

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation No.:
LARGE RESIDENTIAL WASHERS FROM CHINA) 731-TA-1306 (PRELIMINARY)

Pages: 1 - 268
Place: Washington, D.C.
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THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation No.:
LARGE RESIDENTIAL WASHERS) 731-TA-1306
FROM CHINA) (PRELIMINARY)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Wednesday, January 6, 2016

The meeting commenced pursuant to notice at 9:30
a.m., before the Investigative Staff of the United States
International Trade Commission, Douglas Corkran, Supervisory
Investigator, presiding.

1 On behalf of the International Trade Commission Staff:

2 Douglas Corkran, Supervisory Investigator

3 Chris Cassise, Investigator/Supervisory

4 Investigator

5 Dennis Fravel, International Trade Analyst

6 David Boyland, Accountant/Auditor

7 Cindy Cohen, Economist

8 Michele Breaux, Economist

9 Karl von Schriltz, Attorney/Advisor

10

11 William R. Bishop, Supervisory Hearings and

12 Information Officer

13 Sharon Bellamy, Program Support Specialist

14 Sonia Parveen, Intern

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1 APPEARANCES:

2 Opening Remarks:

3 Petitioner (Jack A. Levy, Cassidy Levy Kent (USA) LLP)

4 Respondents (Daniel L. Porter, Curtis, Mallet-Prevost, Colt
5 & Mosle LLP)

6

7 In Support of the Imposition of Antidumping Duty Order:

8 Cassidy Levy Kent (USA) LLP

9 Washington, D.C.

10 and

11 Adduci Mastriani & Schaumberg LLP

12 Washington, D.C.

13 on behalf of

14 Whirlpool Corporation

15 Joseph Liotine, President, Whirlpool North America

16 Casey Tubman, General Manager for Laundry, Whirlpool
17 North America

18 Aaron Spira, Group Counsel, North America Region,
19 Whirlpool Corporation

20 Jack A. Levy, Myles S. Getlan, Jennifer A. Hillman,
21 James R. Cannon, Jr. and Deanna Tanner Okun - Of Counsel

22

23

24

25

1 APPEARANCES (Continued):

2 TradeWins LLC

3 Washington, DC

4 on behalf of

5 GE Appliances & Lighting

6 John R. Magnus - Of Counsel

7

8 In Opposition to the Imposition of Antidumping Duty Order:

9 Curtis, Mallet-Prevost, Colt & Mosle LLP

10 Washington, DC

11 on behalf of

12 LG Electronics

13 John R. Herring, Vice President of Sales, Home

14 Appliances, Home Improvement Channel, LG Electronics USA,

15 Inc.

16 John Toohey, Director of Strategy, LG Electronics USA,

17 Inc.

18 Richard C. Wingate, Vice President Human Resources and

19 General Counsel, LG Electronics USA, Inc.

20 Sung Han (Andrew) Kim, Product Manager for Laundry, LG

21 Electronics USA, Inc.

22 Mun-Gu (Moon) Park, Head of Trade & Customs, Management

23 Consulting - Operation, KPMG-Korea

24 Daniel Klett, Principal Trade, Inc.

25

1 APPEARANCES (Continued):

2 Daniel L. Porter, James P. Durling and Matthew P.

3 McCullough - Of Counsel

4

5 Arnold & Porter LLP

6 Washington, DC

7 on behalf of

8 Suzhou Samsung Electronics Co. Ltd.

9 Suzhou Samsung Electronics Co. Ltd. - Export

10 Samsung Electronics America, Inc.

11 (collectively "Samsung")

12 Dean Brindle, Director, Laundry Product Marketing,

13 Samsung Electronics America, Inc.

14 Michael T. Shor and J. David Park - Of Counsel

15

16 Rebuttal/Closing Remarks:

17 Petitioner (Jack A. Levy, Cassidy Levy Kent (USA) LLP)

18 Respondents (Michael T. Shor, Arnold & Porter LLP)

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P R O C E E D I N G S

9:30 a.m

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

MR. CORKRAN: Good morning. Welcome to United States International Trade Commission's conference in connection with the preliminary phase of Antidumping Duty Investigation No. 731-TA-1306 concerning imports of large residential washers from China. My name is Douglas Corkran. I am a Supervisory Investigator in the office of investigations and on behalf of Betsy Haines, our acting Director, I will preside at this conference.

Among those present from the Commission Staff on my far right; Chris Cassise, who is both the Investigator and the Supervisory Investigator on this case; Carl VonTrilt, the Attorney Advisor; Cindy Cohen, one of our Economists; Michelle Breaux, another Economist; Dennis Fravel our Industry Analyst and David Boylan, our accountant. I would remind speakers not to refer in your remarks to business proprietary information and speak directly into the microphones.

We also ask that you state your name and affiliation for the record before beginning your presentation or answering questions for the benefit of the court reporter. All witnesses must be sworn in before presenting testimony. I understand that parties are aware

1 of time allocations but any questions regarding time
2 allocations should be addressed with the secretary.

3 Finally, I would note that between panels we will
4 break for approximately ten minutes to please stay
5 relatively close to the main hearing room. Are there any
6 questions? Mr. Secretary, are there any preliminary
7 matters?

8 MR. BISHOP: No, Mr. Chairman.

9 MR. CORKRAN: Very well. Let us proceed with
10 opening remarks.

11 MR. BISHOP: Opening remarks on behalf of
12 Petitioner will be given by Jack A. Levy, Cassidy Levy Kent.

13 MR. CORKRAN: Welcome Mr. Levy.

14 OPENING REMARKS BY JACK A. LEVY

15 MR. LEVY: Thank you and good morning. Again,
16 this is Jack Levy of the law firm Cassidy Levy Kent
17 appearing on behalf of Whirlpool Corporation, the
18 Petitioner. We're here today to discuss the impact that
19 dumped washers produced by Samsung and LG in China have had
20 on American washer manufacturers and workers. But, to put
21 this place in context, I would like to begin my remarks by
22 referring back to 2011.

23 Almost four years ago to this day, Whirlpool came
24 before you requesting trade relief from dumped and
25 subsidized washer imports from Korea and Mexico. That case

1 centered around two Korean -- Chibol, Samsung and LG and
2 allegations that they were systematically injuring American
3 manufacturers and workers through their unfair pricing and
4 market share gains. As you know, the commission issued the
5 unanimous final affirmative determination in that
6 investigation. It observed that by the end of the Period of
7 Investigation, three companies quit U.S. Manufacturing
8 entirely, hundreds of Americans had lost their jobs and the
9 U.S. Industry as a whole was materially injured.

10 Now, the promise was that those American
11 manufacturers and workers left standing could actually
12 benefit from the remedy provided under the law.
13 Unfortunately that hasn't happened. When the previous
14 petition covering washers from Korea and Mexico was filed in
15 Late December 2011, there were essentially zero LRW imports
16 from China, but by the time the orders had issued in
17 February of 2013, Samsung and LG had already done an end run
18 around the trade remedy law. Rather than simply sell their
19 washers at non-dumped prices, they instead decided to move
20 their LRW production from their plants in Korea and Mexico
21 over to China. Why? So they could continue to dump with
22 impunity.

23 Today, Samsung sources all of its LRWs from China
24 and none from Korea and Mexico. LG for its part also
25 sources the vast majority of its LRWs from China. This

1 volume trend can be clearly seen at Petitioner's Exhibit A.
2 What's going on here? Samsung and LG have simply replaced
3 their dumped and injurious washers from Korea and Mexico
4 with duped and injurious washers from China. This is in
5 essence a case of serial dumping. Samsung and LG are
6 circumventing the orders in place and are undermining the
7 remedy provided for by the Commission's prior determination.

8 Now, as a consequence of this circumvention, the
9 U.S. Industry's financial position is even weaker today than
10 during the Period of Investigation in the prior case. This
11 is because Samsung and LG continue to depress and suppress
12 prices across the entire washer lineup and take market share
13 in the process. The volume effects of this predatory
14 behavior are palpable. According to the data contained in
15 the Petition, Subject Import volumes increased by more than
16 357% from 2012 to 2014 and increased by another 33% across
17 the interim periods and when you look at the data you'll see
18 that Subject Imports not only replaced Korean and Mexican
19 volumes, they further eroded the position of U.S. Producers.

20 Just like the last case, the culprits continue to
21 be Samsung and LG. The trade laws were intended to prevent
22 exactly this sort of behavior. Whirlpool has therefore had
23 no choice but to file this Petition to defend its U.S.
24 Washer Manufacturing operations and its thousands of
25 American workers from these dumped and injurious imports

1 from Samsung and LG> Thank you very much.

2 MR. CORKRAN: Thank you Mr. Levy.

3 MR. BISHOP: Opening remarks on behalf of
4 Respondents will be given by Daniel L. Porter, Curtis,
5 Mallet-Provost, Colt and Mosle.

6 MR. CORKRAN: Good morning, Mr. Porter.

7 OPENING REMARKS BY DANIEL L. PORTER

8 MR. PORTER: Good morning and very Happy New Year
9 to everyone. For the record, my name is Dan Porter and I am
10 here on behalf of LG Electronics and I am with Curtis,
11 Mallet-Provost, Colt and Mosle. Given that all of you are
12 already quite familiar with the washing machines which are a
13 target of this new trade case, we can dive right into the
14 issues.

15 Like product: The Petitioners urge that the like
16 product definition should narrow the scope. This claim has
17 absolutely no legal or factual support. In 2013, the
18 Commission examined this very same industry and concluded
19 that there are no clear dividing lines among different large
20 residential washers. Whirlpool has not provided any
21 evidence there has been a change in the market to question
22 this prior Commission factual finding, or, stated more
23 pointedly, Whirlpool has not provided any evidence that top
24 load washers with a particular type of internal clutch
25 should constitute an entire separate like product. Similar

1 to the last case, the proper like product definition should
2 be all large residential washers.

3 Volume effects: First volume point. According
4 to the Petition, Whirlpool is the single largest importer of
5 complete washing machines from China. Whirlpool claims that
6 these washers imported through the Cleveland Customs Office
7 should be counted as U.S. Produced washers because of
8 production activity in the Whirlpool Foreign Trade Zone.
9 However, Whirlpool has not provided sufficient evidence to
10 support this claim. 1.6 million washers is a significant
11 volume.

12 Whirlpool needs to provide answers to three
13 questions: What precisely was imported into the FTZ? What
14 production activity was done in the FTZ and how many
15 finished washers enter the U.S. Market from the FTZ.
16 Whirlpool should not be permitted to hide this information.

17 Second volume point: The Commission's analysis
18 must take into account non-Subject Imports. These include
19 both washer imports from China that do not meet the
20 ridiculously gerrymandered scope definition, many of which
21 were probably imported by U. S. Producers and second imports
22 that do meet the definition but were imported from other
23 countries, particularly Korea. In the real-world market
24 place, both types of these washers are competing directly
25 with U.S. Produced washers. Their volume needs to be

1 countered. Moreover, the Commission's analysis must reflect
2 the unique condition of competition that customers have no
3 idea about the country of origin of the brand they are
4 buying.

5 Price effects: All information from the
6 real-world market confirm that LG and Samsung are high-end,
7 premium brands that sell at a high price point. LG and
8 Samsung do not compete at all in the lower price value
9 segment dominated by Whirlpool and GE. Indeed, we estimate
10 that about two-thirds of U.S. Producers shipments are in
11 segments unaffected by any imports of LG or Samsung washers.
12 Because of this economic reality, Whirlpool has tried to rig
13 the Commission pricing data. Whirlpool suggested pricing
14 product categories that exclude both the higher-priced LG
15 and Samsung models and the lower-priced Whirlpool and GE
16 value models so as to create the illusion of underselling.

17 In fact, if the lower-priced U.S. Producer models
18 are included there is absolutely no underselling by LG and
19 Samsung. If there is any downward pressure on Whirlpool
20 washers, that pressure is coming from other U.S. Producers.
21 The same economic reality of consistently higher prices by
22 LG and Samsung have also caused Whirlpool to advance an
23 illogical price compression argument whereby more-featured
24 and higher-priced models by LG and Samsung somehow cause
25 adverse price effects on lesser-featured, lower priced

1 Whirlpool models. This argument turns the Commission's
2 prudential underselling analysis completely upside down and
3 should be rejected.

4 Impact: In the public version of the Petition,
5 Whirlpool claims it has suffered operating losses on its
6 washer sales. Such claim is completely at odds with two
7 facts. First, Whirlpool has reported significant growth in
8 the profitability of its North American Operations including
9 an operating margin of 11.6% for the 1st three-quarters of
10 2015. Washers account for a significant share of
11 Whirlpool's North American Operations and thus this
12 disparity makes no sense.

13 Second, if Whirlpool's washer operations were
14 performing so poorly, one would have expected this to have
15 been a material fact explicitly reported in its financial
16 reporting given their significance to the North American
17 operations. Yet it has not and Whirlpool's stock price more
18 than tripled from 2012 to 2015. Bottom line, there is no
19 factual or legal basis for an affirm determination and
20 therefore the Commission should terminate this case now.
21 Thank you.

22 MR. CORKRAN: Thank you Mr. Porter.

23 MR. BISHOP: Would the panel in support of the
24 imposition of the Anti-Dumping Duty Order please come
25 forward and be seated? Mr. Chairman, all witnesses on this

1 panel have been sworn in.

2 MR. CORKRAN: Thank you very much, Mr. Secretary.

3 MR. BISHOP: I would remind everyone that you
4 please state your name for the court reporter. Thank you.

5 MR. CORKRAN: Mr. Levy, you may begin when you
6 are ready.

7 STATEMENT OF JACK A. LEVY

8 MR. LEVY: Thank you, Mr. Corkran and again Jack
9 Levy for Petitioner. Good morning, let me begin by briefly
10 introducing our panel. Starting with the industry witnesses
11 from Whirlpool Corporation, we have Joe Liotine, President
12 of Whirlpool North America; we have Casey Tubman, General
13 Manager for Whirlpool's North American Laundry Business; we
14 have Aaron Spira, Group Counsel for the North American
15 Region. Appearing today on behalf of GE is John Magnus of
16 the law firm Tradewinds. Also, we have today other members
17 of Whirlpool's external legal team, including Myles Getlan,
18 Jennifer Hillman, Jim Cannon and Deanna Okun.

19 As you heard in my opening remarks, this is, in
20 essence, a case of circumvention. Samsung and LG are
21 effectively circumventing existing orders on washers from
22 Korea and Mexico by moving production to China where they
23 continue to dump into the United States and further injure
24 Whirlpool and other U.S. Washer Producers. Because of this
25 fact pattern, this case is inextricably linked to the prior

1 case and it also shares an overlapping period of
2 investigation. The last case had a period of investigation
3 that went through June of 2012. The period of investigation
4 at this time begins in January of 2012.

5 So for these reasons, we would like to very
6 briefly review several of the key findings from the ITC's
7 past determination, a unanimous affirmative determination
8 that was also affirmed by the U.S. Courts and so let me
9 again very briefly draw your attention to Petitioner's
10 Exhibit B and if you look at that exhibit, it summarizes
11 three key findings from the Commission's prior
12 determination. First, competition in this industry occurs
13 at the wholesale level. This is not a case about retail
14 sales to consumers, this is a case of sales by manufacturers
15 to their buyers who are themselves retailers.

16 As the Commission says "we have focused on
17 analysis of competition and pricing in the U.S. Washer
18 Market on sales by Domestic Producers and Importers to
19 Retailer/Distributors. Second point, Domestic and Imported
20 LRWs are comparable and substitutable. What the Commission
21 found then and it is equally true now, there is a moderately
22 high degree of substitutability between Subject Imports and
23 Domestically Produced LRWs and although non-price factors
24 are also important, the record indicates that Subject
25 Imports and Domestically Produced LRWs are comparable with

1 respect to such factors.

2 Based on those findings, the Commission went on
3 to conclude that price is a key factor in retailer
4 purchasing decisions, stating "price is an important factor
5 in the LRW Market and responding purchasers ranked price
6 more than any other factor as among the top three factors
7 that influence their purchasing decisions. Now, if you turn
8 to Exhibit C, what exactly did we learn from the purchasers
9 in the prior case?

10 Well, let us focus on four of the questions posed
11 to purchasers. "Does your firm vary its purchases based on
12 price?" Ninety percent said yes. "Does your firm factor
13 expected profits into its floor/space allocation decisions?"
14 A clear majority said "yes". Third point is this issue of
15 price compression and I think that we heard from respondents
16 this morning that that was somehow an invalid theory. Well,
17 the Commission found that price compression was a very real
18 and important dynamic in the LRW Industry, a finding that
19 they challenged on appeal and their appeal was rejected.

20 Why was the Commission right? Well, the
21 Commission asked purchasers "does the availability of a
22 highly featured washer at a low price affect the sales of
23 less highly-featured washers?" One hundred percent of
24 purchasers said yes. And finally, "is the price you are
25 willing to pay for offerings from one supplier influenced by

1 the prices and features offered by competing suppliers?"

2 Seventy-nine percent said yes.

3 So as you can see from these exhibits, price
4 matters and retailer purchasing decisions are driven by
5 wholesale price. Price net of all applicable discounts and
6 rebates, the net wholesale price. They're looking at the
7 net wholesale price for a given set of features. Now what
8 you are about to hear from our Industry Witnesses is that
9 the conditions of competition are almost entirely unchanged
10 since the prior case. The key change is that Samsung and LG
11 have picked up and moved to China, where they have been free
12 to continue dumping and further injure Domestic Producers.

13 So with that very brief introduction I will turn
14 things over to Joe Liotine, President for Whirlpool North
15 America.

16 STATEMENT OF JOSEPH LIOTINE

17 MR. LIOTINE: Good morning. Thank you. My name
18 is Joe Liotine, President of Whirlpool North America. I
19 appreciate being here today and having the opportunity. A
20 little bit about my background, I've been with the company
21 approximately eleven years. I first started with the sales
22 organization, sales to Sears, later to our key account
23 businesses and moved on to become country President of our
24 Canadian Operations. On my return to the U.S., I ran our
25 marketing departments both product and brand and I have

1 recently taken on the now President/Leadership role.

2 First, let me begin by thanking you all for all
3 the hard work and the understanding that went into the ITC
4 staff work in the prior washer case, especially taking the
5 time to develop a specific understanding of a very
6 complicated business. Whirlpool is gratified by the
7 Commission's determination in the last case, including its
8 unanimous finding that Samsung and LG dumped product and
9 injured the U.S. Industry.

10 While we won that past case, we honestly expected
11 that there would be some period of relief. We were hoping
12 that Samsung and LG would stop dumping and follow the Trade
13 Rules and that Whirlpool would again be in the position to
14 compete on a level playing field. Unfortunately that did
15 not happen. I sincerely regret being here today and having
16 to come back and talk about this while Samsung and LG
17 continue to dump products and leave us no choice.

18 As you will see from the data, by the time the
19 orders went into effect, they had moved to China. Once they
20 have moved to China, Samsung and LG continue to dump their
21 washers and drive prices even lower. Their aggressive
22 pricing has resulted in Whirlpool losing sales revenue and
23 market share. By the way, no rational business leader would
24 set up production in Mexico to serve the U.S. Market and
25 then later move it to China to serve the U.S. Market.

1 The net result has been unsustainable losses for
2 our washer business and continuing threat to our ability to
3 invest in new, innovative products. When you look at the
4 proprietary data on the record, you will see that we are
5 even worse off today than we were at the time the Commission
6 examined the past case. Under these difficult
7 circumstances, Whirlpool has no real choice but to again
8 take action against LG and Samsung to comply with U.S. Trade
9 Rules.

10 Let me take a little bit of a step back and
11 reintroduce our company. Whirlpool was founded in 1911 in
12 Ben Harbor, Michigan and today continues to be our global
13 headquarters. We have been a washer company from the very
14 beginning with the beginning of ringer washers and today
15 washers are still the heartbeat of the company. We are the
16 number one major appliance manufacturer in the world.

17 I would like to draw your attention to exhibit D.
18 Here you can just see some of our products, our frontload
19 washer, top load washer, new innovative dish product that is
20 recently being launched, our countertop appliances and the
21 Kitchen Aid Brand that are really just fantastic and
22 well-received and then the overall picture of kind of a
23 suite of our kitchen appliances.

24 Moving on, talking a little bit about our U.S.
25 Manufacturing. If you look at Exhibit E, you will see that

1 Whirlpool has manufacturing and R&D and related logistics
2 facilities across the continental U.S. In total, we employ
3 22,000 employees including ten thousand alone in Ohio. As a
4 company we are very proud of our track record of quality,
5 customer service and innovation, a track record that allowed
6 us to maintain the status of number one appliance
7 manufacturer and have been so for a long time. We've been
8 in business for a hundred years.

9 We do not accomplish success like this without
10 great products and great people. At 22,000 employees
11 including one thousand U.S. Military Veterans proudly
12 participate in organizations such as United Way, Boys and
13 Girls Clubs of America, Habitat for Humanity and the Susan
14 G. Koman Fund just to name a few. More specifically,
15 talking about our washer production at Clyde, I'd like you
16 to turn to Exhibit F, please.

17 Here's an overview and some interesting facts of
18 this facility that produces our washers. It's the world's
19 largest washing facility. It has 2.4 million square feet,
20 three thousand employees and it makes a washer every four
21 seconds. It really is a place of scale and magnitude that
22 has to be seen to appreciate. I'd also like to note that
23 Whirlpool is a major consumer of raw material inputs such as
24 steel and resins.

25 If you go to Exhibit G, I would like to draw your

1 attention to the entire value chain. What you can see is
2 that this washer-business supports approximately 800 U.S.
3 Suppliers and many hundreds in Ohio and you can see such as
4 Arcelor Mittal, Revere, many big, strong companies
5 contribute to this value chain. This operation and our
6 workers is why we are here today, to defend this business
7 and continue our proud tradition. One hundred percent of
8 Whirlpool LRWs, sold in the United States, is made at our
9 plant in Clyde, Ohio and we want to keep it that way.

10 Since 2012, Whirlpool has invested hundreds of
11 millions of dollars in new and innovative front load and top
12 load washers with entirely new platforms as well as updating
13 of existing platforms. With respect to frontload, Whirlpool
14 has been producing and selling these washers for more than
15 50 years and was the first to introduce the modern frontload
16 washer in the United States. Whirlpool followed up on its
17 commitment to repatriate front load production to the United
18 States from Mexico.

19 We shifted our remaining frontload production
20 from Mexico to Ohio in the 2012 and 2013 period. Later in
21 2012, we updated our original frontload platform. Then, in
22 2013 we added lower capacity frontload washers to our
23 lineup. More recently, we added larger capacities and
24 innovative features to the high-end of our frontload washer
25 lineup. With respect to top load, Whirlpool has always been

1 the leader.

2 In fact, we invented the first HE top loader. We
3 updated our high-end top load platform in 2013, then, in
4 2014 we began the rollout of a completely new and innovative
5 top load platform and then most recently in late 2015 we
6 began the rollout of our extra-wide top-load washer. These
7 newest washers have the largest capacity at 6.2 cubic feet
8 and have already received really great feedback from our
9 retailers and buyers.

10 I would like to refer you to Exhibit H to talk a
11 little bit about some of our product innovations and really
12 the successes that we have had from our product standpoint.
13 So draw your attention first to the upper right. These are
14 just a few examples but a couple highlights I want to
15 provide. The first one is our new top load washer under the
16 whirlpool mark and it's totally new, intuitive controls,
17 capacitive touch, one touch is if you are using your Iphone,
18 really sophisticated, helps the user do what they want to do
19 in very simple, intuitive ways.

20 All of you know the expression permanent press,
21 not many of us know what it actually means. This changes
22 the mental model on how to do your, wash your clothes so
23 what it does is it asks you what you want to wash and how do
24 you want to wash it. It takes care of the rest. So if you
25 have kids, if you don't want to get real complicated it

1 really does a lot of the work for you. It's a great
2 consumer innovation that makes things easier so you will see
3 a theme on this page of really we do things technology-wise,
4 connected-appliances wise that make the consumer experiences
5 better and make the products really do more for you.

6 If you bring your eye just below that, you will
7 see a Whirlpool app for our connected appliances in washers.
8 What it does is connects with NEST. It understands when
9 you're in the home, when you're not in the home, it helps
10 optimize cycles for energy, it helps delay things from
11 wrinkling. It really does take advantage of consumer use
12 case to help you have a better day. So we're pretty proud
13 of that. It's launched already. We are actually showcasing
14 it at the Consumer Electronic Show this week, a really
15 exciting innovation.

16 I would like to introduce Casey Tubman who runs
17 our washer business for North America. He is also going to
18 share some details here on some of these products and
19 innovations.

20 STATEMENT OF CASEY TUBMAN

21 MR. TUBMAN: Hi, good morning. Casey Tubman.
22 Joe knows I have a hard time sitting in my seat when we
23 start talking about the innovations in laundry and all the
24 great things that we bring for the consumer. So appreciate
25 him letting me -- letting me speak for a minute.

1 He mentioned the latest launch that we had of the
2 6.2 cubic foot. So if you look at the Exhibit H in the
3 center at the top there, that's a picture of that product.
4 We've just started selling that product. Actually it's in
5 the marketplace now and, again, it's 10 percent bigger than
6 anything else that's out on the market.

7 Think about your house, think about actually
8 taking your whole work week's worth of laundry and putting
9 it in that unit, three large hamper loads. You can put it
10 all in there. Now, you're probably saying to yourself, I
11 don't know that I want to wash all my stuff together, right?
12 But you can. And back to what Joe mentioned, there's the
13 intuitive controls, what you want to wash and how you want
14 to wash it. So if you decided to throw all your laundry in
15 from the week, you would pick mixed load because it's a
16 mixed load of things. And you would probably pick the
17 color-last cycle, again, something that we -- we innovated a
18 couple years ago. This allows the water temps and other
19 motions to help keep the colors from fading and also mixing.
20 And so, again, trying to work towards what the consumer asks
21 and to be able to use that technology in their home.

22 The other thing that's been brought with us, an
23 industry first is what we call load and go. We developed
24 load and go on frontloaders, frontload washers a few years
25 ago. This is the first toploader to bring it to market.

1 What that is, is you basically put your detergent into the
2 unit and it lasts for about 30 days. Again, depending on
3 how many loads you do and so on. What that does is, that
4 allows you to not have to figure out how much do I need to
5 put in for each load, it determines it for you based on the
6 load size that you're washing.

7 And, again, at my house, I can tell you my wife
8 absolutely loves this. She's had it on her frontloader for
9 a few years. And we have three children and now they all do
10 laundry. She actually has a second set of laundry -- I had
11 to add one to our second floor where their bedrooms are so
12 that they can go up and do their own laundry. It doesn't
13 come down and pile up in the first floor for her anymore.

14 So we talked about moving to a different
15 prototype unit from one of our tests and she was very clear
16 to me that said if it didn't have the load and go, she
17 wasn't going to let it in the house. So that's, again,
18 something for the industry.

19 If I move on to the left side in the middle, it
20 talks about the load and go for the front loaders. And,
21 again, there's all kinds of benefits for this, but there's
22 also the savings of detergent. So if you're dosing the
23 right amount every time, you're not wasting any. You're not
24 coming up short, you're not getting the cleaning you want,
25 and you're not putting too much in and therefore running

1 through detergent more often.

2 The other thing that's nice is right below that
3 the dynamic venting technology. It's kind of a technical
4 name for it. What we -- what we refer to it sometimes is
5 wash and dry. And what it is, is basically there's a small
6 fan in the washer so that when it's done washing, if it's a
7 small enough load, you can continue to tumble it in the
8 frontload with that vent going and air dry the products.
9 And, again, this is another one that my wife has made sure
10 I'm very clear about not removing.

11 We have kids that show up -- my 15-year-old son
12 just happens to be great at this -- he shows up at 11
13 o'clock at night with his soccer uniform, day before a game,
14 it's been balled up under his bed for the last week and my
15 wife will look at him like, really? You need this in the
16 morning? And so instead of having to wait up, wash it, then
17 move it to the dryer and get it out for him, she throws it
18 in, she hits this, it washes, it overnight tumbles and
19 dries, and in the morning he just grabs it and throws it in
20 his backpack.

21 So, again, consumer-focused innovations that
22 we've brought over the years and, again, industry firsts.

23 One last one I think I'll bring attention to is
24 the best cleaning mentioned in the bottom center there.
25 Again, a washer is a workhorse, right, it's not a show

1 horse. It's all about getting chores done, it's all about
2 getting those clothes washed as easily as possible and as
3 good as you can do it. All this innovation would be great,
4 but if you don't supply the best cleaning washer, you're not
5 going to have the satisfaction of those customers, you're
6 not going to have those repeat customers coming back, and
7 you're not going to stay number one in your industry for 100
8 years. So we pride ourselves on that. We maintain that
9 over time. We test all of our competitors as new product
10 launches come out from them. We test those products again,
11 we test with hot water, cold water, different load sizes,
12 and, again, we maintain that claim that we can be the
13 best-performing washers and the best-cleaning washer in the
14 marketplace.

15 One last thing I guess I will mention real
16 quickly. The bottom right talks about active spray
17 technology. This is a technology that we brought in top
18 load. This was in the late '90s, and we've moved it into
19 frontloaders as well. This is basically -- I call it
20 pretreating for clothes. You use the concentrated detergent
21 and spray it back on the clothes at the beginning of the
22 cycle and basically it's pretreating for you instead of you
23 having to manually pretreat and rub clothes and do all that.
24 This does it for you. And then if you put the best cleaning
25 power wash cycle behind it, it makes it all complete inside

1 the washer for you.

2 I could keep going on, but I will -- I will
3 refrain and I will turn it back over to Joe.

4 STATEMENT BY JOSEPH LIOTINE

5 MR. LIOTINE: Okay. Thank you. Thank you,
6 Casey.

7 But despite all these great innovations and all
8 these investments, cut-rate and dumped pricing product from
9 Samsung and LG threaten our ability to continue to invest in
10 new products. Already we've delayed our frontload, extra
11 wide capacity product as we've struggled to make a business
12 case that makes sense because of the pricing of dumped rates
13 and the compression that's happening because of it. So a
14 little bit about our economics of production. I want to
15 share why that's the case and kind of where we stand.

16 Washer manufacturing entails high fixed costs.
17 Each new product platform requires big investments from
18 capital and engineering up front. It's not unusual for
19 these upfront investments to be tens of millions of dollars
20 and in washers specifically to be as much as \$100 million in
21 capital and \$50 million in engineering for a platform to be
22 reengineered. This means we need to attain high capacity
23 utilization in order to reduce unit costs. And that's just
24 not happening given the price compression.

25 We have seen that Samsung and LG dumped prices

1 have resulted in substantial lost sales which of course have
2 a big impact on revenues but also lead to unutilized
3 production capacity and thus higher unit costs. These lower
4 revenues and higher costs are reflected in our unsustainable
5 and unacceptable financial performance.

6 Now, I will turn it over to Casey who runs our
7 U.S. washer business.

8 STATEMENT BY CASEY TUBMAN

9 MR. TUBMAN: Good morning. I apologize, Casey
10 Tubman, for the gentleman, I think, taking the notes. I am
11 Whirlpool's General Manager for Laundry. So there's my
12 title for you.

13 It's hard to believe, but I actually have 20
14 years at Whirlpool this year. So I'm working on my 20th
15 year. I started out in washers and I've remained around the
16 washer business for most of that time. And I actually was a
17 washer engineer hired in originally. So that's why I get a
18 little excited when we talk about things.

19 From there I worked in the product development
20 side which is again getting consumer insights and
21 understanding what products we need to develop next.

22 I moved into the sales side so I could learn that
23 side of the business and deal with all our fun retail buyers
24 and then you may recall when I was here before, four years
25 ago, I guess it was, I was the head of our merchandising at

1 the time for laundry and now I'm back to running the entire
2 business for the U.S.

3 Again, I appreciate the time as Joe mentioned.
4 We don't like being here, but we do appreciate you taking
5 the time and seeing us today. I'm going to go through two
6 areas and I'll talk about the products that are covered
7 under the petition and then also the structure of the
8 industry.

9 As many of you probably know, we talk about
10 large, residential washers, and we talk about how those work
11 many times. It really takes three things to make that work,
12 mechanical energy, chemical energy, and thermal energy.
13 And, again, that's a little bit of engineering technology.
14 So for layman speak, you need water of different
15 temperatures for different stains and chemistries. Sorry.
16 Then you need detergent for the chemical piece of it. And
17 then you need some kind of a mechanical action, whether that
18 be tumbling in a frontload or impelling, or agitating,
19 inside of a topload. And these three things in combination
20 are put into a cycle. You typically have a wash, a rinse,
21 and then a spinout of the product so that they can go into
22 the dryer.

23 As we talk about large residential washers,
24 they're made up of similarly -- similar parts, I'll call it
25 across the -- across them. You have a metal wash basket

1 where the clothes are put in, you have a plastic tub
2 typically around that that holds the water. You have a
3 motor for actually driving the wash action in the machine.
4 You have a pump for moving water around inside as well as
5 getting rid of it. You then have some kind of a user
6 interface at the top, a control where you can adjust your
7 cycles and temperatures and things of that nature and then
8 lastly you have a control unit inside of it which is the
9 brains of the unit.

10 When I think of configurations of washers, you
11 think of a topload or a frontload. And they're pretty
12 distinguishable, right? A frontload washer has a door on
13 the front and has a horizontal axis as it spins. And it
14 makes up, usually, about the middle to high end of the
15 pricing segment, I'll say.

16 On topload, again, it's loaded from the top. It
17 usually has a lid -- we call it a lid, some people call it a
18 door, but it's loaded from the top. And then inside you
19 might have an impellor or an agitator or now a days you
20 might have what we call an HE agitator or an HE -- an
21 agipeller which is a combination of the two, some way to
22 drive the clothes.

23 And, again, topload washers typically span the
24 entire span of the price range in the market from the low to
25 the high.

1 One thing I will mention so I don't forget is,
2 there is this hybrid unit out there that if you really go
3 searching, you'll find it made in the U.S. It is a topload
4 washer with a top opening lid, but it has a horizontal axis
5 drum that spins inside of it and Stabler makes that here in
6 the U.S. Again, you'll have to do some searching if you're
7 looking for one.

8 Let me talk about product scope. And, again, I
9 think for me it's what we call it, right, a large
10 residential washer. These are washers that are very similar
11 to the last case. And, again, it's topload and frontload,
12 something that each of you would probably have in your home.
13 It does not include things that are commercial. So if it
14 takes a coin to operate it, that's not going to be in the
15 scope. It's not going to be compact. So if you have one
16 sitting in your closet that's very small, it's not going to
17 cover that, and in stacked washers. And what this means is,
18 it's a single frame, single control in the middle, but it
19 has the washer/dryer together in one.

20 Again, these are single-family home type washers,
21 I call them residential -- large residential washers. And,
22 again, we tried to focus that scope to not be overreaching.
23 So it is things that are made in the U.S. that have direct
24 competition of foreign imports.

25 I would ask you to refer to Exhibit I, if you

1 would, please. And I'd just like to talk a little bit about
2 some other features that come up as we talk with buyers
3 about selling in products and what they look for in their
4 lineup. Again, we already covered the top load versus front
5 load. Obviously that's a key decisionmaker. Then we talk
6 about capacity and there's different ways to look at
7 capacity. But when we talk about capacity it's cubic feet
8 and it's how much clothing can you put inside the washer.
9 So that, again, as a workhorse you're looking for how many
10 loads do I have to do that week, and the less I have to do,
11 the better.

12 You can look at heaters, you can look at steam.
13 These are things that they add costs for us as a producer,
14 but there's something that the buyer can think, okay, this
15 is maybe something I can take advantage of and ask more for
16 in the marketplace. If I think about color, I hate to say
17 it, there is color available, but the vast majority of our
18 products that sell are still white. You can go into
19 showrooms and you will see one that's color, but, again,
20 most of us for our homes, we're not putting it out in the
21 kitchen, so we're not as worried about it being a stainless
22 steel unit. We're in a basement or in a laundry room and
23 it's really about can it do what I need it to do when I need
24 it to do it?

25 You also have an impeller or another mechanism

1 used for cleaning action. You have direct drive as a
2 technology that is talked about, and you may have heard
3 this, but this is basically a superior technology for having
4 a motor hooked to the shaft of the drive system so that it's
5 directly connected. It allows for higher spin speeds and
6 therefore better energy efficiency. Because one of the
7 things they measure is how much remaining water is in the
8 clothes before they come out. And by doing that, the higher
9 you spin them, the less water that's there. So that
10 provides a superior technology. In fact, a lot of times
11 you'll see it badged right on the product that it's a direct
12 drive motor.

13 And then topload, of course, well, let's say
14 frontload all have glass doors these days. Topload, you can
15 either get a glass lid, or you can get a solid metal lid.
16 Typically some plastic, but typically a solid.

17 And then lastly Energy Star. Because of the
18 latest energy standards and the changes that have gone on
19 that have become real strict, we basically now look at
20 washers as whether they're Energy Star or not and that's
21 kind of a signal of a higher efficiency washer.

22 Again, Jack mentioned earlier, the Commission
23 found last time that these products are substitutable and
24 comparable. It hurts me to say that sometimes, but I will
25 tell you, that's how it feels when we're sitting across from

1 our buyers as well. Most of the time they are saying, okay,
2 yep, product looks pretty good. What price are you going to
3 give me? How competitive are you going to be? Can you
4 lower your price? Can you compete with Samsung and LG and
5 give me a lower price?

6 Just an instance. I have a meeting tomorrow with
7 one of our larger trade partners. We spent three weeks
8 preparing for this meeting, working on the pricing and so
9 on, getting ready. What price would we offer? I was
10 telling the guys, we spent about three hours on the actual
11 feature set, just to kind of give you -- how much time do we
12 need to spend on the features versus how much time we spend
13 on the price. It really comes down to, we're going to spend
14 that meeting talking about the price.

15 Let me talk about who participates in our
16 industry. From a U.S. production standpoint Whirlpool
17 represents about three-quarters of the U.S. production. The
18 other producers are GE, Staber, as I mentioned and Alliance.
19 One thing you may recall and I think Jack mentioned this as
20 well, three manufacturers in the U.S. actually left during
21 the last period of investigation. Bosch, Electrolux, Fisher
22 Paykel. Bosch, during the last case, specifically called
23 out, it was the predatory pricing of GE -- or, I'm sorry,
24 of LG and Samsung that drove them to not produce in the U.S.
25 anymore.

1 If I look at this and I look at how many we
2 produce in the U.S. we basically -- the U.S. producers make
3 up about two-thirds of the sales in the U.S. So a third of
4 the washers sold are subject imports.

5 If I look at those subject imports coming in that
6 are in scope from China, basically you have Samsung and LG
7 that are producing them. Samsung has about -- has exactly
8 100 percent, I guess, as 100 percent of their washers come
9 in now from China, where before they were coming out of
10 Mexico and Korea. And LG has most of their production
11 coming from China.

12 This accounts for about a third of the U.S.
13 sales. So that's the majority of things that are sold.
14 There are some very small ones that are still out there,
15 less than 5 percent of the marketplace. This would be
16 non-subject imports. It would be Electrolux out of Mexico,
17 and it would be LG, the products that they left behind in
18 Korea. These are both covered under the previous case and
19 the antidumping orders from that.

20 I think that covers the industry for us. I'll
21 turn it over -- back over to Joe.

22 STATEMENT BY JOSEPH LIOTINE

23 MR. LIOTINE: Thank you, Casey. Joe Liotine,
24 Whirlpool. Casey described the products at issue as well as
25 the manufacturers. I'm going to talk about how

1 manufacturers compete at retail to get their products
2 floored with buyers and retailers. Really, all
3 manufacturers sell to retailers. Virtually all the business
4 is sold through retailers. And really the retail business
5 is comprised of two big areas, large retailers such as
6 Sears, Lowes, Home Depot, Best Buy, and HHGregg and then
7 smaller or independent retailers that are disbursed across
8 the country and may be much smaller in scale and more
9 geographically kind of centered. Each of those smaller
10 retailers normally belong to a buy group. There's four or
11 five major buy groups. And what the buy group really is, is
12 a cooperative. So these smaller, independent kind of
13 retailers can kind of collect or merge their purchasing
14 power so that they can compete more effectively with
15 manufacturers and retailers.

16 Each of these small retailers know their markets
17 can be very impactful for a local area. Bray and Scraff
18 probably in this area there are some big ones across the
19 regions. Manufacturers compete for sales to retailers and
20 price is the key factor. Casey highlighted it, Jack also
21 highlighted it earlier, that's the key distinguishing
22 factor. We have lots of great features and products, and
23 frankly, many do, but price is going to be where most of the
24 conversation occurs.

25 As noted, imports in U.S.-produced washers are

1 similar in quality and features with price being the main
2 difference.

3 From a retailer standpoint, how do they think
4 about the world, what's their priorities? A retailer's
5 number one priority is margin and profit. That's their
6 number one priority is to generate profit, and the way they
7 think about that is, it's a function of two things. First
8 of all it's margin and then it's terms. Terms for us would
9 be defined by number of units sold per week, per store, or
10 number of units sold per month per store, something like
11 that. And a retailer's margin is measured by the difference
12 between the retailer price, the net wholesale price minus
13 the retail price they sell to consumers.

14 The new wholesale price is influenced by lots of
15 things. There's a gross price and a net price. In between
16 those two areas there are rebates, there's allowances,
17 there's discounts, some of those things are applied
18 specifically, some of those things are more general, but
19 they're all included in the net price, that's why it's so
20 important. And that's why the retailers look at it so
21 closely.

22 From a product line-up standpoint, retailers have
23 a constrained floor. They don't have full space. They have
24 an X amount of allotment for the category or the department,
25 and they're looking to floor a wide range of products at

1 different price points to serve as many consumers as they
2 possibly can, as optimally as they can.

3 All producers offer multiple models with richer
4 features at price points along the product line up. The
5 simple way to think of it is good, better, best, that's not
6 exactly correct, but it's a nice simple way to understand
7 how they're constructing their planned sales. They award
8 floor spots to products that offer the best margins based on
9 the lowest wholesale price and the highest promotional
10 support they can receive. What you see on the floor is the
11 result of really intense negotiations and competition that
12 are very mile-specific and very point-in-time. And Casey
13 alluded to it, that we would literally spend three weeks
14 discussing the pricing and investment support for one model,
15 which is a lot of time and effort to make sure we understand
16 what we're doing if we can get a return, if it's going to be
17 competitive, all those kinds of things.

18 Once a manufacturer wins a floor spot, that's not
19 the end of the competition. It doesn't just get there and
20 it's safe. What happens next is manufacturers continue to
21 negotiate during big, promotional periods. So think Black
22 Friday, or July 4th, those periods are really intense
23 promotional periods and they require additional negotiation
24 to either get better flooring, to get flyer or advertising
25 support, or placement, end caps on the end of an aisle where

1 it's more prominently displayed, or maybe even sales
2 associates get a commission or get an incentive to pay
3 attention more to a particular product or sell a product,
4 all of those things require investments and resources for
5 manufacturers. So we're spending quite a bit of time
6 negotiating that to make sure we're competitive.

7 Another tool that's used frequently in retailers
8 is kind of what they call line review. So in the event that
9 a manufacturer has a new line up, he's going to introduce a
10 new product, he's going to take a price increase for some
11 reason. There's something new in the market. They use this
12 tool to basically rebid everything and they make
13 manufacturers come back in, even though it's already on the
14 floor, in some cases, and rebid because they have a better
15 alternative that's new news and they want to make sure that
16 either what they have on the floor can be competitive
17 because the manufacturer offers up more margin support, or
18 because they moved to this new option and it ends up being,
19 you know, a more margin, a more profit generation for them.
20 This can happen at any time. We literally spend days and
21 days, weeks and weeks of every month really, you know,
22 managing this and seeing what's successful and what's not
23 successful and what's our competition doing and working
24 toward being as competitive as possible.

25 That pressure has been ongoing and that pressure

1 really does stem for us in the washer business because of
2 what Samsung and LG are doing in terms of dumped prices and
3 lower and lower costs on product. That's the -- that's the
4 biggest impact in this equation. And this basically
5 presents the phenomenon that it's kind of lose/lose for
6 Whirlpool.

7 And what I mean by that is, either we reduce
8 prices to meet the Samsung and LG prices, and we lose
9 significant revenue, or we hold firm on those prices and
10 then we lose volume and unit sales. So either way, it's a
11 bad case for us and it generate business cases that just
12 don't work for us. And these dynamics are reflected in the
13 significant lost sales and lost revenues described in our
14 petition which span the full range of products and across
15 all retailers consistently.

16 One more element that we talked about a little
17 bit earlier is this concept of price compression. Price
18 pressure happens at the top and it kind of works its way
19 down a product portfolio or a plan to sell, as we call it,
20 and it pushes down all the way through. What I mean by that
21 is, as soon as prices crash, at one price point in the
22 product line up it puts pressure, downward pressure, on all
23 the other ones below it. And they have to now compete with
24 a feature set that is much more compelling than it once was.

25 I have a visual illustration in Exhibit J, if I

1 could turn your attention to that. And if you look on that
2 exhibit, and look in the upper-right area, you see the
3 highlighted box in green, best features, and that has five
4 dollar signs. So, that means, you know, more expensive
5 versus the one just below it. And that has better features.
6 So in many cases, it could be one less feature, it could be
7 a less compelling feature.

8 When the best feature product moves down, let's
9 say \$100 in this example, it now competes with a
10 better-featured product from a different manufacturer.
11 Well, that better-featured product is not going to be
12 successful competing at \$100 or at paradigm price given the
13 feature sets are different. And so we've talked about that
14 in previous cases. We've had retailers tell us this very,
15 very consistently that that product will not sell with less
16 features and at the same price. And so the result is -- the
17 option is to move price on the better feature and then
18 subsequently move price on the good feature and so on to the
19 basic feature. That moves the entire profitability of the
20 overall platform down dramatically until it has really
21 pronounced effects on the overall business.

22 And so, you know, that's something that we feel
23 and go through every day. It's a big concept that's really
24 important to Whirlpool.

25 One example that kind of highlights the pressure

1 that we're feeling from LG and Samsung from pricing, as well
2 as some of this compression dynamics I talked about would be
3 Kenmore and the Sears relationship. Sears is still a very
4 big player in the industry. They're still a number one or
5 number two retailer depending on the quarter or the period
6 that you're looking at. So they've shrunk, certainly, but
7 they're still extremely large. And they also have a Kenmore
8 dynamic where they own the brand, but they don't manufacture
9 it. They OEM all that and they basically RFP it to
10 manufacturers like us. So every three years that business
11 is up for RFP and it's a very sizeable business in any one
12 year, let alone for three years. So when you get it, or
13 don't get it, you feel the impact of that.

14 And the other part that makes it very helpful in
15 terms of determining where we are from a competitive set is,
16 it's a very clear head-to-head. You know, everyone -- Sears
17 basically solicits bids for washer lineups. They give you
18 the specs, they give you the volume, they give all that
19 detail, you just basically quote the price. And so the same
20 competitive dynamics are at play here with price being the
21 key factor and how Sears awards Kenmore business, but with
22 substantially greater impact given their size and the
23 multi-year duration.

24 The details are proprietary, but you can see from
25 our petition, Whirlpool has lost Kenmore business to subject

1 imports on the basis of price which has resulted in huge
2 lost sales for us.

3 Having provided an overview of these conditions
4 of competition and the market dynamics, I'd like to close by
5 emphasizing the impact of Samsung and LG's predatory pricing
6 on Whirlpool's washer business.

7 I would ask you to please turn to Exhibit K. And
8 I'd like to make just a couple key points here.

9 First, this chart shows that Whirlpool's washer
10 business is clearly injured.

11 Second, this chart shows that Whirlpool began the
12 period of investigation in 2012 in an injured state as the
13 Commission determined in the last investigation.

14 And third, Samsung and LG's continued dumping has
15 further injured our washer business as our operating losses
16 have increased significantly during the period. These
17 increased losses correspond to a significant increase in
18 Samsung and LG's washer imports from China at the exact same
19 time as we noted on the chart on the easel, Exhibit A.

20 The lost sales and lost revenues detailed in our
21 petition are an everyday reflection of Whirlpool's
22 unsustainable financial performance and lost market share.
23 We do not believe this experience is in any way unique to
24 Whirlpool. It is symptomatic of what Samsung and LG are
25 doing to the entire domestic industry. Notwithstanding

1 these challenges, we have not given up. We continue to
2 invest in new and innovative high quality washers. But at
3 the time we made those investments, we could not imagine
4 that prices would continue their downward spiral and
5 undermine the economics of our investments. And today
6 Samsung and LG's discounting has forced us to delay
7 investments in frontload business. The delay in launching
8 our extra-wide, frontload model is directly attributable to
9 Samsung and LG's dumping. And the current price environment
10 is limiting our return on topload investments such that it
11 will be difficult to recoup our investment and justify
12 reinvestment in the future product launches.

13 In short, it is clear that Samsung and LG's
14 dumped imports are injuring Whirlpool and we hope that the
15 Commission will take steps to perfect the remedy imposed
16 less than three years ago. I appreciate your time and
17 consideration and look forward to answering your questions.

18 Thank you.

19 STATEMENT OF JOHN R. MAGNUS

20 MR. MAGNUS: Good morning. For the record, my
21 name is John Magnus and I am here on behalf of GE Appliances
22 and Lighting, which is an operating division of General
23 Electric Company.

24 My client--I'll call them GEA, GE Appliances--has
25 directed me to appear before you today to make four brief

1 points at this early stage of the proceeding, and then to
2 note down any GEA specific questions that you may have so
3 that we can address those in writing after the conference.

4 First, while GEA is not a petitioner, it supports
5 the case and expects that the evidentiary record compiled by
6 the agencies will clearly show dumping and consequent
7 injury.

8 Second, GEA is an important part of the domestic
9 industry. And as a domestic producer, it grasps the
10 connection between enforcement of Fair Trading Standards on
11 the one hand, and sustaining high quality U.S. manufacturing
12 jobs on the other.

13 Since 2010, the company has invested over \$1
14 billion in the business, over \$800 million of that at
15 Appliance Park in Louisville, Kentucky where it has added
16 more than 3,000 jobs and where the workforce now totals
17 6,000-plus employees. And direct employment of production
18 workers at Appliance Park is only part of the story.

19 My colleague, Sheridan McKinney, I think some of
20 you know him, is here this morning. He is a native
21 Kentuckian and spends most of his holidays in the Louisville
22 area. And during every such visit, he fields questions
23 about the health of GEA's operations from a wide array of
24 interested locals--waiters, doctors, real estate agents,
25 production workers in other factories, and so on.

1 Everybody wants the on-shoring that the domestic
2 production bet that GE has made in Louisville to succeed and
3 be a winning bet.

4 Third point: The Commission has already found
5 import-related injury in this industry very recently. The
6 lineup of commercial actors has not changed since then
7 except that some U.S. producers were forced to exit the
8 market.

9 Also largely unchanged, unfortunately, is the
10 presence of dumped large residential washers in the U.S.
11 market, and the negative effect upon domestic LRW
12 manufacturing. The only difference is the dumped machine's
13 country of origin.

14 Fourth, although the country-of-origin is now
15 China, this is not a U.S versus China controversy. On the
16 contrary, it is a story of two specific firms continuing to
17 engage in behavior that's long recognized under multilateral
18 trade rules and under both U.S. and Chinese law as
19 unacceptable.

20 GEA stands ready to cooperate fully with the
21 Commission and with the staff during this preliminary phase
22 and beyond. Like others in this room, GEA personnel in
23 Louisville worked right through the holidays organizing
24 information that will be relevant to the Commission's
25 preliminary determination.

1 We are very grateful for the opportunity to make
2 these introductory remarks. And as I said, I will take note
3 of any GE-specific questions which we can deal with in
4 writing after the conference.

5 Thank you.

6 STATEMENT OF MYLES S. GETLAN

7 MR. GETLAN: Good morning. Myles Getlan of
8 Cassidy Levy Kent on behalf of Whirlpool. Could we just get
9 a quick time check, please?

10 MS. BELLAMY: You have 15 minutes remaining.

11 MR. GETLAN: Perfect. Thank you.

12 You have heard from our panel's witnesses of how
13 Samsung and LG's end run around the Orders on Washers from
14 Korea and Mexico has destroyed value in the washers'
15 business. You have heard that every day Whirlpool is being
16 forced to choose between matching Samsung's and LG's dumped
17 and injurious prices, aggressively discounted prices, or
18 lose flooring, or lose sales revenue is truly a lose/lose
19 situation.

20 What you have not yet heard are the record data
21 that tie this testimony to the three key prongs of the
22 Commission's determination: volume effects, price effects,
23 and injury.

24 It is critical we maintain focus on the record
25 data in the context of the relevant legal standards because

1 we have seen a glimpse of Samsung's and LG's strategy here.
2 They are going to make a lot of noise about this feature or
3 that feature. They are going to present novel pricing
4 theories and ask for data to be sliced and diced in certain
5 ways.

6 Why will they do this? It's simple. They are
7 looking to distract from the record evidence. And that is
8 because the record evidence as it is being developed in this
9 case so far is a total indictment of Samsung's and LG's
10 behavior in selling washers in the U.S. market, proving
11 undeniably that Samsung's and LG's dumped imports are
12 causing material injury to the U.S. washer production
13 industry.

14 We will of course detail or discuss the
15 proprietary data in detail in our post-conference brief, but
16 even at a high level the need for trade relief for
17 Whirlpool, GE, and the rest of the U.S. industry is as
18 obvious as you will ever see. So let's focus on what is
19 relevant.

20 I will begin with the volume effects. We began
21 this presentation by reference to Exhibit A. While we
22 expect the Commission to use subject import shipment data
23 from the questionnaire responses, you should find that those
24 data are generally consistent with the official import
25 statistics.

1 There is no clearer picture of volume effects
2 than Exhibit A. Those statistics tell the story of Samsung
3 and LG beginning their transition to China in 2012,
4 literally at the same time their representatives were
5 proclaiming their innocence to the Commission in the last
6 case, and now supplying the U.S. almost entirely from their
7 production platforms in China.

8 And make no mistake. You heard this from Joe
9 Liotine earlier. The only purpose of this move to China was
10 for Samsung and LG to secure an export platform from which
11 they could dump in the United States with impunity. Take
12 Samsung. They had washer production in Mexico to serve the
13 United States, and they moved to China to serve the United
14 States.

15 Only a strategy of continued dumping to capture
16 greater market share could justify such an irrational change
17 in geography.

18 Unfortunately, Samsung's and LG's strategy
19 worked. What you see in Exhibit A is a 357 percent increase
20 in washer imports from China from 2012 to 2014, and a
21 further increase in 2015. A 357 percent increase in Subject
22 Imports.

23 Total Subject Import volume in calendar year 2014
24 is over 2 million units, representing about 25 percent of
25 U.S. market share. These imports do not simply replace

1 imports from Korea and Mexico. Rather, Samsung and LG
2 continue to capture U.S. market share at the expense of the
3 U.S. industry. So are volumes significant as defined in the
4 statute? Clearly, yes.

5 Regarding price effects. The Commission is
6 required to consider underselling, price depression, and
7 price suppression. And all three of these indicia of price
8 effects are apparent from the record.

9 The Commission in the last case found that
10 underselling by Respondents--predominantly Samsung and LG--
11 was pervasive, and we expect a clean record will show that
12 nothing has changed during this period of investigation.

13 Why do I say "clean record"? Our analysis of the
14 questionnaire responses raises serious concerns about the
15 completeness and accuracy of Samsung's and LG's reported
16 quarterly pricing data. We have expressed these concerns to
17 you. Whether merely sloppy reporting or misconstruing the
18 reporting instructions, these errors must be corrected to
19 ensure the integrity of the pricing data used for this
20 preliminary phase.

21 But even accepting the pricing data as submitted
22 by Samsung and LG, the evidence of underselling is
23 overwhelming. It spans all products in the entire period of
24 investigation.

25 Here it is worth recalling that Mr. Porter on

1 behalf of Respondents made several opening comments about, I
2 think he said, "high end premium products" between Samsung
3 and LG on the one hand, and U.S. producers on the other.
4 Ask yourselves: If their products are so superior, then why
5 the need to so persistently undercut U.S. producers?

6 The real innovation that distinguishes Samsung
7 and LG is that they sell their washers in the United States
8 at uneconomic and predatory levels. We heard from Joe and
9 Casey about the constant pressure to meet competition--that
10 is, meeting Samsung's and LG's low prices.

11 Samsung's and LG's low prices reflected in the
12 underselling data are also reflected in the nearly 200
13 instances of lost sales and lost revenue detailed in
14 Whirlpool's petition. Whirlpool lost sales and revenues
15 across the full range of customer accounts and throughout
16 the entire period of investigation.

17 Whirlpool has winning products. You heard many
18 of their outstanding washer innovations. Casey and Joe were
19 essentially giddy discussing these products. They are
20 outstanding products with great innovations. Yet Whirlpool
21 is losing in the marketplace, and the reason is Samsung's
22 and LG's dumped prices.

23 Don't just take our word for it. This sad
24 reality is corroborated by purchasers in responding to the
25 Commission's Los Sales/Lost Revenues Survey. Purchasers

1 confirm on a macro level that volumes are shifting away from
2 Whirlpool and GE to Samsung and LG on the basis of price
3 because of their low prices.

4 Not surprisingly, Samsung's and LG's low-price
5 leadership is leading U.S. prices down, with Samsung's and
6 LG's quarterly prices declining from the beginning to the
7 end of the period, evidencing significant price depression.

8 The record also shows that Subject Imports
9 created a cost price squeeze which speaks to price
10 suppression. We will detail this phenomenon in our
11 post-conference submission.

12 So are there adverse price effects on this
13 record? The evidence is pervasive. These volume and price
14 effects establish that Samsung's and LG's washer imports are
15 the cause of injury to the U.S. washer industry. And in no
16 uncertain terms this injury is material, and it compounds
17 the injury that the Commission previously found to exist in
18 2012 which is the beginning of this Period of Investigation.

19 On this point it is worth referring again to
20 Exhibit K, which Joe discussed and represents Whirlpool's
21 operating losses, which we note are indicative of the
22 financial performance of the U.S. washers' industry as a
23 whole.

24 Whirlpool's washers' business lost money
25 throughout the period of investigation, and such loss has

1 increased each year, just as low-priced Subject Import
2 volumes increased each year.

3 We also heard about Whirlpool's proud history.
4 They are truly an icon of American manufacturing and
5 innovation. It is tragic to think that Whirlpool, which has
6 been successful selling washers in the United States for
7 over a century is no longer profiting from those sales.

8 It is also stunning that Samsung's and LG's end
9 run around the Orders on Korea and Mexico has completely
10 undermined the economics of Whirlpool's and GE's
11 repatriation of LRW's production to the United States.

12 While there are other indicia of injury, most
13 relate to proprietary data and we will discuss those in our
14 post-conference brief.

15 To conclude, the Commission is required to
16 consider the record evidence of volume effects, price
17 effects, and impact in making its determination. All of the
18 evidence points to one conclusion: That Samsung's and LG's
19 dumped imports caused material injury to the U.S. washers'
20 industry.

21 That concludes our affirmative remarks. We
22 appreciate your time and would be pleased to respond to your
23 questions. Thank you.

24 MR. CORKRAN: Thank you very much, and thank you
25 to all the panel for appearing today. I would like to open

1 questions first by turning to Mr. Cassise.

2 MR. CASSISE: Good morning, everyone. I would
3 also like to extend my welcome. I find this to be an odd
4 case because this is the first product I've ever worked on
5 where I was actually a consumer during the Period of
6 Investigation. Don't ask me what I bought, but I'll tell
7 you if you ask me after the conference.

8 I would like to start with Mr. Liotine. You had
9 mentioned a new top-load platform that Whirlpool had come
10 out in 2014 with. I was wondering if you could elaborate a
11 little bit more on that, just, you know, what's the platform
12 called; you know, how much investment did Whirlpool sink
13 into that new platform; and how long did it take to bring to
14 market from initial investment until 2014 when it entered
15 the market?

16 MR. LIOTINE: Thank you. Joey Liotine. I will
17 start and maybe ask Casey also to contribute since he runs
18 that business today. Some of the information is proprietary
19 in terms of the specific investments, but I can give you
20 some color and commentary--

21 MR. CASSISE: Okay. Absolutely.

22 MR. LIOTINE: --about what we're talking about.

23 The top-load platform was really kind of the mass
24 price point, mass-plus for us. It had a really broad line.
25 It wasn't a high end only, and it was meant really to be

1 over multiple brands at that time. And it was really from a
2 performance standpoint our opportunity to push the envelope
3 and get continued appreciation, performance, and quality.

4 We also brought significant innovations on that
5 product. I referenced a bit of them, and so did Casey, in
6 the product diagram related to the intuitive touch controls-
7 -the what-to-wash, how-to-wash. That all came on that
8 platform, and so did some other notable Maytag performance
9 in terms of cleanability. Best Cleaning came on that
10 platform as well.

11 So that was something that typically takes us
12 I'll say roughly 18 months to develop a platform of that
13 magnitude. It was pretty sizeable. So that would be
14 considered a bigger launch for us. We call it a "mega" in
15 terms of its impact. And it was meant to be a big portion
16 of the line, but it wasn't the entire top-load line. There
17 were lower-end products that weren't affected, and there
18 were some higher-end products at the time that weren't
19 affected that have since been replaced, but at the time I
20 don't think were affected.

21 MR. CASSISE: Okay, and that platform, did that
22 platform replace an existing platform?

23 MR. LIOTINE: It replaced some portion. I
24 actually think some were incremental, but I'll have Casey
25 verify.

1 MR. TUBMAN: Casey Tubman. I would say some were
2 incremental as far as it stretched beyond what the previous
3 platform was capable of. So in terms of capacity, spin
4 speeds, the new user interface and what we call the "how and
5 what to wash", that would be different than what the
6 previous platform would have had.

7 Where it covered from a, I'll call it, a segment
8 of the market, it would have covered things that were there,
9 again, Plus probably a little bit more on the higher end.

10 MR. CASSISE: And how many platforms are on the
11 market at any given time, on average?

12 MR. TUBMAN: For us--Casey Tubman, sorry. I'll
13 keep doing that because I think we're supposed to. For us,
14 I would say within top-load it could be two to four
15 platforms at a time. I don't think we get beyond that. In
16 front-load, it could probably be one to two.

17 MR. CASSISE: Okay. And this new platform is
18 within the scope of our investigation here?

19 MR. TUBMAN: It is.

20 MR. CASSISE: The large-capacity washer that you
21 show in Exhibit H, is that within the scope of our
22 investigation?

23 MR. TUBMAN: Casey Tubman. It is, as well.

24 MR. CASSISE: It is. Also referring back To
25 Exhibit H, you have all the features around the large

1 capacity, but are these features available on all models
2 that Whirlpool offers? Or only the newer platforms?

3 MR. TUBMAN: It depends--Casey Tubman again--it
4 depends on what you're looking at on the page. Some things
5 are dedicated to different platforms. So what I'll call,
6 when you look at the range, you would have lower features at
7 the beginning, and then all the features at the high end.
8 Things like a knob control, that obviously would be
9 available. As we look at the dynamic venting technology,
10 that is available on front-load washers, not on top-load
11 washers. It's not been developed yet.

12 I'm trying to think of what else. Again, it
13 could be--

14 MR. CASSISE: But these features aren't only
15 available on the large-capacity washer, or the new platform
16 that you mentioned? The features are offered on a wider
17 range of platforms than just the two that we were talking
18 about?

19 MR. TUBMAN: That's correct.

20 MR. CASSISE: Okay.

21 MR. LEVY: This is Jack Levy. Just to elaborate,
22 if you go to Exhibit J it kind of gives you this conceptual
23 framework of a product lineup where you've got basic
24 features--I'll let you find the page, Exhibit J. So, you
25 know, you work from Basic, to Good, to Better, to Best. You

1 know, the Advantage Model you see in the middle of that
2 page, that might be Bestest. But the various features that
3 are described by Mr. Tubman, you know, the core features
4 that are--and the permutations thereof that inform the
5 pricing products, these are price features that are offered,
6 as well as the other innovations in Exhibit H that are
7 introduced at various points along the continuum.

8 So this is not a situation where, you know the
9 Basic features washer has premium features. As you move up
10 the continuum, you are adding increasingly more valuable
11 features and various permutations, and there are of course
12 dozens of skews in the market at any point in time.
13 Platforms are being transitioned out at the same time that
14 older platforms are being transitioned out and new ones are
15 being transitioned in on an almost continuous basis.

16 MR. CASSIE: Okay, understood. But if I got all
17 of these features, I would be in the Bestest category.

18 MR. LIOTINE: Joe Liotine. Yeah, in general, yes,
19 some features aren't offered, to Casey's point, on dynamic
20 vented technology. That's really only on a front-load
21 platform. You wouldn't do that on a top-load because the
22 clothes sit at the bottom of the washer. They can't dry.
23 But in general, the more features you had, you move yourself
24 up into the price to the Bestest segment, to use that
25 expression.

1 MR. CASSISE: Okay, and I know you have the slide
2 labeled, "The sampling of Whirlpool innovations during the
3 POI," but I guess just to clarify, all of these were
4 released during our Period of Investigation? These features
5 didn't exist before our Period of Investigation? Is that
6 correct?

7 `MR. TUBMAN: Casey Tubman. Chris, I've got to be
8 honest, some of these I'm not sure of the exact dates for
9 things like the Load-and-Go for front-load would have been
10 potentially prior to the Period of Investigation. And
11 things like Best-Cleaning we've maintained for I don't know
12 how many years, but many years.

13 I would say things like Remote Connectivity would
14 be within the POI. The What-To-Wash and How-To-Wash,
15 obviously the largest capacity top-load in the middle would
16 be. Active-Spray technology again could be somewhere
17 towards the beginning of it, or maybe slightly before, as
18 well as Dynamic Venting technology.

19 The Color-Last Cycle was developed during the
20 POI. So there's kind of a mix here, I would say.

21 MR. CASSISE: Okay. In the post-conference brief,
22 if you could just maybe list them chronologically with dates
23 that would be helpful.

24 MR. LEVY: Jack Levy. Just to clarify, we're
25 happy to do that. Some are innovations in the sense that

1 they're new introductions during the POI. Others may have
2 predated the POI. The features continue in the POI, but
3 they were marketed first for Whirlpool when launched and
4 Whirlpool is still the only one offering them. So Whirlpool
5 still points to them as unique differentiating features and
6 points of intervention.

7 MR. CASSISE: Well I suppose we could continue to
8 talk about features because that seems to be what we do in
9 appliance cases. Let me ask some general questions.

10 One of my first general questions was: Are there
11 any new features available on washers now that weren't
12 available in the old Period of Investigation of our prior
13 investigation? I don't know if you could list those off the
14 top of your head, but I think that would be interesting
15 information.

16 MR. LEVY: Yeah, I don't know if I can list them
17 off the top of my head, but there are certainly many new
18 ones from us as well as other manufacturers that have come
19 out since then. We could certainly get a comprehensive list
20 and have that--

21 MR. CASSISE: Yeah, that would be helpful. And,
22 yeah, I'm not asking you to list the respondents' features,
23 but just your, Whirlpool's features.

24 Are there any features only available on domestic
25 washers that aren't available on subject import washers?

1 MR. TUBMAN: Casey Tubman. What I would say is,
2 there's--and this is just a sample; I want to make sure we
3 come back to this. This is just a one page of what we
4 listed out. We can give you a long list of the things that
5 we've been industry-first on over time.

6 What I want to bring us back to I guess probably
7 for me is, we have innovations. We have patents. We have,
8 you know, great things that our buyers love and our
9 consumers love. And I must say, so do LG. So do Samsung.
10 We all have great product, substitutable, comparable
11 product. What it ends up coming down to when we're having
12 conversations is: Can I get it on the floor so that you as a
13 consumer can buy it? And that happens at the buying level.
14 So with the buyer it is what price can you give me?

15 And, Chris, you mentioned that you actually
16 bought a product during the Period of Investigation. I
17 would be interested to understand--you don't have to tell me
18 what brand--but was it something you saw on the floor? Was
19 it on a sales floor when you bought it?

20 MR. CASSISE: I accompanied my wife, and she--

21 (Laughter.)

22 MR. CASSISE: Yes, we were on the floor.

23 MR. TUBMAN: So I think it brings back my point
24 that if we don't win the buying discussion on price, our
25 product never gets to the floor and you as a consumer can't

1 buy it. So this great innovation that we may have, I hate
2 to say your wife would miss out on.

3 MR. CASSISE: No, Mr. Tubman, I understand the
4 intense competition to come up with features. My question
5 is much more general: Is there anyone feature at the--during
6 the Period of Investigation that domestic producers had that
7 Subject Imports didn't?

8 Now that doesn't mean that Subject Imports didn't
9 copy that feature in the next quarter, but was there
10 anything that during the POI Whirlpool innovated and came to
11 market first with?

12 MR. TUBMAN: Casey Tubman. Again, I would turn
13 you back to Exhibit H and call to your attention the
14 What-To-Wash, How-To-Wash in the upper right-hand corner.
15 Again, that is an industry first that we brought during the
16 Period of Investigation that others have not brought from
17 Subject Imports.

18 MR. LIOTINE: And this is Joe Liotine. I would
19 also say, Load-And-Go in the middle left is something that
20 is unique and very compelling, and no one else has. And so
21 those would be very specific ones.

22 I would say our partnership with Nest is also a
23 very specific innovation that helps anticipate your needs as
24 a consumer that no one else has.

25 MR. CASSISE: I must admit, that is a feature that

1 once you see it you're like: Why didn't I think of that?

2 That's such an easy one. But it's--

3 MR. LIOTINE: It's awesome. It knows when you
4 leave the house and puts you in efficiency mode. It knows
5 when it's night-time to do certain things. It does some
6 really great stuff.

7 MR. CASSISE: And then just to ask the follow-up
8 question: Were there any industry firsts for Subject Imports
9 of innovative features during our Period of Investigation?
10 I'm going to ask them that question, but--

11 MR. TUBMAN: I'll answer--Casey Tubman again--I
12 can't say for sure that there are or there are not. I'm
13 sure they will have their claims of which ones are. I will
14 have to do the background to know exactly that it was the
15 first. Again, we've been building washers for 100 years.
16 So you have to go back and look at things and say: Were
17 there prior art, I'll call it, available?

18 In more recent years, I'm sure there have been
19 things that have been introduced--reintroduced, I'll call
20 it, but I can't say for sure that it was the first ever. So
21 I'll let them answer the question.

22 MR. CASSISE: Right. And that brings up the color
23 issue that I know was discussed in the prior Investigation
24 somewhat. I think in the prior investigation you had
25 testified that color made up about--or white made up about

1 80 percent of the market. And from your testimony earlier
2 today it sounds like that hasn't changed much, or would you
3 still stick with the 80 percent?

4 MR. TUBMAN: That's correct. I would say it's
5 still the majority.

6 MR. CASSISE: Color has not made an impact in the
7 market?

8 MR. TUBMAN: No. Color has been available. In
9 fact, more colors were available in prior years. Now it's
10 down to a small set of colors. Again, if you were on the
11 floor you see a lot of white. Then you see quite a few
12 different silvers, and again, Jack always says to me, how
13 many different colors of silver can you have? But we come
14 up with many, let' me tell you. And then you'll typically
15 see, you might be a red is about the only other what I'll
16 call "real color" that's available anymore. It's really
17 just different shades of grey.

18 MR. LIOTINE: And frankly--sorry, this is Joe
19 Liotine--from a retailer standpoint and a buyer's
20 standpoint, they really do resist the proliferation of
21 colors. It's very difficult for them to manage from an
22 inventory standpoint, and obsolescence and packaging. So
23 unless they really feel strongly, the buyer is tough to get
24 a color through, a new color, today. Ten years ago, I think
25 we had a little bit more space. We experimented in some

1 places. And 30 years ago, there was quite a bit of avocado,
2 and rust horizon, and everything else.

3 MR. CASSISE: Yeah, I remember that.

4 MR. LIOTINE: I think it goes in small phases
5 because--

6 MR. CASSISE: Yeah, I remember the 1970s were a
7 good color year for Whirlpool.

8 MR. LIOTINE: Yeah. Exactly. Exactly. But it's
9 small windows because it is very difficult to manage.

10 MR. CASSISE: We had one of those avocado dryers.
11 Also in the prior investigation there was an allegation by
12 Whirlpool that color was, and I hate to use this term
13 because I know it's loaded from the refrigerator case--
14 feature-dumped, that they were kind of giving away, giving
15 away color. Is that something that you still see in the
16 market? Or has color become so irrelevant that nobody cares
17 anymore?

18 MR. TUBMAN: Casey Tubman. I think I would answer
19 it as, yes, we still see it given away. Yes, it has become
20 irrelevant.

21 MR. CASSISE: Okay. Mr. Tubman, to go--you had
22 gone through some of the scope exclusions in your testimony.
23 However, I didn't hear you talk about the--well, what we
24 term the low-tech washers, the top-load and the front-load
25 low-tech washers, and the extra-wide washers. If you could

1 just describe those, define those a little bit for us, and
2 then explain why you decided to exclude those.

3 MR. LEVY: Casey, do you mind if I just take a
4 first stab at that? Some of this is a little technical, but
5 when we were listening to Mr. Porter this morning, what we
6 heard was his first point, was that the exclusion of
7 low-tech top-load washers---that is to say, washers with a
8 belt drive, a PFC motor, and a flat-wrap spring clutch--the
9 exclusion of low-tech washers, that this was something
10 produced in the United States, and the exclusion of this
11 product category from the scope was part of some nefarious
12 scheme to somehow shield it from the eyes of the Commission;
13 that Petitioners want a domestic like product that is
14 coterminous with a gerrymandered scope, and this is all part
15 of our scheme.

16 And so if I can, I would like to just clear the
17 air on that because it's a false accusation.

18 First of all, let's be perfectly clear. How many
19 low-tech top-load washers are produced in the United States
20 during the POI? Zero.

21 What is the volume of low-tech to-load washers
22 imported from China over the years? It's been a constant
23 volume, and a low-volume in the marketplace both before this
24 POI and during. It's less than half a percent of apparent
25 domestic consumption.

1 Whirlpool excluded it from the scope because it
2 is a trivial volume and it is not produced in the United
3 States. One of the lessons I've learned in life as a
4 practitioner before the Commission is that wherever possible
5 you exclude from the scope things you don't make in the
6 United States because you then avoid red herring arguments
7 from respondents.

8 We have done exactly just that here.

9 And with regard to the domestic like-product, our
10 position is not that the domestic like-product is
11 coterminous with the scope. That is a false representation
12 of our position. In the past case the Commission found that
13 the domestic like-product was all residential washers except
14 for the commercial compact and stacked. And we think the
15 domestic like-product for this case should be exactly the
16 same, irrespective of the scope.

17 The answer with regard to low-tech front-load
18 washers is fundamentally the same. There is none produced
19 in the United States--at least not by Whirlpool or GE, to
20 our knowledge. And let me be clear. There are none
21 produced in the United States by Whirlpool and GE during
22 this Period of Investigation to the best of our market
23 knowledge. And here again, the volume of such imports from
24 China has been low and stable and nonthreatening throughout
25 the period, less than half a percent of apparent domestic

1 consumption.

2 These are red herrings. This has nothing to do
3 with the domestic like-product. This is simply a principal
4 petitioner excluding from the scope product that they view
5 as nonthreatening, and that they don't produce in the United
6 States.

7 Finally, the third exclusion to which you alluded
8 was extra-wide front-load washers. These are front-load
9 washers greater than 28-1/2 inches wide.

10 Now a similar theme here, but slightly different.
11 These are washers that we do see produced by Samsung in
12 China. They are coming into the United States. We think
13 the volume is low, maybe about 60,000 units a year. So
14 maybe half a percent of apparent domestic consumption.

15 It is coming in at the very high end. And to be
16 sure, it is a contributor to price compression. But we
17 excluded it from the scope not because it is not a threat,
18 but because it is not yet produced in the United States.

19 Mr. Liotine testified that Whirlpool plans to
20 produce a comparable platform has been deferred because of
21 the current pricing environment caused by Subject Imports.
22 And we did not want to confuse or complicate the record by
23 including within the scope a product that Whirlpool has not
24 yet launched for production in the United States. By
25 excluding it from the scope, we can focus your attention

1 cleanly on the area where there is head-to-head competition
2 between identically featured Subject Imports and identically
3 featured products produced in the United States.

4 So all of these categories that are called out in
5 the exclusions are modest volumes, and volumes of products
6 that are not produced by Whirlpool or GE for that matter.
7 And that is the principle underlying the scope of
8 exclusions.

9 Now, Casey, feel free to add some color from an
10 industry perspective, but I wanted to give the legal
11 framework for--

12 MR. CASSISE: No, and I appreciate that. Mr.
13 Tubman, the only thing I would ask of you is to give me just
14 some definition. What makes it a low-tech? Is it the belt
15 drive? If you could just describe what these washers are.

16 MR. TUBMAN: Sure. Casey Tubman. I think the
17 easiest way to explain it, I think I mentioned about the
18 direct drive. So that is where the motor is hooked directly
19 to the shaft. It can power it. The power is all there.

20 If we talk about this, when you hear clutch,
21 wrap-spring clutch, this is where you lose power and you
22 don't have the ability to spin up as fast, so you don't get
23 the energy efficiency. You don't achieve E-Star, and it's
24 just a lower-tech technology, I'll call it. The same with a
25 belt versus a direct drive. You can get slippage in the

1 belt. You can only get so much power through a belt. So on
2 and so forth.

3 So that's kind of the, I'll call it again, the
4 layman's term. What Jack mentioned, and the reason in my
5 mind that there's just--again, it's irrelevant, is: This is
6 so small a volume for us, it's not something we consider at
7 all.

8 MR. CASSISE: The belt technology is the
9 defining characteristic?

10 MR. TUBMAN: No, it's actually the clutch.

11 MR. CASSISE: The clutch?

12 MR. TUBMAN: Yes.

13 MR. CASSISE: Having a clutch would put it in
14 this category?

15 MR. TUBMAN: Yes, specifically the wrap spring
16 clutch, because that's the ones that we've seen. So again,
17 you're trying to grab onto something moving and keep it
18 moving and -- think of it like a car --

19 MR. CASSISE: So is there, in the marketplace, a
20 belt-driven washer that would not fall under this
21 definition?

22 MR. TUBMAN: There are.

23 MR. LEVY: And just to be clear, you have to
24 differentiate a bit between front load and top load low
25 tech. So for front load low tech, you're talking about a

1 product that is belt-drive and has a CIM motor. With top
2 load, there are three elements: belt-drive, PSC, or
3 permanent split capacitor motor, and the flat wrap spring
4 clutch, which, again, goes to the transmission system.

5 MR. CASSISE: Okay, thank you. Again, in the
6 prior investigation, you stated that the repatriation of
7 washer production from Mexico to the United States was
8 complete and that you had not yet decided what to do with
9 what you had described then as warehouse space. Currently,
10 if anything, what does Whirlpool produce in Mexico? And are
11 these products imported into the United States?

12 MR. LIOTINE: Joe Liotine. We currently do
13 produce some things in that facility, a little bit of
14 washers. None of it is imported into the U.S. Frankly, we
15 actually produce our swash unit. It's a dewrinkler and a
16 pressing unit for, like, jackets and sport coats and shirts
17 in that facility as in space was excess. So really it is
18 mostly vacant with a couple of small projects occupying that
19 space in Mexico.

20 MR. CASSISE: Does that facility produce
21 anything that would fall into the scope of this
22 investigation?

23 MR. LIOTINE: No. No.

24 MR. CASSISE: And do those products that are
25 produced there, do they come into the United States or are

1 they exported or sold in the Mexican home market, or other
2 export markets?

3 MR. LIOTINE: Mexico home market or other Latin
4 America International countries.

5 MR. CASSISE: Okay. Thank you. Similar
6 question to the German operations of Whirlpool -- what are
7 the --

8 MR. LIOTINE: I believe I don't have all that at
9 hand, but that facility is completely closed in terms of
10 U.S. product. There is no more production there for the
11 U.S. market. I don't believe actually there is much
12 production of anything there. There might be a few
13 technology people still there from a research and
14 engineering standpoint, but not a production standpoint.

15 MR. CASSISE: Okay. Also in the prior
16 investigation, there was much discussion about rising raw
17 material costs, specifically steel and resin and, of course,
18 resin is derived from an oil, and the resulting cost price
19 squeeze.

20 In fact, testimony by Whirlpool indicated that
21 seventy-five percent of the costs of the final product were
22 these raw materials, such as steel, cooper, aluminum and
23 resin.

24 I don't need to tell anyone in this room, but
25 we've had a dramatic drop in commodity prices, especially

1 steel and oil since the last investigation. How has this
2 dramatic drop in commodity prices affected your washer
3 operations?

4 And Mr. Gatlan, I heard you use the word price
5 squeeze again, and I was pretty shocked when we see
6 commodity prices dropping fifty percent, so if you could
7 explain how the commodity prices have affected your
8 operations, that would be helpful.

9 MR. LIOTINE: Joe Liotine. First we do buy
10 steel and resins and other things obviously through the raw
11 goods, but a lot of what we purchase actually is also
12 finished componentry, motors, electronics, things like that.
13 Those are the higher cost contributors of the overall costs
14 platform, so we do have a bit of a mix there, it's not as
15 simple as just raw materials.

16 On top of that, we've gotten some favorability
17 from materials here more recently, specifically, and the
18 reason for that is, much of that is under contracts and
19 hedges, so as the spot market moves, we don't exactly get
20 those benefits that transfer right to us right away because
21 of certain contract durations and hedging positions.

22 And then really the third component that I think
23 is maybe the biggest is the cost of our goods has actually
24 gone up because the level of sophistication is much higher
25 in terms of technology connected -- we talked a bit about,

1 even size of the machines are much bigger capacity-wise and
2 things of that nature, and frankly, the performance, the
3 spin-speed that Casey referenced in the engineering geometry
4 is more sophisticated. That's also driving up pricing.

5 And all those things go together, but we have
6 seen some material price favorability, more recently, not so
7 much a year or two ago, but more recently.

8 MR. CASSISE: What is the average duration of
9 some of these supply contracts that you have locked yourself
10 into for commodity material?

11 MR. LIOTINE: It varies. Some have indices
12 metrics, such as, like, indexes where they're pegged against
13 and, but I would say twelve months is pretty typical for us
14 for raw material contract. A supplier contract could be
15 longer, meaning strategic partner in motors or something
16 like that, could be longer.

17 MR. CASSISE: Well, let's just take cold-rolled
18 steel for example. I'm assuming that Whirlpool uses a lot
19 of cold-rolled steel. The prices of cold-rolled steel have
20 plummeted and I would assume that that would show up in your
21 cost of goods sold, unless you were locked into supply
22 contracts where you were paying prices from four years ago.

23 MR. LIOTINE: No, no, we certainly see some of
24 that. And that would show through again more recently, than
25 two years ago, but again, that's a smaller component of the

1 total cost of a unit. The total cost of the unit is
2 comprised of the finished goods and the investment that we
3 put into it, but it would be something material certainly.

4 MR. CASSISE: So what share of your cost of
5 goods sold would consist of these raw commodities that I'm
6 talking about that we've seen such the dramatic drop in
7 price?

8 MR. LIOTINE: That's probably something that we
9 could share post conference --

10 MR. CASSISE: Okay, that would be --

11 MR. LIOTINE: -- little bit proprietary.

12 MR. CASSISE: Sure.

13 MR. LIOTINE: We could do that.

14 MR. GETLAN: Just to follow up. Myles Gatlan.
15 Obviously the -- as you mentioned -- the specific data
16 supporting the -- for the cost price squeeze, is proprietary
17 and we'll put that in our post conference. I think Joe did
18 a nice job explaining that while, of course, as you stated,
19 raw material costs have gone down, commodity costs have gone
20 down recently.

21 It's been moderated by these other unit costs
22 have not gone down at the same rate. And some of these
23 developments Joe mentioned, you know, relate to a more
24 stable cost of goods sold.

25 And obviously the cost price squeeze, as the

1 Commission measures it, between cost of goods sold and net
2 revenues, that supports the comment made in my remarks. But
3 we'll detail that in our post conference.

4 MR. CASSISE: Okay. Well, we look forward to
5 reading that. In the prior investigation, there was also a
6 discussion about past, present and future federal tax
7 credits, including the energy efficient appliance federal
8 tax credit, that were available to domestic appliance
9 manufacturers.

10 During this period of investigation, has there
11 been any or is there currently federal tax credits available
12 for domestic appliance manufacturers, and if so, based on
13 what criteria?

14 MR. LIOTINE: There had been some. I don't know
15 exact criteria, but Jack will maybe elaborate on the
16 criterion. But the fact of the matter is, for our washer
17 business, as depicted in the charts, we don't make a profit.
18 We don't make any money, so tax credits only help you if
19 you're actually generating a profit. So none of those
20 credits would have been applied to any of the washer
21 business.

22 MR. CASSISE: Right. I understand that
23 argument. It seemed like there's always been this confusion
24 in this case about refundable versus nonrefundable tax
25 credits. I understand that you need to offset those with

1 income. They're nonrefundable tax credits. Anyway, in a
2 post conference, if you could detail any existing tax
3 credits, that would be helpful as well.

4 MR. LIOTINE: Okay.

5 MR. CASSISE: We just -- the energy efficient
6 appliance federal tax credit still exists or --

7 MR. LEVY: So, Jack Levy for Petitioner. We'll
8 give full details in our post conference submission, but
9 suffice it to say, that in the earlier part of this period
10 of investigation, the ETC program continued in effect.
11 Whirlpool was able to earn some tax credits on the
12 production of energy efficient appliances as defined under
13 the program. That program has since lapsed and has been no
14 longer in effect for a period of time.

15 To be sure, Whirlpool has accumulated these tax
16 credits, but a business needs to have taxable income in
17 order to monetize that. A washer business that has
18 persistent operating profits can't make much use of those.

19 MR. CASSISE: Right, I understand that.

20 MR. LEVY: Thank you.

21 MR. CASSISE: Shifting gears to energy
22 standards. In the petition you restated there's three
23 entities that set these energy standards: The Department of
24 Energy, the EPA and the CEE, the Consortium for Energy
25 Efficiency. You also stated then in March of 2015 these

1 latest standards were promulgated by the Department of
2 Energy. How drastic were these changes? Can you explain
3 what they were before March of 2015 and what they are now?

4 MR. TUBMAN: I think I'll try -- sorry, Casey
5 Tubman. I'll try to keep it as a simple version, but they
6 were -- you asked if they were drastic. They were drastic.

7 MR. CASSISE: Okay.

8 MR. TUBMAN: What we would've considered a high
9 efficiency washer in the past separated from a non-high
10 efficiency washer, now we would consider all washers high
11 efficiency. It drove washers to become low water. So if I
12 go back to the last period of investigation, we would have
13 said a front-load washer, because it used high efficiency
14 detergent, it would have been considered, and it was also
15 E-Star at the time, but it would be considered a high
16 efficiency washer.

17 In top-load, there were two types. Top-load
18 high efficiency and non-high efficiency, which we sometimes
19 call conventional. And what was different about these is,
20 in a high efficiency top load, was you had low water usage,
21 you had HE detergent, which is used, again, for low suds --
22 I mean low water usage, which means you have to have low
23 amounts of suds.

24 And then it would also have an impeller wash
25 typically. If you looked at conventional or non-high

1 efficiency at that time, it would have been a deep water
2 wash. It would have been normal detergent, and it typically
3 would have had an agitator for the wash motion.

4 With the new energy standard, all washers had to
5 go to low water usage, so where you might have had thirteen
6 gallons to wash in the past, now you have seven gallons. So
7 it's almost fifty percent.

8 And so now all washers have to use high
9 efficiency detergent, low sudsing detergent, have low water
10 levels and so what we now look at is, highly efficient or
11 more efficient is what Energy Star is, and what's not Energy
12 Star, so that's kind of our dividing point, I'll say, for us
13 to look at things.

14 MR. CASSISE: But, do the new standards mean
15 that the -- what we, in the last investigation, considered a
16 conventional top load -- would not qualify for this Energy
17 Star rating anymore?

18 MR. TUBMAN: That's correct. Well, I'm sorry,
19 let me correct that. We no longer have deep water wash, so
20 again, it just depends on how you want to look at it. But
21 what I would look at is, you can have impellers that are
22 Energy Star now and some that are not Energy Star.

23 So there's no clear dividing line in terms of a
24 mechanism per se to look at a unit. It really is just --
25 does it have an Energy Star rating or does it not have an

1 Energy Star rating? There's no clear dividing line, I'll
2 say.

3 MR. CASSISE: And just as another point of
4 clarification, so on the prior case with regard to top load,
5 the Commission looked at impeller and conventional units
6 sort of as shorthand, right?

7 At that time in that period, it was very
8 convenient shorthand, because all the impeller top loaders
9 were Energy Star and low water, and HE detergent. And
10 again, they were all Energy Star. And all of the
11 conventional units had agitators and were deep fill and used
12 standard detergent and, oh by the way, none of them were
13 Energy Star.

14 So the impeller agitator dichotomy in those days
15 was shorthand for what was Energy Star and what was not.
16 Today under the new regulatory framework, you have impeller
17 units that are still Energy Star and plenty that are not.
18 You have things that look like agitators, but they're more
19 agipellers, if you want to call them that, or HE agitators
20 or some people think they look like Q-tips, because they
21 don't really have the veins going up the top.

22 But in any event, you have things that look like
23 agitators, some of which that are not Energy Star, but some
24 of which that are. And so, you know, in effect, under the
25 modern regulatory regime, the only meaningful characteristic

1 that allows you to identify those washers that are the most
2 highly efficient is whether they are qualified as Energy
3 Star or not.

4 MR. CASSISE: Right, and we struggled with
5 defining high efficiency during the questionnaire portion of
6 the investigation, and -- because you had stated in the
7 petition that, you know, Whirlpool defines high efficiency
8 as just designed to use the HE detergent, which raises the
9 question for me, you know, 1) what is HE detergent, except
10 for, you know, we never buy it. And 2) what is designed for
11 HE detergent really mean? Is it really just a water level?
12 But other than that, help me define those terms.

13 MR. TUBMAN: Okay, Casey Tubman. I'll take a
14 swing at this and hopefully it'll make sense. HE detergent
15 was developed when high efficiency top loaders were brought
16 to the market as well as front load because of the low
17 amount of water. And I kind of mentioned what you don't
18 want to have -- with a large amount of water, you can put
19 regular detergent in and you don't have to, I'll call,
20 suppress the suds. So you don't have to keep the suds level
21 down, because there's so much water to dilute it.

22 MR. CASSISE: Right.

23 MR. TUBMAN: In low water washers, which is
24 again, all washers now based on the energy standards, you
25 can't put normal detergent in -- well, you can put normal

1 detergent in. It's not recommended and it will do bad
2 things to your washer over time. And you won't get the
3 cleaning performance basically, because they're specially
4 formulated for less water to get better cleaning performance
5 as well.

6 So again, I would say the HE piece of it is low
7 suds and better cleaning, more concentrated cleaning, but
8 again, it's developed for washers that have low amounts of
9 water in them.

10 MR. CASSISE: Okay. Well, no, that's the first
11 part of the question, but then, you know, what is it to
12 design a washer to use HE detergent? Again, is it just the
13 water level?

14 MR. TUBMAN: Yes, I would say it is. Because
15 that is pretty much --

16 MR. CASSISE: So we could derive a high
17 efficiency definition using water level?

18 MR. LEVY: And if you were to look at -- this is
19 a space that's heavily regulated by both DOE and EPA. DOE
20 sets the minimum energy and water -- or the maximum, if you
21 want to think about that maximum energy and water usage
22 that's permissible for a washer to be lawfully sold in the
23 United States.

24 So washers that were legal in the last case are
25 now illegal for sale in 2015. And then using those same

1 metrics for both water and energy, EPA sets even more
2 stringent levels for water and energy usage to define what
3 is EnergyStar.

4 So, you know, if you're asking sort of
5 rhetorically, what if we use water usage as sort of a
6 surrogate for understanding what's high efficiency, well
7 that's basically what EnergyStar does, except it's also
8 looking not just at the water, but at the energy component.
9 But that's exactly what EnergyStar is.

10 It's looking at those things and every single
11 washer sold in the United States, you can go to a DOE
12 database, you can look up its integrated water factor and
13 its energy factor, the modified energy factor, which is a
14 complex engineering metric. You can see how the washer's
15 rated, line it up against the criteria for Energy Star and
16 determine whether it is Energy Star, and that's ultimately
17 what we're talking about.

18 Now, separate from that, there's nothing in the
19 regulations that says HE -- it's not a legal concept. It's
20 a term of ours that is more prevalent in marketing and it is
21 not unusual for manufacturers to market a product as HE in a
22 way that instructs a consumer that a machine is designed for
23 use with HE detergent, and that perhaps can be a point of
24 confusion.

25 MR. CASSISE: So with the new standards, is it

1 safe to say that the marketing departments will now call all
2 of those machines high efficiency? Or is the marketing
3 department still trying to figure out what to do?

4 MR. TUBMAN: No, I think you're thinking about
5 it right. So, high efficiency, they all use high efficiency
6 detergent now. Because of the standards, I would say all
7 washers sold in the U.S. are high efficiency. Because of
8 that fact. So our marketing department is no longer --

9 MR. CASSISE: And so do these standards mean
10 that they just won't get the Energy Star? Or I can't, you
11 can't go and buy a conventional -- well, with a
12 fourteen-gallon drum, you'll no longer be able to purchase
13 that in the U.S. market? After March 2015?

14 MR. TUBMAN: Operating it as specified for the
15 energy testing, that is correct. So there are some -- I
16 guess I should be careful. There is a nuance there, right?
17 So, as you test for energy standards, there are certain
18 cycles, certain options that are tested.

19 Outside of that, you could modify an option,
20 modify a cycle, so it's tested on the normal cycle. We have
21 cycles that are actually called deep water wash. So you can
22 get a deep water wash if you want it. You have to select
23 it. It's not part of the energy cycle.

24 MR. CASSISE: Oh, okay.

25 MR. TUBMAN: So they get a little bit of

1 confusion there probably, but yes, it's not as easy as going
2 out and just assuming, okay, just because that has what
3 looks to be like an agitator it's deep water.

4 MR. CASSISE: So what was the -- when were the
5 standards changed before the 2015 change? What was the
6 prior change? What year was that?

7 MR. LEVY: There have been a number of changes
8 that have been minor in recent years. And there was a major
9 one -- I want to say it took effect, either in the 2011 or
10 2012 timeframe, but we can obviously give you a chronology.

11 MR. CASSISE: Okay. A chronology, you know, of
12 any changes during the POI would be helpful.

13 MR. LEVY: Yes.

14 MR. CASSISE: I'd like to talk about the foreign
15 trade zone in Clyde, Ohio. I don't know how much of this
16 you want to discuss publicly, some of it is public, just by
17 the fact that it's a foreign trade zone and you have to file
18 reports with customs.

19 The information I have is that, you know, in
20 November of 2012, the FTZ board authorized production
21 activities in Clyde, Ohio, for Whirlpool. And then there's
22 several other federal register notices that add to the list
23 of components that are allowed to enter the zone and
24 approved of different production activities.

25 And then, of course, they define production

1 activities, I believe, as defined by the regulations as a
2 substantial transformation of a foreign article, which
3 results in a change in the tariff classification.

4 So, let's start from the beginning. What
5 components are admitted into the FTZ? And from what
6 countries?

7 MR. LEVY: Thank you for the question. We also
8 noted this morning, this was Mr. Porter's second argument
9 and also, a very red herring. So, let's set the record
10 straight. If you look at the petition, you'll see that
11 washing machines use literally hundreds of components.
12 Whirlpool is a highly vertically integrated producer of
13 washing machines in Clyde, Ohio, but to be sure, there're
14 gonna be some components that are imported inputs in the
15 production of washers.

16 Whirlpool made an assessment some years ago,
17 that consistent with the customs laws, it could create an
18 FTZ subzone at the plant in Clyde, Ohio. And through this
19 mechanism, it could achieve what's called duty inversion,
20 that is to say that rather than paying customs duty on the
21 importation of inputs used in the production of LRWs, they
22 could instead pay the duty rate applicable to the finished
23 washer coming out of the FTZ, and thereby saves some customs
24 duties.

25 Again, this is what the customs law is designed

1 to do. Whirlpool availed itself of that. So what you have,
2 is you have a mechanism where you have product being
3 admitted into the FTZ and then coming out of the FTZ, you
4 have finished washers.

5 But a few clarifications are in order. How many
6 in scope LRWs, how many subject imports did Whirlpool bring
7 into the United States? Finished LRWs? During the POI?
8 The answer is zero.

9 How many in scope components or subassemblies
10 did Whirlpool bring into the United States from China during
11 the POI? The answer again is zero.

12 How many parts did Whirlpool bring into the FTZ
13 that are Chinese origin? And the answer is a good many.
14 Things like ball bearings, or integrated circuits.

15 And when you admit these products, these
16 components, into the FTZ, they're accounted for, they're
17 used in the production of finished LRWs, and then when the
18 LRW leaves the facility in Clyde, Ohio, you have to file a
19 7501, a customs entry summary, listing it as a Type 6 entry,
20 and you have an entry line that relates to the Chinese
21 origin components in the finished LRW.

22 You have to account for the customs value of
23 those components, the quantity associated on that line
24 consistent with Whirlpool's FTZ compliance manual, as
25 audited by U.S. Customs, says that the quantity shall be the

1 number of components, not the number of washers, the number
2 of components, something that we made perfectly clear in our
3 2nd Amendment to the Petition earlier this week.

4 And so what you see therefore are Type 6 entries
5 into the -- is it the Cleveland Port -- of what appears to
6 be LRWs for consumption, but it's an artifice of the
7 customs' rules. What these are, are LRWs manufactured in
8 the Clyde plant from certain Chinese components where the
9 reported quantity is the quantity of components from China
10 for which duty inversion is sought.

11 MR. CASSISE: Okay. Let's back up and even --
12 now I know most FTZs are a legal entity that is granted to
13 say a manufacturing facility, and I'm assuming that that's
14 what Whirlpool has for its Clyde, Ohio manufacturing
15 facility. But just for the record, we're not talking about
16 a Foreign Trade Zone, where things are coming into a
17 specific geographical location and then leaving that
18 geographical location to go to another geographical location
19 to be finished elsewhere?

20 MR. LEVY: Correct. So you imagine there's a
21 virtual fence around the Clyde, Ohio plant, where everything
22 going in and coming out is accounted for, consistent with
23 rigorous accounting criteria delineated by U.S. CBP, and it
24 is not a zone technically; it is a subzone.

25 MR. CASSISE: A subzone.

1 MR. GETLAN: And can I just add to that. Myles
2 Getlan. Just to be clear, it's not a virtual fence; there's
3 actual fencing as required by Customs. But also, you know,
4 Clyde existed before the FTZ was in place, right? So it was
5 really just converting their existing plant into an FTZ, to
6 take advantage of the duty inversion that Jack described.

7 In Whirlpool's application for the FTZ, one of
8 the stated reasons for it was to compete with global
9 competitors.

10 MR. CASSISE: Right.

11 MR. GETLAN: This is a benefit that they availed
12 themselves of.

13 MR. CASSISE: No. I understand the advantages
14 of Foreign Trade Zones, and I don't want to give the
15 impression that that's a bad thing to do a Foreign Trade
16 Zone. That's not where my question is going. I just want
17 to detail what's going on for the record, that is it.

18 So what you're saying is that I know Clyde, Ohio
19 manufacturing facility has been there long before it was a
20 Foreign Trade Zone, but it's not even as if half of it's the
21 Foreign Trade Zone and half of it is not.

22 It is the entire manufacturing facility, and
23 there's not -- there's not an admission of things into a
24 Foreign Trade Zone and then the product is not exiting the
25 Foreign Trade Zone in some unfinished, semi-finished manner.

1 It is exiting the facility and the FTZ as a finished
2 product.

3 MR. LEVY: That's exactly right. So that the
4 facility operates exactly the same way as it did before.
5 The only difference now is that there is essentially a fence
6 around the entire facility, and rigorous accounting of
7 what's coming in and going out, consistent with Customs
8 rules.

9 But the manufacturing operations are exactly the
10 same as they were in the last case, and the amount of raw
11 materials being sourced from China is fundamentally the same
12 as in the last case as well. Nothing's changed.

13 MR. CASSISE: Well Mr. Levy, if you could
14 elaborate on why Customs -- the Customs rules on why you
15 have to consider that the country of origin of China. Is it
16 because the value of the components, the value of the
17 Chinese components are more than the value of the U.S.
18 components?

19 MR. LEVY: I'll let Mr. Getlan speak to that, as
20 he participated in the FTZ audit.

21 MR. GETLAN: Well, I won't get into the why.
22 The regs require that. That's getting into the minds of
23 Customs. But the rules are that the highest value
24 component, imported component will be what designates or
25 what confers origin of the -- really for the entry line of

1 the washers would be withdrawn from the FTZ.

2 So you have finished washers being withdrawn
3 from the FTZ. That triggers the entry, and the origin of
4 those finished washers will be based on the highest value of
5 foreign origin components incorporated into those washers.

6 MR. CASSISE: Now the highest value component,
7 meaning you've got to choose one?

8 MR. GETLAN: Of origin, foreign origin.

9 MR. CASSISE: Of foreign origin. So if I have
10 --

11 MR. GETLAN: So these washers will have, you
12 know, there could be several Chinese origin components
13 incorporated into a washer. That same washer could include
14 a Mexican origin component and certainly U.S. components.

15 If the component with the greatest value,
16 foreign component with the greatest value is Chinese origin,
17 the washer will be identified on the entry line as Chinese
18 origin washers. You'll have washers that are classified or
19 designated, you know, Mexican origin if the washer has, you
20 know, the greatest value component is of Mexican origin.

21 So it's based on the value of the foreign
22 components incorporated in the machine.

23 MR. CASSISE: And the FTZ rules mandate that you
24 choose a foreign country of origin? You cannot have -- you
25 cannot turn it into a U.S. good?

1 MR. GETLAN: If it incorporates foreign
2 components, it's at that withdrawal of the finished washer
3 that triggers the entry. It has to have a country of origin
4 designated on that line. So if it's a finished washer that
5 consists of multiple, parts of multiple origin, what are you
6 going to -- you have to have a country of origin for that
7 line. What is it going to be? Customs rules says it's
8 based on the value, the highest value component.

9 MR. CASSISE: All right. Let me see if I
10 understand this. So completely hypothetical. I have a
11 washer component that is -- the final product is worth \$100.
12 \$98 of that product is U.S.-sourced material that I bring
13 into my FTZ. Let's say \$97 of that. Two dollars of that is
14 Chinese goods and one dollar of that is Mexican origin.

15 What's the country of origin of my product as it
16 leaves the FTZ?

17 MR. GETLAN: Chinese origin.

18 MR. CASSISE: It's Chinese origin because the
19 two is larger than the one, and it's a foreign -- regardless
20 of the 97 percent of U.S.?

21 MR. GETLAN: That's right, that's right.

22 MR. CASSISE: Okay. I have no more questions.
23 Thank you all.

24 MR. CORKRAN: Thank you very much, Mr. Cassise.
25 We'll now turn to Mr. Schrilitz.

1 MR. VON SCHRILTZ: Good morning. My name's Karl
2 von Schriltz. I'm an attorney-advisor in the Office of the
3 General Counsel. That's von Schriltz, not Schriltz.

4 MR. VON SCHRILTZ: My light's on again. Is it
5 working? Yes, okay. Just to quickly follow up on Chris'
6 last question, so I understand for Customs' purposes, those
7 washers leaving the FTZ are Chinese in origin when the
8 imported component of the greatest value is from China.

9 But what are they marked? I know every product
10 is marked with its country of origin. I just bought a
11 Whirlpool dryer a couple of years ago when my son put a pack
12 of crayons in our old dryer, and it was marked I think
13 something like "Product of USA." So do the washers
14 withdrawn from the FTZ have a country of origin marked on
15 them, and what is that country of origin?

16 MR. GETLAN: So there's -- anything that is U.S.
17 origin by virtue of Customs rules, meaning as Chris
18 mentioned, the foreign component substantially transformed
19 into a finished washer in the United States would be U.S.
20 origin under Customs rules. That doesn't require to be
21 marked anything of country of origin.

22 There are different rules, FTC rules relating to
23 "Made in America." I don't know if that's what you're
24 referring to. That is a different standard, and virtually
25 all content must be U.S. origin to be designated "Made in

1 U.S.A." The washers in -- go ahead.

2 MR. TUBMAN: Sorry, Casey Tubman. I think the
3 short answer is we don't call out an origin on the, what we
4 call the serial tag or the model tag. We do not call one
5 out there.

6 MR. LEVY: Although I think you often have
7 stickers in your marketing material that will say assembled
8 in U.S.A., and the example that you provided Mr. von
9 Schrilitz would be an example of a washer that may bear such
10 a sticker, consistent with FTC marketing rules.

11 MR. VON SCHRILITZ: It was a dryer actually, so
12 it was -- that's not subject merchandise. Okay. Well I
13 have a few other questions. So I know you sought to sort of
14 clarify your position on the domestic-like product
15 definition, and apparently I saw in the petition that you
16 appeared to argue that you wanted the domestic like product
17 to be co-extensive with the scope.

18 But now I understand your argument to be that
19 the domestic like product definition should include
20 basically all large residential washers produced in the
21 United States, even if they're not technically within the
22 scope, and of course you say that there are no domestically
23 produced washers that satisfy that belt-driven exclusion
24 that the Respondents latched onto in their opening
25 statement.

1 Were there belt-driven washers? Now I
2 understand that the excluded belt-driven washers have a
3 particular clutch, in the case of top-load washers, and
4 other particular components in the case of both top-load and
5 frontload washers. It's not just that they're belt-driven.

6 Were there belt-driven washers, washers that
7 didn't use direct drive but that used a belt drive? Were
8 there such washers produced in the United States during the
9 POI?

10 MR. LEVY: So thank you for the question.
11 Obviously, just by way of introduction, in a world in which
12 the scope and what's produced in the United States is
13 co-extensive, saying that the domestic like product should
14 be what it was in the past case or that it should be
15 co-terminous with the scope is one in the same thing.

16 So the question really is are there things
17 produced in the United States that are being excluded from
18 the scope. So let's just break it down. So with regard to
19 what is described in the ITC questionnaire as low tech
20 top-load washers, again that's defined in the scope
21 exclusion language as having a belt drive, a PSC motor and a
22 flat-wrapped spring clutch.

23 During the POI, there's zero U.S. production of
24 such products. Are there other belt-driven products in the
25 market that are top-load and not direct drive? The answer

1 is yes. Samsung has one that's a very disruptive presence
2 in the marketplace and U.S. producers have them as well.
3 That's exactly why the pricing products discriminate between
4 direct drive and non-direct drive as a characteristic.

5 In the past case parenthetically, 100 percent of
6 subject imports were direct drives. So you really didn't
7 need this descriptor. But here, it's now an important and
8 relevant characteristic. So you do have belt drive
9 top-load, but what we've carved out are a certain type of
10 belt drive top-load that in the questionnaire is
11 characterized as low tech.

12 To be clear, the volume of such product from
13 China is trivial, less than half a percent of ADC, none
14 product in the United States throughout the POI. With
15 regard to what is described in the ITC questionnaire as low
16 tech frontload, this of course is defined as having a belt
17 drive and a CIM motor.

18 Our understanding is that during the POI,
19 neither Whirlpool nor GE produced any such washers in the
20 United States. I think I alluded to this earlier in my
21 testimony and I heard some ruffling of paper behind me from
22 respondents. I'm sure they take umbrage from that factual
23 assertion. I think their confusion stems from the fact that
24 there may be some GE-labeled product that was in the United
25 States during portions of the POI that may have been

1 imported and met this scope exclusion definition.

2 But again, the volume is small. We estimate it
3 at less than half a percent of ADC.

4 MR. VON SCHRILTZ: So you say there were some
5 belt-driven washers produced domestically during the POI,
6 just not satisfying the belt-driven exclusion?

7 MR. LEVY: That's correct.

8 MR. VON SCHRILTZ: And those you would include
9 in the domestic like product definition?

10 MR. LEVY: That is correct.

11 MR. VON SCHRILTZ: Thank you. Chris asked a lot
12 of questions about the evolution of the high efficiency
13 standards and the Energy Star standards during the POI, and
14 covered a lot of ground. But I was curious as to why when
15 all washers had to use -- well, when all washers had to use
16 low water technology, and I understand that some of your
17 washers also have the option of using full water, but that
18 the settings that the machine comes with, it encourages
19 consumers to use the low water setting, encourages them to
20 use the HE detergent.

21 So you had to redesign all of the agitator
22 machines, what were formerly known as conventional top-load
23 machines, to use this agipeller. Why didn't you just
24 redesign them to use impellers?

25 MR. TUBMAN: Casey Tubman. Mainly because the

1 consumers asked for an agitator. They looked for them
2 sometimes. We also use it to differentiate products across
3 the spectrum if possible. It's really not a -- it's not a
4 technical issue I would say, and to your point we could have
5 just stuck impellers and everything.

6 MR. VON SCHRILTZ: So it became more of an
7 aesthetic feature, rather than engineering functional one?

8 MR. TUBMAN: Yes.

9 MR. VON SCHRILTZ: And when were your
10 conventional top-loads replaced with the new HE agitator
11 top-loads?

12 MR. TUBMAN: Casey Tubman. If you're going to
13 ask me the exact dates, I probably have to follow up and
14 give them to you. But it would have been during the Period
15 of Investigation.

16 MR. LEVY: And again, we'll give you the exact
17 dates. But Casey, my recollection is that the transition to
18 the new designs occurred roughly at the start of calendar
19 year 2015, in anticipation of the regulatory change; is that
20 correct?

21 MR. TUBMAN: There were actually some in 2014.
22 So that's why I say different models change as the year went
23 on. So I believe the dates, and again I'll confirm this,
24 we'll call it July of '14 through the first quarter of '15.
25 Typically, you get ready for an energy transition ahead of

1 time, because you basically have to meet that date. So you
2 don't want to wait until the last day, and because of the
3 number of products that we have and retailers don't like to
4 flip all the floors at once, we do it over a staggered
5 period, as would other manufacturers.

6 MR. VON SCHRILTZ: And before the conventional
7 top-loads were replaced, were the conventional top-load
8 washers that Whirlpool is offering similar to the ones that
9 were sold during the Period of Investigation of the last
10 case?

11 MR. TUBMAN: Again, it might be one that I have
12 to follow up on exact details. But I would say from a
13 general standpoint, yes.

14 MR. VON SCHRILTZ: Thank you. I know in the
15 last -- in the last investigations, I think both sides made
16 a big deal out of consumer surveys and consumer rankings. I
17 think Consumer Reports had ranked Whirlpool machines very
18 highly, as well as LG's and Samsung's machines. Have those
19 rankings changed during the POI of this investigation? I
20 mean how did domestically produced large residential washers
21 stack up against subject imports and consumer surveys and
22 rankings during the current POI?

23 MR. TUBMAN: Casey Tubman. I would say -- I'm
24 going to kind of get around to the question. I'll answer
25 it, but I'm going to start with something else. If you

1 think about one of the things in this case as we talk about
2 it as when we're going in to hitch to a buyer and talk about
3 what we can get on the floor and what we're going to compete
4 against, things of that nature, Consumer Reports ratings,
5 J.D. Power ratings, they're all in the future.

6 So we're not really having any discussion around
7 that. So again, it comes back to price negotiations at that
8 time. To answer your question, domestically built products
9 have done very well. We're very proud of our ratings over
10 the years. Not to say that again, LG and Samsung probably
11 aren't proud of theirs on and off. It's one of those where
12 it's kind of a one-up game. You get it, then you lose it,
13 you get it back, you try again.

14 And so if you look at our frontload, the
15 in-scope around the 27 inch, we have five of the top ten.
16 We have the number one, I think it's the number one through
17 four for the front-loaders, and then if you look at the top
18 load again, we have several in the top ten as well currently
19 in the past we've had top ratings, in the future we expect
20 to get those top ratings back.

21 So I would say from a Consumer Reports
22 standpoint, again, we're proud of where we've been, we're
23 proud of where we're going, and again I'm guessing they'll
24 say the same thing. J.D. Powers is a little bit different
25 game I'll call it. If you're aware, that Consumer Reports

1 is independent lab tested and it's more about the product
2 performance.

3 J.D. Powers about consumer satisfaction, not
4 about test performance. So it's more of survey data, which
5 has a little bit of nuance to it. But more importantly, it
6 includes price. So if you've got a really good deal, you're
7 going to be more satisfied. So you have to look at J.D.
8 Powers just a little bit different.

9 I hate to say, we don't typically give away our
10 products, so we don't do so well in those probably as
11 others.

12 MR. VON SCHRILTZ: Thank you. During the period
13 examined in the last investigations, there were no
14 significant subject imports of top-loading washers with the
15 capacity of under 3.7 cubic feet. Did that remain the case
16 during the current Period of Investigation?

17 MR. LEVY: Can I take a stab at that Casey? So
18 what we are seeing is that there are now LG branded top load
19 washers less than 3.7 cubic feet in the marketplace. They
20 are for the moment, to the best of our knowledge, Korean
21 origin. But the perception is that LG and Samsung continue
22 to move down the product lineup, offering less and less.

23 You know, they come in from the top and they
24 work their way down, offering, you know, less and less
25 featured models. In that regard, Whirlpool perceives in

1 this case not only is their price compression that is
2 impacting U.S. produced top loaders less than 3.7, but that
3 the launch and the offerings of such models is eminent. Is
4 that a fair --

5 MR. TUBMAN: I would say the only thing I would
6 add is, as I listened to the opening statements, there was a
7 mention of, you know, playing at the higher end and I think
8 about Black Friday, Black November, Black Q4 that we just
9 got through. The Samsung product, it's a 4.0 cubic feet
10 product and it was at 399. So there's not too many washers
11 sold lower than that. That's kind of the opening price
12 point.

13 So it's hard for me to hear that and think they
14 really play at the high end. I'm competing with them at
15 \$399. And again, that's a 4.0, so it's not down to the 3.7.
16 But I think Jack makes the point it's just a matter of time
17 as that moves here, and I believe they have those capacities
18 available in other countries that could be brought here.

19 MR. LEVY: And Mr. von Schriltz, just that
20 happens to be one of the belt-drive top loaders that are
21 subject imports, just parenthetically.

22 MR. VON SCHRILTZ: Thank you. Now what share of
23 Whirlpool sales of large residential washers are made to
24 homebuilders and contractors?

25 MR. LIOTINE: Joe Liotine. I can give a general

1 estimate. If we need more detail, we can submit it in the
2 post brief to be more specific. But in general, that's
3 going to be probably 10 or 15 percent of our total sales.
4 That's to all contracts. It could be direct, indirect.

5 MR. VON SCHRILTZ: And do you compete for those
6 sales with subject imports?

7 MR. LIOTINE: Sorry. So part of that is I
8 described direct and indirect. So direct contract would be
9 through distributors and through our own employees' sales
10 organization. The indirect could be contract business that
11 sold through a Home Depot or a Lowe's as an example, where a
12 contractor might come in and buy product there. It could be
13 Sears I guess as well.

14 Many of the retailers offer a contract arm. So
15 that's the indirect side. So we would be competing with,
16 you know, everyone in all channels.

17 MR. VON SCHRILTZ: So you also compete for
18 direct sales to contractors and homebuilders? You negotiate
19 directly with the homebuilders?

20 MR. LIOTINE: In some cases. The large big
21 national builders would be where we would focus that. It's
22 pretty small in terms of number of them, but size-wise
23 they'd be material.

24 MR. VON SCHRILTZ: Thank you. Now with respect
25 to the pricing products that you recommended in your

1 petition, I'm wondering did you design the capacity ranges
2 for each product, so that the domestically produced washers
3 are concentrated at the upper end of the ranges, while
4 subject imports are concentrated at the lower end of the
5 ranges?

6 MR. LEVY: Jack Levy for Petitioner. Let me
7 answer that. If you look at products 1 through -- well,
8 just back up to the last case. In the last case entering
9 the final phase, all parties were afforded an opportunity to
10 provide comments on the questionnaire. Without exception,
11 both domestic producers and Respondents advocated for
12 capacity breaks in increments of half a cubic foot.

13 The Commission settled on pricing products in
14 the last case that used capacity breaks in increments of
15 half a cubic foot, and the dividing lines were places like
16 4.2 and then kind of count up and down in increments of half
17 a cubic foot.

18 That is what the Commission selected for all of
19 its pricing products in the last case. What Whirlpool did
20 in proposing products 1 through 6 for purposes of this
21 preliminary phase investigation was to repeat those
22 increments of half a cubic foot and to repeat those same
23 dividing lines.

24 There was no agenda here in trying to
25 gerrymander the pricing products, as Mr. Porter suggests.

1 To the contrary, we blindly accepted the breaks that the
2 Commission used in the prior case four years ago. So the
3 data are what they are, and the question now for the
4 Commission is are Samsung and LG faithfully reporting their
5 skews in the right pricing buckets, consistent with these
6 criteria which find precedent in the past case.

7 MR. VON SCHRILTZ: Thank you. Can you elaborate
8 on your allegation that the LG and Samsung have misreported
9 pricing product data?

10 MR. LEVY: We will elaborate fully in our post
11 conference submission. The challenge that we have is that
12 the details of what Samsung and LG have done is contained in
13 their questionnaire. It's their proprietary information.
14 Therefore, you know, we're not at liberty to describe too
15 much.

16 But at a high level, I think some of it involves
17 misconstruction of the reporting instructions. For example,
18 if you have a skew that is advertised at a particular
19 capacity, should it be reported in a bucket consistent with
20 the capacity at which it is advertised?

21 We respectfully submit that the answer to that
22 question is yes, that that is the purpose and intent of the
23 instructions and the questionnaire, which is consistent with
24 the findings of the Commission. You know, this issue was
25 debated in the last case, which is there you had shifting

1 metrics for how you reported capacity during the period.

2 So the question was, you know, how do you report
3 the capacity for a skew at any point in time. There was
4 back and forth with Respondents, and we said to the
5 Commission you should report a skew consistent with the
6 capacity, how it was advertised at the time of sale, because
7 that is how purchasing decisions are made.

8 There was a lot of back and forth, and the
9 Commission agreed with us, and it's clear from the
10 Commission's determination that they adopted that rationale.
11 We think the purpose and intent of the Commission's
12 instructions in this questionnaire is exactly the same,
13 which is that if you in your own marketing literature and in
14 the websites of your buyers, you know, the likes of Sears or
15 Home Depots or Lowe's, you know, this product is being
16 advertised for sale at a given capacity, it should be
17 reported in the bucket for that capacity.

18 So that is one important issue. I can't say
19 with any more specificity. The others, frankly we think
20 it's just sloppy reporting, misunderstanding whether a
21 particular skew has a steam cycle or doesn't have a steam
22 cycle. Or oops, I forgot this skew. It seems to be in the
23 marketplace. Why isn't it in this pricing bucket?

24 So there are more than a dozen such instances
25 that we've called out, and we think that it is essential to

1 correct these deficiencies before the Commission has to make
2 a determination in this preliminary phase.

3 MR. VON SCHRILTZ: Are sales to OEM customers
4 like Sears at a different level of trade than say other
5 sales to first arms-length customers?

6 MR. LIOTINE: Joe Liotine. Can you explain what
7 you mean by trade? Sorry.

8 MR. VON SCHRILTZ: Level of trade, yes. But
9 level of trade, I mean would you undergo the same sorts of
10 sales activities and bear the same sorts of costs when you
11 sell to an OEM customer, as when you sell to a first
12 arms-length customer like Lowe's or Home Depot, where
13 they're going to be selling your product under your own
14 brand?

15 Would the cost and activities associated with
16 selling to OEM customers be the same or different than the
17 costs and sales activities of selling washers to other first
18 arms-length customers?

19 MR. LEVY: So Joe, if I could just interrupt.
20 There's really only one OEM customer in the market that's of
21 any size and importance. Sears has the Kenmore label, and
22 there's OEM production for the Kenmore label. Whirlpool is
23 an important supplier for that label. The details of its
24 Kenmore contracts, which are called SSSI agreements, are
25 highly sensitive and propriety.

1 But we'll be more than happy to provide a
2 detailed accounting of that information, so that you can
3 discern level of trade information.

4 MR. VON SCHRILTZ: That would be very helpful,
5 thank you. Now you've mentioned that imports of non-subject
6 large residential washers from China, that they're excluded
7 by dint of having a belt drive along with those other
8 components, and the product exclusions are very small. You
9 said less than half a percent of the U.S. market.

10 What about other non-subject imports, imports
11 from Korea that are non-subject, imports from Mexico,
12 imports from other non-subject countries? How big a factor
13 are they in the U.S. market for Whirlpool?

14 MR. LEVY: So let me take a stab at it. I mean
15 I think what might be helpful is to look at -- first looking
16 at Petitioner's Exhibit A. If you look at the gray bar, you
17 know, you can see that once you go beyond the world of
18 China, Korea and Mexico, there's not much in the world that
19 is a washer that's coming into the United States. It is a
20 trivial volume.

21 But with regard to non-subject vis-a-vis Mexico,
22 the major source of subject imports, excuse me non-subject
23 imports but nonetheless washers, LWRs if you will that you
24 see, are imports from Electrolux. Of course they're under
25 an order now, and there are still some volumes of

1 non-subject washers from LG in Korea, and they together
2 comprise nearly all of what's left in the green bar in the
3 present tense.

4 So they are a presence in the market. They're
5 probably collectively maybe half a percent of ADC, and again
6 that's based on Whirlpool's sort of pre-petition
7 intelligence. You may have different numbers slightly,
8 based on what you collect in your questionnaires.

9 MR. VON SCHRILTZ: And have those non-subject
10 imports put any competitive pressure on Whirlpool?

11 MR. TUBMAN: I'm trying to make sure I keep
12 track of subject versus non-subject, whether they're under
13 the old order and the new orders, and I apologize. Casey
14 Tubman. I think I would answer the question yes. We do
15 compete with them for space, and so I think they would.

16 MR. VON SCHRILTZ: What about domestic
17 competition? I think this is something that was mentioned
18 by Respondents in their opening statement. To what extent
19 has domestic competition caused prices to decline over the
20 Period of Investigation?

21 MR. TUBMAN: Casey Tubman again. Here's the way
22 I would look at it, is we've competed in the domestic market
23 for 104 years now, to be exact, and we've competed with GE
24 and others that have had domestic production, the Bosches of
25 the world, the Fisher Paykels, the Electroluxes who have

1 produced in the U.S.

2 We've been able to compete with them and make
3 money in the past. If you look at the last case and this
4 case, and the entrance into the market of domestic products,
5 I'm sorry of foreign products, that's where we continue to
6 be asked to meet their prices and lower our prices and drive
7 the marketplace down.

8 MR. VON SCHRILTZ: Now what about GE's major
9 investment in domestic, large residential washer production,
10 and they have this agitator-based machine that actually
11 qualifies for Energy Star. I believe it's a rather large
12 capacity machine as well. Has that had a competitive impact
13 on your top-load business?

14 MR. TUBMAN: Casey Tubman. I would say again,
15 we're happy to compete with them day in and day out. They
16 are a competitor of ours. Has it had an impact? Not to the
17 extent that Samsung and LG have had an impact, I would say.

18 MR. VON SCHRILTZ: Thank you, and how do you
19 respond to the Respondents' argument in their opening
20 statement that it seems familiar from the last case, that
21 two-thirds of domestic industry sales are insulated from
22 subject import competition, presumably because LG and
23 Samsung maintain that they aim their washers at the high end
24 of the market, whereas the domestic industry offers more
25 machines at the low and mid-ends of the market?

1 MR. LEVY: Casey, can I take a stab at that,
2 because this is one that's near and dear to my heart from
3 the last case. In the last case, we excluded from the scope
4 topload less than 3.7 cubic feet, because there were no
5 subject imports at the time and none on the horizon, but yet
6 a good amount of them produced in the United States.

7 So what we did was we narrowed the scope to
8 focus on where there were imports. Then the issue came up,
9 well what should the domestic like product be? Should it be
10 co-terminous with the scope and therefore ignore U.S.
11 production of top-loaders less than 3.7 cubic feet, or
12 should it be all domestic washers?

13 We were agnostic. We said Commission, do what
14 you want. You can find it co-terminous with the scope or
15 you could find it to be all domestic washers. What the
16 Commission ultimately determined was that it was all
17 washers. Why? Because it determined that frontload
18 competes to top-load across a range of features, that
19 there's price compression and that when prices come down at
20 the high end, it has a domino effect and it compresses
21 prices all the way down to the low end, that everything when
22 you have injury with regard to one feature permutation, it
23 has a cascading effect across the marketplace.

24 In that proceeding, what we remember hearing
25 from Respondents was, you know, a very clever one-two punch

1 in their arguments. They said step one, the domestic like
2 product should be all washers, meaning include all the
3 smaller top-loaders produced in the United States, and then
4 having found this large domestic like product, go ahead and
5 find attenuated competition, because the subject imports are
6 here.

7 What we said respectfully is you can't have it
8 both ways, and thankfully the Commission got it right. It
9 recognized that there's price compression in the
10 marketplace. What happens at the high end affects the low
11 end, and there's no question that where there are subject
12 imports in this Period of Investigation affects not only the
13 products that you're seeing from the U.S. producers in the
14 pricing products, but also less featured washers in the U.S.
15 industry's product lineup.

16 Casey, feel free to elaborate from a commercial
17 perspective. But I think that's our position in terms of
18 the legal history.

19 MR. TUBMAN: Yeah, Casey Tubman. I would only
20 add, as I mentioned earlier, we are competing with what they
21 would call that two-thirds of our business. I mean it's
22 competing directly with them today.

23 MR. LEVY: If I could just elaborate, you know.
24 A picture is worth a thousand words. If you go back to
25 Exhibit J, and you say for example, assume under the

1 hypothetical that there are subject imports that encompass
2 good, better and best features, and the U.S. industry
3 encompasses basic good, better and best, it's perfectly
4 clear under the model that if there's price compression
5 that's forcing prices lower for best, better and good, there
6 must be a consequential injurious impact on the pricing for
7 the basic washer.

8 That is exactly what the Commission found in the
9 prior case. Respondents didn't like it. They appealed to
10 the U.S. courts. They lost a second time. Nothing has
11 changed about the conditions of competition. They are
12 recycling an argument that they tried and failed not once
13 but twice.

14 MR. VON SCHRILTZ: Mr. Tubman, I think I heard
15 you say that retailers will have a line review, is that what
16 it's called, whenever a competitor introduces a new model or
17 if there are significant changes in competitor prices?

18 MR. TUBMAN: Casey Tubman. I think it was Joe
19 that actually maybe mentioned it. But they're not -- it's
20 not due -- typically line reviews are more of an annual
21 process. They're not because somebody came out with
22 something whizbang. There are I'll call it times in between
23 annual line reviews where a new floor spot may come up for
24 discussion, and someone may ask to take someone else's off
25 the floor, which is typically how we expend our days

1 fighting.

2 But it's not specific to when someone brings
3 something out, the retailer has to respond to it. It's a
4 little bit different than that.

5 MR. VON SCHRILTZ: And during the line review
6 process, you discuss prices for the full range of washers
7 and which ones are not going to get floored and those sorts
8 of -- end caps and promotions and all that, all those issues
9 with the retailer?

10 MR. TUBMAN: Yes, Casey Tubman. That is
11 correct. We typically will have a discussion about each
12 product individually within the line, and then there's also
13 conversation about I'll call it extra -- there's up front
14 margin conversation and then there's discounts, discussion
15 and promotional money on top of that. Again it's typically
16 trying to get your product to the floor, because again what
17 you floor is what you can sell.

18 MR. VON SCHRILTZ: How are the -- this kind of
19 goes toward price compression. Now competitors' prices are
20 sometimes discussed during these line -- these meetings,
21 these line reviews?

22 MR. TUBMAN: Sorry, I just wanted to consult and
23 make sure I didn't answer something I shouldn't. I think
24 some if we can describe in writing afterwards. But yes,
25 there are comments made, how do I want to say it, inferences

1 made and asks made to lower price because of a competitor.

2 And again, we talk about usually one model at a
3 time in the line, even though we bring an entire plan to
4 sell. You go floor spot by floor spot and have that
5 conversation. It's not can you bring me a different
6 feature; it's can you lower my price.

7 MR. LEVY: Mr. von Schrilitz, it's worth
8 reminding the staff that there are more than 200 very
9 specific instances of lost sales and lost revenue
10 allegations in the petition, many of which are corroborated
11 by email correspondence from retailers.

12 MR. VON SCHRILITZ: Now you've got these -- the
13 basic good, better, best. When you have to -- when you have
14 to lower a price on a better or best model, I know the
15 answer to this question already, but I'd just like to hear
16 it from you. I mean how does that affect the -- I mean do
17 the retailers expect you to drop your prices on the models
18 below, or is it good enough that you're just dropping the
19 price on one of your best models or one of your better
20 models?

21 MR. TUBMAN: Casey Tubman again. I think you
22 know the answer as you said. It's pretty hard to sell a
23 basic washer at the same price as a good washer. So if you
24 lower the price of your good washer, and again I like using
25 Exhibit J. But if you take that good washer and shift it

1 down, the expectation is that the basic below it is going to
2 move down with it, and a lot of times the one above it might
3 move down. I mean it literally is all four. You can see the
4 movement here in the picture. It showcases it very well.
5 So when best features come in and are lowered in price, it's
6 a chain effect.

7 MR. VON SCHRILTZ: And how does that work? If
8 you discuss it one model at a time, you start with the best
9 models and then work your way down?

10 MR. TUBMAN: Honestly, it could be that way. It
11 could be the other way. It could be an in between. Those
12 conversations can go on for hours, sometimes days. And so
13 you end up bouncing around and typically I think of one
14 retailer who does some negotiation, where we actually get
15 put into separate rooms, little rooms by each other and they
16 move in between the rooms and come back and forth and it's
17 just hey, I've got another deal. What do you want to do?
18 So it can be at the top, it can be at the bottom. It moves
19 around.

20 MR. VON SCHRILTZ: And what happens if you offer
21 a lower net price on a best model? Is it -- does that sort
22 of circulate through the negotiations for the lower models,
23 or does it sometimes just stay? Do you sometimes make a
24 concession on a best model without having to revisit the
25 prices on the models under it?

1 MR. TUBMAN: I think I'll speak in generalities
2 around that. It's hard to.

3 MR. VON SCHRILTZ: Thank you. Thank you for
4 clarifying that. I have a question for GE. Now obviously
5 it's been in the news, that GE has been trying to sell its
6 appliance business. They tried to sell it to Electrolux but
7 that deal was cancelled due to antitrust concerns. It's
8 still apparently trying to sell its business according --
9 well, based on stuff that I've read on the Internet, it's
10 still trying to sell the business.

11 I'm wondering how big a factor were subject
12 imports in GE's decision to sell its appliance business
13 after investing so much money in moving production to the
14 United States? I'm just curious.

15 MR. MAGNUS: So it probably won't surprise you
16 to hear that I'm going to have to tackle that in a written
17 answer post conference. But I would also say that to a
18 large degree, that question has an answer that's inside the
19 questionnaire response we already filed. But we'll go after
20 it in more detail in a post conference writing.

21 MR. VON SCHRILTZ: Thank you. I have no more
22 questions at this time. Thank you for all your answers.

23 MR. CORKRAN: Thank you, Mr. von Schrilzt. Next
24 we'll turn to Ms. Cohen.

25 MS. COHEN: Good morning. I'm Cindy Cohen from

1 our Office of Economics. I also have Michele from our
2 Office of Economics. Although Karl has covered many of my
3 questions already, as has Chris, I'll throw out a few.
4 Let's see. Let's start with demand. I see you have the
5 Exhibit L on the demand trends.

6 It appears from there that demand is very
7 healthy at this time, at least from the blue line. I
8 understand from the previous case that most of the demand is
9 for replacement versus -- can you describe what is happening
10 with demand and is that replacement demand or something else
11 going on there?

12 MR. LIOTINE: Sure. Joe Liotine. During the
13 demand, I think the last case was at a point in time when
14 the overall housing market was depressed. So a lot of those
15 conclusions and comments I think related to that context,
16 which really was predominantly replacement.

17 But in the periods where housing is stronger, as
18 it is now, housing starts, remodels, first home moves, all
19 those things, it does drive quite a bit of demand, which you
20 see in our chart here. So historically demand moves mostly
21 replacement, but then gets I'll say accelerated by housing
22 starts.

23 We're in one of those periods now, where the
24 acceleration in demand is really driven by housing starts.
25 No new demand is being created from a replacement

1 standpoint, and really the added growth is from the
2 remodels, home sales and housing starts.

3 MS. COHEN: So how much of demand at this point
4 would be housing starts versus -- or new demand versus
5 replacement demand?

6 MR. LIOTINE: It's a difficult question. We
7 don't have perfect information here. Historically, we'd say
8 it fluctuates probably in periods of low housing growth,
9 like it was previously, replacement could be up to 70
10 percent. In periods where there's more growth, maybe it's
11 as low as 55 percent, and those are kind of guesses but just
12 general feel.

13 So I would guess we're in a period where there's
14 less replacement as a percent. Same overall level, because
15 it's an absolute.

16 MS. COHEN: Sure, and do the availability of new
17 features, does that drive demand as well?

18 MR. LIOTINE: I mean replacement demand is
19 replacement demand. If you have one washer, you don't buy a
20 second one. You don't replace your washer as you do with
21 fashion. They're in basements and laundry rooms, as we
22 talked about. It really is this concept of a workhorse in
23 the laundry room, not a showpiece.

24 So you don't see a lot of change in overall
25 demand because of features. That doesn't really occur. You

1 do see it because of housing. That certainly happens.

2 MS. COHEN: Is the -- I see all the
3 advertisements for washers and they look more like the
4 showpiece type of thing, with these beautiful laundry rooms.
5 I live in a condo, so I actually have an out of scope washer
6 with the pink thing down in the laundry room, down in a
7 basement. But is that an increasing trend, to have the
8 nicer setups for washing, for where the washing machines are
9 located?

10 MR. LIOTINE: I mean there are certain things
11 that certain consumers might look for. But in general, I
12 would say what you see is, you know, one of my previous
13 jobs, which is called marketing. I mean it's our job to
14 make the stuff look beautiful and make you want to be
15 attracted toward it. It doesn't necessarily change things
16 as much as it is window dress where we are.

17 There are certain consumer trends in housing
18 that could change, either small configurations or a laundry
19 on the second floor, things like that have occurred in the
20 last ten years. But in general, I don't think there's
21 anything, any data there that would suggest anything's
22 changed.

23 MS. COHEN: What about demand for the top-load
24 versus frontload versus I think it's conventional washers?

25 MR. LIOTINE: I'll start, and maybe Casey will

1 get the rest of it. You know, that has ebbed and flowed
2 over the last ten years. When frontload first came back to
3 the U.S. in a big way, there was quite a bit of front-loader
4 purchases. Then after having that for a little while, there
5 was quite a bit of substitutability back to top-load.

6 Now I think the percents on average are probably
7 70-30, 70 percent top-load, 30 percent frontload and that's
8 been true for about the last couple of years. Going back
9 five or six years, it might have been as much as 60-40, 60
10 percent top-load, 40 percent frontload. That would have
11 been maybe eight years ago or so.

12 So it moves a bit. Consumers do look across the
13 platforms based on their needs. Are they looking for
14 capacity, are they looking for a brand, are they looking for
15 whatever it might be. So there is quite a bit of
16 cross-shopping across the platforms.

17 MR. TUBMAN: Casey Tubman. The only thing I
18 would add is again, you come in probably with a budget and
19 you're looking for what can I get for that amount of money.
20 Whether it's top-load, frontload, what's the most features,
21 what's the biggest capacity, depending on what matters to
22 you. Again, if you have six children, you're going to be
23 looking for capacity.

24 It just -- it depends. But yeah, it's more of a
25 total package, and to Joe's point, we've seen people who own

1 front-loaders come back and buy a topload next. We've seen
2 people that own top-load buy a front-loader. So there
3 really is this mobility between the platforms.

4 MS. COHEN: And for the -- is there a difference
5 in demand for say Whirlpool product versus a Samsung product
6 by age group? Do you see younger people liking a certain
7 brand or older people?

8 MR. LIOTINE: Joe Liotine. I mean we think our
9 products are very compelling to all age groups, and we think
10 the data would say that. So we have a brand portfolio for a
11 reason. We have multiple brands and there we think they
12 cover really the entire demographics of who's buying. So we
13 don't see a big difference.

14 Certainly different brands represent different
15 experiences. So there are some differences there in terms
16 of style. But for us, we offer both Whirlpool, Maytag and
17 Amana, and we think that is more than sufficient to meet all
18 the needs of the consumers.

19 MR. TUBMAN: Casey Tubman. I think I'll add a
20 little bit just to give a little flavor to it. Again, I go
21 back to if they can see it on the floor, then they can buy
22 it. So whatever brand it is. But when we're talking to a
23 buyer and we're actually trying to get that floor spot, I
24 could give it brand ABZ. If I give it the right price,
25 they're going to be happy to put it on the floor.

1 I go back to we have a retailer and our
2 competitors know this person as well. He's got a sign above
3 his desk. It says "There's no bad product, just a bad
4 price." He lives it every time we walk in the door. So
5 brands, again the marketing group, as Joe led and you can
6 hear him kind of talk more about it, we like to make
7 ourselves feel good and say okay, that brand means
8 something.

9 Which it does. We have consumers that go for
10 that. But when it comes to a buyer, the buyer doesn't ask
11 that so much.

12 MS. COHEN: What is the marketing strategy behind
13 having the Maytag, Amana, the different brands for
14 Whirlpool?

15 MR. LIONTINE: What is the strategy?

16 MS. COHEN: Yes, what is the marketing strategy,
17 there, how does that work?

18 MR. LIOTINE: Joe Liotine. So, each brand plays
19 it a little bit different so Amana really is a brand that
20 doesn't follow the full product. It only has the value
21 segment of our business or as Whirlpool and Maytag really do
22 cover all the other segments and Whirlpool we've had as a
23 company is our flagship name for a long time. Maytag
24 actually is a brand that we acquired approximately none
25 years ago so that has a lot of history prior to us.

1 MS. COHEN: So are there customers that want
2 Maytags? Is that the reason for keeping the Maytag brand.

3 MR. LIOTINE: Just our way of giving different
4 choices to the buyers to a little bit to Casey's point so
5 between Whirlpool, Amana and Maytag, we can offer lots of
6 different things in lots of different combinations and it
7 positions the buyer in a way where they can pick and choose.
8 We have all the offerings that they would need and to
9 Casey's point, it's about executing the price that they
10 want.

11 MR. LEVY: Joe, just to clarify, when you're
12 saying buyer you're talking about your retailer customer,
13 correct

14 MR. LIOTINE: Retailer customer, correct.

15 MS. COHEN: Just to follow up on Karl's question
16 about the Kenmore being at a different level of trade. Is
17 our pricing data going to be skewed by having the Sears
18 pricing in there?

19 MR. LEVY: So the question came up in the prior
20 proceeding, should Kenmore models, in other words Kenmore
21 brand and models sold to Sears be included in pricing
22 products along with other branded sales to retailers? The
23 issue came up and the ITC in the prior proceeding decided to
24 include them all. That's how they were analyzed and we
25 think for purposes of this preliminary phase they should be

1 analyzed the same way again and we can detail in our
2 proprietary submission the qualities and characteristics of
3 sales to Kenmore because Whirlpool has supplied Kenmore just
4 as LG and others have supplied Kenmore on and off over the
5 years.

6 MS. COHEN: It would be helpful also for the
7 post-conference submission to see how the prices compare
8 specifically for Kenmore, for say one of our pricing
9 products for the Kenmore sales versus the other sales.
10 Would that be possible?

11 MR. LEVY: For all parties to basically break out
12 their Kenmore SKUs in the pricing products, is that what
13 you're saying because I just want to understand your
14 instructions?

15 MS. COHEN: Sure. I was thinking on maybe one or
16 two pricing products to not make it too burdensome on
17 everybody.

18 MR. LEVY: The interesting thing to note here.

19 MS. COHEN: Just to get an idea of what the
20 variation was.

21 MR. LEVY: The interesting thing to note here is
22 that for any given product you're going to have one supplier
23 of Kenmore. So when you break out the Kenmore, you are
24 reducing the overlap because by definition it's either a
25 Subject Import supplying the Kenmore product or a Domestic

1 depending upon what pricing product you're in. so you're
2 not going to be able to make any head to head comparisons if
3 you break out Kenmore. There are a range of factors what's
4 informing the price of a particular SKU. If you want to
5 break it out maybe after this staff you can send an email to
6 the parties, you know, and pinpoint which products and which
7 SKUs you want broken out. We'd be happy to accommodate.

8 MS. COHEN: Okay, thank you. We'll do that. Did
9 you have another comment?

10 MR. LEVY: Casey was just making the observation
11 that with regard to top load in the present tense Whirlpool
12 is the principal supplier of Kenmore product by contrast
13 with regard to front load; LG is the principal although not
14 necessarily the exclusive supplier of Kenmore branded
15 product. I believe that Electrolux is also a supplier at
16 the lower end so he was simply making that observation that
17 you are not going to find this overlap if you break it out
18 and in the prior proceeding the Commission did not break it
19 out so we'd ask you to consider what you want and then
20 instruct us accordingly.

21 MS. COHEN: Okay, we will do that.

22 MR. TUBMAN: I just worry there's no comparison
23 there.

24 MS. COHEN: Right. I don't think we covered this
25 yet, the online sales. I know that was discussed in the

1 previous case. Has there been any change in that.

2 MR. TUBMAN: I think during this period... sorry,
3 it's Casey Tubman. During this Period of Investigation
4 there continues to be a few more internet sales but I would
5 say it's still a minority. We like to classify it as sub
6 ten percent and of those even a vast majority of those are
7 what we would consider brick and click. I don't know if you
8 have heard that term before but say you went in and shopped
9 and then you weren't sure you wanted to buy it there.

10 You went and looked at another place and found
11 out it wasn't priced any lower there but you really liked
12 the salesperson at the other place. Instead of going back
13 to the store, you went home and bought it on the internet.
14 It's called a brick and click. So we still see quite a bit
15 of that versus pure internet people researching it and then
16 buying it without ever seeing it. I think of it a lot like
17 a car.

18 MS. COHEN: Sure. Have there been any changes
19 since the previous case in the types of discounts that are
20 offered either by Domestic producers or Subject Importers?

21 MR. LIOTINE: I don't know if there's any
22 technical changes but there's a lot of different tools to do
23 that but all those tools still exists.

24 MS. COHEN: I believe that is all I have.

25 MR. CORKRAN: Thank you Ms. Cohen. Ms. Breaux?

1 MS. BREAUX: Michelle Breaux, Office of
2 Economics. I will keep my question short as I have spoken
3 to some of you about the issues that I have and that are
4 pretty confidential. The question, I don't know if it has
5 been covered yet, is about lifecycles for individual models
6 and how that has each individual model's lifecycle, how does
7 that affect the prices at any given point.

8 MR. TUBMAN: Okay, Casey Tubman. I think, I will
9 give a different thesis to it because it's a little bit
10 complicated but the short answer is each SKU has a lifecycle
11 but then a platform has a lifecycle. So if you think about
12 just the individual SKU, our retail buyers they don't like
13 to flip their floors. It's a mess for them, let's say, it's
14 not easy and it costs them money and it costs them sales
15 because sometimes people won't want to buy something that
16 has been discontinued so on and so forth.

17 So they ask us to come in about every eighteen
18 months to two years. That's for all manufacturers. That's
19 about how often you should be flipping out a product. It
20 used to be longer and as times have gone on it's gotten
21 shorter and shorter but they still hold to that, I call it
22 an 18-month or more rule. So that's for an individual SKU.
23 For a platform, a platform can go, I mean platforms in the
24 past I've seen them go thirty years. I have seen some go
25 ten years, I have seen some go five years. So it just

1 depends on the platform and what new products are coming.

2 As far as the financial piece around it, we plan
3 for those. We have our product plans so you know when
4 something is going to trade out. You don't build large
5 inventories. You work with your retail partners to
6 understand what their inventory is and make sure they're
7 selling through that. When it actually comes down to
8 discontinuing the floor model and selling it off, that's
9 usually what you're worried about. The rest is just a week
10 or two's worth of inventory that you are trying to discount.
11 In comparison to your total business, it's very small.

12 MR. LEVY: Jack Levy. In relation to your
13 question about how it affects your pricing products, with
14 any given pricing product, you're going to have SKUs that
15 are being transitioned in and transitioned out continuously
16 throughout the Period of Investigation. New models coming
17 in, old models coming out. What the Commission observed in
18 the past case and this is still true of the conditions of
19 competition, there is nothing natural about the idea of
20 discounting a product and lowering the price progressively
21 over time in an environment where the cost structure is
22 fundamentally stable.

23 What is the exception is the small closeout
24 volumes to which Casey Referred and that's a very short
25 phenomenon. So you may have low volume of closeouts for a

1 couple weeks for the residual inventory. At the same time
2 that newer models are being flooded and that is sort of
3 continuously cycling through the industry at any point in
4 time.

5 MS. BREAUX: Thank you very much. That's all I
6 have and I want to let you know that you'll be hearing from
7 me as far as pricing products and definition goes later
8 today.

9 MR. CORKRAN: Thank you Ms. Breaux. Mr. Fravel?

10 MR. FRAVEL: Yes, I have a question of both GE
11 and Whirlpool. You can answer it in writing afterward also.
12 You've eluded to different segments of the market, value,
13 core and high end or premium, you've talked of low end or
14 whatever, if you could just tell us what those represent in
15 terms of how you're defining them when you say high end is
16 that a value term? It's just to understand the market a
17 little bit more or people have said in my readings core
18 product or value product or low end product?

19 MR. LIOTINE: Joe Liotine. Yeah, I think a lot
20 of those descriptors are pretty general and people use them
21 in different ways. Some are kind of averages for how we
22 speak. We can post-conference submit how we look at it and
23 terms we use. They are not all consistent for all
24 manufacturers or all retailers but are generally meant to
25 establish how broad is your product lineup and what price

1 points are you targeting? That's what they are generally
2 meant for but there is not a specific industry set of
3 definitions for those.

4 MR. FRAVEL: Would you be so kind as to break
5 that up in frontloading and top loading since you say its
6 price points too for what you think your company would do?

7 MR. TUBMAN: I think, as Joe said, just between
8 him and I we might call things two different things. It's
9 really a generality. We can try to put something together
10 but I don't think we will be able to put a specific, I
11 wouldn't tell you 799 is something versus 699.

12 MR. FRAVEL: Right, it's ranges or whatever.

13 MR. TUBMAN: It would be a broad range I think.

14 MR. FRAVEL: It would be a help.

15 MR. TUBMAN: Even that would be overlapping I
16 would say.

17 MR. FRAVEL: Okay, if you could also address
18 whether that would change by brand so for your Whirlpool
19 high end it would be different than your Maytag or your
20 Roper or your Estate or your Admiral, Amana, Crosby. Just
21 trying to place also the brands by sort of technology and
22 value.

23 MR. LEVY: Yes, we'll take a stab at that at our
24 post-conference. I don't think we have anything in the can
25 but we will try to create something that is responsive.

1 MR. FRAVEL: Okay. For understanding the one OEM
2 that you produce for I guess I don't understand it. So if
3 you could explain Kenmore, Sears goes out for the Kenmore
4 brand and then in their stores will they sell both the
5 Kenmore brand and your brands head to head even though you
6 might make the Kenmore.

7 MR. LIOTINE: Joe Liotine. Sears owns the
8 Kenmore brand so they pick and choose what they want to do
9 and who they want to source from and then they sell all
10 brands in most cases, in most of their stores. Maybe not
11 all products and all models but they assort, this is back in
12 the buyer discussion. The buyer chooses which of Kenmore
13 products. This is back in the buyer discussion. The buyer
14 chooses which of Kenmore products they want and the buyer
15 also chooses, the retail buyer, which of other branded
16 products they want.

17 So they may in some cases have a Whirlpool top
18 load machine and actually a Kenmore produced by Whirlpool
19 top load machine on the same floor. Same as front load.
20 They may have an LG front load machine branded and then they
21 may get the Kenmore produced from LG on the same floor.
22 That's kind of the buyer's choice as he or she designates
23 how they want to go to market.

24 MR. FRAVEL: Okay. For GE if they put in a
25 post-hearing brief what their experience with Sears and

1 Kenmore has been, that would be very interesting.

2 MR. MAGNUS: Be glad to do that.

3 MR. FRAVEL: Okay. Also in your post-hearing
4 brief just so I understand, can you differentiate or define
5 what the terms model and platform and SKU mean just so that
6 we are all speaking the same language. In terms of the
7 platform it would be interesting to see how that differs
8 from a model or how models, the design of models interact
9 with a platform and then.

10 MR. LEVY: We can do that.

11 MR. FRAVEL: And going back to the Kenmore/Sears
12 issue, does Sears actually design a washer or does it
13 actually just you give it CAD drawings and manipulates those
14 or do you interact with their research department to come up
15 with it or is it mainly you go in and disclose what
16 features.

17 MR. LEVY: We can address this more in our
18 post-conference but I will also refer you to the petition.
19 So what happens is Sears sends out an RFP and in it they
20 delineate the Kenmore models that they are trying to source
21 and they in great, gory detail describe the specifications
22 they are looking for. Off of that bid sheet competing
23 bidders propose a price so there is an illustration of that
24 in the petition and we will provide more detail which is
25 proprietary in our post-conference submission.

1 MR. FRAVEL: Okay. For Mr. Magnus and GE, there
2 are a number of press releases on GE's website regarding the
3 home builders and GE winning, this was before the previous
4 case, around 2010 or 2011, there is press releases of GE
5 winning exclusive contracts with some of the homebuilders,
6 like the 2nd and 3rd largest homebuilders. So if GE could
7 put in a post-hearing submission information about the value
8 of those contracts and any information that would shed light
9 on how important they are.

10 MR. MAGNUS: The questionnaire response breaks
11 out what goes through the contract channel as a share of the
12 total.

13 MR. FRAVEL: Okay.

14 MR. MAGNUS: So what may we give you in a
15 post-conference submission beyond that?

16 MR. FRAVEL: I will think about that. I have no
17 further questions.

18 MR. CORKRAN: Thank you, Mr. Fravel. Mr.
19 Boyland?

20 MR. BOYLAND: Good afternoon. I have already
21 sent the company's follow up questions. I appreciate your
22 time in responding to those. I do have a few questions
23 here. One question, just in terms of Mr. Porter's opening
24 statement he indicated that there is a disconnect between
25 the public financial results of Whirlpool and what's being

1 reported in the questionnaire. I was wondering if you could
2 respond to that here in the post-hearing, post-conference?

3 MR. LEVY: Sure. So I was a little befuddled by
4 that as well. I think Mr. Porter is trying to somehow
5 discern from Whirlpool's public SEC disclosures information
6 about its U.S. LRW financial performance. To be clear,
7 Whirlpool never reports financial information for that
8 business segment in any of its SEC disclosures and so the
9 comparison he is making is at best a false comparison.

10 Whirlpool has very diligently reported its
11 trade-related information and its financial performance for
12 its U.S. LRW operations using the same methodology applied
13 at the prior investigation which at the time was audited by
14 Mr. G, assuming we proceed to a final phase, Whirlpool looks
15 to welcoming you and having you audit the information
16 provided in this questionnaire response. We can assure you
17 we have done that with the greatest commitment to diligence
18 and integrity.

19 MR. BOYLAND: Thank you. And I hesitate to ask
20 questions about tax credits but since Chris did bring this
21 up, I was wondering to what extent the generation of tax
22 credits are considered in terms of evaluating the financial
23 results at the level that you look at them within the
24 company, for LWR or a larger group?

25 MR. TUBMAN: Sorry, Casey Tubman. I am kind of

1 smirking here a little bit because my boss is sitting here
2 and he would remind me that that is in no way my doing in
3 helping the company by earning those so they are not
4 considered as part of our ongoing business and I would say
5 at this point again, he knows I can't consider them because
6 we are not making a profit so I can't do anything even if I
7 do earn them.

8 MR. BOYLAND: Okay, and actually that led into
9 the next question which is again, in terms of generating the
10 tax credit I'm assuming that it wouldn't be necessarily the
11 case that you would have to generate income specific to what
12 the credit was generated on. In other words, it's a broader
13 credit. You wouldn't necessarily be isolated to LWR. Is
14 that correct?

15 MR. LEVY: That is correct and we will elaborate
16 more on the ETC issue in our post-conference submission.

17 MR. BOYLAND: Okay, thank you. I appreciate
18 that. This actually was a point that Mr. Tubman Brought up,
19 the Staber product? Could you just give me a brief example
20 of what the advantage is of having that hybrid?

21 MR. TUBMAN: Casey Tubman. I'm not sure I can
22 tell you an advantage or disadvantage of it. I think it's a
23 choice by Staber to produce those. Honestly it's a
24 horizontal axis so it spins and tumbles like a front loader
25 but you load it from the top like a top loader. There's

1 been others in the past, again that was one of the ones that
2 actually left the U.S. business at one time or U.S.
3 production and I would just say it's a preference of how
4 they prefer.

5 MR. LEVY: So there's no obvious advantage to
6 that particular design. Jack Levy again, in addition to
7 representing Petitioner Whirlpool I have the great privilege
8 of also representing Staber Industries, a much smaller
9 company, sort of a modest family-owned business but
10 nonetheless important to the tapestry of their local
11 community in Groveport, Ohio.

12 If you go to their website they have a wonderful
13 link to their video and it's an excerpt from the TV show, I
14 think it's called "How it works". So it profiles not just
15 the production of the washer but sort of shows it in motion.
16 So it's a bit of a duck-billed platypus in terms of the
17 hybrid design. It's neither front load or top load in a
18 sense, but it's a great curiosity and you will find it
19 amusing.

20 MR. BOYLAND: I will check that out. This may
21 have already been answered but I wanted to ask, in terms of
22 the Mexican Repatriation, was that GE and Whirlpool both or
23 just one of the companies. Can you just please help me
24 understand it?

25 MR. LEVY: I think Mr. Magnus may not be at

1 liberty to speak to this now but can obviously comment at
2 post-conference. To be clear, when we talk about on-shoring
3 or repatriation, in the case of Whirlpool this relates to
4 certain frontload washers that were produced in Acapulco,
5 Mexico and moved to Clyde, Ohio. With regard to GE, our
6 understanding on behalf of Whirlpool was that GE had been
7 sourcing such washers for its front load lineup from China
8 and started manufacturing such mid featured and
9 high-featured front load washers in Louisville.

10 I think around the start of this investigation
11 they made a substantial investment and commitment to U.S.
12 Manufacturing and so different countries, different products
13 or similar products actually but obviously in different
14 countries.

15 MR. BOYLAND: Okay, thank you. I guess the
16 follow up question to that would be since we do have an
17 overlapping period from this case and the last case, in the
18 post-conference or now just clarify to what extent that has
19 basically ended? I think for the Mexican Repatriation it
20 would probably be a fairly clean, it began at a certain time
21 and it ended. During the period we're looking at, was it
22 still ongoing? The transfer or had it already been...

23 MR. LEVY: So in the case of Whirlpool, by the
24 middle of 2012 it had discontinued the importation of
25 washers from Mexico and by the end of 2013 had completed the

1 expansion of its front load lineup. I guess for GE the
2 question would be similar in terms of that product that was
3 being produced in China that is now being produced in the
4 U.S. Had that essentially been ramped up and completed
5 prior?

6 MR. MAGNUS: We will address this in a
7 post-conference speech. So that I am clear, after, the
8 current situation is I think quite clear. GE makes these
9 machines in Louisville. It sounds like what you are really
10 interested in is what used to be happening before they
11 transitioned.

12 MR. BOYLAND: Again, in part it's to what extent
13 we are seeing a transition during the period itself. In
14 other words, I understand you're doing it now but in 2012
15 for example was there an intermediate period where you are
16 transferring and then this activity began.

17 MR. MAGNUS: So just to try to be helpful today,
18 I think maybe what you could say is that prior cases have
19 caught GE's transition midstream.

20 MR. BOYLAND: Okay.

21 MR. MAGNUS: This one doesn't.

22 MR. BOYLAND: This one doesn't, okay. Fair
23 enough.

24 MR. MAGNUS: We will give you details in the
25 post-conference submission.

1 MR. BOYLAND: Thank you, I appreciate that.
2 That's the problem with being the last question, I think all
3 the good questions have been asked. I appreciate your time.
4 Thank you.

5 MR. CORKRAN: Thank you, Mr. Boyland. Thank you
6 to the assembled staff for the questions and thank you very
7 much for your very informative responses. I echo Mr.
8 Boyland's lament. I have two questions that are really just
9 extensions of questions that have already been asked. The
10 first question relates to your Exhibit J and there's been a
11 great deal of discussion about price compression. There
12 have been questions raised already and the respondents open
13 on this issue.

14 My question is, given that washers are
15 characterized as workhorses and that many of the events that
16 occur over the data collection period including lost sales
17 and lost revenue or impact are described as occurring over
18 the full range of products, do you see bottom-driven changes
19 in pricing? Sort of the opposite of what you have described
20 as price compressions, basically reductions in low end or
21 basic feature models that then carry on into the higher
22 feature products, akin to somebody saying "give me your best
23 price and I'm not really interested in these greater
24 features".

25 MR. LIOTINE: I'm sorry. I didn't understand the

1 question exactly so you're asking in the bottom segment what
2 happens?

3 MR. CORKRAN: That if you see price reduction
4 across your whole range of products do you sometimes see
5 instances where that is not being driven from the top end of
6 the spectrum where you've described reductions in best
7 feature products that spill over into the lower levels but
8 rather price competition generated from the very lowest end?
9 Your price reductions for basic features that then pull down
10 your higher models.

11 MR. TUBMAN: Casey Tubman. I think I understand
12 what you're asking. I would say again ninety percent of the
13 time, most of the time, it's a case where products above are
14 pushing down. Again, it's typically I hate to say it, it's
15 the buyers coming to us and saying "an LG or a Samsung
16 product is being offered at X price. It's your floor spot
17 today. Would you like to maintain it? If so, what price
18 can you give me on it?" So on and so forth. It's typically
19 not, and again think about it. we are in the business to
20 make money so you're not going in with your lowest price of
21 your lowest product and saying "let me discount this lowest
22 product even further." It doesn't make financial sense.

23 MR. CORKRAN: Thank you. And the other request
24 is when you are responding to Mr. Cassise's request for
25 information on raw materials and I'm looking particularly at

1 steel, but just in general and you were talking about the
2 contract prices that you pay for those raw materials, in
3 describing those could you please just specify not just the
4 duration but how frequently those might be adjusted, say
5 monthly or quarterly? And on what basis they're adjusted if
6 there is an index to a published source of information such
7 as CRU or American Metal Markets what the basis for those
8 adjustments are?

9 MR. LIOTINE: We can talk to that.

10 With that, let me turn to my colleagues to see if
11 there are any final questions on the panel.

12 (Silence)

13 MR. CORKRAN: Then it's my privilege to thank you
14 very much for your participation here. It's been very
15 helpful to us and we will take a ten-minute recess before
16 seating the respondent panel.

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

18 MR. CORKRAN: Thank you, Mr. Secretary. And
19 before we begin, are there any preliminary matters for
20 consideration?

21 MR. BISHOP: Mr. Chairman, the panel in
22 Opposition to the Imposition of the Antidumping Duty Order
23 have been seated. All witnesses on this panel have been
24 sworn in.

25 MR. CORKRAN: Thank you, Mr. Secretary. Thank

1 you to the panel. And Mr. McCullough, you may begin when
2 you are ready.

3 STATEMENT OF MATTHEW P. McCULLOUGH

4 MR. McCULLOUGH: Thank you. Good morning.

5 Or, good afternoon, I guess it is now, isn't it?
6 It was a long morning.

7 My name is Matt McCullough. I'm a partner with
8 the law firm of Curtis, Mallet-Prevost representing
9 respondents in this proceeding.

10 And I want to take this time to briefly discuss
11 the domestic-like product in this investigation. Admittedly
12 I'm going to go a little off script from what I had prepared
13 and I'm -- you may even have a set of slides, I'm not even
14 going to use them now. I'm not really sure what happened
15 this morning, but I -- I think I heard Mr. Levy concede that
16 the domestic-like product here, the like product is the same
17 as the last investigation and that in fact these three
18 product exclusions, the what had been deemed low-tech
19 washers and this extra-large frontload model are in fact
20 part of the domestic-like product.

21 Did he amend his petition? I don't know. But we
22 have a process here and if that is the case, I think
23 Whirlpool needs to make a submission to do so. He certainly
24 didn't clarify the petition because clearly the petition
25 argues for a domestic-like product that is co-extensive with

1 the scope that they have defined. So I'm going to forego
2 the slides, but I think it's important to cover a little bit
3 of ground because in the process of their presentation, I
4 think Mr. Levy made some statements about how scope is
5 derived, how domestic-like product is derived, that I think
6 are in error as a matter of law. So I wanted to cover some
7 point briefly with you and I'll end it at that and of course
8 I'll answer any questions you may raise.

9 The first basic point obviously is that the
10 Commission is not required to limit the domestic-like
11 product to products coextensive with the scope. And scope,
12 of course, is not defined by what is actually produced in
13 the United States. We've seen numerous cases where actual
14 production doesn't exist.

15 The issue for the Commission on like product is
16 whether there is a continuum of large, residential washers
17 that is broader than the scope with no reasonable dividing
18 line that could confine the domestic-like product to
19 merchandise coextensive with the scope.

20 The second point I want to make is with respect
21 to the scope exclusions, whether or not they are like
22 product now or not, I think the Commission answered my first
23 point in the last investigation. It concluded that there is
24 no reasonable dividing line.

25 Third, obviously, Whirlpool's own petition

1 undermines any idea that the scope exclusion should also be
2 excluded from domestic-like product. Whirlpool cannot
3 distinguish its proposed exclusion from any of the six
4 factors it has addressed at pages 36 to 38 of its petition.
5 Those are the like-product factors. If you read Whirlpool's
6 analysis, you are compelled to conclude that these proposed
7 exclusions whether or not they're still proposed, I don't
8 know, are part of the domestic-like product continuum.

9 Finally, one last point to make, and this gets a
10 little bit about what Mr. Levy was talking about today.
11 Claimed lack of domestic production which is the sole basis
12 for Whirlpool's decision to limit its scope definition
13 before the Department of Commerce is not a sufficient basis
14 for excluding product variations from a domestic-like
15 product comprised of a continuum of products.

16 The Commission has looked at this before and has
17 often included within a domestic-like product continuum
18 product variations that all parties agreed were not produced
19 in the United States.

20 Having said that, I think I will conclude. We
21 don't need to go through the slides. I think the slides are
22 pretty obvious what I was going to show there. But happy to
23 answer questions. The bottom line is that these product
24 exclusions, the three of them in particular should be part
25 of the domestic-like product. Thank you.

1 STATEMENT OF MICHAEL T. SHOR

2 MR. SHOR: This is Mike Shor on behalf of
3 Samsung. I would just like to reiterate on behalf of
4 Samsung that for purposes of the preliminary investigation
5 we agree that the like products should be a single like
6 product composed of all residential washers. We do,
7 however, wish to reserve our right for the final
8 investigation to argue potentially that the components that
9 they have defined to be within the scope are a separate like
10 product because they don't compete with washers, and in fact
11 they're not used to produce washers. They are used solely
12 for repair purposes.

13 And, second, also to potentially argue that
14 dryers should be included in the scope because this
15 investigation is -- the scope is slightly different and
16 includes a combination machine and we will be discussing the
17 profitability of dryers and how they're tied to washers and
18 all that.

19 Thank you.

20 STATEMENT OF DEAN BRINDLE

21 MR. BRINDLE: Good afternoon. My name is Dean
22 Brindle and I am the director of Laundry and Dishwasher
23 Product Marketing for Samsung Electronics America. I have
24 worked at Samsung for over four years and prior to that I
25 worked at Electrolux for seven years.

1 Overall I spent the last 11 years in the
2 appliance industry with nine years dedicated to laundry
3 which includes washers, dryers, and accessories.

4 Prior to home appliances I spent nine years in
5 the textile industry, so I'm pretty well versed in the
6 laundry business.

7 As the director of Laundry Product Marketing, I
8 oversee the marketing of Samsung's laundry products in the
9 United States. This entails strategic planning, product
10 plans, direct consumer retail marketing, including retail
11 displays, retail or map pricing, product training, promotion
12 plans, supply chain planning, forecasting, and as well as
13 input to product concepts globally.

14 My testimony today will focus on three issues
15 that relate to important conditions of competition in the
16 U.S. industry.

17 First, random product differentiation and the
18 factors that drive purchasing decisions.

19 Second, market segmentations and third, the
20 manner in which washers are marketed and priced together
21 with dryers.

22 Large residential washers are not the typical
23 commodity product the Commission normally investigates.
24 They are highly differentiated, branded, consumer products
25 that compete primarily based on consumer perceptions of

1 quality, brand recognition, brand preference, capacity, and
2 other features.

3 Demand at the purchaser level is driven by
4 consumer preference. Retailers stock what consumers want to
5 buy and if consumer demand fails to materialize or wanes,
6 that model will lose its precious retailer floor space.

7 As the director of Laundry Product Marketing, I
8 cannot emphasize enough the importance of brand perception.
9 Consumers associate the Samsung brand with leadership and
10 innovation, quality, technology, and service. In 2015
11 Forbes ranked Samsung the seventh most valuable brand in the
12 world. Whirlpool's brand by contrast did not make it into
13 the Forbes list which ranks the top 100 brands in the world.

14 This brand perception helps us tremendously. The
15 halo effect is obvious because our consumers see our
16 products advertised over 100 times per year. Even before a
17 consumer walks into a store to shop for a washer or dryer,
18 they are familiar with Samsung. Indeed, they may be
19 carrying one of our phones or already own one of our TVs.
20 They already know that Samsung makes great innovative
21 products and this is especially true of our millennial
22 consumers. This growth in the strength of our brand has
23 truly paid off. Based on our internal research during the
24 period of investigation, our brand perception increased by
25 110 percent and consumers citing Samsung as the most

1 preferred brand increased by 300 percent.

2 In contrast Whirlpool declined by 7 percent in
3 brand perception and 4 percent in brand preference during
4 the same period.

5 Meanwhile, Maytag declined by over 19 percent in
6 brand perception and 12 percent in brand preference.

7 Whirlpool has not maintained brand perception and
8 preference falling behind Samsung. By its own admission,
9 Whirlpool sells washers under seven different brand names
10 and eight if you count the Kenmore brand.

11 In December 2012, Home Depot introduced Samsung
12 products, not based on price, but based on the brand being
13 requested by its consumers. Home Depot recognized that
14 consumers were requesting Samsung's innovative products. As
15 Home Depot did not display or sell Samsung, they were losing
16 sales to other retailers. Samsung continues to grow sales
17 at Home Depot based on the innovative products, not solely
18 based on price as Whirlpool argues.

19 As washers continue to move from the basement
20 into the main living spaces of homes, innovative designs and
21 style continue to grow in importance for consumers. Samsung
22 has a history of innovation and product design and features.
23 Traditionally this industry has been slower to innovate and
24 since Samsung entered the market it has increased the pace
25 and scope of the innovation.

1 Indeed, Samsung has introduced new, highly
2 innovative washer products every year.

3 If you take a look at the storyboard on the
4 right, you will see the items that I'm going to reference in
5 the next section.

6 In 2012, we introduced a newly, designed
7 frontload washer with an LCD display and the industry's
8 first Wi-Fi connectivity.

9 In 2013, we introduced the new, large-capacity
10 topload washer with our aqua jet technology which deep
11 cleans clothes while being gentle on fabrics.

12 In 2014, we introduced the world's largest
13 capacity topload and frontload washers at 5.6 cubic feet.

14 Now, this morning you'll note that Whirlpool
15 talked about their 6.2 that we think is probably going to be
16 in the market in May. So it's taken over two years to
17 respond to our 5.6 launched in 2014.

18 Included with those 5.6 cubic foot platforms was
19 our new super-speed technology for both frontload and
20 topload washers. Super-speed technology permits consumer to
21 wash a full load of laundry in as little as 36 minutes.
22 This reduces wash times by up to 40 percent without
23 sacrificing cleaning performance.

24 And in 2015 we introduced our new active wash
25 feature. You will see a little bit about active washing on

1 the second storyboard behind you. Washers with active wash
2 incorporate a built-in sink permitting consumers to pretreat
3 clothes prior to washing.

4 And in 2016 we will be introducing a new
5 frontload washer platform with an add-wash feature. This
6 allows consumers to add clothes well into the wash cycle and
7 we'll also bring in a new topload washer with a sleek and
8 improved active wash design. You will see those two
9 products on the far right for 2016.

10 Both of these new frontload and topload designs
11 will also introduce an industry-leading, black, stainless
12 steel color.

13 Now, this morning we heard a little bit about
14 color. Unlike some of our competition we've had good
15 success in the U.S. market selling premium colors including
16 blue, red, platinum, and now our future black stainless
17 steel. These innovations make a difference.

18 Take our active-wash feature for example. It's a
19 relatively simple concept. Incorporating a sink into the
20 washer. We have found that as consumers move their washers
21 from the basement into the other areas of their home, 70
22 percent did not have a dedicated sink next to their washer.
23 That sink could be used for pretreating stains, hand-washing
24 items, or even rinsing swimsuits. And in many cases, when
25 they did have a sink, it's very inconvenient to transfer the

1 wet items from the sink to and from the washer. Or that
2 sink may be what we affectionately called a slop sink. And
3 I think we've all seen one in the basement that you
4 definitely can't pretreat clothes in.

5 Samsung eliminated the inconvenience by
6 incorporating a sink into the washer with a built in water
7 jet. Samsung patented this feature and no one else sells
8 anything similar to it in the market.

9 Since we introduced this feature in early 2015,
10 among three models we have sold more than 200,000 active
11 wash units in the United States.

12 During the same period of time, since 2012, the
13 U.S.-based industry has lagged. Whirlpool has focused
14 almost exclusively on capacity increases.

15 Now, I would ask you to look at the bottom of the
16 storyboard on the right, please. Increasing the capacity of
17 its topload washers from 5.0 to 5.3 while Samsung went from
18 4.7 to 5.6 and its frontload washers from 4.3 to 4.5 where
19 Samsung was also 5.6. But has done little else to
20 distinguish its products.

21 Whirlpool has also neglected the Maytag brand
22 which it acquired in 2005 for \$2.7 billion and let that
23 brand languish. Meanwhile the innovations being made by
24 Samsung have helped to create new demand. Consumers are
25 attracted to these new innovations and are purchasing new

1 models before their existing washers fail. This is a
2 departure from their past practice of waiting until their
3 washers fail to replace. Our research shows that 50 percent
4 of consumers who purchase a Samsung washer purchase before
5 their existing washer failed.

6 With increased discretionary demand, we estimate
7 that demand has grown by 25 percent from 2012 to 2015 and we
8 estimate that demand will grow by an additional 6 percent in
9 2016.

10 Despite Whirlpool's singular focus on price,
11 consumers purchase washers based on a variety of factors.
12 This is not to say that price is not a factor. But in the
13 market segments in which we compete it is not the deciding
14 factor. In other words, while price may define the range of
15 washers a consumer considers, it does not determine the
16 ultimate selection.

17 Now, there is a budget conscious segment of the
18 market that just wants the cheapest washer. But that is not
19 our customer, and we do not offer the cheapest washer, which
20 is typically a conventional topload with an agitator, a
21 product that Samsung does not produce.

22 Our focus is on high-end products and consumers
23 that purchase such products. While price is a factor even
24 for these consumers, our research suggests that their final
25 purchase decision is driven by non-price factors including

1 brand perception, perceptions of quality and reliability,
2 styling and design, features, fit, feel, and finish.

3 In fact, our research shows that consumers that
4 plan to spend less than 599 for a washer ultimately spend
5 less than they originally budgeted. While consumers that
6 plan to spend more than 599 spend more than they budgeted.
7 In other words, we find that consumers above \$600 trade up
8 and spend more than budgeted. That's where Samsung is
9 successful.

10 With this in mind, we did not design,
11 manufacture, and position our products to be the cheapest.
12 Rather we want them to be the best. And we believe we've
13 been successful at that. We view J.D. Power as the leading
14 source of consumer satisfaction data. The J.D. Power
15 consumer surveys rank products by brand and type.

16 J.D. Power has ranked Samsung's frontload washers
17 as number one in overall customer satisfaction for six
18 consecutive years. In addition to ranking Samsung number
19 one with respect to the following attributes, performance,
20 reliability, ease of use, styling, and appearance. In
21 contrast Whirlpool ranks number six overall and Maytag ranks
22 number four in frontload washers.

23 J.D. Power also ranked Whirlpool's washers below
24 average in performance, reliability, and features. This is
25 what their consumers say about their products in those

1 surveys.

2 With respect to topload washers, J.D. Power has
3 again ranked Samsung number one overall. In addition to
4 ranking Samsung number one with respect to the following
5 attributes, performance, reliability, styling, and
6 appearance. In contrast Whirlpool and Maytag ranked fourth
7 or fifth in each of these topload attributes. Once again,
8 falling behind Samsung.

9 This morning we heard a little bit about Consumer
10 Reports. I'm proud to say that in 2015 Samsung had the
11 number one rated frontload washer, the number one rated
12 topload washer, and the number one rated electric and gas
13 dryer in Consumer Reports. It's a clean sweep of the
14 competition for us in those rankings.

15 Next I'm going to move to a product
16 demonstration.

17 So I brought in a few washers to demonstrate this
18 point. First I brought in Samsung's 5.2 cubic foot topload
19 washer with the active wash feature that I mentioned
20 earlier. You will notice the built-in sink and the water
21 jet here in the top. I would encourage the Commission staff
22 to take a look at this washer, open it up, examine the
23 design, take a look at the control panel, look at the fit,
24 feel and finish. Look at the stainless steel impellor at
25 the bottom of this product. And also take a look at our

1 soft-close lid. And don't forget that active wash is
2 exclusive to Samsung.

3 I've also brought in two other washers. A 5.3
4 cubic foot top load, right? From Whirlpool. And a 5.3
5 cubic foot top load from Maytag. Both of these washers are
6 larger than the Samsung washer, but sell of less at retail.
7 This has been Whirlpool's strategy, without winning design
8 and innovation, Whirlpool has resorted to selling
9 higher-capacities at a lower price point. Please note,
10 Whirlpool excluded these two, larger-capacity washers from
11 the price and product categories that you will receive while
12 including the slightly smaller Samsung 5.2 capacity model.
13 Therefore, even though these larger capacity washers are
14 underselling the smaller capacity Samsung, the Commission
15 will not be getting any pricing data for these larger
16 washers.

17 I'd encourage the staff to take a look at these
18 Whirlpool/Maytag washers and compare them to Samsung.
19 They're clearly inferior products. We've done the research.
20 We've taken a look at this, right? In fact, this latest
21 intuitive touch interface by Whirlpool was ranked last by
22 consumers in a comparison of seven different washer designs
23 in 2015. The how to and what to wash story was lost on the
24 consumers. They don't understand the lack of a knob, they
25 don't understand the navigation of the control panel. And

1 they were concerned about the interaction of this product.
2 When we look at the fit, feel, and finish you'll also see
3 inside the blue accents versus the stainless steel. Those
4 items, despite the 5.3 capacity show that this product is
5 inferior to Samsung.

6 When I look at the Maytag, I would also encourage
7 you to take a look at the controls on this product. This
8 might be a familiar control configuration, right, for those
9 that have been in the market historically, it's also still
10 not desired by consumers as we look at that test overall.

11 In addition, a plastic wash plate in the bottom
12 as opposed to a full stainless steel interior. Now, what's
13 also interesting about these two washers is that despite
14 their 5.3 cubic foot capacity, which by the way is the
15 largest available in the market today by Whirlpool, these
16 two washers sold below the price of Samsung don't include
17 the features you heard about this morning, including load
18 and go, dynamic reventing, or remote connectivity as
19 Whirlpool has solely focused on capacity.

20 So when a consumer views products at a retail
21 store, they often try to evaluate capacity and quality first
22 and foremost which explains part of the focus. Today's
23 consumer perceive quality much differently than a simple
24 repair rate. Customers buy with their eyes. And they look
25 for an overall perception of quality including design,

1 style, features, fit, feel, and finish. We get positive
2 feedback from our customers and our retail partners that
3 style and design are the main reason they pick our Samsung
4 products. Because of our superior products, we can sell our
5 washers at a premium. While Whirlpool accuses us of leading
6 the charge on providing bigger discounts and extending
7 promotional periods, this is simply not true.

8 All producers offer discounts during the various
9 holidays throughout the year and Samsung is no different
10 than Whirlpool in that regard. While Whirlpool offers
11 heavier discounts based on capacity, Samsung's discounts are
12 focused on the life cycle of our products. For example,
13 let's talk about the pricing of these units. During Black
14 Friday 2015 the Maytag 5.3 you see here not including the
15 pricing product was available to consumers at a net retail
16 price of 599. While the included Samsung 5.2 cubic foot
17 capacity in white was at 699. Even with discounts our
18 Samsung active wash model never sold below 699 in white at
19 retail despite the competition at a 5.3 larger capacity at
20 599.

21 As our lifecycle progresses, right, we offer
22 little to no discounts in our newly released models and
23 moderate discounts after the models have been on the market
24 for a number of months. And then those discounts are larger
25 towards the end of the life cycle of the product.

1 [PAUSE]

2 MR. BRINDLE: Now I will turn to my second topic.

3 Price competition in the U.S. is even less of a factor
4 because subject imports from China do not compete in all
5 segments of the market. As I already mentioned, there's a
6 budget conscious segment of the market that just wants the
7 cheapest washer which is the conventional topload with an
8 agitator. We do not compete in that segment of the market.
9 Rather, we are overwhelmingly concentrated in the high-end
10 segment of the market.

11 Whirlpool, on the other hand, is heavily
12 dependent on the low-end of the market which we estimate at
13 approximately 40 percent of total units.

14 We also did not sell significant volumes to
15 builders in the U.S. which is an important segment of the
16 market for the U.S. producers. We estimate that builder
17 represents over 8 percent of the U.S. laundry business and
18 Whirlpool and GE dominate the builder market based on their
19 domestic logistics network.

20 And on to my final topic of price bundling. I
21 wanted to spend a little more time discussing a key
22 condition of competition that was not addressed in the prior
23 investigation. Specifically the pairing of washers and
24 dryers and their joint pricing in the U.S. market. Washers
25 are designed, marketed, and priced to be sold in pairs with

1 dryers. Indeed, retailers display, advertise, and promote
2 washers and dryers as pairs together and for frontload
3 washers, they also market washer and dryer pairs together
4 with their corresponding, highly profitable pedestals.
5 Historically the industry priced washers higher than dryers
6 because washers cost more to produce than the paired dryers.
7 More recently Whirlpool led the U.S. industry to match
8 washer and dryer pricing at mat. This is an important
9 condition of competition because dryer profits effectively
10 subsidize washer profits or lack thereof.

11 We have tried to differentiate our washer and
12 dryer pricing, but our retail customers have refused to go
13 back to that old pricing method. They love being able to
14 advertise a washer and dryer pair together and offer the
15 same price for the washer and the dryer. They believe that
16 this simplifies the sale for the consumer and they think
17 they'll lose the sale if the consumer has to do the math.

18 Whirlpool continues to promote paired sales
19 heavily particularly for the Maytag line. In 2015 Whirlpool
20 ran an extensive mail-in rebate program with savings up to
21 \$300 on washer/dryer pairs for consumers who bought a Maytag
22 washer and dryer together.

23 Overall a majority of washers are sold together
24 with dryers in the U.S. This has a notable impact on washer
25 prices which is particularly evident when comparing U.S.

1 washer prices to those in other countries such as Mexico.
2 In Mexico dryers are typically not sold together with
3 washers. And in other markets washer prices are generally
4 \$100 or more higher than dryers. As manufacturers know, the
5 consumer interest in dryers is much lower whereas the U.S.
6 market exhibits over 75 percent dryer attachment.

7 The cause of this paired pricing in the U.S.
8 domestic washer profitability cannot reasonably be evaluated
9 without considering dryer profitability. Based on my 11
10 years at Samsung and Electrolux, I cannot imagine the
11 laundry business being evaluated solely based on washer
12 profitability or ignoring tens to hundreds of millions of
13 dollars in tax credits.

14 Thank you very much for your time.

15 STATEMENT OF JOHN HERRING

16 MR. HERRING: Good afternoon, my name is John
17 Herring. I'm the Vice-President of Sales for our Home
18 Improvement Channel within the Home Appliance Division at LG
19 Electronics. I've been with LG nine and a half years and
20 actually began my career at Maytag, where I spent over
21 twelve years. Collectively, I have over twenty-one years in
22 the appliance business, so I'm pretty familiar with the
23 washing machine industry.

24 I'd also like to introduce my colleagues, John
25 Toohey, the Director of Strategy, and Andrew Kim, who's our

1 Product Marketing Manager for the Washing Machine Division.
2 Our team is here to discuss important market facts relative
3 to the U.S. washer market so the ITC has necessary
4 information for this petition.

5 Some of you may recall, I was here in 2012 for a
6 similar case. So you may be familiar with some of the
7 information previously presented.

8 Let's start with Market Fact #1. Washers are
9 not a commodity product. The consumer's choice among
10 brands, designs, features and innovations has never been
11 greater. In fact, there are a variety of washer
12 configurations, offer from up to ten brands, ranging in
13 price from \$300 to over \$1,500.

14 If all washers were created equal, there
15 wouldn't be so many options across the broad spectrum of
16 price points available to U.S. consumers today. According
17 to Trackline, the industry average price for a washer in
18 2015 is just \$568. Yet over 74% of LG's washer sales during
19 the same period are over \$600. Clearly, LG is a leader in
20 driving higher average prices in the U.S. marketplace.

21 Let's look more in depth at how LG is able
22 to accomplish higher average selling prices in such a
23 competitive environment. Market Fact #2. Product
24 innovation is critical to driving consumer demand and higher
25 retail prices. LG has a rich history and is known for

1 bringing innovation to U.S. consumers.

2 I'd like to call your attention to a slide
3 entitled Washer Innovation Product and Design. This first
4 slide outlines the numerous innovations LG has brought to
5 the U.S. washer market since 2003. In 2006, LG
6 revolutionized the U.S. washer market by bringing innovative
7 steam technology to the market with a bold new design in the
8 wild cherry red color.

9 This demonstrated to the industry that both
10 design and color were important to U.S. consumers and they
11 were willing to pay a premium as we launched this product at
12 \$1,399 and it was a huge success, creating backorders at the
13 factory well into 2007.

14 The slide also shows the innovations that
15 Whirlpool seemingly acknowledged were important to U.S.
16 consumers as well, by emulating these and adding them at a
17 later date.

18 I'd like to move on and briefly cover some of
19 the individual LG innovations on the following slides. The
20 first one is LG's front control top load design that LG
21 brought to market in 2012. By relocating the control panel
22 from the back of the washer to the front, LG provided
23 consumers with a more intuitive design, making the controls
24 easier to see and operate. This immediately sold very well
25 and became an overnight sales success.

1 The next slide showcases LG's turbo wash, which
2 was also launched in 2012 on front load washers and fast
3 forwarded the laundry chore for U.S. consumers.
4 Dramatically reducing the time for consumers to wash a load
5 of clothes required from 60 minutes to 40 minutes without
6 sacrificing performance.

7 The next slide showcases one of the most
8 innovative concepts the washing machine industry has ever
9 seen with LG's new twin-wash system. For the first time
10 ever, consumers now have the ability to wash two loads at
11 the exact same time by coupling our sidekick pedestal washer
12 with any of our LG front load washers.

13 This truly unique offering is providing
14 consumers with the opportunity to simultaneously wash a big
15 item, such as a comforter in the front load washer above,
16 along with a small or delicate items in the sidekick
17 pedestal washer below.

18 This was one of the biggest hits at the consumer
19 electronics show last year and is now broadly available at
20 retailers all across the United States. This brief
21 collection of washer innovations truly set LG apart as a
22 leader in bringing real value to U.S. consumers and making
23 Life's Good a reality.

24 This consistent pattern of innovation over time
25 really has resonated with U.S. consumers. Let's look at

1 this with Market Fact #3. Brand awareness plays a major
2 role in a consumer's purchase decision for washers.

3 Let's turn to the slide titled Unaided Brand
4 Awareness. This slide highlights the unaided awareness of
5 three major domestic washer brands available to U.S.
6 consumers. For clarity, unaided simply means the consumer
7 had to recall the brand without any prompting during the
8 survey.

9 As you can see, from 2013 to 2015, the
10 Whirlpool, Maytag and GE brands all incurred steep declines
11 of eight to nine points in unaided brand awareness,
12 indicating that Whirlpool, Maytag and GE are all losing
13 mindshare among U.S. consumers.

14 The next slide shows Top of Mind Brand
15 Awareness, which indicates the first brand the consumer
16 listed when asked. The rapid growth of the LG brand by
17 nearly eight points in the past two years confirms LG's
18 product investments are increasing awareness among U.S.
19 consumers. There are many factors contributing to the
20 growth of LG as an overall brand, including our company's
21 significant presence and success in the mobile phone and
22 home electronics market.

23 But I'd also like to call your attention to the
24 next slide, Brand Image, from our MESH shopper tracking
25 study, which shows the consumers' perception of the LG

1 brand, versus the Whirlpool brand, across a variety of
2 characteristics. This clearly shows that, compared to
3 Whirlpool, consumers see LG as more modern, more innovative,
4 and more premium, among other things.

5 Clearly LG's continuous innovation is having a
6 favorable impact with regard to consumer's perception of the
7 LG brand. And now I'd like to turn it over to my colleague,
8 John Toohey.

9 STATEMENT OF JOHN TOOHEY

10 MR. TOOHEY: Thank you, John, and good afternoon.

11 As John mentioned, my name is John Toohey, and I am the
12 Director of Strategy for LG Electronics USA, a role I have
13 occupied since joining the company in 2010. Over the past
14 five plus years, I have worked very closely with the home
15 appliance division, helping to plot growth plans, analyzing
16 market trends and data, and helping to execute on some of
17 our key growth initiatives.

18 I'd like to take a few minutes now to build on
19 John's points with some additional key market facts. Market
20 Fact #4 is that the washer market in the U.S. is a very
21 distinct lower value segment.

22 If I can refer you to the next slide entitled
23 U.S. Washer Market Segmentation, this represents the market
24 broken down using Trackline data and you can see that the
25 washer market can be divided into three segments based on

1 the physical configurations of the washers, namely top load
2 washers with agitators, top load washers without agitators,
3 and front load washers. And I would note that virtually all
4 industry data allows the market to be divided in this way.

5 The largest segment of the market at 39.5% by
6 units is top load washers with agitators. This segment
7 represents the entry level or so-called value segment
8 because these products have the lowest price points in the
9 market.

10 If I can direct your attention to the graphic of
11 the washer. Beneath it, it says ASP453. That's the average
12 selling price of models in this segment. Also, this segment
13 is dominated by Whirlpool with about 48% share and followed
14 by GE with 22% share, as shown in the chart.

15 The next largest segment representing 31.8% of
16 the market is top load washers without agitators, otherwise
17 known as high efficiency or HE top loaders. Because they
18 use significantly less water and energy than the agitator
19 type top loaders. With an ASP of \$598, this segment has
20 significantly higher price points than the agitator style
21 segment.

22 In terms of brands, Whirlpool again dominates
23 this segment with a 42.2% share. LG competes in this
24 segment and holds the #2 position at 16.7%. And as John
25 Herring mentioned, we focused some of our recent

1 innovations, such as the front control panel design, in this
2 segment.

3 The third segment representing 28.7% of the
4 market, is front load washers. This segment represents the
5 most premium type of washers available, and has the highest
6 average selling price at \$739. Here again, Whirlpool has
7 the #1 share position at 28.6%, followed by LG at 22.6%.

8 Although it is true that over the past few
9 years, the line between the two higher priced segments,
10 i.e., front load and high efficiency top load washers, has
11 become more blurry, it is equally true that the line between
12 the lower value segment, the top load with agitator segment,
13 and the other segments of the market is not blurry.

14 Consumers in the value segment are often budget
15 constrained and cannot afford to step up to washers in the
16 other two higher-priced segments. Based on what retailers
17 have consistently told us, it is very difficult, if not
18 impossible, to persuade a consumer who intends to purchase a
19 value priced top loader, \$450, to spend \$600 for a high
20 efficiency top loader, or let alone, \$730 for a front load
21 washer. This is just a hard market reality.

22 That this segment remains distinct can be seen
23 clearly in the next slide, which shows a breakdown of the
24 market over the past three years by these three segments.
25 You can see in 2013 the front load segment represented 28.7%

1 of the market, and that decreased to 26.1% by 2015. At the
2 same time, the high efficiency top loader segment grew from
3 32.2% to 34.5%.

4 So there has been some movement between those
5 two segments. However, notwithstanding that movement, the
6 low priced segment, the agitator top loader, has remained
7 virtually unchanged for the past three years.

8 Now this is important for your analysis because
9 as you can see from the chart, the top load with agitator
10 segment accounts for nearly 40% of all washers sold, and LG
11 does not participate at all in this segment. LG has never
12 offered a top load washer with an agitator in the U.S.
13 market.

14 Market Fact #5 is that the retail channel of the
15 U.S. washer market is highly concentrated. If I can refer
16 to the next slide, as you can see, four national retail
17 chains, namely Sears, Lowe's, Home Depot and Best Buy,
18 account for fully 65% of all U.S. washers sold. 66% by this
19 chart. As a consequence of this high concentration, LG
20 believed it was necessary to gain placement in all four of
21 these national channels in order to achieve full retail
22 distribution coverage.

23 However, as of 2012, among these four national
24 chains, LG was sold only in Sears, Home Depot and Best Buy,
25 but not in Lowe's. We finally were able to gain entry into

1 Lowe's in early 2013, and there is no question that the
2 single biggest reason for LG's increase in the U.S. washer
3 sales from 2012 to 2015 was Lowe's decision to add LG in
4 2013.

5 And it is particularly important to note that
6 this decision was not due to price, rather nonprice factors
7 were the driving considerations for Lowe's, in particular
8 Lowe's recognized that LG was an innovation leader and that
9 there was significant unmet demand among Lowe's shoppers for
10 LG products, including washers.

11 In fact, according to Trackline data, in the
12 years before LG was sold at Lowe's, over 30% of consumers
13 that purchased LG appliances shopped at Lowe's before making
14 their purchases. And we know they walked out empty-handed.

15 In addition, during our negotiations with
16 Lowe's, the laundry merchant there explicitly noted his
17 strong desire to display LG's famous cherry red washer.
18 Moreover, Lowe's was very much aware that LG washers have
19 higher average selling prices than other brands.

20 To demonstrate that price was not the driving
21 factor, I would ask you to look at the next slide entitled
22 Retail Price Trend, Lowe's Washers, which shows average
23 selling prices, or average displayed prices at Lowe's since
24 2013, for the categories in which we compete, i.e., front
25 load washers and top load washers without agitators. This

1 is based on research provided by Gap Intelligence.

2 As you can clearly see, since LG's launch at
3 Lowe's in March of 2013, LG washers have been priced
4 consistently and significantly higher than Whirlpool models.
5 In our view, this demonstrates that Lowe's decision to add
6 LG was not because LG offered lower prices. This concludes
7 my prepared remarks for today. Thank you for your time.

8 STATEMENT OF DANIEL KLETT

9 MR. KLETT: Good afternoon. My name is Daniel
10 Klett. I'm an economist with Capital Trade testifying on
11 behalf of LG and Samsung. I will address six points.

12 First, certain conditions of competition, volume
13 effects, distortions caused by the pricing product
14 specifications recommended by Whirlpool, mysterious flaws in
15 Whirlpool's price compression theory, the U.S. industry's
16 condition and positive demand factors for washers.

17 First, regarding conditions of competition.
18 Whirlpool ignores a basic fact that there are large segments
19 of U.S. production that don't compete at all with subject
20 imports. As you've heard, LG and Samsung only sell high
21 efficiency top load or front load models.

22 Slide 1 is an estimate showing that 50% of
23 Whirlpool and GE washers are top load with agitators, the
24 low end of the market, where LG and Samsung do not compete.
25 From the industry representatives in market research,

1 consumers of these washers are budget-minded or income
2 constrained and rarely would consider purchasing even the
3 lowest price point washers from LG and/or Samsung.

4 Next, Slide 2 shows the significant gap between
5 the average price for Whirlpool and GE top load washers with
6 agitators, compared to the average price for LG and Samsung
7 high efficiency top load and front load models. In 2014 the
8 price gap was at least \$150 per washer, and these
9 differences exist in other years as well.

10 As shown in Slide 3, another factor limiting
11 competition is that a large volume of U.S. origin washers
12 are exported, and do not compete with subject imports.
13 Moreover, I also understand that 8% of the U.S. washer
14 market is sold to the contractor market for new homes and
15 this is a higher percentage for GE and Whirlpool alone.

16 Neither LG nor Samsung sell to this channeled
17 distribution because they do not have the required regional
18 distribution infrastructure. Whirlpool says in the petition
19 that this channel accounts for much smaller percentage, but
20 we believe that this share is much higher for Whirlpool and
21 GE individually.

22 Based on these three factors, I estimate that
23 approximately 65% of total U.S. shipment volume does not
24 compete with subject imports. As described in Mr. Brindle,
25 Mr. Herring and Mr. Toohey, washers are not a commodity

1 product, that average prices for Samsung and LG models are
2 higher than for Whirlpool and GE, in and of itself, tells
3 you that the nonprice attributes they identified, must be
4 factors explaining their success in the market.

5 I'm not saying that price is unimportant to
6 consumers. I am saying that when choosing Samsung or LG
7 washers over Whirlpool or GE washers, the driver is not
8 Samsung or LG being lower priced, but their superiority with
9 respect to factors such as feature innovation, brand
10 perception, reliability and the other factors just described
11 earlier.

12 I've not yet fully analyzed your questionnaire
13 data for volume effects; however, when compiling the data,
14 it is important that you include all washers, even those
15 with characteristics outside the scope. For example,
16 Whirlpool's requested scope excludes a number of GE front
17 load models with capacities ranging from 3.6 to 4.3 cubic
18 feet, and these models compete against other front load
19 models of comparable capacities and similar features.

20 Slide 4 is the spec sheet for one of the
21 excluded models, which is the 4.3 cubic foot front load
22 washer, which perfectly fits your pricing product for
23 definition except that it has a belt-drive. If your data do
24 show market share increases for the U.S. industry, this does
25 not reflect adverse volume effects attributable to subject

1 import competition. Most important, the success in the U.S.
2 market by LG and Samsung is not due to underselling.

3 Second, Whirlpool is a large supplier of Kenmore
4 brand washers to Sears, particularly for top load models,
5 other than the higher priced Kenmore Elite models.

6 Slide 5 shows the Kenmore share of the top load
7 market has been declining. Declining Whirlpool shipments
8 due to a decrease in popularity of the Kenmore brand among
9 consumers cannot be attributed to competition from subject
10 imports.

11 Third, LG was selected by Lowe's as a new
12 supplier in 2013 and Samsung was selected as a new supplier
13 by the Home Depot in late 2012. These two retailers, which
14 together account for about 35% of total U.S. washer
15 purchases added LG and Samsung, not because their washers
16 were lower priced, but because their customers were
17 requesting top rated LG and Samsung washers.

18 Market share gains by LG and Samsung during the
19 POI will reflect their introduction to these retailers.
20 Also, while subject imports are washers from China, the
21 commercial reality is that retailers and consumers do not
22 distinguish between LG and Samsung washers, whether they're
23 being sourced from China or Korea.

24 Whirlpool's estimate of market share trends in
25 Table 8 of its petition, shows that while China's share of

1 the market increased by eighteen percentage points between
2 2012 and 2014, the U.S. industry lost just 2.3 percentage
3 points of share, reflecting the decline in imports from
4 Korea.

5 Fourth, even if the U.S. industry lost some
6 share over this period, this incurred simply because
7 Whirlpool and GE did not grow their business as fast as LG
8 and Samsung.

9 As shown in Slide 6, Whirlpool and GE enjoyed
10 substantial increases in shipment volume. Turning to the
11 pricing products, there are numerous reasons why the pricing
12 product definitions recommended by Whirlpool will cause
13 distortions for your price comparisons. I will highlight
14 just a few.

15 First, products one to six include direct drive
16 as a factor, which was not included as a factor in the prior
17 investigation and is not a factor considered by consumers.

18 Slide 7 shows that certain GE front load washers
19 would be included in pricing product specifications one for
20 one model, three for another model, and six for a different
21 model. But, and they would have been included but for the
22 belt-drive parameter. Pricing data should be reported by GE
23 for these models because they compete in the market.

24 Next, Slide 8-1 shows certain Whirlpool models
25 that do not meet the pricing product specifications because

1 of exclusion of some models, such as Whirlpool's 5.3 cubic
2 foot model, the inclusion or exclusion of water heater,
3 steam features or color.

4 Slide 8.2 is for pricing product seven, and
5 shows that certain of Whirlpool's Black Friday models are
6 not included in this pricing product category to just slight
7 variations from the specification parameters.

8 Slide 9 highlights one of the Amana models,
9 which I think is what was discussed earlier by Whirlpool as
10 a agipeller model. In addition, because Sears has its own
11 repair and warranty program for Kenmore models, prices to
12 Sears of OAM Kenmore models are typically lower than prices
13 to other retailers. Comparing OAM prices to non-OAM prices
14 also will therefore introduce distortions to the price
15 comparisons.

16 Whirlpool continues to rely on the theory of
17 price compression. There can be no adverse price effects
18 associated with subject imports as to the U.S. industry's
19 shipments of top load washers with agitators. As shown in
20 Slide 10, the price gap between U.S. producers' shipments of
21 these models and Samsung in high efficiency top load and
22 front load washers is so large, that these constitute
23 different market segments. There is no economic mechanism
24 for the higher prices charged by LG or Samsung to push down
25 the prices of top load agitator models produced by the U.S.

1 industry.

2 For the high efficiency top load and front load
3 categories, it is our believe that when the pricing data are
4 compared on an "apples to apples" basis, and with better
5 coverage of Whirlpool and GE models, there will be no
6 underselling.

7 Here the price premium for Samsung and LG models
8 will not be as large; however, if the purchaser chooses to
9 buy a higher price Samsung or LG washer over a lower priced
10 Whirlpool or GE model, it is axiomatic that it chose to do
11 so for superior nonprice attributes associated with the
12 higher priced products, not due to underselling.

13 Whirlpool's price compression argument
14 essentially reduces to LG and Samsung should have priced
15 their models higher to be noncompetitive. Regarding
16 industry condition, Whirlpool's claim of adverse effects is
17 at odds with its public statements.

18 Slide 11-1 lists a few positive statements made
19 by Whirlpool management about demand and Whirlpool's
20 prospects going forward.

21 Slide 11-2 highlights other positive factors for
22 Whirlpool's washer operations in Clyde, Ohio. There's a lot
23 information on these slides and I'm going through them
24 quickly, but you'll be able to study them more later, I
25 believe.

1 Similarly, GE similarly has not behaved in a way
2 that would indicate its washer operations are injured.

3 Slide 12-1 shows significant investments made in
4 its Louisville, Kentucky, top load washer facilities in
5 2012.

6 Slide 12-2 shows that GE is continuing to invest
7 in its U.S. washer facilities with increasing employment.

8 In contrast to these Roser Reports, Whirlpool is
9 claiming that it has incurred losses on its washer
10 operations. Please note the following. First about 65% of
11 the U.S. industry's shipments don't compete with subject
12 imports, and any profit declines associated with these
13 shipments can't be attributed to subject import competition.

14 Second, while the scope of this investigation is
15 just washers, the market reality is that Whirlpool and GE
16 look at their laundry operations overall and their pricing
17 of dryers and pedestals effectively subsidize their washer
18 operations as described by Mr. Brindle.

19 Slide 13-1 is an example of this paired pricing
20 by Whirlpool and GE during Black Friday 2014, and Slide 13-2
21 is a similar example for Black Friday 2015 for Maytag and
22 Amana washers.

23 Third, Whirlpool reported significant energy tax
24 credits in 2015, a portion of which would be related to its
25 washer sales. Now that Whirlpool is profitable, it can

1 utilize these credits which would have a real and
2 significant effect on its cash flow.

3 For these reasons, the Commission should require
4 that Whirlpool and GE report financial information for their
5 dryers, pedestals and for their entire North American
6 laundry segment.

7 The reported operating losses also are
8 inconsistent with the fact that Whirlpool has reported
9 significant growth in the profitability of its North
10 American operations, with an operating margin of 11.6% for
11 the first three quarters of 2015, as shown in Slide 14.

12 Washers account for a significant share of its
13 North American sales. If its washer operations were
14 performing so poorly, one would've expected this to have
15 been a material fact identified in its financial reporting.
16 Given the significance to their North American washer
17 operations. Yet it was not. Whirlpool stock price more
18 than tripled from 2012 to 2015, as shown in Slide 15.

19 The final point I want to address is demand.
20 U.S. demand for appliances, including washers, is largely
21 driven by the strength of the U.S. housing sector.

22 Slide 16 shows the significant improvement in
23 U.S. housing as far as the completions since the first
24 quarter of 2012, with particular strength in the most recent
25 two quarters of 2015.

1 A Whirlpool presentation is replicated in Slide
2 17 and shows appliance demand plummeting from 2006 to 2012
3 as consumers deferred expenditures for big-ticket items
4 during the Great Recession.

5 Washers have a useful life of about seven to ten
6 years, and this purchase deferral created pent-up
7 replacement demand, the effects of which Whirlpool projects
8 to continue through 2018. Although this graphic is for what
9 is known as T-7 appliances, the principle would also apply
10 to washers alone, which is one of the appliances in that
11 category.

12 In sum, taken together, the data do not show a
13 domestic industry injured by reason of Chinese washers
14 produced by Samsung or LG. Thank you.

15 STATEMENT OF JAMES DURLING

16 MR. DURLING: Good afternoon. My name is James
17 Durling, appearing today on behalf of Respondents to further
18 address pricing issues.

19 Mr. Klett has just explained some of the problems
20 with the pricing products recommended by Whirlpool. I will
21 now explore these problems further using retail price data
22 to underscore the distortions in the picture that Whirlpool
23 is trying to paint.

24 We recognize that wholesale prices will be lower
25 than retail prices, but retailers have told us that they

1 generally maintain stable margins for each brand. When a
2 manufacturer offers a discount on some model, the retailer
3 generally passes that price incentive through to the retail
4 price so as to encourage more sales of that specific model.
5 After all, that is the point of the incentive.

6 And this economic dynamic is even more true today
7 with better access to pricing data allowing consumers easily
8 to compare all retail pricing options. It does not do the
9 retailer any good to have a lower cost on a washer that does
10 not move off the store floor.

11 Thus, retail prices are a reasonable and reliable
12 proxy for relative wholesale prices and trends over time.
13 This is the pricing data that manufacturers use in the
14 ordinary course of business. Of course we will supplement
15 this discussion of retail price trends with the data on
16 wholesale pricing in the post-conference brief.

17 We collected survey data on retail prices from
18 Gap Intelligence. This data consists of weekly store
19 surveys that collect pricing data on a net price price less
20 any discounts by model.

21 We aggregated weekly data into a monthly average
22 price. We also aggregated under the combined brand all the
23 brands sold by that manufacturer. We focus on the four
24 largest selling brands--LG, Samsung, Whirlpool, and GE. So,
25 first slide. We start with the broadest possible view of

1 the market, the overall average retail prices by brand on
2 all models.

3 This slide makes three key points. First, LG and
4 Samsung are consistently higher priced than Whirlpool and
5 GE. This higher overall average selling price reflects both
6 product mix with LG and Samsung selling more fully featured
7 premium washers, and pricing, with LG and Samsung selling at
8 higher prices. Thus, LG and Samsung are identified as the
9 higher priced brands which explains the brand perceptions
10 that you heard discussed earlier.

11 Second, all the prices have been generally stable
12 over time. The introduction of newer models at higher
13 prices offsets the exit of older models at lower prices.
14 For any particular model, it is difficult to construct a
15 three-year trend since individual models almost always would
16 have been started or discontinued during that period. But
17 in the aggregate, the price trends have been stable.

18 Third, this graph reflects all washers, not the
19 gerry mandered scope and the cherry-picked pricing products
20 that Whirlpool has presented to the Commission.
21 Essentially, Whirlpool has tried to create the illusion of
22 price competition by excluding its own lower priced washers
23 and ignoring the higher priced washers sold by LG and
24 Samsung.

25 Now we can turn to the Whirlpool distortions of

1 this basic market reality. Next slide, please.

2 The most important distortion is the exclusion of
3 the much larger volume segment for the U.S. brands, top-load
4 washers with an agitator. These models constitute the value
5 segment of the market, often have a belt drive, and were not
6 included in any of the pricing products recommended by
7 Whirlpool.

8 These products are a large part of the U.S.
9 industry sales and part of the economic reality the
10 Commission must consider. This slide makes two key points.

11 First, although the average price of U.S. brands
12 may be about \$700 per unit, the far larger segment, roughly
13 half of U.S. producer shipments, is at a much lower \$450
14 price point.

15 Second, LG and Samsung do not compete in this
16 segment at all. As this slide shows, they are not present
17 in this segment. The lower prices in this segment reflect
18 the needs of customers seeking a low-priced value washer,
19 and these prices are not affected at all by the pricing of
20 LG and Samsung brands in the higher price point, high
21 efficiency top-load and front-load segments of the market.

22 These other segments have washers priced at about
23 \$1,000 or \$1,300 per unit. Customers seeking to spend \$400
24 on a washer will not consider a high-end washer selling for
25 three times that price. Next slide, please.

1 Now let's look at the top-load segment more
2 broadly. This segment represents about 80 percent of
3 Whirlpool and GE sales volume based on Trackline data. LG
4 and Samsung do not compete in the value segment, but they do
5 offer higher end top-load models.

6 This slide shows the average retail pricing of
7 all top-load models by brand. Note the large gap in the
8 average retail price between LG and Samsung and the
9 Whirlpool and GE brands. That is because most of the
10 segment consists of the lower priced value models offered by
11 the U.S. brands, especially Whirlpool.

12 The Whirlpool and GE brands have the value
13 segment entirely to themselves, a portion of the market in
14 which LG and Samsung do not compete. This different focus
15 on different parts of the top-load segment explains why LG
16 and Samsung have a single brand that they each promote has
17 higher priced premium brands.

18 Whirlpool, in contrast, has seven brands.
19 Although Whirlpool has a flagship brand that it promotes at
20 a higher price point, Whirlpool also has several other
21 brands that are at much lower price points, including Amana,
22 Roper, and Admiral.

23 This slide shows dramatically the net effect of
24 those lower priced value brands when considering the
25 top-load segment as a whole. Note also the generally stable

1 prices in both the higher priced segment held by LG and
2 Samsung and the lower priced segment held by Whirlpool and
3 GE.

4 The Commission pricing products captures some of
5 these dynamics, but have been distorted by the peculiar
6 categories recommended by Whirlpool. Mr. Klett has already
7 discussed the problem of excluding belt drive models from
8 the pricing products which seriously distorts the pricing
9 comparisons by excluding the lower priced value models from
10 the comparison. Next slide.

11 But here we show another particularly egregious
12 example for pricing product number two, a large-volume
13 top-load model. This slide shows the trends in retail
14 prices for the pricing product two segment, top-load
15 impeller with capacity between 4.2 and 4.6 cubic feet. Note
16 this slide creates the illusion of higher Whirlpool prices
17 and underselling earlier in the period, but the second
18 slide--next slide, please--takes the Whirlpool 4.6 size
19 washer out of the average and the picture changes
20 dramatically. Note that neither LG nor Samsung offered a
21 top-load washer with 4.6 capacity.

22 This narrower category more appropriately
23 reflects the competitive dynamics. This refined segment
24 with a narrower capacity range shows that in 2013 Whirlpool
25 had a 4.6 size washer, but nothing in the smaller 4.2 to 4.5

1 range.

2 Whirlpool then introduced these smaller capacity
3 models only in late 2013 at the same price point as the
4 Korean brands. It was then Whirlpool that in late 2014
5 dropped the price and led overall prices down in 2015.

6 The point of these two slides is to highlight
7 just one example of the selective and self-serving way in
8 which Whirlpool constructed the pricing products. But even
9 after stacking the deck, the Whirlpool pricing products show
10 only a mixed pattern of underselling and overselling.

11 We believe more careful consideration of the
12 data, combining the entire market and correcting misleading
13 comparisons, will show that LG and Samsung have not been
14 underselling and have not had any adverse price effects on
15 the domestic industry.

16 Thank you.

17 MR. CORKRAN: Thank you very much for the
18 presentation. It was very informative.

19 We will start first with Mr. Chris Cassise, our
20 investigator and supervisor investigator.

21 MR. CASSISE: Just a quick curiosity question
22 about the middle washer. That's the one with the sink,
23 right? How do you hook that up?

24 MR. BRINDLE: The sink is built into the same
25 water line as the unit. So it's actually plumbed off the

1 same supply lines you use for the existing washer.

2 MR. CASSISE: Okay.

3 MR. SHOR: Do you want to return the washer you
4 just bought?

5 (Laughter.)

6 MR. CASSISE: Have you figured out what I bought,
7 yet? (Laughter.)

8 MR. CASSISE: Well welcome everyone. That was
9 very informative. I do have some questions, of course, and
10 we'll just go kind of chronologically as you gave it to me.

11 Mr. McCullough, first we will briefly talk about
12 your like-product issue. I just want to make sure I
13 understand where you're coming from.

14 Not to speak for Petitioners, but my
15 interpretation of what they said earlier, I don't think they
16 were amending the scope--at least that was my
17 interpretation. They were creating exclusions for things,
18 for products that were not produced in the United States,
19 which is routinely done. Quite frankly, it is easier to do
20 it now than it is to do it in scope rulings at the Commerce
21 Department. So that is not something that is nefarious at
22 all.

23 Now where you--I want to know where you think the
24 clear dividing line is. Now obviously you don't think that
25 these low-tech products are a clear dividing line, but I

1 would like to hear where you think the clear dividing line
2 is.

3 MR. McCULLOUGH: Well --Matt McCullough--first
4 with respect to scope, I agree. And that is really a
5 distraction. Look, Whirlpool can seek to define the scope
6 at the Department of Commerce however it wants, and my point
7 was that I believe Mr. Levy made a statement about domestic
8 like-product in which he appeared to concede, or agreed
9 that, okay, yes, it's the same scope--or same domestic
10 like-product as before, which is all large residential
11 washers, which of course I think would pull in what you have
12 termed as these two low-tech top-load and low-tech
13 front-load, and this extra large cabinet front-load. So let
14 me clear that up first.

15 You know, whatever they want to do with scope is
16 fine, but we're here to talk about the domestic
17 like-product--

18 MR. CASSISE: But you disagree with the statement
19 that the Commission customarily starts with the definition
20 of the scope?

21 MR. McCULLOUGH: It can look at the scope, yes,
22 but --

23 MR. CASSISE: Is that the starting point for the
24 definition of the domestic like-product?

25 MR. McCULLOUGH: The starting point for the

1 definition of domestic like-product I think has to begin
2 with what Petitioner has proposed to you--

3 MR. CASSISE: Which is the scope?

4 MR. McCULLOUGH: Which is the scope, but you move
5 beyond that to look at what the domestic like-product should
6 be.

7 Now what are we talking about here? Are we
8 talking about a single article? No. We're talking about a
9 continuum of products with overlapping competition. And
10 what the Commission has to look at is where does that
11 continuum end?

12 MR. CASSISE: Okay.

13 MR. McCULLOUGH: And I think my point is that if
14 you walk through Whirlpool's own analysis of the
15 like-product factors, there's no reasonable way to conclude
16 that these three particular product variations can be
17 excluded from the domestic like-product.

18 MR. SHOR: Mr. Cassise, if I could just jump in, I
19 think we're not suggesting that Whirlpool did anything
20 nefarious or is trying to change the scope. It's just the
21 Petition itself was worded in a way that was somewhat
22 confusing.

23 On page 36 it says, "The Commission"--and I'm
24 quoting--"The Commission should define a single domestic
25 like-product that includes LRWs defined by the Scope

1 definition set forth in Section 3.a." We interpreted that
2 to mean it should be coextensive with the Scope. Mr. Levy
3 today seemed to clarify that that's not what he meant, even
4 though that's what he said, and that what he was really
5 saying was that it should be all LRWs.

6 If it should be all LRWs, we are all in
7 agreement.

8 MR. CASSISE: My inter--again, my interpretation
9 it should be all the washers that were defined in the
10 like-product in the prior investigation, with the exclusion
11 of these three new exclusions. That's how I read the
12 Petition. I don't know what--

13 MR. PORTER: That's why we're here. That's why we
14 led off with--

15 MR. CASSISE: Well, I'm sure he will clarify that.
16 I don't want to spend too much time on that because I want
17 to know what your argument is and why you're making it.
18 Because, okay, if we start with the scope and you think that
19 these exclusions are not a clear dividing line, and you want
20 to expand to them--

21 MR. KLETT: Mr. Cassise, this is Dan Klett. I
22 just want to make one other point. And that has to do with
23 the characterization of these excluded products as low-tech.
24 I mean, if you look at my slide four, this is one of the
25 excluded GE front-load washers. It's a belt-driven, and

1 apparently from what I heard this morning it's not being
2 produced so it's being imported into the United States.

3 Because of the exclusion from the scope, we don't
4 know if we're going to get any information in your record on
5 these GE front-load washers that compete in the United
6 States.

7 Now Mr. Levy this morning said that only accounts
8 for a small percent of the total market, but the front-loads
9 is a small percent of the total market to start. And we
10 know from looking at the Gap data that four or five of these
11 front-load belt-driven, belt-drive front models from GE are
12 being sold in the market.

13 MR. CASSISE: Okay. Thank you, Mr. Klett. All I
14 want to do is, assume that you want to expand the
15 like-product to include these exclusions. Now let's also
16 assume that all we have on the record is what the
17 Petitioners have said right now, which is this is a
18 minuscule portion. Why are we wasting our time?

19 There would be an immaterial--it would be an
20 immaterial addition to the U.S. market, if we are to believe
21 the Petitioners. But I'm not seeing any, at least at this
22 point right now I'm not seeing any contrary data.

23 MR. KLETT: Mr. Cassise, let us answer--

24 MR. CORKRAN: I'm sorry, can I ask you and all
25 witnesses to please identify yourself before you speak?

1 Thank you.

2 MR. CASSISE: Mr. Porter, please--

3 MR. PORTER: I apologize.

4 MR. CASSISE: --please answer the question.

5 MR. PORTER: I apologize. This is Dan Porter, for
6 the record.

7 Mr. Cassise, let me answer, and let me be very,
8 very clear, okay? First, number one, immateriality is not a
9 like-product criterion. It's not. Okay? There are
10 established like-product criterion that the Commission goes
11 through, okay? And when you have a consumer product, they
12 see is there a clear dividing line?

13 The other thing is whether or not it is produced
14 in the United States is also not a like-product criterion.
15 We have a law. We have a statute. We have past Commission
16 practice. And we have bona fide--I don't know what Matt
17 found--one, two, three, four past Commission determinations
18 in which they explicitly said we recognize this product is
19 not produced in the United States but we're still including
20 it in our like-product definition.

21 Now why did they do that? They did that because
22 that's the starting point for the Commission's economic
23 analysis. And if you have imports coming in that meet the
24 like-product definition, you need to take that into account
25 because they very well may be having competitive effect on

1 the U.S. producers. That's what we're saying.

2 The Petitioners are essentially playing games
3 here by saying the amount from China is very low. But there
4 are excluded products coming in from Mexico, okay, that
5 could be having a competing effect. We don't have any data
6 on that. We ask you to get that data.

7 Today you heard Petitioners admit that they are
8 affected by non-subject imports. That's why we're making
9 this point, okay? So we strongly disagree this is some sort
10 of immaterial consideration. This affects the analysis that
11 the Commission has been asked to do.

12 MR. CASSISE: I appreciate that. And if you have-
13 -if there is material data to be placed on the record, I
14 would like to see it.

15 MR. KLETT: Mr. Cassise, this is Dan Klett. I
16 mean, Exhibit 7, I mean just in terms of material data,
17 these are excluded GE front-load washers. There are five
18 models. These are the so-called low-tech front-load models.

19 These are sold in the United States. Because of
20 the scope definition, there is no data being collected on
21 these models, which is the point that Dan was making. So
22 that's just one example of material fact of their scope.

23 MR. CASSISE: Okay. Anything else in
24 post-conference on that, feel free to include.

25 MR. SHOR: This is Mike Shor. We would urge you

1 to ask domestic industry for that data since they possess
2 it. We do not have it. These are all GE and potentially
3 Whirlpool models, they're not Samsung--

4 MR. CASSISE: Well we do have some information on
5 the record. I don't know how thoroughly everyone has had a
6 chance to go through what we have released. There is some
7 information. I'm not going to characterize it as a complete
8 record, but there is some information, so we can all take a
9 look at that.

10 I want to move on. Mr. Shor, you had mentioned
11 also and I want to understand your position on like-product.
12 You agree--you are willing to agree for the preliminary
13 phase but you reserve the right to make any further
14 arguments in any final phase.

15 MR. SHOR; Correct.

16 MR. CASSISE: And those arguments that you may or
17 may not make in a final phase would include the argument
18 that Mr. McCullough is making. And then also an additional
19 argument of adding dryers to the like-product?

20 MR. SHOR: I don't think that's exactly right. I
21 think we're in agreement for the preliminary phase, and I
22 think we're in agreement with the Petitioners that we'll
23 clarify in our closing statement I'm sure, that the
24 like-product definition for purposes of the preliminary
25 determination should include all residential --large

1 residential washers, including the excluded models. I think
2 that's what--

3 MR. CASSISE: Okay, so you are with Mr. McCullough
4 currently?

5 MR. SHOR: With Mr. McCullough, I'm not.

6 MR. CASSISE: Okay.

7 MR. SHOR: And then the additions we may argue for
8 in the final determination are, first, that the parts that
9 they've included, which are essentially kind of
10 subassemblies, that those are a distinct like product. They
11 are not used to produce washers. They are sold by us and by
12 them solely to repair--the repair channel of distribution.
13 They're not interchangeable. You can't take off a Whirlpool
14 tub and put it in a Samsung machine when it needs to be
15 fixed.

16 Those products, those parts don't compete at all.
17 There's no possible injury from our imports of parts against
18 them--foreshadowing an argument we may make in the future.

19 And the second issue is dryers. As I said, this
20 case is different from the prior investigation in that the
21 Petitioners changed the scope somewhat to include a
22 combination machine that both washes and dries the clothes.
23 That product is interchangeable with a washer and a dryer.

24 So we may argue that dryers should be included in
25 the like-product.

1 MR. CASSISE: Well, Mr. Shor, that's the stacked
2 washer and driers?

3 MR. SHOR: No. There's a combination machine
4 that's one unit, it's not stacked. You see them a lot in
5 Europe. But it's basically one unit, typically front load,
6 and it has a wash cycle. And you leave the clothes in, and
7 it has a dry cycle. So it does everything that a washer and
8 a dryer do separately, it does in one unit. That's within
9 the scope.

10 MR. CASSISE: Okay, moving on. I'll let Karl
11 handle more like-product issues, if he so desires.

12 Mr. Brindle, you talked a lot about brand
13 recognition, brand quality. And first let me step back and
14 say there were a lot of surveys cited. I would request that
15 all of the survey data that was cited and referred to during
16 the testimony be included in the post-conference briefs.

17 Mr. Brindle, we also had testimony in the prior
18 investigation about brand quality. And this differed a
19 little bit from refrigerators because the purchaser
20 testimony was pretty explicit in saying that Whirlpool, LG,
21 Samsung, the consumers perceived them all as quality
22 players; that there wasn't this big disparity.

23 Do you think that has changed since the last
24 period of investigation?

25 MR. BRINDLE: Yes. This is Dean Brindle from

1 Samsung. I do believe it's changed since the last
2 investigation. If we look at the growth of our brand, for
3 Samsung as I mentioned earlier, right, our brand awareness
4 continues to grow. Our preferred status as a brand
5 continues to grow.

6 Since the last Period of Investigation the
7 preference for Samsung brand by consumers has tripled. So
8 think about our entry into the market. We've only been in
9 the U.S. market a little over a decade. So if we back up
10 three to four years, our brand awareness and brand
11 preference were likely lower as we were still beginning our
12 presence in the market.

13 As we've expanded, as well as invested in our
14 brand across all of our family of products, we've seen even
15 higher returns on the branding investment.

16 MR. CASSISE: Okay.

17 MR. BRINDLE: One further clarification, if I
18 could--

19 MR. CASSISE: Sure.

20 MR. BRINDLE: --last year when we launched the
21 Active Wash product, we did a full TV commercial campaign
22 with Kristen and Dax. I think some of us might be familiar
23 with them. It really targeted our millennial consumers. So
24 one of our additional items that we've really done from a
25 segmentation point is focus on our state of the art

1 consumer, which tends to be more heavily focused on the
2 younger demographic where our brand is more successful.

3 MR. CASSISE: Would you--was there a large
4 increase in marketing budget during that time frame?

5 MR. BRINDLE: Yes. We did invest in TV
6 commercials last year, whereas in some past years we did
7 not.

8 MR. CASSISE: Okay. You had also talked about
9 color. We had discussed color a little bit this morning,
10 and it was I would say considered not that relevant.

11 What share of Samsung and LG--what share of their
12 sales are color models?

13 MR. BRINDLE: Dean Brindle from Samsung again.
14 For Samsung and our premium models where color is offered,
15 sales are often exceeding 50 percent of the volume. Keep in
16 mind--

17 MR. CASSISE: That's 50 percent of that is skew?

18 MR. BRINDLE: Yes, sir. Fifty percent of that is
19 skew. As a percentage of our total volume, color represents
20 about 35 percent of our sales.

21 MR. KIM: Andrew Kim from LG Electronics, product
22 manager. For LG, our color mix is similar to that of
23 Samsung's, about 35 percent of the total washer. But in
24 case of front-load washer, which is more towards to the
25 color, the trend, it is more than 40 percent. And according

1 to the Trackline data, during the 2015 the total color mix
2 of the total front-load washer is about 40 percent. And it
3 used to be, about four years ago, 25 percent. So a big
4 increase during the last four years. And we see that also
5 in Whirlpool's color mix on the front-load washer is about
6 40 percent as well.

7 MR. CASSISE: Now I do remember the red. I think
8 everybody remembers the red. But that's LG or Samsung? LG,
9 right? Did that fad wear off? Or has--you're saying that
10 sales of color have increased. So has the share of sales of
11 color appliances remained steady over the Period of
12 Investigation? Or since the prior investigation?

13 MR. HERRING: This is John Herring. Sales of
14 colors have increased, but maybe just the one color. You
15 said wild cherry red, which we introduced in 2006, was a
16 huge success. There's now a great proliferation of more
17 stainless look, or graphite steel, or more silver colors. So
18 those would be included in the color mix.

19 MR. CASSISE: Right, right.

20 MR. BRINDLE: Dean Brindle again for Samsung. We
21 would say the same. From an overall standpoint, color sales
22 continue to increase. And as I mentioned earlier, we will
23 be introducing another new color for black stainless steel
24 this year.

25 MR. CASSISE: Now the follow-up question of course

1 to that would be do you charge a price premium for the color
2 models?

3 MR. HERRING. John Herring, LG. Yes.

4 MR. BRINDLE: Dean Brindle, Samsung. Yes.

5 MR. CASSISE: Okay. Mr. Brindle, you had cited a
6 survey that said 50 percent of your sales are not
7 replacement sales?

8 MR. BRINDLE: Actually--Dean Brindle again--the
9 survey tested consumers to determine the stress, duress, or
10 discretionary purchase. Over 50 percent--right at 50
11 percent of our consumers bought before their unit failed.
12 So traditional replacement market logic for washers would
13 assume that the consumer waits for the unit to fail to
14 replace. Half our consumers replace before their unit
15 fails.

16 MR. CASSISE: Okay, but it was going to fail--

17 (Laughter.)

18 MR. CASSISE: They weren't so excited they went
19 and bought a second washer.

20 MR. BRINDLE: So over 28 percent bought with no
21 duress to their unit, to be more direct.

22 MR. CASSISE: Okay.

23 MR. SHOR: Actually, just like all people
24 eventually die, but that doesn't mean that you're buying
25 because you anticipate it's going to fail. I think what

1 we're trying to say is some of these new features, like
2 Active Wash, are so attractive to consumers that they
3 upgrade their machine. They don't have two washers,
4 obviously, but they upgrade their machine instead of simply
5 replacing the machine that's about to fail. So it creates
6 new demand.

7 MR. CASSISE: Okay. There was the--I had asked
8 Petitioner earlier this morning about, you know, it being
9 the industry first in certain features. And I believe, Mr.
10 Herring, you had gone through the exhibit on page one of
11 your exhibits, a list of features, a timeline and when they
12 were introduced by LG, and then when Whirlpool offered the
13 same.

14 In a similar vein of this morning's question, I
15 might take from this that this is when LG was the industry
16 first in all of these features?

17 MR. HERRING: John Herring, LG. Yes, that's
18 correct.

19 MR. CASSISE: And again I'm flipping through your
20 exhibits. Some of this is curiosity, but the Wash Two Loads
21 at the same time, the Twin Wash LG, is that one product or
22 two? Do I have to buy both of those? Or do I buy this as a
23 package?

24 MR. SHOR: It's two. We merchandise it as one
25 because it gives the customer the opportunity to wash two

1 loads at the same time. It's two. But you also cannot
2 purchase it independently and have it operate. In other
3 words, the consumer would not be able to just purchase the
4 pedestal washer on its own. It needs to have the washer on
5 top of it for it to operate effectively.

6 MR. CASSISE: But it's two skews--

7 MR. SHOR: Two units, two purchases, yes.

8 MR. TOOHEY: This is John Toohey. That pedestal
9 washer can be coupled with any preexisting LG front-load
10 that's already in the installed base. It doesn't have to be
11 matched with that particular front-load in the picture.

12 MR. SHOR: So if you bought an LG washer and you
13 want to find out how to get that installed, we can help you
14 with that.

15 (Laughter.)

16 MR. CASSISE: I have seen the pedestal. So
17 instead of buying a pedestal, I can buy this?

18 MR. SHOR: Correct.

19 MR. CASSISE: And I think this was still Mr.
20 Herring, or who in the market segmentation, we've seen this
21 a lot, this breakout, and I don't think it has shifted that
22 much since the prior investigation as far as the
23 segmentation.

24 Why does LG and Samsung not want to be involved
25 in half the market? Why couldn't you add some value to the

1 top-load agitator? Is it because there's no profit margin?
2 You think it's going away? If you could explain, that would
3 be helpful.

1 MR. TOOHEY: Sure. This is John Toohey. I'll
2 give you one reason, which I would describe as a potential
3 conflict with our brand identity, right. Our brand is LG.
4 Our brand promise is Life's Good, and the way we think about
5 that is we deliver products that promise to consumers that
6 we're going to make their lives better, by delivering
7 entertainment or convenience or comfort or what have you.

8 So we're very careful about introducing products
9 into the market that are consistent with that brand promise
10 and our brand identity, and as you've seen from some of the
11 data that John Herring showed, consumers understand our
12 brand as modern and innovative and so forth, and we've done
13 a good job of establishing that brand image.

14 There's a concern about how far down the market
15 in terms of price points we can extend that brand without
16 diluting the equity that we've built in the segments where
17 we operate.

18 MR. CASSISE: Okay, and I knew you were going to
19 say that, and that makes me segue into what I believe has
20 always been an underlying assumption in the prior
21 investigation and in this investigation, that the high
22 efficiency, low water, low energy washing machine is

1 superior.

2 I have family members who would debate that
3 vigorously. So your assumption that you don't want to enter
4 that market because there's -- I think that there's just no
5 profit margin or it's going away because of energy
6 standards. But I think that that's -- I don't think that
7 that market -- well, this could be me anecdotally. I don't
8 think that that segment of the market is, what's the word,
9 value or below as I guess you do.

10 Because even if you look, I mean the numbers are
11 that -- even with major marketing, and believe me I went
12 shopping during this Period of Investigation and they pushed
13 the high end, because obviously that's where the money is.
14 But even with all of that heavy marketing and heavy
15 salesmanship, that 39.4 percent for the topload agitators is
16 still there after all these years.

17 So anyway, maybe some editorializing there, but
18 thank you for your answer.

19 MR. BRINDLE: Mr. Cassise, Dean Brindle with
20 Samsung. If I may comment?

21 MR. CASSISE: Sure.

22 MR. BRINDLE: We find that those consumers in
23 the low end segment are not truly consumers for Samsung's
24 brand. They're very value conscious, very budget conscious,
25 less concerned with performance in many cases. There are

1 many reasons folks would consider an agitator versus an
2 impeller product. But quite clearly, the performance of
3 those products, if you look at Consumer Reports or J.D.
4 Power or any other source, the rankings and consumer
5 preference of those products is lower.

6 They don't feel that it's equivalent product in
7 that case from a standpoint of performance. So much like
8 Mr. Toohey's response in behalf of LG, it's not our brand of
9 consumer and it's certainly a challenge in the market as
10 well, when you look at those low prices.

11 MR. SHOR: And just to respond to your claim
12 about ^^^^

13 MR. CASSISE: Mr. Shor, please identify
14 yourself.

15 MR. SHOR: I'm sorry, Mike Shor for Samsung. I
16 think it is important to consider the brand strategy. You
17 know, Samsung people are familiar with the telephones.
18 They're familiar with the televisions and they're familiar
19 with the appliance products, and it's never the low end of
20 the segment. In phones, we're competing with the Apples.
21 We're not competing with the Windows phones.

22 In televisions, it's also the higher end of the
23 market. It's not the cheapest machine out there. That's
24 just where the company has decided to position itself in the
25 marketplace. It's not just limited to washers; it's across

1 the entire product line.

2 MR. CASSISE: And Mr. Shor, I appreciate that.
3 I do understand that. I guess my confusion was is that the
4 underlying assumption has always been that the high
5 efficiency has always been deemed superior and there's
6 always been a price premium attached to it, regardless of
7 some performance metrics.

8 MR. PORTER: Excuse me Mr. Cassise. I mean I
9 think we're not -- we are not -- Dan Porter for the record.
10 We are not putting our own value judgments on here.

11 MR. CASSISE: No.

12 MR. PORTER: But I want to be very clear, okay.
13 This is -- there's a whole field called marketing that goes
14 out and it asks consumers what they think about different
15 things. So obviously there are a lot of people who love a
16 washing machine with an agitator, and they'll swear by it.

17 The point is even Whirlpool this morning put
18 that in their what's called, basic feature category. So
19 Whirlpool itself is suggesting that there are a continuum of
20 features going from basic to more feature and even Whirlpool
21 said that's going from basic to best.

22 So again, this is not sort of like, you know,
23 some people doing value. This is based on marketing and
24 there's no question that a washing machine agitator cleans
25 clothes well. But there are other features that consumers

1 care about, and that's what LG and Samsung are responding
2 to.

3 MR. DURLING: This is Jim Darling. One related
4 point is this is all consistent with the choice by these
5 companies to each promote a single brand, and if you have a
6 single brand, then this concern comes up. You can't
7 simultaneously be a premium brand and a value brand. You
8 can't be both. You have to be one or the other.

9 That's why Whirlpool, because of its desire to
10 be in all of these segments, including its dominant position
11 in the value segment, they have brands specifically
12 dedicated to that. Whirlpool has separate brands which can
13 offer at a much lower price point and not dilute what it's
14 trying to do with its premium brand, which I understand to
15 be Whirlpool, right.

16 So it's the difference between the producer
17 trying to be in every segment of the market, high end, low
18 end, and having multiple brands to do that, versus companies
19 that have made a conscious decision we only want to be in a
20 segment, and then they have to choose high end or low end.
21 These companies have chosen the high end.

22 MR. CASSISE: Moving on. The official position
23 by Samsung and LG, I would like to hear what the official
24 position of why production of these washers, why it was
25 necessary to move it to China. What was the strategic

1 business reason stated?

2 MR. BRINDLE: Dean Brindle with Samsung. So
3 from an overall global perspective, we continuously
4 evaluated our operating costs across a multitude of factors,
5 right. So if we look at consolidation of operations, right,
6 a couple of key factors in that decision for us. Being able
7 to consolidate washer production from Korea and Mexico into
8 one facility in China, and also at a later point being able
9 to move some of that dryer production from China to Mexico
10 as well, has both netted operating improvement for us during
11 the period.

12 So the key thing is that we didn't just move
13 washers, right. I mean there's a consolidation of
14 operations there. There's some inefficiencies that we
15 experienced in Mexico in our past period there, that allowed
16 us to move washers to China effectively.

17 MR. CASSISE: So you no longer produce any
18 washers or dryers in Mexico?

19 MR. BRINDLE: No, we still produce a lot of
20 dryers in Mexico. That facility is still open, and dryers
21 relocated from Korea and from China to Mexico.

22 MR. CASSISE: Okay. What's produced in Korea
23 now?

24 MR. BRINDLE: Korea production for washers and
25 dryers is not for the U.S. market.

1 MR. CASSISE: But they're still produced there?

2 MR. BRINDLE: Yes.

3 MR. CASSISE: For which markets?

4 MR. BRINDLE: Their export regions. I'm not
5 familiar with all the details.

6 MR. CASSISE: Okay. Home market and other
7 export markets?

8 MR. BRINDLE: Yes.

9 MR. CASSISE: Okay. That's Samsung. What about
10 LG?

11 MR. HERRING: John Herring from LG. There's a
12 variety of factors and consideration that go into selection
13 of a production facility. We'd be happy to share that with
14 you in the post conference brief.

15 MR. CASSISE: Okay, and current production in
16 Mexico or Korea is non-existent, is existent?

17 MR. KIM: Andrew Kim, LG. Currently, we produce
18 dryers and some of the LRWs in Korea.

19 MR. CASSISE: Okay. So were factories shuttered
20 in Korea or Mexico for either LG or Samsung?

21 MR. BRINDLE: Not to my knowledge. This is Dean
22 Brindle for Samsung.

23 MR. KIM: And could you repeat that question
24 please?

25 MR. CASSISE: Were any manufacturing facilities

1 in Korea or Mexico shut down?

2 MR. KIM: No for LG.

3 MR. CASSISE: I ask this again to the panel this
4 morning. What is Samsung's and LG's current definition of
5 high efficiency?

6 MR. BRINDLE: Well, as an industry veteran and
7 also going back to textiles before that, you know, high
8 efficiency is quite interesting, right. We'll all give
9 kudos to Whirlpool for creating the high efficiency topload
10 category. But the evolving definition's been a little bit
11 difficult for all of us within the industry.

12 There were items in the petition that were news
13 to me after 11 years in home appliances. The agitator and
14 the new and improved definition of high efficiency is
15 anything that recommends HE detergent were a little bit
16 interesting. For the purpose of reporting, we followed the
17 new definition, to say that anything that is high efficiency
18 would use high efficiency detergent.

19 Our working definition historically has been
20 anything that's high efficiency had to meet Energy Star.
21 But due to the way that other brands marketed their
22 products, including conventional topload that was not using
23 high efficiency detergent as high efficiency, we had to call
24 even our one non-Energy Star model high efficiency beginning
25 this year.

1 MR. CASSISE: Okay. LG?

2 MR. KIM: So Andrew Kim, LG. As Mr. Brindle
3 mentioned, there's no definition of the high efficiency, and
4 there has been a lot of changes in how they -- how everyone
5 defines the high efficiency. So we don't have a definite
6 description of how we define the high efficiency within LG,
7 but general -- in general term, we believe the high
8 efficiency is the LRWs that are energy rated and more
9 efficient.

10 So easily speaking, at least it needs to be
11 Energy Star rated. But as Mr. Brindle mentioned, it could
12 change again also. But as of right now, we define our high
13 efficiency as energy rated and all of our LRWs are currently
14 selling in U.S. market is energy rated.

15 MR. CASSISE: Okay. I have no further questions
16 at this time. Thank you.

17 MR. CORKRAN: Thank you, Mr. Cassise. Mr. von
18 Schrilitz.

19 MR. VON SCHRILTZ: Yes, thank you for everyone
20 coming here and sharing this testimony with us, helping us
21 understand this market. It's very, very helpful and very
22 much appreciated. My first question has to do with like
23 product, because I'm very, very confused.

24 I mean I asked the Petitioners' panel a lot of
25 questions about like product, and it seemed pretty clear to

1 me, you know, that they intend the like product definition
2 to include all large residential washers produced in the
3 United States, same as in the last investigations, and that
4 these exclusions from the scope, none of that stuff is
5 produced domestically.

6 So whether they're included or not in the like
7 product definition doesn't make any difference, because
8 you're not going to get financial data, you're not going to
9 get sales data on stuff that's not produced in the United
10 States.

11 MR. SHOR: It does make a difference, because
12 imports of those products would be included in the
13 Commission's analysis.

14 MR. VON SCHRILTZ: Well no, because I mean how
15 -- yes. I understand you want the collection of non-subject
16 imports to include imports of these products excluded from
17 the scope. But I don't see how that relates to a like
18 product definition at all.

19 MR. McCULLOUGH: Matt McCullough. Again, it
20 goes back. What is the Commission looking at? Well, you
21 have a domestic industry producing a domestic like product,
22 okay. When you define the domestic like product as a
23 continuum of products, and that continuum includes these
24 particular models, you have to say that Whirlpool is a
25 producer of the domestic like product. That is that

1 continuum.

2 So it is necessary to your economic analysis to
3 collect all the data. Whether or not it produces that
4 particular model doesn't mean it doesn't produce the
5 continuum.

6 MR. VON SCHRILTZ: I think there's some
7 confusion here about domestic like product. I mean the
8 statute defines it as products produced domestically.
9 Domestic products like, or in the absence of like, with
10 characteristics most similar to the subject merchandise. So
11 you know yes, it's very, very possible that these products
12 excluded from the scope compete with the domestic like
13 product and are injuring of the domestic industry.

14 I mean that's something that you can argue. But
15 whether we define the domestic like product to include
16 products that are not produced domestically or not I don't
17 think would really affect that analysis. I mean you're free
18 to request the collection of data on these washers that are
19 excluded from the scope, and you're free to argue that those
20 washers have injured the domestic industry.

21 But the way the Commission defines the domestic
22 like product I don't think is really going to affect that at
23 all, because the domestic like product is limited to
24 products that are produced domestically.

25 MR. PORTER: Mr. von Schritztz, with all due

1 respect your -- sorry, Dan Porter for the record. Your
2 interpretation is at odds with past Commission
3 determinations, okay, and let me be very clear, and we will
4 provide the actual case names. There was a case of products
5 A, B, C, D, F, okay. A lot of discussion whether F should
6 be a separate like product.

7 It was agreed by all parties that it was not
8 produced in the United States. The Commission said because
9 it's not produced in the United States, it can be a separate
10 like product. But we include it within the like product
11 definition for the purposes of the case.

12 That's exactly what we're arguing, and all we're
13 saying is please follow past Commission practice on this
14 issue.

15 MR. McCULLOUGH: Matt McCullough with --

16 MR. VON SCHRILTZ: Well first, each case is sui
17 generis. So what the Commission did in these past
18 investigations, you're free to argue it, but the fact is I'm
19 sure there was something happening in those investigations
20 that was unique to that case. I'm just saying, I mean maybe
21 you can make the same argument. There's something about
22 this case that would warrant the Commission defining the
23 like product to include products not produced in the United
24 States.

25 MR. McCULLOUGH: Well Matt McCullough from

1 Principal. Just to start, I would invite you to look at any
2 number of cases where the Commission has looked at a
3 continuum of products instead of a single article, and some
4 of the cases that Dan is referring to, look to Extruded
5 Rubber Thread from Malaysia, look to some of the Carbon
6 Flat-Rolled Steel cases whether it's cold-rolled or
7 hot-rolled, and I would argue -- I would invite you to look
8 at again other cases where the Commission is dealing with a
9 continuum of products with overlapping competition.

10 My point is that these products clearly compete
11 and are part of that continuum. Whether or not they are
12 produced in the United States is irrelevant to whether
13 they're part of that continuum, and that is what the
14 Commission precedent has been.

15 It is important to your analysis, because it
16 establishes a very clear connection in terms of competition,
17 not only for the domestic like product but also for the
18 foreign like product, right, which the statute doesn't
19 define as just being subject merchandise, but other
20 merchandise that has similar physical characteristics.

21 So when you're doing your economic analysis, you
22 need to look at the competitive effects of all the products
23 that compete on that like product continuum.

24 MR. VON SCHRILTZ: Okay. It would be
25 interesting to hear more about that in your post conference

1 brief. I heard testimony from your panel that dryers are
2 very important to this market, and that they're often sold
3 together, grouped together with washers and that I think I
4 even heard that someone suggest that the Commission collect
5 financial data on sales of dryers.

6 If this is such an important condition of
7 competition, why wasn't it raised at all in the last
8 investigations? Is this a change in the conditions of
9 competition?

10 MR. SHOR: I guess I'm the best person to answer
11 it, because I wasn't involved in the last investigation. My
12 answer would be that the Respondents have better lawyers
13 this time.

14 MR. VON SCHRILTZ: Please continue to identify
15 yourself Mr. Shor and other panelists. I apologize.

16 MR. SHOR: That statement required no
17 explanation.

18 MR. VON SCHRILTZ: Feel free to cut in at any
19 time. Now I also heard testimony I think from Mr. Klett,
20 and also from you, Mr. Porter in your opening statement,
21 that price compression doesn't make any sense. But didn't
22 the Commission find in the last investigations that there
23 was price compression and didn't the Court of International
24 Trade affirm the Commission's finding that price -- that
25 there was price compression in the washer market?

1 MR. SHOR: Again, this is Mike Shor from
2 Samsung. I can answer since I wasn't involved in the last
3 investigation. I read that very carefully and I listened to
4 the testimony today, and what I heard today is the same as
5 what the Commission accepted last time, which is the simple
6 proposition, with which we agree, that if there are two
7 models that sell for the same price and one has more
8 features, that will push the price of the other model lower.

9 That is not our case now. I don't know about
10 the facts last time, but the problem here is that's not our
11 case because there's a gap. There's a gap between the
12 mid-range models and the low-range models, and what the
13 Petitioner has never explained and what they didn't explain
14 today is how that price difference transmits through the
15 gap.

16 In other words, if you have fully featured
17 models at six and seven hundred dollars and the price of one
18 of those drops, how that affects product at \$400 or \$300,
19 where it's sold to a different consumer who wants the lowest
20 possible price and he's not looking for features.

21 Whatever happens in the segment of more featured
22 models, I mean it's the good, better, best stuff we've
23 heard, the problem is it's not a continuum. There's a gap,
24 and the price compression can't exist when there's a gap.

25 MR. VON SCHRILTZ: Well, what I heard -- what I

1 heard the panel this morning explain and what was explained
2 to the Commission in the last investigations was that --
3 what I heard from the panel this morning, and this is their
4 explanation, was that when there's price pressure on a model
5 at the high end, if a competitor cuts a price on a high end
6 model and then Whirlpool is forced to respond to that with
7 retailers, maybe during this line review process by cutting
8 the price on their own high end model, that ripples through
9 the lower models because the retailers want there to be kind
10 of stable price differential between models at each step of
11 the ladder.

12 So if you get the high end model and you cut it
13 by \$100, you can't keep the next highest model the same
14 price because you've compressed the prices, the price gap
15 between them, and retailers want producers or the suppliers
16 to then cut the price of the next lower model to maintain
17 that gap.

18 This was something that also I believe was
19 explained to the Commission in the last investigations --

20 MR. KIM: Mr. von Schrittz, this is Dan Klett.
21 I mean I think there's a factual issue as to whether
22 consumers at the low end consider high efficiency topload or
23 front load models from Samsung or LG, and from what I heard
24 from Mr. Brindle and from consumers is that if a consumer
25 that goes into the low end and is budget and value minded,

1 that that person goes in for say a certain price point and
2 can only be convinced to go up to a somewhat higher price
3 point.

4 But even that higher price point is still lower
5 than the lowest front load and high efficiency top-load
6 price points. So it's a separate market segment, and in
7 order for this price compression theory to work, there has
8 to be competition between the conventional top-load or the
9 high efficiency top-load or the frontload. If there's no
10 competition between those models, the price compression
11 theory as an economic matter doesn't work.

12 MR. BRINDLE: I think -- Dean Brindle with
13 Samsung. I think we've pointed out as well that in our
14 research, we show that consumers under \$600 spend less than
15 they budgeted. They're not really trading up. So they're
16 not really feeling the pressure of those premium products,
17 right. They're trading down typically into those lower
18 priced topload washers, and above \$600 consumers move up the
19 continuum.

20 So that the price compression theory is a big
21 challenge for us to understand from that standpoint. In
22 addition, as you mentioned, moving a price on a premium
23 model could affect the lineup, right. Every manufacturer
24 has to put together a strong lineup.

25 In our presentations with our retail partners on

1 line review, it's not just a price discussion. We present a
2 portfolio of product, present a line, you know, line logic.
3 When a competitor such as a Whirlpool introduces a 5.3 cubic
4 foot top-load washer \$200 more than the competition, there's
5 inevitably a response, and that's one of the things that
6 we've seen during this Period of Investigation.

7 MR. VON SCHRILTZ: And how do you respond to the
8 cross-shopping studies showing that consumers who currently
9 own a conventional top-load will sometimes buy -- will often
10 in fact buy a high efficiency top-load or a high efficiency
11 frontload, and consumers that currently own a frontload will
12 often buy a high efficiency top-load and sometimes buy a
13 conventional top-load? Wouldn't that show a degree of
14 cross-shopping between the categories?

15 MR. BRINDLE: There's definitely some cross
16 shopping. Dean Brindle again with Samsung. Definitely
17 cross-shopping amongst form factors, right. But keep in
18 mind the lines are blurred now with that definition change
19 in high efficiency. So I'd have to understand the source of
20 the research, in many cases to understand where that cross
21 shop occurs.

22 There's no doubt that as consumers' income and
23 you know, they life cycle changes, right, they may move from
24 conventional top-load to high efficiency top-load or
25 frontload as a more premium product. Certainly someone

1 making \$25,000 a year versus someone making \$100,000 a year
2 is going to have a little bit different preference overall.

3 But much like Mr. Tubman pointed out this
4 morning, there are consumers that trade out of frontload or
5 out of high efficiency top-load, and Mr. Cassise hinted at a
6 family member who is probably dissatisfied at HE top-loads,
7 switching to conventional or potentially switching to
8 conventional.

9 Those are individual purchase decisions based on
10 preference. To anecdotally reference the switching behavior
11 without talking more in an overall condition of what the
12 quantitative data shows is probably not really beneficial.

13 MR. PORTER: Mr. von Schriltz, can I make a
14 couple of other points. A couple of things just to think
15 about. First, we really do need to distinguish between
16 what's called that lower part of the market or the bottom
17 part of the market, where LG and Samsung do not exist, and
18 is there true evidence that, you know, that as I think Mr.
19 Herring said, the change from an LG 700 to 650 is going to
20 influence a consumer who's not going to pay more than \$400.

21 Economically it doesn't make sense, but there's
22 really no evidence that that's going on. We have evidence
23 that there's a very solid band of customers, 39.5 percent
24 that live in that segment, okay. So the question is is that
25 segment, the prices in that segment, are they being

1 influenced by the other two segments?

2 We heard a lot of theory today, but we don't
3 have really any evidence of that. Let me make another point
4 about evidence, okay, and we need to really make sure we're
5 distinguishing between theory and evidence.

6 The Commission has a practice in looking at
7 relationship of prices and they have, to use your word, an
8 assumption. If there is underselling, if the foreign price
9 is lower than the domestic price, then absent anything else
10 we will say that it's having an adverse price effect.
11 That's sort of at least an assumption that they're making
12 that has some economic validity, a lower price is going to
13 pull something down.

14 But that's not what Petitioners are saying here.
15 They're saying something up here of higher prices is having
16 an adverse effect on lower prices, which is a price
17 compression theory. The Commission has never accepted,
18 admitted they did acknowledge the existence of it. But as
19 Mr. Shor said, they cited Bob Baird's testimony, which was
20 repeated in the petition, look at the -- in the petition and
21 it was cited in that past Commission determination.

22 When it's at the same price, of course there
23 will be some effect. But again there's no evidence here
24 that a more fully featured product is being reduced
25 consistently to a basic level conventional washer price.

1 There's just no evidence that they've presented that that's
2 happening. So therefore this lower market, the 39.5
3 percent, is unaffected what's going on with import pricing.

4 MR. VON SCHRILTZ: I'm wondering, looking at one
5 of Mr. Darling's exhibits, it's the one -- these aren't
6 numbered, but it's the second, I think second page. It's
7 All Top-load Agitator Only White Product and it's all GE and
8 Whirlpool. I'm wondering, to what extent -- I understand
9 that LG and Samsung don't sell agitator-based top-load
10 machines, so that's why they don't appear on this chart.

11 But to what, I mean to what extent are LG and
12 Samsung -- do LG and Samsung sell any products in this price
13 range, net prices after -- I know some of this is BPI, but
14 I'm wondering. Do LG and Samsung sell any products in this
15 price range, including discounts?

16 MR. HERRING: This is John Herring from LG. As
17 I said earlier, 74 percent of our business is done above
18 \$600. So there's some segment that does dip below \$600.

19 MR. VON SCHRILTZ: And what about Samsung?

20 MR. BRINDLE: Dean Brindle, Samsung. Can you
21 remind me on the break point on the chart?

22 MR. VON SCHRILTZ: Oh yeah, sure, I'm sorry.
23 Maybe you don't have this in front of you. GE's at around
24 500 and Whirlpool is around 450. There you go.

25 MR. BRINDLE: Yeah. So Samsung would have a

1 product or two in that price band.

2 MR. VON SCHRILTZ: All right. Thank you. And,
3 of course, in the last investigations the Commission focused
4 its analysis on sales by producers to retailer distributors.
5 That was found that's where the competition really occurred
6 between LG, Samsung, Whirlpool and other domestic producers.

7 So I'm wondering, do the higher featured
8 producers tend to offer retailers higher margins? I mean,
9 do retailers enjoy higher margins on better looking, more
10 fully featured models than on these value models?

11 MR. BRINDLE: Dean Brindle with Samsung. I
12 think there's certainly a different margin structure
13 depending on each retailer. Without getting into
14 proprietary pricing information, I think we can handle that
15 post --

16 MR. VON SCHRILTZ: Okay. What about LG?

17 MR. HERRING: John Herring, LG. Answer the same
18 way.

19 MR. VON SCHRILTZ: Okay. Because I'm wondering
20 if retailers would try to sell higher margin -- if retailers
21 want to sell higher margin products to their customers,
22 wouldn't they have an economic incentive to take a customer
23 who's on the market for a value product and convince them to
24 step up to a more fully featured, higher margin product?

25 MR. SHOR: First, couple of ways to respond to

1 that. Most of the retail sales people don't work on
2 commission and most retailers have no incentive to push one
3 model or another. I think there was testimony from the
4 first panel today that retailers looked for the models with
5 the highest margins, which is what your questions gets at.

6 That can't be true because profit, it doesn't
7 equal margin. Profit equals margin times quantity. And
8 retailers focus on moving quantity. That's why -- you know,
9 there's a fundamental disconnect between what you see with
10 your eyes and what you heard this morning.

11 You heard this morning was, everything's based
12 on price. Purchasers -- retailers make their decision based
13 on price. If that were the case, why is everybody making
14 all these new features. Why aren't they just cutting price?
15 And that's because everybody's trying to differentiate
16 themselves in the marketplace.

17 Everyone's trying to get the customer to buy
18 based on features. You didn't -- when you went and bought
19 your washing Mr. Cassise you went to the store. You didn't
20 go online and look for the lowest price. You wanted to feel
21 it, you wanted to touch it. You wanted the model that met
22 whatever preferences you had.

23 And everybody understands that. And the notion
24 that the purchasers are driving the market is just nonsense.
25 The purchaser demand is all derived from retail demand.

1 It's true for any consumer product. The retailers are
2 stocking those models that the consumers buy in the largest
3 quantities, because that's how they make money.

4 MR. PORTER: Dan Porter for the record. Wanted
5 to add -- when these cases start, the first thing we try to
6 do is learn as much as possible about the market and what's
7 happened since -- when we have this situation that happened
8 in the last case.

9 And during that process, we -- first thing we
10 asked our clients to be able to talk to their customers, the
11 retailers, and so we just have chat, what's going in the
12 market, what's happened. And we asked this very question
13 that you just asked, because quite honestly, it appears
14 intuitive.

15 And I tell you retailer after retailer said, no,
16 that's not true. What they said that to us was basically
17 yes, margin may change from supplier to supplier, but across
18 the board the margin is the same. And what they said they
19 are most interested is moving metal off the floor. And
20 that's a quote, okay?

21 And they're interested in, as Mr. Shor said, the
22 volume of turns and getting foot traffic into the store for
23 some of these bigger places will offer other products. So
24 the point is, it's not everything about the individual
25 profit on an individual model, it's really what sells the

1 best so it drives traffic and be able to do turnover.

2 And so we would disagree with Whirlpool's
3 contention that the only thing retailers care about is the
4 higher profit they can get on an individual unit.

5 MR. HERRING: John Herring with LG. I just want
6 to expand on that a little bit without spending too much
7 time. As I mentioned earlier, I've been in this business a
8 long time, over twenty years. And the way the consumer
9 shops and gets information and the importance of the retail
10 sales person has dramatically changed.

11 So, what you're describing and what I thought I
12 heard Whirlpool described, is a totally different
13 environment. Twenty years ago, consumers didn't have the
14 information when they bought a washer. They basically got
15 all their information from the retail sales associate when
16 they showed up. That doesn't happen anymore.

17 With the internet, beautiful LG smartphones, you
18 can access all this information at your fingertips, in the
19 middle of the shopping experience. You can access all that
20 information before you even walk in the store. The consumer
21 holds the power in the decision.

22 They're far, far more informed. So a retailer
23 who tries to shift, sway or push a customer into a product
24 based upon margins, those retailers are going out of
25 business.

1 So retailers that are actually serving the
2 customers' need and trying to serve what the customer's
3 looking for, and if you talk to the merchants at any of the
4 major retailers, they'll tell you that. The fact that we
5 get into a conversation with a merchant and they're dominant
6 focal point is the margin structure is not any meeting that
7 I'm in.

8 They start, first and foremost, with their
9 consumer and how do they satisfy their consumers? What are
10 the consumers looking for? What are the trends? What are
11 the hot brands? What innovation -- what things can create
12 excitement and drive customers into their store?

13 So price is important, but to say the first
14 thing and the only thing and dominant thing that a retailer
15 talks about with you when you get into discussion is over
16 margin? Not at all the case. A lot of decisions are made,
17 for the retailer, they can't wait to get some of our new
18 products. The conversation over the margin comes long, long
19 after that, after they made a decision to floor it.

20 MR. VON SCHRILTZ: Thank you. That's very
21 helpful. I guess I wanted to follow up on something that
22 Chris asked. And it's something that the petitioners raised
23 in their panel, the Petitioner. And that is their
24 allegation that LG and Samsung moved production from Korea
25 and Mexico to China to circumvent the orders. How do you

1 respond to that?

2 MR. SHOR: It's irrelevant for the Commission to
3 consider. There is a circumvention statute. It gives full
4 authority to the Commerce Department to evaluate
5 circumvention. What's going on here meets none of the
6 statutory definitions of circumvention. As you pointed out,
7 every case is sui generis. This is a case involving washers
8 from China. It is not tied to the case involving washers
9 from Korea, because it's different countries and a different
10 case. Thank you.

11 MR. VON SCHRILTZ: Thanks, Mr. Shor. Continue
12 to identify yourself, please.

13 MR. SHOR: That was Mike Shor for Samsung.

14 MR. VON SCHRILTZ: All right. I have no further
15 questions at this time. Thank you.

16 MR. CORKRAN: Thank you, Mr. Von SchrilTZ. And
17 y'all are gonna thank me when you get the transcript --
18 you're identified properly. Ms. Cohen.

19 MS. COHEN: This is Cindy Cohen. I'd also like
20 to thank the afternoon panel for your testimony. I think we
21 may have already covered this, but I also had questions
22 about the cross-shopping among the different models because
23 that was something that the Commission found in the previous
24 investigation.

25 And, you know, what is different this time than

1 the case that we had last time? That was something that the
2 Commission cited in their opinion was that consumers
3 cross-shop and that that basically the price, that they were
4 -- that the Commission did cite to that price compression.

5 MR. BRINDLE: Dean Brindle with Samsung. I
6 think there's a couple of key differences I would point out.
7 In 2012, the largest front load washer in the industry was
8 4.5 cubic feet, all right? The largest front load washer in
9 the industry today is 5.6 cubic feet. In 2012 the largest
10 top load washer in the industry was 5.0, today's it's 5.6.

11 Capacity's still very top of mind for consumers
12 and their purchase decision, as they look at that overall.
13 As high efficiency top load capacities have migrated to
14 lower price points, as seen by the 5.3 that I shared earlier
15 today, there's 4.8 cubic foot high efficiency top load at
16 \$699 from minimum advertised price position, promoted as low
17 as \$499 by Whirlpool.

18 That's just the dynamic for consumers between
19 high efficiency top load and front load. One thing that was
20 addressed this morning was the balance of sales in units,
21 front load versus top load. Front load now is down below
22 25% of the total industry and for a lot of our retail
23 partners was below 20%. When we asked our retail partners
24 why that happened, they cite the larger capacity HE top load
25 units that have been introduced in the last three years as

1 forcing consumers out of front load into high efficiency top
2 load.

3 Correspondingly, as new platforms from Whirlpool
4 have been introduced -- agitator's a new term to me -- I
5 thought that was interesting in the petition and today, as
6 far as the discussion. But also when you look at putting a
7 4.3 cubic foot HE top load out at \$399 and looking at where
8 the past case would've been at a 3.5 or a 3.6, the
9 cross-shopping behavior's not the same.

10 Why? Conventional top load is now still a large
11 portion of the industry, but it's hard to delineate between
12 an agitator, an agitator, where those all fit in the market
13 segments today, and how that competes versus an impeller and
14 a new definition of high efficiency top load.

15 So even for us within the industry, I truly feel
16 sorry for the Commission trying to determine what these
17 different categories are and the different definitions in
18 use within the trade, because the cross-shopping behavior's
19 not clear on that low end segment, especially because of the
20 crossover between what was traditionally top load agitator
21 and now, agitator or impeller top.

22 MR. KLETT: Ms. Cohen, this is Dan Klett. I
23 mean you have some, some empirical data on -- if it's going
24 on the degree to which it's going on, and there was a slide
25 that Mr. Toohey put up and basically what that slide showed,

1 with the three different segments, was that the high
2 efficiency top load share was going up, and the front load
3 share was going down, but the conventional, the agitator top
4 load was remaining relatively stable, which indicates if
5 there's any cross-shopping going on, it's more between the
6 front load and the high efficiency top load, as compared to
7 those two and the conventional top load, or the agitator
8 models.

9 MR. COHEN: Did anyone else have comments on
10 that? I think it might have been Mr. Brindle who testified
11 that Samsung doesn't sell to the builder market? And we
12 heard the testimony this morning that a large segment of the
13 builder market is going through retailers like Lowe's and
14 Home Depot? Or Samsung or LG serving the builder market
15 through those retailers?

16 MR. BRINDLE: Dean Brindle with Samsung again.
17 I think there's a difference in the definition of the
18 builder contractor market. We would define the builder
19 market as working through direct to builders, and builder
20 distributors. Not through the regular guy that builds four
21 or five hours a year, that goes to Lowe's or Home Depot and
22 buys.

23 Those are typically more of a retail customer.
24 Lowe's have a "Pro" desk that's pretty efficient with some
25 of those smaller builders, so for us, the definition of

1 that, we considered builders and major builder distributors
2 as a direct customer relationship, for that builder segment
3 of the market.

4 MS. COHEN: Mr. Herring.

5 MR. HERRING: John Herring with LG. Our
6 response would be the same as Mr. Brindle.

7 MS. COHEN: Some of the discussion of the
8 pricing products was mentioned. The direct drive being
9 included in the definition? And that consumers don't care
10 about that? So I mentioned this morning that I don't have
11 the InScope washer -- I used one in my condo, but when I was
12 visiting my friend in Florida yesterday, which I wish I was
13 still in nice, sunny Florida, instead of cold D.C.

14 Anyway, that their -- the washer they had did
15 say direct drive on the washer, so that seemed like
16 something that was being advertised. Can someone speak to
17 whether there's a premium for the direct drive?

18 MR. BRINDLE: Dean Brindle with Samsung. So
19 I've had the experience of working with a lot of belt-drive
20 machines in my past career at Electrolux. Every front load
21 washer that Electrolux built and continues to build, has a
22 belt drive in it.

23 And comparing notes to direct drive and looking
24 at direct drive overall, when I came to Samsung, I noticed
25 that we put a sticker on every unit and they called that

1 direct drive, so my first question was, where's the big
2 benefit, right?

3 From a service standpoint you can make a story
4 that there's no belt to fail, no belt to slip, stretch, that
5 kind of thing, but realistically it's a design
6 consideration. We put stickers on the product because we
7 tried to market that for years, but it's not driving
8 consumer preference.

9 Direct drive is a nice to have comment from a
10 quality perspective, and to talk about a longer warranty on
11 that, you need components, but it's not a distinguishing
12 characteristic in consumer's purchasing decision.

13 MS. COHEN: Mr. Herring?

14 MR. HERRING: John Herring with LG. As much as
15 we would like consumers to buy based on the fact that it
16 says direct drive, they're really buying benefits, not
17 necessarily that feature, so the benefits derived from it,
18 such as quiet, smooth operation, more reliable, those kind
19 of things are really what they're looking for, but we
20 probably have an opportunity to do a better job of conveying
21 that to consumers.

22 MS. COHEN: So wouldn't there be a price premium
23 for that then if that's conveyed by the, having the direct
24 drive?

25 MR. HERRING: It's becoming more of a norm, I

1 think, in the industry. We offer direct drive throughout
2 our entire line.

3 MS. COHEN: I think it was Mr. Brindle so this,
4 Chris asked the question about the color and you referenced
5 that, for your premium product, I forgot the percentage,
6 which color, so what distinguishes your premium product from
7 other -- how do you define premium?

8 MR. BRINDLE: Dean Brindle with Samsung again.
9 We looked at premium based on the feature content for us.
10 Over half of our premium units are sold in color since 2013.
11 We've emphasized our retail partner, that when you
12 merchandise color, you sell color.

13 It's easy to sell white when you have a colored
14 unit on the floor, because anyone knows what white looks
15 like, but it's almost impossible to sell color when you have
16 white on the floor. For us, that feature set that comes in
17 is typically tied to our better features, so it's not a
18 specific price point that we would define for premium.

19 MS. COHEN: Does LG have a premium product?

20 MR. HERRING: John Herring with LG. Yeah, the
21 loaded question at all of our products are premium, but
22 premium is not clearly defined. It depends on the set or
23 the circumstances you're in. Premium in a retailer may be
24 the most expensive washer they have on that floor. So it's
25 relative to what's around it.

1 MS. COHEN: What is the significance of the \$600
2 price break? What showed up in the slide earlier --

3 MR. BRINDLE: Dean Brindle, Samsung again. We
4 didn't see -- we didn't define the \$600 price break, as far
5 as consumers on their budget switching behavior. That was
6 based on quantitative research to define where the tipping
7 point is. Our quantitative research has shown that
8 consumers above \$600 spend more than they plan to, and more
9 than they budgeted in their purchases.

10 MS. COHEN: And now are there specific washers
11 that would be -- types of washers that would be less than
12 \$600 versus over \$600 -- is there a break there?

13 MR. BRINDLE: You'd be hard pressed to find an
14 agitator above \$600.

15 MS. COHEN: Did anyone on the panel want to
16 address the issue of competition for Kenmore products?

17 MR. SHOR: Mike Shor for Samsung. We'll
18 eventually get to it in the meeting. Takes a long time. We
19 do believe that sales to OEM should be treated as a distinct
20 level of trade and broken out in the pricing product
21 because, as Mr. Von Schriltz mentioned or asked about, they
22 do have different activities and different costs.

23 When you sell to Kenmore as an OEM, you do not
24 pick up the warranty costs for machines that fail. When you
25 sell to Home Depot or Lowe's or others you do. So there are

1 different costs involved.

2 MR. KLETT: We can provide some data on that
3 breakout as you requested of petitioner's, we can do that
4 for LG as well.

5 MS. COHEN: And I'm not sure if this can be
6 discussed in a public forum, but in terms of the competition
7 for the Kenmore products, whether LG and Samsung were
8 winning on the basis of price.

9 MR. BRINDLE: Samsung hasn't participated in SSI
10 negotiations with Sears since early 2012. We're no longer
11 participating in that market.

12 MS. COHEN: Is there a reason for that?

13 MR. BRINDLE: We felt that our single brand to
14 focus on Samsung was more critical than continue to supply
15 any small Kenmore volume.

16 MS. COHEN: And LG?

17 MR. HERRING: John Herring with LG. We will
18 respond in our post conference brief on that.

19 MS. COHEN: I appreciate that. Thank you. That
20 concludes my questions.

21 MR. CORKRAN: Thank you, Ms. Cohen. And
22 actually before we go to Ms. Breaux, I wanted to follow up
23 with Mr. Brindle on that last line of inquiry. You broke
24 into -- you gained a big box customer at about that same
25 time as you stopped selling to the Sears account. Was there

1 a relationship between those two decisions -- or those two
2 events?

3 MR. BRINDLE: Dean Brindle with Samsung. No,
4 sir, Mr. Corkran, that was not a relationship discussion for
5 us. When we looked and evaluated the Kenmore business, we
6 weren't supplying a very large portion of it, and just felt
7 that it created too many conflicts or retail partners as we
8 tried to really emphasize the Samsung brand.

9 MR. CORKRAN: Thank you very much. I'll turn to
10 Ms. Breaux.

11 MS. BREAUX: Good afternoon, this is Michelle
12 Breaux with the office of economics. My question is, and
13 it's the pretty much the same one I asked earlier, to the
14 earlier panel, what does the lifecycle of any model that you
15 have, how does that affect the pricing that we will see in
16 the quarterly data?

17 MR. BRINDLE: Dean Brindle with Samsung again.
18 We have a life cycle of our products that can range anywhere
19 from twelve to thirty-six months. Traditionally the
20 industry has been more of a two-year lifecycle, depending on
21 competitive introductions and different products. You could
22 look at some products that only make it twelve months in the
23 market across many different brands.

24 So we typically would introduce a product, have
25 some type of launch ad placements with our retail partners,

1 and not really push promotional discounting in the first
2 couple of months after we launch that product.

3 Obviously, holiday seasonal activity takes over,
4 as you begin to introduce more of those discounts. As we
5 get deeper into the lifecycle -- we'll look at the
6 competitive set, the matrices overall to try to understand
7 where our product hits versus competition, and as that
8 product gets deeper into its lifecycle, you'd probably
9 expect a deeper promotional discount from main competitors.

10 MR. HERRING: John Herring with LG. Our
11 response would be pretty similar to Mr. Brindle's.

12 MS. BREAUX: All right. Thank you very much.
13 The only other thing I have is that you'll be getting
14 clarification on pricing products from me later on.

15 MR. CORKRAN: Thank you, Ms. Breaux. Mr.
16 Fravel?

17 MR. FRAVEL: Thank you. This is Dennis Fravel
18 with the Office of Industries. The first question is for
19 both Samsung and LG. We discussed this morning the
20 significance of platforms with product platforms or design
21 platforms -- I don't know what they are. So if you could
22 tell me in the post hearing submissions, whether you use
23 those and how often they are modified? Similar to the
24 discussion this morning? In your manufacturing?

25 MR. BRINDLE: I think the industry definition of

1 platforms is really around an R&D project or design
2 platform. All right? So, for example, you may have a large
3 capacity platform that's encompasses a certain a tub
4 structure and a cabinet structure that goes with that
5 product. It's more of an engineering design type platform
6 discussion.

7 Typically those platforms are gonna live
8 anywhere from two to five years. I have seen in my past
9 career, the Electrolux platform that made it almost thirty.
10 So it's not a standard lifecycle for a platform. We talk
11 lifecycle, it's much more related to a model or a skew,
12 based on the retail placement.

13 MR. HERRING: Yeah, I think I heard -- John
14 Herring with LG -- I think I heard you ask earlier about a
15 model and a skew and those terminologies are really
16 interchangeable, but platforms -- just to add to Mr. Brindle
17 -- 27" may be a platform, 29" may be a platform. You may
18 have other platforms within that, so could have a variety of
19 models come off of one platform.

20 MR. FRAVEL: Okay. And so you define this skew
21 the same as a model?

22 MR. HERRING: Yes.

23 MR. FRAVEL: They're synonymous?

24 MR. HERRING: Yeah, those are pretty
25 interchangeable.

1 MR. FRAVEL: Okay. Same for you, Mr. Brindle?

2 MR. BRINDLE: Yes.

3 MR. FRAVEL: Okay. Thank you. Also, you talk
4 about the market and there's premium or high-end, middle and
5 low. If you could define those in your post hearing
6 submission just so that we have comparable types of ways of
7 looking at the world? Or understand how manufacturers look
8 at the world? The market -- why, what you mean when you say
9 low-end or middle? You really haven't talked too much about
10 the middle. It's usually been the high and the low. Okay.
11 So thank you. And then another question would be, Mr.
12 Brindle, you raised the issue of dryer sales attached to
13 washer sales? Do you have some quantitative information or
14 a guesstimate as to how significant that is in, let's say,
15 sales for popular models?

16 MR. BRINDLE: Sure, Dean Brindle with Samsung.
17 In the U.S. market, unlike other parts of the world, right?
18 In other parts of the world, dryers are not very popular,
19 less than 10% dryer sales as a ratio to washer sales. So in
20 those markets, the pricing behavior is quite different.
21 They're not sold in pairs, they're sold individually.

22 In our market, obviously they're designed to
23 match. They're matching products. And we hear comments
24 from retailers quite often about wanting to increase the
25 units per ticket or revenue per ticket. That's an

1 indication to them or the performance of their floor space.

2 So they're always trying to sell a washer and a
3 dryer together. We estimate over 50% of unit sales go out,
4 washer and dryer together, based on some anecdotal data that
5 key retail partners have shared with us.

6 In addition, if we look at total dryer sales as
7 a ratio to washer sales in the U.S. industry, you can look
8 at the AHEM data and see that that exceeds 75% as well. So
9 in our market, washer and dryer pricing are critically
10 linked.

11 MR. SHOR: I want to answer the question a
12 different way in terms of the percentages.

13 MR. CORKRAN: Mr. Shor, you name?

14 MR. SHOR: By the time the hearing's over, I'll
15 remember to do it. The critical percentage is, what
16 percentage of manufacturers sell their washers and dryers at
17 the same price for a pair? The answer to that is 100% in
18 the U.S. market. That is, look at every ad in the petition,
19 every single ad they have, they chose a washer and a dryer
20 that is sold for the same price.

21 Look at your Saturday newspaper or Sunday
22 newspaper, whenever the coupons come out. Look at the Home
23 Depot ad and Lowe's. They're always sold for the same
24 price. That is a phenomenon that's unique to the U.S.
25 market, and it's unique to the U.S. market because, as Dean

1 mentioned, there's a lot of dryers sold per washer.

2 The retailers like to advertise them for the
3 same price. Buy a pair, \$600 each. The ad you saw today,
4 it says \$600 each. They don't want to sell \$699 and \$599
5 for the washer, because, as Dean testified, then the
6 consumer has to do the math, you have to add \$699 to \$599
7 and people don't like to do that.

8 So the U.S. market, because of that dynamic,
9 compels the manufacturers to sell washers and dryers at the
10 same price. The problem for the manufacturer is the washer
11 costs significantly more to produce. You can look at it at
12 any number of levels. Dean can give you the weight for
13 example, the dryers weigh 20% to 25% more than washers.

14 They're more complicated. They have -- the
15 other way around. The washers weigh 20% to 25% more than
16 dryers. They're more complicated. They have to deal with
17 water, they have more cycles. They're more expensive to
18 produce and once you understand the dynamic that the pricing
19 has to be the same as the dryer, then necessarily all the
20 manufacturers understand that they are pricing their washers
21 and dryers so that, in terms of profitability, the dryers
22 cross-subsidize the washers. That's an important condition
23 of competition to understand, and it's unique to the U.S.
24 market.

25 MR. FRAVEL: In line with that, does the fact

1 that a consumer would go out and buy a washer/dryer pair
2 influence, if he can get a pair at a different -- at a lower
3 price, would he forego getting a certain feature in the
4 washer? Or it's -- nobody's asked that question.

5 MR. SHOR: The notion that it's all about price
6 is, you know, just consider your last appliance purchase,
7 even if it wasn't a washer. I think washers and all
8 appliances are the same.

9 You go in to the store, you look at different
10 models and then you turn to the salesman and you ask him
11 which one is the best. Which one would you buy? Or do you
12 ask him, which is the cheapest? Now there is a segment in
13 the market that will always ask which is the cheapest, and
14 we acknowledge that, but that's not a segment where we sell,
15 you know the agitator models.

16 For everybody else, it's gonna be a trade-off.
17 It's, do I want the active wash feature? Do I want that tub
18 or do I like these controls better? And you're talking
19 about an appliance that you're gonna have in your laundry
20 room for ten years, and it's gonna cost maybe \$600 to \$1,200
21 and a \$50 or \$100 price difference, is that really gonna
22 drive your decision?

23 Or are you gonna get the feature set you want,
24 the color you want, the controls that you like? These are
25 not sold entirely based on price. If they were, as I said

1 before, everyone would look the same and the manufacturers
2 would just keep making a basic model and find ways of making
3 it more efficiently to reduce the price.

4 That's not how they compete. They compete based
5 on features, they compete based on capacity. Things don't
6 line up exactly. The pricing data in this case, I don't
7 envy you, your job, Ms. Breaux, and Ms. Cohen, there's a lot
8 of differences between all the products. You can't line
9 them up exactly, you can look at it globally. You can do
10 categories, you can try and find the products that match
11 exactly.

12 No product matches exactly. That's purposeful.
13 All the manufacturers before you, they don't want to compete
14 on price. That's a race to the bottom. They wanna keep
15 their prices as high as possible by introducing new
16 features, introducing new colors, introducing things that'll
17 stimulate the consume to buy their product.

18 MR. KLETT: Mr. Fravel, this is Dan Klett.
19 There's another element to washers and dryers being sold in
20 pairs, or at least, you know, a fairly high percent. And
21 that relates to the budget part of the market. And that is,
22 if the consumer's going in and has a budget restraint and is
23 paying \$399 for a washer.

24 You know, essentially to move that consumer up
25 to the \$499 is really not a \$100 price delta, it's really a

1 \$200 price delta, because if you're buying in pair, you're
2 buying a, you know, you're buying two for \$100 more each.
3 And so that further accentuates, kind of the budget, in
4 terms of moving a budget consumer up to the next price tier.

5 MR. BRINDLE: Dean Brindle, again, with Samsung,
6 addressing another question, Mr. Fravel. I apologize, I
7 didn't answer your question regarding premium product versus
8 standard product as far as the attachment rate of dryer
9 sales.

10 Two things I would say that definitely drive
11 higher dryer sales as a ratio to washers, one is color, and
12 one is the innovation story for us. We find that overall in
13 the more premium products where there are more features for
14 the consumer to consider, we more often find the dryer on
15 the same sales ticket.

16 MR. FRAVEL: Okay. Mr. Herring, do you have any
17 comments on this?

18 MR. HERRING: No, nothing further to add. John
19 Herring with LG.

20 MR. FRAVEL: Okay. Thank you. I have no more
21 questions.

22 MR. CORKRAN: Thank you, Mr. Fravel. Mr.
23 Boyland.

24 MR. BOYLAND: Good afternoon. Thank you for your
25 testimony. Sticking with the dryers for a moment, I just

1 wanted to ask, I understand the point that, you know, they
2 compliment each other. But is there any precedent for --
3 Mr. Dan Klett, specifically, because you raised this in your
4 testimony, is there any precedent for us gathering financial
5 results on a different product?

6 MR. KLETT: Well, I think it's -- this is Dan
7 Klett with Capital Trade. I think it's a -- under your
8 conditions of competition, it's a supply condition. I mean,
9 supply/cost condition of competition and that is that it's a
10 relatively recent phenomena that dryers are sold at the same
11 price as washers. You know, historically as Mike indicated,
12 given the cost difference, they were priced differently. So
13 I think it's a relevant condition of competition in terms of
14 looking at kind of the financial condition of the industry,
15 the fact that this phenomenon is occurring.

16 And by the way, it also -- you know, we talked
17 about dryers, but there's also a phenomenon with regard to
18 pedestals being sold bundled with the front load washer. I
19 mean, Dean or John can maybe talk about what they perceive
20 to be the profit margin on a pedestal, but, you know, that's
21 another area of cross-subsidization, if you will, on the
22 frontload part of the market.

23 MR. SHOR: To answer your question, Mr. Boyland,
24 Mike Shor for Samsung again.

25 I am not aware of any other case at the

1 Commission involving paired pricing. But the example I
2 would give would be the razor industry. For years the razor
3 industry has known as basically giving away the razors and
4 then they make their money on the razor blades. Suppose
5 there were a dumping case brought against razors and the
6 domestic industry complained that they were losing money on
7 their razors. Well, of course they're losing money on their
8 razors because that's their business model. So I don't know
9 if that means you would gather data on the razor blades to
10 see if that was profitable, but you would -- you would
11 definitely at least look at the profitability on razors in
12 the context of the pricing structure and the nature of the
13 industry. And that's kind of what we're asking you to do.
14 Don't look at it absolutely. Understand that there's a
15 reason why washer profitability is low to nonexistent and
16 it's because the products are priced that way because they
17 make more money on dryers.

18 This is not a case against dryers, by the way.

19 MR. DURLING: Mr. Boyland, Jim Durling, just one
20 further comment. The record evidence that you have now that
21 indicates this really is not just a condition of
22 competition, but a material condition of competition is the
23 data on North American appliance profitability. Right? So
24 we have a situation where we know the washer segment and/or
25 more broadly defined, kind of the washer/dryer segment, the

1 laundry segment of the market is a really big part of that
2 total. And we also -- you have historical information about
3 some other segments but we're talking about a really big
4 part of North American Appliance. And North American
5 Appliance as a whole has been certified to the U.S.
6 government as being extremely profitable. Healthy profits
7 consistently throughout the period. So that does kind of
8 raise the issue somewhere in that segment they're making a
9 lot of money. And if the losses in this segment are to be
10 believed, the profits in the other segments have to be
11 proportionally that much greater.

12 MR. SHOR: This is Mike Shor again for Samsung.
13 I think I heard one of the Whirlpool witnesses testify this
14 morning that washers are the heartbeat of the company. I
15 think that was the phrase he used. And if that in fact is
16 true, if it's the heartbeat of the company, and the -- it's
17 losing money, you would expect that would be a material fact
18 that would be disclosed in their financial statements. They
19 have never disclosed that as a material fact, because it's
20 not terribly material given what's happening with washers
21 and dryers together.

22 So the dryers and -- everybody looks at laundry
23 as a segment, the laundry segment, all the data as Jim
24 mentioned would suggest that it's doing well.

25 MR. BOYLAND: Thank you. And I guess I would

1 invite the U.S. producer to maybe comment on this as well.
2 I think it would be fair. But I appreciate the
3 clarification. Thank you.

4 MR. CORKRAN: Thank you, Mr. Boyland.

5 I have one area that I was seeking a little bit
6 of clarification on. And that was, Mr. Cassise asked about
7 the existing -- the existing facilities in Korea and Mexico
8 that had formally supplied the U.S. market with washers.
9 And I thought I heard that they had -- that they had shifted
10 to other products such as dryers. I wanted to make sure,
11 (a) that I was taking that information correctly, and if
12 that is correct, can you give me a sense of how easy or
13 difficult it is to switch with existing equipment between
14 washers and dryers?

15 MR. BRINDLE: Dean Brindle with Samsung. I
16 stated that we do build dryers in Mexico now. We've
17 relocated dryers from Korea and from China to Mexico for
18 supply to the U.S. market. Washer and dryer production to
19 supply the U.S. market is no longer done in Korea, as I
20 mentioned. Those products are quite different. So without
21 getting into all the manufacturing complexities because
22 that's outside of my product marketing and sales
23 responsibilities, certainly the tooling and the
24 infrastructure required to produce dryers and washers are
25 not alike.

1 MR. KIM: Andrew Kim, LG. Similar answer with
2 the Samsung Electronics, but one difference is we haven't --
3 we still manufacture some laundry products in the Korea --
4 in Korea.

5 MR. CORKRAN: Thank you very much. I appreciate
6 that additional information. That is the last question I
7 had. Let me turn to my colleagues to see if there are any
8 additional questions.

9 (No response.)

10 MR. CORKRAN: No. With that I would like to
11 thank you very much for very helpful, very energetic, at
12 times, but always very high quality presentation today.
13 Thank you very much. And this panel is dismissed.

14 We will take five minutes before we regroup for
15 final comments. Thank you.

16 (Brief recess taken.)

17 MR. CORKRAN: Thank you once again. And at this
18 point we will begin rebuttal and closing remarks.

19 Mr. Levy, you may begin when ready, please.

20 CLOSING REMARKS OF JACK LEVY

21 MR. LEVY: Thank you again. Jack Levy for
22 Petitioner Whirlpool Corporation. It's been a long day. So
23 I will try to keep it short.

24 But what we told you this morning was that we
25 suspected you wouldn't hear much about the statutory factors

1 and the statutory framework, you would hear a lot of
2 distraction. And I think that's exactly what happened. I
3 didn't hear much this afternoon about volume effects, about
4 the significant rise in imports from China, about the market
5 share gains, about the market share losses of the domestic
6 industry. Did not hear anything at all about price
7 competition at the wholesale level which is the relevant
8 level of trade for ITC analysis. I didn't hear anything
9 about the record evidence of underselling or price
10 suppression and price depression, no acknowledgement of the
11 more than 200 lost sales and lost revenue allegations
12 corroborating petitioners' narrative about adverse price
13 effects during this period.

14 And we heard nothing to convincingly rebut the
15 palpable impact, the injurious impact on U.S. producers.
16 When you look at the record evidence through the lens of
17 this statute the record is clear. When you think about the
18 two panels that you've had before you today, it's really
19 been the tale of two different industries. On the one hand
20 what we described to you in terms of the conditions of
21 competition is very much grounded in Commission's findings
22 as summarized at Petitioner's Exhibit B. And if you can
23 indulge me and try to find that exhibit, I would just like
24 to make reference to it again.

25 The narrative that we used this morning was to

1 focus on that fact that point number one, competition occurs
2 at the wholesale level. This is what the ITC found and this
3 is the way the market works.

4 Second, not that non-price factors don't exist,
5 we agree with the Commission in the previous case. They are
6 also important. But subject imports and domestically
7 produced washers are comparable with respect to such
8 factors. They are substitutable and against that backdrop
9 wholesale price matters. That is the key factor in retailer
10 purchasing decisions. And as we described, what motivates
11 retailers is margin and terms. But to be sure margin,
12 wholesale price.

13 What you heard this afternoon was a very
14 different narrative. The entire conversation was at a
15 different level of trade. They tried to tell a story and
16 appeal to your sense of self as a consumer who buys at
17 retail and talk to you about retail prices. We saw consumer
18 surveys, we saw retail prices, discussion about consumer
19 preferences, consumer taste, comparison of retail prices for
20 models. None of this is relevant under the applicable
21 statutory framework and it is entirely at odds with what the
22 Commission did in the last case. They're essentially
23 telling you that the Commission's analytical framework in
24 the last case was dead wrong. And I respectfully submit
25 that the Commission got it right on the conditions of

1 competition in the last case.

2 When they cite to retail prices, they show you
3 average selling values, AESV or AUVs. In the last case the
4 Commission explicitly noted that AUVs are distortive in this
5 industry because of the great variety of product mix. But
6 yet here they are showing you retail prices, and showing you
7 ASVs. Respectfully submit you can derive no meaningful
8 inferences from such junk data.

9 Samsung and LG also told you a narrative that
10 their success in the marketplace is not due to price but due
11 to innovation. Samsung said that this track record began in
12 2008 and continues to date. And LG showed you a similar
13 chart showing purported innovation going back to 2003 to
14 present. We can rebut some of these points in our
15 post-conference brief but the lion's share of the LG
16 innovation, for example, occurs during the POI of the past
17 case. The Commission analyzed this. They surveyed
18 purchasers and they found comparability in terms of
19 innovation and features between U.S. producers and Samsung
20 and LG. So what's new here? There's nothing new. It's all
21 about competition based on wholesale price.

22 And I just lost my time.

23 They also tried awfully hard to segment the
24 market. You know, when you've got a tough case what do you
25 do if you're a respondent? You try to segment the market

1 and argue attenuated competition. But that too flies in the
2 face of Commission findings. They want to completely
3 disavow ITC findings of price compression in the marketplace
4 which were grounded in purchaser questionnaire responses.
5 They completely disavowed evidence of cross-shopping that
6 frontload competes with topload competes with frontload.
7 And Mr. Shor's theory that they're somehow a gap in the
8 product lineup finds no evidence in the administrative
9 record. You know, simply put, there is no meaningful market
10 segmentation. Everything is competing with everything.
11 There is a diversity of product mix and there's tremendous
12 and intense competition at the wholesale level on the basis
13 of price.

14 Also importantly, Mr. McCullough, in discussing
15 domestic-like product said, quote, "there's a continuum of
16 overlapping competition." On that point we agree.

17 We also heard some new theories that were never
18 made in the prior case. But apparently Samsung now has good
19 counsel and they say, "look at dryers" not as part of the
20 domestic-like product because we all know that's absurd,
21 right? Dryers are made in different manufacturing
22 facilities, they have different uses. No one can plausibly
23 argue that. I think even Samsung himself the witness said
24 here, they are not like.

25 So instead, think about dryers as a condition of

1 competition. And in that regard, think of it this way, it's
2 perfectly normal for U.S. producers to make washers and lose
3 money. While we respectfully submit that that isn't the way
4 the world worked until Samsung and LG bought their way into
5 the U.S. market with dumped pricing. It is uneconomic, it
6 is unsustainable, and it is an absurd assertion.

7 Moreover, their argument that it is appropriate
8 to look at dryers is entirely grounded again at consumer and
9 retail level discussion that consumers maybe half the time
10 buy these things, washers/dryers, in pairs. And that at
11 retail the prices can be similar. Ah, but at the wholesale
12 level, the relevant level of trade for the Commissioners,
13 Whirlpool and other U.S. producers, they sell their washers,
14 for the most part, one unit at a time, separate and apart
15 from dryers, and wholesale prices for dryers are different
16 than wholesale prices for washers. Their entire theory
17 breaks down when you look at things at the correct level of
18 trade which is wholesale.

19 If you take nothing away from today's staff
20 conference, please remember the importance of analyzing this
21 industry at the wholesale level at wholesale prices.

22 And I think perhaps the final point relating to
23 the pricing data there was some discussion about the need to
24 analyze these GE skews in the pricing data. And I think
25 perhaps just three things wanted to make clear for your

1 attention. First, these skews are imported products from
2 China. They are not produced in the United States.

3 Second point, they are outside the scope as
4 defined in the petition. And therefore we think there's no
5 precedent for including them in the pricing products. And
6 finally, they're OEM sales to GE. You know, respondents
7 went on and on about Kenmore and how sales at the OEM level
8 should be treated as different. There's a certain hypocrisy
9 in saying, no, no, no, no, don't look at Kenmore sales in
10 the same bucket, but here you have to look at these
11 out-of-scope products that are OEM sales. It's sort of a
12 nutty line of argument and it can't be squared with other
13 things they've said. And it can't be squared with ITC
14 precedent.

15 So let me end where I started which is that
16 competition occurs at the wholesale level. There are
17 non-price factors that matter, but at the end of the day
18 domestic producers and subject imports are all innovative.
19 They all offer competitive features. As a result,
20 competition boils down to wholesale price.

21 And, finally, you know, Mr. Porter, apparently
22 there's no need to do lost sales, lost revenue surveys
23 because Mr. Porter does his own surveys. He talks to
24 retailers and they tell him what matters and it's not price.

25 Or alternatively you can look at the results of

1 your own lost sales, lost revenue surveys. Are purchasers
2 telling you that price matters, priced at the wholesale
3 level?

4 MR. CORKRAN: Mr. Levy, I don't mean to
5 interrupt, but can you close because we're running out of
6 time.

7 MR. LEVY: Happy to close. And we respectfully
8 submit that if you look at the record evidence, whether on
9 price, on volume, and on impact, the record evidence is
10 palpable that there is a causal link between the dumped
11 imports from Samsung LG on the one hand hand, and production
12 -- the financial performance of the U.S. industry. So thank
13 you very much for your patience. It's been a long day. And
14 thank you in advance for your attention in preparing the
15 staff report.

16 MR. CORKRAN: Thank you very much.

17 CLOSING REMARKS OF MICHAEL T. SHOR

18 MR. SHOR: Thank you. It's Mike Shor for
19 Respondents. I remembered to introduce myself.

20 Mr. Levy wants to make your job easy. He wants
21 to tell you, you don't even have to conduct an
22 investigation, you've done it already. Never mind that
23 every Commission case is sui generis. Never mind that this
24 is a different country. Never mind that there have been
25 changes in the industry. He just wants you to regurgitate

1 the findings from the last go round.

2 That's not the way the statute works as Mr. Levy
3 is fond of saying.

4 Petitioners' injury story in this case is more
5 appropriate for a commodity product case. It can't possibly
6 be true for branded, differentiated products like large
7 residential washers. We focus on the consumer because the
8 consumer drives the purchasers' decision.

9 As the Commission found in the refrigerators
10 case, demand for appliances like refrigerators and like
11 washers, is derived from consumer demand. Ultimately you as
12 the consumer drive the decision on what the retailer stocks.
13 Because if you don't purchase it, they're not going to stock
14 it.

15 If you recently bought a washer, you know their
16 story can't be true. Why did you go to the store? As they
17 would have it, it's all about price, so you should have just
18 gone on line and bought the cheapest washer you could find.
19 That's not what we buy. You go to the store because you
20 want to feel the touch points. That's what the industry
21 calls the lid and the controls. The things you touch, you
22 want to have a sense for what they feel like because that
23 affects your perception of quality.

24 What did you find when you got to the retail
25 store? You didn't find just one manufacturer, just one

1 brand. Under their theory, where it's just price, why would
2 a retailer ever stock more than one brand? Why wouldn't
3 they just stock whatever brand they could get the cheapest
4 price on? They don't do that because the retailers know
5 consumers want a choice. Every retailer sells multiple
6 brands. They sell LG, they sell Samsung, they sell
7 Whirlpool, they sell Maytag, they sell as many brands as
8 they can fit on their floor.

9 The existence of multiple brands, it's not like
10 an auto showroom where you just look at one brand, the
11 existence of multiple brands on the same floor establishes
12 that it's not all driven by price. Brand matters. Features
13 matter.

14 I have a 24-year-old son. I told him I was
15 working on a new case and representing Samsung, he got very
16 excited, mainly because he thought he could bet some
17 electronics out of it. But it was a name he recognized. He
18 said, "Who brought the case?" I said, "Whirlpool." He
19 said, "Who's that?"

20 That generation grew up on cell phones and color
21 televisions and they have a completely different perception
22 of the brand universe than my generation and my parents'
23 generation.

24 Finally, for those of you who recently went to a
25 store, think about how you made your own purchasing

1 decision. You probably went in with a specific price range
2 in mind that that you wanted to explore. You looked at
3 different models within your price range, and you decided,
4 did you want the 5.2 or the 5.3, which was more important to
5 you, the larger capacity, or did you want a heater? Or did
6 you want speed? Or did you want a color? Or did you like
7 that feel of this machine? Or did you want a stainless
8 steel bottom? You ultimately made your purchasing decision
9 based on the feature characteristics that you found appealed
10 to you. You weren't driven by the fact that within your
11 price range one unit was \$50 more or \$100 more. In this
12 industry the decisions by consumers and by derivation of the
13 decision of purchasers is not largely driven by a price. If
14 it was, you wouldn't see different features on different
15 machines.

16 Second, if you're an economist, you recognize
17 that petitioners' theory can't be true. The argument they
18 made today and which the Commission accepted in the previous
19 investigation, doesn't work unless the feature set exists at
20 the same price point. We have heard no evidence about how
21 the price of a higher-end machine than the \$4 to 600 range
22 can affect the lower-priced agitator machines where we don't
23 compete.

24 Somebody going into a store and the purchasers
25 make their purchasing decision based on that, someone going

1 into a store who wants the cheapest possible model they can
2 get will never walk out with a Samsung or an LG machine.
3 It's that simple. And the idea that our \$600 machine
4 because we add a heater to it and sell it for \$600 is going
5 to push down the price of the of the agitator machine, the
6 basic model, doesn't hold water, to use a washer analogy.

7 Petitioners' circumvention argument is good for
8 atmospherics, but it's absolutely irrelevant under the
9 statute. In terms of the statutory analysis that Mr. Levy
10 would have us perform and we're happy to go through the
11 factors on the volume effect, domestic industry shipments
12 increased over the POI.

13 On the price effect, we all have problems with
14 the pricing data. They made arguments to you that certain
15 things were miscategorized. We've made arguments to you
16 that certain things were mischaracterized. There's going to
17 be a lot of work in this case in sorting out the pricing
18 data and in coming up with good meaningful comparisons.

19 We think categories that have a half a cubic foot
20 -- half a cubic foot differential in capacity is just too
21 big. The industry norm is that a .3 percent capacity can be
22 a \$100 difference in price. So it's just too far.

23 But on the pricing data understand this, each
24 manufacturer has a different strategy for positioning their
25 models. You heard from the Samsung witness about Whirlpool

1 positions their models based on capacity. They will sell a
2 higher-capacity machine at a price point where we sell a
3 lower-capacity machine.

4 LG and Samsung position their machines more on
5 innovative features. They have different marketing
6 strategies and they have different positioning strategies
7 precisely because they want to avoid the race to the bottom
8 on price. They differentiate their products not based on
9 price, but based on features, based on capacity, based on
10 finish, based on color, based on everything you go to look
11 at when you go to buy a washer.

12 Finally, on adverse impact, again, a lot of the
13 reason we can't talk about all of these factors is that all
14 of the information is confidential. When you have only two
15 importers and two producers, we can't talk about trends, we
16 can't talk about aggregate data. But we do make our dryer
17 point. We think it's a relevant condition of competition.
18 We also think you should ask Whirlpool and GE how they
19 handle their repatriation costs. We understand that those
20 were substantial. I heard someone mention that they may
21 have been amortized over a three-year period. How they
22 treat those costs which were incurred over the POI could be
23 very relevant on the pricing data. We suggest you look into
24 that.

25 And with that, I will close my closing remarks.

1 Thank you.

2 MR. CORKRAN: Thank you very much, Mr. Shor. On
3 behalf of the Commission and the staff, I would like to
4 thank the witnesses who came here today as well as counsel
5 for helping us gain a better understanding of the product
6 and the conditions of competition into large residential
7 washers industry.

8 Before concluding, please let me mention a few
9 dates to keep in mind. The deadline for submission of
10 corrections to the transcript and for submission of
11 post-conference briefs is Monday, January 11th. If briefs
12 contain business proprietary information, a public version
13 is due on Tuesday, January 12th.

14 The Commission has tentatively scheduled its vote
15 on these investigations for Friday, January 29th, and it
16 will report its determinations to the Secretary of the
17 Department of Commerce on Monday, February 1st.

18 Commissioners' opinions will be transmitted to
19 the Department of Commerce on Monday, February 8th.

20 Thank you all for coming and this conference is
21 adjourned.

22 (Whereupon, the conference was adjourned at 4:14
23 p.m.)

24

25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Large Residential Washers from China

INVESTIGATION NO.: 731-TA-1306

HEARING DATE: 1-6-2016

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

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: 1-6-2016

SIGNED: Mark A. Jagan

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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.

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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.

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