

1 CHAIRPERSON JAMES: I think the regulation, enforcement
2 and Internet subcommittee report is up next.

3 COMMISSIONER BIBLE: Well, as I reported at the
4 Virginia Beach meeting, we've essentially formulated the
5 recommendation we intend to make from a policy standpoint to the
6 full Commission in terms of the Internet. We're going to
7 recommend that that activity be prohibited.

8 We had a further meeting earlier this week to start
9 fleshing out that recommendation in terms of enforceability and
10 applicability.

11 CHAIRPERSON JAMES: Will you all be ready for us to
12 discuss that issue at the April meeting --

13 COMMISSIONER BIBLE: Yes.

14 CHAIRPERSON JAMES: -- so that we can bring that --

15 COMMISSIONER BIBLE: Yes, and I believe -- at least I
16 think that it was submitted to the report committee as a
17 potential chapter.

18 CHAIRPERSON JAMES: Right.

19 COMMISSIONER BIBLE: And apparently has been
20 circulated. I was unaware that that process had taken place, but
21 I did have a phone call at least from one of the report committee
22 members asking me a question about it, and I assume it has been
23 submitted to the report committee.

24 CHAIRPERSON JAMES: Un-huh. Any issues that you all
25 are struggling with that you want to lay before the full
26 Commission for discussion or debate?

27 COMMISSIONER BIBLE: At this point the major issue is
28 just the difficulty of enforcing that kind of a policy
29 recommendation. It's going to be a very difficult area.

1 CHAIRPERSON JAMES: How are you going to resolve that?

2 COMMISSIONER BIBLE: Well, there's a number of
3 different mechanisms. A lot of the mechanisms were discussed in
4 the Kyl legislation, and I think we're going to look at it in
5 terms of some different types of mechanisms, and essentially it
6 would be an outgrowth of my past practice just to follow the
7 money, take a look at the transactions, take a look at the credit
8 card transactions that purveyors of financial assets to the
9 Internet providers, and there's a number of avenues of
10 enforcement that I think can enhance that. It's not going to be
11 foolproof. We have to recognize that.

12 CHAIRPERSON JAMES: Thank you.

13 Any questions or comments?

14 (No response.)

15 CHAIRPERSON JAMES: John, one point of clarity that
16 maybe you can bring because I had a Commissioner ask what happens
17 to their comments when they come into you because the feeling is
18 they come in and drop into a big dark hole and are never seen
19 again, and they're not sure that their comments and edits -- or
20 what's happening with them? Could you give us an update on that?

21 MR. SHOSKY: I'd be delighted to, and in fact, let me
22 walk you through a process that we have by way of answering that.

23 When the comments come to the Commission, they're
24 immediately -- no one stops anywhere else -- they immediately
25 come to a box that's right in front of my office entitled
26 "Comments" because we don't want to lose anything, and they're
27 immediately entered on a tracking sheet.

28 CHAIRPERSON JAMES: Tell me the box isn't black.

29 MR. SHOSKY: Nope.

1 CHAIRPERSON JAMES: Big back box in the --

2 MR. SHOSKY: It's just huge.

3 PARTICIPANT: Is it round?

4 MR. SHOSKY: It is not.

5 (Laughter.)

6 MR. SHOSKY: But I think you may be tempted to put some
7 of my chapters there on occasion.

8 But what happens is it comes to this location, and it's
9 catalogued. There's a tracking sheet that we put on it, and then
10 after it's entered into the tracking mechanism that we've got,
11 what we do is we make a list of all of the things that we have to
12 go out and research, which means that we go through the comments,
13 and the first thing that we ask is what additional material do we
14 need that we don't have.

15 And so we gather that material before we do anything
16 else, and then once we have that material, it enters a second
17 phase which is that I sit down with just that particular set of
18 comments, and I enter it into the draft and try and address or
19 accommodate every single thing that I can.

20 And as you have explained already, Madame Chair, in the
21 past, we use a redlining method. So when the draft goes back
22 out, people will be able to see what words have been changed
23 because those words will still be there. It's just that they
24 would have perhaps a strike through them, additions that have
25 been suggested by people, deletions that have been suggested by
26 people.

27 In point of fact, by the time I go through everybody's
28 comments on a chapter, what we've got is we've got this big --

1 it's not sprawling per se, but it's a large document that
2 catalogues everything everybody wants.

3 And accompanying that when it comes back to the
4 individual members of the report subcommittee on a second draft
5 would be a clean copy that just would show how the narrative
6 would read without all of that stuff, too. So they can sit down
7 and read it and see how it would look at that point.

8 CHAIRPERSON JAMES: What do you do when there is a
9 substantive clash of ideas?

10 MR. SHOSKY: Fortunately that hasn't happened yet, but
11 when it does happen, I plan to memorialize that in a memo, send
12 it to you, because at that point that's something that it's my
13 understanding should be resolved on a higher level than my word
14 processor.

15 CHAIRPERSON JAMES: Right, and I want as many of those
16 as we can possibly get to by April 7th so that we can have that
17 as a part of our agenda when we get together, as many of those as
18 we can identify and as early on. I just didn't want
19 Commissioners to think that their comments came in and were never
20 seen or heard from ever again.

21 And I thank those Commissioners who do take the time on
22 the report subcommittee to do that. You've all been very good
23 about getting those comments back in, and those chapters will be
24 circulated to the full Commission as soon as the subcommittee
25 feels that they've done their work.

26 COMMISSIONER BIBLE: I would assume they'd be
27 circulated prior to the April 7 --

28 CHAIRPERSON JAMES: As many of them as are done by then
29 will be.

1 COMMISSIONER BIBLE: If you're inviting every
2 Commissioner to comment, it would seem appropriate --

3 CHAIRPERSON JAMES: Absolutely.

4 COMMISSIONER BIBLE: -- to at least have a work product
5 in front of you.

6 CHAIRPERSON JAMES: Sure.

7 COMMISSIONER DOBSON: If strong recommendations for
8 change are made to you and for some reason, whether it's
9 contradictory advice coming from other Commissioners or what have
10 you, if there's some reason why you don't deal with those or
11 don't agree with them, are we notified? Do you get back to
12 anybody with your logic or does it just come as a surprise in the
13 end --

14 CHAIRPERSON JAMES: No.

15 COMMISSIONER DOBSON: -- that those things have not
16 been considered?

17 MR. SHOSKY: I can absolutely assure you my
18 instructions are the following. Number one is to accommodate as
19 much as possible.

20 Number two, if there is a substantive conflict of any
21 kind, to put that in a memo and to immediately alert the Chair.

22 And, number three, you have my personal guarantee of
23 integrity on this that I would never do anything like that
24 because I want you to be satisfied with the report.

25 My job's on the line, and I want to make sure you're
26 happy with that.

27 COMMISSIONER DOBSON: So you're communicating with
28 various Commissioners as they --

1 MR. SHOSKY: When the need arises. So far fortunately
2 that hasn't happened. For example, in a set of comments that we
3 received recently, I believe, via your office, the comments were
4 very clear and accompanying material was there, and it was very
5 easy to understand everything that was needed, and as we get the
6 rest of the comments on these chapters, I'll integrate everything
7 in, and if there is a substantive problem, which there isn't so
8 far, but if there is, then I would alert the Chair.

9 COMMISSIONER DOBSON: Okay. Thank you.