

1 CHAIR JAMES: John, I'm going to ask if you would go
2 ahead and start with your overview of the Internet.

3 I'm going to ask in the back of the room that we sit
4 down, take your seats.

5 DR. SHOSKY: Thank you, Madam Chair. The Internet
6 chapter is another one of the second draft chapters that I spoke
7 of yesterday, which means is that what we have done is we did the
8 first draft, and incorporated the comments, as best as we could,
9 from the Commissioners as we received them.

10 That is not to indicate that we incorporated every
11 single thing so far, because some of the comments required
12 additional research, which we have undertaken, but we haven't
13 completed yet.

14 If I may, let me just go through a few issues that pop
15 up right at the beginning.

16 One of the things that we have been told from several
17 of the Commissioners is that the discussion needs to be beefed up
18 in one portion in particular, and that is the discussions between
19 prohibition versus regulation, and why prohibition, the arguments
20 with prohibition leads to the recommendation that was agreed upon
21 at the retreat.

22 And that is something that we try to do, but still
23 needs a bit of work.

24 The second thing is that as you probably know Senator
25 Kyl has introduced, again, the Internet Prohibition Act of 1999.
26 There has been a lot of staff work to try to delineate the
27 difference between this year's bill and last year's bill. There
28 has been a lot of discussion with the Hill, gathering information
29 that is coming in about the Kyl bill.

1 And there are some differences which are very
2 important, I think, for our purposes. One is the discussion
3 about pari-mutuel wagering, a second is a discussion of on-line
4 fantasy sports wagers. The third is what is called closed loop
5 subscriber based network, and then the fourth is just more
6 information about Internet service providers.

7 And we are gathering that information, and in fact we
8 have done quite a bit of work on it so far, and some of that
9 information has been sent to Commissioner Bible, and also other
10 Commissioners on the Internet Subcommittee.

11 And we are trying to add some further things into the
12 chapter. We need to discuss, at some point, what enforcement
13 mechanisms we are going to recommend, what branch of government
14 should monitor, what format the policy should take.

15 For example, in addition to the entire section of the
16 United States Code at Title 18, where just an additional language
17 to 10.84, which is a section of that code.

18 The types of data collected for future research on the
19 Internet, special treatment/discussion regarding international
20 issues, special problems about crime, there is a whole list of
21 those, actually, free speech problems, problems related to
22 pathological gambling, and problems related to access for
23 adolescents.

24 Those are all things that, after the second draft, we
25 think we still need to work on.

26 CHAIR JAMES: Do I hear any discussion? John, it may
27 be helpful if you would just go through the areas that you see
28 that you still need some feedback on. You listed several
29 questions there. Start with the first one, and see if you can
30 get some feedback.

1 DR. SHOSKY: Terrific, thank you Madam Chair, I would
2 be glad to do that.

3 If I could, by way of comparison, say something about
4 the document itself? You know, I wish that I could claim that I
5 have taken the lead on this, but as you know Valerie Rice has
6 done quite a bit of the work on this. And I have to say that she
7 has done a really good job.

8 We have been able to incorporate a lot of information
9 that is in the public domain, and we have also searched high and
10 low to get information from experts all over the world.

11 And what has happened is that as we have moved up the
12 cutting edge on this, there are all kinds of problems that are
13 springing up, and issues that people want to talk about, that
14 literally there is no literature on in some cases, and we are
15 breaking new ground with a lot of this stuff.

16 Let me give you a case in point. There is a lot of
17 discussion at the moment about Internet -- about how, the
18 mechanism about how Internet gambling takes place. But when one
19 starts talking about restrictions, V-chip type options, and
20 things like that, that whole thing generates technology questions
21 that we are trying to approach and figure out.

22 And that is counterbalanced against a prohibition
23 argument. And you remember from the discussion down at the
24 retreat, there are a lot of people who are arguing for
25 restrictions based on taxation issues; based on the hope that
26 there can be new technological advances, and things like that.

27 So all of that has got to be discussed, and then
28 weighed against the arguments about prohibition. And I think
29 that is the biggest single thing that we still have to do with

1 this chapter, is to explain in a cogent way why cognizant with
2 all the arguments on regulation, we still choose prohibition.

3 COMMISSIONER LEONE: Have we made any progress on the
4 implementation of prohibition? I thought one of the questions
5 was how would that work.

6 COMMISSIONER BIBLE: We are still working on
7 identifying enforcement mechanisms, there are a number of
8 enforcement mechanisms that are incorporated in the new version
9 of the Kyl Bill which has now been introduced.

10 We were looking at some additional suggestions which
11 the staff has developed, that is my intent to have, hopefully,
12 out to people by the meeting of the subcommittee in conjunction
13 with our meeting later this month and come up with a laundry list
14 of possibilities for enforcement.

15 I can think of a couple of areas that strike me fairly
16 readily, particularly enforcement mechanisms in the current
17 version of the Kyl Bill, they don't include what I think is
18 following the money, and perhaps taking a look at the
19 methodologies in which these type of transactions or
20 calculations, credit card transactions, or mail-in cash through
21 --

22 CHAIR JAMES: I'm going to, as I always do, Bill, ask
23 you to swallow that microphone.

24 COMMISSIONER BIBLE: There are a number of additional
25 mechanisms that we are looking at, and we will come back with
26 recommendations that will be fairly comprehensive. Quite
27 frankly, this might be better than the Kyl Bill, I think he has
28 left out some areas and possibilities.

29 CHAIR JAMES: Do you have a sense yet, Bill, of the
30 timeline on that, when that is going to be available?

1 COMMISSIONER BIBLE: We are going to have it done by
2 the next Commission meeting.

3 CHAIR JAMES: Or before?

4 COMMISSIONER BIBLE: We will try to get it
5 accommodated.

6 CHAIR JAMES: John?

7 DR. SHOSKY: Another area that we need to discuss is
8 what we would call the special problems about crime. If I could
9 go through some subdivisions on that; money laundering, the use
10 of Internet gambling for laundering money; unreliable gaming
11 integrity which, as you know, is something that has come up quite
12 a bit on this; unreliable retrieval of winnings, which is really
13 tough on those off-shore accounts, in particular I guess. And
14 then also skimming.

15 So there are criminal justice aspects to this, as
16 Commissioner Bible has said, it ties back into methodology, how
17 the transactions are accomplished.

18 CHAIR JAMES: And is your report, is your subcommittee
19 looking at those issues as well?

20 COMMISSIONER BIBLE: Well, some of the issues,
21 interestingly enough the one issue that he has identified in
22 terms of money laundering activity, the federal government
23 activity that supervises the enforcement of Title 31 applies to
24 these type of transactions, it surprises me, and the record
25 should reflect that in fairly short notice we asked them to make
26 a presentation to one of our subcommittee, and they arranged
27 their schedules to do it.

28 CHAIR JAMES: Well, my suggestion is this in terms of
29 how we handle that, since we have a subcommittee. And who are
30 your subcommittee members on that?

1 COMMISSIONER BIBLE: Dr. Moore and Leo McCarthy.

2 CHAIR JAMES: That you all continue your work on that.
3 There seems to be some amount of consensus on where we want to go
4 on that particular subject. Unless there is something someone
5 wants to say for the record?

6 COMMISSIONER WILHELM: I would just ask the Internet
7 subcommittee to take a look at the text in the draft of the
8 Internet section related to pari- mutuel betting. I agree with
9 the Chair, because I think there's a lot of consensus on the
10 Internet subject.

11 It is not apparent to me that the account wagering
12 issue is appropriately dealt with under the Internet heading.

13 COMMISSIONER BIBLE: I don't think that is an area
14 where account wagering logically falls.

15 COMMISSIONER WILHELM: I don't either, and I'm not
16 reaching in this comment the question of what our position might
17 or might not be with respect to account wagering. I think it
18 belongs to the pari- mutuel area, but I would ask the
19 subcommittee to take a look at that issue, I mean the issue of
20 where it belongs.

21 CHAIR JAMES: Structure, sure.

22 DR. SHOSKY: This is precisely the comment I was
23 hearing yesterday on pari-mutuel, but cross- referencing is okay
24 in this report, but this was literally a case where some of these
25 issues on pari- mutuel have been dealt with here, and we just
26 simply need to figure out where it was going to go.

27 COMMISSIONER WILHELM: Well, account wagering, as it is
28 practiced, and conceptually doesn't really have anything to do
29 with the Internet, it is truly, you can have an Internet version
30 of account wagering, I just deal with account wagering straight

1 on, not as a subset of Internet. And I think it belongs with the
2 pari-mutuel discussion.

3 COMMISSIONER BIBLE: We all agree with you, John.

4 DR. SHOSKY: May I also mention one other thing, just
5 as a footnote to this discussion, and that is that the material
6 that came from Commissioner Wilhelm, which all of you have, on
7 first amendment issues, we can talk about in advertising, but it
8 would have some relevance here.

9 COMMISSIONER WILHELM: The material that came from me
10 had nothing to do with advertising, it had to do with the
11 Internet, but whatever.

12 DR. SHOSKY: I just treated it as a first amendment
13 issue.

14 COMMISSIONER BIBLE: A lot of people try and wrap the
15 Internet argument into the first amendment, and I agree with you,
16 I don't believe it is a first amendment -- we are not talking
17 about freedom of speech here, we are talking about transactional
18 issues.

19 COMMISSIONER WILHELM: Precisely. The framing of the
20 material that you are referring to is that the conduct of
21 gambling is not a first amendment issue, that is unrelated to
22 advertising about gambling, which probably is a first amendment
23 issue according to the apparent direction of the federal courts.

24 But the conduct of gambling has absolutely nothing to
25 do with advertising, it has nothing to do with the first
26 amendment, in my view. So I don't know why it would be in
27 advertising, it doesn't make any sense to me.

28 COMMISSIONER BIBLE: No, and I agree, at least the
29 proponents of Internet wagering try and hold that particular
30 issue as a violation of their first amendment rights.

1 CHAIR JAMES: That was the context in which you came
2 up, and which sparked your very good piece on that subject.

3 COMMISSIONER WILHELM: As long as you raise that point,
4 John, I found the legal discourse in the Internet draft to be
5 somewhat confusing.

6 COMMISSIONER LEONE: In general, without distorting the
7 record, if we could summarize this data, and maybe characterize
8 the current argument rather than cite cases and sequences, I
9 think we would be doing more of a service with the report, we
10 don't want to distort where things stand by doing that.

11 I mean, this is report for general consumption, and if
12 it were a magazine article about the law, a Law Review article
13 about the law, general circulation type of article, some of this
14 is hard going, I think.

15 COMMISSIONER BIBLE: I would concur in your comments,
16 Valerie has done a tremendously good job in producing this
17 particular document.

18 CHAIR JAMES: Great, appreciate that. Any other
19 comments before we move on? I'm going to suggest we -- if you
20 look at the schedule I'm trying to buy back a little time from
21 this morning, so we can dispense with the break, and move right
22 into advertising.