CHAIRPERSON JAMES: I’m going to ask you to please take your seats and let’s get started. Quiet in the back of the room. We have with us now Mr. Hal Shoup, Executive Vice President of the American Association of Advertising Agencies, and Mr. Steve Bookshester.

MR. BOOKSHESTER: Yes, ma’am.

CHAIRPERSON JAMES: Associate General Counsel of the National Association of Broadcasters.

Welcome, both of you gentlemen, and thank you for being with us. Please remember you’ve been allotted about ten minutes’ time to sort of summarize your recommendations, and then after that we will engage in some discussion.

I would remind the audience if this is your first Commission meeting, this is not how we generally operate. We tend to be much more formal than this, but we are in a very informal setting, hoping to encourage discussion, hoping to encourage debate, and so I would remind Commissioners that they should feel free to jump right in whenever they feel the need to do that.

I would ask that you allow the gentlemen to get through their presentations first, however.

Before we start, I have had a request from Commissioner Loescher to say a few things, and with that, Commissioner Loescher.

COMMISSIONER LOESCHER: Yes, Madame Chair. Thank you very much.

Just for a brief moment, I’d like to say that this morning the United States Senate committee passed S. 544, which is the bill, the Senator Enzi bill, sponsored by a number of
Senators, which deals with an issue that this Commission had addressed by a vote to forestall the Secretary of Interior to promulgate regulations that approve anymore compacts with tribes and states.

And, anyway, I think it’s a significant action this morning by the Congress, and in the first sentence of the bill, to sort of emphasize the importance of this Commission, the language says that "notwithstanding any other provision of law, prior to eight months after Congress receives the report of the National Gambling Impact Study Commission, the Secretary of Interior shall not promulgate regulations," whatnot.

So people are watching what this Commission does, and the influence of this Commission is felt nationally even before our report is coming due, and I wanted to just acknowledge that this event had occurred in the Congress today.

And also I’d like to acknowledge our chairman of our Indian subcommittee. Dr. Moore and Mr. Wilhelm and I have been struggling very hard on this issue, and we hope to come forth with recommendations addressing this matter for the full Commission to review, but it just emphasizes and highlights the importance of this Commission that the Congress of the United States would await our report on this matter.

CHAIRPERSON JAMES: Thank you, and that is a heavy burden to carry, and I think all of the Commissioners recognize their responsibility.

With that, gentlemen, please proceed.

MR. SHOUP: Thank you.
I’ll start. I’m Hal Shoup. I am Executive Vice President of the American Association of Advertising Agencies, generally referred to as the Four As for short.

We obviously have a profound and abiding interest in the advertising not just of gaming activities and lotteries, but also all legal products and services.

Our association has 550 advertising agencies across the country that are members. In the aggregate, they do about 75 percent of all national advertising. They do a large share of the regional and local advertising that is done, and significantly from your standpoint, 35 of the 38 entities that have state lotteries are represented by members of the American Association of Advertising Agencies, and several times that number are involved in the advertising of casinos and related activities.

Advertising agencies and their clients have a long and abiding interest in truthful advertising, non-deceptive advertising. First of all, advertising that lies and deceives is fundamentally morally wrong. It’s counterproductive to the needs of the advertiser, to the advertising agency certainly, and to the general public.

Significantly, it is against the law at the federal level. The Federal Trade Commission has its laws and regulations that demand that advertising be truthful and non-deceptive, and they deal primarily with the national law.

At the state level, the AGs, under a number of what have become little AG acts, have similar responsibility for enforcement of advertising law at the state level.
The final point that I think that you have to consider when you’re talking about advertising that lies and deceives is the fact that it does not qualify for protection by the First Amendment of the Constitution, but the truthful, non-deceptive advertising about any legal product, and that would include so-called vice products, does have protection by the First Amendment.

I’m not going to dwell on this subject because Steve is going to touch on this later, except to mention the fact that our association and seven other industry and trade groups has presented to the Commission for your review a paper on the subject of gambling advertising and First Amendment protection.

What I would like to do is to discuss some possibilities for you in terms of the area of advertising and what might be done to solve any of this problem that can in any way be attributed to the advertising of lotteries or of gaming activities.

Certainly the first of those would be for us, the advertising industry, the advertisers, the agencies, the media, to continue to support and cooperate with the Federal Trade Commission as far as national advertising regulation is concerned and with the state AGs in terms of state level advertising.

Secondly, we think there can be a very positive effect on the advertising in the gaming industry by the establishment of voluntary codes or best practices, I guess, if we could use the word from the earlier discussion.

The American Gaming Association is well along the way in terms of developing a rather detailed advertising code that has, I understand, been approved by their membership, and they
search now only for the most appropriate way to impose this code and to monitor and follow up on adherence to the code.

   It’s a little much tougher job when you’re talking about codes for 38 different governments that are monitoring or involved in the lottery business. That’s much more difficult. However, we feel that it is possible to develop certain principles that could serve as helpful guidelines to the states in the execution of their lottery advertising.

   We have been involved in self-regulation since 1971 when the advertising industry imposed upon itself a rather detailed system of self-regulation. It was formed by the initiatives taken by our association, the Association of National Advertisers, and the American Advertising Federation. It became an entity of the Better Business Bureau, and since 1971 has actually resolved over 3,500 cases.

   We mention that only because when it comes to self-regulation of advertising, the industry does have a lot of experience and has a very good track record in this particular area.

   We certainly think that it’s appropriate to conduct additional research on the causes of problem gambling. We think we could perhaps be of help in that particular area.

   And finally, we think that educational programs about compulsive gambling and problem gambling could assist to a large extent in this particular area. Again, these are the kind of campaigns that can be developed to run in an attempt to solve a particular societal problem. It could include mass media, but it can include a great deal more.
We have been involved in many of these campaigns over the years. Probably the most prominent is the campaign that we cooperate with and actually create on behalf of the Office of National Drug Policy Control. We were the organization, aided and abetted by others in our industry, that started the Partnership for a Drug Free America.

So we are not unfamiliar with societal problems and the role advertising can play in their solution.

It seems to me those kinds of recommendations, the ones that I’ve just made, are the kinds of things that the Commission may want to consider, should consider, and perhaps include some of those in the eventual report that they make to the Congress.