

The Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities

Full Commission Meeting - July 11-12, 2011

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>> CHAIRWOMAN DIETRICH: Commission members, it's time to start.

Okay. So we're going to have a presentation now on accessibility trends in educational software. And my computer system here is not giving me what I need to actually introduce you, Mark, so I apologize for that. Mark Snyderman, senior director of software and information industry association.

So I am going to ask you please to introduce yourself and your panel if you would.

>> MARK SCHNEIDERMAN: Great. Is this on? Okay.

Good morning members of the AIM Commission. On behalf of the software information industry association and our 500-plus member high-tech companies, thank you for the opportunity to be here today and discuss the important issues of instructional materials accessibility for students with disability in postsecondary education. I am SIIA senior director of education policy. I am joined here today by three members. I thought I would give my remarks first. And SIIA is a principal trade association for the software and digital content industry. All of our companies look to the nation's schools for skilled high-tech workforce. SIIA's education division members develop products and services ranging from learning management systems to online learning institutions, productivity tools to adaptive learning software and digitized textbooks.

We have a long -- provided industry leadership in this area over the years hosting a number of forums and working groups to raise awareness among our companies. our postsecondary guide tells how to build universal design and accessibility into the workflow. I sit on the advisory board of the CAST national center. As you know, technologies are incredibly fast-paced and evolving. Here are a few key trends we're seeing to set the context. Online learn something fostering a mastery-based modelling challenging our C-time education in 2009 1/3rd of students were taking one online course. The growth rate is exceeding that of traditional course enrollments. Mobility and cloud computing. As costs fall and functional improves, students are increasingly mobile through growing use of smartphones, tablets, and E-reading devices.

A recent student monitor study found 90% of college students use a laptop. 14% a tablet. But another half are interested in buying a tablet. E-textbooks and digital content. There is an increasing use of digital online and interactive content in postsecondary education. So-called E-textbooks continue to be more interactive tools leveraging touch tablet and other digital interfaces to re-design the pedagogy and better appeal

to students. According to Exlana, the digital market will grow from 1% to 25%. In many introductory and remedial courses especially in mathematics, use of interactive tutorial software is having a great impact on universal design for learning. Technology is enabling the differentiation and customization of learning.

A menu of adaptive learning applications, multimedia, simulation software and digital content libraries are increasingly universal design to meet students wide variety of learning styles, interest, pace, and modalities. Next trend. Learning management systems. Learning management systems are 90% of postsecondary institutions. The NLS continues to grow in scale and scope beyond course and instruction to include the portal for all content and a platform for all interface between students and the institution. Integration and interoperability. Much work remains, but IMS, EPUB, XML and other standards enhancing operability. EPUB enables publishers to have a single file format that will reflow text according to the device and accommodate multimedia and formats like MathML and scalable vector graphics allowing for the Revolution of E-textbook form and function.

Final trend to look at is social learning. There is an increasing emphasis on collaboration and the social web. A shift from lecture instruction and transfer of information to one of students -- helping students learn -- learning sources are no longer limited to the faculty on campus or the books in the library. In other words, educational models, markets, and technologies are rapidly evolving. Any efforts to address accessibility need to be flexible and dynamic in response. Let me now look at -- provide to you several examples of other SIIA members who couldn't be here today and briefly describe the efforts they are undertaking to provide accessibility in universal design integration into their products.

I am going to read these directly here. Apple, iPhone, iPad, Mac include screen magnification and voice-over. Screen access technology for the blind and visually impaired. Every Mac

computer includes mouse keys, slow key, and sticky keys. Apple -- apple innovation include a screen reader control using finger-based gestures and captioning of movies. Blackboard-learned software is gold certified by the national federation for the blind. Blackboard designs workflows with users and experts and test against Section 508 guidelines and W3C WCAG standards. Blackboard is an early adopter from the W3C to further support screen reader access. The platform is accessible for non-visual access and leveraged effectively to support those with learning disabilities as well.

Cengage learning conducts audits of legacy and remediates where feasible. Some changes were implemented across most platforms such as header text with tabs rather than image-based buttons, updated to HTML tagging, and proper tagging of column headings. In other more challenging areas such as adding captioning and transcripts, extensive work remains under way. New resources are being created by Cengage following W3C HTML coding guidelines.

Flat world knowledge is an open textbook publisher. It strives to achieve maximum accessibility by offering a multitude of content formats. Textbooks are readily available through a typical web browser online in HTML format, as well as EPUB, PDF, and in most cases MP3. Flat world knowledge has partnered with Bookshare, EPUB files are streamed to Bookshare which then produces Braille and DAISY versions. Moodle rooms. Moodle open source learning management systems are fully Section 508 compliant. Web accessible can be rendered within Moodle maintaining that accessibility. Moodle is built on jewel which supports speech magnifiers, and accessible keyboard navigation. They run W3 C's validator and validation for 508.

The core of jewel meets W3C WCAG level standards. Two more examples. Red hat enterprise Linux accessible toolkit for those who cannot interact with a traditional graphic user interface. Add-ons include Orca which combine screen reading speech-to-text technology, and BRL TTY a background process that provides access to the Linux console using refreshable

Braille display. RIT developed a program to promote readable Sign Language for the deaf over video chat. Lastly, text help systems is an assistive technology software company. Text help's read and write goal includes text-to-speech with dual color highlighting and the screen sharp reader to read aloud all text including text embedded within an image or contained within flash which has not been authored in an accessible manner.

The speech input features convert speech to text, the MathML support feature helps create and read aloud MathML files and the customizable toolbar sits on top of a wide range of platforms and can be licensed and embedded into other online content of the these are a few of the examples. My colleagues will share other examples here shortly. You can see that the industry is doing a lot to support accessibility. Let me now make several comments and recommendations and then we'll turn it over for the demos.

First, SIIA recommends a focus on Section 508 has become the default standard for the industry and for many states and public educational institutions. It provides an appropriate set of functional performance standards and review criteria as well as a balance process that recognizes the multitude of applications and platforms, the dynamic nature of technology, and the wide variety of decision factors. Section 508 appropriately focuses on functional requirements rather than specific file or other format. We understand that the pending update will be largely aligned with WCAG 2.0 guidelines. The single standard is especially appropriate because many technologies are designed outside of education but used and imported for educational use.

It will promote competition in the industry by clarifying market requirements for accessibility. It would also be appropriate and beneficial for the postsecondary community to help shape Section 508 standards which I know was discussed yesterday. The federal access board actually has guidance specifically to E-learning it reads in part, quote, Section 508

both meets the long-term needs of federal employees with disabilities and allows manufacturers freedom to design innovative technology and freedom for accessibility. End quote. For instance, if no completely accessible technologies are available, agencies are required to purchase those that best meet the standards. 508 permits equivalent facilitation allowing the goal to be met if not the literal wording of the standard.

The flexibility, and this is again quoting the access board, this flexibility creates economic incentives and helps the I.T. industry continuing to innovate while ensuring that people with disabilities gain greater and greater access. Second recommendation and comment. SIIA encourages the use of principle of universal design. Developers are increasingly incorporated UDL principles recognizing that making their content and software available through multiple modalities will better support the needs of all students. According to CAST, UDL is the design of products and environments to be usable by all people to the greatest extent possible. Without the need for adaption or specialized design. Development through UDL is an alternative to retrofitting through assistive technologies. As we know, most professors may go there many years without coming across a student with disabilities. But if they understand that those modalities will help all of their students, they're more likely to ask it of their content and technology providers. I just want to provide one note that UDL is not a set of technical requirements or regulatory mandate, but really a methodology for designing and delivering education. I think it's important to keep that in mind.

Third, we recommend transparency as an important means of driving accessibility. Institutions to look to detailed voluntary product accessibility templates as a primary vetting tool. Even within the singular federal procurement process, a single certification material has been deemed inappropriate by the Federal Government and the access board. Such a single certification could give one entity too much influence and

would have difficulty keeping up with the enormous scale, scope, and innovation in technology. And it may create a floor that would become ultimately a ceiling.

Fourth, SIIA encouraging the Commission to look at the market for postsecondary stakeholders to drive development and adoption of digital resources that are universally designed to support the needs of all students including those with disabilities. Postsecondary institutions should educate their faculty about accessibility in universal design, and SIIA would encourage the Commission's recommendations for further training in this area.

Three more. Fifth, we encourage institutions and faculty to reach out to their vendors and outline their accessibility needs. Similarly the postsecondary community should look to vendors to provide technical assistance around providing accommodations to students with disabilities. That two-way communication is critical to moving forward.

Next, recognizing that the impact on students is the same, SIIA encouraging that faculty develop free and open resources designed for use in postsecondary education also be held to the same goals and criteria around accessibility for students with disabilities.

And finally, SIIA is supportive of further collaborative development of technical standards and development tools to address the difficult task of providing accessibility. There is certainly an important R&D element where the public and private sectors and educational sectors can work together.

With that, let me now introduce my panelists who make some demonstrations. I appreciate the opportunity to share our views. I will submit a more extensive set of recommendations that will go into more detail about all of the issues including the products that I very briefly described.

So from my left, Ed summers is a blind software engineer and accessibility expert. Ed leads the accessibility team a leader in business and Linux software. Ed's personal mission is to use technology to improve the lives of people with

disabilities. He is a leader in the software industry and blindness related not for profit organizations. In the middle, Matt May is accessibility evangelist with Adobe. His work includes providing guides and on accessibility related subjects as well as advocating principles of accessibility and universal design to the public at large. And finally Matt MacInnis is founder and CEO. He received a degree in computer engineering and Chinese language. He spent the next eight years of his career in apple leaving in 2009 which provides engaging learning content for iPad.

Re-thinking the notion of textbooks from the ground up. With that, I will turn it over to Ed first.

>> ED SUMMERS: Thank you, Mark. Thank you for this opportunity to speak with you and represent the SAS institute. SAS has a long history with higher education. SAS was born out of a research project funded by the Department of Agriculture. The objective of the project was to produce a common data store and extensible analytical procedures. The first version of the software was distributed by graduate students in 1972. These graduate students were working at North Carolina State University.

SAS institute incorporated was founded in 1976. Today we ship products to over 50,000 customer sites and more than 100 countries. The foundation for most of our products is a large set of analytical procedures. Basically, SAS users import data, analyze it, manipulate it, and then export it to share with others, or produce reports to share with others.

This foundation is widely used by students and researchers in higher education. I would like to run a few demos now that have been pre-recorded. The first demo shows how a visually impaired user may use the SAS system to load, analyze, and share data. Skip, could you run the DMS demo, please?

>> SKIP STAHL: Yes.

>> ED SUMMERS: Thank you, sir. You might need to boost volume.

>> SKIP STAHL: Yeah.

(Demo)

Version 9.2 is the latest production version of SAS. On this system, I'm running JAWS screen reader from Freedom Scientific. I am also running a magnifier that enlarges text on my screen. This is the display manager of the SAS system, and I will just use the keyboard to navigate around the various windows within the application.

(Screen reader reading)

So there are other things going on here from an accessibility perspective. First, I used the control tab key, keyboard command, to navigate around the windows within this application. In addition, as I navigated around my magnifier tracked the change in focus that took place during -- with the sub-windows within the application. As you could hear, JAWS spoke and gave me feedback about what window was being displayed. Now we're going to open a simple SAS program. We'll look at what the program does briefly within the editor window. And then we'll run that program and examine the output.

(Screen reader reading)

This is my simple SAS program. And I am going to use just the keyboard to navigate around within this SAS program. And we will see what it does.

(Screen reader reading)

So these three are the heart of the simple SAS program. We're telling SAS to proc this data set that we've loaded which contains two variables, miles per gallon by city, and miles per gallon highway. And we're going to produce a scatter plot that contains these two variables plotted against each other for this data set.

(Screen reader reading)

So this -- here is our output window. I can navigate through this using JAWS.

(Screen reader reading)

So highway versus city.

For cars manufactured in 2004.

(Screen reader reading)

So the first data point that I come to is 36 miles per gallon in the city, and 44 miles per gallon on highway. And I can use the arrow key to walk through each point on this scatter plot. Unfortunately, using this laptop and the keyboard and mouse there is a limited amount of information that a blind person can gather about this scatter plot. So let's look at these same results on a iPad using a touch screen interface.

>> ED SUMMERS: So we've done a lot of work to make this software accessibility on the desktop. I am personally very excited about the emerging technology and the widespread adoption in these touch-screen interfaces such as the iPad.

Skip, could you play the demo with the title "Scatter Plot" please?

(Demo)

This is the iPad 2. This is the same scatter plot we generated back in DMS SAS on my Windows laptop. I'm going to change the color contrast settings on my iPad, too, so that I can see them better given my particular visual impairment.

That white-on-black color scheme works a lot better for me. I am running the voice-over screen reader on my iPad. This is the scatter plot, and I am just going to drag my finger around the screen and try to find -- try to determine the distribution of the points on the scatter plot. I'll just start in the middle.

That sound that you hear is voice-over's way of saying there is nothing there underneath my finger. So I'll use that sound as -- to know that there are no dots underneath my finger. I will just drag my finger around to try to find the dots.

(Screen reader reading)

I found a dot that said that the city MPG is 17, and the highway is 22. So given that city is the "X" axis and highway is the "Y" axis, I have a rough idea where I am on the scatter plot. I will start again roughly from that point and try to find more dots.

(Screen reader reading)

I will just go up and take another pass.

(Screen reader reading)

So I will go up and take another pass.

(Screen reader reading)

So from those three passes I made thus far I get this general impression that there is a correlation going from bottom left to top right of the screen. So I will just go in here and explore a little bit more to see if I can get a sense of the distribution.

(Screen reader reading)

So I have a pretty good general impression of how the data is distributed now, and each one of these are linked so I can drill down in those to get more information.

>> ED SUMMERS: I had a bit of trouble figuring out how to run these demos in an accessible manner for all members of the audience. I do have these demos running live on my iPad here. If any of the Commission members would like to experience it for themselves using the touch screen interface at the break.

The next demo shows interactive discovery of census information from the 2000 census. Using geographical maps. Skip, you could play the map drill down demo, please?

(Demo)

Here is a map of North America that includes census and population information.

(Screen reader reading)

I will just start in the center of the graph and try to find the United States.

(Screen reader reading)

Okay. Let's go up to Canada.

(Screen reader reading)

Let's try to find Mexico.

(Screen reader reading)

Okay. Let's go back and drill in on United States.

(Screen reader reading)

Okay. So here is a map of the United States. I will try to find Washington State. We'll start in the center.

(Screen reader reading)

Skip over a couple, maybe.

(Screen reader reading)

We'll work up the coast.

(Screen reader reading)

5 million people in Washington. So now I'll try to find King County which is the county in which Seattle resides.

(Screen reader reading)

Got it.

Okay. This linked us to the United States Census Bureau, and we can get initial information about King County.

(Screen reader reading)

>> ED SUMMERS: SAS software shifts with geographic maps of the world. It is also possible to import user-generated maps such as the floor plan of this building, for example.

I would like to move on to five points to consider for the Commission. These comments are based on my personal experience in the software industry. These comments are based on the long view. Clearly there are no magic bullets for accessibility, although we have made demonstrable progress toward that goal. And these comments are specific to the software industry and digital content.

First, I believe that the convergence of mainstream and specialized products offers a viable approach towards accessibility. And I applaud the Commission's desire to support that convergence of technologies.

Second, it's quite common for platform vendors to offer an opt-in approach to accessibility. Here I'm using the term "platform" to refer to the existing infrastructure that offers up software application developers and content developers use to create their applications and content.

Examples include operating systems, component libraries, application programming interfaces, file formats, et cetera.

Using this opt-in approach, application developers and content developers must take explicit action to make their content accessible. On the other hand, an opt-in approach

supports accessibility by default. So an opt-out approach creates the ability to -- for application developers and content developers to get accessibility with no extra work.

Third, there is a lack of knowledge about accessibility in the general population of creative professionals. I think this situation forces accessibility to the bottom of the to-do list. It is only natural to postpone work that seems amorphous and ambiguous. I urge the Commission to support the introduction of accessibility into the course work for creative degree programs such as computer science, human factors, et cetera.

Fourth, I believe it is critical to include people with disabilities in the development process. They provide immediate and constant feedback about the accessibility of the product being developed. They promote awareness of accessibility as they work side by side with development teams. They provide on-the-job training for accessibility training for creative professionals. I hope the Commission will consider programs that will promote inclusion of people with disabilities in the product development process. Perhaps AmeriCorps could serve as a model.

Fifth, I believe that emerging technologies may offer opportunities to increase accessibility of STEM materials. I urge the Commission to broaden their recommendation for funding for research for STEM materials be the accessibility of STEM materials.

Please consider research for multimodal access of data and other STEM materials. I urge the Commission to facilitate collaboration between researchers who are working on accessibility of STEM materials. Finally, I urge the Commission to consider non-traditional incentives for research into STEM accessibility. Perhaps a "X" prize would help. I believe creative individuals love to solve problems. Perhaps STEM accessibility could be framed as an intellectual challenge.

Thank you very much for the opportunity to speak with you today.

>> CHAIRWOMAN DIETRICH: Thank you.

(Applause)

>> MATT MAY: I am Adobe accessible evangelist in lieu of a prepared statement I wanted to talk about what Adobe does particularly in the realm of education and give a couple of demos on tools that we are working on. Are we doing questions between?

>> CHAIRWOMAN DIETRICH: Okay. I have a request that let's actually ask Ed -- sorry, Matt, but let's questions of Ed right now before we move on. Commissioners, Does anyone have a question for Ed from SAS?

George?

>> GEORGE KERSCHER: So were you using SVG and exploring the scatter chart?

>> ED SUMMERS: I believe those images were actually BMG.

>> GEORGE KERSCHER: Could you just flick right and left to make sure you got all of the content from the screen or was it just hit or miss?

>> ED SUMMERS: Yes, you can click right and left as far as -- so the question refers to the voice-over -- basically the voice-over way of tabbing and shift tabbing using a gesture.

>> GEORGE KERSCHER: Thank you.

>> STEPHAN HAMLIN-SMITH: Yesterday we were discussing the idea and the value of incentives, and on this side of the table we all lit up when you mentioned the idea of a "X" prize which none of us thought of. You can say a little more about just off the top of your head what that might look like to you in a realistic motivating way, how you might see that that could be structured, or what financially might be involved in that? Just your random thoughts. It doesn't have to be, you know, realistic. But if you could flesh that out a little bit we're very interested in that idea.

>> ED SUMMERS: I believe -- let me first say that there is a group of people working on the representation of data, primarily visual representation of data at SAS. There is very low turnover in this group. A lot of people have been working

there for 20 years on same kinds of problem of data visualization. They are clearly experts in the industry. They are also very interested in multimodal access to data. These folks are very bright, compassionate people, and I'm sure there are others just like them around the country, around the world, at other industry sites. I know for a fact that there are also academic researchers that are interested in doing work in this area, and there are people doing good work such as Georgia Tech Sonification lab. There are people out in academia who are interested in pursuing STEM accessibility in particular, and at this point a "X" prize is the potential to stimulate collaboration in that area in a meaningful way.

>> STEPHAN HAMLIN-SMITH: Thank you.

>> ED SUMMERS: Thank you.

>> CHAIRWOMAN DIETRICH: Jim?

>> JIM FRUCHTERMAN: I thought the demonstration of the scatter plot was really exciting because it shows what some of the new technology can do in terms of access to data.

I've heard of SAS for many years, but I've never used the software. Is this actually a practical thing for a student to have essentially different kinds of data delivered to them and then they could actually visualize it using your app? Is that something that's like low-hanging fruit, or is it a lot more complicated than it might seem?

>> ED SUMMERS: The examples that you saw were produced using the latest production version of SAS which is version 9.2. So I think that some of the examples were very simple to produce, the scatter plot, for example, was very simple to produce. Some of the other examples were a little more complex because they draw on census data and those kinds of things. I think certainly for people -- there are a number of people in higher education, researchers and students as well, that are experts in the SAS language and our procedures. I think that it's relatively low-hanging fruit to produce the examples that you saw today using production software.

>> JIM FRUCHTERMAN: Okay. Thank you.

>> GEORGE KERSCHER: Many times I have encountered, you know, pieces of an application that were terrific, and accessible, and then you encounter one screen or something that just totally blocks you. And so unless all of the links in the chain are accessible, you know, you can't get there. So is 9.2 have blocks that people can't use that prevent them from being independent?

>> ED SUMMERS: I'm sure it does. None of our products are as accessible as we want them to be. However, if students in higher education do experience problems with our products, I encourage them to e-mail accessibility@SAS.com. The accessibility team at SAS is there to help them to work around problems if at all possible. We coordinate with the technical support group at SAS. In addition, we can drive requirements into the R&D process for the next release of SAS.

>> GEORGE KERSCHER: Thank you.

>> ED SUMMERS: Thank you.

>> CHAIRWOMAN DIETRICH: Other questions from the Commission?

I have a couple of questions. First, Ed, thank you very much for your presentation. At least for a few of us in the room you are preaching to the choir, and I was really glad to hear somebody else saying some of the same things that I've been saying. One of which is that I think one of the big areas that is a impediment to accessibility is simply the lack of knowledge because I think of the need because I think you are right. I think smart developers take it as an intellectual challenge and it becomes an exciting problem to solve. And that's what I found once they understand the need.

So my question to you is: If you have any suggestions of just how we might be better able to make sure that this becomes something that people look at from the beginning, during their development process, that this just becomes one of the things that they are developing for.

>> ED SUMMERS: So my first suggestion is inclusion of people with disabilities in the development process and in a

widespread embedded manner. I have found personally in my experience that the Section 508 requirements and regulations such as that can be very confusing for a busy developers that have obviously lots of work to do in a little bit of time and competing priority. However, when I show up in their office with a 75-pound German Shepherd guide dog, you know, and, by the way, I have been working at SAS, my first job at SAS was in 1988. So I know a lot of people there and I have been there a long time. A lot of the co-workers at SAS have seen my vision degrade over the last 20-plus years due to a retinal disease. So this relationship, I think, facilitates between people with disabilities that have a technical bent and creative professionals.

I think it does facilitate awareness and training and just the natural human compassion that stimulates accessible software.

>> CHAIRWOMAN DIETRICH: Thank you. And as with Mark, I hope that you will also provide news writing your recommendations, if you would.

>> ED SUMMERS: I would be happy to. Thank you.

>> CHAIRWOMAN DIETRICH: Thank you. So, Matt, I'm sorry to interrupt you before, but please.

>> MATT MAY: Not at all. Thank you for giving me the opportunity to testify today. I wanted to talk about the products that we produce because Adobe is not strictly an educational company but we have a large educational component to us, and we make a number of products that produce the content that people are consuming in an educational environment. And they range from the specific tools like Adobe Captivate where you can create learning modules, to the broad like, you know, Acrobat which is generally well used in educational environments simply for accessing the PDF content that people use on a regular basis.

So I wanted to cover a number of tools that touch on the educational environment, starting off with Acrobat. All of the Acrobat products including the free reader have support for conventional assistive technology, so JAWS, and Window Eyes,

other PDF reading tools on other platforms have the same accessibility support. And in addition to that, we have built-in tools for -- such as Read Out Loud for speech synthesis. We have the ability to re-size and re-float content. We have the ability to auto-flow content, to set your high-contrast preferences. We have an accessibility setup assistant that can walk you through each individual feature of these tools. And the other part of this when we talk about accessibility is facilitating accessible authoring, something which for Adobe is of paramount interest because most of our tools are used by creative professionals and other authors to create all of this material that's being used in educational environments. So the Acrobat products have the support for OCR, for adding tags, for touching up reading order, for checking accessibility of the documents created, and that's particularly important given how much content that is out there that is legacy content that doesn't have the accessibility support built in. So there is a lot of work that needs to be done in the educational environment not just to increase the level of knowledge of -- about accessibility and universal design, but also to go back and fix this content that's being used on a regular basis. So these are the kinds of tools that we produce.

Another tool that I think is becoming more important here especially as we're talking about EPUB is In Design. That's our page layout tool. And we just released a new version on May 3rd for which accessibility was actually one of the checkpoints on the box. We have made major improvements to accessibility. It is actually one of the highlighted feature of it. We had originally had to make users go through a few hoops to create accessible content using end. Effectively they would have to edit their own tag structure so that things would be laid out properly. If are you doing a periodical, for example, you have to do this work over and over again to map these tags to the tags that are understood by AT, and we have made it significantly easier to do by allowing people to do their tagging within the interface.

And also to take images that are in the application and use the metadata inside of the images as the alt-text for the images. If you are generating a PDF for EPUB and you have the metadata sitting in the image itself, you can actually select that as the ALT-text for the image. So we are not actually losing any data or having to generate or create alt-text for the images as long as that metadata is there. And we -- it's no longer necessary to edit the XML structure of the given document in order to do that work. So as Ed had alluded to, the idea of making this more automatic, which doesn't mean that we're going to be done at any given point. There can always be more work that can be done to include more users and to, you know, to work towards the principles of universal design. But we want as much of the information as we can make available to be made available.

And to that end, we also have training materials on how to use this. So we have a site where we have demonstrations. We work within the design community with bloggers and other trainers just so that we can get this information out there so that people are integrating accessibility as an everyday piece of what they do. And so as I was talking about EPUB authoring, we have a choice of XHTML with the DAISY book and Schema and we can generate tables of contents. And that's the first step for EPUB accessibility. We also have this issue when we're dealing with in EPUB that we have a lot of lockdown content, content that's in a wrapper. And for us, effectively the vast majority of EPUB content that's out there, whether it's overdrive content, Barnes & Noble, Sony, Phonacin in France and Spain, Random House, most of this content is bound using our DRM system. And we have been working with a number of our partners to open up that accessibility and we have a couple of announcements, one of which is part of the demo that I am going to present shortly.

But we have a couple of pieces there. We have the Adobe content server, and we have our own EPUB reader called Adobe digital editions. We've worked on both of these tools to

enable the accessibility support to carry over to tools that people are using on a regular basis. So in addition to enabling accessibility on digital editions, we have also engaged in licensing deals with a number of E-book players including ones that have good support for accessibility to enable DRM EPUB content to work within those players using Adobe 3 reader mobile software development kit. So we -- instead of taking the approach that we have, here is this one tool that you can access this content. We are approaching this from the standpoint that we want the market to be able to -- we want everyone in the market to be able to access this content.

And I think this is a good time to do the demo of digital editions. So I am going to step up to the where the connections are. I will give you a demonstration of the version of digital editions which is actually coming this summer, sooner rather than later. And I want to give you some example of the -- this is sort of exemplary of a few different changes in our approach to accessibility, not just that we are giving people the choice of their tooling, but also hopefully it can mirror the screen here. But also giving people their choice of platform. So I'm going to give a demonstration of the next version of digital editions working on OS 10. So actually the access to the screen content is not strictly needed here since I am doing a screen reader demo.

(Demo)

(Screen reader reading)

>> MATT MAY: So this is -- I actually don't really -- actually, if you can work through the problem. I am going to give the presentation on what we're showing here. And so the digital editions preview which is coming, I can --

(Screen reader reading)

>> MATT MAY: So we -- this is the digital editions application that we have here. This is actually my book, a book that I wrote on universal design. But we can navigate through into the library here.

(Screen reader reading)

>> MATT MAY: So actually a couple of these books are actually DRM content. So the first two were bought from the Phonakin store. No accessibility was done to this content prior to us accessing it. But we can open it up. And when Mac OS 10 comes online it will be read in French, but for now we can --

(Screen reader reading)

So you can hear the French language content in English which is always fun to hear.

I'm going to also show you the same application running in Windows. I'm sorry, I have multiple demos going on here.

This is the same application that's running in Windows, and if I open up JAWS -- (pause)

(Screen reader reading)

Applications addresses the architectural principle of universal design as applied to the P, P, space, E, period.

>> MATT MAY: I can move it by letter here. I can move by -- I can move my line so the core experience here for screen reader users is there. We obviously still have more work to do here, but this is a big first step for making DRM content available to print disabled users. So that's the first demo that I wanted to do.

And the second is actually another tool that we produce which is called Adobe Connect. A lot of especially higher education or organizations are now doing live -- are doing live video conferencing as a normal part of their curricula. One of the tools that enables that is Adobe Connect. So I wanted to show you a couple of features of that here.

And I'm actually going to leave JAWS running because that's apart of the demo.

(Screen reader reading)

>> MATT MAY: So one of the things that I wanted to show here is that we have the ability to run a captioning pod for the application that's actually done at the bottom of the screen. So I am going to get down. This is a demo stream of the

captions that's running down at the bottom of the screen. We have a number of captioning providers, so anyone can connect a captioner up to this application and have captioning run in realtime. So in addition to that, we also have the camera functionality. So you can actually have a video and a presentation running so it's possible to do things like Sign Language translation -- interpretation rather -- in the -- within this application along with the captioning, and have an accessible attendee list, an accessible chat room, and the presentation.

Now, if I navigate here by hitting control F6.

(Screen reader reading) control F6.

>> MATT MAY: This is my demo-itis coming back to bite me.

(Screen reader reading)

>> MATT MAY: So I can move through the pods here.

(Screen reader reading) control F6, share pod graphics.

Control F6. Video pod. Press control F6. Share pod graphics. Share pod. Adobe underline connect underline point or button. Stop sharing button. Full screen button. Pod options button. Previous button. Next button. Show sidebar button. Closed captioned pod button. Stop share full screen button. Pod option --

>> MATT MAY: Sorry. I'm not doing this particularly well right now. But the actual contents of PowerPoint slides or Captivate presentations that are in this are in the accessible tree. So users can actually navigate along with the PowerPoint presentations as they are being done here. So rather than belabor the point at this point, I am just going to move on to the other screen that I wanted to show.

(Screen reader reading)

>> MATT MAY: I've actually shown the book both what I wanted to show here. But I will just disconnect and move on.

So the other side of Adobe, part of this was Adobe Connect is our Flash environment which is one of these frameworks that Ed was talking about, where one of the core issues is making this content -- is making content directly accessible to the

greatest extent possible without there actually needing to be any accessibility remediation work done. And to that extent one of the tools that we make available, and this is really the most popular development environment for creating Flash content in an educational or corporate environment is Adobe Flex. Flex is a language that's based on XML ActionScript which is like our JavaScript language, and CSS. Users can create components that are that have a lot of dynamic capabilities. You can change the way that they look in a number of different ways so that people have really unique kinds of experiences, and that's really what developers and designers want to have access to. But what's important is that the underlying technology is still something that users of assistive technology can understand. What we do to enable that is we have components that are skinable. You can do a lot of different things with, for example, a check box to match your kind of interface. But underneath that the accessibility work is done so that to a user of assistive technology, this is going to say, "I am a check box." So all of the role information is taken care of. We handle this in the background. If you develop something in Flex 4, not only will you have the support built into the platform, but it's turned on by default as well. So there still obviously remains more work to be done particularly involving things like reading order, but connected is one of the applications that using Flex as its framework. So we have enabled to a great extent over 60 different components that come with the Flex SDK to have accessibility support by default. And that is something that we think is particularly important not only does -- not only is it the right thing to do, it's good business. We can show users this is how far we'll go. This is the support that we build in. And give them the expertise and information that they need to create more innovative interfaces and user experiences as they go along, knowing that they are building on a foundation that has -- that has thought about that accessibility work. To that end, we're actually improving the accessibility support in the

Flash player. We've announced support for multiple platforms. So we're going to expand the Flash player support to non-windows platforms.

So that work is targeted for 2012. We have support for iAccessible 2 as the core API for assistive technology access. And we are planning on building that support into future versions of the Flex SDK and other components so that we can make things more broadly accessible, including things that really hadn't been thought of in earlier accessibility APIs. And that's one of the issues that creative professionals have with accessibility in general, that they don't like to feel limited in what they are capable of doing, and they want to know that if they are doing something that actually pushes the envelope that they're going to be able to do that in a progressively more accessible way even if the -- as the technology allows. So we appreciate the flexibility that something like -- that Section 508 has offered us in things like equivalent facilitation, et cetera, but we also like a lot of the features of web content accessibility guidelines 2.0 from which the Section 508 refresh is being based because it is more focused on outcomes than version 1.0 was. So we think that that kind of flexibility is a net benefit to everyone involved because if you take things and boil them down, the issue is you need to know that a technology is mature, and that we know what the limits are with the technology for it. And we have a lot more that we can do. This isn't mature. We continue to grow. We continue to expand what people are doing. I think Ed's demo is a good example with that with charting capabilities. So we appreciate the functionality that we're enabled to provide within the framework of Section 508.

So thank you for your time.

>> CHAIRWOMAN DIETRICH: Thank you, Matt. Commissioners, any questions for -- commissioners, any questions for Matt May?

>> JIM FRUCHTERMAN: I have a couple of questions. The first question was early on in your presentation you talked about the

ability in In Design to use metadata about an image as the alt-text. I guess the question is how usable would that be? In other words, do what kind of metadata would you like to just push a button and it will be usable alt-text? Can you give me an example of the metadata that would qualify what we need to do in terms of alt-text?

>> MATT MAY: Sure. let me say first off that this is not done by default. It gives you a selection of areas where you can draw that text from. So whether it's from XMP metadata, you can add your own, and you can tie it to some other piece of content. But in like in larger organizations, particularly ones that are using stock photography or maybe getting images from a wire service, they will have metadata attached to that image. So instead of picking a photo of Will and Kate and putting it on your front page and then having to put a caption along with that, if you are pulling it off of the API wire the caption is already physically encapsulated in the image. So the -- but all of that data is already there. So when you are putting alt-text on something that already has that information, you basically have thrown that away, and now you have to reconstitute it.

So we consider that data loss. This enables those kinds of organizations to have meaningful alt-text in the case of wire services edited alt-text appear in an appropriate environment without having to reconstitute it.

>> JIM FRUCHTERMAN: Okay. And my second question is, you know, Adobe and eBook accessibilities have off again, on again kind of relationship. A couple of years ago under pressure from the reading rights coalition, like the L.A. public library said they were going to stop buying Adobe editions. I know that you guys have been working on a lot of things. Has that boycott ended? Are you at a point where L.A. public libraries will buy digital editions because you have done accessibility work, or as far as you know is that still an open issue?

>> MATT MAY: I don't know at this point who is boycotting what.

(Laughter)

I will say that digital editions, I mean, it's a free product. So it's a free download. And the issues that had been raised were around the text-to-speech engine, particularly that the approach was to build in a TTS which was not the preference of a number of print disabled users in the community. And we recognize that. We had tried to work within some limitations that we have instead decided to breakthrough. We have worked with the content producers to let them know that the TTS bit which is intended for preventing a mass market reader from reading that content is not something that we will respect as far as access by AT. So if you have DRM content that has a TTS bit switched off, we can -- we will still enable that for AT.

>> JIM FRUCHTERMAN: Great. Thank you.

>> CHAIRWOMAN DIETRICH: Commissioners? Other questions? George?

>> GEORGE KERSCHER: Just so the Commissioners Know that I don't think that I have ever found a Flash that I could use yet. You know, all of the buttons are -- it's just invisible to the screen reader. Now, that's from the wild. Now, I know you create Flash that creates some accessibility in it. But what's out there right now is not accessible. I don't know. How long has Flash been out? 10 years?

>> SKIP STAHL: Yeah, 10 years.

>> GEORGE KERSCHER: 10 years. Still stuff out there doesn't work at all with screen readers.

>> MATT MAY: Can I respond to that?

>> CHAIRWOMAN DIETRICH: Absolutely.

>> MATT MAY: I first will need to point out that my demo was a Flash application. So you have at least experienced one.

(Laughter)

But what I need to say is that there is extensional problem with problem with Flash in that it is a blank slate. It is a platform where you draw vectors on to a screen. So it is at its core no less or more accessible with MicroSoft Paint. So

the issue that we had in the early days of Flash were that you were drawing things and they were objects but they didn't have a way to be represented. And so had you to go in and do that manually. And a lot of users, the vast majority of Flash application developers don't have that knowledge. So education is a component of that. But in the longer term we've built things into best practices, and the best practices have become components, and the components have been what you do to develop applications.

And as we progress through those phases we have increased the accessibility of each of those things. And so does that mean that the content that was created eight years ago is suddenly going to be accessible? No. There really isn't any like once something is baked into a Flash application much like if it's baked into a EXE, you are, therefore, limited in terms of the accessibility work that can be done. So, yes, the vast majority of Flash content that's out there is not going to get any better in terms of accessibility unless either you are continuing to update it and you start to use the components that we have created that have that accessibility support, or you start fresh.

To some extent the same is true of PDF, although you can do some remediation work as you go. What's important to note though is starting today, or, you know, I would say probably within the last 18 months the likelihood that you without any knowledge of accessibility will create some content that is directly accessible has gone from near zero to, you know, to maybe 90%. The applications that you will go and find will be more accessible by default because of the work that the platform has provided. So that said, are you going to have a, you know, Flash-based ads become directly accessible? Chances are that will not be the case. Some people consider that a benefit.

(Laughter)

>> CHAIRWOMAN DIETRICH: Yeah, I would.

>> MATT MAY: But it can be used for a number of different

purposes, and it can be done well and we are lowering the bar to doing that well.

>> CHAIRWOMAN DIETRICH: Further questions for Matt?

Okay. I have a number of them because I was using in design back when it was Page Maker.

>> MATT MAY: Roughly the same team but it was a total rewrite.

>> CHAIRWOMAN DIETRICH: I've noticed that. But thank you for keeping the keyboard shortcuts the same. I really appreciate that. So I have a couple of questions here. You were talking about in In Design the CS 5.5 that you could link various different content to your graphics in order to have the alt-text put in there. Is it possible to link it to a style? Can you link it to a caption style and the caption that's attached to that graphic?

>> MATT MAY: Yes, you can.

>> CHAIRWOMAN DIETRICH: Great. Thank you.

What is the slowest speed that editions will speak at? Does it work with JAWS? It's not built in?

>> MATT MAY: It exposes an accessible structure to the AT, so the AT is --

>> CHAIRWOMAN DIETRICH: It's the AT determining what?

>> MATT MAY: There is no built-in TTS.

>> CHAIRWOMAN DIETRICH: It's not like Adobe Reader?

>> MATT MAY: Correct. I will say that Adobe Reader has the built-in TTS, but works with AT. Digital editions used to have a TTS, and now it doesn't.

>> CHAIRWOMAN DIETRICH: Okay. Well, since I've got you here captive, we would like the TTS on the Adobe Reader to go slower, please, because the whole world who is print disabled cannot read at 100 words a minute, or I believe it's 90 is the lowest setting, something like that. So you can take that back as one of your recommendations.

>> MATT MAY: I will certainly.

>> CHAIRWOMAN DIETRICH: I'm wondering, and it sounds like some of this is being done, but one of the things that we've

talked about in the Commission is working with the industry to have wizards created during the content production process where it will automatically prompt you. So you've got a graphic in there, and it will prompt you to put an alt-tag on it. When you transfer it from Word, from in design, whatever, into PDF it will prompt you at that point, not the accessibility checker that you can run after, but beforehand while still in your native software which you probably as a designer know a lot better than you understand the actual Adobe Professional interface to work in. So that's one of the suggestions that we've made as a Commission. And I am just wondering how you might respond to that.

>> MATT MAY: I would say that that could be a useful tool. I'm aware of accessibility checkers that allow that functionality. I believe MicroSoft had done some work in that realm in terms of MicroSoft Word. And Word is really the dominant content production mechanism for PDF. I think that in general it is good advice to at least prompt users for doing that. But Acrobat, like a PDF content is basically final form. If did you that, you would want the source document maintain that alt-text as well. And so, to me, that falls on like if we drew a line there, that falls on the production tool -- on the production tool side of things. As an engineer, I think that if Adobe -- if Adobe Acrobat took that as its role, it would then be responsible for authoring somebody else's content. Like writing to somebody else's format, and that could be really messy as time goes on. But, yes, one of the main things that we have to get people to do is to make sure that that content as it's being added at design time, I think that the authoring tool guidelines recommends at insertion time that that information is made available.

I think that that is really the best place to put that prompt. And that's exactly what we do, for example, in Dream Weaver for adding an image.

>> CHAIRWOMAN DIETRICH: Thank you. Yeah, that's kind of what I was thinking.

George?

>> GEORGE KERSCHER: So in In Design, is there an accessibility check?

>> MATT MAY: Strictly speaking, no. We have the -- I mean, the functionality of Acrobat for the final form in production of PDF documents.

>> GEORGE KERSCHER: I am thinking of EPUB. So for EPUB you've got to have the correct reading order. So that's now in design, it's threaded.

>> MATT MAY: In In Design, you can manage the reading order through basically tree structure interface within In Design. So that functionality is something that is gotten higher visibility within the application to actually enable that.

>> GEORGE KERSCHER: Right, because EPUB re-flows and PDF doesn't.

>> MATT MAY: Well, well-authored PDF will re-flow as well.

>> GEORGE KERSCHER: Do you know if In Design runs EPUB check internally before it outputs EPUB?

>> MATT MAY: I don't know that offhand. No.

>> GEORGE KERSCHER: Thanks.

>> CHAIRWOMAN DIETRICH: Thank you. Other questions from Commission members for Matt?

Okay. Well, thank you very much.

>> MATT MAY: Thank you. I hope that you will excuse me but I have to run.

>> CHAIRWOMAN DIETRICH: Well, thank you.

>> MATT MAY: Thank you very much.

(Applause)

>> MATT MacINNIS: So I will be taking up the position of the scrappy startup, which means that I can be politically incorrect -- I'm just kidding. I will be politically incorrect, but I will speak the truth.

Let me tell you about Inkling. We started up in San Francisco. We've been around 22 months. We're building an interactive textbook publishing platform for every different devices, but the first that we're targeting is iPad. We are

today roughly 60 people, and we have funding from Sequoia Capital as well as small strategic investments from both McGraw-Hill and Pearson. So we deal with the core learning tool in higher education, which is textbooks. And we really believe that we're re-inventing the textbook. And I think that this is not just marketing speak to this Commission. I think that the thing that this group has to think about is that everything you see and use today will be obsolete and irrelevant five years from now. And when setting guidelines and directives for companies like ours that move at a very quick pace with respect to technology development, you have to remember that we don't believe that the textbook as it exists today will be a meaningful tool by the end of this decade. And we're re-defining that tool. We're building something that is more engaging, more exciting, more interesting, more meaningful, more dynamic for every learner. And how we address the needs of those who are blind or who can't hear is a unique challenge in this context. Text-to-speech is important, but how do you display a 3D molecule to someone who can't see?

Every student who uses a inkling title whether it's chemistry or biology whenever they refer to the molecule will see that in 3D. We face a unique set of challenges that go way beyond whether the Flash button can be double tapped, or whether the text is read in the correct order. In fact we solve those problems from the very beginning in the very structure of the content that we build.

So we took accessibility on very early, not because we have any blind employees, but because many of us had experienced a moment where we saw a smile on the face of someone who finally had seen, in quotation marks, the textbook through our software. We work really closely with the Berkeley accessibility group, and we've brought a lot of people to use our software and to help us to understand how to better design it for accessibility.

The challenges that we face, not just with respect to accessibility, but with respect to structuring learning content

overall are formidable. We talked about re-flowability. The gentleman talked about whether EPUB is re-flowable. We're not dealing with re-flowability or the replication of content, but we're doing away with the page. We're doing away with the notion that content is bound by a 8 1/2-by-11 inch border, and inventing contact that stretches and reshapes itself in response to a new canvas, a canvas like the iPad, or a canvas like the human ear which is different from the canvas of the iPad in and of itself. So we've done a lot of work to build content from the ground up with the publishers. And what this means is that we don't simply take a PDF and stick it on a iPad screen and hope that a screen reader will take care of the accessibility problem for us.

We deconstruct every textbook, and then build it from the ground up for a device like iPad so that when we do refer to a DNA molecule, we insert a DNA molecule. When we have assessment at the end of the chapter, we allow every user to interact with that assessment and get interactive feedback, dynamic feedback, based on the responses that they've given. And we've made sure that every single corner of our application, including being able to buy a chapter of a book, is accessible to somebody who can't see the screen. Now, it's not perfect. Nothing sever perfect. It is an approximation. But we as a 20 -month-old startup, scrappy as we are, have made it a priority to ensure that everyone in higher education is able to use Inkling the way they could use other alternatives. So I wanted to demo for you the current state of the application.

I would like to show you a biology title. And I would like to show you a music title. And I am going to get up to the screen to do that now.

(Pause)

The iPad gives us a huge foundation in working with the screen readers. The thing about a Inkling title is that it's structured in really, really tight XML. We build every title

from the ground up using a special set of tools internally so that all of the source material for the title is very consistent. So I am going to turn on voice-over.

(Screen reader reading) voice-over on. Calendar.

>> MATT MacINNIS: I am sure you are used to voice-over. I have this set at a fairly low rate right now so people who are not accustomed to this can kind of follow along. This is the home screen of Inkling. Now, you probably know that someone who can't see this screen builds a mental model of the application through experience. I can't spend an hour giving everyone a mental model of the application, for those of you who can't see it, but I'm going to quickly swipe through the way that a more experienced user of Inkling would use the application. I will select the biology title. I will start swiping to the right.

(Screen reader reading)

There is biology, and then I will double tap. And what are you able now to do is to quickly navigate through all of the chapters in the title, and then on the right-hand side if you are seeing the screen, you will know that are you seeing a summary of all of the content in the chapter. So I am going to quickly swipe down to Chapter 19.

(Screen reader reading)

So it tells me that the object is downloaded, it's local on the device. I will double tap.

(Screen reader reading) selected, chapter 19 overview.

>> MATT MacINNIS: So you will see that images in any chapter, all thumbnails for all images are all displayed. So if I have an image selected, it always gives me alt-text because you can't publish to Inkling without alt-text in your images. I will continue to swipe through.

(Screen reader reading)

So these are all of the headers across all of the content inside of the chapter. If I double tap --

(Screen reader reading)

-- brings me into the reading and I can quickly swipe over

the header.

(Screen reader reading)

So I can stop because it's hit a defined term. And when I swipe, zygote is a defined term. It's a link. For a user who can see the screen they would be able to tap anywhere on the screen to instantly get a definition of this word. For a user using the screen reader, they just double tap.

(Screen reader reading)

And it tells me that I have a pop tip up over the word, and I can double tap, and it removes that definition.

(Screen reader reading)

So as I read through every single time I hit "define terms" I am able to access define terms even though these define terms never actually appear on screen unless they are double tapped by the user. Now, on left-hand side of the screen, for a user with normal sight, they would see the spine. And the spine shows relative links of all of the cards that make up this chapter. There are no pages in Inkling explicitly, but if I am a user with visual impairment --

(Screen reader reading)

-- I double tap and hold and drag up and down. We've done a lot of work to make these important cues for a non-paginated Set of content accessible. So I will double tap and hold and it gives me a slider that immediately reads out the objects in the content.

(Screen reader reading) and when I let go, it instantly jumps to that location.

So you can see that it's very responsive. It let's me navigate quickly through the content. All of this is because of the underlying content structure. So if I come in now to something that is not textual, so what I've got now is this is an interactive quiz, and every single chapter in every single title inside Inkling allows for interactive quizzes which if the user responds incorrectly gives them feedback on why that response was incorrect. If they respond correctly, it coaches them why it was a correct response. So I will hear some

numbers and letters at the beginning of the question. That's the identifier for the question. And then it will begin to read the question itself.

(Screen reader reading) the process whereby a cell's morphology and function has changed is called?

"A," determination, button --

So if I come down to differentiation, I can double tap, select a response. And that response is selected and I can now check my answer.

(Screen reader reading) that's correct.

>> MATT MacINNIS: It reads me my response and tells me the feedback this is something that if you come down as basic as swiping up and down and navigate through the questions --

(Screen reader reading)

-- you will see that every single object in this title is accessible, so down to the ability to navigate from question to question.

(Screen reader reading) back to table of contents.

>> MATT MacINNIS: I will do one other quick demo which is this music title. So I am going to double tap. And I will navigate to the classical period.

(Screen reader reading) part 4, classical period.

>> MATT MacINNIS: I can navigate from section heading to section heading. I will double tap. It always brings me to precisely where I left off when I was last reading. If I tap my finger anywhere on the screen --

(Screen reader reading)

I will stop the speaking. What I will do is quickly navigate to a location where I can listen to the sonata that we're studying.

(Screen reader reading) first movement.

>> MATT MacINNIS: Listen now, when I hear that, I know that I can simply double tap.

(Music)

And I am able to listen to the piano sonata. It scrolls up, but I can continue the screen reader, and a sighted user can

read while they listen to the music, a person using the screen reader can continue to listen to the music as well, and the screen reader continues to do its job.

(Screen reader reading)

So there are challenges, of course. It's very difficult to do anything accessible with staff notation in particular. It's very difficult to do a lot with, as I talked about earlier, say those three molecules. But even when we render the 3D molecule, the platform says how many molecules are on screen, how many atoms are on the molecule, and it gives you a ton of alt information on what the user should see on the screen. Piano sonata in "C" minor is one of my favorites.

It's 10 after 10:00. I will stop. I hope that I have given you a quick look at what we've been able to accomplish with Inkling. There are so many opportunities to do this wrong.

(Laughter)

And the team at Inkling, we have two layers to doing it right. One layer is ensuring that the software itself is accessible, and that there is no corner of the application that a user who can't see the screen cannot access. And that's a game of Wacamo. Because every time that we update the software we have to go and make sure that we didn't miss spots. Inevitably we've missed some here and there. I think that we've done a pretty good job. The more important thing for the Commission to keep in mind here is that there are probably 10,000 ISBNs in higher education that would be considered textbook in the sort of classic sense of a textbook primarily written for academic consumption. Of those 10,000 ISBNs, approximately 2,000 are the bulk of the revenue to the publishers and are the bulk of use cases at the freshman and sophomore level in the United States.

As you get up into junior and senior year, the areas that are you studying are more and more esoteric, and, therefore, generate less revenue to the publishers, and, therefore, kind of take less time and attention from those editorial teams.

Now, the options that students have today from an accessibility standpoint, for that biology book I showed you, that's Brooker biology from McGraw-Hill. They can buy that through a subscription book for \$99. They can go to the accessibility lab on campus. For a book that size of 1400 pages there is typically a Braille version available. There is also the option in cases where the textbook is not as popular as that one to use one of the transcribers from the university. But none of these are optimal options. The E-book if it works properly is so clearly the optimal option because it's available instantly alongside any other version, someone who doesn't have special needs would use, and it doesn't have any additional costs associated with it if it's done right.

The work that we do to build titles from the ground up to make them work in the platform is the hard part. It's not really the software, and to take 2,500 ISBNs, core ISBNs, and build them from the ground is up really painstakingly difficult and expensive and it takes a long time. But there are very few shortcuts to gets to the finish line without doing that. In other words, to make this truly work, we really do have to re-build these titles from the ground up to take advantage of these technologies. The beautiful thing is that the trajectory of the software industry, especially in the way that we view the world at Inkling is such that there are many reasons beyond simply accessibility to re-build these titles from the ground up and to create new content that is completely accessible. And so we are going to re-build those 2,500 titles, one by one, Inkling will take all of those in partnership with the publishers and build versions for our platform that will be fully accessible. So from our perspective what we need from you, and what we need from the community, are guidelines and resources to ensure that what we're doing is appropriate. We don't really need a whole lot of, I suppose, formal or explicit regulation. But when my investors, you know, Sequoia is well-known as a successful venture capital firm in Silicon Valley, and they force their companies to focus. And as the CEO, when

I'm asked by my Board why are you spending engineering resources on accessibility, that can't each be 1% of the market, I respond it's 100% of the market because I can't serve higher education properly without serving everyone equally, or at least to the best of my ability as equally as possible. And that clicks for them. They immediately understand why that matters. And a lot of this is attributable to Section 508, the letters issued a few years back about some of the devices that came out that were not accessible. Tremendous progress has already been made. And I think that what we need is access to resources to make sure that what we're do something the best that it can be. So that's my time, and I am happy to take questions. Thank you.

(Applause)

>> CHAIRWOMAN DIETRICH: Thank you, Matt.

First let me say thank you for being scrappy, and then let me ask if the Commission has any questions. George?

>> GEORGE KERSCHER: So how -- this looks like EPUB 3 to me. Is it? Or is it your own?

>> MATT MacINNIS: Well, the stuff that would you have at the core of the reading experience is XHTML which would be basically what you would consider EPUB 3. EPUB 3 has no allowances for guided tours, structured assessment. Really, EPUB 3 is a great way to represent sort of print content. I think our vision for the future goes so far beyond what EPUB 3 is capable of today, or what we see EPUB 3 being capable of downstream that we have gone our own way from a XML perspective. But at its core, yes. The text that you are seeing being read is in a structured XML format that is Akin to EPUB.

>> GEORGE KERSCHER: So the interactive quiz, is that JavaScript acting on XHTML 5?

>> MATT MacINNIS: What you are seeing there is a native Coco implementation that is what we call S9ML. That's a specification for the Inking platform. This is why it will be accessible across various platforms. We create, much like

Adobe creates the Adobe Reader for all of the platforms that it targets, we create the Inkling reader for what we target and read that XML based on the modality and use. So on a touch screen using what's appropriate for that device, and on a mouse and keyboarded screen using what's appropriate for that one. So it's not literally JavaScript being displayed in a web view, it's a Coco application reading XML from the bundle, and then rendering it out as appropriate for a iPad in this case.

>> GEORGE KERSCHER: And if publishers feed you EPUB 3, how much of that -- how much of your work is done? You said it takes building it from the ground up. How much of that is done if you get --

>> MATT MacINNIS: We call that slurping. So we can slurp XML3 -- sorry. We can slurp EPUB 3 into XML and get it into the starting blocks. but they won't have the 3D molecules I referred to the EPUB also won't have mechanism for dynamic feedback. So the EPUB may have assessment in the form of, you know, one, here is a question, and then "A," "B," "C," "D," just like it's in print. We then have to augment that XML to provide feedback for incorrect responses and the interactivity inherent in assessment in the platform. So EPUB 3 gets us, let's say, 50-60% of the way there. And then on top of that we augment it with the interactivity that I demonstrated.

>> GEORGE KERSCHER: Cool. Thanks.

>> CHAIRWOMAN DIETRICH: Jim?

>> JIM FRUCHTERMAN: I want to say that we've read your blog post about accessibility and have been gratified to see someone bucking the trend of building accessibility in from the ground. And I think that it's a really good example. I hope that you are very successful because it works so much better to have accessibility from the get-go.

>> MATT MacINNIS: It's a tough audience.

(Laughter)

>> JIM FRUCHTERMAN: But I think that -- and it gets to sort of the heart of what our recommendations are supposed to be accomplishing. We made a decision -- at least I think we've

made a decision -- to say that you have to do EPUB 3. We have to say that functionally you have to deliver accessibility so that a semi proprietary solution like yours can actually meet the requirements. At the same time, we actually have to say they required so you can go back to Sequoia and say, no, no, no, this is an essential requirement for entering this market. Do you have suggestions for us that you would like to see in our recommendations to add value to all students, make your financially successful, and make sure that students are included in the makes from day one.

>> MATT MacINNIS: I think from our perspective understanding that there is -- I'm going to say something that is probably contradictory to the general premise here. But understanding - - there is no way for us to know when we're done because we are never done, right? As a group of engineers, and for those of how come from the software industry you know that software is never done. In fact, even when you ship version 10 it's not done, right? It's just as good as you could get it before somebody said ship it!

From an accessibility standpoint we suffer from the same flaws. There is no perfect tool. It would, nonetheless, be useful for us to have particularly in higher education where there is a very, very broad array of content that has to be consumed across so many disciplines. Would be very useful for us to have a sort of minimum viable guideline. It doesn't necessarily have to be enforced. But for us to be able to say to the world that we believe we meet these standards for these disciplines. I mean, when you think about what it takes to educate someone in the art of economics versus biology versus English literature, there are really very different sorts of things that have to be communicated. And to the layer person, to the lay engineer, someone who is not blind, it's not obvious necessarily how we ought to represent a chart or a supply and demand curve and that sort of thing.

I think the guidelines at a general level are useful. I think

getting into some level of at a minimum resourcing if not sort of higher level minimum viable bars for us across the disciplines where we must educate people would be also incredibly useful. I know that's not necessarily within the purview of this Commission in particular, but of the community that's what we would beg.

>> JIM FRUCHTERMAN: I can briefly respond?

>> CHAIRWOMAN DIETRICH: (Indicating affirmatively.)

>> JIM FRUCHTERMAN: I think that just like software, which we call the engineer full employment act is progressively realized. I think that the same thing goes on with accessibility. I think that what we're seeing today is we're getting close to making text accessible. In other words, nowadays when the student needs the text of a book, we pretty much can get it to them. And hopefully without too big of a delay. So now we're spending more and more time talking about the domain-specific things that you are talking about. For example, we're saying MathML is the solution to mathematical accessibility. But it might be interesting to get feedback that said, well, I don't actually want to use MathML, but functionally I can deliver that accessibility through some other way. That might be helpful because that's the way that we're thinking.

And then the next step up of how do you make chemistry accessible? I think that we've talked about it, and I think that it's beyond today's scope. But five years from now people will say, all right, we need blind chemists, and, gosh, we have to do ChemML, but, gosh, that's not taking off. How do we do that? So we have to set a structure that leaves with us the ability to go to that point, but today we know that we need to work on math and image accessibility as part of our recommendations because that's kind of the next frontier.

>> MATT MacINNIS: The most important thing that we have difficulty solving for today as a company in the creation of scientific material in particular is equations. It's really brutal. It's difficult to get the information from even at the

publishing level when they print to a PDF, are you getting an image. And that's inextractible. So that's one area of low-hanging fruit that this Commission, plus companies like ours, should probably be working together to solve for in the short-term because I think that some very small steps toward standardizing wait that we represent those equations in ML, in any markup language, would have absolutely massive benefits for people who want to study these materials. That's the one sore spot for us today.

>> JIM FRUCHTERMAN: Is MathML the answer?

>> MATT MacINNIS: That's one answer. We're embracing it. We have the luxury of saying that we're going to make it work. We build the content. We have a reader that works with it. We don't have to wait for somebody else to tell us how to do it.

>> VICE CHAIRMAN WENDORF: This is great stuff. Thank you. I am on the app, and I am looking at your library. Talk to us about pricing, if you would, because one of the things that we've discussed is whether the market is there, and how companies are compensated, you know, what students actually pay for. For example, I am on Lights Camera, capture," and regular price is 44.99 and you have it for --

>> MATT MacINNIS: That's a atypical example. That's a trade title. So textbooks. You have an hour, right? I have an hour?

(Laughter)

So the economics of the textbook in higher education, really quickly, publisher sells Brooker biology, Campbell biology, the number one title from Pearson, \$200 for a copy of that title. However, that title serves for students because it's typically sold back and re-sold as a second-hand copy three times after it's purchased. When you do the math on that the publisher is actually realizing \$50 in revenue per student. In a digital context especially when it's in the format that we build it, there is no second-handbook. A student purchases a perpetual license and owns that content for life. In theory, we can charge \$50, and if every student buy it is from us, the

publisher is flat in terms of revenue per student. This is why -- now, they didn't go to that number quite so quickly.

(Laughter)

But that's because not every student is going to buy digital tomorrow, and there are lots of sort of finance guys who run the numbers. We offer all of our titles at 30-40% off the price of a new book, which is okay. It could be better, but it's in a good spot. What's important to us, and this gets back to my first point when I began talking about the future of textbooks not being textbooks. A textbook is a book. It's monolithic. It's linear. It's sold for a price. When you come into Inkling, every title is available by the chapters. If publishers will not offer their books by a chapter, they cannot offer inside of Inkling. When you go into the Brooker biology, it's 139 in print, but it's \$2.99 per chapter. It's got 60 chapters.

Typically a student uses 16 chapters per semester. So they're paying \$45 for the 15 chapters, and then maybe if they take the second semester course they'll pay another 45. Good for the publisher overall from the economic perspective, but it unbundles the book. This is an important distinction for us is that content will no longer be monolithic and linear. It will be modular. It will be interactive and dynamic it will be downloaded just in time from an accessibility standpoint there are important implications here because not only from a cost perspective but also in terms of information design things have to be modular. And that really does away with the notion of the book. And it does away with the notion of the page, and it does away with many of the issues that you experience in trying to use a PDF-based screen reader.

So, you know, it's a win-win. Now the economics makes sense because every student uses this content and it benefits the world of users who need accessible tools. But costs will come down not because we'll arbitrarily drop the price of a book. That's like asking Henry Ford to give us a cheaper horse.

Henry Ford didn't care about the horse. He invented something better than the horse. He invented the car. We're inventing something better than the textbook. We just haven't come up with a word for it yet. It's probably book.

(Laughter)

>> CHAIRWOMAN DIETRICH: Other questions?

>> SKIP STAHL: So I wanted to make a comment about MathML. I am wearing my NIMAS Center hat at this point. What we're working with DAISY consortium and the NIMAS standards board and have made a recommendation to the Department of Education to incorporate MathML as a requirement in the NIMAS 2.0 specification for K-12 textbooks. But as part of that work, what we're also do something publishing a draft set of structured guidelines for markup of textbook content. And the first round of that hopefully will be out in the next three weeks. But focus mostly on MathML 2. The second round will be focused on MathML 3. We'll probably have that out by September. We're really looking at the MathML 2 structure guidelines for content markup. The focus on the first round is really 8th grade kind of pre-algebra and up because when MathML 2 was the standard everybody could agree what markup looked like from 8th grade up, but nobody could agree how to markup elementary markup where you had rubber duckies and bouncing balls as variables.

We will address that in MathML 3 which makes it easier to address the elementary content. Hopefully that's helpful to the community at large.

>> MATT MacINNIS: MathML 3 for reasons beyond the bouncing ball and duckie will probably be the one that we use because it also accounts for a lot of the shortcomings of the prior versions. I mean, even in much more sophisticated cases.

>> CHAIRWOMAN DIETRICH: George did you have another question?

>> GEORGE KERSCHER: No. We're doing 3, though, right?

>> ANDREW FRIEDMAN: I have a quick one. This is great stuff by the way. Who else does this? If you are really going to do

this the right way, there has to be competition. There have to be multiple people viewing the market the same way. Who else in the market is out there doing this type of innovative work?

>> MATT MacINNIS: The vast majority of digital textbook players today have taken what we consider to be the lazy route which is to sort of take down PDFs and redistribute those PDFs. As my colleague from Adobe said, PDF is accessible only if it's constructed well. Unfortunately that is generally not the case. And in a 1400-page textbook it is not the case, I can say in virtually every case. Our competitors think that we're crazy. They think that we are taking on a problem that's way bigger than any small company could ever take on, and, therefore, we're the Lone Rangers. It's pretty lonely out here doing this kind of work, re-building learning content from scratch. There are other approaches that could be taken. You can strip down the content and generate a flat XML and put it into a web browser, and then sort of allow the accessibility to occur by virtue of standard screen readers, but it's also not what we believe to be the future of publishing as a whole.

Honestly, we have competition in lots of different ways, but we don't have someone taking this problem on the same way that we are right now. Kind of waiting for that other shoe to drop.

>> CHAIRWOMAN DIETRICH: Jim?

>> JIM FRUCHTERMAN: I guess one of the concerns that's been talked about at the Commission is this new sort of rich content in generally proprietary formats where DSS offices have the student show up and say, "I've got this thing. It sort of works, but there is this music thing that I can't access. Fix it. Or there is this rotating three-dimensional molecule. It just says blocked on my machine."

So how does a DSS office retrofit your book which is, let's say, further along than most of your competitors in accessibility, but where the standard every practice is that you have to do something extra? How do they do that?

>> MATT MacINNIS: I hope they don't have to. I mean, DSS offices are making up for the shortcomings of -- not always --

but certainly in software they're making up for the shortcomings of the developer. I don't have an answer. I think that if the DSS office can figure it out, and we haven't, there is something super wrong with us.

(Laughter)

And this is, quite frankly, this is why we work with the DSS office at Berkeley because they sometimes have great suggestions for us on how we ought to represent something. But honestly it gets to the point where we have failed -- we have failed to provide accessible content to a degree that the DSS office has a better way of doing it than we do, then, you know, please call me.

(Laughter)

I would like to talk to my design team. I've got to catch a flight.

>> MARK SCHNEIDERMAN: With regard to digital rights management, I think that we representing a big cross-section of the industry can serve as a liaison in some coordinated way between DSS offices, users, and others around digital rights management and figuring out things that can be done broadly and in specific cases. So that's something that we can offer not necessarily to the Commission, but to the community as a whole, and to support some of that dialogue. A lot of these cases for DRM there are not necessarily easy answers, but in building that discussion we can help support it.

>> CHAIRWOMAN DIETRICH: Thank you. We appreciate your presentation, Matt, and appreciate the fact you need to leave. I want to say that your books are what I always thought E-books should be. So thank you.

(Applause)

And I know that people did have more questions for Matt, so I am wondering, Mark, if you could provide us Matt's e-mail address and information. Some of them are chasing him out the door.

Is this a question that Mark can respond to? Was it specifically a question for Matt?

>> GEORGE KERSCHER: Well, the question is depth first versus breadth first. And it looks like that they're doing a depth first collection development so that the books are really terrific, really great, and takes them a lot of time to build it. That's digging deep first.

Breadth first is getting everything, a whole mess of content in a fundamental form, and that would be my question. Can he ingest the EPUB 3 content and provide a good reading experience, a great reading experience, but not necessarily all of the interactivity and bells and whistles that you need to pile on in order to give that comprehensive treatment you would like. You know, how many books are we talking about, and how much time? So depth first, breadth first.

>> J. BRUCE HILDEBRAND: George, as of right now I think that he has got about 15. He is shooting for 100 by fall is my understanding. And the goal is the top 2,000 which, as Gaeir will tell you, that's about 80-90% of what she will be dealing with. And so if you can pull that off in two or three years, now you hit 80-90%, and then you get to the esoteric, and that's where EPUB 3 and that type stuff can come in because I don't know if they can make it financially viable if they have to dig deep on a real short seller, a short run. So you will get to the major market fast. That's what his goal is. I don't know what his revenues, I have no idea what his business model is. I somehow doubt I will ever find out. But if he is right now cutting edge, but I do know that there are proprietary platforms that are already being demoed to compete with.

So he is in a unique spot, but there are other publishers developing other platforms to approach it somewhat differently, but they are highly sophisticated and they'll be taking him on. The publishers will fight with each other for every sale. So there are already people out there already working to take him on.

>> CHAIRWOMAN DIETRICH: Okay. We need to take a break.

>> GEORGE KERSCHER: Yes!

>> CHAIRWOMAN DIETRICH: Yes.

(Laughter)

Let's take a 15-minute break, please.

(Break)

>> CHAIRWOMAN DIETRICH: Commission members, could I have you take your seats again, please?

So we're going to have to really stay on time now because I have to run out quickly at noon, and we have other people who have to leave at noon as well. So this next section first I would like to start off by inviting Dr. Linda Tessler to make a comment.

>> LINDA TESSLER: So official!

This is referring to the conversation at the end of yesterday, and we were very tired when we were talking about copyright licensing and things like that. I totally acknowledge that this is something that I do not have --

>> CHAIRWOMAN DIETRICH: Go back and around, George, and then to your left.

>> LINDA TESSLER: That this is a topic that I do not have a complex understanding of, but I do want to make what I think is a very important comment, and that is that through our suggestions we are trying to educate Congress. That's part of our charge. And it's obvious, and it's understandable that Congress at times through some of the laws that have been passed do not understand that dyslexia is a lifelong condition. People had to be retested like in three years. It was very costly, and illogical to everything that we understood. So when we talk about licensing and copyright, and that we are educating people to become productive members of our society, and that if they then get cut off it will not only be illogical but then counterproductive to our society because they will not be productive professionals in our society as possible. And whoever deals with that part about the licensing, the law, and however that plays out, I do hope that there is a piece, that there is a line to educate Congress to understand that this is not something that goes away. I want to clarify one

misnomer that's out there. The population doesn't understand is that although a dyslexic's reading will improve through time, as all readers' reading will improve through time, the gap, the differential of the effectiveness of their reading will always be present. So no matter how much we tend to improve, we never really catch up to a normal or a good reader. And, please, Maria, whoever is involved in this, put this educational piece into the report. Thank you so much.

>> CHAIRWOMAN DIETRICH: Thank you, Linda, and I think that you make a very nice distinction there between the learning disability as a disability which is unchanging versus a skill set that may improve over time as all of our skill sets do improve over time. And just because it's improved you should not pull the rug out from somebody who is doing a little bit better now because their skills are better. So thank you very much for that comment.

I will at this point turn the mic over to my vice chair Jim Wendorf who will lead a discussion on beneficiary class.

>> VICE CHAIRMAN WENDORF: Okay. Thank you. Linda, that was a good introduction to this discussion. A perfect one. So I will lead, but I would also like to participate in this as well. So at the end of the day we were charged with coming back some drafty language to, you know, try to get some greater clarity about the beneficiary classes as we look at Chaffe. The points made why that there are inconsistencies in terminology. There is outdated language in Chaffe. And there is confusion. There is confusion certainly in the K-12 space, and also in the postsecondary space about, you know, who is supposed to benefit in this way. And so Jim Fruchterman brought forward some WIPO language, and we've made some very initial sort of editorial suggestions. It's all open for discussion and questions. Bruce was part of this, and Bruce got a couple of questions out this morning before we brought the Commission together, but, Bruce, I know you will have more to put forward because we didn't really have a chance to fully discuss what

this means, what it doesn't mean and so forth. So up on the screen, thank you, Skip, up on the screen we have some suggested language to at least discuss about beneficiary class, a person who is, "A," blind. "B," has a visual impairment. I have to take it off and look around. Has a visual impairment that cannot be improved by the use of corrective lenses to give visual function substantially equivalent to that of a person who has no such impairment or disability or a perceptual or reading disability or any other print disability of sufficient severity to prevent the reading of text in a normal manner; or, "C," a different group, a person who is unable through physical disability to hold or manipulate a book or focus or move the eyes to the extent that would be normally acceptable for reading.

So this is a bit different, Jim, from the first language that you put up where we thought that visual disability as well as the reading and print disability were sort of being modified by this phrase or clause which runs, "Which cannot be improved by the use of corrective lenses." And so what we've done is to put that clause directly with visual disability, visual impairment, pardon me, to make it clear that it goes with that rather than with reading disability, print disability, perceptual disability.

What the language also attempts to do, sufficient severity to prevent the reading of text in a normal manner is to make it clearer that this is not about opening up floodgates to huge numbers of people with a reading disability, but to that subset of those individuals who have a severe reading disability, and, therefore, absolutely need access to the kind of assistive technology that we've seen demonstrated in all of our meetings in order to meaningfully participate in education and to move ahead educationally. So that's up there for discussion.

>> STEPHAN HAMLIN-SMITH: I have a question. And it truly is a question where I need information, I guess.

When -- so when we use the term "reading disability," can

you help those of us who are not really deeply familiar with all of the processing and things, what does that mean in practical terms? Or how do we understand that term reading disability?

>> VICE CHAIRMAN WENDORF: It's a good question. And I think the presentation by our experts back in Columbus probably attempted to get at some of that. But I would put it as follows: The term "reading disability" is subset of learning disabilities. Dyslexia is often used by clinicians to pinpoint it, but reading disability is very common. And it covers a number of issues. One of the big ones, of course, is a person's inability to break the alphabetic code. And an inability to associate the symbols on the page with the sounds that go with those symbols and to store them efficiently, to retrieve them efficiently, and to express them efficiently.

And so that's a big part of reading disability. It's what a lot of young kids encounter. They can't break the code. They cannot because of the way their brains are wired, and we saw the FMRI slides, they simply have tremendous difficulty breaking the code because their brains work differently. They need to be taught differently. There are lots of educational therapies in place to help them do that.

There are other aspects of reading disabilities that go with, for example, comprehension. There are some individuals who can read fluently, put a sentence in front of them, and they can go from left to right and through it and they can read fluently and they will not be able without great effort and great supports and sometimes with the support of assistive technology, they will not be able to tell what you it meant because they have comprehension processing disorders that prevent comprehension. And, again, there are educational therapies that can be very helpful there. They are played out in schools, of course, and there is assistive technology that is very helpful that allows individuals to access that information and to comprehend it.

A lot of that, of course, is text-to-speech so that people who

have a reading disability are able to access print or text in a multisensory way. And seeing it, hearing it, in some cases touching it, all of that. And there is tremendous research that shows that all of those things are helpful to a person who actually is affected by a reading disability. So that's a first stab at that, but, again, I'm not a trained expert. I'm an advocate about this stuff. I hope that's somewhat helpful.

>> STEPHAN HAMLIN-SMITH: No, that's good. That's helpful. Thank you.

>> VICE CHAIRMAN WENDORF: Okay. Lizanne?

>> LIZANNE DeSTEFANO: Is comprehension implied to prevent the -- yeah, to prevent the reading of text, is comprehension implied in reading, or should we say reading and comprehension of text?

>> VICE CHAIRMAN WENDORF: Well, you know, it's a great question. I think one could probably, you know, if you wanted to be fulsome about this you could add that. I think frankly reading covers a lot of the necessary ground. It's a comprehensive sort of term. So you can unpack reading in terms of comprehension, decoding, expression.

>> LIZANNE DeSTEFANO: We may want to check it with the reading community because I believe they would want to add the comprehension. Because it's not just a fluency issue as you pointed out, it's a fluency and comprehension issue.

>> VICE CHAIRMAN WENDORF: I would be happy to do that, and there are others who could. People who I have consulted about this have not put that in play as something that is tremendously important.

>> LIZANNE DeSTEFANO: The second point is I have a little bit of the negative reaction to the word "normal" and I wonder if there is -- yeah, some particular reason that we're using the word "normal" implying that other ways of accessing text are abnormal. Or could we put another word in there that has less stigma associated with it? Standard or typical.

>> LINDA TESSLER: Quotations around "normal" might do it.

>> VICE CHAIRMAN WENDORF: Normal was used because it was

previously used elsewhere in the definition, right?

>> JIM FRUCHTERMAN: No, Jim, I think that was your amendment to the text from WIPO.

>> GEORGE KERSCHER: Would the word "effective"?

>> VICE CHAIRMAN WENDORF: We could repeat to substantially the same degree as a person without such a disability which is used already in this. So one could repeat that. I mean, typical, atypical is the usual way.

>> LIZANNE DeSTEFANO: Or standard is another way. I think there is a stigma associated with normal.

>> LINDA TESSLER: I like George's effective. I have never heard it used but it makes sense. Sometimes it's quoted in text as the good reader, the "normal reader" in quotations. Lizanne, I support your comment, I think it's a good one. But just to understand the definitions are confusing because the legal community uses one, the brain researchers use other definitions, but I think you've done a really good job on a definition, and it's used in the DSM-IV, so that's a pretty good referral source. But I am just kind of giving you a background about the word.

>> VICE CHAIRMAN WENDORF: Skip, please?

>> SKIP STAHL: I just had a quick clarifying question. In the last line of the first paragraph the word "text" is used. Is that -- should that be "print"?

>> JIM FRUCHTERMAN: No, "the text," it's the borne digital issue.

>> SKIP STAHL: That's what I am asking. This is essentially the expansion of the media being addressed.

>> VICE CHAIRMAN WENDORF: Okay? So did we in terms of the issue of "normal" did we find alternative language that made sense? Effective?

>> GEORGE KERSCHER: If you change the two places where "normal" is used and replace it with "effective" it looks like it works.

>> VICE CHAIRMAN WENDORF: George it also underscores and connects with our issue yesterday about function, a functional

definition.

>> BETSEY WIEGMAN: I have a question about "effective" which is that some of the modifications that people who read text in a non-standard manner would use would also render it effective. So using a screen reader is also effective, but I don't think that's what we're trying to get out of this definition.

>> VICE CHAIRMAN WENDORF: Uh-huh.

>> BETSEY WIEGMAN: I would go with one of Lizanne's suggestions like "standard" or "typical."

>> GEORGE KERSCHER: But the point is when you use a screen reader that it's effective.

>> BETSEY WIEGMAN: Right, but if this definition is, you know, a beneficiary includes someone who has a visual impairment that is of sufficient severity to prevent them from reading text in an effective manner, well, that visual impairment no longer prevents the reading the text in an effective manner because the screen reader is effective.

>> VICE CHAIRMAN WENDORF: I think the starting point here is this is before any kind of assistive technology or tools are put in place to remedy the disability, or to at least address the disability. Is that fair to say?

>> SKIP STAHL: Yeah, except are you referencing a --

>> JIM FRUCHTERMAN: And people have definitions of disability never exclude the possibility of using assistive technology. You don't say because you are physically disabled, but you can use a wheelchair, that doesn't change the fact that you are physically disabled under the sort of definition. I think that the -- I certainly haven't seen these definitions add excluding the use of assistive technology. That's one of the reasons why you see this about lenses. Usually corrective lenses are deemed a sufficiently low bar to change you as no longer qualifying as blind. If I take my glasses off I am legally blind. If I keep them on they say he is not disabled because glasses is such a low bar. But a screen reader is not a low bar, and it doesn't make the whole world accessible like glasses do.

>> BETSEY WIEGMAN: I agree with your point, Jim, and we have the same standard of glasses in the civil rights' laws that we have in OCR this is more of a semantics question. It's not clear from the text that we're only talking about reading in a traditional manner if we don't say that we're talking about reading in a traditional manner. I think effective means something very different.

>> VICE CHAIRMAN WENDORF: I see. I think that we should listen carefully to this interpretation because I think that's one of the valuable things about this discussion.

Yes, Glinda?

>> GLINDA HILL: I think where Betsey is coming from, and I see it, too, is that we're not talking about -- it's not the -- we need a polar here to be parallel throughout the definition. We're looking at a typical versus atypical even though it seems a bad way to do it.

>> LIZANNE DeSTEFANO: I don't mind "typical" because that doesn't have the same negative connotation as "normal." Typical happens all the time.

>> GLINDA HILL: Typical development, atypical development, and we use that all the time in our language.

>> VICE CHAIRMAN WENDORF: Thank you for that. Maria?

>> MARIA PALLANTE: This is line editing on the fly. You can re-word it. You can take out the parens and put that at the end and say has a visual -- and this is without getting into other little issues I may have with the way it's worded, has a visual impairment or perceptual or reading disability or any other print disability of sufficient severity to prevent the reading of text in an effective manner equivalent to that of a person who has no such impairment or disability.

And then you can say something about other than corrective lenses.

>> VICE CHAIRMAN WENDORF: So did everyone follow, to group all of the different impairments or disabilities and to connect them with the phrase "substantially equivalent to that of a

person who has no such impairment or disability," ta-da, ta-da. So in other words not to -- but you were still going to --

>> MARIA PALLANTE: To get to Betsey's point you would have to say that cannot be improved by the use of assistive technology other than corrective lenses.

>> VICE CHAIRMAN WENDORF: Other than corrective lenses, okay.

Ashlee?

>> MARIA PALLANTE: To follow up on one more point. And Jim's point, I think that it's true that assistive technology now is a higher bar than the glasses. But I guess we don't know the answer to whether that would be true in the future. It become a very low bar. Just to sound like Jim Fruchterman.

>> VICE CHAIRMAN WENDORF: There could be screen readers in corrective lenses.

(Laughter)

>> J. BRUCE HILDEBRAND: May I make a suggestion if I may?

>> VICE CHAIRMAN WENDORF: Ashlee is first. We'll get everyone.

>> ASHLEE KEPHART: I just wanted to throw out kind of like a different way of looking at it. Instead of looking at it as they are reading in terms of a normal reader, I think it might be I don't know maybe a little more effective to look at it as it hampers their ability to read. Because maybe they would have been an exceptional reader, but their level has dropped to normal or slightly under normal. So they would normally not receive help but it's still frustrating to them because they are still feeling like they are slow -- they feel hampered because of it.

>> VICE CHAIRMAN WENDORF: Uh-huh. So it's --

>> LINDA TESSLER: Because they are compensating with a superior intellect, and they become a "normal reader." That's an excellent point.

>> MARIA PALLANTE: So prevents or hampers?

>> VICE CHAIRMAN WENDORF: We have language in here about prevents a disability, a reading or print disability of

sufficient severity to prevent the reading of text either in a typical manner or an effective manner. Is that going to address what are you getting at, Ashlee?

>> ASHLEE KEPHART: Or maybe just "that hampers their ability to read the text otherwise"?

Because by comparing it to the normal readers, it's kind of like what happened to me in high school. I was getting "B's" and low "A's", but I knew I could do better I had the accommodation that I needed. But the school did not want to give them to me because I was doing better than average which was "C." They didn't want to help me because I was above average even with my dyslexia.

>> MARIA PALLANTE: You weren't doing badly enough.

>> ASHLEE KEPHART: Right.

>> CHAIRWOMAN DIETRICH: And, in fact, with the testing that our California community colleges have done, we have often found, not always, but we've often found that individuals with learning disabilities actually have very high IQs. And they've compensated to the point that they can be "average," but they could be so much more if they had the technology. So I think that your point is very well taken, Ashlee. Thank you for making it.

>> ASHLEE KEPHART: I propose taking out the comparison to in a normal matter and saying a perceptual or reading disability or any other print disability that hampers or inhibits or in some way negatively affects their ability to read or access the text.

>> VICE CHAIRMAN WENDORF: Okay. Thank you for that. I think that one of the things we would need to discuss, you know, is getting "severity of the disability" in there, that affects the ability? Good. Okay.

Go ahead. And do we need to compare that condition with typical?

>> MARIA PALLANTE: This is just the piece of it that Ashlee is raising and not the whole thing. But I think what Ashlee's point is is that if you have a visual impairment or perceptual

or reading disability or any other print disability of sufficient severity to prevent the reading of text, and then would you flip to in a manner that is substantially equivalent to that of a comparable person, right? So for you the bar would be a person who has your intelligence and your potential. It would be a sliding scale depending on where you are. So your comparables would change depending on how talented you are.

>> ASHLEE KEPHART: Sure.

>> MARIA PALLANTE: I think that's what are you saying.

>> VICE CHAIRMAN WENDORF: Good. Maria, thank you for that. I think that it speaks to your point. It keeps severity in because we're looking at a group, a population, that is not, you know, expansive but very carefully defined.

Bruce?

>> J. BRUCE HILDEBRAND: Well, we've got two things. Let's look at the law as it currently reads. And this is what binds NLS. And it says, "NLS provides work to blind and other physical handicapped readers certified by a competent authority is unable to read normal printed materials as a result of physical limitations."

Two, if you look at this debate, and ironically I have a paper on this that was written that I have been reading and I remembered I had that paper. And then it comes back to a piece of the debate in this, and "severity" does not transform something that is not a physical limitation into something that is, and even if it did, arguments about how -- how severe a reading disability must be to qualify would undercut the claim that this would not result in an expansion of the beneficiary class beyond that recognized by Congress.

Wait a minute, please.

>> VICE CHAIRMAN WENDORF: I couldn't follow the double negatives in there.

>> J. BRUCE HILDEBRAND: This is what the paper said. I didn't write it.

But here is the point. Severity in and of itself would have

to somehow be defined.

Two is, it contravenes the current congressional legislation that directs NLS. Three, I've got the copy that you sent, and I've got the copy that Jim sent, and I've got the Tiger copy from the MOU, and they all conflict on different levels. This is stuff that has been ongoing forever. Why don't we put the - - our mandate is that we come up with some optional language. And let Congress decide.

Why don't we take, perhaps, because we'll be here for -- this has been going on for years, word by word, all over the globe, and we're not going to resolve it here. We can just stop everything else and we can do this all day long and parse it to death. Why don't we come up with take the language that has been recommended by these dozens if not hundreds of meetings globally, and in the U.S., and say, you know, these are the -- this is different language that's been proposed in different groups, ta-da, ta-da, ta-da, and do what our mandate is to let Congress make a decision. Does that make sense, Maria, in context?

>> MARIA PALLANTE: Yes and no, if you are asking me.

>> J. BRUCE HILDEBRAND: Okay.

>> MARIA PALLANTE: I will agree that using particular WIPO text is probably not -- it's not more meaningful than using other WIPO text.

>> J. BRUCE HILDEBRAND: Because there are contradictions.

>> MARIA PALLANTE: This is the chair's text, and he is not the head of WIPO, and it was very controversial when it was introduced, and it's not likely that the government will use this if they implement the law.

>> JIM FRUCHTERMAN: But the original was drawn almost totally from a U.S. Government proposal.

>> MARIA PALLANTE: Yes, I understand.

>> JIM FRUCHTERMAN: Okay.

>> MARIA PALLANTE: But Jim you know as well as I do that government positions start here and end here and there are all kinds of interagency and legal clearances, and then there is

the Executive Branch and the Legislative Branch and a million points in between. So let's not mislead the group into thinking that because this was introduced as the Chair's text that somehow this is golden language this is controversial like every other discussion on this topic. I think to your point, Bruce, I thought what the group wanted to do in the recommendation that Congress look at Chaffe is to identify and highlight that the beneficiary class issue in particular is a problem. And that's why we agreed yesterday that we would drop Recommendation 17 about the NLS reg which is kind of the back-door way to fix in part because of the publisher's strong opposition to the regulation.

We would fold it into the first recommendation about Congress looking at the whole thing but highlighting that one point maybe above others. And that rather than just leave it to Congress, this group should at least try to come up with some language, and I would say to your point if we can't come up with language, then we should come up with the key points that people feel strongly about.

>> J. BRUCE HILDEBRAND: That's cool.

>> MARIA PALLANTE: I understand that your perspective is let's put in front of Congress 10 different iterations. We know that will happen anyway if they have the legislative process. So I think that I agree with my colleagues here that it would be better this group could try to come to some guidance on that point, if possible.

>> J. BRUCE HILDEBRAND: I can go with some guidance, and key points might make it. But if we sit here -- in fact, he looked meet and he said are you going to weigh in on this? I said I am fascinated. I appreciated your opening comment when you said I'm not a trained expert. Well, I am certainly not a trained expert on this.

>> VICE CHAIRMAN WENDORF: But we both have access to trained experts, and we rely on them, and we've also had experts present comments to the Commission.

>> J. BRUCE HILDEBRAND: Let me get time to get to my trained

experts who have been in all of these global negotiations and let the others do as well. Your question was perfect, Stephan. What does that mean? I don't know.

>> VICE CHAIRMAN WENDORF: Well, I thought Stephan actually satisfied with the answer.

>> MARIA PALLANTE: Let me say one thing if you don't mind. This language is for Chaffe in particular which is the exception, right? This does not take away from the broader discussions about how to serve people through a market model where disabilities don't need to be defined. So this is not -- this is one piece of the project.

>> VICE CHAIRMAN WENDORF: It's one piece, and we are charged by Congress to address it. I mean, this is something that we're here to do. And I agree with Maria that it would make sense for this Commission to offer draft language up, and if there are -- if there are some objections or some concerns about that, that those absolutely have to be registered.

I think even this morning and the minutes that we've spent on this we've actually moved forward with an improved version of what suggested at 8:00 this morning. It's not a done deal. But what I would like to do, and tell me if the Commission would ascent to this, is to take the version that we achieved in the discussion and to present it as a recommendation for further discussion online and also at the August 12th meeting. Does that work?

>> J. BRUCE HILDEBRAND: That's fine. I just don't that I we should try to do it today because we're going to be here all day.

>> VICE CHAIRMAN WENDORF: But look how much we accomplished yesterday and even in the few minutes this morning. I think it's pretty remarkable.

>> J. BRUCE HILDEBRAND: Put it online and let's look at it.

>> VICE CHAIRMAN WENDORF: You'll get it.

>> GLINDA HILL: May I be recognized?

>> VICE CHAIRMAN WENDORF: Yes.

>> GLINDA HILL: I want to say that we do have experts on the

panel who have made careers out of special education who do know what the special education field says about learning disability. Two are here in the room at the end of the table. And they were contributing to this definition so when you say we don't have experts in the room, are you not giving credit to some of the Commissioners On this panel.

>> J. BRUCE HILDEBRAND: Well, I'm so sorry, Glinda. But I don't think that we have the caliber of legal experts.

>> GLINDA HILL: Not legal experts. We weren't talking about legal experts.

>> VICE CHAIRMAN WENDORF: I don't know. We have the head of the copyright office of the United States.

>> J. BRUCE HILDEBRAND: We can't force Maria to make all of our decisions.

>> VICE CHAIRMAN WENDORF: I'm sorry, Maria, that you don't live up to Bruce's standards.

>> J. BRUCE HILDEBRAND: We can't force her to make all our decisions. We have to have others involved.

>> VICE CHAIRMAN WENDORF: We have remarkable expertise represented on the Commission, and all us are acutely aware of what Congress may do, we think that the copyright office may have some bearing on what will happen.

>> STEPHAN HAMLIN-SMITH: Jim, I support your idea. I think that -- I don't think that we should pass the buck on this. I think part of our job is to give Congress language. Maybe we don't have every expert in the world at this table, but we absolutely have more expertise on this topic than Congress does.

(Laughter)

Well because if we didn't, they wouldn't have charged a Commission. They would have done this themselves.

>> VICE CHAIRMAN WENDORF: On the golf course.

>> STEPHAN HAMLIN-SMITH: I think that we should give them suggested language. I understand that we're not there to perfection yet, but I think that your and will make as lot of sense and we should go with it.

>> VICE CHAIRMAN WENDORF: Thank you for that. Any other comment? We really need to move on.

George?

>> GEORGE KERSCHER: Just a question for the Commission. Persons with intellectual disabilities, are they covered in this language?

>> VICE CHAIRMAN WENDORF: I think we would need legal expertise here. If we're using the phrase "learning disability" and print disability, my sense is that they could be covered if they had a reading disability because of their intellectual disability.

>> MARIA PALLANTE: What do you mean, though, George?

>> JIM FRUCHTERMAN: We have to implement Chaffe today. So our FAQ has like a question. Does Down's Syndrome qualify? Does ADHD qualify? Does autism spectrum disorder qualify? And we say not by virtue of the diagnoses because there are people with all of the diagnoses that read fine by some standard. Maybe not quite, you know, and, therefore, don't qualify for a service. But people with all of those disabilities may also have a vision impairment or a learning disability that, you know, is a print disability, or as a physical disability. So basically not by virtue of that diagnosis alone. But if he had have some other diagnosis then they may qualify to follow the law.

>> MARIA PALLANTE: Is that diagnosis physical or organic? I am curious. I don't know.

>> JIM FRUCHTERMAN: We don't use organic dysfunction. We say is this disability a physical origin that is tied to Chaffe?

>> MARIA PALLANTE: Are you tied to physical, but I think that doesn't answer the intellect actual question.

>> JIM FRUCHTERMAN: Intellectual is physical in origin. If you have Down's Syndrome you can check the chromosomes and say this is Down's Syndrome. But that's not enough. It what to be relevant to reading. And they need this other diagnosis that's around dyslexia, vision impairment, or let's say an orthopedic

thing that gets in the way.

>> MARIA PALLANTE: I understand.

>> LINDA TESSLER: All I want to know is where do we sign up to be on the telephone call where this definition is worked through?

(Laughter)

I didn't volunteer for the committee because I have been through this in my career.

>> VICE CHAIRMAN WENDORF: Thank you, Linda. We'll move it forward and take it to the August 12th meeting and with sufficient time to get other kinds of expertise brought to Bruce and to others here.

I will turn this back to Gaeir.

>> CHAIRWOMAN DIETRICH: Thank you, Jim, and everyone who participated in the discussion, and especially thank you Ashlee for waking us all up there. Good for you!

One of the things that I have been looking at, and actually was keeping me up at 4:00 this morning is going back, again, and looking at objective and scope of activities in our charter. And in addition to some of the things that we've already done including looking at the barriers and systemic issues, some of the technical solutions, making recommendations, there is still this issue of looking at a timeframe comparable to what is allowed for non-disabled peers and something that is of high quality.

I think one of the things that we have to remember is just because things will be different in the future, that's no reason not to do something now. And, in fact, what we do now determines the future. So I think we have to look at the fact that although we've had some wonderful and creative proposals set forth in terms of the licensing and some of these different things, the fact of the matter is come the middle of August, I'm going to have students coming into class who have tests, who want to be able to graduate with their non-disabled peers in the same timeframe as their non-disabled peers, and that's something that we're dealing with day to day in colleges. And

just to frame this for you so that you really understand the kinds of things that we're dealing with, I was actually on a site visit with one of our colleges, and a student came in and there had been some confusion, which was not the disability services office's fault.

They had contacted the instructor to find out what the required books were for the course. And the instructor said, "Okay, it's this particular book."

Great. They got that particular book. I was there to help them to learn how to create the alternate media for that book. We were in process of doing that book. The student showed up with a syllabus and said, "Oh, gosh, on the syllabus there is also this other book that the instructor had not told us about."

Well now suddenly we have a second book, and the student's all upset and, in fact, filed a grievance because we didn't have that second book ready that day. So the individual, this was a book from Cengage, but we were able to contact them and get a publisher file which we were able to repurpose for the student in their preferred format. Without that, there is no way that we could have gotten that student their book on time. And I don't see anything that we've put forward so far that would allow us to have that sort of timeliness. So I have a real concern here that we really have not each met our charge for this Commission. We've gotten -- I kind of feel like we are looking at the trees in the forest, and we've missed this overall forest. The idea is to work on a timeframe that will be comparable to that that is available to non-disabled peers. So I want to throw this open to discussion and see if people have suggestions, if you have thoughts on that, if you have ideas of how we could actually do this in a more timely manner because I think those are the things that we need to highlight right at the top of the list in this report. We have a lot of recommendations. My gosh, we've got like 15 pages of recommendations here. But this is our charge, is something that is as timely and as high a quality as whatever one else

has. So discussion?

>> JIM FRUCHTERMAN: Well, Gaeir, I think that a lot of us think that we have been doing that, okay? And I think that what you say is that there's no recommendation that you can look at that says this recommendation's objective is to make sure that things are done on a timely basis. I would agree with you there. But if I look through the lens of why are we making all of the recommendations that we are making? The great majority of them are to ensure that the student with the disability gets the accessible book at the same moment that the student without a disability gets the regular book. And so many of the proposals that we've made are designed to do that. For example, Federated search, you could go buy it, a market model, you could go buy it. If it's produced by one group, you can go get it from another group which is sort of to your Cengage.

Maybe they can get it from them quickly. Or maybe they can get it from somewhere else quickly. I think that it's implicit in a lot of our recommendations rather than explicit is there an area around timeliness that you think should appear in the recommendations, or do you actually think there is a missing recommendation that has specifically deals with this? Because I think that it's been implicit rather than explicit. But I certainly have been thinking about it I think that most of us have been all along.

>> CHAIRWOMAN DIETRICH: Before I respond to that, does anybody else have any response?

>> BETSEY WIEGMAN: I have a quick thought on that, which is that I think that the anecdotal example you described was not so much a technical problem but a training problem, and that's included in our recommendations in terms of training of faculty and staff to be aware of this in advance. The real problem happened when that faculty member didn't give the correct information in advance when requested.

>> CHAIRWOMAN DIETRICH: Which is actually I think not a training issue that we've highlighted before, so that is a good

one to include.

But I think your point, exactly, Jim, is what I am thinking. We haven't really drawn it back to that. You are right, it is implicit in a lot of the things that we are looking at, and in particular the market model as you said. Also the idea that if technology is accessible out of the box, Inkling for example when we have books that are mainstreamed that everybody can buy that are fully accessible, then clearly that's going to solve this problem for digital books. What about for print books? Because although it is possible that in 10 years print books will be gone, well, that's in 10 years. What are we going to do between now and then? How are we going to fill the gap for print books? We've kind of left them aside for the most part, but that's still a really big issue.

And the fact of the matter is that for us in the colleges, although Bookshare and RFB&D formerly RFB&D now learning ally are helpful, they don't solve the whole problem for our students, and, in fact, are only a very small part of the solution for the vast majority of our students. The Federated search is really helpful. The publishers voluntarily creating the Access Text Network based on the pressure from state laws. But that was their solution that they came up with jointly with AHEAD and some other individuals. That was a great solution. That has probably been the single largest impact in terms of allowing us to have print books in a more timely manner because we've had one place that we can go to, and at least for those large 12 publishers who are part of that, that's great. The Federated search is great. But the fact of the matter is that there is another big issue that kind of came up in the technology task force that just got shunted aside a bit, which is the whole issue of campuses sharing files. That's never come around the table.

>> J. BRUCE HILDEBRAND: That's a ATN, too, isn't it, Gaeir?

>> CHAIRWOMAN DIETRICH: It is, but only half of the publishers part of ATN have agreed to that. And, again, those are only the largest of the publishers, and I am not sure -- I

believe that there are plans to accept Kurzweil files. Yes? Is it there yet? Okay, so they are accepting Kurzweil files, and that's great. But that's only half a dozen publishers. And, frankly, the big publishers are the ones who are no longer our problem really. I mean, we're getting a lot of those files. They are in good condition. We can repurpose them. But then we have those thousands and thousands of other smaller publishers out there, the University Presses and all of the other folks, if one of our campuses has taken the time to do a high-quality file of something that's not from those publishers who are part of ATN right now, we don't really have any solid footing for sharing those files in terms of legality. And that's what I am asking us to look at.

>> J. BRUCE HILDEBRAND: Is this part, Gaeir, I'm asking, is this part of this licensing, is that a way -- because otherwise how do we do it? I'm curious.

>> CHAIRWOMAN DIETRICH: The thing is that I think with the small publishers they are the ones that are least likely to be part of this licensing schema because, number one, a lot of them don't even know that there is an issue until we contact them for a file and sometimes the response -- often the response we get is, "No, you can't have it, and if I find out you've got it I am going to sue you" until we send them a copy of the state law that says because the student has purchased the book we're legally entitled to that. So it's really those where, you know, you put in a lot of time and effort to create a really good format of, you know, something that's fairly obscure. We can put that on to a database so that other campuses can see if we have that. But we realize that's pretty shaky legal ground at this point because we're essentially talking about file sharing, which obviously is, you know, very, very shaky ground.

So that's one thing that I think that we do need to talk about. The other thing that kind of came up and disappeared is captioning. And although we essentially are setup to look at

print for the most part, I don't want to have us forget about captioning because that really is low-hanging fruit. Captioning, if it's the producer of the material, it's not even expensive. It's neither expensive nor is it difficult. And that is such low-hanging fruit. But for the campuses, for us to caption instead of us being able to buy a captioned video, for every single campus has to caption it separately, we end up spending thousands and thousands of dollars captioning the same video again and again and again because every campus has to do it separately because we can't share those files either.

So, you know, these are some of the issues I think that we've kind of gotten lost in the shuffle that I think that we need to discuss.

Jim?

>> JIM FRUCHTERMAN: I think the point you are making is that the set of recommendations that are on the table don't represent all the things that the group has talked about. In other words, and so for example, in the tech task force report there was a recommendation around sharing, and it mentions captioning, and there is an open question of what mechanism do you use to share things like captions and the like. Bruce believes they should be under licensing regimes. I believe they should be under Chaffe. I think there is probably a third regime that is, you know, some of these group licensing opportunities. I think there is another recommendation that we've talked about that isn't in the current list which is around the training. Betsey just brought that up. I mean, and, I mean, I think that we're at the point now where we're going to be advancing some of these missing recommendations that were not in the first draft based on our reading of earlier documents and say, "Well, wait a minute this is important enough to be elevated in this list."

I see that as a lot of our work to actually frame those additional recommendations, and we've got a lot of work to do on those. But I think these these are good ones, and I think

that we have to zero in on is there a time limit to this recommendation? What would it look like? That's not implicit.

>> CHAIRWOMAN DIETRICH: So one of the things that I would actually like to see is just like the FCC requires captions on all -- not all. That's not quite true, but like 95% of what is shown on television is legally required to have captions. I would love to actually see a law that says that any videos or DVDs or whatever format, but any moving pictures that are actually sold into education should be captioned.

I am taking the fact that there no discussion that there is agreement? But if there is not, then --

>> STEPHAN HAMLIN-SMITH: Say it one more time. Would you say it one more time, please?

>> CHAIRWOMAN DIETRICH: Yeah. Basically that videos that are sold to -- or that are produced for the education market should be captioned, must be captioned. I mean, that is such low-hanging fruit. I'm shocked that we don't have a law already frankly.

Bruce?

>> J. BRUCE HILDEBRAND: No, I am just taking it in. I am waiting for another comment.

>> GEORGE KERSCHER: Also videos that are included in other -- that are embedded.

>> CHAIRWOMAN DIETRICH: Yes, thank you, George.

>> J. BRUCE HILDEBRAND: So every video produced by whom and what?

>> CHAIRWOMAN DIETRICH: Produced for the educational market because that's our purview. I would love to say the whole universe of videos has to be captioned, but our purview for this Commission report is postsecondary education. So I think that we kind of have to limit it to that. But, frankly, I think that every video should be captioned. I mean, it's so easy. It's not -- I mean, this is not hard. It's really easy.

>> J. BRUCE HILDEBRAND: I have no idea. Can somebody give me -- maybe somebody out there knows how much of the stuff is currently captioned?

>> CHAIRWOMAN DIETRICH: Not very much.

>> J. BRUCE HILDEBRAND: I don't know if that's SOP?

>> CHAIRWOMAN DIETRICH: No, it's not.

>> LINDA TESSLER: It would facilitate the learning process of many of the other normal students?

>> CHAIRWOMAN DIETRICH: Yes. Including learning disabilities and ESL.

>> LINDA TESSLER: And other students.

>> CHAIRWOMAN DIETRICH: And other students. And I think that it's one of the best examples of universal design. Because so many people get benefits from it, and, in fact, studies have shown that anyone who is learning something new that has new vocabulary is aided by being able to hear and see it at the same time. There is really good research on that that's been done and redone and every time it comes up with the same thing that it significantly improves the learning. So just from even from a learning design perspective it would be really good practice.

George?

>> GEORGE KERSCHER: So we're talking about the text transcript that captioning, we're not talking about an audio-described video?

>> CHAIRWOMAN DIETRICH: I am going to leave that to you and Mark to say whether you think that should be included. My concern about that is that it's much more difficult because that actually now you have to have a lot of expertise and understanding and it's much harder to insert. But the bigger thing is quite honestly and frankly I don't think that most of the instructors would turn it on in the classroom. And we're talking about stuff for the classroom. But if you feel strongly that should be in there, I won't oppose it because I am going to leave that to you guys to tell me since you are the users if in an educational video in the classroom you feel that that would be useful and necessary.

>> J. BRUCE HILDEBRAND: We had this similar legislation and legal debate in California. In fact, we brought in one of the

-- and we actually I went there and I actually brought in one of the country's best constitutional lawyers to work with the State of California to see how we could do this. And in that instance, it was, you know, it could be new or old materials. But the question was: How could we come up with a way to enable Gaeir and others to basically after a given period of time, a relatively short period of time, to go in and have the state provide the captioning?

And we worked it out, and California got it, and now they can do it. But I'm trying to figure out, going back to the First Amendment and a few other things, how would we legally require every producer of every video --

>> CHAIRWOMAN DIETRICH: Educational videos.

>> J. BRUCE HILDEBRAND: Well, it's not that simple. If you are teaching movie production in California, which is a big deal in a lot of classes, they draw materials from a lot of sources.

>> CHAIRWOMAN DIETRICH: The art movies are actually easier because most of those are captioned. It's the educational ones that are not ironically.

>> J. BRUCE HILDEBRAND: Well, we're trying to find out how you recommend to Congress that Congress mandate that anything qualified as educational would have to be captioned. And I will have to go to some attorneys that are smarter than me, but to explain to me how we could get Congress to require this. And if so, if there is additional cost involved how the publisher or other producer of this video, because it may or may not be the publisher, would be reimbursed for this additional cost. I just don't know.

>> CHAIRWOMAN DIETRICH: We're talking about something that would cost them a few hundred dollars to do at the production time. So they could add two cents per video and make up the cost right there. This truly is something that is really inexpensive, and correct me if I'm wrong, but can't Congress make laws? So that would be how that part would be done.

>> GEORGE KERSCHER: This gets at the systemic change that

we're trying to effect. And because there is a manuscript, a screen play, so to speak, for these videos that are being read, the text already exists. It already exists in a digital form. So if we are saying that we insist on captioning, then the tools that are used for the creation of these videos can be created that does the time sync with the text automatically.

>> CHAIRWOMAN DIETRICH: They're already there.

>> GEORGE KERSCHER: If it's not a requirement, then you won't see the systemic change.

>> VICE CHAIRMAN WENDORF: Could I just step in for a minute because Maria has to take off and catch a flight, and she has to say a couple of words. So I beg your pardon.

>> MARIA PALLANTE: I'm sorry, I have to leave early. I wanted to say that although I think that I can understand how it sometimes feel that we can't see the forest for the trees, from where I sit I think there is an awful lot of really comprehensive, very complex excellent work being done in this Commission. I have no doubt that the report's going to be of tremendous use to Congress, but also not only to Congress, but this document in my view will become a resource that many, many people will be turning to as kind of the only place where so much of this information has ever been compiled in one place. So that's my two bits, but you have to run. I hope to see you all soon.

>> CHAIRWOMAN DIETRICH: Thank you, Maria.

(Applause)

Linda?

>> LINDA TESSLER: I feel like I have to be a factoid person as an educator and psychologist. It gets muddy. It's very hard the law, because by doing this captioning you could also be very distracting to students with ADD or ADHD. So you are trying to do one thing that's good, and I'm not saying that I know what the answers are, I am just trying to report what I know as a scholar which is one of the reasons that I know that I am here.

>> CHAIRWOMAN DIETRICH: And captions can be turned off.

>> LINDA TESSLER: Then that's an excellent point. That's a relief to me.

>> CHAIRWOMAN DIETRICH: Closed captions, I should have been more specific. Closed captions, the definition of closed caption is that they can be turned on and off.

Was there -- yeah, Mark?

>> MARK RICCOBONO: Well, I certainly think that this fits in to the things that we've been talking about in terms of what we want the future to be for students with disabilities. And certainly specifically in some of the digital content discussions we've had, one of the wonderful things about where we're going with digital is that it is going to be more interactive. And I think that this should be taken as standard in that interactive environment that the captions are available. So I think it has to be explicitly in our report as a recommendation. Certainly in terms of how we craft captioning around all educational videos that aren't part of a digital product, I think that we want to consider it carefully. But I am certainly in favor of putting it in.

>> CHAIRWOMAN DIETRICH: Thank you. So just in the last couple of minutes before lunch, and particularly I would like to hear from George and Mark on this, do you also feel that we should push the audio description, or are we okay with just leaving it at captioning at this point within audio description possibly being revisited at a later date?

>> GEORGE KERSCHER: Lord have mercy. So audio described videos are wonderful. I know they are expensive. I know they are hard to do. I think the -- my recommendation is that the information that is contained in this video be communicated to the person. The audio described videos is one technique and that's terrific for, you know, like Hollywood movies. But I think that the information that the educational information that is communicated in the video needs to be available to people who cannot see it. So I don't know if audio described videos are the right approach. But I think that the information must be made available.

>> CHAIRWOMAN DIETRICH: Thank you.

>> MARK RICCOBONO: I think -- I agree with George. I'm not sure how we would want to phrase it. Because audio description has a degree of subjectiveness to it. We want to keep the effectiveness and integration aspect of what we're trying to do. So what George said really is the more important piece. If there is information that relates to the message of the content, that's the information that we want to make sure is provided, and not whether the actress has a red dress or a black dress unless it is relevant to the content that's trying to be conveyed.

>> CHAIRWOMAN DIETRICH: Thank you.

Jim?

>> JIM FRUCHTERMAN: A good example of this is imagine that you are a community college freshman and you are in remedial math and your professor assigns a video. How are you going to get the information that you need that your classmates are learning from that con academy video. And that's really what we're talking about. It's not theatrical releases, but it's out and out educational materials that are core to the educational process, and somehow the student with the disability needs to get access to the meat of whatever that is so that they can have the same learning.

>> CHAIRWOMAN DIETRICH: Exactly.

Glinda?

>> GLINDA HILL: Just to comment that remember when we do this and we make these decisions, we're making them for higher education, but it also affects the lower end as well. And we do support video description through OSEP. We have projects that we support primarily for the primary grades because young children do need video description when they sit in a classroom and they have these videos. And I think that George is saying yes. So when we make these recommendations, let's make sure that we qualify this and say that this is for this population, and maybe say maybe considerations for other age groups because we get feedback from families and teachers that this is

invaluable. And we do support projects on this. And we did start doing this when Congress decided that we would no longer fund the captioning because captioning was -- actually captioning was funded by the bureau of education for the handicap, or the development of the technology was in the '70s, and then we funded captioning of programs until the late '90s. At that point we were no longer funding it and the funds were transferred into looking at these issues for people with visual impairment. Isn't that interesting? We have trade-off disability areas. But I think that this is a very good point and something to think about. Let's not lose sight of where we are technologically, too, on this issue. And it is important for younger children and for the younger population. Maybe not so much for older.

>> CHAIRWOMAN DIETRICH: And I think this is a good example of, you know, where we're talking about market failure. So we've been able to do captioning since the '70s?

>> GLINDA HILL: (Indicating affirmatively.)

>> CHAIRWOMAN DIETRICH: We're talking over 40 years here, and we still don't have universal captioning. And it's not hard. And it's inexpensive. And there is actually automatic sync who will automatically if you get the audio and you've got the transcript, they'll sync it up for you. You just have to put it in your captioning software. You know, it costs like a dollar a minute to do it. I mean, it's really cheap. But it's not being done. Just because I think that the awareness is not there, and at the very least if we have something that requires this it will raise that awareness.

Okay. It is exactly straight up noon. Sorry, Jim.

>> VICE CHAIRMAN WENDORF: Well, I have been asked to give the charge to lunch. And if I could just wrap up something here. Gaeir, looking at this discussion, which opened up a new issue that wasn't completely resolved, do you then want to work with a small group to kind of put forward some examples of how you would like to see this played out in the report, something like that? For captioning and the other things? Would that

make sense? And if there are volunteers who participated in the discussion who work with Gaeir on that, that would be terrific.

Okay?

So it's lunch at 12 to 12:30. The boxes are back there. We have a presentation coming up at 12:30 from university publishers. And if would you all be thinking as Gaeir has done, has brought an issue to the Commission, to the discussion, we're going to open this up this afternoon. What's on your mind? What has not been discussed that you believe needs to be discussed? With reference, of course, to the draft recommendations, if there are things there that you want to bring into play that you feel need to be addressed, we're going to look at it in that way. Okay?

Thank you very much! Thanks, Gaeir.

(Lunch break)

>> VICE CHAIRMAN WENDORF: If the Commissioners Would come back to the table, we will get started with this afternoon's program.

Okay. We will get started soon if all Commissioners Could come back. Thank you. We're missing a couple of people, but we have a presentation. We'll wait one or two minutes, and then we'll get started.

(Pause)

Okay. Good afternoon. I think that we have Peter Givler on the phone; is that right?

>> PETER GIVLER: Here I am, Jim. Can you hear me?

>> VICE CHAIRMAN WENDORF: Just faintly, Peter.

>> PETER GIVLER: Is that better?

>> VICE CHAIRMAN WENDORF: That's much better. Great. We're going to turn this over to you and your introduction.

>> PETER GIVLER: Okay. Thank you. I would just like to introduce Pat Soden.

>> PAT SODEN: Hello. My name is Pat Soden. Even though my remarks are from the point of view of my own press, I do think that I speak for the policies, if not the practices, of

most of my 100-plus brethren University presses, and certainly Peter Can speak to that, or contradict me if he thinks I am wrong. Just to expand a little bit on Peter's remarks, the University of Washington Press was established in 1915. Our mission is to public peer review book link scholarships that represents the strengths of our university.

That's in the humanities and social sciences primarily. These include international studies with a focus on Asia, environmental studies, Jewish history, architecture, and Native American studies. In addition, as a State institution, we have a mandate to publish books that document the political, cultural, and natural history of our region. We are not for profit, and we maintain a 501(c)(3) status.

Since our founding, actually, I will change some of Peter's stats a little bit. We've published over 5,000 titles, about 30% of those books we published are written or edited by members of our own faculty. But we draw on authors locally, nationally, and internationally.

The imprint of the University of Washington Press is overseen by a faculty committee appointed by the President of the University. The approval of the University Press committee is required before any book may be published. And for more than 1,000 millennium scripts and proposals we review annually, we publish 60.

Now, the following statement may appear -- may sound like a non sequitur, but I will say it anyway, and hopefully I can explain what I mean.

We are not textbook publishers. But we welcome the use of our books in the classroom. In fact, the adoption of our books in postsecondary classes is critical to the success of our books, and of our publishing programs. I say "publishing programs" speaking for myself, but I know most, if not all, University Press publishers would agree with that. I will try to explain.

In our 90-plus year history we have only commissioned, developed, and published one textbook. I have a copy here. It

is a history of our state, and it was published to fulfill the requirements for state history at the secondary level, usually in the, oh, between the 7th-10th grades. As an aside, while I was thinking about what I would say to you, I did go back in the file to find out what -- if we've had requests from the visually impaired students to have this book scanned and made available to them, and I found only one, and I find that very curious since we've sold over 55,000 copies and two editions. Clearly more research needs to be done there, and I realize that's not really the purview of your work.

But I would like to describe one group of books we have published that have had significant adoption and use in the postsecondary school curriculum, particularly on the West Coast. Most requests for permission to make our books available to the visually impaired are for titles that I am going to describe further.

In the early 1970s, we re-printed two books that became part of a new curriculum then being developed in Asian-American studies. They are, "America's In the Heart," and "No No boy" a novel.

Since those two books were re-printed, we have sold 127,000 copies of "No No Boy" and almost 100,000 copies of "America's in the Heart."

Their success let us print other Asian-American novels. And a number of books that focused on the experiences of Japanese-Americans incarcerated in World War II. The success of these books in the classroom and in the Asian-American community was much more by serendipity than design. We certainly didn't do the kind of development and market testing that good textbook publishers would have done. We simply filled a need.

Now, to get more to the point of your work, how do we make these books and others requested to students with disabilities?

We receive on average one or two requests a month for all of our books including those in Asian-American studies. If the request is to receive a copy of the book to scan, we provide it gratis. If the student has a copy of the book we simply give

him or her permission to have it scanned. And if we are requested to provide an electronic file or PDF, we provide that gratis.

We are currently working to digitize all of our titles. We have E-files for approximately 600 titles currently in print, and more are coming online every week. Most of our books are being published simultaneously in paper editions and as E-books for libraries and general readers through reading devices such as the Kindle.

As part of our mission to disseminate our work as widely as possible, we are very happy to make our work available to those with disabilities. In fact, one of our most important and successful books is one that we have published for the disabled community, and that is a book called "Living with a Brother or Sister with Special Needs."

Although it is not used to my knowledge in formal classes, it is used by professionals in workshops and one on one with their clients, and we believe that it has had a significant impact on its field.

Those are my written remarks. I would be happy to expand or bring Peter In to expand on his thoughts. However you would like to proceed.

>> VICE CHAIRMAN WENDORF: Okay. Thank you very much. Peter, Do you have anything to add before we open it up for some questions or discussion?

>> PETER GIVLER: Can you hear me?

>> VICE CHAIRMAN WENDORF: Yes.

>> PETER GIVLER: Okay. I think that the kind of numbers that pat described are fairly typical for University Presses in general with the exception of Oxford and Cambridge both of which have very large textbook departments and are in the business of publishing textbooks as Cengage and Pearson and some of these others do. But they are scholarly publishers of monographs that do get picked up for course use in upper division courses generally speaking, and the needs for -- filling the needs for people with disabilities really is

handled. And the demand is small enough that it's handled on a one-by-one, as-needed basis. So I think what Pat has told you is fairly typical.

>> VICE CHAIRMAN WENDORF: Thank you. Are there questions or comments from Commissioners?

George?

>> GEORGE KERSCHER: So just delighted to hear that you're digitizing your collection, and as new titles are published, do you plan to simultaneously publish and print in digital form?

>> PAT SODEN: Yes, indeed. That is our hope. We publish a lot of illustrated books, and that is our challenge at the moment, how to make those books available electronically as well as in print. But our -- we not only plan and are publishing simultaneously, but we will also join a consortium of University Presses that are developing collections of books.

>> VICE CHAIRMAN WENDORF: And those collections are digital as well?

>> PAT SODEN: Correct.

>> VICE CHAIRMAN WENDORF: Is that a new trend that you see?

>> PAT SODEN: I think so. And Peter Might speak more to this because there are several groups that are beginning to implement these plans. The one that we're involved with is being proposed and developed by Johns Hopkins University Press, and it's modeled after their project muse journals program. And this will collect books in various subject areas from many University Presses and make them available as collections.

>> GEORGE KERSCHER: And so as this Commission has learned that just because it's digital doesn't mean that people with disabilities can use it.

>> PAT SODEN: Correct.

>> GEORGE KERSCHER: Do you have the format nailed down? I hope it's more than just PDF versions.

>> PAT SODEN: That is -- I'm not the best to speak about the technology. I have to say right up front.

>> GEORGE KERSCHER: Okay.

>> PAT SODEN: But I do know that one of the issues that we are all struggling with, we don't have a lot of investment capital, but how we will get these whole procedures into our workflow, beginning with our authors and preparing manuscripts and preparing them with our editors and taking them through the production process so that they are most useful to all of our customers. And I don't have an answer for that. It's a topic we're all struggling with.

>> GEORGE KERSCHER: Thank you.

>> VICE CHAIRMAN WENDORF: Okay. Thank you for that. Your backlist, did I hear right, is something like 2,000? Is that right?

>> PAT SODEN: Well, in the lifetime of the press it's 5,000 books. Many of those are out of print. Now, of course, you don't have to let anything go out of print.

>> VICE CHAIRMAN WENDORF: So does that represent new opportunities for you?

>> PAT SODEN: I think so, and for our authors and customers. We can keep books in print both electronically and on paper much less expensively than we used to. That is an opportunity.

>> VICE CHAIRMAN WENDORF: Okay. Thank you. Any other questions or comments? No? Okay. Gaeir has a few.

>> CHAIRWOMAN DIETRICH: I always have a few questions. Thank you so much for coming to speak with us today. University Presses are near and dear to my heart because I spent so long in research science and that's where we get to to get that current information. So I have a couple of questions. Are your authors mostly faculty members?

>> PAT SODEN: Yes. Not of our own institution, but, yes, they are usually members of the faculty. Not always, but I would say 80% probably.

>> CHAIRWOMAN DIETRICH: So a strong majority?

>> PAT SODEN: Uh-huh.

>> CHAIRWOMAN DIETRICH: Okay. In your current licensing model for digital text with Universities -- I mean, with

libraries, can you explain that at all, how the licensing works with them?

>> PAT SODEN: We use -- we don't sell materials directly to the libraries, electronic materials. Some presses do. The big ones, Chicago I believe and most of the larger presses do have a way to sell direct through their own websites. We use services such as Net Library E-brary and others who are the actual distributors and marketer of the electronic material. We -- all of our electronic files are archived at a company called Bibliovault which is associated with the University of Chicago Press, and from that archive the electronic files are prepared and used in various ways. I was talking with the person that handles requests for material for visually impaired people at our presses, my assistant, and I was talking to her this morning and she said that when she gets a request for an electronic file she just has Bibliovault deliver it to her directly and then she forwards it.

>> CHAIRWOMAN DIETRICH: So they are kind of being the repository for you, but you do your own fulfillment on those requests?

>> PAT SODEN: Correct.

>> CHAIRWOMAN DIETRICH: Okay. Thank you. So I'm just curious. If there were a way with partnering with, say, disability services to make a fully accessible book, would that be something potentially that you might be interested in?

>> PAT SODEN: I think so. In theory, absolutely, because I think our job somebody once told me that our job was to publish and disseminate scholarships as well as we can this side of bankruptcy.

(Laughter)

So that's sort of what we try to do. But first and foremost it's to get this material into the hands of people who can use it. That said, we don't have a lot of capital to invest in new technologies. If there were resources made available to us individually or collectively I think that we would use it.

>> CHAIRWOMAN DIETRICH: Thank you.

>> VICE CHAIRMAN WENDORF: Okay. If there are no further questions, we thank you very much, Pat. Thank you for being part of this.

>> PAT SODEN: Thank you.

>> VICE CHAIRMAN WENDORF: And for bringing us up to date on what are you working on and implications for the field. Thank you. Thank you, Peter!

(Applause)

>> CHAIRWOMAN DIETRICH: So just to wrap up the discussion that we had before lunch, Bruce has found out some information on captioning that he would like to share with us.

>> J. BRUCE HILDEBRAND: Since, you know, I really didn't understand the ramifications of what the publishers, my guys, are doing anyway about captioning. Luckily I was able to talk to three different houses. And captioning is becoming pro forma with most of their materials. Also you can obtain captioning under 508. It can be a requisite. So the mechanism is there.

In terms of timing since it's evolving but it's up front, if you would, on a phased-in basis, and as I was informed captioning under the FCC rules was phased in over time. And I think but you can't go backwards very well. And as Gaeir pointed out it's financially viable to caption old materials. But going forward I think it's like so many other things it's just going to no longer be a problem. And like I said, it's already covered under 508. There we go!

>> CHAIRWOMAN DIETRICH: I do have to remind people that Section 508 does not apply to the colleges unless you have a state law that says that it does, like California does. But that is not true of most of the other 49 states.

>> J. BRUCE HILDEBRAND: But there are states who specifically -- you can get it contractually.

>> CHAIRWOMAN DIETRICH: Yes.

>> J. BRUCE HILDEBRAND: The companies are already doing it. At least the larger companies. Those with absolute minimal

resources as this gentleman from AAUP indicated, capital is a real question. So, again, we have the split between the large, medium, small, and minute.

>> CHAIRWOMAN DIETRICH: I also do have to make the point that book publishers are not the largest producers of video. There are other companies that produce only video, and video copyright, we don't have Maria here, but video copyright is much more complex than book copyright partly because of the fact that it's always easy to know who owns the copyright on a book. All you have to do is open up to the front of the book and it's there. That's not always true with video because they sell it to other distributors and it's actually the distributor video that holds the copyright. It's a really different beast once you get outside of your area of publishing.

>> J. BRUCE HILDEBRAND: There were lawyers involved, of course, and they did point out the rights issue. "National Geographic," do not touch their stuff unless you have clear, clear rights to it. And there are other instances. So as with everything, there are rights issues. So be aware of that. But if they own it, then they are moving to captioning.

>> CHAIRWOMAN DIETRICH: Thank you for that, Bruce.

So --

>> GEORGE KERSCHER: Madam Chair?

>> CHAIRWOMAN DIETRICH: George? Mr. George?

>> GEORGE KERSCHER: I think there is maybe a principle that we've not managed to capture. So we're talking about video. We're talking about -- but there's a lot of different media, rich media, that's going to be evolving, and I think that we would -- we should capture a principle that information that is presented in rich media be it video, be it animations, you know, these Flash things, I think that information needs to be communicated to people with disabilities. And maybe we could just put that kind of recommendation that those things are something that we feel is important of being forward. You know, not talk about specific techniques to do it, like video captioning. Although I think video captioning is mature enough

that, you know, we can definitely reference that. But, you know, animation, how do you do canvas? What's the right way to do it? We really don't know right now, but it will evolve over time.

>> CHAIRWOMAN DIETRICH: Good point, George. Anyone else? Mark, do you want to speak to that?

>> MARK RICCOBONO: I was going to say that it's an important point because, you know, captioning is targeting one specific thing, but there is also other places where you need text alternatives like audio files where you may have an audio file of a speech, say, and you want to make sure that you have a text equivalent of that product.

>> CHAIRWOMAN DIETRICH: Thank you. Other comments on that? I do want to point out because I've been dealing with captioning for a number of years now, we -- when we went to the DVD format, suddenly there was this huge issue because when DVDs first came out no one had considered how to do the captioning on the DVD.

Which is why we have ended up with DVDs that we have subtitles for the deaf and hard of hearing. They literally did not leave us a place to do captions because of the fact that it was just totally ignored during the creation of the DVD standard and had to go back in and be retrofitted later. And I think that this speaks to some of the things that have come up today like with the software industry where this has to be high enough on people's radar, this issue of accessibility has to be enough of a just given in the environment that people will think about it. Because otherwise, I mean, we had a whole industry there with a new standard who had to retrofit it. But there are bigger issues than VHS captioning because it wasn't built into the standard.

So that's important.

Okay. So what we wanted to do at this point, we've got from now until 2:30. And rather than going through the recommendations point by point, we really wanted to ensure that every person is heard on these issues. So we kind of are going

to open it up for at least an hour here a little bit of a free for all where we just want to know kind of what your take is on the recommendations, where you think that there are issues, where you think, you know, we need to scrap it and start over, or whatever. Rather than the Chair or the task force Chairs Leading this discussion, we just want to hear from you in an open forum of what your impressions are of where we are.

Stephan? Johnny on the spot there.

>> STEPHAN HAMLIN-SMITH: Well, Jim told to us think about this over lunch, right?

>> VICE CHAIRMAN WENDORF: And you did?

>> STEPHAN HAMLIN-SMITH: Yes. So I think that our recommendations generally have done a very good job of addressing or taking us a long way towards addressing materials that are utilized by students in community colleges, in two-year colleges, and in the freshman and sophomore years of four-year universities. I think that we have done a very poor job of tackling the issues that are related to everything that is in that universe of the not containable, not easily identifiable which makes up the vast majority of courses that have a 300 level or above.

I'm concerned about that because while 100 level and 200-level courses are certainly a big bulk of anyone's experience in postsecondary education, for people who go further, whether it is to a Baccalaureate degree, a master's degree, a Ph.D., or a post-doc, we get into the more creative instructional material. We get into much more professor-put-together content. We get into much more course pack content, and library reserve content, and web content. And I do feel that we have -- I feel that we have more addressed textbooks and learning systems than we have addressed instructional materials, and that is a concern to me.

>> CHAIRWOMAN DIETRICH: Discussion?

>> PETER GIVLER: Yeah, this is Peter, Gaeir.

>> CHAIRWOMAN DIETRICH: Yes.

>> PETER GIVLER: I would second Stephan's observation. I

mean, I think that we heard from Kurt at one of our early meetings about his inability to get at journal literature which, you know, he obviously needs, and that's where the bulk of the current research in his field appears. So I certainly don't have an answer for it. But I agree. I think that there is a great deal of material that's being used in upper division and graduate courses. Our recommendations are going to find it hard to address.

>> CHAIRWOMAN DIETRICH: Yes. Skip?

>> SKIP STAHL: So if you look at Recommendation 2, which I believe came out of -- I'm not sure exactly where it came out of, but the recommendation was, and I think that this maybe came out of legal, in considering market solutions stakeholders must consider a wide range of instructional materials including not only traditional textbooks sold in print and electronic formats but also supplementing materials that postsecondary instructors regularly assign such as trade books, journal articles, scholarly monographs, library reference materials, and interactive online materials as well as assessments. And that was where we had hoped to capture that well beyond. And that's certainly a section that could be expanded considerably. So that's on Page 5 of the recommendations document, and that's an area where I would suggest if people would like to expand, particularly addressing Stephan's concern that might be a place to do it.

>> STEPHAN HAMLIN-SMITH: And I do think -- I appreciate that that is there. I think, though, that the notion of having someone consider something is a relatively useless verb.

Any of us can sit and consider anything. That does not move anyone towards an action or a solution or an answer. And so I do think it's good that that is right up front because it elevates the issue as an issue. And I certainly don't want to scrap Number 2 by any means to whoever it came from. But I just feel that we are missing --

>> It needs to be stronger.

>> STEPHAN HAMLIN-SMITH: We are missing a big chunk. You

know, honestly, we have spent probably 95% more time discussing a definition of a Chaffe exemption than we have something that doesn't relate to textbooks, for instance. And I put forward that maybe we could shift while we have some conversation time and some problem-solving time as a group, that maybe we could shift to more of a product solution type of conversation for a little bit. Can

>> CHAIRWOMAN DIETRICH: Thank you. And at this juncture I would like to hear from both Kurt and Ashlee what would allow you more quickly to access the materials that your instructors are providing you. Not the textbooks, but the other materials that are being provided in class, campus, through your libraries, what are the barriers that you guys are facing right now on your campuses? You've got a mic there to your left.

>> KURT HERZER: I have no idea.

I think that --

>> CHAIRWOMAN DIETRICH: That's honest.

>> KURT HERZER: Yeah. How to take a journal article and make it accessible given that some of them are purely text, some of them have images, not a lot of them have online supplements which includes both audiovisual content. Many of them depending on the literature that you are talking about have a lot of pages of statistical equations outlining the detailed methodology that was used because you couldn't fit it in the print version. So, I mean, again, it comes back to a lot of the same things that we are talking about, MathML and all of the different ways of getting equations and formulas and audiovisual content and online and print. So I think that it does come back to a lot of the same technological issues to some extent.

And also, I mean, how journals are -- I mean, some of them are managed by universities. Some of them are independent. So I don't know what would be starting point for that material. But as Stephan said, that's central to any graduate program in the sciences, master's or Ph.D. level. How it would be done I imagine would draw from some of the same technological

solutions we've spent some time talking about. Other content that's provided through courses usually it's sort of suggested material. So I take that to mean I don't need to look at it. Because it will take me an indefinite period of time to access. So I just avoid it. Or I find something that's comparable that is more accessible and I supplement that. If there are textbooks I am told I need to look at, I will go find one that covers -- there are only so many ways you can cover physiology. So I find one that does the best job of being accessible right off the start. But I don't -- but I think that a lot of this it's the same issues that are just being applied in a different form for example for journal articles. Ashlee might have a different experience. But go ahead.

>> ASHLEE KEPHART: Actually the majority of the instructional materials that I have been assigned by teachers have either been in print or an article that they copied off and had e-mailed to us. So in terms of the things that I have hey to read, I have been able to turn them into basically whatever format I wanted to. So I haven't really had any problems up to this point. But as my classes get more difficult, then I might have the issues, but at this point I don't know.

>> CHAIRWOMAN DIETRICH: So it was basically they were already electronic text for you?

>> ASHLEE KEPHART: Yeah.

>> CHAIRWOMAN DIETRICH: Okay.

>> GEORGE KERSCHER: Were there images?

>> ASHLEE KEPHART: In the ones that I have been assigned there haven't been images in them.

>> CHAIRWOMAN DIETRICH: Okay. Lizanne?

>> LIZANNE DeSTEFANO: Yes. You know, I obviously think this is a very important point, and I think in Recommendation 2 we do acknowledge that there is something beyond textbooks. But in the second paragraph on Page 5 under Recommendation 2, "A market approach as opposed to reliance on exceptions and limitations offers more freedom to develop rich materials."

I really think where this is an area where a market approach will not be very successful, right? So I think that sentence is either misplaced or a little naive.

Here I think guidelines and recommendations for what characteristics these materials should have would be very important, and then faculty development, I mean, I hope some of our model demonstration recommendations are going to be how do you support faculty to make these kinds of changes in their materials that then will be a part of their regular think being how to make materials accessible. Because I really believe that the key to this aspect is faculty development. Certainly the DSS office plays a role, but the DSS office in partnership with faculty.

>> CHAIRWOMAN DIETRICH: Linda?

>> LINDA TESSLER: As being a lifelong learner, you asked the students in the room, and as I keep saying it's a lifelong process.

>> CHAIRWOMAN DIETRICH: Thank you.

>> LINDA TESSLER: I need journals also, of course, and they have been accessible to me online, and then I get the computer to read to me, and it's not been an issue. So I am sure it is an issue at times, but that's my empirical experience.

>> CHAIRWOMAN DIETRICH: Mark?

>> MARK RICCOBONO: Yeah, I am having a little hard time knowing what it is that we haven't covered, although I would say that it might be that we haven't clearly defined the type of systems we're talking about because I do think that the library systems which is one of the primary ways that most students are getting access to journal content these days, and that typically happens because the University has a subscription with Ebsco or one of the other database providers of journal content, and there is, depending on the system that's being used, limited or no accessibility in those systems. But those are systems that are being purchased by the universities. And I think that would be something that at least we intended was covered under some of our other

recommendations.

>> CHAIRWOMAN DIETRICH: Thank you, Mark. Other comments? Lizanne?

>> LIZANNE DeSTEFANO: So maybe one thing that we need to do is to all read these recommendations very carefully and expand the language when it refers to textbooks or publishers to include a broader range of instructional material. We may be unintentionally narrowing it.

>> CHAIRWOMAN DIETRICH: Stephan?

>> STEPHAN HAMLIN-SMITH: Yeah, because, for instance, building on -- I want to respond to two things. One, something that Kurt just said is the absolute unacceptable essence to me, which is he said he gets handed stuff by professors and then he doesn't even bother trying to read it because there isn't time to figure out how to make it accessible so he tries to find something else to substitute it. Kurt may choose to and neurosurgeon, I mean, Kurt could do anything in this world. Kurt should have access to whatever information every other medical student at Johns Hopkins Medical College has. It should not be an issue. It should not be a question. And as a medical student he does not have an extra two hours. We all know what their schedules are like. So we do need to address that, and in response to Mark he brings up a very important point which I had not considered.

We have not broadened our language or our considerations in these to go into the systems that universities contract with. For instance, he mentioned the indexing systems like Ebsco or Eric or Lexus or Nexus or any of the major indexes that we use. And we all know about the number of photo PDFs versus tagged text PDFs that actually happen in those systems.

So I think maybe this -- what Lizanne says is making a lot of sense that we take a very careful look and try and broaden much of what we have because I agree. I don't think that this is where we can think the market is just going to fix this part. Because it's not a -- it's not an easily contained market, per

se. It's many, many, many markets.

>> CHAIRWOMAN DIETRICH: Skip?

>> SKIP STAHL: So just listening to this, what we need to do just on Page 12 there is Recommendation 6, which is institutions of higher education must develop sufficient capacity to locate, create, or acquire alternate format materials. And that's the section that we actually go into OPACS, and other indexes. But I think we need to consider combining 2 and maybe 2 and 6 in some way and enhancing this level of detail to address some of those issues.

>> LIZANNE DeSTEFANO: Or at least co-locating them.

>> SKIP STAHL: Right. Right. Thanks.

>> CHAIRWOMAN DIETRICH: Other discussion on this?

And I think just for the sake of time, the actual wordsmithing I think we're going to have to do at a different time because I don't want to limit what we cover. But I think this is an example of where we really need to do that.

The other thing that we've kind of -- well, there's a whole area of -- and George has spoken to this of the content and the container for that content, and they both have to be accessible otherwise you don't have full accessibility. And I think that's something that we need to make clear is that, wow, Blackboard could have gotten a gold star from NFB -- NFB? Did you guys did that one?

>> MARK RICCOBONO: We did.

>> CHAIRWOMAN DIETRICH: Okay. Which is great. You know, it's wonderful that we have a really accessible courseware management system. But if what the instructor uploads is a scanned PDF, it's not accessible.

>> LIZANNE DeSTEFANO: Exactly.

>> CHAIRWOMAN DIETRICH: And I that I people don't understand the complexity of alternate media. That's part of it. They see it on the screen and they think that everybody can access it. That's actually one of our barriers that it looks like it's done when it's really not. And I think absolutely that the education of the faculty members is maybe almost our most

important recommendation. I mean, we had these other model projects that we've talked about, but frankly, the one that will hit us in my concern which is the timeframe of what we can do a year from now and not five years from now, having faculty that are uploading accessible material would be huge because, you know, Ashlee may not have encountered. And it sounds like you're doing a good job, Ashlee.

But, Kurt, the stuff you get from instructors, is that always accessible for you? Is it always in electronic text?

>> KURT HERZER: Our courses are involving 120 faculty, and they write thrown PowerPoints, Notes, and they send their own things. I mean, can be anything. It could absolutely be anything.

>> CHAIRWOMAN DIETRICH: That's a lot of what I have heard from other students. It could be anything. The other thing is for students a timeliness issue exists. And I want to say that I like to be flaky as much as the next person, and I have problems with time, but the fact of the matter is that you've got a lot of faculty members who are finishing their PowerPoints The night before, and they're not getting it to the student who needs it because they get it done right before class. And so everybody else has access but not the student who has the print disability. You know, there are some issues here that we may need to look at where truly although I like it as well as anybody being flaky is not covered under academic freedom.

(Laughter)

So, you know, there are some issues there like with the textbooks of bookstores have tried for years to have faculty members turn in their textbook orders on time. It's an issue for the whole campus. But now we have a law that essentially says that you have to turn in on time because you have to turn it in when the course is posted. We may need to look at creative solutions here beyond just education.

Mark?

>> MARK RICCOBONO: So two things. One is -- and I think

this may be getting to watching the sausage being made. I think that part of our charge is to define instructional materials, isn't it?

>> CHAIRWOMAN DIETRICH: Yes.

>> MARK RICCOBONO: And so think that that has to be real clear up front in this report to Congress that instructional materials is not just books, that there is this large universe, and that all of it needs to be considered in this day and age as having a strong bearing on the accessibility both, as you say, the content and the container. But the second point is that I don't think that this is clearly specified as a recommendation. It's inherent in some of the things that are said. But the real opportunity is for the universities to recognize they can help a lot of this to happen by using the purchasing power that they do have and making sure that accessibility is part of that purchasing. And it starts with having a campus-wide clear policy and leadership about accessibility.

And some of the universities now are really looking about how to do that, particularly after we file complaints about Penn State. There are a number of Universities Really looking at how do they make this as significant as some of the other campus-wide initiatives.

>> CHAIRWOMAN DIETRICH: Stephan, I think that you had your hand up? Oh, no? Okay. Tuck?

>> TUCK TINSLEY: I really believe the comment Stephan made about looking back at the recommendations and reading them carefully and elaborating on some and highlighting things will help us to see that a lot of this is addressed not -- and maybe in not as much detail that we want -- within the report that Skip put together.

Task force 1 probably had the easiest job of any of the task forces. It really did. Because our role was to identify best practices. And the other task forces had to tell how to do things. So we just went through and listed what we thought best practices were. And we had 11, and then some

demonstration projects and a definition of instructional materials.

When we went through Skip's report, they are included in Skip's report. And if the best practices -- if we did a good job, then we did hit all of those issues, and I believe that they are in here. For instance, the definition of instructional materials, the last edit that we had from our task force was from Stephan, and it is included on Page 9. Instructional materials are both the content, books, journals, and testing content, and the interface, software and application related to the manipulation and annotation of the content as well as any other instructional software and applications used to facilitate instruction.

When you look at the comment about library materials, we had recommended library materials and services that are used for instruction and course required readings and research including but not limited to course reserves, online library catalogues, information services, and databases are accessible to all students. And, again, that on Page 5 is included.

When we talked about -- we had a recommendation that companies that provide educational course management administrative software or information services, LEXUS-NEXUS, are required to provide training modules for students to learn to use them to access instructional information. And that's in there on Page 12.

So I think that if we go through the things that we are talking about they're in here. They may need to be highlighted and elaborated on, but I believe that they are here.

>> SKIP STAHL: Gaeir, so I had one question that actually came out of best practices, and I am just raising this because it kind of triggered for me that it might be in collision with another recommendation. So it was Recommendation 13 which reads consideration should be given to legislation that assures the availability of properly-structured digital files of legacy print materials to enhance the speed and cost-effectiveness of producing AIM. And that really came out of a discussion that

best practices had around ways of facilitating the production of Braille and tactile graphics, and it's clear that if there is access provided to highly structured digital files, you know, regardless of the format that the production of Braille and tactile graphics actually is benefited significantly because you don't have to go back and restructure the files before do you any transformation.

But the question that I had is that I am clear that the tech task force and they were clear were saying a source file approach and a NIMAS/NIMAC approach was not going to be effective, so I was wondering if there was a collision here between this type of recommendation and the kind of dismissal of a NIMAS solution.

>> CHAIRWOMAN DIETRICH: No.

>> SKIP STAHL: I am just throwing that out as a question.

>> CHAIRWOMAN DIETRICH: George?

>> GEORGE KERSCHER: So we heard from Pat, and we know that many of the backlists and other materials are going to be digitized. And that might be digitized so that you can do print on demand, and it could just end up being image stuff. And I think one of the recommendations that I would like to see is that as digital archives are being developed, that they do contain the full text of these documents with as much markup as possible. I don't know the right way to phrase this. But consideration should be given to the architecture of digital archives that are created of our print heritage.

>> CHAIRWOMAN DIETRICH: Thank you, George. I don't think there is any conflict, Skip, between those two because really what we're talking about is provide us E-text in a format that then we can quickly and easily take into other formats. I mean, that's essentially what we're saying there, not that you have to have a repository or a specific format which is what those other things are, but I think that there is kind of an issue here that we are at least in my mind sort of dancing around a little bit that we really need to take a hard look at, and that is is it possible to do everything that we want to do

without in some way legislating a requirement that anything that is put online is accessible?

>> JIM FRUCHTERMAN: Gaeir, is that a serious question?

>> CHAIRWOMAN DIETRICH: Yeah, it is.

>> JIM FRUCHTERMAN: Everything online?

>> CHAIRWOMAN DIETRICH: Well, all documents. I'm sorry.

>> JIM FRUCHTERMAN: I'm sorry, I was just like, wow! That's biggie!

(Laughter)

>> CHAIRWOMAN DIETRICH: All documents.

>> JIM FRUCHTERMAN: We have a scope issue problem don't we?

>> CHAIRWOMAN DIETRICH: For postsecondary. I am assuming a context that we're work inside of, postsecondary education. You can narrow it to university websites. You can narrow it to courseware management platform at university websites. You can narrow it however you want to. I am just really -- and this is a real question: Do you think that without some sort of a legal mandate that that sort of level of accessibility will happen?

>> JIM FRUCHTERMAN: So if --

>> J. BRUCE HILDEBRAND: Gaeir, speaking of scope, what would this encompass? Anything that faculty or curious student anywhere pulls down?

>> TUCK TINSLEY: It would, Bruce, unless you limit what universities can teach. I mean, can't universities refer you to You Tube? You don't want to place limitations on education. So what's not included in what Gaeir just said, and, I mean, you can't do that for everything that's placed on the Internet. Freedom of speech. A right for me to put something on there without making it accessible.

>> JIM FRUCHTERMAN: I think that we have made recommendations in this direction already. And let's pick an example, Section 508, right? It's a known set of accessibility guidelines, agencies have implemented them. Some universities have already implemented them. The requirements are pretty well-known. We've had people from industry say, hey, why don't

we use 508 since we know what it is, and it's also being built into the purchasing. So, I mean, but, for example, saying a university should apply 508 means, you know, the university's functions, the university systems, its purchasing of the kind of systems that we've touched on would be covered by that. Does that mean that every student has to be 508 compliant? That's a bridge too far.

>> CHAIRWOMAN DIETRICH: Every student? I'm sorry, this wouldn't apply to students.

>> JIM FRUCHTERMAN: Everything put on the Internet that's postsecondary education relevant makes me think that you are talking about students. I think that we have to limit the scope to universities are covered, 508, and in many cases that creates an implicit requirement, a market-based demand for accessible content rather than a direct obligation which is the whole idea between 508. But anyway, so I think that's the kind of recommendation that we're putting, and also it does have some built-in scope limitations.

>> CHAIRWOMAN DIETRICH: Betsey and then Stephan.

>> BETSEY WIEGMAN: I want to make sure that I am understanding the scope. It wasn't clear with me and I was going to chime in with a comment that was different than what you were saying, but in terms of the material put on the internet by college or university, that he required to be accessible. Anything put up by a professional on a university website or by the office of overseas study or the bursar's office that's already required under the civil rights laws that OCR enforces to be accessible. I recognize that's not the reality of the situation, but those are legal violations. So we're not talking about, oh, we should make a requirement. That requirement is already there. If we're talking about like the You Tube example, that goes a lot further afield. Obviously OCR doesn't have any jurisdiction over You Tube to say that their material has to be accessible. If we're talking about anything that a student might use on the "New York

Times" website or who knows where else, that's also outside of our purview. If we're talking about what the school puts up itself, it's already a requirement.

>> JIM FRUCHTERMAN: We're not required to do 508. They have a generic sort of ADA requirement that it should be accessible. But they're not required to follow the standards of 508, correct?

>> BETSEY WIEGMAN: They're 23409. Except in cases where it's required by the state as Gaeir's example. But I wouldn't characterize their requirements of the ADA in Section 504 as generic. They do require pretty specifically that you have to have equally effective, equally integrative aspects to the same benefits and opportunities that everyone gets. I feel like there is specificity there.

>> CHAIRWOMAN DIETRICH: Stephan?

>> STEPHAN HAMLIN-SMITH: I was just going to say exactly what Betsey said. I think that in effect we already have the legislation that you are looking for. There is certainly an issue of compliance and an issue of enforcement, and a difference between what reality looks like and what legislation is. But I think I see it the same way that Betsey does. It's there. It's just not -- it's not perfect in practice yet. But I'm satisfied with it.

>> J. BRUCE HILDEBRAND: Betsey, isn't it in your recent FAQs, this subject?

>> BETSEY WIEGMAN: Our FAQs certainly touches on this issue, yes. We discuss kind of the standards in the same specificity that I said. You have to have equal effective and equal integrated access to the opportunities. We don't have a standard like 508 that sets out specific benchmarks.

>> CHAIRWOMAN DIETRICH: Mark?

>> MARK RICCOBONO: Well, I kind of feel like we're back in Ohio. That was the whole goal of the proposal that we made was to talk about whether or not we had enough strength in the law to get to where we were, and obviously we didn't think so. There is a need to ensure that this great universe digital

material that we have coming and systems are, in fact, accessible, and that we're really delivering on the civil rights' promises that we already have for students with disabilities as already has been pointed out. The current laws really haven't necessarily delivered that and there may be opportunities to do that. I think that's where we need to be having the discussion about what tools do we need to make sure that that continues to happen.

I do want to provide one caution. About the 508. Because we're still waiting to see where the final 508's going to land, I'm little bit nervous about, you know, having this group recommend that as a standard when we don't really know what the final refresh is going to look like. I don't know, Jim, maybe you disagree with that. But it just doesn't sit perfectly with me.

>> JIM FRUCHTERMAN: Well, I think I've got two points. First, to your point, Mark, the fact that 508 is going to be the accessibility standard and that we kept saying let's not create a new standard for accessibility. Let's use some of the existing ones means that a lot of us are leaning towards 508 even though we don't know what the final refresh is going to look like. But it does have the problem that you have. There could be something that we look at retrospectively and say there is this giant hole in 508 that you can drive a truck through but we didn't see it coming. So I don't know.

I think back to sort of Betsey's point, as an engineer, as someone who has to implement things, I do not think that the ADA is specific enough for engineers to go off and build accessible products. Partly it's the nature of the difference between a legal standard and a technical standard. Right? And you could go to a school and say if you don't do this you could be sued under the ADA, and they could say, well, we'll wait for the suit. Right? Which is different than we have to meet 508. And you hand people 508, and you say, look, all websites have to meet this. Even though I know that ADA is the club that

powers this and has the legal standard, I think that the great thing about 508 is that engineers can build a 508. They can't build to the ADA in a way that's actually going to deliver on things.

And I think that part of our job as a Commission is to actually tell the product people, the engineers, the webmasters do these things and you still could lose an ADA suit because it's possible, right? It happens. But probably the fact that you've made this effort covers you and deals with the accessibility requirements.

>> CHAIRWOMAN DIETRICH: And I think that this also brings us back around to Ohio.

(Laughter)

And to something that Mark raised that kind of ended up getting very watered down in our last phone call and I know that there was some concern about that on a number of fronts which is, okay, given that there may be these legal requirements, what is the enforcement? Do we need a private right of action?

Either that wasn't clear, or everybody thinks that we do I am not sure which.

>> JIM FRUCHTERMAN: Some of us don't want to weigh in on that one.

(Laughter)

>> CHAIRWOMAN DIETRICH: Is that what it is you? Don't want to be a big target on that one. Chester, however, does want to weigh in on it. Chester, please.

>> CHESTER FINN: First of all, I want to know what it is. And number two, then I will have a comment on it.

(Laughter)

>> CHAIRWOMAN DIETRICH: Okay. Thank you. So in Ohio Mark actually submitted a document which included -- Mark, maybe you should explain this. You can do it better than I can. But in the cases where a student is not able to receive the accommodations that they require, that beyond just having a right to file a OCR complaint, that they might have some legal

private right of action beyond that. Can you explain more than that, Mark? I'm afraid that I fail at that point.

>> MARK RICCOBONO: Yeah, I'm not sure I would characterize it that way, but the discussion that we tried to put forward for the dialogue was that, in fact, what we needed was a statute that required that the digital content, the systems that are used in postsecondary education are accessible to a particular standard which we suggested that standard would be set by an access board like group. It didn't have to be the Access Board. That -- and this is specifically around digital content.

And, secondly, that doing this did not alleviate the responsibility of universities, for example, if they used open access materials, educational materials which might not have a clear publisher associated with them, and that the standard would be updated periodically to make sure that it's advancing with the changes in technology, and that one of the options might be for violation of this, that the impacted students would have a private right of action against either the manufacturers of the technology or the universities, in fact, may have a claim against the producers of the technology. And that's what we put forward as a discussion point.

>> CHAIRWOMAN DIETRICH: And so my understanding on the phone call was that what we had decided at that point was that we would have wording that essentially says that this would be in the case of -- I'm not quite sure if it was a period of time or just market failure. Again, Mark, you had the best sense of what you had actually agreed to at the end better than I do, but that the private right of action would be something for Congress to consider legislating if it's shown that other things are not working. And I am not sure if that was after a period of time, or if the words "market failure" were used. Do you remember what I am talking about, Mark?

>> MARK RICCOBONO: That's what the current recommendations say. That's the other piece that we put forward in Ohio was that we would set a stake in the ground in terms of when this

was really going to start happening. I think what we agreed to in the last call we were on that topic was to go back and revisit that language. But I think that that language has been totally stripped out of the recommendations.

>> CHAIRWOMAN DIETRICH: Okay. So I'm sorry, I was distracted slightly there, Mark. But the current recommendation does not include the sort of language that you had originally proposed, or the language that had been agreed to -- that you had agreed to at the end of the phone call; is that correct?

>> DAVID BERTHIAUME: No, that's not correct.

>> MARK RICCOBONO: I think that's correct, but we agreed to is that we would rewrite the language, or consider rewriting the language.

>> DAVID BERTHIAUME: Just as a point of clarification, and then folks please feel free to jump in and correct me, but my understanding, we did spend a fair amount of time on this as an entire Commission on the June 24th call. And as a result of that discussion we came up with a recommendation number 5 which says in the case of a market failure, Congress should step in and consider all necessary and appropriate measures including new statutory protections, market regulation, and to that we could certainly add a private right of action. And that was my understanding of the agreement of where the language that Mark had introduced in Columbus, where that wound up.

>> CHAIRWOMAN DIETRICH: Yes. And that was taken out. So if that can be added back in?

>> DAVID BERTHIAUME: Yes, absolutely.

>> CHAIRWOMAN DIETRICH: Then I think that we probably -- well, assuming, Mark, does that sound reasonable? Adding that section back in?

>> MARK RICCOBONO: Well, sure. But -- yeah.

(Laughter)

I am trying to figure out how we got here from the previous item that we were discussing which was really about the question of whether or not we have the law or the legal

enforcement that we need to get this done. Because it seemed like that was the question that was being discussed, and I don't want to avoid that question by getting hung up on the private right of action. Because I didn't feel like we resolved that question.

>> CHAIRWOMAN DIETRICH: Okay. So are you thinking that there may be some other legal action other than the private right of action? Because that's what I was thinking about, was the concern that that had been taken out.

>> MARK RICCOBONO: Okay. I didn't realize that. Maybe I just missed it. If that's what you meant when you asked the question.

>> CHAIRWOMAN DIETRICH: Yeah, it was.
Stephan?

>> STEPHAN HAMLIN-SMITH: In terms of using law or lawsuits or whatever results from someone's right to action, I'm very, very clear that there are plenty of laws that afford people the opportunity to sue postsecondary institutions. We do not need anymore laws that afford that right of action.

So I would oppose any that do that, please. But I'm unclear on -- I'm worried because it's 2:00, and we only have until 4:00, and I feel a great pressure to -- I feel like we're not going anywhere right now.

>> CHAIRWOMAN DIETRICH: We can absolutely move on.

>> STEPHAN HAMLIN-SMITH: I need to us go somewhere.

>> CHAIRWOMAN DIETRICH: Where would you like to us go? Did you have another recommendation you wanted to discuss?

>> STEPHAN HAMLIN-SMITH: Pretty much anywhere except where we've been the last six weeks would be awesome.

>> CHAIRWOMAN DIETRICH: So let me raise the question of what other recommendations are people concerned about that they would like to discuss at this point?

>> GEORGE KERSCHER: Wait a minute. So I just want to make sure that we don't let this go, sorry, Stephan.

>> STEPHAN HAMLIN-SMITH: That's okay.

>> GEORGE KERSCHER: We're agreeing that we want to propose

statutes that require the producers of content and the producers of software that they must be accessible. Okay? That's a statute we're going to put into our recommendation.

>> J. BRUCE HILDEBRAND: No, sir.

>> GEORGE KERSCHER: It changed since yesterday?

>> CHAIRWOMAN DIETRICH: I think that are you getting to the heart of our concern, George.

>> MARK RICCOBONO: See that's the question I thought you were asking, Gaeir, and not about the private right of action.

>> CHAIRWOMAN DIETRICH: Oh, sorry. Well, it was. I mean, both were.

>> MARK RICCOBONO: Okay.

>> CHAIRWOMAN DIETRICH: That's really the question, George, is can this all happen voluntarily? The first are web standards were implemented in 1999.

>> GEORGE KERSCHER: I think that we agreed to this yesterday, that we agreed that we were going to recommend the stat ought to?

>> CHAIRWOMAN DIETRICH: Well, it got changed to standards.

>> GEORGE KERSCHER: No. No. There is a statute that would refer to the access board type thing that would establish the standard that the statute wouldn't enforce.

>> CHAIRWOMAN DIETRICH: No. That's the part that's not there, George, is the enforcement. It would be a voluntary standard.

>> JIM FRUCHTERMAN: Okay. But, Gaeir, and I will just repeat stuff I said yesterday, right, the tech task force said we're going to do this and we're recommending in lieu of requiring a format that things must -- must. That means there is going to be a law. It's not voluntary. And it got folded under a voluntary wishy-washy kind of thing. And I said hang on a second. That's not what we recommended. And this issue will just keep coming up, and I think that we pretty much know that -- and I think that most people have kind of staked claims on what they think we should do about this issue. Bruce clearly just said no a minute ago. Maria has in her absence,

and Chris may weigh in, a more nuanced position about this. And a lot of the advocates think that there ought to and law!

And, I mean, eventually we could spend a lot of our time talking about this, but I am not sure that we're gaining new information. And when you say we've gone to a voluntary solution, it's like, well, wow, we did? We keep saying no we really need something that's going to -- because we don't think that this Commission got setup to sort of confirm the status quo of gradual evolution, right?

>> CHAIRWOMAN DIETRICH: So I think probably this is one where we need to look at this wording very carefully and make sure that both sides are clearly represented then.

>> GEORGE KERSCHER: The wording is going to have to be nailed down, but the intent we can hash out face to face right now. And I thought we were agreeing to a statute that minimum criteria would be established by the access board but the statute won't force it. Above and beyond that, there is a question of private right of action. I have no private right of action to sue the airlines, for example. If they throw me off the plane because I'm blind, you know, I could appeal to people, but I have no private right of action right now. That may change, but right now I can't do that. And that's the question about, you know, if there would be a private right of action if a software company develops software that's completely inaccessible and, you know, do I have a right to go after that company personally?

>> MARK RICCOBONO: And although I am for the private right of action, I think that what we said yesterday was that we would leave it to the access board to decide whether there was enforcement on those regulations. At least that's what I understood that we said.

>> VICE CHAIRMAN WENDORF: That's what I understood. And I think Maria expressed it that in a way -- I don't think that she was talking statute, but said that the access board would have control over that, could use the regulatory process to put

teeth into the standards that were being created.

>> JIM FRUCHTERMAN: Actually recapping comments that I made yesterday, I don't think that's what the access board does. I don't think that the access board puts in place teeth and enforcement actions. I think that the access board develops standards in response to legislative direction from Congress. But Betsey could probably comment on that.

>> BETSEY WIEGMAN: Well, I'm not super familiar with the access board. I do understand that they draw up guidelines on a number of accessibility related areas, and that some of those guidelines are merely guidelines, and some of them have been incorporated into regulations. So, for example, the physical accessibility guidelines were recently incorporated into the ADA Title II and III regulation.

>> JIM FRUCHTERMAN: If someone violates the access board guidelines do they complain to the access board or the Department of Justice?

>> BETSEY WIEGMAN: My understanding is that they are both avenues, but the access board one is little used.

>> CHAIRWOMAN DIETRICH: Skip, do you have enough information to write this?

(Laughter)

>> GEORGE KERSCHER: No.

>> SKIP STAHL: No. No. Let me -- I've asked Jim to draft it. Because we had this whole section around 16 and 17 yesterday. It was my understanding that it was identical to Jim's, that there was in fact a fairly strong recommendation and some agreement around statute. But I would defer to Jim on this one.

>> CHAIRWOMAN DIETRICH: 16 and 17 is Chaffe?

>> MARK RICCOBONO: Chaffe is a different topic.

>> SKIP STAHL: Sorry.

Wrong one.

>> CHAIRWOMAN DIETRICH: It gets confusing this time.

>> SKIP STAHL: There was a number attached to it. But I did ask Jim to draft this one.

>> CHAIRWOMAN DIETRICH: Thank you. So Jim will be drafting this. Okay. Now I am still confused. Jim is drafting the Chaffe language?

>> JIM FRUCHTERMAN: Which Jim is drinking --

(Laughter)

Sorry.

>> CHAIRWOMAN DIETRICH: I am adding more confusion all over the place.

>> JIM FRUCHTERMAN: I've taken on a couple -- I've taken on the following things. Recommending a merger between 16 and 17 --

>> CHAIRWOMAN DIETRICH: Which is Chaffe?

>> JIM FRUCHTERMAN: Which is Chaffe discussion because we talked about having only one recommendation there yesterday. And I've also said that I am going to put in recommendations based on the tech task force report that was circulated. And I that I those are the main things that I said that I was going to do.

>> CHAIRWOMAN DIETRICH: Ashlee did you have a question or comment?

>> ASHLEE KEPHART: (Indicating negatively.)

>> CHAIRWOMAN DIETRICH: Okay. I thought that I saw your hand up.

Okay. So, yes, in deference to Stephan and other folks who want to move on, we can definitely move on. And, again, the issue on the table here is recommendations that you would like to discuss as a group.

>> STEPHAN HAMLIN-SMITH: I would like to follow up. Yesterday morning we had a presentation and a discussion about the technology task force and their recommendations that had come forward from the technology task force. We had, I think, several recommendations, and I know that there was a conversation or I heard someone say that, yes, those would be included, and that the rationale and detail would be included.

I want to kind of understand how those will be included, and I want to -- some reassurance that they won't be rolled into

other things but that they'll be included for consideration as their own free-standing recommendations.

>> JIM FRUCHTERMAN: That's my plan to make that proposal.

>> STEPHAN HAMLIN-SMITH: Okay. So I don't need to bring it up right now?

>> JIM FRUCHTERMAN: No but I would love the help.

>> CHAIRWOMAN DIETRICH: The people who are most concerned with this are having a side conversation here. So I am not sure that you heard. Did you hear what Stephan was saying?

>> SKIP STAHL: I'm sorry.

>> STEPHAN HAMLIN-SMITH: I wanted to make sure that the things from the technology task force report that those will get put in for their own recommendation for consideration that we talked about yesterday. That that was still on the radar.

>> CHAIRWOMAN DIETRICH: In its entirety.

>> SKIP STAHL: The draft of the tech report was circulated.

>> CHAIRWOMAN DIETRICH: Right. But the question is about the entire draft making it into the final report.

>> SKIP STAHL: You want the entire draft of the tech task force --

>> STEPHAN HAMLIN-SMITH: No, no, the pieces that fit. So the recommendation and the narrative that go with them.

>> SKIP STAHL: Some of them are in here. They have not been elevated to the level that Jim would require.

>> CHAIRWOMAN DIETRICH: That has been sorted already. Other issues or recommendations that people want to bring forward? Betsey?

>> BETSEY WIEGMAN: I would like to follow up on what Stephan said earlier. They mentioned a "X" prize for STEM materials, and I also thought that was an exciting idea that had never occurred to me before. So I wondered if there was kind of more thought about that, or if we could talk about it for a moment.

>> CHAIRWOMAN DIETRICH: Absolutely.

>> TUCK TINSLEY: Yes.

>> CHAIRWOMAN DIETRICH: Tuck?

>> TUCK TINSLEY: We had charge of task force one which was demonstration projects. And Lizanne had authored one regarding STEM, and it is in the report. I will read the original if may quickly?

Since STEM disciplines provide special challenges to accessibility because of the highly technical nature of many course materials and the prevalence of hands-on activities, we recommend partnering with prominent science math and engineering professional organizations, EG, American chemical society, American physics society, American society for engineering, and NSFRDE, research on disabilities education, to fund a demonstration project focusing on professional development for STEM faculty to increase their awareness and expertise around increasing accessibility for students with disabilities and graduate and undergraduate levels.

And that demonstration project recommendation is in Skip's draft.

>> CHAIRWOMAN DIETRICH: Lizanne?

>> LIZANNE DeSTEFANO: I think that we should keep that in there because that's really important. But we may want to add this other one that is this competition because this wouldn't be limited to universities. This would be something that was thrown out and anybody who wanted to compete for this could do it. So I think that's a great addition.

>> SKIP STAHL: Sure.

>> CHAIRWOMAN DIETRICH: Does anyone -- I just have a vague understanding of the "X" prize. Does anyone have more of an understanding, Lizanne or someone who can speak for to it? I know that it's a competition. I know that's a foundation. But that's all I know.

>> LIZANNE DeSTEFANO: It's a monetary prize. There are some parameters around the competition. It could be a not-for-profit it could be any entity can put it out. And then there is a jury. People submit their designs and they are juried and awarded.

>> CHAIRWOMAN DIETRICH: So it would potentially be possible

for someone to work with the "X" prize foundation to get this on their radar that there needs to be one on accessibility?

>> LIZANNE DeSTEFANO: Could be. But we can initiate another it doesn't have to be "X" prize. He was just saying "X" prize-like.

>> CHAIRWOMAN DIETRICH: I was just trying to imagine the vehicle for that, how that might actually happen.

Mark?

>> MARK RICCOBONO: I would like to be clear that if we're saying "X" prize we're recommending that -- I guess the recommendation would be to Congress or somebody that they give them money to do this. So we may need to be clear that a competition would be good. And I like the language of what Tuck just read. But I would like to take the RDE part out. I think that it should just be the National Science Foundation, and I wouldn't pigeonhole it into the disability funding because RDE is one of the smallest pots of money that they have at NSF. So I just would say National Science Foundation.

>> CHAIRWOMAN DIETRICH: Lizanne?

>> LIZANNE DeSTEFANO: A friendly amendment. I think that we may want to keep RDE in there, but say and other directorates. I am afraid that if it's not attached to RDE there would not be the advocacy within the National Science Foundation to actually raise it to a funding priority. So I would like to keep both, please.

>> CHAIRWOMAN DIETRICH: Any other things that are sort of loose ends hanging out there that people want to revisit?

>> DAVID BERTHIAUME: Gaeir, I would like to jump in I would like to get clarification from Commission members, and I don't recall who made this recommendation or even what task force it came from. But it's Recommendation 18 in the draft that Skip circulated. It has to do with a suggestion that the Department of Education and the Department of Justice consider rulemaking on the requirements for students to obtain certifications to prove eligibility. And I was just wanting to get clarification from the drafters on that as to how that would work? What the

particular laws would be targeted?

Stephan?

>> STEPHAN HAMLIN-SMITH: I would like to speak to it. I don't know where it came from. It's certainly not a recommendation that I would support. I think that it's written from a very commonly misunderstood perspective about documenting disability. And if I could take a moment to kind of clarify so everyone's on the same page.

Often institutions of higher education and a lot of other groups are kind of seen in a bad light for putting up a barrier or a hurdle by requiring documentation of disability. Because in the past, and certainly even today, there are people who have fairly stringent requirements about what documentation they require to establish or to have someone become apart of their disability resource program, per se.

But the documentation we need to be clear is for two very, very different purposes. One is a very easy level to establish, and that is to establish the person's right to protection as a member of a civil rights class. As a person with a disability, and that -- establishing that is not something that produces that barrier of needing very recent documentation and having all of these problems that we often find people complaining about. The other purpose of documentation is one of educational excellence and of student development and of formulating accommodation strategies that can enable a student to learn effectively in a postsecondary setting.

The reasons often are because we certainly know that courses are taught very differently and the material is very different from how it is in a K-12 education program. We also know that a lot of changes while many disabilities are certainly permanent lifelong situations, we also know that the way that the human brain develops and works over time changes. And we know that adults, for instance, do in some instances process and learn materials differently than they did when they were in 3rd grade for instance.

All human beings do. And so when I look at this recommendation, what I see is I see it built on a mis-premise because the premise for establishing eligibility of a protected class is not a high barrier, and I don't think that it's a barrier that often precludes people from receiving service. I think it is often the non-civil rights use of documentation that can be more of a barrier for folks.

>> BETSEY WIEGMAN: I wanted to chime in on this one, too. Thanks, Stephan. I had submitted comments on the draft staging of this I may be redundant for people who have read those comments. But the Department of Education, or at least OCR, has some significant concerns with the recommendation as far as, you know, doing an actual rulemaking because it seems like it would be for a lot of reasons technically not feasible to do. The premise, to me, reads that you would need to have some sort of list of all of the possible disabilities, and what documentation would be required for each one. And I think that a comprehensive list would be impossible to develop, and, you know, because the same disability can affect different people in very different ways, you know, the same accommodations would not necessarily be appropriate. So it seemed like any kind of rulemaking where we tried to lay all that out with that level of specificity would be bound to be, you know, extensive and not that accurate.

I recall on the phone call on June 24th Maria discussed modifying it to a review and clarification that would be suggested. That might come out more as something like policy guidance or a Dear Colleague letter. I think that would be more appropriate because I recognize, you know, just from the public hearings that we've participated in that sometimes there is a significant burden on students with disabilities to re-document and re-document the same disabilities. But perhaps something that falls short of regulation and is more in line with guidance to bring that issue to light and to draw focus to it would be more appropriate.

>> CHAIRWOMAN DIETRICH: Stephan?

>> STEPHAN HAMLIN-SMITH: I think that another thing, and this will sound self-serving and I don't tend that to be. But there is the best document available right now is available from AHEAD on this topic, and it is the best practices regarding documentation of a disability in postsecondary education. It is not a laundry list approach. It is a functional approach to documenting disability in the real life world. That document is currently being updated and tweaked slightly to reflect the regulations of the new amendments. But I think even a reference to we don't need to list AHEAD specifically if that's uncomfortable, but I think a reference to existing well-researched, best-practice documents could be a useful recommendation in this type of setting. If it's inappropriate to list organizations by name.

>> CHAIRWOMAN DIETRICH: Well, in task force 1's best practices document we list all kinds of people by name because we're pointing at best practices. So I don't know if we had them on the list, Tuck, but the AHEAD website is probably another one that we should include if it's not already there.

Go ahead, Jim.

>> JIM FRUCHTERMAN: My understanding is that this was a recommendation to try to solve a specific problem. I mean, after joining the Commission, I had a parent call me up and said that, you know, her family spent \$20,000 over the last eight years recertifying their LD daughter four times including most recently. She is a freshman in college. And they had done it within the last two years, and they had to spend the money again. They thought -- they were wealthy Silicon Valley family, and they said, look, we can afford this. But the average LD family asking them to pay \$4,000 every couple of years to get services? This is ridiculous. And so I think that's what we're reacting to. And if the answer is this isn't the right way to say it, but reading it I think that the repetitive, recertification had this undue negative burden especially on people with learning disabilities because, you

know, when you get your doctor's note that you are blind as a young person, you know, people don't force you to go back and re-certify, right?

But somehow learning disability --

>> CHAIRWOMAN DIETRICH: Actually they do.

>> JIM FRUCHTERMAN: -- this thing magically goes away. I know you are trying to help to get the accommodation. But what if someone says I can't afford it and the school won't pay for it? Does the student not get their services?

>> CHAIRWOMAN DIETRICH: Actually they do they still request recertification for people who are blind or visually impaired. I have done a lot of those forms year after year after year.

>> JIM FRUCHTERMAN: That's silly, too.

>> CHAIRWOMAN DIETRICH: But it's very much cheaper and that's the thing. That really is an undue burden on the parents and all of that.

Stephan.

>> STEPHAN HAMLIN-SMITH: I also need to speak factually, though. That circumstance if -- and I have no reason to doubt that's what the parent told you, and I fully believe that that is what they told you. I also guarantee you that I could not identify one institution in the United States that would require a student to have been re-tested four times in eight years in order to qualify for services.

>> JIM FRUCHTERMAN: Yeah, but she is a freshman.

>> STEPHAN HAMLIN-SMITH: It doesn't matter.

>> JIM FRUCHTERMAN: The university said please re-certify and you don't think they would have done that if there was a certification?

>> STEPHAN HAMLIN-SMITH: After having been tested four times in the last eight years?

>> ANDREW FRIEDMAN: I will back up Jim. I won't say four times in eight years, but we hear all the time I have to get recertified. Whether it's four times in eight years, or two times in eight years. Or three times.

>> STEPHAN HAMLIN-SMITH: And I am not saying that you don't

hear that. But I don't want us to go to the belief that that is the status quo everywhere. I also would like you all to read the best practice documents because we are working very hard to move people towards a more flexible kind of place with that.

The other thing is, though, are you absolutely right in that there is a barrier particularly -- pardon me -- for folks who aren't privileged in one way or another, either socioeconomically or because of the nature of their K-12 background or because of where they live or because they come from a rural setting, some lack of privilege, there absolutely are very real issues to transition to postsecondary education which are -- could have -- I mean, honestly, truly, could use an entire Commission in and of themselves as well.

But it's bigger than I think one recommendation of a laundry list can fix.

>> ANDREW FRIEDMAN: Let Ashlee go, and then I have an offer.

>> ASHLEE KEPHART: I just wanted to throw out there that in my junior high and high school, so for six years of my I guess K-12 career, I had to constantly every year bring back new documents that said that I still had dyslexia. So even though it wasn't going to go away, and even though they knew it wasn't going to go away, I still had to constantly bring it back each time. So I guess I had to do it six out of six.

>> ANDREW FRIEDMAN: I would like to survey our database to see what it is. Because I will guarantee you, so if we want facts I will get facts. We'll survey 60,000 people and come back with what is the level of recertification and we'll break it out between, you know, what's in college as well. But it is in the low number, I will tell you that right now.

>> CHAIRWOMAN DIETRICH: Just to keep us focused, it's not in college as well, it's what is in college because that is the purview of this Commission.

>> VICE CHAIRMAN WENDORF: There is a direct connection between what's happened in K-12 and what we're talking about now. So there is no firewall here.

IDEA 2004 dramatically weakened transition planning for students with disabilities. The problem is getting worse. It's not getting better because there was no stipulation that students in secondary school get re-evaluated in order to qualify for continued accommodations or services once they got to postsecondary. That's what happened. And so, you know, what we're see something probably I would love to see your database and see results from that. But I would guess that this is getting worse and not better. There is a direct link between what happened in IDEA and what we're trying to grapple with in postsecondary.

>> GLINDA HILL: I wanted to make a comment, too, and this is a K-12, what Ashlee is describing. What happens is that students get certified, they make good progress with the accommodations they are receiving, and then they de-certify the students because they are making good progress. Then they have to fail again and be recertified. And that's what Ashlee is describing to you. And I did want to say so when you're talking -- have you seen this as well in other places? And so that's just one of the problems that I think that we see with students with high-incidence kinds of disabilities. It's very different from low incidence.

>> ANDREW FRIEDMAN: I have one other matter. I will leave this topic and get data. But I will leave it the way that Jim kicked it off two days ago. The thing that I still think we're missing is user testing. We're producing all of this stuff which I think is a lot of good stuff. But I think that it better be viewed by the people that it impacts once it's done before we recommend anything to Congress. Because if everybody looks at it and goes well this didn't help and we didn't really produce anything worthwhile. So I challenge from us a process standpoint that before we finalize this we really better get users in front of this that says, yeah, that's going to make a difference in my life. Because if it's not, we just wasted a lot of our time and kind of people's times going forward.

>> CHAIRWOMAN DIETRICH: And just to be clear, Andrew, so are you saying that the report essentially to have the report vetted by experts in the field before we --

>> ANDREW FRIEDMAN: Nope, not experts. We're the experts. You make that mistake all the time.

(Laughter)

>> CHAIRWOMAN DIETRICH: By users, sorry.

>> ANDREW FRIEDMAN: It's the users. You don't release software unless the users test it first. I think that we should make sure we hold ourselves to the same standard.

>> CHAIRWOMAN DIETRICH: We can do that, correct, Dave?

>> DAVID BERTHIAUME: Absolutely.

>> CHAIRWOMAN DIETRICH: I am just checking on protocol here, but this is a public process so I think that it would be incumbent on all of the advocates here to make sure that once it's posted on the web that it is reviewed so that we can have public comment.

>> ANDREW FRIEDMAN: I think that we need to do something more than just review it I think that we need to have a formal way to have it reviewed and get the right feedback on this. And we can certainly do that through a phone call, setup a phone conference that everybody who is reviewing it can come in on. And that might be chaotic.

>> CHAIRWOMAN DIETRICH: We'll figure something out. Linda?

>> LINDA TESSLER: It's obvious to me that we are a passionate committed group to this task.

(Laughter)

>> CHAIRWOMAN DIETRICH: Yes, we are.

>> LINDA TESSLER: If we agree or disagree it really doesn't matter. We're passionate and committed. Sometimes things don't take "X" amount of time. Sometimes things are late or take some more time. What I am hear something that we're committed to the quality of this report. I know that we have a deadline, but, I mean, the word "extension" exists in this world? No? Maybe it doesn't in this world. I am asking a

naive question. That's all. You get the point.

>> VICE CHAIRMAN WENDORF: We don't get accommodations.

(Laughter)

>> CHAIRWOMAN DIETRICH: Double time! I want double time!
Or at least time and a half.

(Laughter)

>> STEPHAN HAMLIN-SMITH: I know this isn't beforehand, but isn't there a process whereby after a report is provided to Congress that it will get published like in the -- what comes out every morning?

>> CHAIRWOMAN DIETRICH: Federal Register?

>> STEPHAN HAMLIN-SMITH: Yeah. Don't people get to comment, like the whole world gets to comment, right?

>> DAVID BERTHIAUME: Not for this particular document. That's not the way that most Commission reports work. It will not appear in the Federal Register. I mean, it will be incumbent upon us to -- we have it to --

>> STEPHAN HAMLIN-SMITH: Spread it out?

>> DAVID BERTHIAUME: Spread it out. Disseminate it as widely as possible to all of the different groups, but not in the Federal Register.

>> SKIP STAHL: Can I make a comment? One of the things Andrew to your point that we've, you know, with the public hearings that's been part of the process is to really encourage people to come and talk about what their challenges have been and what recommendations they may want to provide to this commission as well. And also to distribute -- we've been distributing pretty steadily out to the public listserv which has over 200 hangers-on.

(Laughter)

For sisters.

>> CHAIRWOMAN DIETRICH: Members.

>> SKIP STAHL: Yeah, and stakeholders. There has been a pretty broad on-going effort of dissemination.

>> ANDREW FRIEDMAN: I will go back to the software development analogy. That's incorporated into your user specs.

Now did you get it right? That's what you want to test. Once you have a document that you will go out with, you want to make sure that the people that this impacts agrees that it will have the impact that you want it to for them. We're doing it for them. You might as well make sure that the people who are going to be impacted by it say, yep, you guys got it right before we submit it.

>> CHAIRWOMAN DIETRICH: The one area that I know that this definitely comes up in postsecondary is high-stakes testing. And I am going to defer to Betsey here in terms of I know that a lot of the people who do high-stakes testing require the person to get certified, re-certified as having a learning disability, and also to show history of being certified as a learning disability, and history of accommodations. They go through a lot of things. When you are looking at the GRE and the GMAT, and some of those. Is that something that we at least need to give reference to in the report? Is that already covered completely under OCR? Can you speak to that a little bit?

>> BETSEY WIEGMAN: Well, OCR doesn't have jurisdiction over most of those high-stakes testing agencies because most of them are private companies. So they would actually fall under Title III of the ADA which is under DoJ. It would be helpful to have someone from DoJ that we could ask or get more information about that I do know anecdotally that I have heard after lot of lawsuits and situation where's students have had problems with accommodations.

>> CHAIRWOMAN DIETRICH: So I don't know if the Commission feels and in particularly the individuals that are advocates for the LD community if you feel this is something that we somehow need to address in our report? I am hearing a sure from somewhere.

>> SKIP STAHL: Can we go back to Recommendation 18?

>> CHAIRWOMAN DIETRICH: I think that's part of actually what I was talking about, if we also need to include the high-stakes testing, there is one the -- as a sub-category of where they

are having to provide that eligibility, prove the eligibility.

>> VICE CHAIRMAN WENDORF: I would support that.

>> CHAIRWOMAN DIETRICH: Okay. So it sounds like we have some support on this.

I am wondering if this is a recommendation that those of you who are advocates in this area might want to revisit and re-wordsmith and take a look at how you want to handle this and then run it back by the Commission at the August meeting? So, Stephan?

>> STEPHAN HAMLIN-SMITH: Maria actually had a very eloquent phrase that I think it was Maria, and maybe I am wrong, that re-worded this does anyone have that captured?

>> CHAIRWOMAN DIETRICH: If it was today it would be on Mike's CART transcript.

>> STEPHAN HAMLIN-SMITH: It wasn't today. Do you remember, Betsey?

>> BETSEY WIEGMAN: Are you speaking of the June 24th call?

>> STEPHAN HAMLIN-SMITH: Yeah.

>> BETSEY WIEGMAN: I know that at that time we talked about a review and clarification. Is that the language you are looking for because she talked about doing a review and clarification --

>> STEPHAN HAMLIN-SMITH: It stripped out a whole bunch of stuff and was asking the Department to review and clarify procedures or something around this issue.

>> BETSEY WIEGMAN: Right.

>> STEPHAN HAMLIN-SMITH: It felt useful, and it felt like something that the Department could actually do.

>> JIM FRUCHTERMAN: It looks like it's the last paragraph of the recommendation. Having missed the June 24th meeting, but I think that the words are you quoting look like the last paragraph.

>> CHAIRWOMAN DIETRICH: Yeah. Okay, so I am going to ask that who would like to volunteer to be the lead on this recommendation 18 of reviewing?

>> SKIP STAHL: This came out of legal.

>> CHAIRWOMAN DIETRICH: I think that the task forces are essentially done at this point. So what my question is that it might be appropriate for one of the advocates for this to take on to spearhead the wordsmithing on this?

>> ANDREW FRIEDMAN: I will do it. Jim has 40,000 things on his plate.

>> CHAIRWOMAN DIETRICH: So Andrew has volunteered to do that. Thank you, Andrew. That's very much appreciated.

We're coming down to the last four minutes of this section. So clearly everybody needs time to really go over these recommendations, digest them, and I'm not quite sure how we'll handle that back and forth. But we'll come up with a strategy is that will let you know. Obviously 18 of them, or however many we have, is an awful lot to try to get through. 20?

>> SKIP STAHL: 25.

>> CHAIRWOMAN DIETRICH: 25, okay. That's an awful lot for to us get through in one sitting. But I just wanted to ask because there are some people in the world who are really good at summarizing things, if anybody has any summary comment they want to propose before we move to the break?

Okay. So let's go ahead and take a break -- no? Comment?

>> VICE CHAIRMAN WENDORF: One comment. I am thinking that I am not the only one sitting at the table who is failing to remember everything that we actually decided or thought we decided. Am I correct?

(Laughter)

Okay. And I did chat with Skip, and I feel the need for some kind of -- and Skip said punch list, some kind of punchlist in shorthand that summarizes some of the issues, and it may relate to the recommendations, and it may not. It may cross over. But I think that we need to give ourselves credit for what we accomplished, and to lay it out in a pretty linear way so that we can see it and that may be a good first step before we start wordsmithing as will happen a lot of the recommendations.

Is there support for some sort of punchlist?

>> CHAIRWOMAN DIETRICH: Yes.

>> VICE CHAIRMAN WENDORF: For those of us who have been through home renovation, and everything else? Good. Thank you. We can take a break now.

>> CHAIRWOMAN DIETRICH: Okay. Let us come back, please, at 2:45.

(Break)

>> CHAIRWOMAN DIETRICH: Commission members, please return. Those of how are members of the public, if you would like to continue your conversation please step outside. We would like the Commission to return to their deliberations.

>> SKIP STAHL: We have these special AIM Commission gold stars.

>> CHAIRWOMAN DIETRICH: Did you have a list of people who were going to testify?

>> STEPHAN HAMLIN-SMITH: We're working on it.

>> CHAIRWOMAN DIETRICH: Okay.

>> STEPHAN HAMLIN-SMITH: I have you until 7:30 so far.

>> CHAIRWOMAN DIETRICH: And we'll send you out to pull more in.

Okay. So at this point we really need to look at where we're moving to next, and revisiting our timeline, revisiting the writing and how we're going to handle all of that. So, Skip, I am going to ask you to help us understand where we are in terms of our process now that we're adding in some of these additional things, and what effect that will have on the timeline, and who needs to do what, what we've all agreed to.

>> SKIP STAHL: Yep, right. So my vote is to keep pushing forward. And the goal is to have a working draft with some holes in everybody's hands in approximately two weeks. But in order to do that I need some cooperation from folks moving ahead. So let me just tell you what I've got already. And this is a reiteration of what I mentioned two days ago, yesterday morning.

So we have a background section which is about 22, 24 pages, something like that. And it's really designed to acquaint Congress, particularly the neophytes in Congress who have no

sense of the scope and challenges of AIM and postsecondary education. That's currently on DropBox and has been there calm of months. I have not gotten major feedback on anybody from that so we've been working to refine it internally at CAST and OSERS. So as we move that draft forward that's kind of the intro section.

We're missing a couple of components. We're missing legal background sections that have to go in there. So I have one from Maria and Chris on copyright. I'm waiting for some information from Betsey as she is smiling over there on ADA and Section 504. And I am looking to Glinda for some updates on a section of IDEA 2004. Actually, there is a document that's promulgated on -- a summary document of IDEA on the Department of Ed website that I will share with you because it might form a foundation for that.

And we probably should have a separate section in there covering Chaffe as well. But that may be covered under copyright. I have to go through -- it is? Great. So we're covered.

>> CHAIRWOMAN DIETRICH: Skip, what about the state laws that got this whole ball rolling in postsecondary ed with E-text?

>> SKIP STAHL: I have not considered how to address individual state laws, although we certainly have reference point for that. And I would be happy to incorporate those. We can just include those as part of the sub-section within legal of the associated state laws.

Bruce?

>> J. BRUCE HILDEBRAND: If are you going to go, as Gaeir mentioned earlier, you probably ought to kind of stay within New York because they are the most modern. And the others are so convoluted sometimes, Skip, that you are just going to get into the weeds real badly. So I think that if you were going to reference a state, I would go with New York.

>> SKIP STAHL: I guess the question would be if we only reference once state what's the criteria for that reference?

>> CHAIRWOMAN DIETRICH: I would agree. It's New York

because California had the first law, but as anybody who goes out first there is a lot of improvement, and New York definitely has the best, the most solid. It was written with full cooperation of the publishing community. So I would --

>> J. BRUCE HILDEBRAND: And it's updated with some frequency and with a lot of different movers and shakers in it.

>> SKIP STAHL: So you will use that as the prime exemplar.

>> CHAIRWOMAN DIETRICH: Exactly.

>> MARK RICCOBONO: It may be worth noting in there if there are state laws which conflict that that also tends to cause issues.

>> CHAIRWOMAN DIETRICH: Yes.

>> SKIP STAHL: Yes, absolutely.

So my intent is to have a solid background section, legal summary section, and then to identify much in the same way that we started this kind of listing of recommendations at least for first pass what really is ideally helpful for us kind of drafting things is to get clarity on the recommendations. And those can be fairly concise with maybe a paragraph of description or whatever. But to have recommendations that we can circulate and which was the intent of this document, to really begin to codify what the recommendations of the Commission are, and where people can clearly say, yeah, we all agree on that. That's general consensus. Or, no, there is divisiveness around this particular issue and begin to separate those. And that helps to keep those kind of clear and concise as we're drafting.

>> J. BRUCE HILDEBRAND: Pre or post next one? In the interim you want to do this?

>> SKIP STAHL: The one I am proposing to do next is really a first draft. I am looking for clarity and to try to eliminate ambiguity. I really want to know where we are on as many issues --

>> J. BRUCE HILDEBRAND: Do you want us to red line? Comments are crazy to weave in? Do you want us to red line?

>> SKIP STAHL: Red line would be fine. And we'll have a discussion about editing group as well. But I think that my approach is going to be to try to really pull together a draft, solid background section, legal, and then I know that Andrew has volunteered to -- I don't remember which section you volunteered for.

>> ANDREW FRIEDMAN: Recommendation 18.

>> SKIP STAHL: Great. And Jim has also offered to provide some clarification on the technology things that need to be raised upward.

>> CHAIRWOMAN DIETRICH: I am supposed to do something, too, but I don't remember what it is.

>> SKIP STAHL: We'll find whatever is hanging out and assign it to you.

>> GEORGE KERSCHER: Did you want a background? I gave you a outline of the --

>> SKIP STAHL: On the DAISY information, that needs to be --

>> GEORGE KERSCHER: DAISY EPUB digital --

>> SKIP STAHL: I have that. That will be knitted into the background section.

>> CHAIRWOMAN DIETRICH: I have a request. I don't think that we've talked about including this before. But essentially a timeline of, okay, this is when Pratt-Smoot happened. This is when Chaffe happened. This is the first postsecondary E-text law happened. So that we can get a sense of the scope of the time.

>> SKIP STAHL: So what we already have drafted is a very extensive summary of the Pratt-Smoot Act starting in 1931 with all of the associated adjustments that go through it. And it's actually a very interesting kind of document, and I think that it's probably eight or nine pages.

>> CHAIRWOMAN DIETRICH: I am asking literally asking for one of those things that's a straight line and has a 1999 this happened, 2000 this happened.

>> SKIP STAHL: We can do that. One of the challenges is that it's pretty inaccessible. So we have to be careful about

how --

>> GEORGE KERSCHER: It's just a list of dates.

>> SKIP STAHL: What Gaeir was talking about was a more graphical specific timeline. But we do that.

>> CHAIRWOMAN DIETRICH: That's okay. George and I can make it accessible for you. That's not hard.

>> SKIP STAHL: No, no, that's not a problem.

>> DAVID BERTHIAUME: Skip, a point of clarification on edits. Right now Bruce is talking about red line edits. We would be talking about very specific edits to the recommendations that different individuals like Jim, Andrew, Betsey, whomever.

>> SKIP STAHL: Right.

>> DAVID BERTHIAUME: Not a whole revisiting of all of the recommendations document, but just the very specific recommendations.

>> SKIP STAHL: Right. To the ones that need clarification.

>> DAVID BERTHIAUME: I wanted to be clear about that.

>> JIM FRUCHTERMAN: When does that happen?

>> CHAIRWOMAN DIETRICH: Did you say two different things? I am confused.

>> JIM FRUCHTERMAN: Some of us have agreed that we're taking on specific drafting tasks or proposals. But this does need a lot of editing. When does that happen if we're not editing it right now?

>> DAVID BERTHIAUME: My thought is that the editing of the report as close as we have it begins on July 26th. When we circulate it to the Commission, make it available to the public. So our first draft.

>> JIM FRUCHTERMAN: So right now we wait to make edits on everything else until that date?

>> DAVID BERTHIAUME: Well, we don't have a full document to circulate. So there really is nothing to -- there is not a lot to work off of.

>> SKIP STAHL: It's easier from our perspective if we have a full document, or as close to a full document, and you can get

to see the proposed structure is, and what we've included and what we've not included, and then we let everybody go on editing that so that we're working off whole cloth.

>> J. BRUCE HILDEBRAND: But for Jim and for Andrew and for Gaeir that were each supposed to give you new stuff, you want that immediately so that it can go into the document you will distribute?

>> SKIP STAHL: I would like that as soon as possible. Did that help?

>> J. BRUCE HILDEBRAND: Yeah.

>> SKIP STAHL: And I know where you all are. So I can track it down.

>> VICE CHAIRMAN WENDORF: So the document, the whole document, as close to it as we can get, goes out 26th.

>> SKIP STAHL: The 26th.

>> VICE CHAIRMAN WENDORF: And then it's opened up to the full Commission.

>> SKIP STAHL: Absolutely.

>> VICE CHAIRMAN WENDORF: For edits, using track changes or whatever.

>> SKIP STAHL: I will figure out -- changes can be really a nightmare for editing purposes.

>> VICE CHAIRMAN WENDORF: So we'll need to know how best to handle that. So what this means is that the original idea of there being a smaller writing, editing team is we're saying farewell to that, and because we are where we are, we're opening up the whole document to the full Commission for input, fair to say? And then we need to discuss what happens after that. Okay?

>> CHAIRWOMAN DIETRICH: I would actually say that those are two different things because there is going to be some point at the end that somebody is going to have to go through this document and check --

>> VICE CHAIRMAN WENDORF: That's what I just said.

>> SKIP STAHL: From a copy edit perspective? Which?

>> CHAIRWOMAN DIETRICH: Copy editing, making sure that there

is consistent format, all of that kind of stuff, which you can't do that while it's still being red lined.

>> SKIP STAHL: No. And that's really the publication end is the finalization process, so we're all set to do copy editing and formatting and things like that.

>> VICE CHAIRMAN WENDORF: I'm not really concerned about formatting and copy editing and that sort of thing because I know that's going to be handled beautifully. My focus here is to make sure that we have an understanding about what the process is for achieving a final document, and who is involved in that? And if there continue to be conflicting thoughts about how to handle a particular recommendation, I think that we need to discuss how that is to be handled, by whom, at what time. Fair enough?

>> LINDA TESSLER: This might be related to your point. How and when do we say sign up or get together with people working on definitions? For example, I said that I was interested in the definition of how we were using learning disabilities, dyslexia, whichever term. When does that happen? Before or after July 26th? And I don't really know what the term "red lining" means.

>> SKIP STAHL: Bruce, want to respond to the red lining?

>> J. BRUCE HILDEBRAND: Track changes.

>> SKIP STAHL: He was talking about track changes, and we may or may not go with that strategy. But it's just an approach to editing.

>> LINDA TESSLER: Do you want to have them before July 26 or after?

>> VICE CHAIRMAN WENDORF: It would be helpful to get your thoughts and get them expressed in writing as soon as possible so that they could be matched up. They might go into the Chaffe discussion. They might go elsewhere. But if we understood where you were going with this I think that would be helpful to a lot of other people.

>> SKIP STAHL: We have a number of definitions that have emerged out of best practices. We have to determine where to

place them. In all likelihood the key definitions will go in the beginning of the document.

>> LIZANNE DeSTEFANO: And so when -- it sounds like what you would like to us do is everybody to read over the document and offer changes and suggestions. One of the things that Stephan and I said we would do is look over the language to see if it's broad enough to encompass the material in the upper level undergraduate and graduate course work. But what are we reading? Are we only reading the recommendations, or are we reading the 22 pages?

>> SKIP STAHL: You should read the whole thing. Ultimately this is a document that I want your signature on.

>> LIZANNE DeSTEFANO: People keep saying the recommendations, but really we're talking about the whole document.

>> SKIP STAHL: The whole document, the whole draft.

>> VICE CHAIRMAN WENDORF: For example to that point, part of the background section is going to involve a discussion of barriers, barriers to access, okay? And, Skip, you will be using public comment that we've gathered to illustrate some of the conclusions we've drawn, and essentially are reported by.

>> SKIP STAHL: We haven't done that piece yet.

>> VICE CHAIRMAN WENDORF: So to your point, Lizanne, yeah, we need to all of us look at that to make sure that we're satisfied that we've documented barriers in a really robust way, and accurate way based upon what the Commission has heard. Jim was next.

>> JIM FRUCHTERMAN: I have three points. One is we've spent a lot of time debating in many cases some of the same issues, right, and we're now to the point where this is our last public meeting. So we kind of had our debates. We're going to have to make decisions. I think that it will be important for people to frame decisions in sort of yes, no, "A," "B," this way or that way, and maybe the next phone call is where we say, all right, you know, we've identified these three places where we're really in substantial variance. Maybe we can get 20

signed off then with a decision, and these 10, you know, the people who -- but the time for debate in our sessions can't really -- the debates will have to be very quick. And if they're not going to be quick, either we have to vote or assign so-and-so and so-and-so to go off and work it out and bring it back for the next one.

That's process point one.

>> VICE CHAIRMAN WENDORF: I think that the way that are you clarifying that is helpful.

>> JIM FRUCHTERMAN: And I think that the second point is, and maybe this something that we do after the draft is there. We have to measure up how did we do against our statutory charge. And there are still gaps there, but I think that that will become clear later on.

I think that the last one at some point we have to approve this.

>> VICE CHAIRMAN WENDORF: Absolutely.

>> JIM FRUCHTERMAN: Or come as close as possible to approving it or saying that 90% of us agree, and the last 10% here is where we are. Whatever the deal is I want to make sure that it doesn't sort of slip out and I get this note saying, oh, today you have to approve it and you don't have -- but you haven't seen it. That kind of thing. I don't want that to happen.

>> SKIP STAHL: That's a good point. I want to say something to Linda. On definitions where there is already statutory language related to OSEP and like learning disabilities and so forth, citations are really important. So that's really helpful to us because we're compiling as many citations as possible to make sure that our bibliography is intact and clear so that if someone says what's the basis for this determination, we can point to relatively up-to-date valued citations.

>> LINDA TESSLER: We've had so many important conversations and come to so many conclusions at this meeting my guess is that to read the version that we get on the 26th will be the

most appropriate thing that I can do because we have said in this meeting a lot of the things --

>> SKIP STAHL: Right that would be great.

>> LINDA TESSLER: Okay. I just wanted to make sure that I am clear.

>> VICE CHAIRMAN WENDORF: George?

>> GEORGE KERSCHER: Okay. So we're all going to have to sign off on this at some point. And I am unclear on how we sign off, or what we're signing off to. Let's take, for example, one that's fairly clear and uncontroversial. Number 16/17. The Commission recommends that, you know, the Congress review the copyright, blah, blah, blah, and the language is all nice and clear. And there are some people who feel, hell no, this should just go to national library service and re-define the population and we're done.

>> SKIP STAHL: Right.

>> GEORGE KERSCHER: Okay. So if I am going to sign off on this, then I have to know that the language here is representative of the views of the Commission, and I don't know what the hell the views of the Commission are. I know what my views are, but I don't know if I am sitting in the minority or in the majority. I have no clue what's going on.

>> SKIP STAHL: And I think that our intent in kind of teeing up these recommendations is to get some sense of where folks are. So if have 10 out of 25 that everybody agrees, you know, that this is unanimous, then we can kind of set those aside and say here is the Commission is totally agreed on these 10 recommendations. If it's a set of recommendations that are in dispute, I think that the Commission has to determine how you want those presented.

And I don't have a magical idea of how to do that other than we have some models of prior reports to Congress where, you know, six people, you know, went this way and 12 people went that way, and here with a differing perspectives.

>> DAVID BERTHIAUME: And just to follow up on that, and follow up on Jim Fruchterman's point and George, my vision of

this is on August 12th, as Jim suggested, the same for extended debate is over, and we really do need to move toward some sort of framework of either voting or agreeing or what have you yes or no, so that Skip can take that back and we can work on that, work with the edits of others, and capture the disagreements on some of the issues, and then have that for a final review leading up to the final meeting. So the final meeting on September 8th or 9th would be the time where we make a decision and sign off as a Commission.

>> SKIP STAHL: Yeah, so what we're trying to achieve between now and the 26th we'll pull together whatever we can pull together and we'll try to identify where we know the holes are. And then we'll distribute that out to the Commission, and what I am going to ask Commission members to do is between then and August 8th is to really review that as best you can, and give us comments. We'll set out a protocol for doing that. I am leaning towards using DropBox just because if everybody keeps the same document name and makes edits to it I can always revert to a previous version because DropBox does versions which is helpful. But we'll take edits any way you choose to give them. And in the four days between August 8th and 12th we'll try and compile and actually have a second draft and get that out to folks so that we can begin to identify on that call on 12th where we are in terms of challenges.

>> VICE CHAIRMAN WENDORF: And so that call on the 12th to answer George's question, the call on the 12th would be a time when Commission members would declare themselves, you know, supporting something or, you know, supporting it reluctantly or not supporting it, you know, whatever the case may be. We would be able to identify based on that whether other kind of language needs to be put into the recommendation to reflect the difference of opinion.

>> SKIP STAHL: Does that help, George?

>> GEORGE KERSCHER: Yes.

>> VICE CHAIRMAN WENDORF: Gaeir did you have something to

say?

>> CHAIRWOMAN DIETRICH: I really like the sort of yes or no, you know this many, this many kind of idea. Because it bothers me when there is imprecise language like most, some, a few. What does that really mean? One person? So that's one thing.

The other thing is that the format that the technology task force used for writing their section I thought worked really, really well, and I sort of thought that we were modelling on something that was the model for everybody, but I wasn't noticing that that was happening sort of universally. And maybe I am wrong because it is really late in the day. But I thought that it was kind of a, you know, here is the part that we can agree on. And then there is the pro and the con. I mean, it was very clear I thought.

>> SKIP STAHL: So one of the things that we did was created a working outline for each one of the working task force. And we were asking for a lot of redundant information for each of the task forces. It wasn't our intention, and I don't think that I was clear early on that that was going to be the final distribution outline. It was really to try to gather information. And we were looking for redundancy to make sure that we didn't miss anything as we pulled and synthesized the information. One of the challenges that we had is whether or not we approached the writing of the recommendations and the report itself from the task force perspective. In other words, best practices, market, legal, technology. We're kind of -- I am not exactly sure where we are with that. I mean, we're still kind of looking at how the recommendations fall out some of the recommendations cross task forces if they are legislative or regulatory or market based. But I think that the structure that we've currently employed with this first round of recommendations might be the way that we want to go. I don't know. I am open to whatever suggestions people have.

>> CHAIRWOMAN DIETRICH: I guess what I am saying is rather

than save the regular narrative, I liked the way that that was broken out concisely. It was very clear.

>> SKIP STAHL: Great. Thank you.

>> DAVID BERTHIAUME: Can I follow up on a point that Gaeir just made? I think that it would be helpful from a process perspective because we've talked about this before in smaller groups, and I think that it would be helpful for the whole Commission to weigh in on it, and that is -- and also as guidance to Skip -- in crafting language that captures differences of opinion, do we want a report that says 12 members said yes they support this idea and six said no? Because that's what I thought that I heard you say. Yes or no, up or down, or would we prefer to have some language that says the majority of members believe this. There was some strong disagreement. Here were the arguments. I think that we need to come to some sense of that to help.

>> VICE CHAIRMAN WENDORF: I prefer not to get into numbers because I think that -- I don't know what that really does. Where we have unanimous consent or agreement, I think that should be noted because it's very powerful. And I'm not sure whether we need to identify, you know, who or which constituency is taking a contrary view of something. You know, I am not sure if that's absolutely necessary. Some people may think it is. So that's my two cents.

Stephan? Your hand was up first? And then Linda.

>> STEPHAN HAMLIN-SMITH: I would like to support what you just said. I think that sometimes if there is a vote right up front it devalues the minority position. And sometimes even if it is a minority opinion that minority opinion is still a very informing opinion even if we might disagree with it. And I wouldn't like it to be ignored simply because it had a low number.

>> VICE CHAIRMAN WENDORF: Right. Right. Yep.

>> LINDA TESSLER: Besides our moral integrity sitting on this Board and signing off of this thing --

(Laughter)

-- because you sit on different Boards, And you have different legal responsibilities. I've never done this before. Can you address what I am trying to ask? You know, we'll sign off on our integrity. Are there other pieces I am not aware of? Am I making my point?

>> VICE CHAIRMAN WENDORF: I am not sure if I can answer, but I will try. I think it's integrity, but I think that we were invited to be on this Commission because we were seen as representatives either of certain constituencies or certain -- well, constituencies and issues that needed to be brought before the whole Commission. And I think that we owe it to ourselves and constituencies to make sure. We also were brought together not just for that reason but to function as a whole, as a full Commission, and not just as individuals represent fiefdoms, and the progress that we've made is looking how we can overcome differences, and agree, gain some consensus. Some might call it compromise, and other people would call it something else. But I think that there is a commitment and part of the integrity is to the Commission as a whole, and what we've been charged to do.

>> DAVID BERTHIAUME: Can I add one little addition. In Linda's case, Linda, you were appointed by the Secretary as a special government employee.

>> LINDA TESSLER: Yes, I was.

>> DAVID BERTHIAUME: So you have that unique appointment where we're looking to you to express your individual expertise, your perspective. So, yes, you do fit into a category of what the statute specified, but I think ultimately it will be up to you and your own judgment if you are comfortable to sign off. I hope that helps.

>> LINDA TESSLER: That works.

>> VICE CHAIRMAN WENDORF: Jim and then Glinda.

>> JIM FRUCHTERMAN: I think that I will reserve judgment on some of this. I think that consensus is optimal. But, you know, I think that we frequently come down to places where we

thought we had consensus, and then it kind of dissolved when we got to the next level again. And at some point, you know, the process has to actually lead somewhere. I know that Maria has tried to deal with this, and her report, and, you know, I certainly could live with how Maria's approached it in sort of articulating some of the different points of view. There is this minority that we don't really understand that doesn't agree with this. We don't really have their position represented on why they disagree. I don't think that really is successful. I think that we actually have to articulate this. And I think that that helps people sort of focus and say, all right, here are the areas that we care most about. We're going to make our points really clearly. And some of these other things, we're going to do some horse trading, and we're going to back off here, and we're going to agree on something that's a compromise. I hope that we've been compromising all the way along, but sometimes these Commissions Reach the end and everything is smooth and sometimes like everything gets re-examined at the last minute. And so we'll have to see how it all works.

>> VICE CHAIRMAN WENDORF: I think those are really helpful, you know, having been in some other consensus-building experiences, and learning from some others I know I worked with someone who has a 70% rule which is, well, if you have a belief, you know, about 70% belief in something, then you can say yes.

(Laughter)

Another way to look at it is we all have things we want. But what can we live with? And there are things that we absolutely do not want, and, therefore, what would we need to say absolutely not, this is not something that I can support. I mean, there's a lot of room for give and take in there.

Glinda?

>> GLINDA HILL: I think that's the point that I wanted to make, too. I don't think that anyone ever thought that this group would have consensus on all of these issues. And I think

that the important thing in the report is I would hope that all positions would be represented in the report, minority positions and majority positions, and represented as they were presented in the Commission discussion. And I think when we were in Jacksonville when Maria was talking about a report that you all had put together and the LOC, she talked about the importance of presenting to the Congress. And, remember, the LOC is the Congressional Branch of government. I want you to remember that. We have one person on this group who is from the Congressional Branch of government. And so when we put the report together, it's important to tell them, you know, what everybody had to say because believe me some of us on this group this is the only opportunity the agency people at Ed will have to do that.

And other groups, the advocacy groups, will all be able to go to the Hill and say whatever they want to say, too.

(Laughter)

But it's very important that all voices be heard, too.

>> VICE CHAIRMAN WENDORF: Duly noted.

Gaeir?

>> CHAIRWOMAN DIETRICH: I really like the way Jim did it in the tech task force where there was a kind of summation of this was the issue, and then there were the points of tension. So it was just really clear these are the areas where we don't agree, and it's not sort of that language of, well, there was disagreement of the Commission. I am not comfortable with that kind of language. I mean, yes, there is disagreement. There will always be disagreement. What I want to know is what were the disagreements?

>> GLINDA HILL: That's what I am saying. What were the disagreements? Define them, and say what are the key points in the disagreement?

>> VICE CHAIRMAN WENDORF: I am seeing nodding heads about that. Anyone disagree with what has just been put forward? Good. Other thoughts about the process? We're talking now about decision making process here.

>> GEORGE KERSCHER: So the minority people, I don't know when you do yes or no it's going to be important for people who have I think the minority position be able to review their statement in the document. Well, I think everybody has the right to review all pieces of the document.

But just as long as people are comfortable with their opinion as being presented I guess.

>> VICE CHAIRMAN WENDORF: Right. Now it's expressed and captured.

>> GEORGE KERSCHER: It's true for both, the minority and the majority. So that's a good point.

>> VICE CHAIRMAN WENDORF: And to a previous point, the issue about consensus, and I've said this privately to a few people, if our goal is simply to achieve consensus on everything, we may end up with kind of pablum, wishy-washy stuff because it represents the lowest common denominator. So I am hoping that as recommendations are re-drafted, perhaps pulled apart, perhaps consolidated, but that they are strong, they are clear, and so that if there is not agreement the differences are also very clear and the reasons why are clear. Those are my thoughts.

Other questions about the process? And the timeline? Tuck?

>> TUCK TINSLEY: The September meeting, is that still on at Dulles? What's the status?

>> VICE CHAIRMAN WENDORF: Dave?

>> DAVID BERTHIAUME: We're revisiting where that will take place. Maria made a very kind offer to host it at the Library of Congress, so that sounds like from a money standpoint something that might give us flexibility and allow more members to attend because we're running up against budget concerns. So please save the date, and we'll be back in touch as soon as we finalize those arrangements. We'll do that very quickly.

>> VICE CHAIRMAN WENDORF: Good. I am glad you asked the question.

>> TUCK TINSLEY: But the plan is for the full Commission to be here or not?

>> DAVID BERTHIAUME: You know, by phone or in person absolutely.

>> VICE CHAIRMAN WENDORF: So it's unclear yet whether the budget can extend to provide all travel for all?

>> DAVID BERTHIAUME: That's correct.

>> VICE CHAIRMAN WENDORF: So that has to be worked out. Okay. It was originally thought it would be task force chairs, and chairs? Okay. So to be determined on that one.

Okay. Other questions? I think, Skip, you went through a summary of sort of follow-up steps and who was doing what. I don't know if there is anything more to do there. Did we cover it?

>> CHAIRWOMAN DIETRICH: I don't know what I am doing.

>> VICE CHAIRMAN WENDORF: We'll have to retrieve that from the memory bank.

>> SKIP STAHL: That was all that I had. Although we have to figure out what Gaeir is doing now.

>> VICE CHAIRMAN WENDORF: Right.

(Laughter)

>> CHAIRWOMAN DIETRICH: I have no clue.

>> VICE CHAIRMAN WENDORF: The big to-do is what Gaeir agreed to do.

>> CHAIRWOMAN DIETRICH: That's always my big to-do.

>> VICE CHAIRMAN WENDORF: That's over dinner.

>> SKIP STAHL: One thing you could do if you would like since you raised the issue of the New York State references to the New York State statute, if you would write that section and send it off to me? That would be terrific.

>> CHAIRWOMAN DIETRICH: Maybe that's one when I am done with that, Bruce, would you like to work with with me on that on writing that section?

>> J. BRUCE HILDEBRAND: I could help with that.

>> CHAIRWOMAN DIETRICH: I figured you would

>> VICE CHAIRMAN WENDORF: We'll take a break and we'll hear from people making public comment at 4:00. But if there are closing comments from Commissioners? Now would be I think a

good time to do it.

>> CHAIRWOMAN DIETRICH: And one other thing before that, I am pretty sure that one of the things that I said I would work on was the captioning issue because we don't actually have that in a recommendation right now. And so I would appreciate it if there is anybody else on the Commission for whom this is also a hot topic who might want to work with me on the writing of that recommendation.

>> J. BRUCE HILDEBRAND: which one?

>> CHAIRWOMAN DIETRICH: Captioning. Am I the lone voice in the wilderness for captioning here? Bruce will help me. Thank you.

>> TUCK TINSLEY: Do we know the number signed up for testimony?

>> STEPHAN HAMLIN-SMITH: I can tell you that we are working on that right this very instant.

>> TUCK TINSLEY: Situation specific right now how many.

>> STEPHAN HAMLIN-SMITH: I think that currently we are booked back to back through 7:30 P.M., possibly 8:00.

>> VICE CHAIRMAN WENDORF: Good. Thank you. Yes, Stephan?

>> STEPHAN HAMLIN-SMITH: One thing I would like to say, I know that -- and for anyone in this room, Commission member or not, I know that many of you have travel out early tomorrow morning, but if you don't the formal opening of the AHEAD conference is tomorrow morning at 9:00 in the building next door of the convention center. Dr. Victor Paneda who is the head of the Paneda Foundation and a guru in all things disability and education on an international stage will be the opening keynote address. That and any part of the AHEAD conference that is going on tomorrow, any part of it that you are available or would like to go to please just wear your Commission name badge and -- or stop and pick up a guest badge from the registration desk. But we would welcome any of you for any part that would fit your schedules.

>> VICE CHAIRMAN WENDORF: Thank you, Stephan, and thank you

for gathering us here. I think that all of us feel that this was just a terrific place to be in connection, you know, with your conference. It's just worked out beautifully. Thank you for that.

>> CHAIRWOMAN DIETRICH: And, Glinda, I am going to ask if you would work with me on working on a section we're supposed to talk about kind of, oh, God, my brain, like the nexus between K-12 and college. That's one of the things. And there are a couple of things that we have not really discussed up to this point that I would like to work with you on making sure that they get included. I don't think that they'll be controversial, but for factual. But everybody will get to review it.

Okay. Are there any final thoughts or questions before we take our half-hour break? Just as a reminder, that we did ask all Commission members to please stay if you possibly can for this public testimony. We're giving Stephan special dispensation to leave early because it is his conference, and he has been through public testimony before, but hopefully everybody else can be here. Linda can't be? And Linda has been at public testimony before, too. So thank you, Linda.

Okay. So let us come back, please, promptly because having - - for those you who haven't sat through the public hearings before, it is very prompt and precise. I need new your seats and ready to listen at 4:00 P.M.

(Break)

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