CHAIRMAN JAMES: We're now ready to begin our staff briefing on Internet gambling. This issue, in addition to being highly controversial, and subject to growing media coverage represents a field that is really developing at an incredible rate. Allison Flatt, a member of the Commission staff, who has researched this issue and has prepared a report that was included in our briefing, and Allison will now summarize that research for us and show us a very short video presentation. Thank you, Allison.

MS. FLATT: Thank you. Good afternoon. I'm going to give you a quick overview of the Internet and Internet gambling so you'll have some context for the policy issues that are going to be discussed by our expert panelists. They will be discussing what is really at the heart of the controversy surrounding this issue and that is, whether the United States should regulate or prohibit Internet gambling and how such policies can be enforced.

Before they get started, though, I thought it would be helpful to back up a bit and have a little crash course on the Internet for those of you who don't use it. Of course, the Internet is called the World Wide Web, but I, with diligent research, was able to find the one place it still isn't available, and that's this room. I had planned a live demonstration of Internet gambling but I recently learned that it's not technically feasible. So instead we have a video tape. I hope this will at least give you an idea of what it looks like and what kinds of games are available on the Internet. This tape was made using Web TV which is a technology that allows people to
access the Internet with TVs instead of a computer. The content is exactly same but it might look a little bit different than your computer screen at home.

There's also some jazzy music at certain points which is a feature available on Web TV and on some personal computers. It's not something we dubbed in. Also the projection is a little bit blurry. We haven't been able to correct that.

MS. FLATT: This is not a gambling website. This is the industry publication, and the editor of that is one of our panelists. It's called Rolling Good Time On Line and it provides links to other gambling sites and information for Internet gaming operators.

This is a list of other links to other gambling sites. So you'll start seeing some lists here of different gambling sites you can click into.

This is a gambling website. This is another list of links. It will give you an idea of how many there are out there.

MS. KENNEDY: So you just click on those?

MS. FLATT: Right. Notice here, it shows some of the locations, Cook Island, Antigua, Vegas, Australia. These are also links, just a different graphic of sites you can click into to gamble.

MS. KENNEDY: Those are virtual casinos?

MS. FLATT: Yes.

COMMISSIONER LEONE: Where it says Nevada Casino, is that the brand name?

MS. FLATT: I don't know if that means it's in Nevada or not. It could be.
This shows the part where someone would log in. I guess they would have previously set up an account and establish an account name and then have a password. I didn't do this. I want to make that clear.

So he's going to go here and start clicking on these different games. So there's several games offered on this one site.

Those are just a couple more gambling sites, different ones.

MS. FLATT: I'm presuming that you have varying levels of familiarity with this technology. So I'm going to start with the basic description of how it is used for gambling. Bear with me if this is a little too rudimentary for some of you.

The Internet is a complex web of computer networks. It's frequently analogized to a complicated highway system, linking personal computers to each other for a small fee charged by an Internet service provider such as America Online. Our panelists may refer to these kinds of companies as ISPs. The cost of a local telephone call, a user can use the Internet to communicate with people and companies all over the world.

Anything that can be converted into digital form can be made available on the Internet. As you can see from the video tape, this includes text, pictures, advertisements, information, music, games of course, as well as data bases and voices, really just about anything. The breadth of what is available on the Internet surpasses any data source we have ever seen. It ranges from scholarly resources and news and entertainment to phone directories and maps and information on any conceivable recreational interest or activity.
It is also a tool for commercial transactions and for communication between individuals which of course can facilitate any number of illegal activities, ranging from consumer fraud to the exchange of child pornography. There is no global gatekeeper or licensor for what information or activity can take place on the Internet and therefore, law enforcement officials, in different jurisdictions all over the world, have thus far attempted to apply a patchwork of laws that were usually drafted for other mediums like telephones, for instance, to control what takes place there.

Using the Internet, as you can see, is extremely easy. One doesn't need to understand the technology to jump right in and use it. I'm not going to even attempt to explain what actually happens in cyberspace when an individual navigates their way through the web. Instead I will just give you an idea of how easy it is for an Internet user to go about finding what she wants, be it gambling or anything else.

Often a user finds a particular destination on the website, like what you just saw in the video, through the use of a search engine which is itself a website, that indexes available information by key words. For example, a user could type in the words gambling or casino in the search engine and it would deliver a list of websites along with a brief description of their contents. These websites could be operated from anywhere, Antigua, Australia, anywhere. But a user in the United States need only click her mouse on the name of the website in order to access it, and the whole process would take under a minute.

The history of Internet gambling is short. It has only existed for about three years. The gambling websites
started to appear in the summer of 1995. At that time very few
provided gambling with real money, instead they simply attempted
to simulate games without actual wagering. Internet technology
could not make them as fast as real casino games, however, and
they didn't seem to have widespread appeal.

In the following few years remarkable advancements in
Internet technology have made the games faster and more
entertaining. At the same time consumer confidence in Internet
commerce has begun to increase. As a result, the gambling
companies have flourished. And there is in this short time an
Internet gambling industry offering nearly every type of gambling
with real wagering.

Internet gambling companies are relatively small
operations. Most of them are in the Caribbean but they also
exist in Central America, South America, Australia, Europe, South
Africa and the United States. As of last week there were 90
online casinos, 39 lotteries, 8 bingo games, 53 sports bookies
and additional horse and dog related sites.

The reason I qualify this by saying "as of last week"
is that the web is constantly in flux. A website can literally
exist one day at a particular location, be gone the next day and
pop up again at a different location somewhere else. It is
constantly growing and changing which is one reason law
enforcement officials have such a tough time trying to control
it.

Estimates of the amount of revenue generated by the
industry are uncertain at best. No one but the operators
themselves knows for sure how much they really make and they
aren't telling. Predictions for future growth range from $1.5 billion to $10 billion or more by the year 2000.

Another reason these predictions vary so much is because the legal status of the activity in the United States and in other countries has been somewhat ambiguous, and growth is hard to estimate under these circumstances. However, the gray areas of the legal status of Internet Gambling in this country may be resolved soon. Pending legislation to ban it is working its way through Congress, and it is spurring a spirited debate for what the best government response should be given that this is a global technology presenting unique jurisdictional and enforcement issues.

The jurisdictional issues associated with the Internet are quite complex. I want to emphasize that it is the Internet generally, not just Internet Gambling. In short, the ability of the Internet to facilitate quick and easy interactions across any and all geographic boundaries makes it difficult to apply traditional notions of state and federal jurisdictions.

The best way to illustrate this is by example. As you all know, gambling regulation has always been a state rather than a federal function in this country. The Missouri Attorney General considers Internet Gambling illegal. But if a Missouri resident bets on a gambling website operated from Antigua, has the transaction taken place in Missouri where it is considered illegal or in Antigua where it is considered legal? In other words, has the Antigua gambling operator, by taking a bet from a Missouri resident had sufficient contact with the state to be subjected to its jurisdiction?
And what if it doesn't take a bet but simply maintains a website that could be accessed by a Missouri resident? Is that enough? The answers to these questions would vary depending on whom you ask. And it turns on how one characterizes what happens on the Internet. Some argue that the Missouri bettor travels to Antigua when she places a bet and that the transactions take place there. Others argue that the financial transaction takes place in Missouri, thereby subjecting the operator to state jurisdiction.

Now, this issue is further complicated by the fact that the users navigate the web anonymously. It is hard to tell where the players are coming from, so even if the operators want to comply with state laws, it's hard for them to know where these people are coming from and screen them out.

Since the briefing materials were mailed to you there has been a significant development in this area. Back in 1995 Minnesota Attorney General Hubert Humphrey commenced a civil action against an Internet gambling operator located in Nevada, alleging that he violated false advertising laws because the website claimed that Internet gambling was legal. The website operator who operated the company called Granite Gate Resort moved to dismiss the case stating that he has never taken a bet from anyone and that he cannot be sued in Minnesota for a website he operates in Nevada.

Last week the Minnesota Supreme Court affirmed an earlier ruling that the state does indeed have jurisdiction over this Nevada defendant. The defendant in this case suggested that he may appeal this ruling to the United States Supreme Court.
Enforcement of state laws over an out-of-state gambling operator may be feasible and the ramifications of the Granite Gate decision will be significant. But state officials are faced with difficult enforcement issues when the operators are off shore, and most of them are. The obstacles to hailing a foreign defendant into a state court will be discussed at length by our panelists. Let me just say, however, that it is very difficult to do, often impossible.

Although State Attorneys General have had some success with consumer protection actions against Internet Gambling operators in the United States, the global reach of the Internet and its easy accessibility has led them to take the unusual stance of requesting federal intervention. They cite concerns about fraud and participation of minors and contend that it is just too difficult to try to impose the varying state standards and regulations on a medium that crosses all boundaries.

So, the current debate in this country is now focused on what federal response should be taken. The Internet gambling industry is in the unusual position of lobbying for regulation. They believe that regulation in the United States will add to their credibility, protect consumers and spur further growth. As you may be aware, there are bills pending in Congress that would prohibit Internet gambling in this country.

The Internet Gambling Prohibition Act also known as the Kyl bill after its sponsor, John Kyl of Arizona would amend a statute designed to target bookies to better encompass Internet gambling activities. It would be enforced through fines, imprisonment and mandated closings of gambling sites.
The last word I had from Senator Kyl's office was that the bill had gone through Committee and then it could go to the floor for a vote at anytime.

A recent and important development in the debate over prohibition versus regulation is that the state of Queensland in Australia has passed legislation to regulate this activity based on a national model that was created for cooperation between Australia and states. This will likely lead the way for other Australian states to do the same.

We have a representative from the Victoria Casino and Gaming Authority in Australia here, and he can tell you more about the model and why Queensland decided to regulate. The implications of this, however, are that the industry is likely to grow in Australia, and those websites will continue to be available to consumers in the United States.

In conclusion, I want to point out that the panel today will be focusing on the broad policy issues that are at the core of this controversy. But both the pari-mutuel wagering industry and the Indian gaming community have an interest in the pending legislation, and how the policy decisions made about Internet gambling their utilization of new technology. Those issues are likely to surface at subsequent meetings.

Finally, I would like to point out that this is a unique topic for this Commission, in that it is being followed by individuals and private interest groups that have absolutely nothing to do with gambling. I'm referring to legal and constitutional scholars who see this as a free speech and privacy issue and to Internet related industries who don't have anything to do with gambling. Gambling is one of the first issues to
clearly illustrate how the law has not yet caught up with the Internet. Whatever happens with the government response to Internet gambling in the near future could set precedent for Internet policy generally.

CHAIRMAN JAMES: Thank you very much. Any questions for Miss Flatt before we go onto our panel?

COMMISSIONER LEONE: Are there other bills that would regulate the Internet gambling that we should know about?

MS. FLATT: There's a House bill sponsored by Congressman Goodlatte that is somewhat less restrictive. I wouldn't characterize it as regulation but it makes fewer modifications to the Wire Act which is the same statute that the Kyl bill is targeted at. It allows a lesser degree of restriction.

MR. TERWILLIGER: I just would note in response to your question, Commissioner Leone, that for the benefit of the completeness of the record I think this is a great job and a great survey. To the extent that any of these operations involve fraud, such as a rigging of the odds and that sort of stuff, it would be covered by existing federal wire fraud statutes.

COMMISSIONER LEONE: Even if they originate out of the country?

MR. TERWILLIGER: They would, because wire fraud covers any operation in domestic or international commerce where the commerce touches the United States.

COMMISSIONER LEONE: But I take it that means misrepresenting the odds.

MR. TERWILLIGER: Right, or perhaps failure to pay off a win or something of that sort.
COMMISSIONER LEONE: This is a very helpful survey, particularly for those of us who don't know much about the Internet.

It looks like, from the video, that you would play this by using a credit card or else establish a special account.

MS. FLATT: Right.

COMMISSIONER LEONE: That presumably means there would be possibly some accessed information through the credit card companies.

MS. FLATT: That's right.

COMMISSIONER LEONE: Volume at least or activity that's going on.

CHAIRMAN JAMES: With that, I want to thank you. It was an excellent report, very helpful to us to frame the rest of our discussion.