23 the country. Most of our business is lightweight thermal
24 paper.

25 We first began to see imports of Chinese

1 converted rolls in late 2005 and early 2006. By virtue of
2 our location in the western part of the United States, we
3 felt the impact of Chinese imports first and more deeply
4 than converters in other parts of the country. At that
5 time, Chinese imports were coming in at growing volumes and
6 at prices that were well below our own production costs.
7 This was a frightening time for us.

8 Thankfully, the duties on thermal POS paper went
9 into effect in 2008. Those duties caused a sharp reduction
10 in imports from China and allowed us to weather the
11 recession that began at the end of 2008. Without the orders
12 being in place, it is likely that Chinese product would've
13 continued to flood in, putting companies like mine out of
14 business.

15 The market began to stabilize after the duties
16 went into effect. We've made major investments since 2009.
17 In 2010, we've moved into a newer and more modern facility,
18 which added 30 percent more square footage to our
19 operations. In 2013, we made our largest investment to
20 date. We bought a state-of-the-art, fully automated slitter
21 re-winder known as a Jennerjohn machine.

22 Jennerjohn is an American manufacturer that
23 builds these machines in Indiana. I think it is worth
24 pointing out that the duties have been beneficial, not only
25 to U.S. converters, but also to the companies like

1 Jennerjohn that supply the equipment.

2 Since the duties went into place, we have also
3 increased the number of our employees by nearly 50 percent.
4 We've had steady growth every year since the duties were put
5 in place. Through these investments and expansion, we have
6 established a path for solid growth for our business over
7 the next five years. But that growth is predicated on the
8 assumption that dumped and subsidized imports from China
9 will not be present again in the U.S. market.

10 China exports to the U.S. would resume at
11 significant levels if the orders were revoked. Chinese
12 producers have continued to improve the quality of their
13 products since the investigation and our customers use our
14 slit rolls or Chinese slit rolls interchangeably.

15 China has also added a lot of new coating and
16 converting capacity since the orders went into effect. The
17 level of access capacity in China is so significant that we
18 would anticipate a large influx of Chinese slit rolls if the
19 orders were revoked.

20 Chinese producers are so anxious to sell
21 converted rolls into the U.S. market that they are willing
22 to commit Customs fraud to do so. We know about this
23 because some of our customers have told us that we are
24 competing with Chinese converted rolls for their business.
25 When this happens, we are often forced to reduce our price

1 or lose the business.

2 I understand that Customs is working to put a
3 stop to Chinese imports that evade duties, but this just
4 demonstrates the lengths to which Chinese producers will go
5 to sell into our market.

6 The revocation of orders on Chinese lightweight
7 thermal paper would have a terrible affect on my business
8 and all converters in this country. Given what we saw
9 before the orders went into effect, and based upon the
10 prices for Chinese converted rolls that are still coming in,
11 Chinese thermal paper would flood into this market at prices
12 below our cost.

13 China's reentry would undermine investment in new
14 equipment and technology. It would mean no new investments
15 in the future. I might be able to switch to production of
16 heavier basis weight products like lottery tickets, but the
17 market for that is much smaller than POS paper, and it would
18 only be a matter of time before Chinese producers would
19 destroy that market as well.

20 I would also like to share my opinion regarding
21 the antidumping order on Germany. Many converters are not
22 here today because they fear retribution from German
23 companies and perhaps rightly so. I can tell you that one
24 such producer would not sell to Liberty Paper based upon my
25 previous testimony in 2008.

1 It is not for me to say if what they are doing is
2 right or wrong, but I can tell you that the spirit in which
3 they behaved implies that you're either with them or against
4 them. And if you are against them, they will do what they
5 can to harm your business.

6 One example of this attitude was a comment made
7 by the company's sales representative who said that the U.S.
8 market will eventually consist of only four or five
9 converters who will control all the business.

10 Jumbo rolls account for the most significant
11 portion of the cost of our slit rolls. When a few favorite
12 converters are able to produce jumbo rolls at reduced prices
13 from Germany, we are placed at an incredible disadvantage
14 and must seek price reductions from our jumbo roll
15 suppliers.

16 If we are unable to achieve price reductions, we
17 lose sales to converters supplied by this German producer.
18 It is, therefore, critical to converters like me that the
19 orders remain in place on imports from both China and
20 Germany. Thank you.

21 STATEMENT OF JOHN GEENEN

22 MR. GEENEN: My name is John Geenen. I'm an
23 international vice president of the United Steel Workers,
24 and my primary responsibility is oversight of the pulp and
25 paper sector.

1 The USW is the largest industrial union in North
2 America, with 650,000 members. All of the lightweight
3 thermal coating plants in the U.S. are unionized. The USW
4 represent paper workers at Appvion and at Kanzaki. We also
5 represent workers at Domtar, a major U.S. paper company that
6 supplies base paper to Appvion. In short, thousands of good
7 paying union jobs are tied to the thermal paper industry.

8 In the original investigation in this case, the
9 Commission determined that the lightweight thermal paper
10 industry was threatened by dumped imports from Germany and
11 dumped and subsidized imports from China. The Commission
12 also concluded that this would result in significant
13 underselling and that absent duties increased imports from
14 Germany would cause the domestic industry to lose market
15 share and that the underselling would cause the domestic
16 industry to lose sale volume or revenue or both.

17 The imposition of duties has been beneficial to
18 U.S. coaters of thermal paper and their workers. U.S.
19 coaters are on a firmer financial footing, which has helped
20 to sustain jobs, wages, and benefits for paper workers.

21 Despite these improvements, the industry remains
22 vulnerable to renewed, unfair trade practices. Over my
23 35-year career in the paper industry, I've seen tremendous
24 and often positive, if difficult, changes. Today in many of
25 our mills the paper industry is a shining example of

1 advanced manufacturing where paper is produced in flexible,
2 self-directed and high performance workplaces that focus on
3 lean manufacturing where workers are problem solvers and
4 have extensive decision-making responsibility.

5 The result has been improved productivity and
6 reduced cost. The union workforce has been at the vanguard
7 of these changes.

8 Regrettably, these changes often come at a cost.
9 In 2012, discontinuation of papermaking operations at West
10 Carlton, Ohio resulted in the loss of 330 jobs. In
11 announcing the closure, Appvion's president, Mark Richards,
12 made clear that the closure resulted from competitive
13 pressures and was not a reflection of either the talent or
14 the commitment of the mill's employees.

15 Appvion also announced that it had entered into a
16 long-term supply agreement with Domtar Corporation to
17 provide the base paper for Appvion's coating operations in
18 West Carlton and in Appleton, Wisconsin.

19 Needless to say, the cessation of papermaking
20 operations at West Carlton was wrenching for paper workers
21 in Iowa, who lost their jobs. However, by sourcing from
22 Domtar, Appvion ensured the competitiveness of the West
23 Carlton thermal coater and the 100 employees that worked
24 there, as well as its carbonless business.

25 Moreover, the agreement permitted Domtar to

1 re-purpose and replace high-volume capacity for
2 communications paper with specialty grades for Appvion's
3 thermal and carbonless operations. The demand for
4 communications paper is declining and also faces competition
5 from unfairly traded imports. By moving capacity at other
6 sites to production of thermal and carbonless base stock,
7 Domtar was able to preserve paper jobs in those states.

8 These are the sort of painful tradeoffs that our
9 industry faces every day. We need to ensure that the
10 sacrifices of paper workers in this country are made worse
11 by unfair trade from abroad. It's one thing to lose jobs
12 due to inefficient and outdated equipment and quite another
13 to see workers lose high-quality jobs on state-of-the-art
14 equipment because of unfair trade.

15 The information that you have developed in this
16 sunset review demonstrates the need to maintain the orders
17 on China and Germany. Following the imposition of duties
18 imports from China have decreased to almost nothing,
19 demonstrating that Chinese producers are unable to export
20 lightweight thermal paper to the U.S. at non-dumped and
21 non-subsidized prices.

22 Without the discipline order, imports from China
23 would be free to resume the rapid growth experienced during
24 the original investigation. Moreover, China has increased
25 substantially its capacity to produce thermal paper since

1 the original investigation by more than 600,000 tons since
2 2008. The capacity increases in China far outpace any
3 increase in demand in the region.

4 Given that prevailing prices in the U.S. market
5 are generally higher than in other parts of the globe,
6 there's little doubt that excess Chinese production will
7 make its way into our market.

8 German producers will also be a very significant
9 problem in the market without the discipline of the
10 antidumping order. The largest of the German producers,
11 Kohler, has already exhibited a strong motivation to export
12 lightweight thermal paper to the U.S., even to the point of
13 committing fraud at the Commerce Department in order to
14 illegally lower its dumping margin.

15 If the order were revoked, there would be
16 absolutely no restraints on Kohler's proclivity to undersell
17 U.S. producers. This would be devastating to American paper
18 makers, their communities, and the industry itself. This
19 kind of behavior must be prevented by the Commission through
20 the continuation of the orders.

21 In sum, the record in this review supports and
22 requires the continuation of the orders. Thank you.

23 STATEMENT OF JERRY HAUSMAN

24 MR. HAUSMAN: I'm Jerry Hausman, and I'm a
25 professor of Economics at MIT. My biography is given on

1 page 1 of the handout.

2 Two notes, I won the John Bates Clark award as
3 the best economist in the U.S. under the age of 40, and I
4 developed the Hausman Specification Test, which is one of
5 the most widely used test in Econometrics.

6 On page 2, I turn to Professor Ashenfelter's
7 Regression Model Number 1. While Professor Ashenfelter
8 finds that prices, and it's in brackets (increased) by a
9 certain amount, the result, he claims, was of a size that he
10 concludes that "The original antidumping duty had no
11 detectible impact on the price of lightweight thermal paper
12 sold by Kohler in the U.S."

13 To estimate his model, he uses data on a
14 quarterly basis. I use exactly the same data as he does,
15 but I do not aggregate to a quarterly basis. Instead, I use
16 the original data on a monthly basis. I, thus, have three
17 times as many observations; otherwise, the regression model
18 is identical to Professor Ashenfelter's.

19 I find that prices increase by the amount on page
20 2 and the result is statistically significant since the "T"
21 statistic is, as shown on page 2, and the "P" value is less
22 than .05. I conclude that the original antidumping duty did
23 have a "detectable impact on the price of LWTP."

24 On page 3 of my handout, I give a table, Table 1,
25 and this is, I was told, confidential information, but you

1 can see the results and compare my results on monthly data
2 to Professor Ashenfelter's quarterly data.

3 On page 4, I turn to use a more efficient
4 estimator called "Feasible Generalized Least Squares." It's
5 been used in Econometrics for over 60 years. FGLS on
6 monthly data yields an estimate, again in brackets, with the
7 "T" statistic, which is very significant, finding that the
8 antidumping order had an affect. FGLS on Professor
9 Ashenfelter's quarterly data also comes up with a
10 significant finding that antidumping order had an affect.

11 Note that the results on the monthly data and the
12 quarterly data with the more efficient estimator are very
13 similar and lead to the same conclusion that the antidumping
14 duty did have a "detectable impact on the price of LWTP."

15 On page 5, I do a separate model for products 3
16 and 4, since that's the 48-gram paper that is now by far the
17 largest lightweight thermal paper. Product 4, of course, is
18 a BPA-free. I did a separate regression model for these
19 products and I find a quite large estimated affect, which is
20 highly significant. The results are given in brackets on
21 page 5. Thus, for Products 3 and 4, I estimate a larger
22 affect of the antidumping order, and it is very highly
23 statistically significant.

24 On page 6, I then change the start day, the May
25 2008, because that is when the preliminary antidumping cash

1 deposits were imposed. Professor Ashenfelter had used a
2 later date. I estimate an overall effect, given in
3 brackets, and it is statistically significant. For Products
4 3 and 4, I also estimate a larger affect. It is again
5 highly, statistically significant. Both results are highly,
6 statistically significant.

7 I then turned to Professor Ashenfelter's
8 Regression Model Number 2. His revised results find an
9 affect, given in brackets, of the antidumping duty which
10 does not make economic sense. His start date for the duty
11 is Quarter 1, 2009. To analyze this model I move the start
12 date to Quarter 2, 2008 when the preliminary antidumping
13 duty cash deposits were imposed; otherwise, the model is
14 identical.

15 I find an affect on U.S. prices quite large,
16 given in brackets, which is very significant. I find an
17 affect on German prices also quite large, which is
18 statistically significant. Both results are highly
19 statistically significant.

20 Therefore, my conclusion, on page 8, is both that
21 the Ashenfelter regression models lead to a statistically
22 significant result, which demonstrate "detectable impact on
23 the price of LWTP sold by Kohler in the U.S. and in
24 Germany." Thank you.

25 STATEMENT OF SETH KAPLAN

1 MR. KAPLAN: Good morning Commission. I'm Seth
2 Kaplan of Capital Trade, Inc.

3 Dr. Hausman showed that properly measured Kohler
4 data shows that the imposition of dumping orders increased
5 domestic prices. But Professor Ashenfelter's analysis
6 suffers from an even more fundamental flaw. If you have my
7 exhibits, please turn to page 3, and then it shows the three
8 periods considered by Dr. Ashenfelter.

9 The first period is before the order. The second
10 period is after the order, but before Kohler's exist
11 announcement, and the third period is after Kohler's exit
12 announcement.

13 Dr. Ashenfelter argues that comparing prices
14 before and after the order, Period 1 and 2, shows whether
15 the order had a positive affect on U.S. prices. But in
16 fact, Dr. Ashenfelter did not test the affect of the order.
17 Please turn to my next slide. And what that shows is that
18 he tested whether the order and fraud on the order, which is
19 red and occurred during that period, had a positive affect
20 on U.S. prices.

21 He has not distinguished between the affects of
22 the order and the affects of the fraud; thus, even ignoring
23 other Econometric issues Dr. Ashenfelter's regression is
24 fatally flawed. Further, Professor Ashenfelter's excluded
25 all comparisons after Kohler's exit announcement, the area

1 of the graph in blue, despite the fact that it was in the
2 post-order period. And Dr. Ashenfelter himself admits that
3 Kohler's announce to withdraw was followed by a significant
4 increase in prices.

5 Dr. Ashenfelter also argued that German importers
6 are unlikely to ship substantial amounts of lightweight
7 thermal paper to the U.S. market should an order be revoked.
8 To support his claim, he compares Kohler profits in the U.S.
9 to other regions over the 2005 to 2008 period. However, to
10 analyze the affect of the order and whether the U.S. is an
11 attractive market, I divided the data in to two periods, the
12 pre-order period from 2005 to 2008 and the post-order period
13 from 2009 to 2012, even excluding the blue period that Dr.
14 Ashenfelter did.

15 The next three slides make the comparison.
16 Please examine whether Kohler's profits rise or fall
17 relative to other markets after the imposition of the order.
18 The first slide shows Kohler's profits in Europe without
19 Germany compared to the U.S. The next slide, Kohler's
20 profits in Germany compared to the U.S. The last slide,
21 Kohler's profits in the rest of the world compared to the
22 U.S.

23 The Commission has typically concluded that
24 foreign producers would attempt to increase sales by
25 lowering prices in markets with the highest profits and the

1 highest prices. That has been a staple of sunset review
2 analysis for the last 10 years. Look at those slides and
3 figure where in over the period of investigation profits
4 were highest for Kohler. Thank you very much, and that
5 concludes my testimony.

6 MR. DORN: And that concludes our representation,
7 Chairman Broadbent.

8 CHAIRMAN BROADBENT: Great. I want to thank the
9 panel for traveling here and taking time out of your
10 business to be with us today, and I appreciate actually all
11 the statements you guys submitted. It's very helpful. A
12 lot of witnesses don't give us written statements, and it's
13 very helpful to follow along.

14 We're going to start with Vice Chairman Pinkert
15 on the questions.

16 VICE CHAIRMAN PINKERT: Thank you, Madam
17 Chairman. And I join the Chairman in thanking all of you
18 for being here today to help us understand these issues.

19 As you might know, Respondent Kohler says that
20 after it left the U.S. market in 2013 thermal paper prices
21 in the U.S. market went down due to the increased presence
22 of non-subject imports. Is that correct?

23 MR. DORN: Mr. Vice Chairman, it's difficult to
24 respond because they bracketed so much. I'm not even sure
25 what you just said is on the public record. But if I can

1 respond in kind and at least talk about trends, is that all
2 right, without mentioning numbers.

3 Clearly, prices went up. When they announced the
4 withdrawal from the market prices went up, so if they said
5 something to the opposite, it's not born out by the record.

6 I think what they're saying is that later after
7 some period of time, after prices went up, non-subject
8 imports started to come in and that started to have some
9 impact. But our point is, look at the ^^^^ even with the
10 non-subject imports coming in, look at the change in the
11 performance of the U.S. industry with respect to U.S.
12 shipments, U.S. prices, and financial results.

13 Our position with respect non-subject imports is
14 is that some non-subject imports came in, as the witnesses
15 said, we're taking a look at whether those are fairly traded
16 or unfairly traded. If they're unfairly traded, we have
17 options. But at the very least, it's a condition of
18 competition. You consider that there's more competition in
19 U.S. market now. We're more vulnerable to incremental
20 imports from Germany with those non-subject imports in the
21 market today than we were in 2008 when they were not many
22 non-subject imports.

23 VICE CHAIRMAN PINKERT: Thank you.

24 Now, we have a lot of economic expertise on this
25 panel. And I want to ask the economists what is the best

1 indicator of Kohler's likely pricing behavior if we were to
2 revoke the order on Germany?

3 MR. KAPLAN: Commissioner Pinkert, as a threshold
4 matter, the Commission is given a dumping margin by the
5 Commerce Department to assume that would occur going
6 forward. And that margin, I believe, is over 6 percent.
7 But if you look at Kohler's historical behavior, they have
8 been aggressive. And I would ask you to look at comparisons
9 of underselling without the order and with the order to see
10 if the order had a beneficial and positive affect on that in
11 dica, which you look at as part of a case.

12 Also, given the benefit of the order as
13 demonstrated by Dr. Hausman, the fact that the benefit
14 occurred in a period where the Commerce Department made a
15 finding of fraud. So, even though the orders weren't
16 complied with fully, there was still a beneficial affect.
17 The strength of the rise in the domestic industry I would
18 think their behavior would be such to reverse the
19 improvements made by the domestic industry and that to gain
20 shares Mr. Dorn said and the witnesses have said, based on
21 their personal, long history in this market, they would come
22 in and undersell both domestic product and non-subject
23 imports to regain share.

24 It's my understanding from conversations with
25 some of the converters that the antidotal evidence that

1 they've provided is consistent with my conclusions that I've
2 just put forward.

3 VICE CHAIRMAN PINKERT: I'm sure that you're
4 aware that our analysis in the sunset review is
5 forward-looking, and I appreciate all the testimony about
6 the impact or non-impact of the order. But we have to look
7 at what the impact of revocation would be.

8 So I'm still trying to get a grasp of what the
9 best indicator of Koehler's pricing behavior, particularly
10 with reference to underselling and overselling would be, in
11 the event of revocation.

12 MR. DORN: Mr. Vice Chairman, as you know, I
13 think your role is to look at the impact of subject imports.
14 It's not to be whether the -- you know, what the magnitude
15 of the margin of dumping. I mean in the original
16 investigation, the statute says you must consider the
17 magnitude of the margin, and you generally drop a footnote
18 in your determinations.

19 In sunset reviews, you may determine the
20 magnitude of the margin, and you don't drop a footnote, and
21 I don't recall seeing it discussed. You're looking to see
22 what's the impact going to be of the increasing volume of
23 subject imports or adverse price effects from subject
24 imports, whether it's a six percent dumping margin or a 60
25 percent margin, as I read your decisions.

1 What we're showing here is that we have very
2 good evidence here of the impact of subject imports from
3 Germany, because Koehler announces in December of 2012 that
4 it's withdrawing from the market, there's an immediate
5 positive impact on prices in the United States and the
6 performance of the domestic industry.

7 When Koehler 12 months later says it's going
8 to reenter the United States and subject imports are coming
9 back in, you see the opposite taking place. So here we have
10 very strong causal evidence of the impact of subject imports
11 from Germany, and that's what you should be looking at.

12 Don't misunderstand us. This case is not all
13 about fraud. That's not what -- you know, we don't need --
14 if there had been no finding of fraud and there was a just a
15 determination that their dumping margin was 75 percent, it
16 wouldn't make any difference to the theory of our case,
17 except for the fact you've made very clear in prior
18 decisions that to the extent a foreign producer engages in
19 illegal activity to gain entrance to the United States
20 market, that's very strong evidence of motivation to serve
21 this market, which we have in this case.

22 VICE CHAIRMAN PINKERT: Any economist
23 testimony on this issue?

24 DR. KAPLAN: Yeah, I look at the, you know, as
25 what is it, that past performance is no guarantee of future

1 performance. But nonetheless, past behavior and behavior
2 during the period is informative to what future behavior
3 would be. This is a company that expressed multiple times
4 that it was going to build a plant in the U.S. market, and
5 the order would be unimportant, because they'd be producing
6 here.

7 They clearly have a strong interest in the
8 U.S. market. The evidence in the record shows that this is
9 a fungible product that is sold on price. They now have to
10 reenter the market when there are now domestic producers and
11 non-subject producers.

12 Given that they want to reenter an increased
13 share and regain share that they have lost, I think it is a
14 reasonable assumption to conclude that to do this, they
15 would have to now make pricing very attractive relative to
16 other participants in the U.S. market, to regain the share
17 that they have lost and showed extraordinary interest in, as
18 demonstrated by their history here and the factors that Mr.
19 Dorn has discussed.

20 VICE CHAIRMAN PINKERT: Thank you, Dr. Kaplan.
21 Now I realize that you probably can't get into this in the
22 public session, but looking at your exhibits, and in
23 particular pages seven and eight, I'm wondering for the
24 post-hearing whether you can comment on whether that
25 evidence shows that Koehler has benefitted from higher

1 post-order prices.

2 DR. KAPLAN: Every one who is participating in
3 the market that is not subject -- you know, or is not paying
4 duties, adjusting for duties, the prices rose and the
5 attractiveness of the market is demonstrated by these
6 graphs.

7 So in fact, you could compare the
8 profitability in various regions to see who benefitted. But
9 you could look at the domestic industry's performance to see
10 that they benefitted, and that not only does this reflect on
11 prices, but it also reflects on quantities. If we recall
12 the original decision, the threat was that they would
13 continue the increase, and I would take a look at what
14 happened to volumes as well as what happened to prices and
15 profits.

16 VICE CHAIRMAN PINKERT: Thank you, and my last
17 question this round is for the post-hearing. Professor
18 Hausman, other than differences in data aggregation, what
19 are the differences between your approach and Professor
20 Ashenfelter's?

21 DR. HAUSMAN: There are two differences. One,
22 I used -- well, three differences. One, I used a more
23 efficient estimator called Feasible Generalized Lease
24 Squares, so that gets you more precision. Secondly, I
25 looked specifically at products 3 and 4 in one set of

1 regressions. He looked at all the LWTP together.

2 Thirdly, I changed -- in some of my
3 regressions, I changed the start date to an earlier period
4 than he did because of when the duty was first imposed. So
5 those are the three differences.

6 VICE CHAIRMAN PINKERT: Thank you very much.
7 Thank you, Madam Chairman.

8 CHAIRMAN BROADBENT: Commissioner Williamson.

9 COMMISSIONER WILLIAMSON: Thank you, and I do
10 want to express my appreciation to all of the witnesses for
11 coming today and presenting their testimony. Mr. Downey
12 (sic), on page four of your testimony, you note that there
13 will be contracts expiring in early 2015, in which you will
14 face renewed competition with coaters in the market.

15 I was wondering, this may have to be
16 post-hearing, because a lot of this is confidential. We
17 don't have, I don't think, a lot of data on how large these
18 contracts are. I think, anyway. How significant is this
19 event likely to be, and are there differences in the ways
20 that coaters are selling their products in long term/short
21 term contracts and all that would make -- that would be
22 relevant to us sort of figuring out what's going to happen,
23 what would happen in 2015 if the orders were revoked.

24 MR. DORN: Commissioner, there's some
25 information in the record now about long-term contracts, but

1 we will amplify that in a post-hearing brief, and I think it
2 will have to be on a confidential basis.

3 COMMISSIONER WILLIAMSON: No, I understand
4 that it will be. But I just want to make sure that it's
5 addressed as to how, what percentage of the market that is,
6 how big an impact it would be.

7 MR. DORN: We'll be pleased to do that.

8 COMMISSIONER WILLIAMSON: Okay, and it may --
9 yeah. So to the extent that you have evidence, information
10 about what the foreign suppliers are doing, I think you
11 might want to also address that question.

12 MR. DORN: You mean in terms of whether they
13 have long-term contracts?

14 COMMISSIONER WILLIAMSON: Yeah. You know,
15 what's the nature of the competition, and what's it likely
16 to be in 2015.

17 MR. DORN: Understood, thank you.

18 COMMISSIONER WILLIAMSON: Good, thank you.
19 Respondents raised some concerns about the 2013 apparent
20 consumption data and prehearing report, and indeed they seem
21 out of line with the rest of the record. Do you think there
22 is a problem, and if so, do you think -- do you have any
23 suggestions on how we should address it?

24 MR. DORN: I think we agree, Commissioner. In
25 fact, we put an exhibit in our brief. It's Exhibit 6, where

1 we show apparent U.S. consumption of slit rolls, and we
2 think that's probably as good a proxy as you can have for
3 overall consumption, because jumbo rolls are only used to
4 make slit rolls. So we think that's the most consistent
5 data source that you have.

6 I don't think we -- I think they come up with
7 something that's a little bit different. But I think if you
8 compare the two, they're not that far apart.

9 COMMISSIONER WILLIAMSON: Okay, thank you.
10 Can you explain here or post-hearing the consumption changes
11 between interim 2013 and interim 2014?

12 MR. DORN: Well, I'm not sure which -- are you
13 looking at the prehearing report?

14 COMMISSIONER WILLIAMSON: Yeah, uh-huh.

15 MR. DORN: Because I don't think we -- we're
16 relying on the consumption data that we have in Exhibit 6
17 for slit rolls, and given the confidentiality constraints --

18 COMMISSIONER WILLIAMSON: Yeah. We can say
19 post-hearing, if you can look at those changes and sort of
20 give an explanation of why the changes occurred.

21 MR. DORN: We'll be happy to. We'll be happy
22 to.

23 COMMISSIONER WILLIAMSON: I was wondering if
24 there -- just briefly the advantages and disadvantages of
25 the 48 gram paper over -- compared to 55 gram paper, and is

1 the 55 gram paper going to disappear from the market? We
2 talked about this a lot more, I think, in the original case.
3 But I was just curious, what's the situation now?

4 MR. DORN: I can't tell you that 55 gram will
5 disappear from back in the 2007 range. It's flipped. Where
6 we were about 80 percent 55 gram, 20 percent-ish 48 gram,
7 that's just the opposite today, Commissioner. So the trend
8 has been fairly dramatic.

9 COMMISSIONER WILLIAMSON: And that's because
10 -- why are people liking the 48 gram pieces?

11 MR. RAPIER: As a buyer of --

12 COMMISSIONER WILLIAMSON: Excuse me. Can you
13 identify yourself?

14 MR. RAPIER: Yeah. Mike Rapier, Liberty
15 Paper. As a buyer of jumbo rolls, we've transitioned over
16 the last six years from mainly 55 gram to mainly 48 gram.
17 So 90 percent of our business today is 48 gram, and that's
18 based on price. The end user would prefer 48 gram at a
19 lower price than 55 gram at a higher price.

20 So the ten percent of 55 gram that we have in
21 the plant today is used for specific issues, where the 48
22 gram may not perform as well as the 48 gram (sic). But for
23 us, it's a split of about 90/10.

24 COMMISSIONER WILLIAMSON: Okay, and it's all
25 about price. Is that what you're saying?

1 MR. RAPIER: It's mainly about price, and
2 there are a few printers in the market and categories in the
3 marketplace where the 55 gram performs a little bit better,
4 so they prefer it. But 90 percent of the market would
5 prefer the 48 gram based on price.

6 COMMISSIONER WILLIAMSON: Good, okay. Thank
7 you. Is there a price premium for BPA and phenyl-free paper
8 in the U.S. market? This is for anyone who --

9 MR. HEFNER: There is a cost --

10 COMMISSIONER WILLIAMSON: Who is this?

11 MR. HEFNER: I'm sorry. This is Steve Hefner.
12 There is a cost difference between BPA and BPA-free. But
13 often, there is no price difference in the market as the
14 consumers demanding BPA-free product, even though there is a
15 cost difference.

16 COMMISSIONER WILLIAMSON: Okay. Anybody else
17 want to add to that?

18 (No response.)

19 COMMISSIONER WILLIAMSON: Is it the -- by
20 consumer, you mean the retailer? Because I assume most --

21 MR. HEFNER: By consumer, I mean the end
22 retailer.

23 COMMISSIONER WILLIAMSON: Okay.

24 MR. RAPIER: Mike Rapier again. There is a
25 small cost difference, but it's fairly minor. We carry,

1 based on what's available to us in the marketplace, which is
2 mainly BPA-free today, we carry a lot more BPA-free than we
3 would BPA-containing, and there's a very small price
4 difference between the two. A lot of the major coaters,
5 however, no longer offer both.

6 COMMISSIONER WILLIAMSON: Okay.

7 MR. HOWARTH: I'm Doug Howarth.

8 COMMISSIONER WILLIAMSON: Sure, go ahead.

9 MR. HOWARTH: Commissioner, also the BPA-free
10 product continues to grow and because of that, more thermal
11 manufacturers have increased the amount of BPA-free that
12 they are selling into the U.S. market.

13 COMMISSIONER WILLIAMSON: Okay. Oh good.
14 That was going to be my next question, about whether or not
15 the -- both non-subject producers and subject producers are
16 also doing the same thing.

17 MR. HOWARTH: Yes, they are.

18 COMMISSIONER WILLIAMSON: Okay. Is that just
19 in the U.S. market, or is that kind of globally? Does
20 anyone know?

21 MR. DOWNEY: I'll give a stab. I mean I know
22 certain countries that it's I would say globally, maybe with
23 some exceptions, are still BPA-dominated.

24 MR. HEFNER: Steve Hefner. I just wanted to
25 add to that. BPA-free first became popular in Japan, where

1 Japanese producers first removed BPA as a developer,
2 voluntarily. Other areas of the world, it wasn't removed
3 until later. Applicant led the charge.

4 Appvion led the charge here in the United
5 States. Many areas in the European Community still have
6 BPA-contained and BPA-free. But the popularity of removing
7 BPA from thermal paper is gaining momentum, and therefore
8 most of the suppliers like specialty papers in Appvion chose
9 to be all BPA-free.

10 So there's a common subset when delivering the
11 product, so that the converter base doesn't have to manage
12 two different skews for the same basic product.

13 COMMISSIONER WILLIAMSON: Okay, thank you.
14 Are there any other product developments likely in the
15 future beyond those we have been looking at, you know, such
16 as the 48 gram paper and the BPA/phenyl-free? Is there
17 anything else out there sort of in the near future that
18 might be relevant to our consideration?

19 MR. HOWARTH: Yes, Commissioner. Did you
20 mention the phenol-free grade? This is Doug Howarth.
21 Phenol-free grade?

22 COMMISSIONER WILLIAMSON: Yeah, okay.

23 MR. HOWARTH: That's a new product that we
24 just launched in July, and it's based on customer demand to
25 have a product without phenols, and others also have that

1 product, including Koehler as well.

2 COMMISSIONER WILLIAMSON: Okay, thank you.
3 Any emerging new uses for lightweight thermal paper that
4 might be relevant to demand?

5 MR. DORN: Let the record show that no one
6 answered affirmatively.

7 COMMISSIONER WILLIAMSON: Okay, thank you.
8 Good. Umm, so if there are no new uses, does that mean this
9 tendency for some places to send you an electronic receipt
10 is going to be a major factor in the next year or two?

11 MR. DOWNEY: Time frame would be a question.
12 The other answer to the question is yes, and non-use.

13 COMMISSIONER WILLIAMSON: Okay, good. Mr.
14 Hausman, Dr. Hausman.

15 DR. HAUSMAN: Jerry Hausman. Yes. One of my
16 academic specialties is telecommunications in the payment
17 industry, and I'm sure everyone here has noted that Apple
18 Pay came out this week, and the merchants, the large
19 merchants like Wal-Mart, are going to introduce their
20 competing system at the beginning of the year.

21 With those type of systems, you'll still --
22 can get a receipt if you ask for one. But for many things,
23 you know, when you go into a Starbucks, even now you
24 typically don't get a receipt. With the mobile payments,
25 it's my view and I think the view of many people in the

1 industry, that paper receipts are going to go down.

2 So you can get them by email too now if you
3 want. But just the receipts that everybody gets when they,
4 you know, get their lunch at Subway or that, I think, is
5 going to decrease in the future.

6 COMMISSIONER WILLIAMSON: Good, okay. Thank
7 you. Thank you for those answers.

8 CHAIRMAN BROADBENT: Commissioner Johanson.

9 COMMISSIONER JOHANSON: Thank you, Chairman
10 Broadbent, and I would also like to thank the witnesses and
11 counsel and the economists and others for appearing here
12 today before the Commission. Koehler proposes that the
13 increased profits of the U.S. industry are a result of
14 Appvion's closure of its paper business, rather than market
15 changes related to the orders on Germany. How do you all
16 respond to this argument?

17 MR. RICHARDS: Excuse me, this is Mark
18 Richards. Much of that detail is confidential and was
19 included in the questionnaire, as I noted in my -- on page
20 three of the testimony. What I can say is that we did
21 publicly announce that we had estimated to save about 25 to
22 30 million dollars annually from the closure, which would
23 primarily go to our carbonless business.

24 The lightweight non-top coat or thermal
25 business profitability was not changed because of that

1 contract. Rather, what you'll see in material is that the
2 lightweight non-top coat business profitability was driven
3 by changes in price. Let me explain on the carbonless
4 business. The carbonless business, without disclosing
5 confidential information, is a very mature business that we
6 have, and it is declining each year.

7 So it is key that in that business, in order
8 for us to remain competitive, that we take cost out of
9 business, in particular fixed costs. When you looked at the
10 West Carrollton mill, it was what we call a non-integrated
11 mill. We had three paper-making operations there. There
12 were three paper-making machines. Two of those machines
13 were dedicated to carbonless.

14 So the intent was to be able to reduce fixed
15 costs in the carbonless business. So when we shut down the
16 mill, we essentially stopped producing carbonless for a
17 number of international customers, where it wasn't
18 competitive, and moved the remaining tons to our Appleton
19 plant and began sourcing paper from Domtar.

20 What was remaining at the West Carrollton mill
21 post-closure was our lightweight non-top coat thermal
22 coater. Because we weren't able to close the facility
23 entirely down, we weren't able to eliminate all the fixed
24 costs. So the remaining fixed costs had to be charged to
25 the thermal business. So actually our cost went up because

1 of that.

2 The one paper machine that was located and
3 dedicated to thermal paper at the West Carrollton site that
4 was shut down, we were then buying paper from Domtar in that
5 relationship. Essentially the paper that we were sourcing
6 from Domtar, instead of making ourselves, because Domtar,
7 although they're an integrated mill and we're a
8 non-integrated mill, they also put a profit margin on their
9 product.

10 Consequently, we were essentially buying the
11 paper at roughly the same price that we were making it for.
12 What the benefit was from that standpoint is we weren't as
13 subject to volatility in the market from the changes in pulp
14 and waste paper prices.

15 The fluctuation that we were seeing in the
16 West Carrollton mill, because we were non-integrated, as
17 opposed to Domtar, they were more stable because they're an
18 integrated mill. They're buying roundwater trees and
19 converting it to pulp, and the price of trees don't --
20 aren't as volatile as pulp and waste paper.

21 So at the end of the day, what you'll see, if
22 you look in the confidential record, you'll see that the
23 improvement in lightweight non-top coat performance is
24 predominantly due to the increase in prices associated to
25 the orders.

1 MR. DORN: Commissioner, if I might just add
2 to that, if you look at my confidential Exhibit D, what the
3 -- what Polar argued was that they used the data from --
4 including non-recurring costs and other factory costs, and
5 to suggest, given that the coincidental timing of the Domtar
6 deal, that there was a big plunge in other factory costs
7 from 2012 to 2013.

8 Elsewhere in their brief, they say it's better
9 to take out the non-recurring costs, to get a trend
10 analysis. But for that one particular argument, they used
11 the unadjusted data to make their point. But as shown on
12 Exhibit D, once you take out the non-recurring one-time
13 charges, there was no significant change in other factory
14 costs from 2012 to 2013.

15 As Mr. Richards just testified, the
16 improvement in operating income was due to an increase in
17 net sales value, and not to a drop in other factory costs.
18 You might remember a similar discussion about NOSE early in
19 the month, when somebody -- everybody picks on my client's
20 other factory costs. But that's as good an explanation here
21 as there was in the last case.

22 COMMISSIONER JOHANSON: Thank you for your
23 responses. I know this is all a little complicated.
24 Actually, I have a cousin who used to be in the paper and
25 pulp business. I'm sorry. There's a lot of P's in that, so

1 I have somewhat of a knowledge of the industry. I always
2 found it kind of interesting.

3 Throughout the period of review, the
4 performance ^^^^ the financial performance of converters is
5 notably different from that of coaters. What are the key
6 factors behind this difference?

7 MR. DORN: Well I think, you know, there's
8 testimony from the converters about it's a low margin
9 business. I mean they're basically taking a single input,
10 which is a major cost driver, and they're trying to get a
11 markup over that, and I think their profitability is less
12 volatile, let's say, than that of coaters. They don't have
13 as high a fixed cost.

14 When -- sort of when prices go up in the
15 market for jumbo rolls, prices go up for slit rolls. But
16 they're always making their converting margins. So maybe
17 one of them wants to respond to that. I think it's the cost
18 and price situation is a little more stable for converters
19 than it is for coaters.

20 COMMISSIONER JOHANSON: Would anyone else like
21 to respond?

22 MR. RAPIER: Mike Rapier, Liberty Paper. I
23 would just say that -- I mean I don't know the financial
24 results for the coaters. I wouldn't have access to that
25 information. But I would just say that since the orders

1 were in place, that the market for Liberty Paper as a
2 converter has gotten better, and most of that is due to the
3 fact that prices have risen and thus our revenues have
4 increased.

5 COMMISSIONER JOHANSON: All right. Thank you
6 for your responses.

7 MR. MOSBY: Gregg Mosby.

8 COMMISSIONER JOHANSON: Yes, Mr. Mosby.

9 MR. MOSBY: Greenleaf Paper. I'm also a
10 converter, and I would agree with what Mike is saying. When
11 you have stability in the market and you have China not
12 coming in and dumping or other countries coming in and
13 dumping, then you're creating stability with your customer
14 base, and we've seen that over the last couple of years.

15 COMMISSIONER JOHANSON: All right, thank you.
16 You know, in these investigations, we get briefs from the
17 parties. We have a staff report from the staffer at the
18 ITC. But I came up with a question. Just yesterday, I went
19 to the grocery store, I went to Giant out in Arlington,
20 Virginia, and I got just a few things, and the receipt was
21 about maybe 20 inches long.

22 So thinking about receipts and your product,
23 the question that arose in my mind, receipts seem to be
24 getting longer, as they're often accompanied by coupons and
25 advertising. Is this leading to increased demand?

1 MR. DOWNEY: Steve can chime in too, but for
2 us it -- really our growth curve has plateaued, if you will.
3 So there might be different longer, maybe wider, in some
4 cases Commissioner. But the e-receipt thing and for my
5 kids' generations, the non-use, "no I don't want a receipt"
6 type of thing we believe is eroding, what you might see from
7 an advertising or couponing standpoint.

8 MR. HEFNER: Steve Hefner. I'll agree with
9 you, that some of the receipts are getting longer. But as
10 Todd said, there's an offset. The offset of no receipts
11 being used in certain environments, electronic receipts
12 being received, much like -- or transference of you making
13 the receipt at your home versus the longer couponing has
14 made the overall lightweight thermal paper business fairly
15 flat.

16 That means going forward if that continues, if
17 the receipts disappear and the couponing remains, it will
18 probably even possibly see some slight decline in
19 lightweight thermal paper.

20 MR. RAPIER: Mike Rapier. I would just add
21 that what you saw in a grocery store is somewhat common with
22 what happens in a grocery store, but not across the total
23 market. If you look at restaurants and food service, you'd
24 probably see that the receipt actually has gotten smaller in
25 those applications.

1 MR. MOSBY: Gregg Mosby. I also think it's
2 plateaued. If you look at the Amazons and eBays of the
3 world, that when you buy off those e-commerce sites, they're
4 not generating receipts, and then e-receipts offered by
5 retailers and also just non-use, people not taking a
6 receipt.

7 COMMISSIONER JOHANSON: How about products
8 like plain paper receipts? You don't see much of those.
9 You used to see them more.

10 MR. MOSBY: You still -- Gregg Mosby again.
11 You still see them in like kitchen printers. So in
12 restaurants in the back of the house, but you don't see them
13 in the front. That's transitioning to thermal.

14 COMMISSIONER JOHANSON: Okay. All right.
15 Thank you for your responses. My time has expired.

16 COMMISSIONER SCHMIDTLEIN: Okay. I have one
17 question for Mr. Richards to start. You were -- oh, excuse
18 me. I was so anxious to ask this question. Darn. You'll
19 probably ask it and then I won't be able to ask it. Okay.

20 CHAIRMAN BROADBENT: Commissioner Schmidtlein.
21 It's bad to go last.

22 COMMISSIONER SCHMIDTLEIN: It is bad to go
23 last. All the questions have been taken. Thank you. I
24 also want to thank the witnesses for -- join my colleagues
25 in thanking the witnesses for appearing here today.

1 So I wanted to follow up on the demand
2 questions that Commissioner Johanson was asking. You've
3 said that you think it's plateaued. So does that mean you
4 think it's going to go forward at this level, or do you
5 think it's going to continue to decline for the reasons that
6 you've been talking about, the e-receipts and so forth?

7 MR. HEFNER: Steve Hefner. I'm assuming --

8 COMMISSIONER SCHMIDTLEIN: Oh well, Mr.
9 Hefner. Yes, you were speaking and I know there are some
10 others in the back, so please feel free.

11 MR. HEFNER: Yeah. We can't be sure, because
12 the advent of new applications for lightweight thermal paper
13 are the unknown. But we do know that the receipt business
14 is in some places declining and other places it's flat, and
15 in other places it's mildly growing. But the net effect is
16 fairly plateaued.

17 The greatest example I can give you is a
18 receipt which is not something on a retail basis, but on a
19 banking basis. Bank of America, the largest bank in the
20 nation, when you go to the ATM now offers the option of
21 getting either a printed receipt or an email receipt.

22 So all of the retailers and/or the banking
23 institutions, and much like the ticketing people and the
24 like, are giving you the options to try to transfer the cost
25 and the obligation to you to do it at home. A great example

1 is we used to pump -- we used to not pump our own gas and in
2 most every place now we pump our own gas.

3 Where we used to print out our boarding passes
4 at the airport, or get them from our travel agents, we're
5 now printing them either onto our electronic iPhones or
6 we're printing them out at home on our own computer. So
7 there's a dynamic change in the demand of what's going on on
8 transaction-based products.

9 COMMISSIONER SCHMIDTLEIN: So you think it's
10 hard to predict?

11 MR. HEFNER: I'm sorry?

12 COMMISSIONER SCHMIDTLEIN: You think it's hard
13 to predict?

14 MR. HEFNER: It is, but the point today, it's
15 fairly plateaued and remains flat and short term.

16 COMMISSIONER SCHMIDTLEIN: Okay. All right,
17 thank you. I wanted to follow up on the experts' testimony,
18 the economist testimony from Dr. Kaplan and Professor
19 Hausman, and just sort of understand how that fits in with
20 what we're seeing in the financial performance and how you
21 think we should look at that.

22 So if I understand the testimony, you've both
23 said that in your expert opinion, the duty order had a
24 beneficial effect. Even in the time of the trans-shipment
25 scheme, it still had somewhat of a beneficial effect. Am I

1 right about that?

2 DR. HAUSMAN: That's correct.

3 COMMISSIONER SCHMIDTLEIN: Okay.

4 DR. HAUSMAN: I was also going to answer the
5 previous question.

6 COMMISSIONER SCHMIDTLEIN: Oh sure.

7 DR. HAUSMAN: I'm an academic, so there is one
8 thing also to take into account. You know, electronic
9 receipts save costs, but that's actually not the most
10 important thing for a retailer. If the retailer sends you
11 an electronic receipt by email, the retailer then has very
12 valuable information about you every time it's done. So
13 Tesco, which is an English company, started this with club
14 cards 20 years ago and they became the most successful
15 supermarket in the U.K., and you know of course that spread
16 to the U.S. and Canada.

17 So the retailer would like nothing more than
18 to have a record and your email address, and then can follow
19 what you do. So that's a very important economic factor
20 that you want to take into account as well.

21 COMMISSIONER SCHMIDTLEIN: Thank you, yes, that's
22 very interesting.

23 So the specific point that I wanted to talk about
24 now was this idea about, you know, the effect of the order
25 and sort of, I guess this goes to the causal link and in

1 terms of what we're seeing in the financial data. And, you
2 know, I guess which financial data should we be looking at
3 vis- -vis when we're talking about Germany here, and I am?
4 And do we just look at the coaters' financial data, do you
5 want us to look at the combined, and I guess really what I'm
6 getting at is shouldn't we have seen more of an improvement
7 there if it was having an effect?

8 And then secondary -- or secondly, in 2012, when
9 the transshipment scheme was not occurring, you actually see
10 a bigger decline in the financial performance. So, if they
11 -- from what I see in the coaters data -- so I'm trying to
12 understand how that lines up with what was going on? You
13 know, with your testimony about the effect of the order, the
14 period of the fraud, what's happening in the financial
15 performance, Dr. Kaplan?

16 Dr. KAPLAN: It is a threshold matter. I think
17 this was discussed earlier. I think you need to look at the
18 financial data without one-time charges.

19 COMMISSIONER SCHMIDTLEIN: Okay.

20 DR. KAPLAN: To really get a good-time trend.
21 And we've provided that in our confidential -- in our brief
22 and in our questionnaire. But I think that really distorts
23 the data without taking that into account.

24 COMMISSIONER SCHMIDTLEIN: Okay.

25 DR. KAPLAN: So I think once you take that into

1 account it's difficult.

2 COMMISSIONER SCHMIDTLEIN: In 2012, you're
3 talking about?

4 DR. KAPLAN: Yeah. The character -- yeah,
5 through the whole period, but, yeah. You know, in each
6 because there were minor adjustments along the way or some
7 major adjustments along the way. And I think what you'll
8 see is improvement in the domestic industry and part of that
9 is due to the price effect of the orders as demonstrated by
10 Dr. Hausman, part of that is due to any kind of quality
11 effects from the order as well. And I think the test case
12 in terms of does the order have an effect is throughout the
13 whole period. But when you look at their exit after the
14 volumes decrease, I would ask you to look at the price
15 effect that is discussed by both Dr. Hausman and Dr.
16 Ashenfelter and as well as the data itself and the financial
17 performance one-time expenses of the industry.

18 MR. DORN: Commissioners, if I might also point
19 out --

20 COMMISSIONER SCHMIDTLEIN: The recurring,
21 non-recurring expenses.

22 (Laughter.)

23 DR. KAPLAN: Yeah, that makes a big deal. Yeah.

24

25 COMMISSIONER SCHMIDTLEIN: As my husband says,

1 yeah.

2 (Laughter.)

3 MR. DORN: And Commissioner, Exhibit 8 to our
4 prehearing brief, we've taken out for nonrecurring.

5 COMMISSIONER SCHMIDTLEIN: Okay.

6 MR. DORN: And so you have a consistent
7 trendline. And when I -- in my testimony I focused on 2011
8 to 2013.

9 COMMISSIONER SCHMIDTLEIN: Uh-huh.

10 MR. DORN: If you could analog with 2005 to 2007,
11 because demand conditions were very similar to 2005 to 2007.
12 You've got -- I don't know what -- you know, in terms of the
13 impact of the order, the order goes into effect in November
14 of 2008 a month after Lehman folded, you know, you have the
15 impact of the great recession which affected retail sales
16 and receipts and POS sales dramatically. So, you know, I
17 think the Dr. Hausman study would show that we benefitted
18 from the order, but in terms of financial results, there's a
19 lot of offsetting pushback from the bad economy. But by the
20 time you start coming out of the economy and you go from
21 2011 to 2013, what I try to do is contrast that with
22 comparable economic conditions from 2005 to 2007 and you can
23 see the sharp contrast in performance.

24 DR. HAUSMAN: In the econometrics, one of the
25 important variables is retail sales. So when that's

1 controlled for, that's one of the reasons I find in effect
2 -- you know, if you just look at the raw data and you're not
3 controlling for retail sales, as was just discussed at the
4 beginning of the period when the order was in effect, they
5 had the great recession and of course that had a large
6 effect on retail sales. So that's why, you know, the
7 econometric model allows you to control for that which would
8 otherwise be a confounding factor.

9 COMMISSIONER SCHMIDTLEIN: Okay. Well, that was
10 going to be one of my questions was, you know, I guess you
11 would agree that the drop in demand in 2009 had to play some
12 role in the prices. And I guess your response is, well,
13 we've controlled for that in analyzing how the order
14 affected the domestic industry?

15 DR. HAUSMAN: Yes. Yes. Exactly so.

16 COMMISSIONER SCHMIDTLEIN: Okay.

17 DR. KAPLAN: And in amplifying what Dr. Hausman
18 said, the Commission should consider the effect of the order
19 and the fraud simultaneously when considering the price
20 effect that the full benefit of the order wasn't garnered
21 because of that. And nonetheless the period still showed an
22 increase.

23 In a side note, in reviewing the staff report
24 there is -- maybe it was in the legal memo, there's not a
25 large discussion of the actual findings of the Commerce

1 Department. And we found that, as economists, very
2 important in understanding what took place over the period.

3 Sometimes parties come in and make accusations
4 and the Commission looks at them and says, well, you know,
5 where's the evidence or we don't accept that. Here you have
6 a case where there's a government finding and this agency
7 has always believed in agency comedy. If a merger is
8 approved by the FTC, the ITC has never said, no, it's
9 created market power and an oligopoly. That's what they do.
10 The Commerce Department says there's fraud and the courts
11 approve it, that's just another input into your analysis.
12 But as Mr. Dorn pointed out, that prevents the full benefit
13 of the order from being realized by the domestic industry
14 but nonetheless as Dr. Hausman showed you, you do get the
15 price effect. And once the nonrecurring expenses are
16 removed, you will see the same thing in the financials.

17 COMMISSIONER SCHMIDTLEIN: Okay. All right.
18 Thank you. My time is up.

19 CHAIRMAN BROADBENT: Thank you. Mr. Richards,
20 could you talk a little bit about the innovations that got
21 you to the smaller gram weight paper? That seemed to be a
22 big success of your company.

23 MR. RICHARDS: Madam Chairman, Mark Richards. I
24 think Todd Downey would be better suited to answer that as
25 the general manager of that business.

1 CHAIRMAN BROADBENT: Sure, Mr. Downey?

2 MR. DOWNEY: Actually, I'm going to pass the
3 potato to Jamie Hill I wasn't with the company at that time
4 when we did the conversion to the 48 gram.

5 CHAIRMAN BROADBENT: Uh-huh.

6 MR. DOWNEY: She can tell you from a paper-making
7 standpoint, it has less fiber.

8 CHAIRMAN BROADBENT: Right.

9 MR. DOWNEY: You know, I can't imagine it was a
10 great deal, but I'm going to give it over to somebody who
11 was with Appleton at the time.

12 Jaime?

13 MR. HILLEND: Hello, I'm James Hillend. I
14 previously managed the POS business during part of the
15 review period. As Todd indicated, a relatively
16 straightforward change of moving from a heavier, thicker
17 sheet of paper to a lighter, thinner sheet of paper with the
18 ability to lay down an efficient coating at the same time.
19 So it's relatively straightforward. I make it sound simple,
20 it's far more complex, but it is that straightforward.

21 CHAIRMAN BROADBENT: Well, wasn't it something
22 everybody in the industry was aspiring to do and you guys
23 had the breakthrough?

24 MR. HILLEND: The industry, as many industries
25 have done, looks at the yield play of saying, I want to get

1 more efficient use of my product. So if I go from a thick
2 product to a thing --

3 CHAIRMAN BROADBENT: Right.

4 MR. HILLEND: Classic example I use just for
5 example here is, that thick boarding pass you used to get
6 when you got on airplanes. And now if you go to the Delta
7 counter, you've got a kiosk and it's a very thin thing. So
8 people are looking at the yield thing. So that's a natural
9 lifecycle evolution of products. And so the challenge with
10 going lighter in any of these things is you've got to make
11 sure you've got efficient papermaking capabilities and
12 ability to coat efficiently at that because the paper is
13 thinner and you're getting it wet, it could break. So you
14 get a number of those factors going on. So it's not like
15 rocket science, but it requires a certain dedication to
16 science and innovation to do that. But many people will be
17 able to overcome that because of the way paper making has
18 evolved and coating has evolved over that period of time.

19 CHAIRMAN BROADBENT: Okay. Well, then maybe the
20 innovation was the BPA-free product.

21 MR. HILLEND: Sure. So let's go back. Appvion
22 chose to change chemistries back in 2006 and became BPA-free
23 at that point in time, prior to this order. That was just
24 innovation and chemistry and it was a choice on how we
25 wanted to develop our products and deliver the benefits that

1 markets will pay for. So that's a continuing thing that
2 Appvion has done, a leveraging chemistry to create
3 innovation.

4 So we did that on our own choice voluntarily at a
5 higher cost because we felt it was the right thing to do
6 environmentally if you will, prior to the knowledge and the
7 awareness consumers had, let's say in 2010 or 2011.

8 CHAIRMAN BROADBENT: So is the BPA-free, but was
9 there a demand in terms of checkout clerks and so forth not
10 wanting to be associated repeatedly with the BPA compound?

11 MR. HILLEND: Yeah, there's a fair amount of
12 public documentation starting with some USA Today articles
13 in 2010 talking about the -- let's say the perception that
14 BPA may not be as safe as other choices. And so certainly
15 clerks that handle the receipts are a high incidents of
16 usage and it's important for their health. And so they
17 responded well to that as it went forward.

18 So in 2010 there was a growing awareness that BPA
19 was -- may not be as beneficial as other chemistries. And
20 Appvion had already been -- you know, done that four years
21 earlier, so we already had the product out there.

22 CHAIRMAN BROADBENT: Right.

23 MR. HILLEND: So there's a market demand out
24 there for non BPA containing products. That segment, as
25 Doug and others have shared, has been growing, whereas it is

1 the more prevalent end-use in North America today. But like
2 others have said too, all major competitors -- our
3 competitors offer that product as well.

4 CHAIRMAN BROADBENT: So had you all gotten
5 organized communications from checkout associations, worker
6 associations saying they did not want to use this product?

7 MR. HILLEND: No. I would characterize it as
8 that sample. I wish the market insight occurred that way.
9 Generally speaking, when the articles were published in
10 2010, we received from major retailers, you know, WalMart
11 tends to be a leader and they were using the bottle as their
12 example. We were contacted by a number of people like that,
13 that's just purely an example, to say, you know, we didn't
14 have that in our product. And when we actually marketed our
15 product that it was a different choice for the segments that
16 cared about those kind of things.

17 CHAIRMAN BROADBENT: Okay. And then is the same
18 thing happening with the phenol additive?

19 MR. HILLEND: In many cases the same. We weren't
20 the first company in the globe to come out with a
21 phenol-free product. There is a number of offerings in
22 Europe today and supplied by one or more German producers
23 out there where people are saying, you know, there's a
24 segment of the marketplace that values a non-phenol end use.
25 It tends to be tiny right now. But there's growing demand

1 for that. And yet it's segmented at this point in time.

2 CHAIRMAN BROADBENT: Okay. Are there benefits to
3 the receipt in terms of auditing capabilities of shop owners
4 and so forth? I remember, you know, checking at a cafeteria
5 at my old place of work and they were always making sure
6 that the checkout ladies gave everyone a receipt because at
7 the end of the day it helped them figure out their books.
8 Is there a financial accounting benefit to everyone getting
9 a receipt?

10 MR. HILLEND: Well, simply, there is -- I mean, I
11 know Steve is going to jump up and answer this in a second.
12 But one of the things you see is that for expense accounting
13 you don't -- many companies and IRS regulations permit this,
14 you don't need a receipt under a certain value. And now
15 you're seeing where you don't need to sign the credit card
16 receipt under a certain value. So, a lot of those previous
17 end-use occasions where you needed verification that you
18 spent the money or for tax purposes or for expenses purposes
19 are diminishing.

20 CHAIRMAN BROADBENT: Okay. Yes. Mr. Hefner.

21 MR. HEFNER: The receipt business has changed.
22 They have an electronic record of the receipts that they've
23 given to you.

24 CHAIRMAN BROADBENT: Yeah.

25 MR. HEFNER: So the store doesn't need it. Some

1 of the people for IRS regulations like the contractors or
2 Home Depot might need those receipts and they want to give
3 it. But the reason why they want to give you a receipt or
4 have asked to give you a receipt at the retail level in the
5 past, is because that's your record for returns. Should you
6 not have that receipt, and you choose to return some item to
7 the store, you get the present market value of the item. So
8 if it's gone on sale and you don't have a receipt, the
9 retailer gains. But if they relied on captive information
10 that they had in electronic data, they would have to give
11 you the full receipt value of the goods back.

12 CHAIRMAN BROADBENT: Okay. All right.

13 Mr. Richards, I noticed in your testimony you
14 were mentioning the 19-pound, post-hearing brief that the
15 respondents filed, seven inches thick, in sort of a negative
16 way. Is that because it's too long, or are there
17 environmental concerns with briefs that are that long?

18 (Laughter.)

19 MR. DORN: It was a -- I think the purpose of
20 that was just to show that this is an opponent who is highly
21 motivated to serve the U.S. market and they need to get rid
22 of the antidumping order to do that.

23 CHAIRMAN BROADBENT: As reflected by how many
24 pages they file?

25 MR. DORN: Yes.

1 CHAIRMAN BROADBENT: So it doesn't have anything
2 to do with paper being --

3 (Simultaneous conversation.)

4 MR. DORN: -- to do with environmental concerns.
5 I've been practicing here for over 30 years and that's the
6 largest submission I've seen. So I thought it was worth the
7 remarking on that.

8 CHAIRMAN BROADBENT: Yeah, our staff was
9 remarking on it too, I remember.

10 (Laughter.)

11 CHAIRMAN BROADBENT: Okay. Mr. Richards, do you
12 have -- are there regulatory issues in terms of your
13 manufacturing process here that are particularly
14 challenging? And are they changing and getting more
15 onerous?

16 MR. RICHARDS: Madam Chairman, Mark Richards.
17 Regarding regulatory issues in general, we have a group of
18 people that focus on environment health, product safety, and
19 that executive director reports to me. And they chart the
20 number of requests that come in on a regular basis through
21 customers or regulatory agencies. And the number of
22 requests for information has gone up over the last four or
23 five years that they've chartered that information. So,
24 yes, there are a number of regulations that we need to
25 follow and comply with.

1 CHAIRMAN BROADBENT: Okay.

2 MR. DOWNEY: This is Todd Downey. I would just
3 add one to that is the Boiler Mact regulations are coming
4 from a regulatory standpoint.

5 CHAIRMAN BROADBENT: Right. Okay. And then I
6 will have to get back to my questions later.

7 Vice Chairman Pinkert.

8 VICE CHAIRMAN PINKERT: Thank you.

9 Now, Dr. Ashenfelter quotes Appvion as calling
10 its direct thermal products, "a phenomenal growth story" in
11 an investor presentation. Can you provide some context for
12 this quote?

13 MR. RICHARDS: Mark Richards. Can you repeat the
14 question, please?

15 VICE CHAIRMAN PINKERT: Yes. Dr. Ashenfelter
16 quotes Appvion as calling its direct thermal products, "a
17 phenomenal growth story" in an investor presentation. Can
18 you provide some context for the quote?

19 MR. RICHARDS: Yes, of course. This is Mark
20 Richards. When we talk about our thermal business we report
21 it to the SEC in its entirety. So that includes our tag,
22 label, and entertainment business which is a very sizeable
23 business and has historically been growing at high
24 single-digit to low double-digit rates. And that is in our
25 investor presentations and you will see that when we report

1 earnings, we continuously talk about that segment as a
2 growth segment. That is not the segment that's in question
3 here today.

4 On the other segment in the total results is the
5 lightweight non-topcoat segment and that is the segment that
6 you've heard here today with reflecting sales that are
7 slower in growth to plateaued, more challenge from a cost
8 standpoint and essentially fungible in relation to other
9 products. So that's the commodity segment of the thermal
10 business.

11 So, again, in sum we have two major segments that
12 we report out in total and it's the tag, label, and
13 entertainment business which is a growing segment and it's
14 the lightweight non-topcoat segment that's sizeable, but
15 it's a much more mature business and much thinner margins in
16 that business.

17 VICE CHAIRMAN PINKERT: Thank you. Now, is the
18 level of the German producer's capacity utilization so high
19 that they could not increase exports to the United States if
20 the order in Germany were revoked?

21 MR. DORN: Well, you recall, Mr. Vice Chairman in
22 the prior determination you found that capacity was
23 increasing during the period of investigation, not by adding
24 new facilities, but by becoming more efficient and by
25 shifting capacity from other products to lightweight thermal

1 paper. And that's certainly something that can easily
2 happen going forward. I actually had a hearing slide that
3 showed the product mix in 2012 and 2013, I believe, when
4 they exited the market and you see a shift in the use of
5 their capacity, I can't get into the confidential data, but
6 they can certainly shift that capacity back towards
7 lightweight thermal paper if the order is revoked.

8 And I would also note that it's my understanding
9 from publicly available information the Koehler is involved
10 in carbonless paper and I believe we have record evidence
11 that demand for carbonless paper is going down in Europe as
12 it is in the United States as Mr. Richards was referring to.
13 And so there's a natural motivation to shift production
14 gradually away from carbonless towards thermal paper for
15 Koehler.

16 And, of course, the other thing is just
17 irrespective of what their capacity utilization is, is their
18 ability to divert shipments to other markets to the U.S.
19 market.

20 VICE CHAIRMAN PINKERT: Thank you. Dr. Kaplan?

21 DR. KAPLAN: Yeah, I just wanted to emphasize Mr.
22 Dorn's last point about divertible capacity. So there's
23 excess capacity, there's capacity that could be moved
24 between products, and then there's divertible capacity which
25 is essentially shipments sent from one market to the other.

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Dr. Ashenfelter spent significant amounts of time saying there was no motivation to come her based on profit margin issues that are confidential in his report. As I discussed in my statement, he looked from 2008 through 2012, but I divided up the market time period into the pre- and post-order period and I would ask you to look at those slides and ask if they have a motivation to divert shipments from outside of the United States to the United States irregardless of what capacity level they're operating at in Germany. And I think that -- I'll characterize it as saying it does provide motivation. I'll stop there because of the confidential nature of the data.

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MR. DORN: And with respect to confidential data, if you look at our prehearing brief at 33, we do talk about the trend in capacity during the period of review. And pointed out, I think it's important to look at what their actual production was in 2012.

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VICE CHAIRMAN PINKERT: Thank you. We'll look at that.

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Professor Hausman, you made reference to attempting to find a more efficient estimator. And this goes well beyond my recollection of statistics, but I recall there was a concept called the maximum likelihood estimator. Is an efficient estimator also maximum likelihood?

1 DR. HAUSMAN: Under regularity conditions maximum
2 likelihood is typically efficient and it attains a career
3 round lower bound. And the Feasible Generalized Least
4 Squares under acetonic product theory, it attains that same
5 bound. So it's not -- what I did is not the maximum
6 likelihood estimator. But under typical regularity
7 conditions it does as well as the maximum likelihood
8 estimator.

9 VICE CHAIRMAN PINKERT: So then is it your
10 testimony that you believe that under the circumstances of
11 this case that it does as well as the maximum likelihood
12 estimator?

13 DR. HAUSMAN: Yes, as well as the maximum
14 likelihood estimator that would typically be used in a
15 situation. Yes.

16 VICE CHAIRMAN PINKERT: Thank you.

17 Now, Koehler argues that non-subject imports are
18 understated in our data resulting in an understatement of
19 apparent U.S. consumption; do you agree?

20

21 MR. DORN: I think there are some problems with
22 the official import data. But I think I'd rather -- rather
23 than wing it, I would rather address that in the
24 post-hearing brief. But there are some problems with the
25 way some of the data is being reported. We'd agree with

1 that.

2 VICE CHAIRMAN PINKERT: Thank you. Thank you,
3 Madam Chairman.

4 CHAIRMAN BROADBENT: Commissioner Williamson?

5 COMMISSIONER WILLIAMSON: Thank you. We've been
6 talking about EPA and, I guess, concerns that some customers
7 had. I was wondering, was that ever a concern for the
8 unions in terms of manufacturing paper with the VPA coating
9 -- VPA in the coating?

10 MR. GEENEN: The issue came up in the Steel
11 Workers and other industries and we have an aggressive
12 health and safety department and it was certainly an issue
13 that was raised internally in the union. And, in fact, at
14 one time we reached out to Appleton while it was Appleton
15 and raised the question and learned that they were already
16 transitioning in the product to be PH free. But as you can
17 imagine in our union most things that have some kind of
18 health and safety implications, you know, become important
19 to us.

20 COMMISSIONER WILLIAMSON: To get the members'
21 attention; yeah.

22 I was also wondering about how -- Appvion is no
23 longer using or purchasing paper from outside. How does the
24 union sort of cope with, you know, maintaining the
25 competitiveness of the workers in this industry given some

1 of the changes, and of course the competition from overseas?

2 MR. GEENEN: So if the question that has been how
3 has the union coped with trying to deal with the competitive
4 issues --

5 COMMISSIONER WILLIAMSON: Uh-huh.

6 MR. GEENEN: -- I think in my statement I made
7 the remark that I would say 20 years ago we didn't concern
8 ourselves all that well with part of the decisionmaking
9 process or being part of an innovative process within a
10 facility. And we spent a lot of time on relationships and
11 we understand that productivity matters in an environment
12 where competitive factors reach far beyond just the typical
13 regions and across different borders. So I think that we've
14 been cooperative with the industry to find ways to do work
15 more efficiently, whether it's changing the way that we've
16 aligned work in a workplace ourselves, whether it's making
17 decisions to reduce the number of people in jobs, or overall
18 in the work system including six sigma and lean
19 manufacturing and adopting those kind of practices that help
20 us to compete better.

21 COMMISSIONER WILLIAMSON: So how do you think you
22 compare with the workers say in Germany?

23 MR. GEENEN: So I happen to have the vantage
24 point of working closely with the international labor
25 community especially the unions that are active in Germany

1 and we compare notes often. And I think that the workers
2 are doing the same things in the U.S. as the workers are
3 doing in Germany and we make it a point to learn from each
4 other.

5 COMMISSIONER WILLIAMSON: Okay Mr. Richardson?

6 MR. RICHARDSON: Yeah Commissioner Appvion is --
7 just to build on what John said, I think we have excellent
8 work relations with our unions and we have reached out to
9 them in a cooperative way over the years. We think, from
10 that standpoint, we and John mentioned this in his
11 testimony, we have for many years been focused on high
12 performance, self-directed work teams to take supervision
13 off the floor and allow the people who are closest to the
14 work to be able to do the work.

15 We are ISO 14001 certified and we are
16 continuously bringing in lean techniques, 6 Sigma techniques
17 and problem solving skills to the workers in the facilities
18 as well as the entire work force and we believe that is
19 something that we need to do to continuously improve our
20 operations and remain competitive and productive in a global
21 environment.

22 COMMISSIONER WILLIAMSON: Okay, thank you for
23 those answers. Mr. Dorn, I understand you -- this is on
24 the Eric assumption question and I understand your point on
25 slit roll consumption is an indicator of demand, but since

1 our coverage of converters is incomplete, this raises a
2 question whether or not that's meaningful data, so I was
3 wondering post-hearing if you could give more detailed
4 discussion how we should compute apparent consumption and
5 market shares.

6 MR. DORN: I would be pleased to do so but I
7 think your coverage is pretty good for converters but we
8 will address that in the confidential record.

9 COMMISSIONER WILLIAMSON: Okay thank you. What
10 are your major export markets? What has been the
11 experience for demand in those markets Mr. Downey?

12 MR. DOWNEY: Yeah, tied down -- we don't export
13 much paper I'd probably just leave it at that. In fact
14 when we in 2013 we actually shed some international
15 capacity, we do very little.

16 COMMISSIONER WILLIAMSON: Is that because of
17 competitive conditions or the foreign suppliers or?

18 MR. DOWNEY: When opportunities come up there is
19 just no way that we can go to the pricing levels that we
20 see.

21 COMMISSIONER WILLIAMSON: Okay Mr. Hefner?

22 MR. HEFNER: We operate as a subsidiary of Oji
23 Paper and Japanese parent company, we operate under their
24 license and the only exports that we are permitted to do are
25 in North America which would be Mexico and Canada.

1 COMMISSIONER WILLIAMSON: Okay, thank you.
2 Either here or post-hearing can you explain the pattern of
3 U.S. producers exports? Well I think you partially have
4 already done that, but if there is anything else you want to
5 say about the pattern of U.S. producers exporter shipments
6 over the period of review, you know, if there are any
7 changes, if there has been anything significant that we
8 should note about that?

9 MR. DORN: We will be pleased to address that.

10 COMMISSIONER WILLIAMSON: Good, thank you. The
11 Respondents make a number of arguments as to why the German
12 industry will not increase production or shift exports to
13 the United States, what is your response to these arguments?

14 MR. DORN: Well you know, one of their major
15 arguments is based upon Professor Ashenfelter's study in
16 which he purports to show the profitability for sales to the
17 United States versus other markets. It's a highly redacted
18 study that's why we try to do it in the confidential slides,
19 but as Mr. Kaplan explained, Dr. Ashenfelter just took the
20 period of May from 2005 to 2012 and grouped all those years.

21 COMMISSIONER WILLIAMSON: Okay, you don't
22 necessarily have to go over --

23 MR. DORN: And compared profits to the U.S.
24 purchases of the markets and we think that's a totally
25 inappropriate way to look at it.

1 COMMISSIONER WILLIAMSON: Okay, what about in
2 terms of you know, capacity utilization, alternative
3 markets?

4 MR. DORN: In terms of capacity utilization, you
5 know I think we have questions about the way they reported
6 their capacity. As I mentioned before in our brief we
7 point out what their production level was in 2012 and I
8 think that's important to look at and we know that the
9 capacity, at least what they did in 2012 so I think you
10 should be skeptical about their claimed capacity in 2013 and
11 their capacity utilization numbers, generally.

12 But in the original -- in the original
13 investigation they argued the same thing they argued that
14 they couldn't increase exports to the United States. They
15 also argued in the original determination, original
16 investigation, that profits were higher in other markets and
17 they had no incentives to increase exports to the United
18 States, the same argument they are making today.

19 But what Commissioner Williamson and Vice
20 Chairman Pinkert determined, was that they had been able to
21 gradually increase capacity during the period of
22 investigation from 2005 to 2007 by increasing the production
23 efficiency and also by shifting capacity away from other
24 products toward the lightweight thermal paper and they will
25 be able to do that going forward especially with the

1 declining demand for carbonless which gives them an
2 incentive to produce more lightweight thermal paper and less
3 carbonless.

4 And then they also have the ability to shift
5 exports to other countries to the United States. Sure, when
6 they entered the U.S. market in 2013 they supplied other
7 markets to make up for that lost volume but they will
8 certainly come back to this higher priced market if the
9 duties are revoked.

10 COMMISSIONER WILLIAMSON: Okay thank you.

11 MR. HEFNER: Could I answer that, my estimation
12 that they would come back to this market. First of all I
13 don't understand how they can say they are not interested in
14 being in this market but spend this much time, money and
15 effort to try to get the order vacated.

16 But I think the other markets that they went to
17 once they left the U.S. market are highly unattractive as
18 compared to coming back to this market with a zero dumping
19 duty order.

20 COMMISSIONER WILLIAMSON: Okay, Mr. Richards?

21 MR. RICHARDS: Commissioner, Mark Richards.
22 Building on what Steve said and what was in their earlier
23 testimony is they are clearly getting more pressure in their
24 home market because if Korean competitors come in there and
25 they stated that they want to take a certain amount of

1 share, I think that was stated in earlier testimony.

2 Additionally, what I know is the announcements
3 they have made here, the pre-announcements they have made
4 about their coming back to the market and if I'm correct I
5 believe they are back already to a certain degree and why if
6 they weren't coming back would they be maintaining a sales
7 representative firm, warehouses and contact with customers
8 if they have no intent of coming back or if this wasn't an
9 important market to them.

10 So from my perspective at Appvion, every
11 intention is they are going to come back. I think they are
12 just playing it cool until they can get through this review
13 period.

14 MR. DORN: Only Koehler is here today, remember
15 there are two German producers, the other is Mitsubitshi and
16 Mitsubitshi also has maintained a presence here and not
17 withstanding any dumping order I think they have been less
18 aggressive as a result of the discipline of anti-dumping
19 duties as you will see from their data, but when Koehler
20 withdrew from the market, you might want to look and see
21 what Mitsubitshi did in that period but don't forget there
22 are two German producers that both have a motivation to get
23 to this larger high-priced U.S. market, not just Koehler.

24 COMMISSIONER WILLIAMSON: Excuse me, my time is
25 very close, maybe Mr. Kaplan can answer that last issue.

1 MR. KAPLAN: Thank you Chairman and Commissioner
2 for the time. The Commission is often confronted in sunset
3 reviews with countries that have left the market for five
4 years because of the orders and that will determine whether
5 they will come back or not.

6 Here you have a case where they have been here
7 the whole time. They have an expressed interested, they
8 have left for reasons they said and they have said
9 themselves that they will re-enter the market, so the
10 question is not whether they are going to re-enter the
11 market, the question is not whether they are going to dump
12 because Commerce has told you that. The question is
13 whether that re-entry to the market with dumped imports is
14 going to be injurious should they leave.

15 COMMISSIONER WILLIAMSON: Okay, we are out of
16 time, I'm sorry.

17 Okay, good thank you.

18 CHAIRMAN BROADBENT: Commissioner Johanson?

19 COMMISSIONER JOHANSON: Thank you Chairman
20 Broadbent. I understand that in the original investigation
21 that there was pretty strict market segmentation whereby
22 subject imports from Germany were primarily jumbo rolls and
23 subject imports from China were already slit rolls. What
24 has kept the Chinese producers from sending their jumbo
25 rolls into the U.S. market? Is this a question of the

1 slitting process being labor intensive and therefore more
2 economically performed in China or perhaps something related
3 to transportation costs?

4 Also, since the imposition of the orders have you
5 all noticed Chinese jumbo rolls being sent to third
6 countries for slitting in those countries?

7 MR. HEFNER: Steve Hefner. I believe there are
8 two reasons why they haven't brought the jumbo rolls from
9 China here. One is that I believe their manufacturing
10 processes are not that of the Germans or the domestic
11 suppliers and that they need to call out defects prior to
12 manufacturing them in the slit rolls and I think that's very
13 important to them otherwise they would have no -- they
14 wouldn't last very long if there were major defects.

15 And I think the other reason is that they do sell
16 some of their jumbo rolls to nearby countries like Peoples
17 Republic of Taiwan and then slit those rolls in a way that
18 would allow them to possibly usurp the duties
19 anti-countervailing duties that have been put on them.

20 COMMISSIONER JOHANSON: Thank you for your
21 response Mr. Hefner. There's been a lot of talk today about
22 BPA free paper I mean this is kind of a new issue for me.
23 I didn't know that this was an issue in the market prior to
24 you all coming here today. I worked on Capitol Hill for a
25 while and I know it's a big issue concerning canned foods

1 but not with paper so thank you for educating me on this.

2 Is that right, oh I'm sorry bottles also? Okay.

3 Well I have a question on BPA free paper. And
4 this might be better dealt with in the post-hearing period
5 but please feel free to discuss this issue to the extent you
6 can today. Comparing the shares of BPA free in domestic
7 production and that is looking at table 313 of the staff
8 report with the shares of BPA free in subject imports and
9 that is shown at table 4 of the staff report.

10 I wonder which source has an advantage in the
11 market that is moving toward BPA free?

12 MR. DORN: I think we'll need to address the
13 data post-hearing but keep in mind the 2013 data in the
14 report reflects the period where Koehler withdrew from the
15 market so I think that more -- the better indicator of the
16 trend is to go through the end of 2012 and that will show
17 you where the market is going.

18 MR. HEFNER: Steve Hefner, let me add to that.
19 You know it's important to note the subject and non-subject
20 imports who import product into the United States. Whether
21 they have BPA free or BPA contained they use the same
22 harmonized code numbers so it's difficult for us to discern
23 what is coming into the country only based on the data that
24 we hear from the public people that they are buying.

25 COMMISSIONER JOHANSON: Thanks for your

1 responses. I have another question on BPA. Can the
2 representatives of Appvion discuss your efforts to get the
3 FDA to ban BPA from paper?

4 MR. DOWNEY: I don't know that we ever have
5 tried to get BPA banned from paper to my knowledge
6 Commissioner. We've been off of BPA for a long time.

7 COMMISSIONER JOHANSON: All right.

8 MR. HEFNER: I can add to that, Steve Hefner. I
9 can add to the design for the environment, government agency
10 decided for the environment that did a study on BPA versus
11 other type developers and had no conclusive answer on what
12 was the appropriate thing to do because each and every
13 substitute had its pros and cons going forward so there's
14 been no move to ban, it's been a popular opinion that the
15 reduction of BPA both in food processing products as well as
16 receipt paper would be in the best interest of being green.

17 COMMISSIONER JOHANSON: All right, thank you for
18 your responses. An issue where there is a clear division
19 is what it means that the domestic industry now has a
20 significant 48 gram production. Domestics argue that this
21 increases the probability of head to head import competition
22 whereas the German producers argue that this means that the
23 domestic industry is in a much better condition to compete
24 than it was back in 2008. Which side has a better argument
25 here?

1 MR. DORN: I would suggest we do.

2 COMMISSIONER JOHANSON: I thought you'd probably
3 say that but if you could expand on that.

4 MR. DORN: I think in the original
5 investigation, the original period of investigation I mean
6 what the other side was arguing was two ships pass in the
7 night. You know, they are bringing in 48 and we are
8 selling 55 and so there's no direct competition and so you
9 know there wasn't occurring injury. And the Commission
10 said well you know let's look forward in threat analysis and
11 clear the trends were clearly showing that the competition
12 was going to be focused on 48 and so you know there was an
13 attenuating competition argument which could be made in 2008
14 before this Commission.

15 There is none to be made here in 2014 because the
16 two ships are sailing right into each other, both carrying
17 48 gram paper so I think that you know we are more
18 vulnerable now to dumped imports than we were in 2008
19 because of the fact that the witnesses have said the product
20 has become more of a commodity since 2008 because of the
21 convergence of 48 gram.

22 MR. HOWARTH: Commissioner, Doug Howarth. To
23 add to that really this is a transaction business so it's
24 all about price and we talk and negotiation, we talk about
25 price frequently so with the 48 gram I would say we have

1 become more intense.

2 COMMISSIONER JOHANSON: Yes, Doctor Hausman?

3 MR. HAUSMAN: If one compares my econometric
4 results on page 5 I have a separate model for 48 gram and if
5 you compare the results there which of course I can't say
6 exactly how large they are, but if you compare those to the
7 results on page 4 which are all the products you will note
8 that I find a considerably larger fact for products 3 and 4
9 in the 48 gram, the effect of the order than I do overall.

10 So to the extent that you know this would go away
11 if there were no order going forward you would have a larger
12 effect on products 3 and 4 of the 48 gram.

13 COMMISSIONER JOHANSON: Yes, Mr. Kaplan, Dr.
14 Kaplan?

15 MR. KAPLAN: Yeah, the Commission has in chapter
16 2 of its report looks at the substitute-ability issues and
17 there's a long tradition at the Commission that is grounded
18 in solid economic thinking that the effect of the imports
19 will increase as the substitute-ability of the products go
20 up because consumers become more price sensitive as the
21 products are less differentiated and are more head-to-head.

22 So before you had a case where the Commission
23 itself found that there was attenuated competition because
24 of the gram weights and without that now you have a market
25 that is a commodity-esque market where price is the

1 determining factor of purchasing. So the effect to the
2 extent that there is increased imports, increased dumping,
3 increased price competition should the order be removed
4 which I think it will be, that effect will be larger because
5 the customers are only caring about price and not other
6 attributes like they were in the previous investigation.

7 COMMISSIONER JOHANSON: Thank you for your
8 responses. Purchasers reported that some customers require
9 paper certified to a forced sustainability standard, what
10 role does forced certification play in the market and how
11 much of LWTP sold in the United States carries an on label
12 certification?

13 MR. HILLEND: Again James Hillend, so FFC
14 certification, there's a segment of the market in the United
15 States that cares about that and actually requires that as
16 part of their offering out there. I think it would be
17 speculative for me to say what portion of the market does
18 that, it is not the sizeable side of the market, it is not
19 the majority.

20 COMMISSIONER JOHANSON: Thanks for your
21 responses and the reason I'm asking that is it has been an
22 issue in some other investigations for the ITC so naturally
23 it rose in my head. My time is about to expire so I will
24 end on those questions, but thank you all for appearing here
25 today.

1 CHAIRMAN BROADBENT: Commissioner Schmidtlein?

2 COMMISSIONER SCHMIDTLEIN: Thank you. I wanted
3 to follow up on this question about shifting production
4 equipment between products and I apologize if this was
5 addressed in response to Commissioner Pinkert's question
6 when I left the room, but can you tell me Mr. Downey or
7 maybe Mr. Hefner how easy is it to shift production from say
8 thermal paper to some other product on the same equipment
9 and did you do that over the period of review and is it easy
10 to shift back? Are you going to say something?

11 MR. DORN: My comment was only in regard to the
12 German producer. I was not making any comment with respect
13 to the U.S. industry, it may also apply here, but the
14 comment was made, the base of the record for the German
15 industry.

16 COMMISSIONER SCHMIDTLEIN: Right that's what I
17 thought so I'm just trying to get an idea of just in a
18 general sense how easy is this and have you done this, do
19 you do this?

20 MR. DOWNEY: Todd Downey. And it depends what
21 products you are talking about in terms of the coating
22 application technology. For instances, certain grades are
23 easier than others. To be able to interchange on the same
24 asset, but it is a difficult question to answer.

25 COMMISSIONER SCHMIDTLEIN: Well let's distinguish

1 between subject -- what we are talking about here which
2 would be in scope and not in subject.

3 MR. DOWNEY: Lightweight thermal paper for
4 instance.

5 COMMISSIONER SCHMIDTLEIN: Right, yep.

6 MR. DOWNEY: From 48 gram to 55 gram?

7 COMMISSIONER SCHMIDTLEIN: Yeah.

8 MR. DOWNEY: Very easy.

9 COMMISSIONER SCHMIDTLEIN: That's easy yes, but
10 that's all on scope. I'm talking about how easy is it to
11 shift between subject versus non-subject, something that's
12 --

13 MR. HEFNER: Let me try to give it my best
14 effort. This is Steve Hefner, I apologize. Kanzaki
15 specialty paper is only made with thermal papers so but our
16 parent company makes carbonless. It is possible to shift
17 past these from carbonless papers to thermal but not with
18 some level of capital investment to improve the
19 efficiencies. You can make it on the asset, but you may
20 not be able to make it on efficiency unless you put some
21 capital toward the appropriate.

22 COMMISSIONER SCHMDITLEIN: I see.

23 MR. HEFNER: To improve it, but the fundamentals
24 of the coating machines are similar but the efficiencies are
25 different because of the processes that they go through.

1 COMMISSIONER SCHMIDTLEIN: I see.

2 MR. DOWNEY: Also if you were to stay with any
3 thermal paper market for a 2R TLE segment, tag label,
4 entertainment. From lightweight thermal paper to certain
5 products within that business unit, that is also possible
6 but not all of them without a lot of resource allocation.

7 COMMISSIONER SCHMIDTLEIN: I see so it's not an
8 easy thing to do it sounds like.

9 MR. DOWNEY: It's very limited.

10 COMMISSIONER SCHMIDTLEIN: In that regard and
11 how I premised the question, okay. The second question I
12 wanted to ask about and this is also I think has been
13 touched on today but this is my second full sunset review so
14 having been here 6 months so I want to make sure I
15 understand the pricing product data and its relevance to our
16 analysis and the fact that we see and I know you focus just
17 on product 4, that's the BPA free product, if I understand
18 it correctly, I remember where there's a lot of head on head
19 competition, but we see mixed overselling and underselling
20 there so how does that inform our analysis of likely price
21 effects?

22 MR. DORN: Sure, well I think that the -- in the
23 original investigation underselling is always a you know, a
24 key ingredient for successful protection and when we had
25 that in this case, for one product and the Commission said

1 that if given the nature of competition going forward that
2 underselling would become -- would lead to adverse price
3 effects for the U.S. industry.

4 So then in sunset review though, you are
5 operating in a different situation where you have the
6 discipline of the order in place and if it's effective you
7 would think that the underselling has gone away.

8 COMMISSIONER SCHMIDTLEIN: Um-huh.

9 MR. DORN: Or at least you would see prices
10 tracking closely and so the extent that you do have
11 underselling and overselling, they are not large margins,
12 you are having what you would expect in a more competitive
13 market where prices are tracking more closely and so you
14 know the other side argues underselling as if this was an
15 original investigation and say you don't have a lot of
16 underselling so therefore they win.

17 And what I say is that it shows the discipline of
18 an order and then if you take away the duties you are going
19 to return the situation you had pre-order with a lot of
20 underselling as you had from 2005 to 2007.

21 COMMISSIONER SCHMIDTLEIN: But where you see
22 overselling that's more than say the margin, the dumping
23 margin, I mean what does that tell us? I mean why are they
24 selling at such a high price overselling the U.S. product?

25 MR. DORN: I think we have to take a look at the

1 data points that you are referring to in the confidential
2 record.

3 COMMISSIONER SCHMIDTLEIN: It's hard to discuss
4 here.

5 MR. DORN: It's hard to discuss, I mean I think
6 we pointed out in our brief that with respect to product 4
7 in particularly the margins were pretty close and the you
8 know, the Commission is not really, I don't think is every
9 really treated causality in terms of the cause of a certain
10 level of dumping margin. The statute says to look at the
11 impact of subject imports.

12 Commerce has already determined that the imports
13 are unfairly priced, your job is to determine what's the
14 impact of the unfairly priced imports in the domestic
15 industry. It's not just to say you know the 6 points of
16 dumping margin results in the injury, its subject imports.

17 COMMISSIONER SCHMIDTLEIN: Yeah.

18 MR. DORN: So I wouldn't try to try to match up
19 the underselling or overselling margins with dumping
20 margins.

21 COMMISSIONER SCHMIDTLEIN: That's a good point.
22 I don't think I have any other questions at this time, so I
23 will pass it to you Chairman Broadbent.

24 CHAIRMAN BROADBENT: Okay can we go back to
25 Commissioner Williamson's questions about exports. My

1 understanding over the period of review exports have
2 decreased about 50% - 40 to 50% is that right Mr. Dorn?

3 MR. DORN: I'm not sure I can say on the public
4 record, but that's sounds within the range.

5 CHAIRMAN BROADBENT: Okay.

6 MR. DORN: But they are starting from a very
7 small base thought.

8 CHAIRMAN BROADBENT: Okay.

9 MR. DORN: I mean exports haven't been reported
10 in this industry during the POI or during the period of
11 review.

12 CHAIRMAN BROADBENT: Okay I thought that they
13 were 20%, 18 to 20% to begin with, yes Mr. Kaplan?

14 MR. KAPLAN: I think one of the things to do and
15 I think there's data we have provided over the period but we
16 will provide more in the post-hearing is once again look at
17 what would motivate you to sell at home versus export? And
18 part of it is what the prices and profits would be at home
19 relative to what they are abroad.

20 So if you see patterns changing that might tell
21 you something about the effects of the order and the
22 desirability of the U.S. market and I will go to this in
23 more detail in the post-hearing brief but I would just like
24 to indicate where we are headed with that analysis now.

25 CHAIRMAN BROADBENT: Okay, so what's happening

1 in global markets? Are they generally growing? Does
2 anybody follow those here? Asia? Eastern Europe? I
3 mean does anybody know what's going on in the world on the
4 size of these markets?

5 MR. KAPLAN: Well in Europe things are
6 remaining, the economy going through another depression it
7 has been discussed there's a new entrant, a Korean entrant
8 into the market so the supply and demand situation there
9 would indicate that you know all things equal the United
10 States is becoming a more desirable market given growth in
11 Europe and the supply. I think Mr. Hefner was going to
12 discuss this so.

13 MR. HEFNER: The European as you said it's
14 coupled by the recession as well as other factors. Japan,
15 in the country of Japan lightweight thermal paper is in
16 decline due to their GDP and they have population declining
17 as well.

18 CHAIRMAN BROADBENT: Right.

19 MR. HEFNER: In Southeast Asia there is growth,
20 however in
21 China, China has not officially approved, the Chinese
22 government has not officially approved thermal printing as
23 an official receipt and so therefore once that gets through
24 because of the manufacturers of the receipt printer, you
25 should see some growth because of the consumption of people

1 coming out of the woods to purchase products.

2 So it's different parts of the regions in South
3 America, predominantly Brazil is still growing both in the
4 lightweight thermal business, thermal paper as well as other
5 thermal applications, that's the best I can give you.

6 MS. BYERS: This is Bonnie Byers can I just add
7 there is growth in some of these other markets for example,
8 in Latin America, but it is growing from a very small base
9 and the duties into those markets are very, very high.
10 There's a 7 % duty exporting to China for example although
11 the China market may be growing, it's capacity way
12 out-strips and its growth in capacity way out-strips any
13 growth and demand by about 3 %.

14 So while there is some growth in these other
15 markets, it is you know, there are other mitigating factors
16 that make these markets much less attractive.

17 CHAIRMAN BROADBENT: Okay, Dr. Hausman?

18 MR. HAUSMAN: I think one other factor that has
19 an effect on exports is during the period of the
20 investigation this is mainly an outcome of the Great
21 Recession, the Canadian dollar has gone down by 22% compared
22 to the U.S., I'm just going into my head but I think that's
23 approximately right.

24 The Brazilian currency is down by over 33%, there
25 are political reasons in Brazil as well but the demand for

1 iron ore is way off and the Euro has also come down
2 significantly, I can't do it in my head but it's come down
3 significantly against the dollar so that makes exporting
4 less attractive, you know, using Commission language. I
5 guess that makes the U.S. more vulnerable because the dollar
6 now is worth significantly more than it was vis- -vis these
7 other currencies than at the start of the period.

8 CHAIRMAN BROADBENT: Okay I guess this
9 instinctively when you talk about the growth of the middle
10 class consumer globally they would be buying more things
11 with receipts but --

12 MR. DORN: The point we made is the areas where
13 growth is higher or where capacity is growing faster than
14 growth so it's not helping overall supply and demand
15 balance. Going back to table 3-8 which I now have in front
16 of me which I think is the one you were looking at. I
17 think the main point we would make there is the data on unit
18 values of U.S. shipments versus exports shipments and the
19 point we would make is that shows again that the U.S. is a
20 more attractive market than the alternatives and that would
21 explain the trends in the exports.

22 CHAIRMAN BROADBENT: Okay this is for Mr. Mosby
23 and Mr. Rapier, you both mentioned that having access to
24 imports of jumbo rolls affects the stability that you have
25 with your customer base. Can you explain this is a little

1 further this is somewhat rare I think as purchasers
2 generally assert that alternative sources in supplier are
3 good for business?

4 MR. MOSBY: Greg Mosby. That's true, I mean
5 when competition drives your jumbo rolls down, we benefit
6 from that. The risk is when a lower price product comes in
7 and it doesn't get to us and we are here to defend the
8 market against Germany playing favorites again, you know
9 playing favorites to certain converters.

10 CHAIRMAN BROADBENT: Do you think other
11 converters would agree with you?

12 MR. MOSBY: I think so, but as you can see,
13 there's only two of us here for fear of putting a target on
14 their back.

15 In 2008, my dad testified, and in 2009 was the
16 last time we could buy paper from Koehler, and since then
17 we've been deemed that we're not a good fit for their
18 business. And so, you put two and two together and we were
19 taken out of the market.

20 CHAIRMAN BROADBENT: Okay.

21 MR. RAPIER: Mike Rapier. I would just say that
22 I agree with what Greg said. I would also add that as a
23 regional player in the market, that for larger converters to
24 given an advantage because of their relationship with them
25 put us at a real disadvantage.

1 CHAIRMAN BROADBENT: Okay. All right. I don't
2 think I've got further questions. Commissioner Johansen?

3 COMMISSIONER JOHANSEN: Yes. Thank you, Chairman
4 Broadbent.

5 Referring back to one of my earlier questions, if
6 you look at Exhibit 15 of the Appvion brief, that's a press
7 release from -- I'm sorry -- from the German brief. I
8 apologize. And this is all public, but if you look at that
9 press release -- there's a press release at Exhibit 15 of
10 the German brief it talks about Appvion and an FDA ruling on
11 BPA-free thermal receipt paper. And this is put out by
12 Appleton, even though it's in the German brief.

13 If you look at the first sentence of that, you'll
14 see how I came to believe that Appvion supported a ban by
15 the FDA on BPA. But after hearing from you all this
16 morning, I realize that's not the case. So, that is how I
17 came up with that question. Thank you.

18 COMMISSIONER SCHMIDTLEIN: I'm sorry. I just had
19 one more question I wanted to ask of someone from the
20 converter companies.

21 What has your company's experience been in the
22 most recent months in terms of volumes and price competition
23 since Koehler has come back into the market? And if it's
24 too difficult to answer because of confidential information,
25 you can do this in the post-hearing brief, if that would be

1 easier.

2 MR. RAPIER: Mike Rapier, Liberty Paper.

3 I would say -- and your timeframe was the most
4 recent month?

5 COMMISSIONER SCHMIDTLEIN: Yes, since they've
6 been back.

7 MR. RAPIER: Okay. As a regional converter, I do
8 business with other converters across the country so as to
9 play in a bigger pond than I could if I just stayed in my
10 own western regional states. And some of those
11 relationships are with converters who are not here today.

12 I would say this, is that if the argument is is
13 that they are not coming back, I would argue that because I
14 can already tell you from talking to those converters that
15 they are back and there is Koehler paper being sold in the
16 U.S. today.

17 Additionally, I would say that the reason that
18 they made that decision is because even though they never
19 indicate to what number they're paying for that paper, they
20 substituted Koehler in because they've gotten a better
21 price. So, that trend is already started and, thus, there
22 is downward pricing pressure in the marketplace.

23 COMMISSIONER SCHMIDTLEIN: And then I would just
24 ask anybody else who would like to comment on that question
25 to do so in the post-hearing brief. Thank you. Thank you

1 very much.

2 MR. MOSBY: Greg Mosby real quick.

3 I would agree that there's been some downward
4 pricing in the last couple of months.

5 CHAIRMAN BROADBENT: Do the Commissioners have
6 any other questions? Does the staff have any question?

7 MR. MCCLURE: Thank you, Madam Chairman. Jim
8 McClure, Office of Investigations. Mr. Goetzl has one
9 question.

10 MR. GOETZL: I just have one quick question for
11 the converters on the panel, if you wouldn't mind.

12 Can you explain a little bit more about the
13 preferred customer situation and why it is that in the
14 industry there are preferred customers and how all that
15 might work? If you want to save that for your post-hearing
16 brief, that's fine.

17 MR. MOSBY: Post-hearing brief, please.

18 MR. MCCLURE: Madam Chairman, that does it from
19 the staff.

20 CHAIRMAN BROADBENT: Thank you, staff.

21 Thank you. Do those in opposition have any
22 questions? I'd take it now.

23 Thank you. In that case, I think it's time for a
24 lunch break. I'm going to make the lunch a little bit
25 shorter than usual. If we could get back here by 1:30, so

1 I'll give us about 35 minutes, if everyone's all right with
2 that.

3 There seems to be a lot of consternation. Is
4 that a hardship? We'll be going late. Okay, if we want to
5 come back at five of 2:00, we can do that. What would you
6 like?

7 Okay, we'll split the difference and go 1:45 if
8 we could come back.

9 AUDIENCE PARTICIPANT: Solomonic. Thank you,
10 Madam Chairman.

11 CHAIRMAN BROADBENT: The hearing room is not
12 secure, so please don't leave business-confidential
13 information out. And I want to thank all the witnesses
14 again for coming today. We really appreciated your
15 contribution.

16 (Whereupon, a lunch recess was taken.)

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

2 MR. BISHOP: Will the room please come to
3 order?

4 CHAIRMAN BROADBENT: Mr. Secretary, are there
5 any preliminary matters for this afternoon's session.

6 MR. BISHOP: Madam Chairman, I would note that
7 the panel in opposition to the continuation of the
8 anti-dumping and countervailing duty orders have been
9 seated. All witnesses have been sworn.

10 CHAIRMAN BROADBENT: Thank you, Mr. Secretary.
11 I want to welcome the afternoon panel to the ITC. I would
12 like to again remind witnesses to speak clearly into the
13 microphone, and state your name for the record for the
14 benefit of the court reporter. You may begin when you're
15 ready.

16 MS. DeBUSK: Good afternoon. For the record,
17 I'm Amanda DeBusk, Hughes Hubbard and Reed on behalf of
18 Koehler. Before I introduce the rest of the panel, I'll
19 briefly address three topics. Why the Commission should not
20 cumulate; how the reasons for the original order no longer
21 exist; and the strong condition of the domestic industry.

22 First, cumulation. In the original
23 investigation, the Commission declined to cumulate imports
24 from China and Germany. The Petitioner is not asking the
25 Commission to cumulate and there has been no change in facts

1 that would lead to a different outcome from the original
2 investigation.

3 Second, the grounds for imposing the original
4 order no longer exist. In the original investigation, the
5 Commission unanimously found that the domestic industry had
6 not been materially injured by subject imports. By a split
7 3 to 3 vote, however, the Commission determined that German
8 imports posed a threat of material injury to the domestic
9 industry.

10 The threat determination was based on concern
11 over German imports of 48 gram paper. The domestic industry
12 was only beginning to produce this product while German
13 coaters had already developed economies of scale. The
14 Commission also expressed concern about the impact of the
15 recession on the industry.

16 The domestic industry has now successfully
17 shifted to the 48 gram product, and is very competitive in
18 this segment of the market. But the domestic industry has
19 gone beyond just catching up. It now leads German coaters
20 in the production of BPA-free thermal paper, which currently
21 accounts for over 96 percent of U.S. industry shipments, and
22 of phenol-free paper, which appears to be the next growth
23 product. So the circumstances that led to the original
24 threat determination have now been reversed.

25 Regarding the Commission's concerns with the

1 impact of the recession and declining demand, we're now in a
2 situation where all parties, as well as the two converters
3 on our panel agree, that demand for lightweight thermal
4 paper is increasing. The only reason that the staff report
5 appears to show declining demand after 2012 is because of
6 lack of data from third country suppliers.

7 Third, I will turn to the condition of the
8 U.S. industry. The U.S. industry is no longer vulnerable to
9 import competition, and its substantial improvement since
10 2008 is due to reasons entirely unrelated to the order.
11 Appvion chose substantial cost improvements and efficiencies
12 by shedding outdated equipment, and by entering into a new
13 base paper supply partnership with Domtar, which had nothing
14 to do with the order.

15 The Commission should also bear in mind that
16 the domestic industry includes the converters. Most
17 converters have thrived due to increasing demand for the
18 subject product, and many have expanded production and
19 introduced new products. Most of those converters support
20 revoking the order with respect to Germany.

21 Now I would like to introduce to you our
22 panel, who will present testimony on revocation of the
23 order. From Koehler, we have Frank Lendowski, CFO; Silvia
24 Muller, Director of Controlling and Katja Frede, Product
25 Manager for Thermal and Carbonless Paper. Ms. Muller and

1 Ms. Frede will be speaking and Mr. Lendowski is available to
2 answer questions.

3 The witnesses will describe the company's
4 production and marketing strategy, discuss Koehler's
5 consistent operation of its thermal paper production
6 facilities at full capacity, describe the substantial
7 resources the company has devoted to develop non-U.S.
8 markets where it sees critical growth, and discuss Koehler's
9 temporary departure from the U.S. market, and how this has
10 affected the company's business plans.

11 Next is globally recognized economist Dr.
12 Orley Ashenfelter, Professor of Economics at Princeton
13 University, former president of the American Economic
14 Association and former president of the American Law and
15 Economics Association. He has undertaken a rigorous study
16 of Koehler's data from 2005 to present, to determine whether
17 the order has had an effect on pricing and volumes, and what
18 will happen upon revocation of the order.

19 He will explain that the order had no positive
20 effect on prices from Germany, and why revocation of the
21 order will likewise have no impact on the domestic industry.
22 He also will discuss the strong condition of the U.S.
23 industry, and how profitability data show that Koehler does
24 not have an incentive to shift sales to the U.S. market.

25 Following Dr. Ashenfelter will be Jim Dougan,

1 vice president of Economic Consulting Services, who appeared
2 here for Koehler in the original investigation. Mr. Dougan
3 will discuss the original investigation to provide context
4 for the present review. He will also address substitution
5 elasticity, the causes of the domestic industry's return to
6 profitability during the period of review, and the
7 importance of non-subject imports, a topic that Appvion has
8 ignored.

9 Next, you will hear from two of Koehler's
10 converter customers. They will be testifying for us as
11 well. Mr. Doug Endsley, CEO of Register Tapes Unlimited and
12 Mr. Ed Swadish, president of Discount Paper Products. These
13 converters make up a substantial part of the domestic
14 industry. They will address the fact that during Koehler's
15 temporary absence from the market late in the POR, customers
16 were forced to turn to non-subject imports to fill the gap
17 in demand that the U.S. coating industry could not meet.

18 You will also hear them describe Koehler as a
19 producer of a top quality product, and as a stabilizing
20 influence in the market. Finally, my colleague Matt Nicely
21 will finish by discussing pricing issues and presenting a
22 discussion of how the facts meet the legal criteria for
23 revocation of the order. Thank you.

24 STATEMENT OF SILVIA MULLER

25 MS. MULLER: Good afternoon. My name is

1 Silvia Muller and I am Director of Controlling for Koehler.
2 We have a 200 year history and are a world-leading
3 manufacturer of jumbo rolls of lightweight thermal paper. I
4 have been employed with Koehler for the last 21 years. As
5 Director of Controlling, I am in charge of analyzing both
6 the cost and the revenue sides of our business.

7 Also the CFO and I have overseen all aspects
8 of our company's participation in this case since the end of
9 2012. Today, I am going to discuss Koehler's operation and
10 production capacity since 2008, and how we expect to use the
11 capacity in the foreseeable future. Importantly, we expect
12 no change in our operations if the order is revoked.

13 Koehler produces lightweight thermal paper
14 only at its plant, which is a state of the art facility.
15 Koehler's overall production capacity remained unchanged
16 from 2008 until 2013, and Koehler has no plans to increase
17 capacity. Any increase in capacity requires an investment
18 of roughly \$250 million, which current market conditions do
19 not support.

20 Nor there is much ability to shift capacity
21 from products other than lightweight thermal paper to
22 lightweight thermal paper. Only a small percentage of
23 capacity is devoted to non-subject product. It is costly
24 and even inefficient to switch back and forth between
25 products. At least some of the capacity must be devoted to

1 non-subject carbonless paper, due to technical requirements.

2 We have no excess capacity for lightweight
3 thermal paper. We operate our machinery 24 hours a day,
4 seven days a week, 50 weeks a year. Any fluctuation between
5 capacity and total production in a given year reflects year
6 to year changes in product mix and days worked.

7 For example in 2012, we run the machines more
8 days of the year than is typical, due to the high demand and
9 high prices. The high utilization rate required Koehler to
10 defer machine maintenance, which is unsustainable long term.
11 In 2010, Koehler abandoned plans to build a thermal paper
12 factory in the United States. We determined that the high
13 cost of building this factory was not justified by U.S.
14 sales and our increased focus on other markets.

15 We were forced out of the market in 2013 and
16 as a result of the high dumping rate, we maintained our
17 position in the U.S. market at high prices and at volumes
18 higher than during the POI. Despite the reduction in U.S.
19 sales in 2013, Koehler was able to keep our factor producing
20 at nearly full capacity and sell at healthy profits.

21 This shows that Koehler's lost sales volume
22 was made up for by increasing sales activities in other
23 markets. The focus of the Commission's analysis six years
24 ago was on the 48 gram product, which Koehler was the first
25 company to introduce. Today, domestic producers are very

1 competitive in producing this product.

2 The current new product in the market are
3 BPA-free and phenol-free. Appvion has been the leader in
4 BPA-free products. Appvion recently introduced a new
5 phenol-free product with Vitamin C. We do not have that
6 product. Now, I would like to turn to the fraud allegation,
7 which first arose in the third administrative review.

8 In response to these allegations, Koehler
9 conducted an internal investigation and determined that a
10 handful of employees had omitted certain home market sales
11 that should have been reported. Koehler put in place
12 measures to ensure that these problems did not occur again,
13 and took appropriate actions against the employees involved.

14 Koehler also promptly submitted the missing
15 home market sales to the Department of Commerce.
16 Unfortunately, Commerce rejected our submission and applied
17 a punitive rate of 75 percent, even though the effect of the
18 missing sales on our dumping margin would have been very
19 minor.

20 This high rate prohibited us from shipping to
21 the U.S. starting in March 2013. In the fourth
22 administrative review, however, Commerce gave Koehler a zero
23 rate, after conducting a rigorous verification of our data.
24 This zero rate allows us to reenter the market in August
25 2014.

1 Appvion was wrong when they suggested that
2 Koehler was only able to remain in the U.S. market after the
3 order because of fraudulent behavior. Throughout the period
4 of review, and until we were forced out of the market in
5 early 2013, we maintained our position in the U.S. market at
6 high prices, and higher volumes than during the POI.

7 These high prices produced either zero or very
8 low dumping margin, and taking all of our data into account.
9 We deeply regret the misreporting of sales data to Commerce.
10 Importantly, our CFO and I have fixed this problem, and it
11 does not affect the data we submitted in this proceeding.
12 This past situation should have no impact on the
13 Commission's analysis in this review.

14 In conclusion, Koehler has made no significant
15 changes to its operation or production in response to the
16 order. Since the beginning of the review period, Koehler
17 has operated effectively, maximum capacity. Appvion is the
18 U.S. market leader in BPA-free products, and we expect
19 demand for BPA-free to continue to increase.

20 Koehler's production presents no threat to the
21 domestic market, whether or not the order is revoked. We
22 urge the Commission not to be disrupted by Appvion's fraud
23 allegation. We disagree with the allegation, continue to
24 fight them in court and ask the Commission to disregard
25 them. Thank you for your attention today.

1 STATEMENT OF KATJA FREDE

2 MS. FREDE: Good afternoon. My name is Katja
3 Frede, and I'm product manager for Thermal and Carbonless
4 Paper at Koehler. I have been an employee at Koehler since
5 2000. I have served in my current position for the last
6 nine years.

7 I'm going to talk to you today about how we
8 have seen our business change since 2008, and about our
9 forecast for future business here in the U.S. and elsewhere.
10 Our production, home market shipments and exports are based
11 on our careful selection of customers. We have a global
12 customer base. We turn away converters. We do not offer
13 value in terms of demand for high yield products, growth
14 potential and low credit risk. We have never adopted a
15 strategy of chasing volume into the U.S. or any other
16 market.

17 Koehler has followed the same business
18 practices throughout the three decades it has served the
19 U.S. market. These business practices have not changed
20 during the review period. Specifically, we say to
21 long-standing U.S. customers who rely on imports of thermal
22 rolls from Germany to supplement supply not otherwise
23 available from domestic producers alone.

24 As the data submitted in our questionnaire
25 responses show, Koehler's exports to the U.S. are dependent

1 on and follow changes in U.S. demand. For example, Koehler
2 shipped reduced amounts of thermal rolls to the U.S. in 2009
3 and 2010, as businesses here reacted to the Great Recession.

4 As demand picked up, Koehler's exports to the
5 U.S. in 2011 and '12 exceeded 2008 levels. While our
6 shipment volumes increased during this time, so did our
7 prices. Koehler discontinued exports of the product to the
8 U.S. in early 2013. This was due to a high duty rate
9 imposed by the Commerce Department.

10 After we ceased exports to the U.S., there was
11 a void in the market. Because of the insufficient capacity
12 of the U.S. industry, our customers were forced to look for
13 other foreign suppliers to meet their needs. As a result,
14 other producers entered the U.S. market, including Hansol of
15 South Korea, Jujo of Finland, Torraspapel of Spain and Oji
16 of Japan and Thailand.

17 Koehler's exit from the U.S. market in the
18 spring of 2013 affected U.S. prices. Prices temporarily
19 increased due to a perceived shortage of supply. This
20 phenomenon was short-lived. Foreign supplies began
21 exporting to the U.S. to fill the gap, while Koehler was out
22 of the market.

23 Prices then declined in 2013, due to the new
24 foreign supply and of course Koehler was not the cause.
25 Koehler resumed shipments to the U.S. in August 2014 after

1 we received zero rate in the fourth administrative review.
2 However, our current exports are at lower levels than when
3 we exited the market.

4 This is because we are already at full
5 capacity and serving customers all over the world, where
6 demand is forecasted to grow at rates faster than in the
7 U.S. We also note that these shipments are being sold to
8 several customers who had switched to other foreign
9 suppliers since our departure in 2013, so we are replacing
10 third country sales.

11 Since the order was put into place, Koehler
12 has developed new markets throughout the world. Let me
13 begin with Europe. With low transportation costs and
14 well-developed, established networks, the European market
15 has continued to be a very strong market for us, and every
16 year of the period of review, we have had increasing sales
17 to European countries.

18 Specifically, Koehler shipments to European
19 customers increased 152 percent from 2008 to 2013. Over
20 this time, Europe represented over 43 percent of all
21 worldwide sales for the product. Koehler has also increased
22 exports to Latin America. Measuring from the bottom of the
23 Great Recession in 2009, our exports to Latin America
24 increased 175 percent. Latin America now represents almost
25 ten percent of our worldwide sales for the product.

1 Koehler's relative emphasis on these markets
2 is illustrated by the number of dedicated sales personnel.
3 In Latin America, we increased our sales presence from one
4 person to a team of six. Koehler also has five full-time
5 salesmen dedicated to the European market, but only one
6 full-time salesman dedicated to the U.S. market.

7 Koehler's German headquarters makes decisions
8 as to how much emphasis should be placed on particular
9 markets. My office is responsible for pricing in all
10 markets including the U.S. Non-U.S. markets are important
11 for Koehler and will remain so into the future. We expect
12 continuous growth here in the U.S., as forecasted by various
13 market studies.

14 But those same studies call for even greater
15 increases in demand in other markets. Koehler will devote
16 ever-increasing resources to develop growing markets. This
17 is also part of our diversification strategy.

18 In conclusion, we urge the Commission to
19 carefully consider Koehler's activity in the U.S. market
20 since the order was imposed, both before and after we were
21 subject to the 75 percent rate. Where the order was in
22 effect, we remained at high prices and at volumes higher
23 than the Period of Investigation.

24 While our rate is now zero, our reentry into
25 the market is at lower volume levels than in the past. The

1 sequence of events demonstrates that Koehler will not cause
2 injury to the domestic industry in the foreseeable future if
3 the order is revoked. Thank you.

4 STATEMENT OF DR. ORLEY ASHENFELTER

5 DR. ASHENFELTER: This is Orley Ashenfelter.
6 I am Professor of Economics at Princeton University. I have
7 been asked by counsel for Koehler to address several
8 economic questions. To answer to these questions, I
9 analyzed the U.S. market for lightweight thermal paper, both
10 before and after the imposition of the anti-dumping order on
11 German imports.

12 I also reviewed historical pricing behavior of
13 German and domestic producers, and Koehler's data on its
14 sales and profitability in different parts of the world.
15 The questions I was asked are first, would the removal of
16 the anti-dumping order on German producers be likely to
17 depress the price of jumbo rolls of lightweight thermal
18 paper sold in the U.S.? My answer is no.

19 Second, is it likely that German producers
20 will markedly increase sales of lightweight thermal paper to
21 the U.S. Again, my answer is no. Finally, is the domestic
22 industry vulnerable to imports of jumbo rolls from Germany.
23 Once again, I concluded no.

24 While my conclusions are fully explained in my
25 report, which was submitted with Koehler's brief, I would

1 like to explain how I reach each conclusion. Let me begin
2 by explaining why it is unlikely that the price of
3 lightweight thermal paper sold in the U.S. by German
4 producers will decrease if the anti-dumping order on German
5 producers is removed.

6 The basis for my conclusion is statistical
7 analysis of what happened to the prices of jumbo rolls sold
8 in the U.S. when the anti-dumping order was imposed on
9 German imports in the first instance. A natural way to
10 estimate the likely effect of a proposed change in a policy
11 is to examine the effects of a similar policy change in the
12 past.

13 In this case, the natural place to begin is to
14 examine the impact of the imposition of the order in the
15 past. If the effect of imposing the order was to increase
16 prices substantially, then it would be reasonable to think
17 that revoking the order would decrease prices. If on the
18 other hand imposing the anti-dumping order had little or no
19 effect in the first place, then this suggests there would be
20 a similarly small effect of revoking it.

21 To analyze what happened to prices in the U.S.
22 when the anti-dumping order was imposed, I compared
23 Koehler's prices in the U.S. to Koehler's prices in outer
24 markets. In this analysis, prices in other markets serve as
25 a control group, because they should not be directly

1 affected by the anti-dumping order in the U.S.

2 To see the basis for this analysis, look at
3 the graph in Slide 1, which shows a quarterly comparison of
4 Koehler's U.S. and Canadian prices from 2005 through 2013.
5 This seems like a natural comparison, because the two
6 markets are similar.

7 The red line shows the U.S. price relative to
8 the Canadian price. If the prices were equal, the red line
9 would match the gray line, which indicates a value of one.
10 If the U.S. price is higher than the Canadian price, then
11 the red line would be above the gray one and vice-versa.

12 Because the red line is quite close to the
13 gray line, this indicates that the U.S. and Canadian prices
14 are very similar both before and after the imposition of the
15 anti-dumping order. If the anti-dumping order had had a
16 large effect on the price of thermal paper sold in the U.S.,
17 I would expect the U.S. price would have increased relative
18 to the Canadian price, and the red line would increase
19 relative to the gray line.

20 As you can see from the graph, that did not
21 happen. As you can also see from the graph, when Koehler
22 began withdrawing from the U.S. market, the U.S. price did
23 increase relative to the Canadian price. To more formally
24 analyze the effect of the anti-dumping order on the price of
25 thermal paper sold in the U.S., I performed two statistical

1 analyses.

2 The first one is based on Koehler's sales data
3 from around the world. In this analysis, I measured the
4 impact of the anti-dumping order by comparing the change in
5 price in the U.S. to prices in 15 other regions after the
6 anti-dumping order was put into place.

7 After controlling for the region of sale,
8 supply and demand factors that may affect the price of jumbo
9 rolls, and the type of thermal paper being sold, I found
10 that there is no detectable effect of the imposition of the
11 anti-dumping order on the price of thermal paper that
12 Koehler sells into the U.S. That is, any difference is so
13 small that it cannot be determined that the measured effect
14 did not just arise as a matter of random chance.

15 The second statistical analysis I performed is
16 based on responses to the questionnaires that the ITC
17 gathered from market participants. Because the data
18 collected through the questionnaires only began slightly
19 before the imposition of the anti-dumping order, I also used
20 data reported during the original investigation.

21 Combining these two data sets lets me compare
22 the prices of jumbo rolls of lightweight thermal paper sold
23 in the U.S. before and after the original order went into
24 effect. I estimate the impact of the anti-dumping order
25 separately for German imports and for domestically produced

1 paper. In both cases, I find that there is no evidence that
2 the anti-dumping order increased prices.

3 Both of these analyses lead me to the
4 conclusion the imposition of the anti-dumping order on
5 German producers did not increase the price of jumbo rolls
6 of lightweight thermal paper sold in the U.S. This finding
7 leads me to conclude that if the order is revoked, prices of
8 jumbo rolls in the U.S. are not likely to decrease.

9 Let me turn now to explain my conclusion that
10 German producers do not have an incentive to shift sales
11 from other markets to the U.S. Because, as shown in Slide
12 2, German manufacturers are operating at effectively full
13 capacity, in order to expand shipments to the United States
14 they would need to take one of three actions.

15 Expand their capacity, shift sales of
16 lightweight thermal paper away from other countries, or
17 shift manufacturing capacity from other products to the
18 production of lightweight thermal paper. My report shows
19 that none of these options is likely.

20 First, expansion of capacity is not
21 economically feasible. The machinery used to produce jumbo
22 rolls of thermal paper requires a significant up-front
23 investment, has a large production capacity and is
24 profitably operated only if it is utilized at a high rate.
25 Because of this, expanding production capacity would require

1 doing so by a substantial amount, and current global market
2 conditions do not appear to support such an expansion in
3 Germany.

4 Second, it is also unlikely that the German
5 manufacturers will direct sales from non-U.S. markets to the
6 U.S. German manufacturers have substantial sales to markets
7 outside the U.S. Please let me direct your attention to
8 Slide 3. This shows that Koehler in particular developed or
9 expanded its presence in these other markets in 2013, when
10 it temporarily halted its exports to the U.S.

11 I discuss at length Koehler's relative
12 profitability of several non-U.S. markets in my report. The
13 data show that sales to these markets historically are as
14 profitable as sales to the U.S. My analysis of these
15 markets suggest there is no reason to expect Koehler will
16 divert a substantial amount of sales to the U.S. market,
17 because the duty rate is reduced or because the order is
18 eliminated.

19 Third, it is unlikely that Koehler would
20 direct capacity used for other products to produce an
21 increased volume of lightweight thermal paper. As I discuss
22 in my report, Koehler does not use its lightweight thermal
23 paper machines to produce other products in substantial
24 quantities.

25 In addition, the amount of capacity Koehler

1 devotes to the production of these other products has not
2 fluctuated over time. Therefore, it is unlikely that
3 Koehler would shift volume from the production of other
4 products. Furthermore, there is not substantial volume to
5 shift.

6 Finally, I would like to discuss how the
7 domestic thermal paper industry is no longer vulnerable to
8 imports from Germany, if it ever was. At the time of the
9 original investigation, the Commission unanimously found
10 that German imports did not materially injure the domestic
11 industry during the Period of Investigation.

12 Nevertheless, in a split vote, the Commission
13 expressed concern about the ability of the U.S. industry to
14 compete against German imports of 48 gram thermal paper.
15 Since that time, the U.S. industry has become effective at
16 producing 48 gram paper. Following the implementation of
17 the order, the market has shifted towards products free of
18 bisphenol-A, commonly known as BPA, and more recently
19 products made without phenol.

20 U.S. firms have proven themselves to be
21 innovative market leaders in developing both of these
22 products. As you may know, BPA and its inclusion in many
23 consumer products, including thermal paper, has received
24 substantial scrutiny in recent years. U.S. firms were able
25 to produce and market BPA-free thermal paper earlier than

1 their German counterparts.

2 In particular, since 2006, Appvion has only
3 produced BPA-free paper. More recently, Appvion has also
4 introduced a phenol-free paper made with Vitamin C, which it
5 suggests is the natural choice for thermal paper. These
6 product improvements suggest that American producers are
7 innovative competitors.

8 The U.S. industry has also greatly improved
9 its financial position in the last five years. Appvion has
10 decommissioned its old paper-making facilities, and
11 continues to reap the benefits of a 2007 investment of \$125
12 million in modernizing its thermal paper coating assets.

13 Additionally, Appvion has entered a long-term
14 contract to purchase base paper from Domtar. As I show in
15 my report, this new structure has reduced Appvion's costs,
16 and has played a key role in returning Appvion's lightweight
17 thermal paper business to profitability.

18 Up to this point, I've focused primarily on
19 coaters. But let me touch briefly on a situation of U.S.
20 converters, who are also members of the lightweight thermal
21 paper industry. Converters purchase jumbo rolls of paper,
22 whether produced in the U.S., in Germany or elsewhere, and
23 then cut large rolls down to the smaller finished product.
24 Because converters use jumbo rolls as an input their
25 production process, they cannot be harmed by the presence of

1 jumbo rolls of thermal paper from Germany or elsewhere.

2 Instead, they are injured when jumbo rolls are
3 scarce. German imports cannot and do not harm converters.
4 My analysis of the domestic market leads me to conclude
5 that, at this time, the U.S. lightweight thermal paper
6 industry is innovative and financially sound, and is not
7 vulnerable to imports of lightweight thermal paper from
8 Germany.

9 To summarize, based on my analysis of the
10 price of lightweight thermal paper, both before and after
11 the imposition of the anti-dumping order, I find that the
12 imposition of the anti-dumping order did not increase the
13 price of lightweight thermal paper sold in the U.S.

14 This leads me to further conclude that it is
15 unlikely that revoking the anti-dumping order would lead to
16 a reduction in the price of jumbo rolls of thermal paper
17 sold in the U.S. Furthermore, based on Koehler's operations
18 and profitability in other markets, it is unlikely that
19 revoking the order will lead to a substantial increase in
20 imports from Germany to the U.S.

21 Finally, my analysis also suggests that the
22 domestic thermal paper industry is in a stronger financial
23 position than it was five years ago. Domestic coaters are
24 able to produce 48 gram thermal paper and have been
25 innovative in producing and marketing BPA-free thermal

1 paper. Domestic converters use jumbo rolls as an input and
2 cannot be harmed by German imports.

3 All of this leads me to conclude that the
4 domestic industry is not vulnerable to German imports. I
5 would be happy to answer any questions you may have during
6 the question and answer session, including any questions you
7 may have about Dr. Hausman's criticism of my work. Thank
8 you for your time.

9 STATEMENT OF JIM DOUGAN

10 MR. DOUGAN: Good afternoon. I'm Jim Dougan
11 from ECS appearing on behalf of Koehler. I will be
12 discussing four topics. First I think it will be useful to
13 provide the Commission with some context regarding the
14 original investigation in which I participated in a similar
15 role.

16 Second I will discuss prices during the POR and
17 what that experience tells us about substitute-ability and
18 substitution elasticity.

19 Third, I will explain how the domestic industry's
20 return to profitability occurred sooner than Petitioners
21 claim and for reasons separate from the order.

22 Finally, I will address the relevance of the
23 non-subject imports to the Commission's analysis. First,
24 as you know in the original determination the Commission
25 unanimously ruled that the domestic industry was not

1 suffering current material injury by reason of imports from
2 Germany.

3 Specifically, as summarized at slide 1 the
4 Commission found no adverse volume affects because German
5 imports market share did not increase substantially and the
6 increase in German imports was exclusively in the 48 gram
7 product which was not offered by domestic producers until
8 late 2007.

9 The Commission found no adverse price effects
10 because the 55 gram product which constituted by far the
11 largest share of overall shipments showed persistent
12 overselling by German imports. The Commission did not
13 consider there to be substantial competitive overlap in the
14 48 gram product.

15 Finally, as summarized at slide 2, the Commission
16 found no adverse impact by reason of imports from Germany
17 because first the domestic industry increased capacity and
18 output and second the industry's decline in profitability
19 could not be attributed to German import due to rising
20 demand German imports capturing no significant additional
21 market share and as I have just explained, a lack of
22 significant adverse price effects.

23 The Commission found that the domestic industry
24 was threatened with injury by reason of imports from Germany
25 based on the considerations shown on slide 3. A belief

1 that German imports would likely cause adverse volume
2 effects due to their dominance in the 48 gram sector, their
3 increased capacity to serve the U.S. market and the
4 impending recession, a belief that German imports were
5 likely to have adverse price effects also because of
6 Germany's advantages in producing and marketing the popular
7 48 gram product.

8 And finally the Commission found that the
9 domestic industry was vulnerable to injury because it was
10 consistently unprofitable and in particular, found that
11 Appleton's investment in West Carleton was imperiled.

12 Summarized at slide 4 conditions in the market
13 and in the U.S. industry are very different today. With
14 regard to volume, contrary to the Commission's concern,
15 German capacity did not continue to increase, but in fact
16 remained fairly constant over the POR. U.S. imports from
17 Germany decreased from 2008 to 2010 but increased in 2011
18 and 2012 to volumes above those in the POI.

19 With regard to price, the Commission correctly
20 predicted that demand would shift to the 48 gram product.
21 Once domestic coaters increased their efforts to produce
22 this product, they became successful in the marketplace.
23 As Professor Ashenfelter has discussed, had the order
24 introduced pricing discipline in the market, we would expect
25 prices in the U.S. market to increase, but that's not what

1 happened. Instead, prices sank in the first two years of
2 the order while German imports oversold the U.S. producers.

3 When prices later increased German producers
4 continued their overselling. As shown at slide 5 per the
5 pre-hearing report over the POR, imports from Germany
6 oversold domestic producers in 58 of 65 or 89% of quarterly
7 comparisons. Moreover, as shown in our pre-hearing brief,
8 when adjusting for certain misreported products, the
9 proportion of overselling was even greater.

10 The second topic that I would like to address is
11 substitution elasticity. In the pre-hearing report, staff
12 estimates that the elasticity of substitution between
13 domestic and imported lightweight thermal paper is between 3
14 and 5. What this means is that a 1% increase in the price
15 of German jumbo rolls would lead to a 3 to 5% increase in
16 the quantity demanded of domestic jumbo rolls.

17 But in the POR as in the original investigation,
18 German producers overwhelmingly oversold the domestic
19 producers and still sold at high volumes, sometimes
20 exceeding volumes achieved during the POI. The sustained
21 price differences shown in the overselling data at slide 5
22 are empirical evidence that the elasticity of substitution
23 cannot be as high as staff's estimate of 3 to 5.

24 But there is other qualitative evidence that
25 supports this conclusion and shows the importance of

1 non-price factors in purchasing decisions. As summarized
2 at slide 6 the pre-hearing report shows that purchasers are
3 essentially evenly split between those who always are
4 usually and sometimes never base purchase decisions either
5 on the coder or on the country of the coder.

6 Purchasers also mention quality as a key
7 purchasing factor as often as price and value and it is
8 important to recognize that the factor is specified as price
9 value, not simply price. The converters can testify to the
10 fact that the consistently high quality of imported German
11 lightweight thermal paper improves its yield in their
12 machines, meaning additional value to them even at a
13 nominally higher price.

14 Mr. Endsley and Mr. Swadish will both testify
15 that they have purchased from German producers even when
16 lower prices were available from other sources. Given all
17 the record evidence, I believe that the elasticity of
18 substitution between domestic and German jumbo rolls must be
19 much lower than staff's estimated range.

20 Now I would like to turn to a third topic, the
21 domestic industry's return to profitability. Slide 7 shows
22 the following, domestic profitability improved when German
23 imports were at their highest. The green bars show German
24 import volume based on import statistics. The red line
25 shows Appvion's operating income for its thermal paper

1 business as reported in its public SCC filings.

2 It has been adjusted to account for non-recurring
3 items consistent with the pre-hearing report. In 2012
4 Appvion revised its 2011 operating income downward due to a
5 new accounting policy, regarding pension benefit plans and
6 this adjustment is shown in the dotted red line. As
7 demonstrated by the improvement in the domestic industry's
8 financial condition throughout the POR, no adverse price
9 affects or indeed any adverse impact by reason of German
10 imports can be seen.

11 This morning Mr. Richards urged the Commission to
12 rely on the confidential data versus the public data. Now
13 I've only used this for purposes of presentation and the
14 public section and the confidential data are different but
15 they follow similar trends for similar reasons as discussed
16 in Koehler's pre-hearing brief at figures 13 and 14.

17 As you can see, Appvion's thermal paper business
18 was profitable in 2012 and maybe even as early as 2011 when
19 as I've already discussed German import levels were even
20 higher than at any point during the POI. Appvion's
21 non-recurring items relate to the retirement of its West
22 Carleton paper machine, its transition to the Domtar paper
23 supply agreement and a withdrawn from a pension plan. These
24 items are not in any way related to the impact of imports
25 from Germany and we submit are not relevant to the

1 Commission's analysis of causation and even Dr. Kaplan
2 agrees that they should be accounted for.

3 Appvion's profitability is not dependent on the
4 order or on Koehler's exit from the market in 2013, rather
5 the industry's successful transition to the 48 gram product,
6 its marketing of the BPA free product which it is the leader
7 and the retirement of its inefficient paper machine together
8 explains the improvement in profitability.

9 Finally, let me address my fourth topic which is
10 the relevance of non-subject imports in the Commission's
11 analysis. Petitioner argues that Koehler's return to the
12 U.S. market necessarily means that the company will replace
13 domestic production ton for ton. This argument ignores the
14 important role non-subject imports now play in the market.

15 Given that the parties agree to 2013 apparent
16 consumption was at or above the 2012 level, market share
17 held by non-subject imports must have increased
18 substantially between those years as shown at slide 8. The
19 underlying data are confidential so this slide provides just
20 an illustration of the magnitude of the increase, but as you
21 will hear from Mr. Swadish and Mr. Endsley shortly,
22 Koehler's exit from the U.S. market led to shortages in
23 2013.

24 Domestic coaters produced at this time did not
25 consistently meet market standards and was not available in

1 sufficient supply. This void in the market was filled by
2 non-subject producers. These new entrants and the prices
3 at which we understand that they are selling make it
4 unlikely that German producers will return to the market in
5 quantities reached even when the order was in place, thank
6 you.

7 STATEMENT OF DOUG ENDSLEY

8 MR. ENDSLEY: Good afternoon, my name is Doug
9 Endsley, I'm the CEO of Register Tapes Unlimited in Houston,
10 Texas. This is my third time testifying in front of the
11 Commission as I have testified at both the preliminary and
12 final phases of the original lightweight thermal paper
13 investigation.

14 I've been in the thermal business since 1994,
15 before that I was involved in the bond paper industry.
16 Register tapes is a converter. I estimate that register
17 tapes accounts for about 10% of purchases of jumbo rolls in
18 the United States market. We purchased these jumbo rolls
19 from the United States, Germany and South Korea. We do not
20 purchase the jumbo rolls or slit rolls from China.

21 Register Tapes is the largest producer in the
22 country of receipt tapes for grocery stores. We supply
23 various stores in this area including Giant and Safeway.
24 90% of our products are custom printed with four color
25 offset. Register Tape also sells full color printed

1 register tapes to fast food restaurants and convenient
2 stores. At the time of Commission's original
3 investigation, I testified regarding the growth of the U.S.
4 market and the superiority of the 48 gram product that
5 Koehler introduced to the United States.

6 I also described the difficulties that Register
7 Tape had with obtaining product from Appvion. Koehler had
8 always been a preferred provider due to quality and
9 availability. For example, it's very important for us to
10 be able to print on the backside of thermal paper.
11 Koehler's paper is more printer friendly than Appvion's
12 product. Because of our requirements and because of the
13 high quality product they provide will like to purchase from
14 Koehler even though they were typically not the lowest price
15 provider.

16 Register Tapes continues to buy product from
17 Koehler after the anti-dumping order was put into place.
18 We purchased 80% of our product from Koehler, 20% from
19 Appvion to maintain dual sourcing. We initially did not see
20 any increase in the price as a result of the order, nor did
21 my purchasers from Germany decline. Price did not increase
22 until 2010 with the BPA scare and the spike in demand for
23 BPA free paper. As you have heard today, Koehler exited the
24 U.S. market in 2013 when it received a punitive anti-dumping
25 right. Koehler's departure resulted in supply shortages.

1 I asked Appvion to supply more lightweight thermal paper
2 Appvion demanded a commitment that we purchase 50 truckloads
3 per month for the next two years that would meet our needs.

4 In return Appvion would not guarantee price but only
5 committed that Register Tape would be a priority customer.

6 I requested and obtained a meet competition
7 clause to meet competitive prices or be able to void the
8 contract. Shortly after that Appvion raised its prices by
9 14 %. To put this price increase into perspective, the
10 average annual price variance for lightweight thermal paper
11 for the 20 year period since 1994 had been about 3 %.
12 This 14 % increase could not and did not hold. The
13 increase was particularly untenable because of the quality
14 of the product we were getting from Appvion at that time.
15 It was the worst that I had ever seen.

16 We were told by our Appvion sales representatives
17 that they were using old 55 gram coating equipment in an
18 effort to fill the void left by Koehler's departure. In
19 fact they sold me 55 gram paper from their old facility in
20 Wisconsin rather than the new one in Ohio. Under these
21 circumstances there's no way I could pass on Appvion's price
22 increase to my advertising customers, so I began to explore
23 alternative sources.

24 I approached Hansol, the South Korean supplier.
25 I presented Hansol's competitive offer to Appvion which

1 Appvion did not meet so we were able to void the contract.
2 Once Hansol entered the market in August of 2013, Appvion's
3 price increase collapsed. I continued to buy various small
4 quantities from Appvion but at much lower prices.

5 I'm quite satisfied with the quality of Hansol's
6 product and I've continued to buy from them. Now that
7 Koehler has returned to the U.S. market I have resumed
8 purchasing from Koehler and have reduced by purchases from
9 suppliers in other countries.

10 Appvion has tried to take advantage of Koehler's
11 exit from the market, but it clearly backfired on them.
12 They were better off before Koehler was out. Koehler's
13 presence in the market as the high quality leading
14 market-company kept other foreign competitors out of the
15 market. Koehler's departure created chaos and ultimately
16 drove prices down thanks to new suppliers.

17 Now that Koehler is back in the U.S. market at a
18 zero rate, our hope is that the market will return to having
19 stable sources of supply. However, I understand that one
20 consequence of being banned from the U.S. market is that
21 Koehler now has increased commitments in other parts of the
22 world. This company is not known for chasing quantity with
23 low prices with this factory at full capacity it doesn't
24 need to do so.

25 So we hope Koehler will help stabilize the

1 market. We don't expect to obtain as much product from
2 them as we used to, thank you.

3 STATEMENT OF ED SWADISH

4 MR. SWADISH: Good afternoon. I'm Ed Swadish,
5 Founder and President of Discount Paper Products
6 Incorporated. Discount Paper Products has been in business
7 for over 28 years and is a converter with operations in
8 Novi, Michigan and Las Vegas, Nevada. We currently have
9 over 100,000 end user accounts all across the country. I
10 also testified in the final phase of the Commission's
11 original investigation at that time the key issue was
12 discount paper sourcing needs and Koehler switched to 48
13 gram products.

14 I testified how my initial reluctance to switch
15 to 48 gram made me turn to Appvion but that I experienced
16 quality issues with Appvion's 55 gram paper products. As a
17 result I returned to Koehler and was very glad that I did
18 because the 48 gram turned out to be a big advantage. There
19 have been two changes in the market since the order was put
20 into place. First, the domestic industry became
21 significant and successful producers of 48 gram product, and
22 second, demand increased for BPA free paper and Appvion led
23 the way in providing this product.

24 Despite the anti-dumping order, I continue to
25 source from Koehler and for most of the period Koehler

1 continued to supply us on a steady basis. We have been
2 buying from Koehler for about 10 years. We prefer Koehler
3 due to quality and availability. Frequently other
4 producers are cheaper than Koehler but that doesn't make us
5 change suppliers. Frankly, even if we wanted to buy from
6 Appvion they won't sell to us I guess because we chose to
7 tell the truth the last time we were here.

8 As you know, Koehler's ability to supply our
9 paper was severely curtailed in 2013 when the company was
10 hit with a 75% punitive anti-dumping rate. Koehler's
11 departure put fear in the converters as no other jumbo rolls
12 were immediately available. We were afraid that we were
13 going to have to close down our facilities.

14 Many converters were looking to Appvion for
15 supply. I pleaded with Appvion to supply us, I even
16 offered that for every truckload I bought from Appvion while
17 Koehler was out of the market, I would buy the same volume
18 from them when Koehler was back in the market. Appvion
19 flat out refused and told me they could not supply me due to
20 capacity limitations.

21 Fortunately Koehler was able to supply me some
22 product out of its U.S. inventory. If I hadn't been able
23 to secure those amounts I don't know what I would have done.

24 During the first quarter of 2013 with Koehler no longer
25 importing, prices jumped due to short supply, but new

1 foreign competition entered the market and price was the
2 focus of their marketing effort.

3 By the second quarter of 2013 prices were already
4 on the decline due to import competition from these new
5 foreign suppliers. While Koehler was absent from the
6 market, I made purchases from several suppliers in other
7 countries in particular Hansol from South Korean,
8 Mitsubitshi from Japan and Torraspapel from Spain. I
9 continue to prefer Koehler due to quality considerations and
10 now that Koehler is back in the market I resume making the
11 bulk of my purchases from them.

12 Based on my experience Koehler's re-entry into
13 the market in 2014 took sales away from other countries as
14 opposed to the domestic industry. My understanding however
15 is that supply of Koehler product going forward may be more
16 limited than it was before. As you have heard from the
17 company, their departure from the U.S. led them to increase
18 their sales in other parts of the world.

19 Given the decline in prices that occurred as a
20 result of other countries entry into the U.S., it will be
21 difficult to convince Koehler to sell as much here as they
22 did in 2011 or 12. Unless prices increase, I don't see
23 Koehler being as significant a player here. This is true
24 with or without the dumping order.

25 As Doug says the order appears to have backfired

1 on Appvion. In my opinion they would be better off without
2 it. That being said, please note I don't feel the same way
3 about China. I have never purchased a product from China,
4 nor would I as the quality is simply not adequate. I am
5 however, concerned that if the order on China goes away,
6 this will destroy the U.S. converting industry.

7 Let me end with a comment about demand. Despite
8 concerns that the advent of smart phones might reduce the
9 demand for the product my experience is that demand has gone
10 up. Thermal paper is being used in more and more
11 applications such as police cars, kiosks, gambling
12 operations and portable printers. I think it will be at
13 least a decade before new equipment interfacing with smart
14 phones replaces current thermal paper printer stock, so I'm
15 bullish on demand for this product, thank you.

16 MR. NICEY: Let me review what you've just heard
17 from our witnesses today and offer some concluding remarks.

18 The question before you is whether revocation of
19 the order against imports of lightweight thermal paper from
20 Germany is likely to lead to the continuation or recurrence
21 of material injury to the domestic industry.

22 We've laid out multiple reasons why this is
23 unlikely to occur. Consider the original investigation.
24 The only reason there exists an order on this product is
25 because three Commissioners found a threat of material

1 injury due to Koelher's advantage in 48-gram paper. This
2 advantage no longer exists.

3 The domestic industry is now fully equipped to
4 supply this product and competes very aggressively at lower
5 prices than their Germany competitors, as demonstrated by
6 pervasive import overselling. Meanwhile, the recession that
7 was looming at the time of the Commission's final
8 determination, and that contributed to the Commission's
9 concern for the industry's future is now a thing of the
10 past.

11 Thanks to improved economic conditions the
12 industry is not only competitive in the 48-gram market, but
13 they lead the BPA-free market and the phenol-free product
14 sectors. Contributing to the industry's success also is
15 Appvion's decision to retire its inefficient base paper
16 production facilities and enter into a more cost-effective
17 paper supply arrangement with Domtar. The fact is that the
18 reasons why this Commission imposed an order of imports of
19 this product from Germany no longer exist.

20 Appvion claims that the reason the industry's
21 performance has improved is because of the order, and that
22 without they will suffer again. This is demonstrably false,
23 as our witnesses have proven today.

24 Consider price. As Professor Ashenfelter's study
25 makes clear, the order has no detectable positive affect on

1 U.S. prices, on either domestic prices or German prices.
2 This makes sense in light of the data collected by the
3 Commission. Prices didn't increase upon imposition of the
4 order. They fell. They increased again starting in
5 mid-2010, as the economy improved and as demand BPA-free
6 paper increased. None of these fluctuations can be tied to
7 the order.

8 The irony is that in 2013, after Koehler's
9 departure caused an initial increase in U.S. prices, prices
10 thereafter declined all while Koehler was out of the market
11 and well before they could re-enter. Certainly, this, along
12 with the German's price overselling when they are in the
13 market tells us that factors other than German imports,
14 including non-subject imports, are affecting prices in this
15 U.S. market. Nothing on the record suggests that this would
16 change if the order is revoked.

17 I want to highlight an important point about
18 prices, which we discuss at page 57 of our brief. In 2012,
19 when Koehler's volumes were at their post order zenith, and
20 even larger than during the POI, prices were also high.
21 Everyone was doing well. If Koehler was interested in
22 gaining more market share, they would've lowered their price
23 as much as they could justify under the dumping order to
24 gain even more market share.

25 But guess what Koehler's dumping margin was on

1 its 2012 sales? It wasn't just zero. It was a negative 13
2 percent, a figure verified by the Commerce Department. This
3 means Koehler could have sold at much lower prices. The
4 fact that they didn't is important proof that the order is
5 not relevant to German import pricing in the U.S. market.
6 This must also mean that revocation of the order is unlikely
7 to cause any price suppression or price depression for the
8 domestic industry.

9 As to volume, as you've heard Ms. Muller and Ms.
10 Frede say today, Koehler operates at full capacity and did
11 so during 2013 when Koehler exited the U.S. market. They
12 have built up markets in other countries, which they have no
13 intention of abandoning. There is nothing to support the
14 proposition that Koehler would chase volume by lowering its
15 prices.

16 This is a very profitable company whose thermal
17 papermaking facility did nearly as well in 2012 as it did in
18 2012, and better than in prior years even while its U.S.
19 sales were down dramatically. As Professor Ashenfelter
20 explains, the company has historically made good profits in
21 other markets, profits that make it unlikely they will shift
22 significant volumes to the U.S. in the absence of an order.

23 Finally, consider impact. This is an industry
24 that saw its fortunes rise even while German volumes were at
25 levels exceeding the POI. There's simply no correlation

1 between the industry's poor performance and the imposition
2 of the order. The improvement occurred not because of this
3 case, but because the industry got serious about competing
4 for sales of the product the market wanted, 48-gram, and
5 because Appvion decided to invest in a state-of-the-art
6 coating facility, shut its inefficient papermaking assets and
7 contracted with Domtar to supply its paper.

8 These things would've occurred with or without
9 the order. The industry's fortunes do not turn on whether
10 an order remains in place against Germany.

11 As our customer witnesses and others have said,
12 the market for this product is more stable when Koehler is
13 in it. This will be true with or without the order. To
14 suggest otherwise is to ignore the weight of the evidence in
15 this case.

16 Thank you for your time today. Our panel looks
17 forward to any questions the Commissioners or members of the
18 staff have for us.

19 MS. DUBUSK: That concludes our panel.

20 CHAIRMAN BROADBENT: Thank you. We'll begin our
21 questioning with Vice Chairman Pinkert.

22 VICE CHAIRMAN PINKERT: Thank you, Madam
23 Chairman. And I want to thank my colleagues for letting me
24 go first in the second round. I have to leave early today,
25 and I really appreciate the opportunity to ask you a few

1 questions. I also appreciate the fact that you're all here,
2 many of whom have come from quite a distance.

3 I want to begin with a question that you may not
4 be able to answer in the public session, but then if you
5 can't I hope you would answer in the post-hearing. Did
6 Koehler enjoy increased profitability on U.S. sales in the
7 post-order environment here in the United States?

8 MS. DEBUSK: Let me start answering that at least
9 in a very broad-brush way in terms of what we can say, and
10 then, as you suggested, pick it up on our post-conference
11 brief.

12 Yes, they have been profitable. And I think the
13 key point to bear in mind is they have been profitable in
14 U.S. markets and they've also been profitable in non-U.S.
15 markets. And if you look at their profitability in general,
16 it's about the same in the United States as it is in other
17 markets over time, which is how the company looks at it.

18 VICE CHAIRMAN PINKERT: Thank you. And if you
19 wish, you can elaborate on that in the post-hearing.

20 MS. DEBUSK: Thank you.

21 VICE CHAIRMAN PINKERT: Now, Professor
22 Ashenfelter, do you agree with Professor Hausman's
23 identification of a more efficient estimator of the impact
24 of the antidumping order?

25 PROFESSOR ASHENFELTER: That's a great question.

1 I hope I don't glaze over the eyes of everybody else here.

2 Professor Hauser is very careful in what he says
3 in the new material he passed out today. He calls it the
4 feasible generalized limited squares estimator. He calls it
5 that because the generalized limited squares estimate is the
6 most efficient estimator. But in general, unless you know
7 in advance from some other empirical information what the
8 covariance matrixes are that you need to estimate it, its'
9 not feasible.

10 So, the reason this is called feasible is because
11 you can do it, but it's not actually the generalized limited
12 squares estimator itself. It's only feasible.

13 What that means is that Professor Hauser appealed
14 to the -- that means as sample sizes grow very large -- we
15 don't really actually have huge sample sizes here -- the
16 estimator probably has better properties. On the other
17 hand, it has one disadvantage, which is that because its
18 computation requires going to the data twice it's not
19 actually an unbiased estimator, so I always have mixed
20 feelings about using it. Although, I would just direct your
21 attention to the -- I realize it's confidential -- to his
22 exhibit so you can see that the difference in the size of
23 the coefficient is not very large, at least where he's
24 introducing that estimator.

25 I don't know if that answers your question, but

1 he doesn't actually fit the generalized limited square
2 estimator. He fits something that approximate it and that
3 is only efficient in -- in large samples and is biased, in
4 general.

5 VICE CHAIRMAN PINKERT: Thank you. Now, if you
6 want to comment on whether that's also a maximum likelihood
7 estimator, I'd appreciate that as well.

8 PROFESSOR ASHENFELTER: He actually explained
9 that it wasn't and I guess that lead to the -- I suppose you
10 could -- I haven't investigated this. I guess you could
11 think about trying use a maximum likelihood in a context
12 where you were trying to approximate generalized limited
13 squares.

14 It is true that what I'm doing, just ordinary --
15 that is a maximum likelihood estimator under certain
16 assumptions about the covariance matrix. I'm sorry if I
17 glazed everybody's eyes over this.

18 VICE CHAIRMAN PINKERT: I was just trying to make
19 sure you were finished with your answer there. Thank you.

20 I'm going to proceed to legal terrain here were
21 many of us are a little more comfortable. And in
22 particular, there was a lot of discussion on this panel
23 about Commerce's fraud determinations in the second and
24 third reviews. And I just want to see if we have an
25 understanding that this Commission has to take Commerce's

1 determinations at face value, or is it your view that
2 because the determinations are not final and conclusive that
3 we don't have to take them at face value?

4 MS. DEBUSK: Our view is that they're actually
5 completely irrelevant to this proceeding. The fraud
6 determinations are in litigation, and there's no final
7 resolution. Both the third review and the second review are
8 in litigation, but I think the key thing to remember for
9 purposes of this case is they really don't make any
10 difference to the analysis because the data that you have in
11 this case is all the data that's out of the company's
12 databases. The company was verified. They now have a zero
13 rate, and so that is what you're looking at.

14 The significance of the 75 percent rate being
15 imposed, the significance for this case is that really
16 caused a huge shock in the market because you had a very
17 significant supplier that was forced out of the market when
18 that 75 percent supply shock hit the market. And if you
19 look at the effects of having that supply shock, well, of
20 course you had the prices that spiked. But as the converter
21 has testified, that was very short-lived. That spike went
22 right back down. Not of course because of Koehler because
23 we were out of the market, but because of the impact of the
24 third country imports, and you've heard a lot about them
25 today.

1 So, I think the significance of all of that is
2 really is it is the reason for the shock to the market that
3 created that condition in the market. And then, of course,
4 when you hear Appvion say we did better then, well, of
5 course they did better then, but it wasn't because of the
6 order. It was because of the supply shock when, in fact,
7 they had to completely drop out of the market. So, that is
8 really the key thing to look at in assessing the condition
9 of the industry based on that situation.

10 VICE CHAIRMAN PINKERT: Thank you for that
11 answer. I understand that you don't consider the fraud
12 determinations to be relevant, but I'm still trying to get
13 clarification on whether we, as a Commission, if we choose
14 to consider those determinations are bound by the
15 determinations made by Commerce, or is it your view that
16 because they're not final and conclusive that we're not
17 bound by those determinations?

18 MS. DEBUSK: The only thing that you're bound by
19 is what the Commerce Department has sent over to you as what
20 would be the dumping margin that should be considered,
21 looking prospectively, which is, of course, what the sunset
22 review is about, and that is the 6.5 percent margin that
23 they sent to you. All the rest of that's about a completely
24 different proceeding and all that's backwards looking. And
25 so, in a sunset review you're looking at where we are.

1 You can look at certain things that have happened
2 in the past in terms of giving you in dica of what might
3 happen in the future, but the number that you're bound by,
4 in answer to your question, is the 6.5 percent.

5 VICE CHAIRMAN PINKERT: Thank you.

6 And my last question is why do German producers
7 produce jumbo rolls and no slit rolls?

8 MR. LENDOWSKI: My name is Frank Lendowski. It's
9 quite clear that it's an advantage for us to just produce
10 jumbo rolls and not slit rolls, as we would directly compete
11 with our customers and we are not specialized in splitting
12 rolls. It's somehow personal and intensive and the shipment
13 of slit rolls worldwide we serve a customer base in more
14 than 100 countries, it's quite costly. So, we just produce
15 jumbo rolls.

16 VICE CHAIRMAN PINKERT: Thank you very much.

17 CHAIRMAN BROADBENT: Commissioner Williamson?

18 COMMISSIONER WILLIAMSON: Thank you. I want to
19 thank all the witnesses. Some have traveled quite a ways,
20 so I thank you all for being here today.

21 My first question is this morning the Petitioners
22 commented that there would be some long-term contracts that
23 would be coming up in 2015. And I'd asked the question
24 about contracting practices in the industry. And I was
25 wondering whether or not you all had observations about

1 that, and the nature of the competition that may be coming
2 up next year if there are a bunch of contracts that are up
3 for renewal.

4 MS. DEBUSK: I'd like to turn to our converters
5 for that.

6 MR. ENDSLEY: Doug Endsley, Registered Tapes,
7 Unlimited. I mentioned in my testimony that I signed a
8 two-year contract that hasn't ran it's full course, would've
9 been up the first quarter of 2015. So, prior to that, we'd
10 never purchased paper in my history on a contract basis.
11 That contract was something that I felt I had to do during a
12 period of time when the only producer in the United States
13 was Appvion, and I was fearful of an interruption in supply
14 if I didn't sign a contract.

15 COMMISSIONER WILLIAMSON: Are there a number of
16 other converts who are doing long-term contracts? Are you
17 going to -- well, this may be confidential whether you're
18 going to do it again, but I'm trying to figure out how
19 important a trend is this, or is it a trend and what weight
20 should we give to it?

21 MR. ENDSLEY: I don't think it's a trend. I
22 think it was a unique aberration based on the shock effect
23 of Koehler leaving the marketplace, and there was a
24 perception that there was going to be product shortages.
25 And so since I have long-term contracts with my grocery

1 store chains, being fearful of breaking those contracts and
2 to give them security there wouldn't be any interruption,
3 they offered me a contract which was like I said unique. I
4 wasn't familiar that they offered it to the other people --
5 the other bigger converters, but I assume so, and apparently
6 I was right.

7 MS. DEBUSK: Mr. Lendowski I think also wants to
8 comment.

9 MR. LENDOWSKI: Frank Lendowski. I would also
10 like to comment. We don't have any long-term contracts not
11 anywhere in the world in place with our customers, although
12 we have long-term customer relationships often -- but we try
13 to convince our customers with high quality and excellent
14 service, so we don't bind our customers with long-term
15 contracts.

16 COMMISSIONER WILLIAMSON: So, it's spot market
17 sales then?

18 MR. LENDOWSKI: I beg your pardon?

19 COMMISSIONER WILLIAMSON: Spot market sales is
20 the way you would describe it?

21 MR. LENDOWSKI: Yes, we normally negotiate prices
22 by order.

23 COMMISSIONER WILLIAMSON: Okay. Thank you. Mr.
24 Endsley, any comments on this?

25 MR. ENDSLEY: No.

1 COMMISSIONER WILLIAMSON: You just spoke. I
2 misread. Mr. Swadish.

3 MR. SWADISH: The only thing I have to add -- I
4 think Doug's being a little modest. I think do to his sheer
5 size is the reason maybe Appvion felt like they could snag a
6 big fish at that time.

7 COMMISSIONER WILLIAMSON: You mean but for
8 smaller ones of other folks they don't --

9 MR. SWADISH: Yes, my size is not as important as
10 somebody like Doug, and maybe they felt they could just lock
11 in a large account at that time.

12 COMMISSIONER WILLIAMSON: Okay. Thank you.

13 Professor Ashenfelter, I was just wondering how
14 much weight can we give to your analysis about let's using
15 what's going on in other countries when we really don't have
16 a great deal of information about what's happening in those
17 countries?

18 PROFESSOR ASHENFELTER: I assuming I should
19 answer that.

20 COMMISSIONER WILLIAMSON: I'm sorry. Excuse me.
21 Yes.

22 PROFESSOR ASHENFELTER: Well, the use on the
23 other countries is designed in an empirical analysis to find
24 a way to control for factors that would influence either the
25 demand or the supply for the product. So, for example, the

1 purpose of the Canadian/U.S. comparison that I showed you is
2 well -- to say this is not right, and I would offend many
3 Canadians. They're like a 10 percent sample of the U.S.

4 COMMISSIONER WILLIAMSON: You can it here.
5 That's all right.

6 PROFESSOR ASHENFELTER: So, their demand and
7 supply -- they had a recession like we did, and they face
8 the same cost factors, so it gives you a way to control for
9 things that would affect demand or supply without having to
10 control for them directly by using the fact that you get to
11 make a comparison with a place that is operating in a
12 similar way.

13 Now, that comparison is obviously better for
14 Canada/U.S. than it would be for U.S./other places. So, I
15 use the other places as a part of the analysis really just
16 to give extra control and to provide a more general
17 framework, but it's not absolutely essential. It could've
18 been done, in fact, as I did with that chart just using the
19 comparison between -- I don't know if you can find it.

20 COMMISSIONER WILLIAMSON: I remember it. Yes.

21 PROFESSOR ASHENFELTER: You could see everything
22 that people have talked about is on that chart. The decline
23 in U.S. prices compared to Canadian prices after the order
24 is imposed. And then you can see the increase when -- even
25 Koehler was charging more for their sales into the U.S.

1 starting in 2013, as they ran down their inventories. And
2 then you see they're not identical. They do move around,
3 but the prices are pretty similar. And think we have to
4 presume that's because supply and demand conditions in the
5 two countries are similar and there's no reason for you to
6 expect price differences going into the two places.

7 COMMISSIONER WILLIAMSON: Thank you.

8 This is for Koehler. Can you describe the
9 German's producers move into BPA-free and phenol-free paper,
10 and do you anticipate moving all of your production to such
11 products in the future?

12 MS. DEBUSK: Katja, you want to address that?

13 This will be Ms. Frede.

14 MS. FREDE: Katja Frede from Koehler.

15 We offer BPA containing paper and BPA-free and
16 also a phenol-free grade following customer demand. Demand
17 for BPA-free varies around the world. As I've mentioned in
18 my testimony, we sell all over the world, and there are
19 countries, particularly in Europe and the U.S. that focus on
20 BPA-free, but there are still countries that, yes, go along
21 with BPA-containing paper. So, we do see a growing trend or
22 a growing demand for BPA-free, but phenol-free paper so far
23 is a market.

24 COMMISSIONER WILLIAMSON: It seems in Europe they
25 seem often much more sensitive to environmental issues than

1 we are here. I was wondering how much does that drive it.

2 You've answered my next question about the demand
3 in other markets. Is there much of a problem doing a mixed
4 business like that if the trend is towards the phenol-free
5 and the BPA-free? Consider just making it all that way?
6 Are there countries that say we don't want it?

7 MS. FREDE: Katja Frede.

8 I wouldn't necessarily say it depends on the
9 country. It depends on the customer. For example, large
10 retail stores there are usually more concerned about this
11 aspect and they require BPA-free, for example, while other
12 customers do not care.

13 COMMISSIONER WILLIAMSON: Okay. Do you think
14 there is -- and I asked this this morning -- is there a
15 price premium for the BPA-free paper in the U.S. market?

16 MS. FREDE: Katji Frede.

17 Yes, there is a price premium.

18 COMMISSIONER WILLIAMSON: Thank you.

19 What about the non-subject producers? I guess
20 it's Hansol, Korea and other third countries who are
21 producing paper. Are they also moving towards BPA-free and
22 phenol-free?

23 MS. FREDE: Yes, they all sell BPA-free.

24 COMMISSIONER WILLIAMSON: Thank you. My time is
25 about to expire so I'll save my other questions for later.

1 CHAIRMAN BROADBENT: Commissioner Johanson?

2 COMMISSIONER JOHANSON: Thank you, Chairman
3 Broadbent. I would also like to thank all of the witnesses
4 for appearing here today. I realized that several of you
5 came a very long way and I just want to say we really do
6 appreciate you coming here. It does help us to see a better
7 picture of the industry when respondents actually appear.

8 Do you all foresee the growth in the U.S. economy
9 -- the growth in the economy of Europe will impact sales of
10 lightweight thermal paper which will in fact increase demand
11 in the United States over that of demand in Europe?

12 As you all are well aware, the U.S. economy seems
13 to be improving at a faster rate than that of the European
14 Union.

15 MR. LENDOWSKI: Frank Lendowski. I think the
16 picture in the European Union depends from which countries
17 you're looking at. As a matter of fact, it has been shown
18 in the charts, we are doing quite well in Europe. The
19 demand for our product is increasing and our sales, even in
20 Europe are going up. And so far we don't see any impact of
21 economic downturn in Europe in our figures.

22 COMMISSIONER JOHANSON: But overall my impression
23 of sales are brisker in the United States than overall than
24 in Europe right now. I was reading the Wall Street Journal
25 during lunch talking about what's happening with the

1 European Central Bank and concern about Europe possibly
2 going into deflation which I guess is not a very nice thing
3 to talk about. But it certainly I think would impact sales
4 in the United States vis- -vis that of Europe. I know this
5 is all speculation, but it is something that's on my mind.

6 MR. LENDOWSKI: Of course it's really hard to
7 tell and to predict. It's a matter of fact and it's been
8 supported by various economists, especially in Germany that
9 the German economy is doing very well still. And even the
10 German exporters are doing well. And I only can repeat that
11 we don't have any impact so far and we don't foresee in the
12 near future any impact.

13 Our demand for our product is stable.

14 COMMISSIONER JOHANSON: All right. Thank you.
15 Yeah, I realize Germany is doing better. Our hope over here
16 is, of course, that that will carry the rest of Europe with
17 it. But you all know that well.

18 Ms. Muller, you mentioned -- I believe you stated
19 that Koehler does not plan to increase capacity due to
20 market conditions. Could you describe a bit further what
21 those market conditions are?

22 MS. MULLER: Do you ask for 2012?

23 COMMISSIONER JOHANSON: Just looking towards the
24 future. Oh, I'm sorry, but you said that Koehler does not
25 intend to increase capacity?

1 MS. MULLER: No, we don't increase capacity.

2 COMMISSIONER JOHANSON: Is that simply because
3 capacity is full at this moment?

4 MS. MULLER: Yes. We have limited capacity for
5 our lightweight thermal paper, yeah, and we don't plan to
6 increase capacity.

7 COMMISSIONER JOHANSON: And once again, that was
8 the reason you did not construct a plant in the United
9 States as well?

10 MS. MULLER: Well, to increase capacity needs a
11 big invest as I mentioned in my testimony around about \$250
12 million U.S. dollars. This includes paper, a paper machine,
13 a coating machine, and three -- and all that is needed to
14 run this kind of product. So you need real high sales
15 demand to run this facility profitably. Sorry, I'm not a
16 native speaker.

17 COMMISSIONER JOHANSON: Certainly.

18 MS. MULLER: Yeah.

19 COMMISSIONER JOHANSON: Yes, Mr. Lendowski?

20 MR. LENDOWSKI: Maybe I can help my colleague.
21 While you were especially referring to abandoning our plans
22 to invest in the U.S.?

23 COMMISSIONER JOHANSON: Yes.

24 MR. LENDOWSKI: It has been decided four years
25 ago, end of 2010, and we have been trying to find a

1 possibility to invest in an existing site in the U.S. and
2 failed to -- so for a couple of years. Actually we tried to
3 do so starting in 2007. And at the end of 2010 it became
4 clear that there would be other huge investments. For
5 example, Hansel was already rumored in the market that
6 Hansel would increase their capacity by far and pointed out
7 already this morning. And so we already foresaw it in 2010,
8 end of 2010 that we would have an increase in supply for
9 thermal paper in an amount that would lead to finally an
10 investment from our side would not be profitable, and so we
11 ceased these plans.

12 COMMISSIONER JOHANSON: And that's the case even
13 though the capacity is running full at your plants?

14 MR. LENDOWSKI: Yes. Yes. We already have been
15 running on full capacity back then. But as pointed out, you
16 would only be profitable with the 250 million investment.
17 This would give additional capacity of around 150,000 tons
18 and without usage of this capacity -- well, under 85 percent
19 you won't be profitable. We made a risk assessment and this
20 investment seemed to be too risky.

21 COMMISSIONER JOHANSON: All right. I understand.
22 Thank you for your responses.

23 Mr. Endsley and Mr. Swadish, I have questions for
24 you all. In particular, Mr. Endsley, you spoke about
25 quality issues involving lightweight thermal paper. You had

1 mentioned, I believe, that you would not buy Chinese paper
2 and that there are certain quality advantages to buying
3 Koehler over other suppliers. Could you go a bit more into
4 the quality issues? Because the reason I'm asking this is
5 because it seemed to me when I began looking at this
6 investigation, that this is a commodity product. But from
7 what you stated it is not an exact commodity because you
8 indeed have preferences for some producers over others.
9 Could you perhaps expand upon that?

10 MR. ENDSLEY: Sure. When Koehler exited the
11 market, I believe in an effort to increase their capacity, I
12 was told by my sales associate or sales rep for Appvion that
13 they were taking an older coder out of storage that was
14 operating in Appleton and putting it back on line. And the
15 product I was getting from that source was inferior quality
16 that affected my printing on the backside in our full color
17 for our advertising. So, I don't know there was any issues
18 with the paper as far as functionality, as far as blank
19 paper. But it was inconsistent across the web in the
20 ability to hold registration when I printed with it.

21 COMMISSIONER JOHANSON: Mr. Swadish, do you have
22 any comments along these lines?

23 MR. SWADISH: Just back in I think it was 2009
24 when these other -- when the first original investigation
25 started. When I tried to switch to Appvion 55 gram, I

1 believe, we had a problem with the web running the same
2 thickness all the way across. So there's an inconsistency
3 in that. And what that caused was maybe 12 percent of the
4 paper on the right-hand side to interweave and become
5 unuseful. So we had a lot of waste with Appvion. We
6 couldn't run it.

7 COMMISSIONER JOHANSON: Okay. And Mr. Endsley,
8 you had mentioned, I believe, that Koehler held ink better;
9 was that one of the issues involving quality?

10 MR. ENDSLEY: I don't know that "holding the ink"
11 is the right phraseology. The Koehler print quality was
12 just a lot more consistent than the Appvion. And, again,
13 like I said, it was probably because of using the older
14 equipment that they hadn't been using prior.

15 COMMISSIONER JOHANSON: All right. Yeah, I
16 think, maybe I understand. But I get a lot of receipts and
17 a lot of receipts I get they do tend to fade very quickly.
18 I don't know if that's indicative of the paper or the ink or
19 whatever it is. But this is one product that the ITC is
20 looking at that I actually kind of am familiar with just
21 because I have a bunch of receipts sitting on a cabinet at
22 home.

23 MS. DeBUSK: May I add just a --

24 COMMISSIONER JOHANSON: Yes, Ms. DeBusk.

25 MS. DeBUSK: -- as an answer to that. You know,

1 we would -- we think that this is a very far cry from being
2 a commodity product.

3 COMMISSIONER JOHANSON: You do think it's a far
4 cry?

5 MS. DeBUSK: It's a far cry from being a
6 commodity product. And there are some really good data
7 points to add to what these gentlemen have to say. If you
8 look at the questionnaire data, this is a case where you had
9 58 out of 65 instances of where the -- of overselling where
10 the German product was higher. And if it were a commodity
11 product, you couldn't have those -- you know, those sorts of
12 numbers.

13 The other data point that I want to add from the
14 questionnaire responses is when this information was
15 collected, you know, comprehensively from the converters,
16 they also had some very important things to say about that.
17 And if you look at what they had to say, only half of them
18 were saying that price and value was sort of the first thing
19 on their list about half -- about the other half said that
20 quality was the first thing on their list when they were
21 making decisions. So there clearly is a lot of product
22 differentiation. And just like you, I can very much relate
23 to where you get those receipts, you're ready to turn in
24 your expense report and it all fades away on you and you
25 can't read the numbers.

1 COMMISSIONER JOHANSON: Right.

2 MS. DeBUSK: I think just from our own common
3 knowledge we know that there's a difference in the quality
4 of the receipt paper. You can tell the good from the bad --

5

6 COMMISSIONER JOHANSON: Right.

7 MS. DeBUSK: -- in terms of that factor that
8 we're all familiar with.

9 COMMISSIONER JOHANSON: All right. Thank you. I
10 appreciate your responses.

11 MR. DOUGAN: Commissioner Johanson, can I jump in
12 just really quickly, or do we have to move on?

13 COMMISSIONER JOHANSON: Yes. Yes. Go right
14 ahead.

15 MR. DOUGAN: Jim Dougan from ECS. To the degree
16 that the overselling that you see in the POR may be
17 characterized by petitioners as the discipline of the order,
18 I would remind the Commission that in the original
19 investigation in the 55 gram product, which is where the
20 competition was, you saw not just this patter, but even more
21 in the direction of overselling.

22 COMMISSIONER JOHANSON: All right. Thank you for
23 your responses and my apologies to Commission Schmidtlein
24 for running over by 2 minutes and 40 seconds.

25 CHAIRMAN BROADBENT: Commission Schmidtlein?

1 COMMISSIONER SCHMIDTLEIN: Okay. I guess I would
2 like to start with some questions about the alleged fraud
3 and maybe we should not use that emotional word with it.
4 But I'm trying to understand if it's irrelevant. And I
5 take, and you can correct me if I'm wrong, that it's your
6 position and it's the company's position that these were
7 rogue employees. They've been dismissed. The record -- or
8 the information was provided to the Commerce Department and
9 so forth and that two of these administrative reviews are
10 now on appeal; right, at the CIT?

11 MS. DeBUSK: That is correct.

12 COMMISSIONER SCHMIDTLEIN: So my question though
13 is, and as I mentioned earlier today that this is the second
14 full sunset review that I've been involved in. And so I
15 understand we're trying to look at, you know, what's the
16 relevance of this POR and what happened during the POR? And
17 at some level, I guess, we're looking at it to decide is
18 this indicative of what's going to happen in the future? Or
19 what can we take from the five years that have transpired
20 since the order was put in place.

21 And so I guess my question is, when I'm looking
22 at this record, I mean, even if you've -- because it seems
23 as though there was misinformation provided to the Commerce
24 Department. So, whether or not that warranted the rate that
25 they imposed in that review that you now have on appeal,

1 both of them, isn't the fact of the matter that there was
2 something going on there. And maybe if I understand a
3 little bit better about what was going on, there was
4 something going on there that affected the numbers that are
5 in our data. In other words, if that behavior had not
6 occurred, wouldn't the volume possibly have been different?
7 Wouldn't the prices possibly have been different?

8 In other words, it's affected the data somehow.
9 And I guess you can tell me whether you think that's not
10 significant or it didn't affect it. Do you understand what
11 I'm trying to ask?

12 MS. DeBUSK: Sure. And I think we can address it
13 from two ways. I think we discussed it in terms of what
14 does it mean, you know, if -- how did it affect the data?
15 And as was testified to earlier, the impact on the dumping
16 margin, if the correct data had been used is minimal. And
17 so I think the thing to --

18 COMMISSIONER SCHMIDTLEIN: But I mean, it's not
19 the dumping margin, because you have to take it a step
20 further; right? Because it's -- well, what would have been
21 the impact of the dumping margin. But what we're really
22 looking at is, what would have been the behavior of all of
23 these parties had this behavior -- you know, the buyers and
24 the sellers, had this behavior not been going on?

25 So I guess what I'm really getting at, is like,

1 isn't this record not overall because of that behavior at
2 least for two years of it, not as reliable in terms of
3 trying to predict what's going to happen in the future?
4 That's why we look at these five years; right?

5 MS. DeBUSK: The answer is absolutely not. The
6 data that you have is completely uncontaminated by anything
7 at all having to do with fraud. And what we did with the
8 data that Dr. Ashenfelter did is he looked at the data, you
9 know, over time and so he looked very carefully to see what
10 was the impact during the period of review versus what was
11 it earlier and how has the conduct changed or not changed
12 based on the dumping order. And so what he found is that if
13 you look at how Koehler has priced into the market, which
14 is, I think, perhaps one of the things that you're getting
15 at there, that Koehler has been very consistent in its
16 behavior. It's been pricing, as the earlier chart showed,
17 the same in the U.S. as in Canada.

18 And what your question goes to is if there was
19 something that were going on that had contaminated the
20 record so that there was some big difference associated with
21 the fraud, well, you would be able to see that when you
22 compare the U.S. market to the Canadian market. And what is
23 extremely telling here is that when you compare the Canadian
24 market where there's no dumping order, no constraints at
25 all, if you compare that to the U.S. market, what is really

1 telling is that you see the same thing. And so whatever was
2 happening during this point in time, what you see is a
3 completely consistent story. The same thing is going on and
4 the same thing is going on in Canada and the U.S.

5 And so I think that's extremely telling and gets
6 right to your point about, well, what was the impact of the
7 fraud? It was nothing. And the way you can verify that is,
8 of course, looking to see if there were any differences in
9 what was happening in the two markets.

10 Does that answer your question?

11 COMMISSIONER SCHMIDTLEIN: Yeah, I think so.

12 STATEMENT OF MATTHEW NICELY

13 MR. NICELY: Commissioner Schmidtlein, it's Matt
14 Nicely here. Just to add the point I raised in my testimony
15 about what happened in 2012, I think is also important to
16 consider in addition to what Amanda talks about with regard
17 to the U.S. versus Canada. I mean, the fact is that Koehler
18 was at its highest volume in 2012. And it was given -- and
19 the Commerce Department calculated a zero dumping rate
20 during that period of time.

21 So to suggest that what had happened in earlier
22 periods is somehow distorted by the fact, although we
23 disagree, obviously with what the Commerce Department found,
24 but somehow that that distorted how Koehler was behaving in
25 the market I think has proven to be not true by what

1 happened in 2012. They were at the highest possible rate,
2 highest possible -- highest levels they were in terms of
3 volume during the entire POR and they were not merely just
4 dumping at a zero rate, they were dumping at a negative 13
5 percent rate. So as a result, how can you determine that in
6 fact they were somehow taking advantage of so-called
7 misdeeds that occurred before.

8 COMMISSIONER SCHMIDTLEIN: All right. Well,
9 thank you, that's very helpful and I apologize. I know
10 you've gone over some of this before. Maybe I was
11 formulating my question or I had stepped out of the room.

12 So let me follow up on something that Mr. Nicely
13 just said, and that is, the question about what Koehler's
14 anticipated -- what they think their anticipated level is.
15 And, again, if you've covered this, I apologize. You know,
16 do you, and Ms. Muller or Ms. Frede, one of you would be
17 best, or I guess Mr. Lendowski, is Koehler hoping to get
18 back to that level? That high level that they had in 2012?

19 MR. LENDOWSKI: Frank Lendowski. The answer is a
20 clear no. We do not intend to even come close to this
21 level. And this due to reasons of, for example, our
22 customers have laid out in their testimony. Meanwhile we
23 have commitments in other markets. It has been quite hard,
24 of course, to sell our product to other markets than the
25 U.S. We came from a pretty high level where we shipped

1 almost one-third of our thermal paper to the U.S. We in an
2 instant had to divert this product to other markets. And so
3 it's a clear strategy that we won't ever go back to have
4 such a huge portion of our shipments to a single market.
5 And as I laid out earlier, we shipped our products to more
6 than 100 markets and they -- I think the maximum level of
7 shipments to the export be well below 20 percent of our
8 total capacity. We have been in 2013 and constant over a
9 couple of year at around 30 -- a little over 30 percent for
10 our overall shipments to the U.S. markets of lightweight
11 thermal paper.

12 COMMISSIONER SCHMIDTLEIN: I mean, we've heard
13 testimony today that the U.S. has the highest prices in the
14 world. Right?

15 MR. LENDOWSKI: Yeah.

16 COMMISSIONER SCHMIDTLEIN: So why wouldn't you
17 start to --

18 MR. LENDOWSKI: It is not only a matter of high
19 prices, it's the matter of overall profitability and has
20 also been laid out, we have quite high costs in the U.S.
21 market. For example, in order to accommodate our customers
22 we have a couple of warehouses and all this together leads
23 to even quite high costs in culminating our American
24 customers. And so if we look into the profitability of
25 certain markets, we do not have only to take into account

1 the price level, but also the cost level.

2 COMMISSIONER SCHMIDTLEIN: Yeah. Of course.

3 All right. Thank you.

4 CHAIRMAN BROADBENT: Yeah, just following up on
5 that a little bit. Because I think this is one of the
6 issues here is that you're world class global exporters,
7 successful all over the world, and you're saying that the
8 high prices in this market are not attractive to you because
9 the costs of competing in this market are higher than
10 elsewhere; is that really right?

11 MR. LENDOWSKI: No, I didn't say that. Frank
12 Lendowski. I didn't say that they aren't attractive, but
13 they are not the most attractive prices. And the margins we
14 have worldwide. We have other also interesting and high
15 margin markets in the world. And the issue just is that we
16 do not want to rely on a single market like the U.S. We
17 want to somehow spread the risks that we have.

18 We also have to take into account especially on
19 the long-term basis that there is another risk involved and
20 this is the currency exchange risk. At the moment, of
21 course, the U.S. currency exchange rate in relation to the
22 Euro tends to be more favor for us. But as we intend to
23 have long-term relationships with our customers, we don't
24 look to a short-term profit. We are not interested in
25 shifting around and seeking for the -- at the moment -- most

1 profitable market. We have a long-term view of maneuvering
2 our profits.

3 CHAIRMAN BROADBENT: What leads to your better
4 margins in other markets? What costs are lower there than
5 are in the U.S.?

6 MR. LENDOWSKI: Yeah, for example, the
7 warehousing costs are different. The freight costs are
8 different, and even the costs for sales force or -- well, we
9 have third parties in a different market and different
10 markets for us acting as an agent. And they are charging us
11 with a different cost level depending on the market.

12 MR. DOUGAN: Chairman Broadbent, if I can --
13 this is Jim Dougan from ECS. Petitioner's Exhibit F, which
14 is probably leading to at least some of this line of
15 questioning on the one hand doesn't account for -- it's
16 distorted a bit by two things. Certainly the 2013 number is
17 going to be distorted by supply shock and the resulting
18 price spikes associated with that.

19 Secondly, it doesn't account for differences in
20 product mix. So to the degree that BPA-free, which everyone
21 agrees commands a higher price, is a greater share of the
22 demand in the U.S. market versus rest of world markets. You
23 would expect a price differential based on that alone.

24 Now, what I think is important is even to the
25 degree that there has been difference in price and

1 profitability of the kind that you might observe, the share
2 of Koehler's exports to the United States as a share of
3 total shipments has been remarkably consistent over time.
4 And, Tyler, you have that. If you could bring that slide
5 up.

6 And Mr. Lendowski can testify to this, but, you
7 know, Koehler is not a paper day trader. They don't chase
8 momentary gaps in price and profitability in different
9 markets around the world at a moment's notice. They
10 maintain long-term customer relationships and so you see a
11 fairly steady relationship. They're not going to be getting
12 back to this level, they don't think, because of conditions
13 of competition being changed since 2013. But what you'll
14 see is to a degree there's been variation over time, there
15 hasn't been a great deal of variation in what they ship
16 where.

17 PROFESSOR ASHENFELTER: I wonder if I could just
18 add one or two things. The issue of Exhibit F, I think, at
19 some point needed to be discussed. It's very misleading.

20 I myself saw that exhibit and wondered how it
21 could be, and the answer is very simple. It is true for
22 reasons that have been described here a lot in 2013
23 Koehler's prices in the U.S. went up as they exited, but the
24 rest of it was a surprise to me too until I realized that
25 there was no control for differences in product mix.

1 Those price differences don't really exist prior
2 to 2013, except for the fact that there are different
3 product mixes. Just in case everybody doesn't know, we're
4 talking about an exhibit that shows Koehler's prices in the
5 U.S. compared to other places.

6 This exhibit goes to the question of is Koehler
7 charging more in the U.S. than they are elsewhere, and the
8 answer to that is no, except in 2012 if you adjust for the
9 same product. Make sure you're comparing like -- in fact, I
10 said these should not be blue and red. That they should be
11 orange and green for apples and oranges because they're not
12 comparable, so that's one point.

13 The second is if you want a direct answer to this
14 question we can't talk about it here. If you go to my
15 report, there are detailed profit calculations by year and
16 by region. And what seems to be the case is that Koehler
17 has high margins -- I think I can say that here -- and they
18 have high margins everywhere. I think what they do is they
19 push to the point where the margins are the way an economist
20 would you push until your margins are equal.

21 CHAIRMAN BROADBENT: Mr. Endsley from Register
22 Tapes tell me what's going on in this surging marketing in
23 this extra tape that comes off the end of your cash register
24 tape when you go to the drugstore or something and you end
25 up with a whole handful of stuff of different ads for very

1 specific products and so forth? Is that a really new
2 advertising market that they've dreamed up, and is it
3 working and do you expect that sort of advertising to
4 increase at a time when people are really to less paper?

5 MR. ENDSLEY: Well, I can speak to the issue of
6 the grocery stores. The reason their ads are longer is
7 they're starting to use their register tape more and more as
8 a bulletin board. Part of that is because I'm giving them
9 the register tape free, and that inspires them to use more
10 of it. That wasn't my plan, but that was the reality.

11 CHAIRMAN BROADBENT: Is your contract with these
12 guys?

13 MR. ENDSLEY: But basically, obviously my model
14 is I drive revenues with the sell of advertising and give
15 them their paper to let me tap into their vast transaction
16 accounts.

17 CHAIRMAN BROADBENT: Okay. Yes.

18 MR. ENDSLEY: Now, as far as the grocery stores,
19 you may be referring to Catalina, which is the inkjet
20 printer that perhaps you see in some of the drugstores now.

21 CHAIRMAN BROADBENT: Tell me the difference
22 there. So, that's something different, right?

23 MR. ENDSLEY: Usually, those are in-store
24 products.

25 CHAIRMAN BROADBENT: Right.

1 MR. ENDSLEY: Again, they give the grocery store
2 the tape free. They sell it to the coupon or the CVG
3 companies that sell their products inside the stores.

4 CHAIRMAN BROADBENT: All right.

5 Ms. Frede, did Koehler's abrupt exit from the
6 market following the Commerce's third administrative review
7 affect your customer relationships or reputation for
8 reliability of supply in the U.S.?

9 MS. FREDE: It's probably more a question for our
10 customers or converter customers. Yes, of course, because
11 they needed to look for a new supplier. And as I said in my
12 testimony, the domestic industry at that time was not able
13 to fulfill that supply.

14 CHAIRMAN BROADBENT: Who is the market leader for
15 providing BPA-free paper?

16 MS. FREDE: Katji Frede.

17 Are we talking about U.S. market only?

18 CHAIRMAN BROADBENT: No, globally.

19 MS. FREDE: Well, it depends. In the U.S.
20 market, it's clearly Appvion, probably globally as well
21 because we don't sell that much BPA-containing paper.

22 Japanese companies are traditionally producing
23 only BPA-free, but we don't really compete with Japanese
24 companies.

25 CHAIRMAN BROADBENT: Okay. Commissioner

1 Williamson?

2 COMMISSIONER WILLIAMSON: Thank you.

3 I asked this question this morning. Do you
4 expect 50-gram paper to disappear from the market
5 eventually? I mean the trend has been towards the 48-gram.

6 MR. LENDOWSKI: Frank Lendowski.

7 I think one of our customers already explained
8 this. Certainly, 48-gram product has a clear advantage. It
9 was 55-grams products, but there are limited applications
10 where 48-gram is just not feasible and you need a little
11 more paper weight.

12 COMMISSIONER WILLIAMSON: So, basically, the same
13 answer we heard this morning.

14 Are there any other product developments likely
15 in the future beyond those we already talked about, 48-gram,
16 the BPA and phenol-free. In other words, are you seeing
17 other uses that might affect demand in the future?

18 MS. DEBUSK: We'd just like to -- this is Amanda
19 DeBusk -- reiterate a point that was made a little bit
20 earlier. Appvion has proven itself to be a very innovative
21 company. And the brand new product that is out there is
22 this one that has vitamin C in it that they're producing.
23 That is something that they're marketing as the wave of the
24 future. It is a product that Koehler does not yet have.

25 COMMISSIONER WILLIAMSON: I'm not going to ask

1 you why, but why vitamin C?

2 MS. DEBUSK: Exactly. It's a unique product, and
3 this is marketed as the wave of the future.

4 COMMISSIONER WILLIAMSON: Beyond the vitamin
5 paper, is there any uses for thermal paper?

6 MS. DEBUSK: I don't think it means you're
7 supposed to eat it.

8 COMMISSIONER WILLIAMSON: Okay. Anything else
9 out there that anybody else knows about that might mean a
10 new of the demand? Okay.

11 What is your assessment of likely demand of the
12 U.S. over the few years? I think you were saying it was
13 positive.

14 MS. DEBUSK: Yes, you're exactly right. We are
15 saying that the demand trends are positive, and there are a
16 number of data points that you can use for that.

17 First of all, if you look at the trends and the
18 shipments based on the questionnaire data, you see that it
19 is a positive trajectory. There's also a number of market
20 studies that have been submitted that show that; again,
21 demand is increasing.

22 As people have talked about, you net out because
23 you have e-receipt thing and all, but all that takes time
24 and new machines and is it really going to work? And people
25 still like to get their receipt in their hands, and so

1 that's certainly something that's in a longer time horizon
2 than one would look at with a sunset review.

3 COMMISSIONER WILLIAMSON: Well, let's not go
4 there.

5 MS. DEBUSK: Exactly. And so if you project just
6 into the next couple of years what folks are seeing is the
7 increase in U.S. demand.

8 COMMISSIONER WILLIAMSON: What about globally?
9 Do you see the same positive prospects?

10 MS. DEBUSK: Yes, it is the same trend on a
11 global basis. And let me just mention that certainly in
12 some markets it's just a very steep, upward trend in terms
13 of demand. They've talked a little bit about the Latin
14 American market and some of those other markets where I
15 think the comment was made earlier about the rise of the
16 middle class and more transactions and all, Certainly, China
17 and other markets as well.

18 COMMISSIONER WILLIAMSON: Thank you.

19 One could argue in one sense you look at Koehler.
20 It left the U.S. market in 2013 when the Commerce deposit
21 rate went to 75 percent, and then announced its intention to
22 return to the U.S. market after Commerce lowered the rate to
23 zero.

24 As being an example of what would happen if the
25 orders were revoked, that you'd suddenly see Koehler

1 becoming a substantial player in the U.S. market. Do you
2 want to comment on that?

3 MS. DEBUSK: Sure. What we're saying that
4 happened is that it was really a supply shock that you had
5 when the 75 percent caused Koehler to then exit the market.
6 And what you see now is that they're coming back into the
7 market, but they're not going to be coming back at the
8 volume that they had in the past because of the fact that
9 they've developed these other markets and have reevaluated
10 their overall strategy, as Mr. Lendowski was talking about.

11 So, I think you have to look at that 75 percent.
12 When they were out of the market that's not what we're
13 talking about -- about the norm right now. They have a zero
14 rate and are coming back in a very responsible way.

15 COMMISSIONER WILLIAMSON: You're saying this
16 jumping in and jumping out is -- or jumping out and jumping
17 back in is not -- that's not normal.

18 MS. DEBUSK: Absolutely. That's right. And what
19 you have to look at is like that line that was there that
20 showed up what's been happening in terms of their presence
21 in the U.S. market over time.

22 MR. DOUGAN: Commissioner Williamson, if I can --

23 COMMISSIONER WILLIAMSON: Sure.

24 MR. DOUGAN: Petitioners have made an argument
25 that the mere announcement of the prelim rate for Koehler

1 being zero and that they plan to reenter the U.S. market
2 should that hold for the final that that caused prices to
3 decline in 2014. But for that to be true, you have to
4 believe four things. One is that prices peaked immediately
5 before that and only declined after that announcement.

6 Look at the pricing data. It's not true. If you
7 listen to the testimony of the converters, their prices
8 began to decline by the second quarter of 2013 due to
9 pressure from non-subject imports.

10 The second thing you have to believe is that
11 non-subject imports are not a factor in this market. Their
12 testimony tells you that it is, the pricing data back it up.

13 Number three, everyone in the market had to
14 believe that the prelim rate was definitely going to hold of
15 the final. We all know that that isn't always true. Ask
16 the Korean exporters of OCTG if they think the zero is going
17 to hold for the final. Number four, you have to believe
18 that the purchasers in a negotiation can make a credible
19 threat to their suppliers -- again, a credible threat that
20 they can basically drawn down inventories for six months
21 while they're waiting for Koehler to come back in the
22 market. None of those things are true, so there's just no
23 basis to support that argument.

24 COMMISSIONER WILLIAMSON: This is only for
25 post-hearing. Appvion has made some confidential

1 allegations about how Koehler intends to reenter the U.S.
2 market, and so I wanted you to respond to those
3 post-hearing.

4 MS. DEBUSK: Certainly. We'll be glad to. Thank
5 you.

6 COMMISSIONER WILLIAMSON: And do you agree that
7 the Commission should focus on Pricing Product 4 because
8 future competition would be focused on the 48-gram, BPA-free
9 product?

10 MS. DEBUSK: We think it's important to look at
11 the data for all the products that the Commission collected
12 the data on. In our analysis that Dr. Ashenfelder did he
13 has concentrated on Products 3 and Products 4. Those are
14 the 48-gram with and without the BPA-free. If you look at
15 the one with the BPA-free, it gives you a nice, long period
16 of time over which to analyze the data. And if you look at
17 the Product 4, which is the one that's BPA-free, that one is
18 important to look at as well.

19 COMMISSIONER WILLIAMSON: And lastly, Appvion
20 points to a number of factors that it claim will lead to
21 significant imports from Germany if the orders are revoked,
22 and what are your responses to these arguments. Things like
23 export orientation of Germany, higher prices in the U.S.
24 market, the abandonment of the U.S. plant, and the ability
25 to product ship? And I know you've already addressed this

1 whole U.S. plant, but how do you respond to this in those
2 arguments that they've made?

3 MS. DEBUSK: Well, let's just take the first one,
4 and I'll try to remember those and ask the others who maybe
5 took better notes as we work through them.

6 Export orientation was your first one, and
7 certainly if you look at the point about export orientation
8 it's really, really interesting that their fastest growing
9 market has been in Europe. And so that certainly counts as
10 export orientation for the Commission's purposes because
11 German market itself and then you look at all the other
12 markets that are right there in its backyard.

13 And so if you look at where they have very
14 significant growth, it's been in Europe. And so the way the
15 Commission collects the data that certainly counts as
16 exports.

17 COMMISSIONER WILLIAMSON: I'm going to switch
18 questions on you real quick because it's baffling me.

19 Given how stagnant the European economy is, the
20 gloom we hear about possible recession, why is this product
21 doing so well, or why are you doing so well?

22 MS. DEBUSK: Well, one of the basic reasons is --
23 first of all, as Koehler had been explaining, one of the
24 things that you see the least impact on in terms of the
25 demand is actually people still go to the grocery stores,

1 right? You still get the grocery store receipts. This
2 isn't like you were talking about buying a luxury item or
3 something like that that you're going to cut back on. This
4 is a real basic type of product that you're still seeing
5 very good demand for the product, especially if you look at
6 the grocery stores or the CVS, like in the U.S. you see it's
7 more and more paper. It gets longer and longer and longer.

8 COMMISSIONER WILLIAMSON: You may be buying
9 cheaper products and going more often and fewer products you
10 still use the same amount of paper. Okay. I got it.

11 I think my time is about to expire, or has
12 expired.

13 CHAIRMAN BROADBENT: We'll go back.

14 COMMISSIONER WILLIAMSON: Okay, I'll come back to
15 those.

16 CHAIRMAN BROADBENT: Commissioner Johanson?

17 COMMISSIONER JOHANSON: Thank you, Chairman
18 Broadbent.

19 You all explained that Koehler has expanded its
20 presence in markets outside of the United States -- outside
21 of North America and in Europe during the period of
22 investigation, such as in Latin America. Why are markets
23 growing so rapidly in other countries, vis- -vis, let's say
24 the United States where I think the market right now I
25 believe you all stated is somewhat stable?

1 MR. DOUGAN: Commissioner Johanson, they can
2 obviously answer from a business standpoint, but I think the
3 growth rate is somewhat reflective of coming from a low
4 base, so the U.S. is a large market and a mature market.
5 It's going to grow somewhat slower.

6 MS. DEBUSK: But let me add with the point about
7 the rise of the middle class, more transactions on all that
8 you're seeing. And certainly, Latin America is a focus for
9 the company if you look at what they've done with their
10 sales force. They've had a big bump in their sales force
11 from I think one to six people in Latin America. And so one
12 of the things that's important for any company is to look at
13 wheres the growth on a global basis and to think about where
14 is the growth and think about how you target those markets.
15 And also gets to Commissioner Williamson's point about
16 export orientation. You look at where the growth is.

17 COMMISSIONER JOHANSON: Right. Thank you for
18 your responses there.

19 Is wood pulp a major raw material expense in the
20 production of lightweight thermal paper, and is there a
21 world price for wood pulp, or is there advantages producing
22 this product in the United States over Europe or let's say
23 in China?

24 I know in the United States we have a lot of
25 forests. As I mentioned to the panel this morning, it's not

1 really going to figure in my thinking, but I have a cousin
2 who used to work in the pulp industry in the northwestern
3 United States. He lives in Washington State. There's more
4 trees than possibly in parts of Europe.

5 MR. LENDOWSKI: Frank Lendowski.

6 Certainly, pulp is one of the key prospectors for
7 thermal paper, although there are other -- especially
8 chemicals that are quite costly, and even a cost factor.
9 But pulp is a commodity. There's a worldwide price for
10 pulp. It's U.S. dollar base price. We purchase our pulp
11 worldwide in U.S. dollars, so you only have an advantage in
12 case you are a so-called integrated manufacturer with our
13 own pulp production, and we aren't. We purchase from
14 worldwide sources, mainly, from South American sources.

15 COMMISSIONER JOHANSON: So, you're somewhat in
16 the same position as Appvion from this morning. I believe
17 they are not integrated as well, from what I recall them
18 stating.

19 MR. LENDOWSKI: They're not integrated as well,
20 except they are buying their base paper from a third party,
21 being Domtar. And to be honest, I'm not sure whether Domtar
22 is integrated or not.

23 COMMISSIONER JOHANSON: And you believe that pulp
24 there's an international price for it, but is it lower
25 priced in the United States? Are there differences because

1 it just seems to me that there would be so much more wood
2 pulp here?

3 MR. LENDOWSKI: Not to our knowledge. There is
4 one factor that also has to take into account, that is being
5 freight costs, but freight cost is not of great issue
6 because it's shipped on large ships as bulk. And so if you
7 have the pulp factory close by, you might have certain
8 advantages. And on the other hand, especially the South
9 American pulp producers have increased their efficiency by
10 far in the last couple of years. And the other pulp
11 producers in the other parts of the world have to compete
12 with them and this leads to a certain price level of
13 commodity.

14 COMMISSIONER JOHANSON: Thank you for your
15 response.

16 Mr. Endsley, I believe that you stated this
17 afternoon that your product provided lightweight thermal
18 paper for free to retail stores. Why is that the case? And
19 if this is proprietary information, please feel free to
20 address this during the post-hearing period.

21 MR. ENDSLEY: It's a business model that was in
22 the industry when I entered the industry. We induce the
23 grocery stores to accept our paper by giving to them free or
24 at deep discounts.

25 COMMISSIONER JOHANSON: And the benefit to them

1 is that they are able to provide advertisement; is that an
2 issue?

3 MR. ENDSLEY: Well, they'll tell you the biggest
4 benefit is the reduced cost and their operating expenses. I
5 believe their biggest benefit is the goodwill we create for
6 their customer base.

7 COMMISSIONER JOHANSON: How do you all make money
8 that way?

9 MR. ENDSLEY: We sell advertising to the small
10 business.

11 COMMISSIONER JOHANSON: Okay.

12 MR. ENDSLEY: I have 30,000 small businesses that
13 we advertise on the grocery stores.

14 COMMISSIONER JOHANSON: Interesting. I had no
15 idea. Okay, thank you for explaining that to me.

16 And I'm going to return to an issue which has
17 been talked about today, and that is the issue of BPA. And
18 I think you all might have addressed this before, but not in
19 a way that I fully grasp what the situation is. But it's my
20 impression that demand for BPA-free lightweight thermal
21 paper is higher in the United States than it is in the
22 European Union, and if I'm wrong there, please correct me.
23 But if that is the case, what does this mean within the
24 context of this investigation?

25 MS. DEBUSK: Your assumption is exactly right.

1 And where that comes into play is if you're looking at some
2 of the numbers that Appvion and Petitioner have been using
3 because it doesn't account for product mix. And so, what we
4 really urge is that when you're looking at the data that you
5 really need to be sure that you're looking at an
6 apples-to-apples comparison because there is a premium for
7 the BPA-free product.

8 And if you looked at Dr. Orley Ashenfelter's
9 report, he does do the product-to-product comparison, and
10 Professor Hauser's, as I understand it, it doesn't have the
11 product-to-product comparison. And where, in particular,
12 you've got a market such as -- you know, Koehler still makes
13 a lot of the BPA paper. It's much greater demand for the
14 BPA-free than in the U.S. You really have to sort it out so
15 that you're getting a good match when you're analyzing the
16 data stream. So, that's one of the things that's important.

17 The other thing that's important about it is it
18 has enabled Appvion to do better. It's a higher-priced
19 product. BPA-free is a premium product. And when you're
20 selling more of a premium product, you're making more money.
21 So, that's one of the things that has helped the
22 profitability of the domestic industry.

23 COMMISSIONER JOHANSON: Do you know if there are
24 any market studies or articles which discuss BPA -- the
25 preference of the consumers in the United States for BPA

1 over non-BPA. And I apologize, if this is already included
2 in the exhibits. I'm pretty good at reading the briefs, but
3 the exhibits I tend to go through a bit faster because they
4 tend to be quite lengthy.

5 MS. DEBUSK: And we understand. No, I'm not
6 aware of any market studies on BPA versus BPA0-free. We
7 have submitted the market studies that are out there, and if
8 anybody wants to chime in, but I'm not seeing analysis of
9 that.

10 COMMISSIONER JOHANSON: And the reason I'm asking
11 that is because I'm quite familiar with the issue of BPA
12 with regard to consumable products, meaning products people
13 eat in the United States. There's been quite a bit of talk
14 about BPA in canned foods, so I know consumers have
15 expressed concerns on that. But prior to this
16 investigation, I had not heard anything about BPA with
17 regard to receipts.

18 MS. DEBUSK: You're exactly right. And you see
19 in the grocery store they'll be some products on the shelf
20 that say BPA-free, and it's just gotten to be a really big
21 thing in the U.S. And certainly, Appvion was the one on top
22 of that. They were the ones that lead the U.S. market in
23 that. That's why we said the situation's reversed from
24 during the initial investigation when you were looking at
25 48-gram and Koehler was the one that was the first out the

1 door with that.

2 Now, you're looking at BPA-free as the big thing
3 in the U.S. market, and that's where Appvion has been the
4 first one out the door with that product.

5 MR. ENDSLEY: Commissioner Johanson?

6 MS. DEBUSK: That is a big factor.

7 MR. DOUGAN: Commissioner Johanson, Doug Endsley
8 has significant experience with this in the year 2010.

9 MR. ENDSLEY: Yes, I believe it was June or July
10 of 2010 there was a syndicated article that was in the
11 Washington Post that -- I don't know where it came from, but
12 it was an article that there was an analysis made on receipt
13 papers around the country for different sources. And I
14 believe the lead in the article was "Is your register tapes
15 killing you?" And it was a discussion about the harmful
16 affects of BPA.

17 I know two of major customers were Safeway and
18 McDonald's and they were both mentioned in the article as
19 having high elements of BPA in their paper. So, they became
20 extremely sensitive to making sure that going forward that
21 they only wanted to use BPA-free.

22 COMMISSIONER JOHANSON: All right. That
23 concludes my time. But it is my impression. And pardon me.
24 I did say that concludes my time, but let me ask one more
25 question, if I can.

1 I mean BPA, according to the FDA, BPA is safe,
2 correct?

3 MS. DEBUSK: There are studies that are ongoing
4 about that, and I think the verdict is still -- it's all
5 still influx.

6 COMMISSIONER JOHANSON: But the FDA has not
7 banned it. I mean I can go to the store right night and by
8 BPA-containing canned corn.

9 MS. DEBUSK: That's correct.

10 COMMISSIONER JOHANSON: Okay, so it should be
11 safe.

12 MS. DEBUSK: I'm not answering that one.

13 COMMISSIONER JOHANSON: I follow the FDA in my
14 personal life, but I won't get into that.

15 Thank you for your responses. I do appreciate
16 it.

17 COMMISSIONER SCHMIDTLEIN: I think we have to
18 talk later about what you are feeding your children. Just
19 joking, I wanted to follow up on actually a question that
20 Commissioner Johanson had and our conversation Mr. Lendowski
21 about what Koehler intends to do, you know should the order
22 be lifted and again, I'm trying to sort of summarize here
23 and make sure I understand the arguments and what you are --
24 what exactly you are saying.

25 So after the 75% duty rate was imposed, Koehler

1 withdrew from the U.S. market and expanded into these other
2 markets which is shown on slide 3 of this slide deck,
3 including Latin America, Europe and so forth and I think I
4 asked you in the last round of questions what you thought
5 you would do and I thought you said probably 20% of
6 production was your answer right and this was because you
7 have these other companies other countries are -- there is a
8 higher margin there and this is where I just want to make
9 sure I understand.

10 Is it that it's more profitable to sell in Latin
11 America than it is in the United States?

12 MR. LENDOWSKI: Frank Lendowski. I wouldn't go
13 so far, it's clearly more profitable but it is on a
14 comparable level of profitability so we again have to take
15 some things into account for example, exchange rates and the
16 probability floats for example with exchange rates and so --

17 COMMISSIONER SCHMIDTLEIN: But don't a lot of
18 those countries pay to the U.S. dollar?

19 MR. LENDOWSKI: For example we have some
20 customers in some Latin American states that Wheaten was in
21 third local currency so we tend to take the currency
22 exchange risks away from our customers.

23 COMMISSIONER SCHMIDTLEIN: Okay and was this
24 something you know, because it looks like a bit of a
25 coincidence you know you didn't really expand into this

1 market until you weren't able to sell into the U.S. market
2 so was this the nature of this profitability? This wasn't
3 known to Koehler or you made a different decision then about
4 exchange rate risk or did you just look at the numbers?

5 MR. LENDOWSKI: It clearly had to reassess due
6 to the impact of this centralized percentage rate and we had
7 to reassess our market position and we well did so. We
8 have been forced just by the situation to do so and of
9 course before we had to bend the US market we would have
10 been happy to supply that amount, but as a matter of fact we
11 had to -- but it's just a high risk involved in just relying
12 on a single --- a single market.

13 Yes I'm sorry. Let me try to repeat I'm not sure
14 of where I should repeat exactly but what I tried to explain
15 is that we had to abandon the U.S. market due to the high
16 anti-dumping duty rate of 75% and then we had to revisit
17 other markets. We had to sell our products to other
18 markets and we then made an assessment of a huge variety of
19 markets we have been present or not and some of them even
20 with small amount of shipments and we found out that it's
21 interesting and highly profitable to ship to other markets,
22 including especially European and South American markets.

23 We improved our sales forces and well we did
24 quite well in 2013.

25 MR. NICELY: Commissioner Schmidtlein, Matt

1 Nicely here. I would just like to amplify something that
2 Mr. Lendowski just talked about and point your attention to
3 page 46 of our brief most of which is confidential to
4 Koehler but the point is what we talk about there is the
5 performance of the Kale factory of Koehler where they
6 produce this product as well as other products on the same
7 machinery and importantly in 2013 they didn't do all that
8 much worse than they had done in 2012, but 2012 was an oddly
9 super good year for them and in fact in 2013 they did better
10 than they had done in previous years so the point is that
11 from an overall perspective they were able to still perform
12 incredibly well even without the U.S. market.

13 COMMISSIONER SCHMIDTLEIN: Thank you for that.
14 So my last question and I feel that I am beating a dead
15 horse here but I am just trying to get this straight in my
16 mind. When I look at the pricing data and this has to do
17 with the pricing data, this is probably best answered by one
18 of the lawyers. In a sunset review, right where we have
19 an order in place and we are looking at let's look at
20 product 4, product 3 or product 4 you know, where you see
21 overselling and so my question is isn't that what you would
22 expect to see with a country that has a dumping order in
23 place?

24 So how am I supposed to evaluate what that
25 indicates in terms of predicting future behavior potentially

1 without a dumping order in place?

2 MR. DOUGAN: Commissioner Schmidtlein, Jim
3 Dougan from ECS and I worked on the original investigation
4 as well so the pattern prior to the order in the original
5 investigation in the product where all of the competition
6 was between prior to the order, before even knowing that the
7 petition would be filed, the 55 gram product, you saw
8 overselling pervasive so the idea that German imports need
9 to undersell to achieve high volumes and their place in the
10 marketplace and that but for the order they would have done
11 so is not supported by a long history of evidence.

12 MR. NICELY: This is Matt Nicely again. I
13 would also like to and everybody on my team will laugh at me
14 because I keep on making this point but --

15 COMMISSIONER SCHMIDTLEIN: I keep asking the
16 same question.

17 MR. NICELY: About 2012, I mean they could have
18 sold they could have undersold the domestic industry and
19 still not dumped. And so the notion that it was merely you
20 know, that the discipline of the order causes you to
21 oversell is a misnomer. It just isn't true. There is not
22 necessarily a relationship between overselling and dumping
23 right? And they could have sold at a lower price they
24 could have undersold the domestic industry and still not had
25 a dumping margin. To me that year is your most important

1 year to look at to see what the behavior of this company in
2 the country, because this company represents such a large
3 percentage of it, what the behavior of the country would be
4 in the absence of an order.

5 MR. ASHENFELTER: Could I just add one thing,
6 because it might help, it is confusing. I think the point
7 is that Koehler has always oversold so the fact they are
8 doing it now doesn't provide any evidence that the
9 anti-dumping order had any effect. The point is that they
10 are a high price operation everywhere apparently and for
11 whatever set of reasons they have it's always hard to
12 explain why Germans are so good at exporting things
13 considering their costs are no lower.

14 So I think what happened is it is very important
15 to keep that in mind because it's really about the change in
16 their position on the overselling as opposed -- and that's
17 what I tried to do when we were looking at the effect on
18 prices and hopefully that will help you because otherwise it
19 is a little bit confusing.

20 COMMISSIONER SCHMIDTLEIN: Okay, all right thank
21 you very much. Oh I thought my time was up, sorry.
22 Actually I'm finished with my questions I would just like to
23 thank you all again for coming.

24 CHAIRMAN BROADBENT: Yeah I just have a couple
25 more questions. Mr. Dougan a quick question, you were in

1 the back. Can you review for me sort of your perspective
2 on the financial performance of the domestic petitioning
3 industry over this period of review. I mean to me it's a
4 poorly performing industry that's doing marginally better
5 and it looks like it's very much linked to the imposition of
6 this order. How would you respond to that?

7 MR. DOUGAN: My response would be that the
8 improvements that you see aren't related to the order. You
9 probably expect me to say that but you didn't see it after
10 the imposition of the order until a few things happened.
11 One was the increased marketing and popularity of the BPA
12 free product. That really began to happen as Mr. Endsley
13 and some others have noted in 2010. Now, Appvion's been
14 making that since 2006 right but in the original
15 investigation I'm not sure that anybody ever said those
16 words throughout the entire proceeding. No one talked
17 about it.

18 So it became an issue in the marketplace with
19 this scare in the media and they were already well poised to
20 take advantage of that and you can see an improvement
21 starting to begin that's one.

22 Two, it took a while for the domestic industry to
23 ramp up their production and sales of the 48 gram product.
24 During the original investigation they made de minimis
25 quantities of it. In public, in the staff report where

1 they say that you know the highest quarterly volume of the
2 domestic industry was lower than the lowest quarterly volume
3 of German imports of the 48 product, they just weren't in
4 that market. It took them a while to get there and to
5 satisfy the increasing demand of producers.

6 I can't get into the confidential data but if you
7 look at the staff report, when you see the transition to the
8 proportion of U.S. shipments by coaters, that's 48 versus 55
9 you will see a correlation with their improved financial
10 performance.

11 And the third is the retirement of these
12 inefficient papermaking assets and more you know, cost
13 effective supply agreement. When you put those things
14 together along with the investment in the coater that they
15 made in 2007-2008 that allowed them to you know make state
16 of the art level thermal paper, by the time that had gotten
17 ramped up, you put all of those things together and you see
18 when the return to profitability happened, so that would be
19 my answer. And none of those things is linked to the
20 order.

21 And by the way, their downturn in profitability
22 from 2005 to 2007 had nothing to do with the German imports.

23 CHAIRMAN BROADBENT: Okay thank you. And then I
24 think this might be my last question. Miss DeBusk since
25 you have a lot of experience with us here you may know that

1 this question would be coming and it might not be that fair
2 but we have a lot of empty seats out there of Respondents
3 that aren't here with respect to the Chinese order and the
4 question of considering that order.

5 Does Koehler have a view on whether there would
6 likely be injury returned to the industry if the orders on
7 China were lifted?

8 MS. DEBUSK: We haven't taken a position on China
9 and we haven't offered any views on that. I think you have
10 heard the views from one of the converters on our panel.

11 CHAIRMAN BROADBENT: Remind me of that.

12 MS. DEBUSK: Sure, Mr. Endsley or Mr. Swadish
13 had testified that it would certainly be harmful to the
14 converters if the Chinese were back in the market.

15 CHAIRMAN BROADBENT: Okay anyone else want to
16 comment on the Chinese order? Okay. My sense is my
17 colleagues have no further questions. Does the staff have
18 any questions for this panel?

19 MR. MCCLURE: Thank you Madam Chairman, Jim
20 McClure, Office of Investigations. Staff has no questions.

21 CHAIRMAN BROADBENT: And do those in favor of
22 maintaining the order have questions?

23 MR. DORN: No Madam Chairman.

24 CHAIRMAN BROADBENT: Okay I want to thank the
25 panel again for coming here and traveling so far to be with

1 us today. We appreciate all the contributions and hang on
2 one second. Here we go. With that we will come to closing
3 statements and those in support of continuation have five
4 minutes for direct and five from closing for a total of ten
5 minutes and those in opposition to continuation have four
6 minutes from direct and five from closing for a total of
7 nine minutes. As is our custom we will combine those.
8 You do not have to take all the time we will start with
9 those in support of continuation. And you may begin when
10 you are ready. I should release the panel, you are allowed
11 to go now, sorry about that.

12 Mr. Dorn and Mr. Kaplan?

13 MR. DORN: Thank you Madam Chairman. A key
14 issue that has been discussed today is whether higher prices
15 and higher profits in the United States will motivate
16 Koehler to increase its volume to the United States. I
17 think we've heard an admission from the other side that
18 prices are higher here in the United States and I think all
19 the record evidence clearly shows that prices are higher
20 here in the United States.

21 And with respect to profits, we have two versions
22 of the difference in profits between the United States and
23 other markets. We have Mr. Ashenfelter's data in which he
24 just compares profits over the period of 2005 to 2012, takes
25 the average for the United States and other markets, then

1 using the same data base from Koehler, Dr. Kaplan divided
2 the data into two periods, pre-order and post-order.

3 I would suggest to you that when you are looking
4 at a sunset review as to what the likely effect of
5 revocation would be, you should be looking at the more
6 recent data and not the older data. And the more recent
7 data clearly show that profits for Koehler based on
8 Koehler's evidence presented by its expert show that profits
9 are higher in the United States than in all the other
10 regions that were discussed.

11 And of course, their data excludes 2013 and the
12 first half of 2014 very conveniently for them because
13 clearly the profit differential would be higher for the most
14 recent period which is the most relevant period.

15 So clearly the evidence on the record coming from
16 Koehler itself shows that they have a high motivation to
17 sell into this market and did avert product going into other
18 markets back into this market. Now how will they get back
19 into this market? During the period of investigation their
20 48 gram product undersold the domestic-like product.

21 And the Commission found that that was the
22 product that was increasing so Mr. Dougan talked about
23 overselling on 55 and that's now where the action was in the
24 period of investigation in terms of shifting of market
25 shares. They were gaining with respect to 48 and

1 retreating with respect to 55 and they are underselling with
2 respect to 48 and overselling with respect to 55, that's
3 just economics 101 the product they priced lower was gaining
4 market share and the product they were charging a higher
5 price for what losing market share.

6 So the order is imposed and what happens? Well
7 the Commission correctly predicted that the competition
8 going forward was going to be 48 versus 48 not 48 versus 55
9 and so with the imposition of the order the underselling
10 becomes overselling, which as Commissioner Schmidtlein
11 suggested is what you would expect when you have an order
12 imposed to discipline pricing.

13 Now and it's interesting when you look at the
14 regression study that was done by Dr. Hausman again using
15 Koehler's data, using the model presented by Koehler's
16 expert but Dr. Hausman pulled out the 48 gram product. On
17 his slide 5 he did the same type of analysis when you look
18 at the impact of the order on 48 gram product. The product
19 that is the focus of competition and the data is
20 confidential but look at the price impact there.

21 Now as Commissioner Schmidtlein suggested or
22 asked in her question, what's the relevance of the fraud and
23 it has to have some impact on the record because it had
24 impact on Koehler's pricing behavior during two years of the
25 period of review. And if you go to Dr. Kaplan's slide 4 he

1 pointed out that the Respondent regressions did not account
2 for that fraud so in other words even though they were able
3 to price without the expected discipline of the order for
4 two years because they had manipulated home market prices to
5 eliminate any possibility of anti-dumping duties, their
6 experts, there is still indication of a price effects from
7 Dr. Hausman's analysis once you correct the flaws in his
8 methodology.

9 But how do you even you know, taking their side
10 of things and even if their model were correct in other
11 respects, it ignores the impact of the fraud on pricing
12 behavior. In addition as indicated on Dr. Kaplan's slide,
13 they conveniently toss out all the data after December, 2012
14 when Koehler announced to the trade that it was exiting the
15 market. So that's not accounted for in Dr. Ashenfelter's
16 regression results except in a couple of footnotes he does
17 admit that if you look at just that particular period, yes
18 there is a significant impact on pricing.

19 Now I heard a lot of talk about some kind of
20 temporary shock to the market. Well that's not borne out
21 by the data that you have collected. If you look at the
22 pricing product data over product 3 and product 4 and you
23 look at the -- compare the quarterly prices in 2012, in 2013
24 going into 2014 it wasn't the story they talked about, about
25 just a quarter or two of a price spike and then prices

1 coming down, that's not what happened at all.

2 Look at your data and then look at the calendar
3 year data for the performance of the industry. You have
4 calendar year data going from 2012 to 2013 and the
5 performance of the industry improved at costs I think all of
6 your indicia of the performance. Non-subject imports
7 notwithstanding, non-subject imports came in and had some
8 impact on that but still the domestic industry did much
9 better with Koehler's absence from the market.

10 One other thing I want to say about non-subject
11 imports, these guys, these converters didn't have any
12 trouble shifting to non-subject imports when Koehler's
13 duties went up which again is another sign that this is a
14 near commodity-type product. The shift to non-subject was
15 due to lower prices not due to quality differences.

16 There was some discussion about discount paper
17 about the ability of Appvion to supply demand in response to
18 the announcement by Koehler that it was exiting from the
19 market. Well I wish we had gotten a question about it this
20 morning, I should have dealt with it direct and I apologize
21 for that, but when Koehler announced they were leaving the
22 U.S. market in December, 2012 there weren't a lot of folks
23 that were putting in extra orders beyond traditional orders
24 to the domestic coaters, but Appvion was able to supply its
25 regular customers at historical levels and they provided the

1 historical levels demand for discount papers as well.

2 And we will address this in our post-hearing
3 brief. Appvion informed the market in January of 2013 that
4 it was ramping up its existing capacity to support demand in
5 anticipation of Koehler leaving in April of 2013, there's a
6 letter in the record dated January 15, 2013. And over the
7 next six weeks Appvion ramped up its production, brought on
8 additional coaters but by the time that Koehler actually
9 exited the market, Appvion had excess inventory so it
10 reacted responsibly to the increase demand in the market but
11 by the time Koehler had left the market, it had excess
12 inventory.

13 The suggestion by Registered Tapes Unlimited that
14 there was a problem with the quality of those new coaters is
15 false. There was a problem with respect to the printability
16 of the back side of the paper for a short period of time for
17 Registered Tapes Unlimited but it had nothing to do with the
18 coaters used as Appleton. It turned out that it was a
19 problem with the base paper being supplied by Domtar and it
20 quickly got resolved and was not a problem with any other
21 customers.

22 One final point I would like to make -- I see my
23 time has expired. Madam Chairman, Commissioners, we
24 appreciate your patience in hearing us out this afternoon.
25 I speak for both parties in thanking you and the staff for

1 your diligence in this case, thank you very much.

2 CHAIRMAN BROADBENT: Miss DeBusk you may begin
3 when you are ready.

4 MS. DEBUSK: Thank you. I'll stand since we
5 have been sitting all afternoon if that's okay. Ladies and
6 gentlemen of the Commission and the Commission staff, thank
7 you for your time today. Koehler greatly appreciates this
8 opportunity to present its case for revocation of the order.

9

10 As you have heard today and as demonstrated by
11 the record, there is no case for maintaining the order with
12 respect to subject imports from Germany. The basis for the
13 Commission determination by a tie vote that there was a
14 threat of material injury in the original investigation no
15 longer exists.

16 A domestic industry is now strong and profitable.

17 This has nothing to do with the order. The domestic
18 industry has benefitted from an improving economy and
19 improvements in its own operations. Appvion, in
20 particular, is now profitable because it rationalized its
21 operations. Appvion's supply agreement with Domtar lowered
22 its cost for base paper and put the company on a strong
23 footing for the future.

24 The converters have been profitable throughout
25 the period of review and they continue to do well. Appvion

1 places great weight on its performance when Koehler was out
2 of the market due to a high dumping margin and on Appvion's
3 speculation about the consequences of Koehler's return to
4 the market. As Appvion tells it, one might think that the
5 decision before the Commission is whether Koehler should be
6 permitted to sell its product in the United States at all.
7 That is not the question.

8 What is relevant to the Commission's
9 determination is that Koehler's return to the market will be
10 on exactly the same terms with or without the order. The
11 record evidence demonstrates that Germany has been a
12 disciplined participant in the U.S. market and has not led
13 on price or chased volume. It is quite extraordinary and
14 well over 90% of comparisons that Germans oversaw the
15 domestic industry.

16 The pattern of overselling has held even when
17 Koehler's dumping margin would have allowed it to undersell
18 domestic coaters. The overselling is not due to the order.
19 Koehler has shown that it has good reason to maintain its
20 disciplined approach to the U.S. market. Koehler has always
21 been a high priced supplier.

22 While the U.S. market remains important to
23 Koehler the company has no incentive to become the low price
24 supplier or to rapidly shift sales away from other markets
25 that it has developed and that are growing. Revoking the

1 order will not change Koehler's incentives or its behavior.

2

3 Before I conclude I would like to touch on the
4 significance of third country imports. Appvion failed even
5 to mention such imports in its pre-hearing brief. This is
6 remarkable given that the questionnaire responses made clear
7 that non-subject imports played a major role in filling the
8 void when Koehler left the market and in lowering prices.

9 Appvion has suggested that prices for the subject
10 products declined precipitously on the mere hint that
11 Koehler would be returning to the market. To be sure,
12 prices rose when Koehler exited the market, which one would
13 expect when a major source of supply is cut off.

14 Appvion asked the Commission to believe that the
15 cause of normalized prices was market speculation about
16 Koehler's re-entry rather than availability of product from
17 non-subject countries.

18 Appvion's proposition is implausible. Koehler
19 had only a preliminary determination, Appvion strongly
20 contested it and no one knew whether the zero rate would
21 hold when the final decision was to be made six months
22 later. The questionnaire responses do not support
23 Appvion's far-fetched speculation that they are full of --
24 but they are full of information about third country
25 imports.

1 The additional competition in the U.S. market
2 from third country imports provides yet another reason why
3 Koehler has little incentive to seek to establish itself as
4 the low priced supplier in the U.S. market.

5 In sum, projected trends for the domestic
6 industry, the volume and price of imports from Germany and
7 U.S. and global product demand make clear that revocation of
8 the order as to Germany is not likely to lead to
9 continuation or recurrence of material injury.

10 Accordingly the Commission should revoke the
11 order as to imports of lightweight thermal paper from
12 Germany, thank you.

13 CHAIRMAN BROADBENT: Thank you and again I want
14 to thank everyone for coming today. Your closing
15 statements, post-hearing briefs, statements responsive to
16 the questions and requests of the Commission and any
17 corrections to the transcript must be filed by November 10,
18 2014. Closing of the record and final release of data to
19 the parties will be on December 9, 2014 and final comments
20 are due on December 11th and with that this hearing is
21 adjourned.

22 (Whereupon meeting was adjourned at 4:35 p.m.)

23
24
25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Certain Lightweight Thermal Paper from China and Germany

INVESTIGATION NOS.: 701-TA-451 and 731-TA-1126-1127 (Review)

HEARING DATE: 10-30-2014

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: 10-30-2014

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Gregory Johnson
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

SIGNED: Gaynell Catherine
Signature of Court Reporter

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