CHAIRPERSON JAMES:

I'm going to ask if Doug Seay would come back and just walk us through, perhaps very briefly, his introduction to the issue of, that he prepared and sent out on Native American gaming, that you will find in your briefing books under Tab 11. And with that very brief introduction, then I would, I'm going to call to the table those panelists for our afternoon panel.

Thank you, Doug.

MR. SEAY: Okay. This will be very brief indeed, hopefully I'll keep it to five minutes.
The Indian gaming, Native American gaming, Tribal gaming, however you wish to describe it, a fascinating issue.

It has a real undeserved obscurity. It was obscure in my mind at least, certainly not for those in the industry, or even in competing industries like the casino industry. But the general public I think is not very much aware of this particular issue.

It is a large as you are well aware and rapidly growing industry. I've been asked to give an overview. And this issue is obviously going to be addressed at greater length later in the year at other sites.

And to begin our framework, it is very difficult to do for a number of reasons. As you will see today in this particular panel that we have put together there are widely, widely, widely ranging views on this issue, on virtually every aspect of this issue. But it is not a Tower of Babel, it is people who have
real interests that clash at 180 degrees opposed to one another.

The thing that strikes me most about this issue is how complex it is. I've tackled, as I'm sure we all have, a number of complex issues in my life, and this is one of the most complex that I've ever dealt with. The thing that I would like to impress upon you, if I may, if I can give a survey of the survey is that you cannot understand any part of this without understanding the whole. It all fits together, it all ties together at some point, and no part can really be separated out and looked at in isolation. And that whole is very extensive. Looking at the industry itself as a subject, as I said before, it is large and rapidly growing.

One of the problems is that the data is very bad. There are different reporting requirements for Indian gaming and it's difficult to talk about the subject in any concrete sense, or even to compare it intelligently to other gambling activities, simply for
the lack of empirical data. About the only thing that exists is a recent study by the General Accounting Office, GAO, which I think uses 1995 figures.

It is interesting, when it came out, all the best estimates were off by very large percentage points. Those who tracked the industry on the outside, and trying to glean from the limited amount of information that's available, the actual scale and extent of the industry were way off and they had to correct their estimations. But I don't think that that information deficit has been corrected. There's still no good reporting requirement put into the legislation, for that matter. Somebody would have something concrete to talk about instead of just guesses.

The other major thing that I want to impress upon on you is that almost every issue again, is a constitutional issue. This is the intersection of states, federal and tribal law. And like all good debates each side has a very well developed, very powerful and quite substantive argument in my
estimation. The lawyers are making out very good in this because almost every issue is being decided by the federal courts. All the major structural elements of this industry are driven by the federal courts, not by the political process necessarily, nor is it simply as a development of a business.

It is, if I may use the phrase, it is on the cutting edge of federalism. I happen to be one of the very few people in this country, I think, really too few, I know that Chairman James and Commissioner McCarthy have an interest in federalism, but some of these issues are 200 years old. And are only now really coming to the fore where people are having to grapple with them. And as a result you're having broad issues of constitutional law being decided.

I think for anyone interested in politics, this is a fascinating issue. If you're really interested in politics, study the Middle East or study Indian gaming, that would be my advice. And politics, in many ways, between the executive branch, and the
legislative branch in any state. I know in Massachusetts the Attorney General Scott Harshbarger who was here today has threatened to sue the Governor in court, to bring suits against the Governor over a proposed Indian gaming facility in Fall River, which has not yet come to pass. But it's just an interesting type of interaction between the executive branch, and the legislative branch, between various areas of the state, those that have gaming and those that don't. Between tribes and the rest of the state, and even inter tribal rivalries themselves all in the political context is quite interesting.

The cultural aspect of it, the relationship of Native Americans to larger American society, especially the whole idea of assimilation or non-assimilation. The impact of bringing gambling interests into traditional societies and the impact of sudden wealth on peoples who have been historically economically deprived. The relationship of reservations, communities on reservations, which are a
very special case in American public life, to the
surrounding communities which is too seldom a good one.

The personal stories you hear, the fact
that there are such large sums of money involved and
which can dramatically transform very small and
impoverished tribes into very wealthy ones which is not
the normal case, because most tribes if they gamble at
all it's a small increment to their income. But
nevertheless the potential there is having enormous
impact at least in the debates in some of these tribes
and certainly in the states in which they reside.

And just to leave you with the point that
it crosses all boundaries. I'll just give you one
example. The recent coming online of an Internet site
on gambling tests so many different areas. The State
Attorneys General very quickly filed suit for an
injunction, the federal court said they couldn't stop
it. And this brings in advertising: can you
advertise, can you prevent advertising, can you
regulate the Internet? Do Native Americans living on
reservations have rights that Americans living off of reservations do not? Vast, vast sums of money are involved as well, so it's not exactly an academic exercise.

My point being that it is a tremendously complex issue, and I think that everyone who testifies or who appears for the Commission should be heard in that context. That every perspective needs to be listened to simply to get an understanding of what is going on, much less to determine who is right and who is wrong or what if anything can be done about it. That is my survey of the survey; simply to say this is something that is going to take a long time even to get a handle on as the Commission, but I think every perspective is certainly worth hearing.

CHAIRPERSON JAMES: Thank you. Any questions for Doug before we bring out our panelists, just as, as of a general nature or questions about this issue?
Again Doug, thank you very much for that briefing material and for the excellent work of the staff.