PRESIDING OFFICIAL COPY

OFFICIAL TRANSCRIPT PROCEEDING

FEDERAL TRADE COMMISSION

MATTER NO. P064201

TITLE ENERGY LABELING

PLACE FEDERAL TRADE COMMISSION
601 NEW JERSEY AVENUE
WASHINGTON, D.C.

DATE MAY 3, 2006

PAGES 1 THROUGH 240

PUBLIC WORKSHOP

FOR THE RECORD, INC.
10760 DEMARR ROAD
WHITE PLAINS, MD 20695
(301)870-8025

UNITED STATES FEDERAL TRADE COMMISSION

ENERGY LABELING PUBLIC WORKSHOP

WEDNESDAY, MAY 3, 2006

9:00 A.M. - 4:00 P.M.

FEDERAL TRADE COMMISSION
601 NEW JERSEY AVENUE, N.W.
WASHINGTON, D.C.

MODERATORS:

JAMES KOHM
LAURA DEMARTINO
HAMPTON NEWSOME

Reported By:

Susanne Bergling, RMR-CLR

A T T E N D E E S

JENNIFER THORNE AMANN	American Council for Energy Efficient Equality
KARIM AMRANE	Air Conditioning and Refrigeration Institute
ANN BAILEY	Energy Stock Product Labeling Group, EPA
DAVID CALABRESE	Association of Home Appliance Manufacturers
BERNARD DEITRICK	Consumers Union
CHRISTINE EGAN	CLASP
ANDREW FANARA	Environmental Protection Agency
REBECCA FOSTER	Consortium for Energy Efficiency
DOUGLAS JOHNSON	Consumer Electronics Association
DAVID KLINE	JVC
JOE MATTINGLY	Gas Appliance Manufacturers Association
CHRISTOPHER PAYNE,	Center for Energy Environmental Policy, University of Delaware
BECKY RAIZMAN	Federal Trade Commission
STEVE ROSENSTOCK	Edison Electric Institute

LAWRENCE WETHJE	Association of Home Appliance Manufacturers

AUDIENCE SPEAKERS

NATASCHA CASTRO	National Institute of Standards and Technology
NOAH HOROWITZ	National Resources Defense Council
J.B. HOYT	Whirlpool Corporation
RICHARD KARNEY	Department of Energy
JILL NOTINI	American Home Appliance Manufacturers
MARK SHARP	Panasonic

C O N T E N T S

INTRODUCTION AND WELCOME

SESSION 1: GENERAL LABEL DESIGN..... 5

SESSION 2: REFRIGERATOR LABEL DESIGN..... 13

SESSION 3: LABELING FOR HEATING AND COOLING EQUIPMENT..... 157

SESSION 4: TELEVISION LABELING..... 196

ADDITIONAL ISSUES AND WRAP-UP..... 239

P R O C E E D I N G S

- - - - -

INTRODUCTION AND WELCOME

MR. KOHM: Good morning. My name is Jim Kohm. I am the Associate Director of the Enforcement Division, the division that is responsible for doing the review of the Appliance Labeling Rule.

I was trying to think of a joke this morning to start off with, and I could not come up with any appliance labeling humor, so there is extra credit for anybody who can fill in that gap during the day.

You also may not know it, but you are witnessing an historic first this morning that you can tell your children and grandchildren about. This I believe is the first workshop where the FTC has actually paid for its own coffee, and there is plenty of it, so take advantage.

I just wanted to take a brief moment to begin with and thank everybody for attending today's workshop. As you know, Congress instructed us last August to review our Appliance Labeling Program, and we have taken that task very seriously. Our goal is to provide consumers with the most valuable energy information possible and to do so in a form that is easily accessible to consumers, all the while accomplishing

this goal with the minimum cost to industry.

We could not possibly meet these expectations without your help, both here today in the form of your comments and in the form of written comments that you have submitted and hopefully will submit in response to the Commission's Federal Register Notices.

The Commission was instructed by Congress to begin this process within 120 days of enactment of the legislation. We met that deadline by publishing an Advanced Notice of Proposed Rulemaking in November of 2005. In response, we received 28 comments, many from the people in this room today, and Congress has required that we complete the entire process by August of 2007, and we fully plan to meet that goal exactly on time, if not before.

That may seem like a long time as we are sitting in this room today in the spring of 2006, but there is a lot of work to be completed, including consumer research that we plan to conduct based on the designs that we will discuss today and your comments to those designs, and a Notice of Proposed Rulemaking that we hope that you will all comment on.

I want to maximize the time for your input today, so I will not go on much longer, but I do want to conclude with two brief remarks.

First, the job of the FTC staff today is to listen and ask questions. Any opinion that any FTC staff express, therefore, is solely their own and not that of any particular Commissioner or the Commission as a whole.

Second, we will be sticking to the schedule today. That could mean that a moderator would cut somebody off or that somebody would not fully get to voice their opinion about a particular issue. It is not personal. The moderators will be trying to make sure that key issues are discussed and that a variety of points of view are put on the record on each issue. If you do not get a chance to fully voice your opinion about something, the record will be left open until May 17th for written comments, and we will take those written comments every bit as seriously as those comments that are made in the room today. And if we can get all of your comments and efficiently move forward, there is a chance that we could go home early.

Again, thank you for attending and thank you in advance for your insight and for your cogent analysis. It is invaluable to us in making this rule.

With that, I will turn the proceedings over to our true appliance labeling expert, Hampton Newsome. Thank you.

MR. NEWSOME: Thanks, Jim.

I am Hampton Newsome, an attorney in the Enforcement Division, and I think I know most of you. Welcome aboard. It is great to see you, and it is great to meet some people that I have only talked to on the phone over the last couple years face to face and also some new people. I hope today will be interesting and productive. We are looking forward to hearing your views on the various issues we are going to talk about today.

Before we get into the substance, I have a couple of administrative things, and first, I want to introduce -- I brought my attorney today -- Ms. Laura DeMartino. She is an Assistant Director in our division. Also, Becky Raizman, who is not here, she is troubleshooting right now -- oh, there she is right over there. Becky has done all the heavy lifting on this workshop, and we really appreciate her help in setting this up.

A couple of basic administrative things. The bathrooms are located kind of on the other side of the building. Go to the front hall and face the elevator, take a right before the elevator and then a left, and they should be there, and someone suggested that it helps if people bring bread crumbs along so that they

can make it back here, but it is pretty easy to find.

We ask if you have cell phones, any electronic devices, to turn off the ringers during the meeting. And also, we will have a lunch period planned. In your folder, there is a list of places that you can eat nearby for lunch.

In terms of participation here, we were talking right before the meeting, I think most everyone in this room was in a meeting last week at DOE and has been to a lot of these meetings together, and generally, we do not plan to do anything that different in terms of procedural issues. If you have a comment or a question, just raise your tent card so we know that you are ready to speak.

The folks in the audience, if you have a comment, what we are going to do is we are going to ask people in the audience if they have comments at a certain time, and if you come up, make sure you identify yourself for the record so that we know who is speaking. The folks around the table I have been told do not need to identify yourselves for the record, but you are welcome to do that, just so people in the audience know who is speaking.

We are going to try to keep this informal. We do not have time set aside for formal presentations or

speeches or that kind of thing. Most everyone has submitted comments, and so a lot of the basic opinions and positions are known. We are hoping that this will be a time to kind of work out issues and have a dialogue on the issues. Obviously some people will have comments, and they will want to give long, substantive comments, but we want to keep away from the ten-minute speech, that kind of thing.

We have some folks on the phone, also, and I just want to check and see if anyone is on the phone now so we know who is there. Is anyone on the phone?

(No response.)

MR. NEWSOME: Sounds like no. Could you check with Becky and make sure that there is no problem there?

MS. DEMARTINO: Absolutely.

MR. NEWSOME: Okay. Well, we are going to start with Session 1 to talk about general design issues, but before we do, why don't we go around the table so everybody can identify themselves and the organization they are with. We will just keep it at that for now and then we will launch in. Why don't we start over here with Joe.

MR. MATTINGLY: My name is Joe Mattingly, I am with GAMA, Gas Appliance Manufacturers Association, and we represent gas and oil furnaces and boilers and gas,

oil and electric water heaters and gas space heaters and hearth products.

MR. WETHJE: Larry Wethje with the Association of Home Appliance Manufacturers. We represent mostly the manufacturers of what we consider light goods, refrigerators, clothes washers, dryers, dishwashers, et cetera.

MR. CALABRESE: Dave Calabrese also with the Association of Home Appliance Manufacturers.

MR. DEITRICK: I am Bernie Deitrick with Consumers Union. We publish Consumer Reports, which some of you have probably read. I have been involved in testing large appliances for 15 years and looking at that energy guide the whole time, so...

MR. PAYNE: I am Christopher Payne with the Center for Energy Environmental Policy at the University of Delaware. I am an energy efficiency researcher who specializes in energy consumption behavior and comprehension of energy information.

MR. JOHNSON: Good morning, I am Doug Johnson with the Consumer Electronics Association. I am senior director of technology policy. CEA is a high-tech trade association representing about 2000 companies, manufacturing, consumer, audio, video, IT, wireless, mobile electronics and so forth. We obviously also

represent television manufacturers.

MS. BAILEY: I am Ann Bailey. I manage the Energy Stock Product Labeling Group at EPA.

MR. ROSENSTOCK: Hi, I am Steve Rosenstock, manager of energy solutions for the Edison Electric Institute. We are the trade association of investor-owned electric companies and combination electric/gas companies.

MS. AMANN: I am Jennifer Thorne Amann with the American Council for Energy Efficient Equality. We are a nonprofit research association focusing on energy efficiency.

MS. FOSTER: Rebecca Foster with the Consortium for Energy Efficiency. We are a membership organization of volunteer energy efficiency program administrators, like utilities and state energy offices around the country.

MR. AMRANE: I am Karim Amrane representing the Air Conditioning and Refrigeration Institute. ARI is a trade association representing manufacturers of central air conditioners as well as commercial air conditioners and air filtration products.

MR. KLINE: Hi, David Kline, JVC. We are a television manufacturer globally, and we also do other consumer electronics products.

MR. KOHM: I am still Jim Kohm.

I just want to point out, these are tricky mics in that if you get just a little bit too far away, the recording gets bad, so it is better to be a little too close than too far away as we move forward. Thanks.

MS. DEMARTINO: And I am Laura DeMartino.

SESSION 1: GENERAL LABEL DESIGN

MR. NEWSOME: Okay.

This morning, we have got the first session. It is basically broken up into two periods of time. We will take a break in the middle, but I expect it to be a wide-ranging discussion on the various label designs that we are looking at and some discussion about the current label.

We have several different questions we would like people to address over the course of the morning, and before we jump into it, I just wanted to give a brief overview of where we are and some of the labels we are looking at but do not plan to talk a long time about it.

Let's start off here with the current label. It is up there. This label has been in effect since 1994. Before that label, the label had primarily cost information on it. The label we have now is a comparative label using what we often call continuous

style that has for the refrigerator label, this is an example, you have a market range on either end of this graph, this bar graph, and the individual energy use of the product is put there on a carat with a little triangle there. The label appears on refrigerators, dishwashers, clothes washers, room air conditioners, heating and cooling equipment, water heaters and pool heaters. We also have labeling requirements and marking requirements for lighting products and plumbing products, but they do not use the Energy Guide label.

Now, as part of this proceeding, we are looking at several different alternative label designs, and some of these have been looked at in earlier studies and particularly the ACEEE study that was done a couple of years ago. This is essentially a revised version of the current label, which takes some of the clutter out and consolidates some of the detailed information on the bottom and moves some of the descriptors around, uses different fonts, enhances the bar graph so that it is easier to tell that it is a bar graph.

Also, you will notice the font for Energy Guide on top, our graphics people tell us that the Energy Guide font that is used on the current label is no longer available, and people often ask us questions about, well, how do I do this? So, one of the things we

are looking at is to use a font that is easily available to everyone. So, this is just an example here of one that we are looking at. It is not a final decision or anything like that. That may throw some people off, though, so I wanted to mention that.

Another alternative to look at is what is often called a comparative label. This one uses a star system. It is different from the current label in that generally when these labels are used, the stars or whatever is being used there and the categories, the categories on the label, are based on a comparison to the minimum energy standards. The current label just shows the models that are on the market, and it helps people compare the product to the range of what is on the market, but this actually is a comparison to the DOE minimum energy standards or the energy standards that are applicable in the particular case. This is a fundamental difference between those two types of labels, and it is something that we will talk about this morning more.

The third alternative that we are thinking about is one that is fairly new, and I am not aware that it is used anywhere else in the world, and this essentially takes the graphical format of the current label, the bar graph, and combines it with a comparison to the DOE

minimum energy standards so that you get a percentage as the primary descriptor on the label. One thing that this does that is different from the current label is that because it is a percentage over the DOE standard, each label across the appliance types, the bar will go in the same direction, if you will, that the higher the number, the more efficient the product.

Under the current system, we have for refrigerators an energy use descriptor, kilowatt hours per year, whereas with room air conditioners, the descriptor is energy efficiency rating, and so those bars are going different ways. So, this is something we have not had feedback on, and we are hoping that people will provide some today.

Essentially, I just want to emphasize that everything is pretty much on the table at this point. These issues are all open, and so we want to get as much feedback from you on the problems you see with these various designs and the benefits, and that is what we are hoping to cover this morning.

To kick it off, I would like to start off with getting people's views with where we are now with the current label, issues such as what are the perceived problems with the current label, what is the practical use of the current label, how are consumers using this

now, and also, the broader issue of what is the goal of the label, what should the label be achieving.

So, with that, I will open it up to thoughts people have about that, about where we are now with the label and what we are trying to fix and where we are trying to get to.

Joe?

MR. MATTINGLY: I think we are going to cover this a little bit later this afternoon, but a problem with our products, with furnaces and with boilers and to some extent water heaters, is that we believe consumers do not rely on the label at all, because the first time they see the label, they are the proud owners of a new product.

MR. CALABRESE: Hampton, I might reserve some of my comments until later, but we are going to have comments on the new design and some of the research we have done. I think overall, the research that we have conducted actually just a couple months ago shows that the current format is generally acceptable and usable by consumers. There are some changes that need to be made, and I think you have addressed some of these in at least the Figure Number 1 that you had presented. It does provide consumers with information. There are perhaps some practical issues, but as I will discuss later, we

believe that it can be best managed through the current continuous style label, certainly not going to the categorical label, which our research showed significant issues and consumer confusion when reviewing them next to a continuous style label.

Then we will have some comments, too, on your proposed alternative, which, again, I will reserve until we get to that portion of the discussion.

MR. NEWSOME: Chris?

MR. PAYNE: I wanted to back up a step and talk a little bit about the current label and what I think both the research that AHAM did and the research that ACEEE did identified as problems with the current label. I think we can all agree that there are --

MR. NEWSOME: Christopher, could you get a little closer to the mic?

MR. PAYNE: There are issues associated with the current label and in the way that consumers understand the information that is on the label. In particular, the current use of the label in the research that ACEEE did shows that -- and other research that has been done -- shows that consumers do not really get a sense of the range of energy consumption of products using this bar graph. Typically when a consumer looks at this label, they do not necessarily understand that the 617

and 698, kilowatt hours in this case, are available models on the market, and so the ability of a consumer to compare the energy consumption of the particular labeled product with other products available is fairly strongly impaired in this current state.

Another thing that has not been mentioned at all and was not shown on this graphic but I think does bear a lot of mention is the interaction between this label and the Energy Star labeling process and particularly the location of the Energy Star logo on the current label. Again, that is a significant problem that we have seen in research in the field. Unfortunately, the way that the current Energy Star logo is placed on the label, it tends to be located in the available white space on the label. The available white space on the label in the case of an efficient product would be to the right, for example, in this case of the carat.

So, in effect, the Energy Star logo ends up being placed at the end of the scale that uses most energy. That results in a sort of cognitive dissonance with the consumer that the Energy Star logo, which is supposed to be an indication of energy efficiency, is being placed in the range that would indicate that, were the comparison graphic effective, it is using the most energy. So, that is another issue that I think needs to

be addressed.

Finally, I wanted to turn to some of the AHAM research that was done and talk a little bit about differences between the AHAM research and the ACEEE research. One of the things that the ACEEE's research did fairly carefully was look at consumer interpretation of the label in terms of how well did they make purchase choices based on the information that was being provided to them. Toward that end, consumers were provided with labels that showed products that used very little energy and products that used a lot of energy and were then asked, "Okay, if you were concerned about energy efficiency, which product would you purchase?"

We saw differences in the ability of consumers to make a purchasing choice based on the various types of labels. In fact, the current label performed rather poorly in that choice. Consumers fairly regularly misinterpreted the label and said, "I would buy this one," meaning the more consumptive model, even if they were asked specifically, "Which model would you buy if you were trying to buy the most efficient model?" So, I think one issue that I see with the research that was done by AHAM is it did not provide that ability for their respondents to test the comprehension of the label.

The second issue I would point out with the AHAM research was that at least in the information that I saw available in their report on the FTC web site, they incorrectly labeled a product that used a lot of energy as an Energy Star model. The Energy Star logo was placed on a product that would not qualify for the Energy Star logo. Consumers were then asked in their test procedure about the relationship between the model and the Energy Star logo, and not surprisingly, there was a fair amount of miscomprehension taking place because a highly consumptive appliance was being identified as energy efficient. So, I thought that a lot of the method that AHAM used in that study was very useful, and I would encourage follow-up studies to be done, but I think that some of the results that came out of that research are questionable because of this label design issue.

MR. CALABRESE: And I do not want to monopolize the time, but if I could just respond briefly --

MR. NEWSOME: If you can respond briefly, we can go over that and then come back to you.

MR. CALABRESE: If you want to do that --

MR. NEWSOME: Sure, I think she had her tent up first.

MS. DEMARTINO: And just put it up like that so

we know you are in the queue.

MS. AMANN: I just wanted to comment on a couple of comments Bill made and not go over all of the points.

One of the questions you raised was use of the label in the marketplace by consumers, and our research showed that while there is a broad recognition that the Energy Guide label is a source of energy use information, people recognize the yellow label and the logo, but they actually report limited usage of the label and a limited recognition of the specifics of the label, and one way we found that was by talking to a large number of current appliance shoppers, people who were either in the market for an appliance or had been within the recent past, and when we showed them several different label designs, they were not able to correctly determine which one was the current label. So, that reflected their limited usage of the label at the time of their purchase decision.

Another point in addressing the usefulness of the label I think gets down to an interpretation of the purpose of the label. I think all of the labels shown can provide customers some information about how much energy a product uses, but we would argue that there is also an energy-saving component to the original legislation as well as Congress' intent in the 2005

Energy Policy Act calling for a labeling program that helps consumers save energy, not just provides them information about energy consumption, and the research showed that there are a number of improvements to the current label that can be made, maybe in our opinion more modest improvement in that area with an improved continuous label and a larger level of improvement to optimize the energy-saving component of the label with categorical style.

MR. NEWSOME: Steve?

MR. ROSENSTOCK: Thank you, Steve Rosenstock, Edison Electric Institute.

Obviously the label has gone through changes. I remember older labels that actually showed a range of costs for either electricity or natural gas or fuel oil that kind of showed here is a national average cost, but here is a range of actual costs that you might see based on a typical usage of the product. I know there were a lot of complaints about the "clutter" on that, but again, it all depends. You cannot please everybody with a label, that is one thing to really consider, is that there is no such thing as a perfect label. Let's be honest here, that is number one.

Number two, when you get right down to it, I do not think the current label really does a bad job. I

mean, I am talking as really a third party and as a consumer who has bought products in the past. Maybe it is my engineering background, but again, if you look at the ANOPR, which kind of showed the dishwasher label, it shows the information -- if I am looking for energy information on that dishwasher, for example, uses least energy, 194, uses most energy, 531, this model used 500, that tells me pretty much in terms of energy consumption what I need to know about that product based on a standard test procedure that was done by the Department of Energy.

Again, different people have different interpretations of labels, but I think there needs to be a recognition, number one, that some of the appliances have become so much more efficient that regardless of what they are doing, they are probably going to save energy over the old appliance that they are saving. That is one thing that is sorely being missed in all of these appliance labels.

So, like I said, there are ways to show information, there are different interpretations of information, but when you get right down to it, also, it is that this is just one source of information that the consumer can use. There is Consumer Reports. There is the Energy Star web site. There is utility web sites.

There is manufacturer web sites. There are so many sources of information that the consumer can get to before they go into that showroom or before they call a contractor that, again, in terms of consumer studies, one thing also is what other sources of information are you using besides the Energy Guide label to make your purchasing decision for the product.

Thank you.

MR. NEWSOME: Let us give David a chance to respond to Christopher, and then we will swing back over to you guys.

MR. CALABRESE: Thank you.

I think, also, in answer to one of the questions that you asked, what is the goal or the purpose of the label, the purpose of the label is to provide consumers with energy usage information so that they can make purchasing decisions. Certainly a consumer is going to look at a particular product, look at the energy usage. That is not going to be their only determinant to buying a product. There are product features. There are different types of products.

When we talk about the refrigerators in one of the other proposals made here to merge the categories, they look at side-by-side refrigerators as opposed to a bottom-mount refrigerator, top-mount, all offering

different features, in-the-door ice and water, using different amounts of energy, that they make their decision based on the performance and the features that they want.

The problem with the categorical label is that it directs consumers to buy a certain product. When you have an A through F scale or a star scale, it certainly shows the consumer, "Ah, this is a four-star product, I have got to get that," when, in fact, it may not mean much more than this product uses a very fraction amount less energy than the three-star or the two-star. Clearly in Europe, where the categorical label is used, it is seen as a means to direct consumers to purchase certain types of products.

In fact, I wanted to respond to the comment that our research did not really test and analyze consumer perception or understanding of the label. In fact, we cite to -- and we have pages of it -- the actual comments from the consumers, and there are comments on the current label, and the variation that we tested on, similar to this label here, was that it provided the energy usage information that they needed. The categorical approach, many, many comments were that this provided information that seemed to indicate that this was a better product, that this four-star product was

like a four-star hotel or a four-star or five-star restaurant, so it must be a better product.

What it does not recognize is that the four-star product may have different features than the one-star, and different consumers have different needs, different purposes for the particular appliance. Some are low-income, they cannot afford the more expensive four-star product that may be a thousand dollar refrigerator. Their price range is more in the $300 to $400 range, and the energy usage information in the current label tells you, "This is what it is going to cost you per year to run this machine."

Again, we will discuss this more perhaps later, but one of the other fundamental problems with the categorical approach is that between a one and a two and a three and a four-star, the difference in operating cost could be minuscule. It could be a dollar per year. It could be 50 cents per year. To essentially push consumers into one type or another is ignoring all these other facts and consumer utility for different types of appliances.

So, I do not want to monopolize the time here, and I will be discussing more of this later, but our research clearly shows that there was a comprehension and understanding of the different labels, and that was

one of the main comments with the current continuous style, that it provided the type of information that they felt was important and necessary for their purchasing decisions.

MR. NEWSOME: Okay, thank you.

What we are going to try to do this morning, right now we are going to focus on the current label, the goals, the problems. We are going to try to go through each of the alternatives we have and talk about maybe some additional alternatives. Obviously the discussion is going to bleed into other topics, but thank you.

I want to note, Christine Egan is here. Thank you for coming.

My lawyer tells me that Bernard was actually the next on the queue, so we are going to go to him and then come back to Rebecca.

MR. DEITRICK: Finally, a nice lawyer.

I do want to address the categorization but not in the way that the new label will address it. I wanted to address it in the way the old label addresses it, and that is the breakdown of the models that are used to compare the current model. I have Energy Guide stickers in my office that had the same "uses most" and "uses least," there is one model in that category. So, the

comparison that is offered to the consumer is pretty much worthless.

The other thing that happens with this sort of comparison is you are not really exposed to the other options that perhaps changing within a category may give you. Going from a side-by-side to a bottom freezer may offer you better energy savings than going to a different model within a side-by-side model. So, expanding the range that or the number of models that is used in the comparison pool will give more information to the consumer about how that model does relative to what is actually available.

MR. NEWSOME: Thank you.

Rebecca?

MS. FOSTER: Well, I think I would like to challenge us to get back to some more basic questions about the Energy Guide label, and I think we have thrown around some problems that we see, that the label is not effective and in different areas, but my question is, it is not effective in achieving what objective? So, I think we have heard a few different ideas about what the objective of the Energy Guide is.

David was saying it is to provide consumers with energy that they can then balance energy use against other attributes they want in their products. What I

heard Jennifer say was a little bit different in that it is to provide information with the objective of increasing energy efficiency of consumer purchases, and I am curious -- and I understand Jim's earlier comment about FTC staff opinions being just that, opinions -- but I am curious to know if the folks here from FTC have tackled this question at all about what is really the intent of the label, how has that changed from the initial legislation through -- based on the 2005 EPACT, and how can that be used as kind of a basis for us to work from today?

MR. NEWSOME: Well, I am not aware that this has ever been addressed specifically by the FTC. My knowledge of the legislation is that there is not a lot of information there in terms of guidance. The label has traditionally been one that has a lot of technical information on it, but in terms of whether the staff has a position on the overall intent or whether we have ever publicly provided one, I do not think we have, and I do not know if Laura and Jim have any other thoughts on it, but...

(No response.)

MR. NEWSOME: Okay.

One question I have, though, related to that is there is, as Jennifer was -- oh, go ahead.

MS. DEMARTINO: I am sorry, I do have one thought, and I just wanted to point out that Hampton, of course, is much more aware of the background but that the Energy Policy Act of 2005 does direct the Commission to consider the effectiveness of the Consumer Products Labeling Program in assisting consumers in making purchasing decisions and improving energy efficiency, and I am quoting directly from the Act, and that is put forth in our Advanced Notice of Proposed Rulemaking.

So, I do think, while we have to, of course, consider this in the context of the original Energy Policy and Conservation Act of 1975, the congressional language in the 2005 Act may shed some light on what our goal is here today.

MR. NEWSOME: And just to add to that, so clearly we have that information from the statute, but I guess my question -- and I would like us to explore this more -- is if you have on the one hand the goal of providing information to consumers and on the other hand the goal of ensuring and promoting energy efficiency, are those goals really, in practical purposes, on the ground, with a label -- is there a real difference in those goals, and if there is, how does that manifest itself in different label designs?

We heard a little bit about that, but if anyone

has any thoughts on that as we go through here, we would like to hear about that.

Karim, I think you are next.

MR. AMRANE: With respect to central air conditioners and heat pumps, we feel that the labels do a pretty good job. I think it conveys to consumers energy consumption of the product, so we are not really advocating for any particular changes to the label.

However, the issue for us is like the same issue as Joe mentioned before, is that the way that -- the fact that consumers are not using the label to make purchasing decisions, because they do not see the label. It is not like a situation where you go to the showroom and you look at the label. That is not how it is done for central air.

So, I think we would be more interested in exploring the means to convey the information to the consumers. So, that would be I think our interest as far as ARI is concerned, and maybe we can use directories, like we have our directory, to convey information through those directories. So, that is what we would like to explore with FTC, a means to really convey the information rather than make changes to the label itself.

MR. NEWSOME: Okay, and we have a session for

that this afternoon where we will talk about that. That is an important point.

Okay, Christopher?

MR. PAYNE: Thanks.

One, I would like to quote from 42 USC 6201 the statement and purpose of the original Energy Conservation and Policy Act, number 5, "To provide for improved energy efficiency of motor vehicles, major appliances and certain other consumer products." So, in fact, in the initial '75 legislation, there was a direction that this would call for improved energy efficiency.

To that point, I would like to caution us to make distinctions between sort of opinions and matters of provable fact. I think particularly in issues of consumer comprehension or purchasing decisions, it is very easy to fall into the role of a purchaser. I buy refrigerators; therefore, my opinion of what a label says or does not say must be accurate. I want to make the point that it is accurate to me, but that does not mean that it is accurate to the American public, and I would suggest that the people in this room are probably not adequately representative of the American public at large. So, I do want to make that point of data versus anecdote and caution us to make policy choices based on

data.

A second point I wanted to address is the difference between qualitative and quantitative information. AHAM made some comments in their response to FTC about the flaws in ACEEE's research method based on their qualitative survey design, and yet the information that was just provided was, in fact, qualitative information. I find it very useful that the information that you received from the people who responded to your survey talked about how they interpret that label, but those open-ended responses to questions are not statistically valid results.

Testing of consumer comprehension in which you place people in a choice circumstance and then test their accuracy in responding to a result is a qualitative, statistically valid difference. Both are useful. The qualitative information can inform, for example, interpretations of what might be a more useful comparative scale. When we did qualitative research on the current Energy Guide label, we asked people, "Well, what does this bar mean to you?" And they told us, "Oh, well, if you want it to be a scale, you should be putting scale markers on it, because that is a trigger in my mind to tell me that is a scale." And we said, "Hmm, that is an interesting idea." So, we put scale

markers on it, turned it around, tested it quantitatively, and found that, indeed, people interpreted that label more accurately than the current labeling.

So, again, both methods are very useful and can inform this discussion, but I think ultimately we need to use that quantitative data to inform FTC's final opinion.

MR. NEWSOME: We have a hand up in the audience. Why don't we get a few more comments from the table, and then we will open it up to the audience if anyone has any comments, and then we will move on to a new topic.

David, then Ann.

MR. CALABRESE: Actually, I will just briefly respond to the last comment about the qualitative versus quantitative.

Yes, in fact, I was bringing examples of comments made by individuals in our survey; however, those anecdotal comments, of course, are backed up by statistical numbers that show that the preference clearly and the confusion clearly regarding the categorical versus the continuous style were there, and these were just comments made to support the numbers that clearly showed that distinction.

But going back now to the issue of what the

purpose of the label is, I think that clearly the statute does provide the language that was just provided; however, it does also provide that the purpose is to provide energy usage information, and we should also think back to the purpose of the label back in 1975, which, of course, I was not involved at the time, but the purpose then had been because there was no label. There was no means for a consumer to determine at all what the difference was between one product and another. So, the purpose here was to say, "This is the amount of energy this product will use," as the example provides here, "This is what it is going to cost you in dollar terms if you were to purchase this and use it over a year's period of time."

So, at the time it was not meant and it still is not meant to drive energy efficiency. It is designed to give the consumer information. If that improves their own internal energy efficiency in their home, if it improves the efficiency of their budget, well, certainly that is part of the purpose.

So, I think that that, again, is a key distinction, and we are going to be harping on this perhaps throughout our discussion, that this label is not meant to be designed to push people into certain products. Give them the information. I am a consumer.

I have this amount of money to spend. I want these features. Okay, this is going to cost me X amount of dollars. I think this makes sense for me. In the meantime, perhaps I do want an energy-efficient product, and the Energy Guide label provides for the Energy Star logo, plus I look on the scale and I say, "Uh-huh, I want to use the one that is farthest to the left in this case."

Getting, though, to the issue of how do you provide, though, energy-efficiency information to consumers, there are many programs out there, and I liked Rebecca's comments and how we need to divide our discussion here. You have the Energy Star Program, a tremendously successful program, huge market share or market penetration of Energy Star products. If I want to get an energy-efficient product, I am going to look for that label either on the product or perhaps on the Energy Guide label itself.

There are various other programs out there, voluntary programs -- Rebecca has one of them -- that provide consumers with information. There is certainly no dearth of information for consumers, and a consumer knows and there is a high comprehension of the Energy Star logo, that if I want a highly efficient product, I am going to buy an Energy Star product.

MR. NEWSOME: Okay, thank you.

Ann?

MS. BAILEY: Okay, thanks. David just stole my thunder a little bit, but I was going to say -- I will not express an opinion in terms of what I think the purpose of the label is, but to the extent that one of the objectives is to help people save energy, clearly the Energy Star has been in the market for a long time, and I think it is important to look at and consider how the two labels function together. Not only does it represent high market share over time, but there has been significant investment, government investment, industry investment, in establishing it as the key indicator of what is efficient and what consumers should purchase.

MR. NEWSOME: Why don't we go to J.B. in the audience.

MR. HOYT: Thank you, J.B. Hoyt -- is this live?

UNIDENTIFIED SPEAKER: Flip the switch?

MR. HOYT: Magic.

J.B. Hoyt, Whirlpool Corporation, thank you.

The question around what is the purpose of the label is I think fairly clear, and Laura read the language, but by itself, this label is not going to drive energy efficiency. It can assist the consumer in

making energy-effective decisions in that process, and driving energy efficiency, there's a whole body of law that the Environmental Protection Agency and the Department of Energy drive with both rulemakings and, as Ann has articulated, the Energy Star Program.

This label -- and we talk to thousands of consumers every day, we do extensive market research every year -- this label helps consumers be aware of something that is important in the purchase-making decision but not at the top of the list. As much as any of us in this room would like to believe that energy efficiency is the most important thing to consumers, it is not. Consistently it shows up somewhere between fourth and sixth in the hierarchy of extensive research. That can vary over time, but in the last couple of years, that is where it has been, and that is as high as it has been in a long period of time. So, how do you assist consumers in doing that? That really should be the focus of this label.

Consumers tell us that the label is something they are aware of, but it is cluttered. Back to your original question was, tell us about this label. It is cluttered. It is hard to determine what is really there, and therefore, people tend to gloss over it or go on to other sources of information, as some have cited.

And so I think one of our objectives here is to make the message of the label crisp and to reduce some of the clutter.

MR. NEWSOME: Okay, thank you.

What I think we will do is we will go through each of the alternative label designs that we have on the table and take comments about those, discuss those, and after that, why don't we have a specific time to address testing, consumer research specifically, because there have been several comments about that, and there has been consumer research that has been done, and I think we need to discuss that. So, we will go through Christine and David's comments, and we will transition into the -- as J.B. was talking about -- revised current label or a revised version of the current label that has a little less clutter, and if anyone has any particular comments on this, we can address them now, but first we will go to Christine.

MS. EGAN: I guess I want to return back to the question of the legislative mandate and in particular respond to your question, Hampton, is there a difference in providing information and encouraging energy efficiency? And I would say from a policy perspective, there is a clear difference.

The mandate, the burden on FTC, is in my opinion

higher if you have to encourage energy efficiency or interact in the purchase decision. Information provision is a passive process. You provide the information, and whether or not someone understands it or utilizes it, frankly, is not relevant. You have met your mandate of providing information. If, instead, you are supposed to assist consumers in making purchase decisions and improve energy efficiency, then there is a higher level of burden to make sure, in fact, consumers are understanding the energy efficiency information it contains and that it is, in fact, playing in the marketplace, it is actually a relevant factor in the marketplace.

I will transition to, you just had a manufacturer say that his market research shows, in fact, that the consumers are disregarding it or that it is not a major factor. So, I think it is clearly -- the current label, you asked us to comment on the current -- is clearly not meeting the second half of that burden on FTC.

The other thing that I want to try to do is, I do not know how many of you know the organization that I am with, but we do nothing but promote minimum energy performance standards and energy labeling globally. We are a technical assistance organization, and our goal is

to provide objective, neutral technical assistance on those issues.

To put this in global perspective, almost everyone in the world who is adopting labels for about the last 10 to 15 years is moving to a categorical label. Virtually no one -- in fact, I am not aware of a single country who has initiated labeling newly that has undertaken a continuous scale, and the reason is -- and we submitted a paper actually as backup to our comments on this that I wrote -- that everywhere in the world that I know of that a categorical label and a continuous label has been tested, which is a number of countries at this point, categorical labels improve energy efficiency and have higher levels of consumer comprehension of that issue. So, I just want to give that global perspective, that we are one of the few left with the continuous label scale.

I also just want to emphasize, since you asked us to target our comments at this point to the current label, in a former life, I was with ACEEE and participated in the initial research, and I want to emphasize the comments from the gentleman from Whirlpool who emphasized the extent to which it came back that the label was cluttered, that there was too much information, that it was hard to derive the main

message, and to add to that, in particular, a major failure of the bar scale, which was that a significant portion of consumers did not even recognize that continuous scale as a bar. They did not understand that it represented a range of information.

Just in terms of the current label, those are several of my comments.

MR. NEWSOME: Okay, thank you.

David?

MR. KLINE: Thank you very much.

We at JVC are very supportive of labeling, in seeing the effects in other product categories. As a television manufacturer, this is our first exposure, and hello to most of you, I have never seen most of you all before. I am sure we will be seeing more of each other. But we are seeing the value of market forces of providing information and in encouraging the energy efficiency through the natural forces.

The consumer electronics industry is very different from the cooling, the heating industry, in that efficiency is a good thing for us. Smaller circuit boards with less heat dissipated; smaller heat syncs reduce the cost; and the natural force of the consumer electronics industry, being driven primarily by Moore's Law, computers, things get cheaper electronically.

It is very different when we, as the consumer electronics industry, for example, 15 years ago, when I started with JVC, our 36-inch television was $2,000, and it consumed 235 watts on its UL rating label -- we will not talk about testing procedures -- but its UL label, okay, as a frame of reference. Last year, the last year that we manufactured a 36-inch glass product, it was 165 watts, down 70 watts, that is almost 30 percent down, and it was $499, 75 percent down in cost. So, from 2000 to 500 and from 235 down to 165 in 15 years with no federal mandates, because that is the second point of what we are very concerned about, is a voluntary program providing consumers information is absolutely positive. We are very proud of the engineering efforts that we at JVC make to make ourselves an efficient product.

However, when those voluntary or educational information are turned into mandates, you must meet a certain level in order to be sold in the state of X -- and you all can fill in the blank on that one X -- where it is existing now, that mandate and the reduction of consumer choice, the fewer number of products, is in our view not the way to encourage energy efficiency. So, I would just like to say, as a welcome, we are different, and we are already there. JVC has been one of the original Energy Star folks. We have 44 SKUs that we

produce this year. One is not an Energy Star product, okay? We have bought in.

There are other manufacturers here, Panasonic, for example, who has been Energy Star Partner of the Year. We try to keep up with them, but they have been one several years in a row. So, we are making a very good effort, and as a basic concept, efficiency is part of the market forces in electronics, and that is very different from where a higher efficiency compressor, a different configuration of a product, may make it more efficient, the innate market forces drive down both cost and energy consumption, because the two are both related.

So, thank you very much, and I will be back to you. Thank you.

MR. NEWSOME: Thank you.

We have this revised label up on the screen here, and I am curious if there are any obvious suggestions or if anyone sees anything in terms of addressing this. One issue that was raised I think in at least one of the comments was that -- and this would apply to all labels -- that the boxes there should have a white background, and I am curious as to whether people think that is a good idea and whether that also creates any problems in terms of the cost of creating

the label or the difficulty of creating the label, but while you are thinking about that, why don't we go to Bernard.

MR. DEITRICK: I just wanted to respond to what you were saying about regulations of energy. That is not actually what this program is doing. It is not regulating the amount of energy that you are allowed to use. It is just giving the consumer information about how much energy is used, and while you have mentioned TVs, and I know we are going to have a session on that, there are huge differences in the energy consumption of TVs within very similar models, much more than for appliances that are regulated, simply because they are not regulated, but having the information in front of the consumer, being able to go on the showroom floor and say, "This one uses 500 watts and this one uses 200 watts. They look the same to me. My kid watches eight hours a day. I am going to save a lot of energy by choosing this one." I think that is information that is very valuable to the consumer, and I think that is something that is currently not available. It is not saying you cannot sell it, you cannot make it, you have to meet -- it is just saying, "Tell us how much it uses."

The other problem with TVs is the Energy Star

program only talks about what happens when it is off. It does not say anything about what happens when it is on, and that is one of the drawbacks of the Energy Star labeling of consumer goods, at least in the electronics, is that it does not apply to the use.

MR. NEWSOME: Okay, thank you, and let us try to save more TV discussion for this afternoon. It is an important issue, but we have got a session for that.

Steve?

MR. ROSENSTOCK: Thank you, Steve Rosenstock, EDI.

Just in terms of this label right here, I think to me it looks like a minor modification to what is going on now, the tick marks, and I think the only thing I would suggest with this label to improve it is the font size of the least versus most energy. Compared to the current label, at least the way I looked at it, the font size for all three numbers in the main box were basically the same size. In this box, in the middle box, the 600 is the biggest, and the 539 and the 698 are about two-point font.

So, I would suggest, again, just for consumer information, at least -- again, personal opinion of myself -- if the font size could be increased for the lowest versus highest, again, just in terms of visual

ease for the consumer to make that energy comparison within that category. Then you said in terms of the background that you just wanted a white background in the three boxes and the rest with the yellow, is that --

MR. NEWSOME: That is one of the suggestions, and, in fact, some manufacturers over the years have done that, because I think some earlier samples had that, so...

MR. ROSENSTOCK: I would just say if there is consumer research that says it makes it easier for the consumers to see that information, that is fine. If not, then whatever is easiest, you know, lower cost, but if there is a specific preference that consumer research finds out and it is same or lower cost for manufacturers, that is fine in my mind.

MR. NEWSOME: Okay, thank you.

Christine?

MS. EGAN: I guess I want to make an overarching point that I will hopefully not repeat too many times, but it applies to any and all of the proposed changes, which is to say the position should be that the FTC will make no changes without actually testing any of the models in actual consumer research, and I want to just say that to the extent that those of us around the table are giving you comments, we are giving you comments from

three different perspectives, two or three different perspectives, depending on who we are.

In my case, I will give you comments as someone who has done a lot of consumer research, who has managed a lot of consumer research on label design, and so I have some insight as to what consumers have found, but I am also going to answer you as an individual who looks at these things and has opinions, and then also there is the fact that I am interested in energy policy and have been. Those are all very different and interesting perspectives, but none of them are as valuable as actually doing research and finding out from the public who will actually try to utilize this tool. So, that is my overarching plea to the FTC, is to not make any changes without actually testing what you are putting out in the market.

The next point is that the consumer research, in general, shows that consumers prefer outlined and blocked off spaces where information that is relevant can be grouped and set off in a distinguished fashion, and so the boxes would fall consistent with that. To the extent that you are adding white, that might well be consistent with that also. I would suggest, again, it should be tested.

To the extent that you are making changes to

things like font size, if one of your pieces of information is that the label is too cluttered, that that is a major finding we have all had, that is a huge issue. Font size actually has a big impact on the extent to which things appear cluttered versus the extent to which it is providing the necessary information that consumers need to understand that that is a range, and there is a trade-off. Those two things pull in very distinct directions, and the right balance is, again, something that really should be tested with consumer research.

MR. NEWSOME: Okay, thank you.

Just to repeat, Jim had mentioned earlier, we are planning on doing research on various alternatives, and these are kind of the front runners or what we have on the table now, so I appreciate those comments. Thanks.

Okay, Ann.

MS. BAILEY: Okay, I just wanted to quickly address TVs, just that we recognize the growing importance of active power, and we are supporting the development of a test procedure so we can address it with Energy Star.

Then I just wanted to ask, I am assuming with this design you would intend to continue to include the

Energy Star label, and if so, I would just encourage you to find a standardized location that is not confusing in terms of being associated with greater energy use and that it would have large enough size so it is distinguishable for consumers.

MR. NEWSOME: It seems that in going through the comments, the people that did address that, the consensus is that the Energy Star logo should go in the bottom right, and we can talk about that a little later this morning.

Why don't we take one more. Dave, do you have a quick comment?

MR. CALABRESE: I was going to comment on this topic, and then that is fine.

MR. NEWSOME: All right.

MR. CALABRESE: So, in regards to this label, what I wanted to comment is, again, the research that AHAM conducted with the consumer research firm that we used, they found, in looking at a very similar variation to this -- and in our comments, we provide that label number 2 -- again, it uses these tick marks, as Steve mentioned, there is more white space in the bar area itself, and quantitatively, a statistically significant portion of consumers found this to be easy to understand and much preferable to the categorical approach and

slightly better than the current continuous bar graph.

Then the qualitative comments we got were that these additions of white space and the gradations there, the ability to see where things were on the larger scale, was very useful to consumers.

MR. NEWSOME: Okay, thank you.

Okay, what I would like to do is, so we do not get bogged down -- and we will get to you guys -- but I just wanted to change the -- next we will try to talk about the percentage label and get that done before the break, and when we come back, we can talk about some of the details involved in the categorical label, but I think we have plenty of time to cover these comments. I do not want to cut you guys off. So, let us go to David.

MR. KLINE: Just one brief technical issue. The font for Energy Guide, your graphics people may be correct in saying it may not be available anymore; however, with the treatment with the arrow pointing down, it is more of a graphic rather than an actual font and that you could certainly at least servicemark if not trademark that graphic treatment with the downward descending arrow and use that. Brand recognition is very important, and to me, I miss that downward arrow.

It is also a good positive thing, reducing

energy consumption, subliminally, and so you may want to have your graphics folks look at treating that as a logo rather than as a font with text based on the font.

MR. NEWSOME: Thank you, that is a good comment, and that would apply to any of these.

MR. KLINE: All of them, yes.

MR. NEWSOME: Okay.

Rebecca?

MS. FOSTER: I just have a similar overarching comment, not specifically on any of these alternative labels, but just kind of a personal recommendation, not one that I have vetted with the ACEEE compliance committee, but I hope that the FTC has time within the schedule, prior to going out to consumers with different alternative labels, to engage the services of some kind of information designer. I am certainly not a graphic designer with a specialty in information design. I am guessing that most of the people in this room are not, but firms with that expertise could provide some valuable input on things like font and white space that we are throwing around from an anecdotal or maybe a little bit of a research base, and I think it could be a very helpful step in the process that FTC takes to get to an end point that is really a successful label for use in the market.

MR. NEWSOME: Okay, thank you.

Jennifer?

MS. AMANN: I would just like to reiterate, again, the importance of testing all of the labels and certainly this new design that the FTC has come up with, the combined design, with consumers. You know, I think we can all have opinions on whether this percentage-based combined graph is useful or our own thoughts on that, but we have all been looking at appliance labels for a long time for a lot of different reasons, and so I would be reluctant to make too many assumptions about how well this label would test with consumers.

Also, just reiterating some of the points that have come up on what I will call the improved current design, the improved continuous label. Certainly we have significant quantitative research that also shows that that is an improvement over the current label; however, our research, also statistically significant quantitative research, showed that for consumers looking to make decisions about appliances and efficiency in those appliances, a categorical label is much preferable.

I would actually say that it is interesting, in our research -- and the AHAM research actually shows in

the same way -- that if you are looking at energy efficiency as one of the goals or intents, the categorical label does test better, statistically better, than the continuous graph.

MR. NEWSOME: Okay, thank you.

Christopher, I believe you are next.

MR. PAYNE: I agree with what has been said before about the fact that I do not know that this has really been tested to any degree. I would note two issues.

One is that it is interesting that this percentage scale came up. I believe it is South Korea who just implemented a categorical percentage interpretation of this essentially, so they are using a categorical scheme that bases its ranking on a percentage above a minimum standard. So, there is potentially the opportunity to evaluate this in action overseas obviously.

The second point I would make is that this scale does address one issue that the current label and the "modified continuous" or "improved continuous" does not, and that is the reversal of scale on certain products. You made the point earlier that in the case of room air conditioners, with their EER ranking, the scale is reversed, and, in fact, to the right is a better rating

than to the left.

That distinction is important, because the research that was done actually on showroom floors showed that people would compare labels across products, and I think that is one thing that we do not often tend to think about as we are thinking about these labels. We tend to think of them in isolation, but they are, in fact, usually located on a showroom floor that offers several products in a particular category and several different types of categories, and to the degree that analysis across product categories creates a confusion in interpretation of the label, for example, if I am looking on that aisle and there is a room air conditioner and to the right is better and I am looking at this aisle and at refrigerators and to the left is better, that is a problem.

So, I would note that this design does address that issue, as does a categorical labeling system, and that is one of the main reasons I think that the categorical scheme tends to test better. It is because it avoids this flipping of axes.

MR. NEWSOME: Okay, thank you.

Christine?

MS. EGAN: Yes, I want to re-emphasize what Jennifer said, the extent to which this is a new

concept, and really this one in particular needs serious thought and testing.

The only places I have seen -- I think you are right, Chris, and I am not as familiar with the label in South Korea, but the other place that has used the concept of percentages is Mexico, and I can send in some information on a study we did testing essentially a version of the U.S. label, what they had hoped was an improvement based on percentage. It was not percent in relation to the minimum standard; it was percent of the total range, zero to 100, and a star-based label. In that research, the star-based label tested much better. It was a very small research of just six focus groups, so purely qualitative.

That said, putting on the hat of someone who has sat in focus groups and a lot of interviews and surveys and talked to people about how they conceive and how they construct energy, consumption of energy efficiency within the context of labeling, I have two sort of hypotheses that I would put forward in the FTC testing of label research, and one is the extent to which people at large relate to and understand percentage. It is a mathematical concept that is somewhere above the first grade, and it is just something that you want to make sure people can relate to.

The other thing, and really my main concern, is that in general, people are used to percentage being on a zero to 100 percent scale, and we have a very clear, because of our academic history, understanding that 75 percent is average, 85 percent is good and, you know, 95 percent is excellent, and I think one hypothesis is to what extent do people understand that the range that they are shooting for will, at best, be 35-40-50-60, depends on the product, percent better than zero, and that is the main thing that makes me a little nervous about this approach from an interpretation and understanding perspective.

MR. NEWSOME: Okay, thank you.

Joe?

MR. MATTINGLY: Some of this relates to our overarching comment that labeling of our products that we covered is not useful at all to the consumer, but this label here, in the case of water heaters, for example, the minimum standard is so high now for water heaters, there is not really room left for this label to make any sense. In fact, that is why EPA has not had an Energy Star Program for residential water heaters. It is like, again, complying to the standard puts you at the top. So, here you would end up having nothing left or such a small percentage it would not make any sense.

For furnaces and boilers, you do not have a continuous range of efficiencies for furnaces and boilers, and I could go on and give you a couple day seminar on why, but certainly for gas and oil products, it is not a continuous range of efficiencies. For safety reasons, there is a big gap. And so this would not really be apropos to furnaces and boilers, would not work very well, and I think that the Energy Star Program, you know, adequately categorizes the condensing product from the so-called mid-efficiency product.

The other comment I would make is that for safety reasons, this kind of label might encourage people to do things in the marketplace that are not in the consumers' interests, and the consumer does not know that right now, but I know that.

MR. NEWSOME: David?

MR. CALABRESE: I want to comment on this label similar to Joe's comment. Did you have a --

We have some issues with this and some concerns, and I want to give you an example, actually, that may illustrate where with this type of label, there may be some difficulties.

I was just looking the other day at the room air conditioner category, and, of course, there are different subclasses of room air conditioners basically

based upon the btu or the power used. There are two ones that I picked, a 6000-btu room air conditioner and an 18,000. The 6000 is something you would use for a bedroom or a small room; 18,000 is one that you would use for a large room or maybe a floor of a townhouse.

Under this approach, since you would have a different label for the different subclasses, which is appropriate, a consumer looking let's say the 6000 btu, the label could say it is 10 percent more efficient from the standard. Okay, that sounds okay. They now look at the 18,000 btu, not really understanding maybe the differences between the two, and they say, "Uh-huh, that one is 20 percent more efficient, the 18,000, 20 percent more efficient than the standard." If I am a consumer, I say, "Yikes, I have to buy this 20 percenter, this is much more efficient," but in effect, you are buying a product that uses more energy, because of the very nature of it, than the 6000 btu.

So, I think it could cause some confusion for consumers looking across different categories, and again, the comment that we have made for the consumer's utility, why are they buying a 6000 versus an 18,000-btu room air conditioner?

Also, I do not know how useful the concept of something being X percent more than the federal standard

is. To a consumer who has probably very little knowledge or interest in what the federal standards are, it is probably a number that does not make a whole lot of sense. I think they like saying this is X number of kilowatt hours per year versus the range. So, we do appreciate the effort and the thought going into this that the FTC has provided. I think, though, there are some practical issues that might arise with its use.

MR. NEWSOME: Well, just two quick questions about that. Your first point about efficiency ratings, the problem that you have identified, doesn't that come up any time you have an efficiency rating on a label because the efficiency rating is measuring the energy use and weighting it against the output of the product? So, you are always going to have a situation where a very large product that may have a high operating cost may have a high efficiency rating.

MR. CALABRESE: Well, I think you certainly -- another example of the refrigerators, and I know we will be discussing this category later, and so I was not going to use that as an example, but the same type of problem could arise. Again, you have individuals looking at one subclass versus another, and this could provide, because it is so graphical and it is providing these percentages, I think it puts in the front of the

consumer's mind, this is a 20 percenter, this is a 10 percenter, perhaps a little different than the EER rating itself.

I mean, you raise some good points, Hampton, that, again, gets perhaps to the complexity of this issue, but the percentage to me and for us seems to add a level of confusion, perhaps, that we are trying to wipe out.

MR. NEWSOME: Okay. And the other question would be, and you do not have to answer it, but the broader question is, does the operating cost information on the bottom, does that kind of counteract the --

MR. CALABRESE: Well, I mean, that helps, and I was going to say, that is helpful. Again, we are talking about making this simpler, making it more white space, taking away text. So, yes, you are right, if you look at the bottom part of the label, perhaps you can get that information. I do not know, and I would defer to others, how people graphically look at a document or look at a piece of paper and say, okay, they see the 14, they do not necessarily see the others or understand how they relate to it, but it would be perhaps more, again, adding confusions.

I think we would feel keeping it all consistent for the consumer, who, again, has a limited knowledge of

this kind of stuff anyway, would be preferable.

MR. NEWSOME: Okay.

I would like to try to fit the comments we have in before the break, which is in five minutes, right?

Joe, if you could quickly just explain your last comment, I think you were referring to some maybe strategic behavior issues with this kind of label, just very briefly.

MR. MATTINGLY: About furnaces and boilers or --

MR. NEWSOME: Well, you said with this type of label, that there may be some incentive for --

MR. MATTINGLY: Yes, basically you have -- let's take gas furnaces as an example. You have a certain percentage -- you will find a lot of furnaces with 80 percent AFUE, and then you will find some furnaces at 90 percent and above, and that is the condensing furnace, very high efficiency, versus the efficient model, what we call mid-efficiency. Any labeling scheme that would encourage a manufacturer to inch up past 80 percent, up to 81, 82, 83, creates safety issues that, again, some marketer may try to ignore that just to get a couple more percentage points in order to sell more product, but it is not a good practice, not one that we would want to encourage.

MR. NEWSOME: Okay, why don't we go to the

audience, since we just have a few minutes, and we can pick up with this if we have additional comments when we come back, but J.B., you had a comment.

MR. HOYT: J.B. Hoyt, Whirlpool Corporation. Thank you, Hampton.

I just want to make a generic comment about market research, and there have been several comments from around the room on market research, and I think it is very important to, as we say, ask the dogs if they like the dog food, and whether it is this label or any other proposal, we need to go out and talk to consumers.

As we talk to consumers, let us keep in mind qualitative versus quantitative market research. We have just held our first focus group on this label. As people around the room have commented on it, focus groups, small intercepts, are a great way to draw information out that you can then use in quantitative market research, and quantitative market research is an easily abused subject.

I would caution the Commission to be sure to use, A, a nationally known researcher who is competent in the subject, but most importantly, to use a nationally representative sample so it is balanced for all the demographics, age, income, geographic location, all those things. Any other form of market research is

inaccurate, invalid, and can easily be conformed to meet a desired outcome on the part of the researcher. So, I offer that generic comment as a caution and request.

MR. NEWSOME: Thank you.

Let us wrap it up before the break with Steve, and when we come back, Jennifer and Bernard, if you have comments you want to add, we can do that.

Steve?

MR. ROSENSTOCK: Well, I just want to follow up on something that Joe said especially because of changes in the marketplace or changing minimum efficiency standards. With this percentage approach, for example, and new standards for water heaters, the high-efficiency model, there might be a 5 percent difference between, I will say, the standard new efficiency as of 2004 versus the highest efficiency out there basically. So, the percentage will not go from zero to 40 with certain products. It might only go zero to 5 or zero to 3, again, depending on the product.

Other products obviously have more of a range, but think about that for the consumer. "Gosh, the high-efficiency model is only, you know, 2 or 3 percent more efficient. What is the point?" Well, that might actually hurt the sales of the higher efficiency product, because a consumer might say, "Two percent,

what is the big deal?"

But what it also forgets is the fact that that minimum standard is, let us say, 5 or 10 percent over the old standard. So, in actuality, that consumer might be saving 12 percent on their energy bill, but the label only shows a 2 percent gain. So, that is one thing to consider.

I will use an example, central air conditioners. The new standard is 13; the old standard was 10. A person having an air conditioner that is 16 years old might have been about an 8 SEER that went to 10 SEER or 13 SEER. Okay, use a percentage. A 14 SEER air conditioner is only 7.7 percent more efficient than a 13 SEER. "Gee, that is not so great. What is the big deal? What is the difference?" Well, that 14 SEER was 40 percent more efficient or more than your current model.

So, again, I know this label really cannot convey like historically the actual gains you are actually getting from getting the new product, but I just wanted to say that there is some of those issues where a consumer might say, especially if the number is less than 10 percent, "Gosh, I will paying this much more money and I am only getting 5 percent more? What is the big deal? What is the point?" So, just

something to consider.

MR. NEWSOME: Okay, well, thank you, and I think some of these issues, some of these problems, will apply to any of the label designs, and we can discuss this more.

Why don't we take the break, and when we come back, Jennifer, I want to hear your comments on this, and then we will segue into categorical labels and how you develop them and all the issues there. So, thanks a lot. See you in 15 minutes.

(A brief recess was taken.)

MR. NEWSOME: All right, everybody, let us get started again.

Okay, Jennifer, why don't we start with you. Your card was up.

MS. AMANN: Yes, I just wanted to make one additional comment about some technical problems that I see with the percent-based label, and I will use the example of refrigerators.

If you had a consumer in the market looking at refrigerators of similar capacity, similar size, but different configuration, there could be some real confusion when they saw, for instance, a top-mount refrigerator that was a lower percentage above the federal standard that applies to that product but had a

lower kwh than a side-by-side of the same size that has a higher kwh and is maybe 20 percent more efficient than the standard. So, that would be a problem even with the labeling scheme as it currently is with capacity and configuration being on different labels.

I think that problem would be exacerbated if you were to combine categories for refrigerators, which I think is a great option to look at. If you did that, you would have a real problem where you might have products being compared on the same label that are, you know, a lower percentage above the federal standard but also a much lower kwh number. So, just another technical problem that I see as a possibility with the percentage-based label.

MR. NEWSOME: Okay, and that is a good point, and we will be talking about that after lunch in that session about the refrigerator ranges.

I think there may have been some members of the audience that had questions or wanted to make comments. If there is anyone that wants to come up, we can do it right now.

(No response.)

MR. NEWSOME: I do not see anyone raising their hands.

Okay, well, let us talk about the categorical

labels, a lot of issues to talk about here in terms of the various aspects. One thing that I would like to hear about is how these programs are implemented in other countries and how complex are the systems for determining the various categorical assignments, obviously not a long description, but just to give an idea of the different approaches that are taken. In my mind, we discussed it earlier, a simple approach is to assign percentages based on the energy conservation standard, but I have looked at things that Australia does and the European Union, and they all have different approaches. So, that is one issue I would like for everyone to address.

Then there were some comments about how such a label would interact with Energy Star, and so I would like for us to address that, too.

Does anyone want to jump in on this? Maybe we can start with the more technical issue. Okay, why don't we start with Christopher.

MR. PAYNE: Thanks.

One thing I wanted to address that is addressed by both this percentage label and the categorical label that probably needs to get on the record, one issue I think with the current label and with the sort of modified continuous that might be considered is that

because of changes in both the appliance standards passed by DOE and just availability of products in the market, we often see shifts in the scales, in the continuous scale, and, in fact, it has become, at least in my own observation, somewhat more common in recent years for products to fall off the end of the scale on current labels.

You will often now see in showrooms products that are labeled that say, "This product uses less energy than the minimum as the scale was created and when the label was made." So, I wanted to note that the percentage label and the categorical labeling system reduce that problem, because they sort of abstract the underlying range a little bit, and in theory, that would then reduce the actual cost of labeling these products, because you would not have to be continually updating the label to reflect those new ranges.

With regard to your question about the Energy Star logo and the categorical label, I think to my mind that is something that I have heard a lot of opinion about, but the only research that I have seen was work that ACEEE did in an actual sort of shopping experiment, and in that case, my recollection of their findings is that the stars-based categorical label actually had synergistic effects with the Energy Star logo; that

consumers read that label and said, "Okay, one star, two star, three star -- oh, four star is the Energy Star, five-star is the Energy Star." So, it, in fact -- although it had limited testing -- seemed to improve comprehension of both the Energy Guide label and the Energy Star Program.

By comparison, I would reiterate the point that I made at the beginning of the morning, that the research that I have seen reported by AHAM in which they reported consumer confusion with regard to the Energy Star logo and the Energy Guide label was I think flawed research in that they used a product that would not qualify for Energy Star. They used a highly consumptive product and put an Energy Star logo on it. So, of course, in that case, people are going to misinterpret it.

I think doing the same kind of test where a properly consumptive appliance was labeled with the Energy Star logo would be informative, but to answer your question, my interpretation of research that has been done suggests that a categorical labeling system could, in fact, be supportive of Energy Star and not in conflict.

MR. NEWSOME: Okay, thank you.

Christine?

MS. EGAN: My comment actually pertained originally to this percent-based label, so I will just make one comment on that and move into the other, which is in general, when you do research with U.S. consumers in particular, they have an awareness that the U.S. Government does not allow inefficient products on the market. They really do not want to be bothered with that, however; they feel it is the Government's job to regulate appliances on energy consumption. That comes through time and time again in the years that it has been tested.

One of their questions -- again, another hypothesis for the FTC -- is you are asking consumers with this label to have some understanding, some awareness, some interaction with the policy of minimum energy performance standards, and I just think you have to explore what is the American construction of what a minimum standard is, in particular because these numbers are going to be relatively low. Twenty percent is going to be a pretty good product, and again, relating back to my earlier comment that in the scheme of percentages that most people have in their head, 20 percent is not that good.

So, you really have to understand essentially how much better than standard do American consumers

typically think the range of appliances is, and my suspicion or my hypothesis is that may be asking them to have too sophisticated an understanding of the policy framework. It may be asking more than we want them to understand.

MS. DEMARTINO: I just want to ask a question just to follow up on a point you are raising and just to note I am not Hampton, so I may be a little bit technically off here, but is it possible -- I understand the point you are making that consumers. Are they going to know what the minimum standard is, and then are they going to understand that 40 percent is the best? Is it possible to use this type of a scheme but translate it to a zero to a hundred scale? And, of course, that involves some math to translate it, but --

MS. EGAN: It is possible, and I would suggest it is worth testing. Again, percentages are not very widely used in the world, probably in part because they are a reasonably sophisticated mathematical concept, and it is possible, and I would love to see the research that showed if that was better than this and if it resolved the sort of base question I had, and I really do not know, because you guys are breaking new ground with this label.

The other point that I wanted to make was to

follow on to a comment made earlier about the importance of the consumer research that you do, the firm you use and the design. The comment that was made was it is important to figure out if the dogs like the dog food, which is great. There is a difference, however, in testing a policy tool and a technical tool like information as opposed to testing dog food. The measure of success with dog food is if the dog eats it. It is a yes/no, black and white, they eat it or they do not eat it. There is shades of gray in interpretation, in understanding, in use, in motivation, that are different than testing a consumer product like toothpaste. It is really important that you use a firm that understands that nuance and difference and builds that into the research.

A classic example is you can test two toothpastes side by side and ask people, "Which one tastes better?" And they can give you an answer. If you do the same thing and put two labels in front of people and ask them which one they like better, there is learning happening as they look at one and as they look at two, and you are not getting an objective test of each individually because you are placing them side by side. It takes some experience with research of this kind of tool to actually know and understand that, and

so I would encourage both in the research design and in the firm that you select, that experience in testing a technical policy tool be part of what gets built in.

On categorical labels, different countries do it different ways in terms of the technical basis for how they set those. I would be glad to provide the FTC with a summary for the countries that they are interested in of how they do this. That would be something that we could put to our technical advisory committee, a summary country by country of how they set the thresholds.

The one issue that comes up consistently is what we call "bunching at the top," which is that eventually, as your market moves, everything ends up being an A, and you have to downgrade, and different countries have done that with varying degrees of success and consistency. The Australian model is, frankly, in my case one that I hold up as an excellent model for how to address that issue. But I would be glad to provide technical summaries. It is a pretty detailed technical issue that I think would be hard to address in a framework like this, but I would be glad to offer that.

MR. NEWSOME: Okay, that would be helpful. Thanks.

Rebecca?

MS. FOSTER: Thanks.

I would like to get back to the issue of Energy Star's interaction with the Energy Guide label, which is a real key issue for the CEE membership and particularly as it relates to the categorical labeling scheme that has been thrown out, and I think that while the research that has been done to date that Chris mentioned provides some context and the AHAM research provides a different context, each of those studies potentially had shortcomings that I think we could all point out from different sides of the table, and what I see as a real opportunity is the FTC research being organized and structured in such a way that we get a clear, definitive answer on what is the interaction in how consumers would embrace and understand any modification of the label as it relates to Energy Star.

I think just to throw out some of the complexity that really lives in this issue, some of the research questions that we would like to see addressed are around, within a categorical labeling system, how would consumer understanding change if the Energy Star was always at category four, or four stars equals Energy Star? How would it change if on dishwashers an Energy Star product got four stars, and in clothes washers, an Energy Star product needed five stars, because Energy Star specifications are different across product

categories? What if Energy Star was kind of in between a categorical mark, so some three-star room ACs got Energy Star and some three-star room ACs did not? What about if there were product categories like water heaters that the label covers that do not have an Energy Star, is that confusing?

So, I think there is just a lot of complexity, and I really look forward to the opportunity to review a research outline once a firm is selected. I hope that is a possibility, because I think that there is a lot of learning here and a lot of interest in making sure that the research answers all the questions on the table and gives us a real definitive answer so that we can then move forward in the best direction.

MR. NEWSOME: Okay, thank you.

I guess one question I had was, with the Energy Star for most products, the levels are set based on some relationship to the DOE minimum standard. That is my understanding, and you can correct me if I am wrong, but with category -- I am sorry?

MR. KLINE: No, I beg to differ. There is jointly developed -- at least with the consumer electronic products, I have been involved with television for nine years, the VCR, the DVDs, all those standards. There are joint negotiation or we come to a

consensus between industry, typically the Consumer Electronics Association, and secondly with EPA to develop -- with Energy Star jointly -- develop a level when is an elitist level for Energy Star and is, of course, a moving target, but it is designed to only capture 20 percent of the market or to enable the recognition of the top 20 percent performers.

See, again, you get into the dichotomy of the higher efficiency, lower consumption, there is this number that is very confusing to consumers about higher efficiency is a lower number and a higher number is lower watts or -- excuse me, what do you mean?

So, the mark of the Energy Star has been a very positive thing, but it is jointly developed with industry in consultation with EPA.

MR. NEWSOME: Okay, and I guess I am talking about most of the products that bear the Energy Guide label, when you look at the DOE or EPA standard set for Energy Star, there is some relationship to a DOE minimum, and Ann, I will let you jump in.

MS. BAILEY: Just to clarify, for appliances, it is true that the Energy Star level is expressed in terms of percent above standard, but for central air conditioning and furnaces, it is a straight number, efficiency number; for TVs, there is also a standard,

but it is not a percent of standard.

MR. NEWSOME: Okay, and whereas the categorical schemes that other countries use, there are different approaches that are used. They are setting an equation where you get -- for instance, the European Union has an index that you calculate for refrigerators, and the various stars or the letters are assigned to the various ratings. Is that correct?

MS. EGAN: Um-hum.

MR. NEWSOME: Can one of you speak to it so we have got that on the record, just briefly?

MS. EGAN: I am going to say that that is my understanding. I would like to be able to go back and verify and actually get you a European technical expert's input on that, because that is a level of detail one below what I normally pay attention to on the European label, but your understanding is also my understanding.

MR. NEWSOME: Okay, all right.

Well, let us get back to the queue here. Steve?

MR. ROSENSTOCK: Thank you, and I guess we have kind of moved on to the star label, is that the categorical --

MR. NEWSOME: Oh, I am sorry, okay.

MR. ROSENSTOCK: Because I think that was good

in terms of the percentage graph, I will say the 14 percent, and then going to the star label. I will assume it is the same units, 600, and I think one thing about the star labels, and then also I remember from the ANOPR the A through G rating of the appliances, is, again, for the consumer, what made it a four-star appliance? It is 14 percent more efficient equals four stars for the refrigerator. Well, what about other products where, again, the range is smaller? A four-star might be 3 percent. Again, there is no way to see any of that context on a label the way it is done right now.

Also with a refrigerator, again, it is a matter of we are all used to the mutual fund ratings, you know, four-star, five-star, three-star. Well, is that a 20 percent category? Does that mean that the four-star is -- you are in the 60 to 80 percentile of the products in terms of energy efficiency out there? I think since you do not know the range of -- and in this case, since you really do not know the range of efficiency savings, four-star might be easier for the consumer to understand that, yeah, it is four out of five stars, so it must be -- but again, just speaking as an engineer and my geek background, there is no context for it. I mean, who decided it was four stars? And it is going to

differ product to product.

So, again, you were talking about different products might -- and also, what if a two-star refrigerator is 12 percent more efficient, you know, versus a four-star, 14 percent? I am just trying to think about how, with this type of system, what those stars actually mean if there is no way that the consumers know what do those stars really mean in terms of energy efficiency, especially in the absence of a -- especially, let us say that that is not an Energy Star product, for example. Again, it probably is, but let us say it is 14 percent more efficient, but Energy Star cut-off is 15 percent. A four-star product is not an Energy Star? What is going on?

So, I understand the clarity and just maybe ease of understanding on certain consumers' parts, but again, there is that critical lack of information as to what are you really getting with this product in terms of the star category.

Thank you.

MR. NEWSOME: Well, that is a good point. I guess related to that, I had a question. Many of the star labels that appear in the research reports -- I think they are in both ACEEE and AHAM, but I may be incorrect on that -- but they superimpose the range on

either end of the stars, and if you look at our ranges, and Bernard mentioned this earlier, especially for refrigerators, there are some categories or subcategories of refrigerators where there is only one on the market or there are only three, and they are all within several points of each other, and so I had assumed that putting that range was not necessarily the thing to do, that it may have been a mistake, but maybe I was missing something, and if I was, I am happy to hear it.

If anyone has any thoughts on that, whether that is something that is appropriate, we can talk about it, but we will go through the queue and move on with Lawrence.

MR. WETHJE: Me?

MR. NEWSOME: Larry, I am sorry.

MR. WETHJE: First of all, let me just back up, previously, Hampton, on the previous label we were discussing before the break. I did not hear any support for that one around the room. In fact, I heard pretty much everybody saying there were several problems with it. So, as you proceed toward developing some kind of research in the future on the different options, you may want to consider just pulling that one off the table to minimize the complexity.

MR. NEWSOME: This is the percentage labeling?

MR. WETHJE: Yes.

MR. NEWSOME: Okay.

MR. WETHJE: Moving onto the categorical label, though, my platitude for the day would be, "If it ain't broke, don't fix it," and I think we can make some minor improvements and enhancements to the current label, but an overhaul of the whole scheme just is not warranted.

We have got a very good system in the U.S. for promoting energy efficiency. If you look at the trends of any of the products that the label applies to, the efficiency trend is tremendous, in a downward trend, of using less efficiency. We have got a scheme of mandatory standards with DOE. We have got the labeling program that exists now. We have got the Energy Star Program and some other market incentive programs that are working. So, if it ain't broke, don't fix it. I think we have got a great scheme in the U.S. We may be able to make some minor enhancements, I am not saying that that is not the case, but an overhaul just is not necessary.

A categorical label, as we have heard several times, I just think you are going to get yourselves into a huge problem if you proceed down that path. I do not think you want to put yourself in a position of

establishing what these different levels of what a star, one-star, two-star, three-star applies to. The Energy Star Program that exists today, there is a lot of factors and analysis that go into determining what that level should be. You are going to have to do a similar thing in each one of these cases, multiple times, for multiple products, multiple levels, and it is going to be extremely difficult. I can guarantee you it will be extremely difficult. There is just no simple way to do it. The difference in stars would have an impact in the market, and you can bet that people are going to be weighing in very, very heavily on trying to establish what those star levels are. So, I just would not advise FTC to take on that.

Furthermore, the difference between the star levels, as we have heard already several times, is just insignificant. The products have become so efficient today that the difference between a one-star and a five-star product in some cases -- take, for example, electric water heaters -- can be less than an annual operating cost of $5 for the whole year. So, you are going to try to indicate to somebody that you buy this water heater that is one star and it is going to cost you $200 a year, but if you buy this five-star one, it is only going to cost you $195 a year, and somewhere in

between there, you have got $1 increments, literally.

In the case of dishwashers, it is the same thing. We are going to be having a new rulemaking, new standard on dishwashers, and with the new standard, you are probably going to end up where your minimum standard efficiency of the dishwasher may cost you $35 a year to operate, and the most efficient one may be $30, and so the difference between the levels is just so insignificant that I just cannot imagine that being really critical to a consumer to convey that message to.

Lastly, on the categorical label, just because the rest of the world may be trending in that way does not necessarily mean much to me personally. I have been involved in a lot of international standards work, and most of the world is trending towards IEC standards and ISO standards, but I know from direct experience that those standards' test procedures are not nearly as good as the North American test procedures that Mexico, the U.S. and Canada use.

So, just because the rest of the world is going towards those standards and a categorical type label does not mean anything to me. I think we ought to go to what makes sense in this country. We recently had some folks in from Australia who were directly involved in their star labeling, and I was interested in Christine's

comment about her thinking that was the best label, because they indicated to us that, indeed, consumers do confuse the stars with quality, and that is something I think we want to avoid.

MR. NEWSOME: Okay, thank you.

Bernard?

MR. DEITRICK: We have a lot of experience with categorizing products and their performance, and that is basically what we do. It is very important when you come up with the categories that you make sure that the visual difference is a meaningful difference, that if you have something that has four stars, it is meaningfully different than three stars. Conversely, if there is not enough difference, then you should have more granularity. You could have three and a half stars if there was a meaningful difference, but that is something that would have to be looked at on a case-by-case basis.

I think the important thing, we are sort of getting away from the real essence of it, is you want to make it easy for consumers to compare products on a fair basis, and this does, having a category that says four stars versus three stars, it makes it very easy to say, "That four-star product is better in energy use, in energy efficiency, than the three-star product." It is

not saying that it is a better product. In energy efficiency, it is a better product. Having that information so graphical makes it easy for a consumer to compare.

Now, the flip side of that is that you have to have a fair comparison. You cannot have categories that a consumer is going to be comparing that are on different bases. So, you have to have a fair comparison as well, and, of course, we will get into that with refrigerators, which I think is probably the most segmented of the markets.

You do need to be careful that there are meaningful differences, that you make sure that the information conveyed is accurate, and for a lot of products, that efficiency is not just the energy used, and again, I will go into a little bit more of that when we do refrigerators, because that is probably the most complex product that we are looking at.

MR. NEWSOME: Just a quick follow-up, in your mind, what is a meaningful difference? If the range of the top and the bottom in, say, dishwashers, and I do not know what the exact answer is, but let us say it is $25 a year in terms of operating costs, is that a reasonable difference, or $10?

MR. DEITRICK: I think that on a case-by-case

basis that you need to look at it, that it is a significant percentage, that a dishwasher that costs $35 to operate versus $30 to operate is not a five-star difference, but that is something that you need to look at the population of dishwashers and see how they break out. If we sold a hundred million refrigerators that saved 100 kilowatt hours per year, that is a significant amount of electricity.

So, is it better to use less? Yes. Is it better to show quickly to the consumer that this one uses less? Yes, it is. But the granularity of the categories that you use, it is important to make sure that there is meaningful differences.

I hate to pick on Energy Star, but that is one of our big problems with Energy Star, is that if it is 15.01, it gets an Energy Star; if it is 14.9, it does not get an Energy Star. It makes it hard to fairly compare, especially with the different categories. So, having a continuous -- you want the bins to be small enough that there is true differences, you want to show the differences, and you do not want to make the bins so large that you are unfairly comparing two products.

MR. NEWSOME: Okay, thank you.

There was someone in the audience that had a comment.

MS. NOTINI: Thank you, I am Jill Notini with the Association of Home Appliance Manufacturers.

I am hearing from some panelists around the table that there seems to be an urgency because something is not working. We recently completed a consumer research study, separate from the labeled research that we did using Synovate, in November of 2005, and I will use the example of dishwashers.

From that study, it showed that cost was the number one most important purchase factor for dishwashers. Energy efficiency was ranked fifth on the list of overall purchase factors. Now, some of you say, "Uh-huh, well, that is exactly why we need to fix this." Well, let us look a little deeper into that number.

When we looked at purchases, those same purchases that were made within the past four years versus purchases made five or more years ago, the recent purchasers showed that 20 percent of those purchases, the reason why they purchased that product was because they wanted to upgrade to a more energy-efficient appliance before the old appliance died, okay? That is versus 11 percent, okay? So, we see that within the past five years, there has been a dramatic shift in the consumers' minds towards energy efficiency.

What is coincident with that is also the

incredible amount of resources and investment made in the Energy Star Program over the past five years. Industry and government has made an enormous shift toward promoting Energy Star, and we are seeing it work. It truly is working.

Another piece of data that I can share with you, when we look at total shipments of Energy Star clothes washers, refrigerators and dishwashers, in 2004, shipments of Energy Star appliances for those three categories combined increased 33 percent over 2003, okay? So, that is just in one year. That is a dramatic shift. Energy Star is working, and I think we are making an assumption that something truly is broken. So, that is one point I wanted to make.

I also want to just -- Jennifer, you made a point earlier about some quantitative research on the categorical label. I have not seen it, so I would be interested if you could share where we could find it or if it was submitted with the comments.

MS. AMANN: Our research?

MS NOTINI: Yes.

MS. AMANN: I will comment.

MS. NOTINI: Because I did want to note in the 2002 ACEEE research, there were some labels that were tested that came out in the first round of testing as

being really very favored by that focus group, and within the second round of testing, those labels were eliminated from moving forward, and it was actually shown that the categorical style label did poorly during the first round of interviews, but it was included in the second round of testing.

There were also some comments made in the study, the direct comment from the 2002 report was that based on comments from a few focus group participants and survey respondents, there was some concern that a categorical rating system, particularly the star-based rating, might mislead consumers by implying a rating of product quality in addition to energy efficiency. So, if it is submitted with the research, it would be great to get our hands on.

Thank you.

MR. NEWSOME: Jennifer, do you want to just very briefly respond where that information is available?

MS. AMANN: Yes, I would like to respond.

The ACEEE research was not any single research task. It was actually a long-term, iterative research process using multiple methods. So, we started out with a number of designs that we had identified as being either tested or used in different parts of the world, and we did some qualitative research on those. We also

talked to manufacturers about some of the label designs we were looking at to see which ones would actually be cost-effective or practical to actually implement, and based on that feedback, we moved forward. At each stage of the research, we used the findings we had to improve or modify the designs that we went forward with.

Throughout the research, our research plan, the idea was that we would identify categorical and continuous labels that were the optimum that we found through each iteration of the research to test at the end quantitatively. So, we had qualitative research that then led to two quantitative research tasks, both with statistically significant findings. So, when you take a comment that might have been made about findings from the focus group, certainly that was a qualitative test, and so as any good researchers, we make comments saying that as a qualitative research project, we cannot make any quantitative comments about that, but we then went forward and tested again.

So, where we had participants in our focus group saying that they had -- a couple of people said there might have been some concerns about the stars labeling showing differences in quality, we decided that we needed to test that quantitatively, and all of that is in the same research report that you read from 2002. If

you had read forward, you would see that we tested the quality issue in two different qualitative formats and found that there were no statistically significant differences. People did not see that. We also had a number of qualitative comments that certainly people understood the label was an energy label, only dealing with energy. We found that there was some implication of a quality inference from a stars-based label, both in a survey in an actual shopping experiment where people did not realize they were even looking at the label, was a part of that test, and I think you will also find that in the research that you did, AHAM did with Synovate, there also were no reported differences in quality perception among any of the labels that were tested there.

MR. NEWSOME: Okay, Laura, you had a quick --

MS. DEMARTINO: No, I do have a quick point, and I know there are a lot of tents up, a lot of people want to get their comments in, but I know a lot of -- there are a number of research studies that were done, ACEEE, AHAM, others that have been mentioned, and I know that in the comments that were submitted, there has been sort of a summary or overview report. It may actually be useful for the Commission to get the underlying data for these tests, because then it will allow not just us but

everyone to take a look in more detail. So, if that is possible, I would encourage each of the groups to submit some additional information about their research.

MR. NEWSOME: And that way we can get it on the record and on the web site, so...

Let us hear from the Energy Star folks, Rich first and then Ann.

MR. KARNEY: Is this on?

MS. DEMARTINO: Flip the switch.

MR. PAYNE: It is on.

MR. KARNEY: Richard Karney from the U.S. Department of --

MS. DEMARTINO: It is not on. You have to flip the switch.

MR. PAYNE: You have to get real close.

MR. KARNEY: Is this better?

Hi, I am Richard Karney with the U.S. Department of Energy. I run the Energy Star Program for the Department of Energy, and a lot of the appliances that the label will be going on, the products are managed by us, besides the fact that I am going to be interspersing personal and official comments with what I am going to say.

The fact that I agree with AHAM I guess is a personal comment, but I would like to encourage the

Commission to try to keep this as simple as possible. I believe that the categorical label to me adds complexity to what I think is a simple problem. I like the continuous label -- do not like the percentage label that you had on there -- and the simplification of what exists now, I believe, plus adding the Energy Star onto it to signify to the consumer that this is an energy-efficient product.

I mean, EPA and DOE, we manage our products, we change the criteria as technology improves. We have just changed the clothes washer criteria and the dishwasher criteria to make the Energy Star more significant in the marketplace.

I like to keep this as simple as possible. The survey that came out recently that showed that a large percentage of Americans cannot find Louisiana on a United States map, and double that percentage cannot find Iraq on a global map, says to me we need to keep this as simple as possible by showing a yearly consumption, a price that goes with that consumption, and having an Energy Star label to signify that this is an energy-efficient product to me shows the consumers they can compare one product against the other to see where the purchases should go.

Energy efficiency is not the -- as much as I

feel bad about this -- is not the prime consideration when a consumer purchases an appliance. It is the features of the appliance that they are looking for. Energy efficiency is just one matter.

When I go buy a product, I look at the energy label, but I also read Consumer Reports for the quality aspect and the attributes of the product, but like Steve, I am an engineer, and I will not say I am a geek, but I certainly believe in what Steve was saying, that to keep it as simple and keep it as brief as possible to the consumer will go a long way to getting the message across and at the same time providing the energy-efficient message that we are all looking for.

MR. NEWSOME: Thank you.

Ann?

MS. BAILEY: Thanks.

I guess just to add to that, I guess I think it just intuitively, if you have an Energy Star label on the Energy Guide label and it does not align with a five-star system, if you went to that categorical approach, then that would be confusing, and I think one of our major issues with the studies, the ACEEE study in particular, is it presumes alignment. I think it assumes that Energy Star would equal four stars, and if you test that, you would find that there are synergies.

The problem is I think that alignment has significant resource implications for the Government, and I think it is also practically impossible. I think AHAM has pointed out, if you have five stars, you have five bins that you are basically having to negotiate on a regular basis with industry. We have two bins. Today we are announcing a new specification for copiers and other imaging equipment, and it took us three years to come to some agreement on what those levels should be. So, not only would there be significant new resource implications for the FTC, but we would have to align our processes and the timing would have to be aligned, all of the interactions with industry would have to be aligned. So, that is pretty significant.

Then even assuming that that could be accomplished, there are for several products aspects of Energy Star that go beyond efficiency, so that even if the efficiency values were aligned, for instance, for central air conditioning, Energy Star does not only set a SEER level, it sets an EER level. So, even if we aligned as far as SEER goes and we could equal four stars as far as SEER goes, there would be some products that met that SEER levels and equaled four stars that would not qualify as Energy Star, so that the Energy Star label could not appear.

There is another issue with washers. We now have a water factor that is required to be met for Energy Star, which would not be consistent with the Energy Guide label. So, I think alignment would be very important but has huge implications and may not be possible.

MR. NEWSOME: Thank you.

Next we have Christopher, but I just wanted to throw out also, several of the comments suggested that the categorical labels in other countries take into effect some performance characteristics of the products, and as people are commenting here in the queue, if they have information on that to provide, that would be great.

So, Christopher?

MR. PAYNE: Thanks.

Boy, I have got several issues here. One is that we addressed earlier the issue of how significant is this topic to consumers. I think there are two points I would make with that. One, I think there is a distinction between the significance to the individual consumer in looking at the product and significance to the United States in energy policy terms, and I think, in fact, in interviews that I have done with consumers on the showroom floor, consumers recognize that

distinction and, in fact, were interested in making a purchase choice that was not necessarily a solely economic decision.

Oftentimes, I think in policy, particularly in energy policy, we tend to fall into a mode that says that what we are talking about is strictly an economic rational utilization model, and people do not behave that way. People make purchase choices for a variety of reasons, and the categorical label was one in which I had some consumers report to me -- and this is qualitative data, so it is anecdotal -- that they saw the current system and saw an estimated yearly operating cost of, I will give an example, $56, and they saw another with an annual operating cost of $54, and they said, "You know what, two bucks, who cares? It is not going to affect my choice that I will save $2 a year in purchasing this model or that model, but I am getting this $54 model anyway, and I am going to buy it because I know that it is useful to use less energy."

So, in terms of the impact of a categorical or even a modified continuous improvement rating system, it is more than simply the rational economic actor model that is at work here, and there may, in fact, be good energy policy reasons to establish a system that allows a consumer to go beyond a percentage difference of 2 to

3 percent and make that choice for other reasons. I will just leave it at that.

The second point I would make is that in interviews with salespeople on the sales floor, one of the things that they really reacted to was the benefit of the categorical label in drawing consumers to then speak with the salesperson to learn more about the product. So, they actually favored the categorical label system because they saw it as an opportunity to inform the consumer in a way that the continuous label did not.

Third, I want to react to the issue of taking the categories in isolation. I think it is important to recognize that when we are speaking of these labels, we are speaking of the label as a whole and that people interpret the label as a whole. When people come up and look at the more stars, the more efficient, they do not lock in on the four to five stars and ignore everything else on the label. It is taken in context. It is taken in the context of the fact that there is an energy use term given there, 600 kilowatt hours in this case, there is an operating cost term given there, $54 in this case.

They, amazingly enough, sometimes even read the fine print and say, "Well, you know what, you are saying it is 9 cents per kilowatt hour for electricity, but I

pay 12 or I pay 6, so I am adjusting this." People also tend to adjust based on that fact that, for example, with clothes washers, "Well, I have got four kids, and I do way more laundry than average, and I can tell that I am going to save more than what is on this figure." They also react in the context of the sales floor. So, again, they are looking at this in the context of other labels around the room and, you know, how those other labels appear.

So, I do not want to get caught up on what does it mean to be a three-star or a four-star? Are people going to be able to tell the difference in isolation? I think it is an important question to ask, but I think we have to recognize that they also have the information about energy use and operating cost, et cetera.

Finally, I agree with Rebecca that we probably need much more detailed research to understand the questions of how the Energy Guide label and the Energy Star label interact. I think we do not have enough data to make informed decisions about this. That said, I would say that my opinion, based on interviews I have done with consumers on the floor, is a little different than Ann's in terms of the interaction that people see with the Energy Star logo versus a categorical Energy Guide label.

I think people were fairly sophisticated actually in their distinction among the two systems. They saw them as different products. They saw the Energy Star logo as identifying unique characteristics of the specific model, whereas the Energy Guide label labeled the performance of a range of models. They did not necessarily say, "It has to be a four or five-star model to get an Energy Star logo." I am not convinced, but we do not have any data one way or the other, that a consumer would necessarily have a conflict in mind if they saw three stars and an Energy Star or two stars and an Energy Star. We do not know. My experience with them suggests that they are sophisticated enough to make that distinction, but it is a researchable question, and I would encourage that research.

MR. NEWSOME: Okay, thank you.

We have got about 25 minutes until lunch, several more people in the queue here. What I would like to do, in addition to discussing this some more, I would also like to have some time for us to talk about just consumer research in general. I believe there is some people who want to make some comments about the research that has been done already, and also, I would like to, before we break, revisit Larry's point about the percentage label and see if there are any advocates

for looking at that label more. If there are not, then it certainly makes things easier in terms of taking something off the table. So, that is very important for us to know. If there is no one who thinks that that is a label worth looking at anymore, then that is something that we need to know about.

So, let us continue with the categorical, but we want to go into those two discussions before we wrap up here. One, the consumer research issue, and also, the percentage label.

So, Karim, you are next.

MR. AMRANE: Well, I guess I would like to advise the FTC against adopting a categorical label as proposed for several reasons. I think as mentioned before, it is going to be an extremely complex process that the FTC would have to go through to get the consensus among stakeholders of what the stars mean and even within one product category, that is, central air, it is going to be tremendously difficult for FTC to reach a consensus or to determine what a star means. So, again, I mean, for that, we do not think it is a good idea.

Now, you might think of a system or a concept like this maybe for a product for which there is only one energy descriptor. For central air, we have,

because of heat pump, for example, two descriptors, we have SEER and we have HPF, but air conditioners also have SEER. So, you have to come up with a star system for air conditioners, and then for heat pumps, you will have to come up with a different star system, and then for heat pump, what are you going to do? You are going to have to -- you know, two-star, something might qualify two-star for air conditioner, might qualify as three-star for heat pumps? I mean, that is going to be extremely confusing for consumers.

Again, Energy Star is another issue as well, because now Energy Star has a third descriptor, EER, which DOE has not, so now particularly with the third one, and an Energy Star product probably in some cases will not qualify as, for example, four-star just because the EER is not met or something like that.

So, I think it is going to be very confusing. It is going to be contentious also. We would like to discourage incremental energy efficiency improvements unless you qualify for the next star. So, if you are just close to it, then you would make to the improvement, but you are close to the next star, what is the incentive here? So, for those reasons, we believe that that is not the right way to go.

We feel that the current label is probably okay.

Maybe we just need to tweak a little bit the label, but there is no need here for tremendous change in the way the label is designed.

MR. NEWSOME: Okay, thank you.

All right, Joe, then Christine.

MR. MATTINGLY: Again, going back to the products we cover, in the case of water heaters, since the minimum standard is so high, does everybody get five stars or does everybody get one star, but there is room for five stars? Again, in the case of furnaces and boilers where it is discontinuous, the range of efficiencies, again, do you get one star for being this and five stars for being this or do you get one star for this and two stars for this? But the public is used to seeing five stars, at least options for five stars. Just some very practical problems applying it to our products, this kind of a system.

And I want to confirm, we have also had comments from our industry about this could stifle innovation if you would otherwise be inclined to make an efficiency improvement, but if it does not get you an additional star, you might just say the heck with it, that it is not worth it.

MS. EGAN: It is hard to know where to start. I want to respond actually to the first question on the

table to this label of stifling innovation. Everywhere that it has been researched the exact opposite has been shown by market data. If you look at the market transformation that has happened in Europe and you look at a graph of the distribution from A to G, before labeling and after labeling, what you see is a peak at A, at B, at C, at D, which implies that the label is, in fact, driving innovation. In fact, it is motivating the manufacturers to meet the next level of energy efficiency, and it is absolutely clear when you look at the data, the market is absolutely affected by those thresholds. So, I would argue that that is not a valid point in terms of where it has been tested.

The other thing that I want to say about the percent label is I want to be clear that from my perspective, I do not have problems, I just have questions. It is a totally untested model, and I definitely think it is worthwhile include in your next research. We can all have hypotheses, but the only way to know -- you might be onto something, you might not, but at least in the preliminary research, I think it would be worth including. That is from a perspective as a researcher.

On the Energy Star issue, I want to emphasize that I agree that this needs further research. The

research that I am familiar with is the work done by ACEEE. It was preliminary research, it was partial research, I would not suggest that it answers all of the questions. I will say that I personally was surprised at the findings, that, in fact, they are synergistic, that it was mutually reinforcing.

In other words, consumers said, "I like both the Energy Star label and the Energy Guide label better. I find them both more believable and usable as a result of seeing the two together." I found that result surprising, because I had the same intuitive model that I think Ann mentioned, and, in fact, that is not what the research showed. So, I think this definitely needs further research, but what is on the table that I am familiar with belies what seems to be an intuitive point.

The other thing that I want to ask is, this concept of "simple," that that is not a subjective point; it is, in fact, a researchable point. All of the research that I am familiar with has shown that consumers find a categorical system much more simple than they do a continuous scale, and that is research that I have replicated on all continents actually, and so there is an answer to what consumers find simple, and again, that is something that I would guess that the FTC

is going to find in their own research, but it is not what the experts around this table who have spent -- God only knows how many years of policy experience with energy efficiency is around this table, but it is a lot more than most consumers walking into a showroom making the decision.

Another point that I just want to make is on this issue of quality. Again, because this is a result that I found surprising, it sticks in my head that the research that ACEEE has done, and I also have seen in the AHAM research, that, in fact, there is not a higher correlation with the stars in consumers' minds to product quality and that that result is statistically significant in the research that has been done on both sides of the table.

Another point I want to make is the nature of the ACEEE research. I was actually at ACEEE at the time. Just for those of you who are new, we had a stakeholder committee that participated in that research, including representatives from the industry associations, including representatives from government, including representatives -- I believe FTC sat in as an observer status actually, you did not comment, and so at each stage, those results were presented and comments received and input taken, and so while it may be new to

some people and some people may not have seen the research, certainly during the process, we tried as best as we could to vet that result.

The last point is if it ain't broke, don't fix it. I think it is pretty clear that this policy, this Energy Guide label, has not been what is driving the market. The Federal Register has legislated three policies, Mandatory Energy Performance Standards, the Energy Star logo, and the Energy Guide label, and I think the question is, do we want to optimize this one, because when you look at the research, it is clear that MEPS and the Energy Star logo has been driving those energy savings and that change in priority of energy efficiency and that the Energy Guide label has been a backseat player, and the question is, if we have three tools, why not make all three the best that they can be?

MR. NEWSOME: Okay, thank you.

Jennifer, you are next.

MS. AMANN: Okay, I have to sort through my list here. A lot of my comments build on what other people have said. I will try not to reiterate too many things.

As far as the Energy Star interaction goes, I would just say that we also agree that that is a great avenue for additional research, that there is a lot that additional research can build on the preliminary

research that has been done that does show that there seems to be some benefits to the labels and that they can work together, but how that works out in practice certainly is an open question.

More specifically, one issue that we did address and I think had some pretty good findings on is the location of the Energy Star, and as Chris discussed earlier, some of the problems with the current placement, and so certainly moving the Energy Star to another portion of the label, having a dedicated place on the label where that Energy Star would appear, will certainly help consumers when they are in the marketplace. It will be very obvious to them whether it is there or not, and so we would just want to make sure that that is included in the testing as well.

I think I have made my points on the quality issue and other people have as well, and I think the research shows that there is not an additional indicator of quality.

In terms of efficiency impacts, again, there are ways to optimize the label to meet goals of providing information to consumers and influencing energy efficiency, both at the individual's purchase decision, but also more broadly, by having an impact on manufacturers, as we have seen the label having in other

countries, and also then helping us meet national goals for reducing energy consumption.

In terms of the meaningful differences between categories, I think certainly that is a complicated issue, and there may be products on the market at any given time that because of the range of products from least to most efficient or because of natural differences in the technology mean there are very discrete and different product efficiencies. One example would be in gas furnaces where you have a range of AFUE at which no product even exists, because there is a discrete difference in the technology that is used.

You may have a situation where you always have a label that does not have two stars, for instance, and this is not something that I think is going to be noticed by consumers in the marketplace. It is a five-star scale. Maybe there is product at one, three and five stars and nothing at two and four or some variation on that. I do not think that is an unworkable issue.

For other products, I think we would -- there has been a number of comments about the range of efficiency for water heaters, for instance, and we think that this is a good time to maybe reconsider the way water heaters are classified and include all products

that use the same fuel on the same scale. So, you would have all electric-based water heating technologies compared against one another, and that would include storage water heaters, tankless units and heat pump water heaters, which are compared individually at this point.

MR. NEWSOME: I think that is an interesting point, and maybe we should discuss that in the heating and cooling section. I am sure Joe will have some thoughts about that.

MS. AMANN: Okay, then we also have some thoughts on a process for the technical input to the FTC on product categories, how that can work, and what triggers there might be in the timing for making changes to the stars-based system. We see it as a system, once a set of stars are developed, that can be the system that is used for a longer period of time. You do not need to have the ranges updated annually, for instance, like is the current system.

You could have a system that lasts longer and triggers could certainly be, of course, changes to the federal standard, but also changes to the Energy Star level, those type of events could trigger an update to the stars rating. So, you know, certainly that is not refined, but we think that there are some options that

are worth exploring on the implementation side and certainly a lot of experience from overseas that can inform that process.

MR. NEWSOME: Thank you.

Okay, we have David, then Christopher, then two folks in the audience, and then we will try to wrap up for lunch, and David, you are going to disagree with Larry on the percentage label?

MR. CALABRESE: We are a team.

I just want to follow up on a couple of issues here and respond to some questions, and there was a lot of discussion back and forth, so I hope it is not too disjointed.

I did want to focus, go back to some comments that Jill made and some comments made by Mr. Payne about the flawed nature of the AHAM study, and I do not want to get involved in a tit-for-tat here certainly, but I think there are some important distinctions that need to be made. In fact, Christine said that industry was involved in the process for the ACEEE study, and that is absolutely correct. In fact, many of the responses and concerns that we have in our responses here are the result of on the ground, an AHAM staff member who observed the focus group interviews, and he had observed a number of these inconsistencies, prompting, et cetera,

that led us to our concern that resulted in our comments here.

I also wanted to comment on the issue of quantitative versus qualitative results, and I think it is important to note that the ACEEE study specifically states that it is not a quantitative study, and I will quote from it. It says, "The nonstatistical nature of this qualitative research means that the results cannot be generalized to the population under study," and goes on to say that "such qualitative research methods, such as focus groups and time-structured interviews --"

MS. DEMARTINO: Excuse me, I am going to cut you off, only because we have been through this issue again, and since we only have ten minutes left -- I apologize, Jim warned you that the hammer would come down -- but we have had a number of comments already on the qualitative and quantitative issue, so if you would not mind moving to your next point.

MR. NEWSOME: I just want to add to that, I think it would be very helpful on these studies that would be done, if the underlying research could be submitted to the record --

MR. CALABRESE: We would be very glad to provide that. We have much data in that regard.

The other point I wanted to make is in regards

to some of the data that we have gathered and that has been mentioned here is the importance of energy efficiency to consumers, and what our research has shown and has been confirmed is that it is about four to five on a list of important issues that consumers look at when making a purchase decision, and despite Mr. Payne's research, ours shows that it is down the list certainly.

Does the FTC, through a change to the label, through its program, want to drive that number from four to five to something else? I do not think that is the mandate, certainly it is not the statutory mandate of the FTC, and I do not think the FTC wants to get into the business of changing consumers' wants and needs. Consumers want what they want. They want performance in some cases, they want features in other cases, and in other cases, they may want energy efficiency. It is not the job of the FTC to tell them, "You need to be thinking about this first." They are making the decision. What the law provides in the statute as well as in the legislative history is that you want to provide energy usage information that can help a consumer make informed decisions about the appliance itself.

Lastly, on the issue of the simplicity of the label, I completely agree with all the comments about

simplicity. Now, from an optical standpoint, looking at that, it appears to be simple; however, comments from Ann and from Rich, from Energy Star, point out that it is not simple underneath the patina of these stars. There is processes, there are characteristics, there are performance levels that have to be taken into account that that, in itself, does not reflect. You would need to go through such complex and in some cases untenable ways to get these things to match up that it just cannot be done.

The issue on performance, that would require I think quite a bit of time for us to do, and I will not spend a whole lot on it. It is not something right now that is included in the Energy Star Program, it is not something included in the federal minimum standards. If the FTC were to get involved in analyzing and reviewing this, I just cannot imagine where you would start. It would be quite an endeavor. So, it would be something that I think you have to -- it would be a separate proceeding perhaps.

MR. NEWSOME: Well, that was not my suggestion. It is more to get information on the basis for the categorical labels in other countries, because it is related to the concern people have raised about whether the stars suggest some kind of quality aspect to the

product.

Okay, let us go to Christopher and then the audience members, and we are running out of time, so...

MR. PAYNE: I will just agree with the representative of AHAM that I certainly did not intend for my statements to be taken that I think that FTC should move up the importance of energy efficiency in the list of rankings that consumers have. I perfectly accept the fact that it is regularly four to six on the ranking of importance when one is choosing models. My earlier comments were reflective of the focus on a specific performance range or a specific dollar term and the fact that consumers often take more into their decision than those two variables.

I would also say that while energy is regularly ranked in the four to six ranking, I think the Energy Guide label actually does a very effective job of allowing consumers to "tie-break" when they are looking at two or three models that they have decided on in a showroom, and they are saying, "Well, you know, I kind of like this one, I kind of like that one," at that point they tend to look at the Energy Guide label as a way to swing them one way or the other. So, yes, it is not the first thing they focus on, but it can be an important input to their decision.

You had asked earlier, should we bother to include the percentage label or not in our future research, and I would say only that as I said earlier, that current percentage system does address a problem with the continuous scale, which is this flipping axes problem. So, if you take that off the table, I think you still need to fix that underlying problem, and I will leave it at that. It did address an important concern.

I would like to return to a broader issue of this question of, is the current Energy Guide label broken? I believe it is, and I believe that we have data to support the statement that the current guide is broken. It does not do its intended job in communicating effectively consumption information to consumers. In one small research project with which I am familiar, one consumer in three misinterpreted the label and chose the more consumptive appliance. Now, that is a fairly significant problem, and it points out a significant potential for improved consumer comprehension and potentially energy savings if the comprehension of the label is improved using these techniques we have discussed.

I think I will conclude with that.

MR. NEWSOME: Okay, thanks.

All right, J.B.?

MR. HOYT: J.B. Hoyt from Whirlpool Corporation again.

My firm is a major player in the European market where categorical labels are the lay of the land, and our experience there is extremely negative. That started out as an A to G scale and has since become an A++ to G scale. It has migrated around because of a variety of things, both consumer and manufacturer oriented. The experience there shows that this is fraught with error, with manufacturer cheating and with tremendous enforcement problems, and I would caution the Commission to recognize the enforcement burden around that should they go to that kind of a label.

The European label, indeed, does incorporate a number of other aspects other than energy efficiency, noise, water consumption, where appropriate, performance, et cetera. Again, it is way beyond the category of what has been legislatively requested here or that I think we want to get into. As indicated by someone else, we have tried to avoid those in energy standards and Energy Star discussions.

A point was made that market transformation is working, and there Christine and I would agree. The Energy Star program is driving that, as Rich and Ann

have indicated, they continuously -- not continuously, but routinely raise the levels there, and so market transformation is being handled very effectively in something outside of this label. We do not need to redundantly address it with this label.

Finally, a couple of comments on market research. Again, I am sorry to go back to basics, but I am afraid I must. Do not confuse quantitative research with nationally representative research. I can go out and stop a hundred people on the street and tell you that 83 percent of them say X. That does not mean that 83 percent of the nation would feel that way. Be very careful.

And Christine, with deference to you, dogs and dog food, consumers and energy, market research in the durables business is extremely complicated, extremely complex, and I think you understand that my dogs comment was not about dog food.

MR. NEWSOME: Okay. I think that is -- why don't we -- oh, do we have somebody -- is there someone else in the audience that -- oh, Natascha.

MS. CASTRO: I just had a quick point. I was thinking about --

MR. NEWSOME: Natascha, can you give your name and affiliation for the record?

MS. CASTRO: Natascha Castro from NIST, National Institute of Standards and Technology, and my thought was the opportunity of using the label as a means to improve energy efficiency by impacting consumer behavior, and my background is working on the dishwasher test procedures, and we have looked at survey data that shows consumer habits are to pretreat dishes, prewash dishes, and basically clean a load of virtually spotless dishes. So, my thought was if we can provide information on the label, perhaps in the means of an energy tip, that shows that pretreating, prewashing dishes uses, you know, two times the energy, or actually we could relate it in terms of cost of energy, that might be a more meaningful measure to consumers.

This is a point that manufacturers have been trying to make to consumers, the importance of using the efficient dishwashers instead of inefficiently hand-washing with hot water before using the dishwasher as just a rinsing tool. So, I think perhaps manufacturers could perhaps suggest a line that could be a good point to consumers.

MR. NEWSOME: Okay, thanks a lot for raising that.

So, just before we break for lunch, I just want to reiterate that we are accepting written comments as

part of this workshop until May 17th. So, if there are additional issues that people want to raise, also, if people have more thoughts about the percentage label, which we had some additional comments on it, but if there does seem to be a consensus that that is just a no-go, then that is something we want to know about, because it simplifies our approach.

Okay, well, let us break for lunch, and we will start at 1:00 sharp. Thanks a lot.

(Whereupon, at 12:01 p.m., a lunch recess was taken.)

AFTERNOON SESSION

(1:04 p.m.)

SESSION 2: REFRIGERATOR LABELS AND RANGES

MS. DEMARTINO: Okay, I think we are going to get started.

Well, I know we are missing a whole bunch of folks --

MR. ROSENSTOCK: That will make it go a lot faster.

MS. DEMARTINO: That is true. We could just make some decisions on our own and --

MR. WETHJE: Let us vote on the categorical label --

MR. CALABRESE: And Larry and I have to leave soon, so --

MS. DEMARTINO: Well, anyone who comes late cannot get any cookies, how about that?

Well, I know we spent the whole morning talking about label design, and I did have one question that I wanted to pose to everyone for their consideration when making written comments, and we have talked a lot about the ranges, whether it is a continuous range, a categorical range, and one consideration that one of my colleagues at the FTC raised is, well, what would the pros and cons be of minimizing the range and having the

two main figures on the label be the estimated yearly energy use and the estimated yearly operating cost, the two boxes at the bottom of this label, meaning should that be the focus of our label?

And again, I am really raising it just so that you can address it in comments since we will be focusing on refrigerators, and if there is, of course, any testing on that, we would like --

MR. CALABRESE: So, on the label, the use would be on the scale you are saying, on the left and right?

MS. DEMARTINO: No, I mean the two boxes at the bottom would be --

MS. NOTINI: The main focus.

MR. CALABRESE: -- bigger.

MS. DEMARTINO: -- they would be the main focus, so flip this, so the two boxes on the bottom of this continuous label are on top and they are enlarged, and then, of course, our range is smaller.

MR. ROSENSTOCK: That box is a lot smaller, I see what you are saying.

MS. DEMARTINO: Right.

MR. WETHJE: Do you want some preliminary comments? Personally, I think it is not a bad idea at all. What does a consumer really think about? What does this product cost me to operate? They do not want

to know the kilowatt range. They want to know how much is it going to cost them to operate, and if you have that number on there, that takes away the whole problem of the next issue we are going to talk about as far as combining classes of refrigerators and whatnot, you know, really what they want to know is comparative cost of operation, and so personally I think that would be the place to focus their attention and minimize the other things.

The range thing just becomes problematic. As new models are introduced on a periodic basis, it is tough for you all to keep up with when do we change the ranges, and then changing the annual cost of energy, the average annual cost of energy to coincide with those ranges, as you know, is problematic. The way you do it now, it is only when there is a 15 percent shift in the ranges, and so you have got all sorts of models out there or different appliances in the marketplace using different average cost for the energy, and that is confusing, so...

MS. DEMARTINO: And just note, and I will point this out just so that you can keep it in mind as you further consider the issue, is that we are statutorily mandated to include a range, some type of range on our label. The range, of course, could vary. Obviously we

have talked about categorical labels as the range or continuous range, but I understand your point.

Steve, did you have a few --

MR. ROSENSTOCK: I guess just a quick follow-up. You know, again, you could always also experiment with the font size of the estimated operating cost and what it is based on, because it is a bigger font size that shows that it is 2005 data, 9.06 cents per kilowatt hour, again, some consumers might like to see it, others will not care, and it is kind of a "fine print thing," so again, you might want to ask about, if that font was bigger, would it help the consumer, yes or no, or shrink down the sentence a little bit, "This is U.S. Government 2005 estimate," something like that.

MS. DEMARTINO: Right, and during one of the breaks, I got a question that I would like to answer on the record, and that was, we have three examples of a label up here, and obviously many of them are based on labels that had been tested in the past, but who designed the labels for us? Was it done internally or did we hire someone? And for these labels, such as the percentage label that we were showing you earlier, that was done in-house. We have a Division of Consumer and Business Education. They translate everything that us lawyers say so that it can be understood by consumers,

and as part of their work, obviously, they have folks who focus on graphic design. So, they assisted us in creating the labels that we are showing you today. So, just to answer that.

Well, let us move on to refrigerators, and as you all know, the current Energy Guide labels include a range of comparability that is different for different subcategories of refrigerators, and a few of the written comments question the usefulness of these separate ranges for the refrigerator subcategories, and so we wanted to explore the issue in more depth.

I guess I will begin by asking just the general question of, what are your views on the current system for refrigerator ranges?

Okay, well, we will start just in terms of the order of who raised their hand first. I am actually going to start with audience participation. It is J.B., right, and then we will go to Steve and then to Larry.

MR. HOYT: Thanks, Laura, J.B. Hoyt from Whirlpool Corporation.

We actually like the categories as they are today. We think those are relevant. And again, I go back to, you know, how do the dogs want to eat the dog food? And consumers are very interested in things that are relevant to them, and if you make the categorization

too broad, the relevance goes away.

Why is this particularly important in refrigerators? In refrigerators, certain key characteristics, such as product configuration, side-by-side versus top-mount versus bottom-mount, are preeminent in the consumers' thinking. That is the first criteria they come to, and that is going to overweigh other factors such as operating cost or other issues. So, again, the hierarchy -- and I do not have exact research data, although I am sure we could try and get it for you -- it is probably configuration, features, cost and then energy.

If the categories were to be combined into, say, all 20 to 21-cubic-foot refrigerators, you have got a mishmash of units that are fundamentally different. Side-by-side refrigerators by their very design consume more energy, and that is why they are in a separate category under the federal energy standard, and so you would be making comparisons that are not relevant to a consumer. A consumer wants to buy a side-by-side, but he finds out that he cannot get half the scale. You can only get to the other half of the scale. So, keeping them separated by major energy configuration is something that we would deem to be very appropriate.

MR. NEWSOME: Just a quick question. Is there

research that shows what people are thinking when they walk in the store? I mean, are they pretty much set on getting a side-by-side as opposed to another configuration?

MR. HOYT: Hampton, I believe that to be the case. I do not have specific data at my fingertips to support that, but it is a configuration-dependent choice depending on the way they want to use the products.

MR. NEWSOME: Because that seems to be kind of a fundamental issue here, what is the consumer thinking when they walk in, and so maybe some other people have some thoughts on that.

MR. HOYT: We would be happy to see if we have any specific research on that. I obviously do not know the question, but I will look into it and see if we have anything, and if we do, we will put it in the written comments.

MS. DEMARTINO: Great. Since we have a few folks joining us, I will just sort of bring you up to speed quickly on what we have talked about.

I will start, we talked a little bit about the Energy Guide label design and whether the focus of the label should be on the two boxes that are currently at the bottom of the label, estimated yearly energy use and estimated yearly operating cost, should those two boxes

be the primary focus of the label. Of course, we would still have a range, but it would be smaller and perhaps at the bottom of the label. What are the pros and cons of that approach? And really, we heard a few comments on it today, but it is really for your written submissions, just to keep that in mind, consider it as another alternative.

Then we just started talking about refrigerators and opened with the question of is the current system of ranges effective in allowing consumers or assisting consumers in their purchasing decision, and so Steve, you are up next.

MR. ROSENSTOCK: Thank you, Steve Rosenstock, EDI.

I just want to kind of follow on that this type of system does help consumers with apples-to-apples comparison, especially if the research has shown that they have already decided on a side-by-side type of refrigerator, and they have already decided that they want a through-the-door ice dispenser, comparing that unit to a top freezer with no ice dispenser really does not make sense, because they have already really decided what features they want. So, in terms of energy usage and energy efficiency, it is best to kind of show the category, what is actually out there on the marketplace.

Apples to oranges really does not make sense.

Then, most of the showrooms that I have been in as a consumer, whether it is a hardware store, department store, I will just name some names, Sears, Wal-Mart, you know, Home Depot, Lowe's, et cetera, they will have the different models with the different configurations. So, if a consumer wants to look at other models with other usage and other configurations, all they have to do is walk five or ten feet down and look at other models and look at the energy that they are using, and if the numbers are out there, the baseline numbers are like 600 versus 550, they can use that and they can make their own judgment.

MS. DEMARTINO: I know you and J.B. had mentioned about consumers have made up their mind about configuration, and that is the first thing they think of first. I would encourage anyone who has research to support that proposition to please include it in writing so that that can be part of our record.

MR. ROSENSTOCK: And I should have said if the research shows that, then it really makes sense. I do not have that, but I am just -- again, just as a hypothesis.

MS. DEMARTINO: Okay.

Larry?

MR. WETHJE: I think our trade association does have some of that information, that features and type of configuration are much more on the forefront of someone's purchasing decision than the energy consumption. So, we would be happy to provide that.

Other than that, I would just underscore what Steve said. I think he said it exactly right. We do not see the need to combine these product categories. We think it is working fine the way it is. If somebody wants to compare a side-by-side to a top freezer or a bottom freezer, they can look at the annual energy consumption or the annual operating cost and do that, and so we do not see the need to combine the categories.

And while I have the floor, can I just make one other comment that is somewhat related to this but not directly?

MS. DEMARTINO: Go ahead. I will allow it.

MR. WETHJE: I have to leave in about an hour, and I am not sure there is any other place on the agenda.

MS. DEMARTINO: Sure.

MR. WETHJE: I did not want something to get lost in the whole discussion that we submitted in our comments, and that was this whole issue of establishing what do you use for the annual average -- not the

annual, but the average electric cost or average fuel costs? And as I said before, right now, you have multiple products out there with labels using multiple different average fuel costs, because you only change the ranges any time there is more than a 15 percent shift in the end points, and I would like to just suggest, as we did in our written comments, that you do not overlook -- it may be better just to establish a cycle when you establish the average fuel costs for all products and do it consistently every two or three years. That way everybody is using the same costs.

Manufacturers can then kind of manage their label inventory so that they know when the fuel costs are going to change, and they know when they need to revise their labels. I think that might be a better way than doing this 15 percent business.

MS. DEMARTINO: Okay, Bernard.

MR. DEITRICK: When you compare apples to apples, sometimes you have Red Delicious, sometimes you have Macintosh, and it is not always easy to compare a refrigerator, one refrigerator to another, especially in terms of energy efficiency, because it is more than just that bottom dollar amount or kilowatt hours per year. I am the architect of our rating system for refrigerator efficiency, and the comment that I always get from

manufacturers is, "But our refrigerator had an Energy Star. Why doesn't it get an excellent score under energy efficiency?" And the simple fact is that we try to compare all refrigerators fairly, on a fair basis, and to do that is beyond the ability of a consumer.

I could have two identically sized refrigerators where the freezer is larger on one, and it is going to require more energy to keep that freezer cold, and it should use more energy, and it may not use more energy because it is more efficient, but that proportioning is something that a consumer cannot do. So, having an absolute basis to compare energy efficiency on refrigerators is important.

You do not want to have an Energy Star model that uses more energy than a similarly sized and split refrigerator that does not get an Energy Star. I think that is counterproductive to the goal of encouraging selecting a more energy-efficient refrigerator. Especially since refrigerators, part of the design choice is how much is in the freezer and how much is in the refrigerator, the efficiency question becomes a little bit more cloudy, and it is harder for that comparison to be performed.

So, having an efficiency that is calculated for the refrigerator and displayed in a manner that allows a

fair comparison, whether you are comparing one side-by-side to another side-by-side or a side-by-side to a French-mount -- French door/bottom freezer refrigerator or a built-in, you may want to compare those, and all of those have different size splits, and you really want to be able to say, "This one is more efficient than another."

So, refrigerators is clearly a unique case. There is different sizes, there is different configurations. Most dishwashers are 24 inches, they fit in a standard bay. So, I think you need to take a unique approach to refrigerators and clearly give better guidance than what is given now. This is a case where the star rating system would work very, very well. It would allow fair comparisons across types of refrigerators, it would help the consumer pick a more efficient refrigerator, and not hamper their ability to compare across one type if they have actually made up their mind that they want a less efficient refrigerator.

I think it is also a situation where you are going to need to address the Energy Star designation. If you look at the Energy Star listings of refrigerators, just at the more typical size, 18 and above, there is almost 800 side-by-sides, and there is only 200 top-mount freezers. Now, some of those are the

same model with different model numbers because they have different things, but by DOE regulations, side-by-side refrigerators are allowed to use much more energy, and to have that many more models designated as Energy Star, which you would think would be promoting energy conservation, there is an imbalance there. So, having the rating and addressing the Energy Star for refrigerators I think is very important.

MR. NEWSOME: I have just a quick question. You mentioned the categorical or star label. How is it easier to address this issue with that label than with the current continuous -- I assume that the way to address this with the current label is just to make the change reflect all the configurations, it would just be much bigger, and another issue there is all the ranges there are broken down by size, too, so --

MR. DEITRICK: Right. Well, the way that we score our refrigerator efficiency is we do it on what I call a specific energy usage. It is how much energy the refrigerator uses per cubic foot of cooled space, and it is an adjusted volume based on the freezer split. All that data is available in the AHAM Guide. The listing of certified refrigerators has the adjusted volume and the energy usage, and simply ratioing those, you come up with a number, and lower is better.

If you look at the Energy Star top-mount refrigerators, that number is approximately between 18 and 20. For side-by-sides, it is 18 to 22. So, clearly side-by-sides are not as efficient, and our ratings reflect that, but it is not readily apparent from the current way that the Energy Guide sticker is designed.

MS. DEMARTINO: And can I just follow up, just to make sure I am understanding what you are saying? When you, Consumer Reports, is looking at refrigerators, you are categorizing based on something like adjusted volume and energy use, you use both of those factors, or are you splitting them up by the volume of the refrigerator?

MR. DEITRICK: There is a lot of different ways you can dice refrigerators in terms of categories. You can look at the width, those smaller than 30 inches, smaller than 33 inches, and up to 36 inches. You can look at volume. You can look at style. We have chosen to categorize them by style because we think that people have a style in mind. That does not mean that we do not want our readers to be restricted to looking at this and fairly comparing side-by-sides only together. We want them to be able to say, "Oh, look at these top-mounts. They are much more energy efficient," or "These bottom freezers are much more energy efficient than this one

model and maybe I should consider that."

We go a little bit further than what I have just suggested, using the adjusted volume. We look at a volume that we measure that we call the usable volume, and when you have these very nicely configured side-by-sides with through-the-door ice and water and trays and bins and all these nice things, that actually means that you can fit less into those refrigerators than the stated volume would imply, and so we actually measure what we call the usable volume, and that becomes a basis of our energy efficiency calculations.

We are not suggesting that you go out and measure the usable volume of refrigerators, but there are listings available of the adjusted volumes of every refrigerator that is sold, as well as the energy used, and you can come up with an energy factor type number, and then that could become the basis of a star rating.

MS. DEMARTINO: Okay. If we can go to Jennifer and then we will also hear from Energy Star.

MS. AMANN: In allowing consumers to make a comparison and a decision about energy use of the products that they are looking at, we see a real benefit to including multiple configurations within a size category on the same label. For those consumers who are only shopping within class or within category, they are

not hampered in their decision-making if there are side-by-side and top-mount and bottom-mount all on the same label. There is a limited subset of those products that they are interested in considering, and they can still compare the energy use of the models they are interested in on that scale, but for those consumers who are interested in looking for the most efficient product in their size category or that do want to do a comparison across class, combining them will allow them to do that cross-class comparison, which is otherwise very difficult for them to do.

I would also suggest that it also provides people information that they may not have. A number of consumers are not aware that there are energy differences inherent in the configuration of the refrigerator that they are looking at, and so that is an added bit of information that could be useful for them. You can say that if people are interested in looking at multiple configurations and comparing their energy use, they can then go and look at the one and then go look at the label, since they cannot do the comparison on the same label, but many consumers I am sure are not aware that there is an underlying difference in the energy consumption of the different configurations.

So, I do not see any draw-back for people who do

want to shop only within a set configuration of having them combined, but I see many benefits for people who are interested in looking across configurations.

MS. DEMARTINO: Okay, we are going to go to Steve, Larry and then Rich.

MR. ROSENSTOCK: Just a quick one, as a follow-up to and as a long-time reader of Consumer Reports, they break out equipment by certain subcategories. Clothes washers, a recent magazine showed top-loaders versus front-loaders in terms of how they ranked the appliances, because of the different features, and again, I do not remember exactly how they did the energy categorization, the red circle that is the best in Consumer Reports, but the thing is --

MR. DEITRICK: I am sorry, we do break them into categories to make them easy to find, but when we score them, if they are given a score based on energy efficiency, that is done identically, no matter the configuration of refrigerator or washer. It is simply a convenience to allow our readers to find the model that they may be interested in.

MR. ROSENSTOCK: Okay, but there is still the aspect of the fact that it helps the consumer by doing that.

MS. DEMARTINO: Right, and remember here as you

are commenting that we are talking about a label that consumers are seeing in the showroom, and I think one of the questions that underscores maybe what Bernard and Jennifer are saying is that do consumers know that the label is different? It is a different range for side-by-sides than for top-mounted freezers, and should that change?

MR. ROSENSTOCK: Again, it is a matter of how much information do you really put on that label. I mean, do you want to say, well, this is the automatic defrost, but here is one with no automatic defrost, it is a top-mounted freezer? How much would you have to explain on the label? Because the lower part of the range is 300 kilowatt hours, well, that is a 15-cubic-feet refrigerator, top-mounted freezer, no ice dispenser -- you might have to put so much more information. Again, there is that clutter issue.

MR. DEITRICK: You put three stars or four stores or three and a half stars, and that is the information. It is a rating that all the calculations are done in the background, that all the consumer needs to know is that three and a half is better than three, is better than --

MS. DEMARTINO: And I understand that we can present the information differently, of course, if we

were going to a categorical label, but now it is just sort of the fundamental question of should these categories be combined.

So, Larry, I think you were up next.

MR. WETHJE: Well, again, we do not think that they should be combined --

MS. DEMARTINO: If you wouldn't mind just speaking a little closer to the mic.

MR. WETHJE: We do not think they should be combined. Just responding to Jennifer's comments that it would be very difficult to compare cross-classes, I do not see the difficulty. You have got annual operating costs on all of the labels. It is a very simple comparison that consumers can readily do right now. They can compare the annual operating cost of a side-by-side to the annual operating cost of a top freezer or bottom freezer if they want to, but the way they are organized now is you have separate ranges of comparability for each of those product classes which assists the consumer in giving them better clarity to know what is the most efficient side-by-side on the market, what is the most efficient top freezer and what is the most efficient bottom freezer, which is, like we said before, they are going to be more concerned with buying a particular product type and category than they

are about comparing different product types and categories.

MS. DEMARTINO: So, what would the draw-back be of having the range have, as the low number, the least efficient of all types, subcategories of refrigerators? What is the draw-back of that approach?

MR. WETHJE: The draw-back would be if you combined all three types, top freezers, bottom freezers and side-by-sides, in one class, you are going to have one upper limit. You are going to have the most efficient shown for all those three types. If a person is shopping just for a side-by-side refrigerator, he is going to want to know what the most efficient side-by-side is, and you are not going to be communicating that information. He is going to have to search all the units on the floor to try to determine that.

Right now you are providing them with the most efficient side-by-side. You are also providing them with the most efficient top freezer, and you are also providing them with the most efficient bottom freezer, the way we are doing it now, and somebody going into a store, that is typically the way they are going to be looking for a unit, is by particular product class, not by comparing the different ones.

MS. DEMARTINO: Okay. I know, Rich, you had -- yes, no, you had something on this?

MR. KARNEY: Just for the record, just a point of clarification -- just a point of explanation, rather -- I have no opinion on this discussion --

MR. NEWSOME: Rich, could you give your name?

MR. KARNEY: Rich Karney, Department of Energy, Energy Star.

Just for a point of baseline, Energy Star is based on the federal standard. The federal standard is based on the various classes, the types of refrigerators. We take the minimum federal standard, we subtract 15 percent, and that is how we set the Energy Star level for refrigerators. That is based directly on the federal standard, on the equation. I just want that for the record so you will know where we set the label.

MS. DEMARTINO: Thank you.

Okay, we have Christine, Christopher and then Rebecca. So, Christine, you are up first.

MS. EGAN: I want to just make a point that I think the fundamental issue is, what is visible to the consumer, what information do they need, and how does this play out in the market? The utility to the consumer, the value they place on a stylistic difference of a side-by-side, a top-mount, a front-mount, that is a

known factor, as many of the manufacturers said, consumers come in saying, "I do not want one of those bottom mounts, because I do not want to bend every time I take my Lean Cuisine out of the freezer." I mean, that utility is a known factor.

However, the energy consumption that those different styles result in is not a known factor. You have to understand the thermodynamics of a refrigerator to understand why a top-mount uses more than a bottom-mount. I mean, it is a technical issue. So, to say that the consumer can walk around the floor and see that a side-by-side uses more energy than a top-mount, well, they have no basis to even ask that question in the first place, and the way that this label is set right now, they are not being encouraged to ask that question, but they would be encouraged if they were all labeled as one unit.

I just want to point out, the Federal Trade Commission has, in fact, taken this issue up in the past for other products, clothes washers, and, in fact, made the decision with H axis and vertical axis, to label them as one unit, and the reason was because there was a big energy consumption difference between those, and so you have a precedent for making this decision to put all the products in one category because you want to

communicate real differences in energy consumption by design, by product type, and I would argue that refrigerators is clearly a case -- I mean, you have got even a wider range of energy consumption differences than you did in the H axis discussions. So, just the visibility of energy consumption related to design features is something that can only be achieved by combining the refrigerators. It just is a question of, what information do you want to provide and to what extent do you want to encourage energy efficiency?

MS. DEMARTINO: Christopher?

MR. PAYNE: One point I would like to make in the current discussion is that there has been an assumption, I think, in the discussion so far that the current label is not doing harm to a consumer's comprehension of the energy consumption of a product, and I am not sure that is true. I think based on limited research that I have done that the prevalence of multiple categories within a refrigerator class, in fact, tends to confuse consumers. They look at a label, and when they are able to comprehend it effectively, particularly in the Energy Star case, they can look at one label and say, "Okay, this one got an Energy Star, and it says that my operating cost is $50; this one over here does not have an Energy Star, and it says my

operating cost is $40. So, the Energy Star model costs more. So, I should not buy an Energy Star model, because that is what the label is telling me."

Right now, I think there is a problem there that consumers tend to look at refrigerator labels particularly, recognize this confusion in how the models are categorized, and therefore, consider the information invalid, and I think there is a real question there as to the overall effectiveness of the Energy Guide label as a whole if consumers are looking at this and devaluing the information because they are confused by this multiple category system, and therefore, it is not simply a question of can we provide additional information to consumers that would be beneficial from an energy efficiency standpoint. The question is really can we reduce the current lack of comprehension that the current label creates.

MS. DEMARTINO: Okay, Rebecca.

MS. FOSTER: A few of the points I was going to raise have been addressed, so I think I will get back to the basic question, which I think is one the FTC really needs to address in answering this question, which is how should the Energy Guide label balance the need to communicate information to inform consumer decisions on efficiency with the need for consumers to be able to

balance amenity delivered by certain products. So, I am a little torn in terms of the issue. The CEE appliance community supports you all, considers the question, and we will be submitting some comments in our written comments that may help with that consideration.

One that comes to mind now is looking at the washer example with combining front and top-loading washers into one category, how is that decision made? What impacted that decision? How is that category different from or similar to refrigerators? So, I think this is an easy question, but hopefully we can submit some recommendations and questions to help you all as you determine what to do with this.

MS. DEMARTINO: Okay, does anyone else have any -- you have heard a number of point/counterpoint. Do we have any --

MR. NEWSOME: I guess just to add to the questions, I mean, there is a general issue here about whether to combine them or not. I am also interested in, assuming we were going to combine them, which we obviously have not made that decision yet, but how would that actually be done with the various label designs, with the continuous label, or are you just expanding the range so that you are capturing all the different configurations, with the categorical label or maybe the

percentage label, how are you getting that information across?

MS. DEMARTINO: Go ahead, Bernard.

MR. DEITRICK: Clearly I think you need to expand the range. There are too many cases where the refrigerator that has the label is the only refrigerator in that category, and you do not lose any information by expanding the range; you gain information by expanding the range. What you do not gain if you only expand the range and report the kilowatt hours per year is the idea of actual energy efficiency in terms of the differences in freezer and refrigerator volumes and how that affects your expected energy consumption.

So, giving not a bar but an energy rating on a five-star basis that shows the relative energy consumption on a cooled volume basis is probably the easiest way to allow a fair comparison between both models that are of the same design category or of different design categories.

MS. DEMARTINO: Christine, did you have another --

MS. EGAN: I just wanted to respond to Hampton's follow-on question about the different label styles. The first thing, you raised a question earlier about the star label and that in your star label, the range

information actually had been taken out. It is just the five stars.

One of the suggestions that I would have is actually that that be included. In fact, we tested versions of the star that did not have that range and, in fact, were told to please put that range back in, and the reason for that is that there is a certain population that looks at the labels the way Steve does, for example, and wants the detail, wants that numeric, quantitative information, and then there is a certain population, maybe those of us who have more social science/marketing degree backgrounds, that really does not want to be bothered with that detail, they just want the stars.

So, my comments in response to your question are based on the idea that to have a star label with the range in there, because that would be my suggestion --

MR. NEWSOME: But doesn't that imply that the bottom of the range equates to one star, and at least the ranges we have now, that would not be the case just because of the way the products are distributed through these ranges?

MS. EGAN: I do not think I understand your question.

MR. NEWSOME: With refrigerators, which are

difficult, because we have 80 subcategories of refrigerator ranges, because we have got eight different configurations, and within each configuration, we have got different volume categories, and so in some of those categories, we may only have four models, and the range there may be, you know, quite small. So, if you were to apply that range over a star system, then it may create difficulty.

MS. EGAN: What I was about to say is I actually would argue for the condensing of your numbers of categories down to, in my opinion, refrigerators overall, regardless of whether or not you have a star label or a continuous scale label. That would be my suggestion, because I think it is the one that would probably use the most energy efficiency. So, I am envisioning -- the basis of the comments is the choice between each of these label designs that you have presented where there is a range, either because you have condensed it down to -- did you just say 80 refrigerator categories?

Let's say you cut it down to 40 or whatever, that there is a reasonable range, that there is actually meaningful differences that taking that decision to condense down results in, then if you look at a star label, the percentage label and the continuous scale, I

think that by having that range information, it actually enhances the validity of that, and the only one I see there being a problem with is the percent-based label, because if you are putting multiple categories into the same label, then you have different MEPS thresholds that you are trying to meet, and taking that decision I think precludes your ability to use the percentage-based label in this environment.

I do not think you can do both. I do not think you can use a percentage-based label -- and maybe somebody has a different idea -- but use a percentage-based label and try to have categories that are different from how MEPS are set. I think that from a policy perspective, you cannot optimize both of those things. And that is my only thought in response to your question, only for that one.

MS. DEMARTINO: All right, Jennifer, Steve and then David, and then we will have to unfortunately move on to heating and cooling.

MS. AMANN: Yes, just one thing. I would suggest that you guys look to the experience in Australia where they are using a categorical-based label. Their minimum efficiency standards for refrigerators are modeled after the U.S. standards, so it is a very similar setup with the same use of

configuration, size and other features that determine the minimum efficiency standard, but in their labeling system, which is a categorical stars-based label, they combine configurations on their label. So, they may have some interesting input into how they have been able to implement that, what some of the pros and cons were, and how they have been able to come up with something workable.

MS. DEMARTINO: Steve?

MR. ROSENSTOCK: Just a quick follow-on to what Christine was saying, I am just looking at these numbers right here just as an example and just trying to think about the star -- if you could go to the four-star one, the other example that was up here. You said that there was a range in there. Here is the range, 539 to 698, on that star with the range was a 6 -- let us say there were four stars on it. The 698 was on the left-hand side, the 539 was on the right-hand side, and it shows four stars. Was the 600 in there anywhere?

MS. EGAN: Yes.

MR. ROSENSTOCK: It was?

MS. EGAN: I am going to defer to Jennifer, because she has used the research more recently than I have.

MR. ROSENSTOCK: I am just trying to get a sense

of how that combination would work just for kind of clarification.

MS. AMANN: Yes, all the label designs -- let me make sure I am getting what you are saying, Steve. In addition to the range of the most and least efficient, of course, it would be turned around on an efficiency-based label, like a categorical stars label, so you would have the most energy on the left and the least energy on the right, but every label design that we tested and that we would advocate for includes the specific kilowatt hour number for the model that is being labeled. Is that what you were asking?

MR. ROSENSTOCK: Yeah, I was just asking what information was going on there.

MS. DEMARTINO: Okay, David, you have got the last word on refrigerators.

MR. CALABRESE: Okay, rather simple and daunting. Well, my comments relate a little bit back to our comments on the categorical label and the issue of simplicity. We have heard from Energy Star that the categorical label creates significant complexity relating to bringing those two programs together. There is complexity and cost to the FTC in figuring out the categories. There is complexity in the fact the ranges could be so small that, in fact, you could be creating

these break points that do not make sense.

Now, here is another example. Now we bring in another layer of complexity. Now we are going to take the refrigerator categories, we are going to merge them all together, there is X number of categories, as Hampton has pointed out, each category under the Federal Rules have a unique formula, depending upon the average volume of the product, sometimes a multiplier, we are going to add that complexity to it, merge them all together, then add another layer of ranges beneath the stars, and after you have done all that and spent all that money, I think consumers are still going to be confused.

So, to me, this is just more and more complexity, work and resources required to provide a very minimal amount of additional information, and frankly, as we have been pointing out, that box on the lower left side, if you really want to compare between categories, remember that number, walk two refrigerators down, look at the top-mount and say, "Uh-huh, that one is using 550 kilowatt hours per year and I just noticed that the side-by-side uses 600." And there is the cost amount there as well. So, you can write down on a piece of paper. It is there. It is certainly, for someone who wants to pay attention to it, to that person who has

efficiency at a higher ranking than the typical consumer, it would be a very simple matter. I do not think it really would be that much of a stretch to expect them to be able to do that. Thank you.

MS. DEMARTINO: Okay, I know we are going to have to move on, because I am already, as Hampton reminds me, over time, and so if you have follow-up comments on refrigerators, please submit them in writing, and I would really encourage you to do that.

I want to throw out just one question from me that I am not going to ask for a response here, but just keep in the back of your mind. It is that I know that consumers can use that $654 and walk around to compare between categories, but I know one of the draw-backs that someone had mentioned of combining all the categories for this continuous range is that, well, consumers want to find out what is the most efficient side-by-side, and they will have to walk around the showroom.

Well, it gets back to the question of, do consumers understand that the range that is provided goes category by category? And if they do not, one, what evidence do we have of that, and two, would combining the ranges across subcategories improve that? So, there are pros and cons, and just keep in the back

of your mind if you would like to submit additional written comments.

Now, I am turning it back over to Hampton to talk about heating and cooling equipment.

SESSION 3: LABELING FOR HEATING AND COOLING EQUIPMENT

MR. NEWSOME: Okay, so I guess we are going to depart from the nuanced discussion on some of these complicated issues we have been talking about, and we are basically going to discuss whether or not whole categories of products should be labeled at all, and that is heating and cooling equipment, and I guess in the comments from GAMA and ARI, they repeated a position that they have expressed to FTC over the years, and that is that the central air conditioning units and furnaces and boilers, those types of products are not generally sold in showrooms, so in their view, consumers are not using the label and that, therefore, these products should not be labeled.

I will not summarize their comments anymore, I will let them provide more detail, but before we hop into it, under the statute, there is a test, a threshold, what have you, for whether the FTC can require labels at least for the central air, heat pumps and furnaces, and that is that no labeling will be required if the FTC determines labeling is not

technically or economically feasible or that the labels are not likely to assist consumers in making purchasing decisions. So, that is the threshold or that is the test that we are looking at here.

The question I have and I want people to address as we are discussing this is if people do believe that we should dispense with the labels on these products, how is this information provided to consumers? What are the other options? The comments mentioned online resources, but also I would like us to discuss other options such as providing fact sheets to contractors or other things, other ideas that people may have.

The Canadian -- the Inter-Can, in their comments, they mentioned their voluntary program they have where they have these types of fact sheets that are provided to contractors, and they work with consumers to show the efficiency ratings of the various products.

So, let us start with Christopher.

MR. PAYNE: Thank you.

Three points I would make. One, I think it is an open question as to whether or not consumers actually use these labels, speaking from my own experience. A, the label can offer a mechanism for confirming the validity of a contractor or salesperson's claims. Regularly, I have been told when shopping for appliances

myself, "They are all efficient." I walk in and I say, "I want the efficient one." They say, "Well, they are all efficient. Don't worry about it." The label is very effective in me saying, "Well, how come it is over here and there is a big range on this side that you do not seem to be addressing?" So, there is that sort of confirmation/validity argument that says that even if they are not appearing in showrooms, they can still be used in the purchase decision.

The second point I would make is one of sort of information standardization. The fact that the FTC mandates a label of a specific form makes it very easy then to compare the information that is provided by various manufacturers. If the labeling format were to be removed and we were to say to manufacturers, "You must tell people what the efficiency of this unit is," some manufacturers might provide that in one form, others might provide it in a different form, and it could potentially be somewhat confusing. So, having a standard body of some kind establishing the framework by which that information is presented can be useful to consumers just in establishing a standard. FTC obviously does not have to be the standard-making mechanism. Ostensibly, manufacturers themselves could do that, but it plays that role currently.

The third point I would make is one that there will probably be a fair amount of argument as to whether it is valid or not, but one thing that I have noted in my experiences is that the presence of an Energy Guide label on old equipment is often one of the only ways that one can get a sense of how much energy a particular piece of equipment is using, and so it informs the decision of purchase in the future by providing the energy consumption of the unit in question that was purchased in the past. So, that is not necessarily a point-of-sale piece of information, but it is a piece of information that feeds into the purchase process. As I said, often it is the sole mechanism for identifying at least what the ostensible manufacturer efficiency of a product is.

MR. NEWSOME: Okay, just one point of background for your second point. If labels were not required, there is still a requirement in one of the sections of EPCA that any representation that is made about the energy use of a product has to fairly reflect the DOE test. Now, so, that would still be there, but there may be -- it is a good question as to whether the existence of the label itself kind of keeps some uniformity in terms of the disclosures and how they are disclosed.

Okay, let us go to Joe.

MR. MATTINGLY: I guess you made the point about, you know, confirming that what the contractor told you is true. Well, of course, now, again, you call a contractor, he comes and he assembles this thing in your utility room or whatever, and you have signed a contract by then even, and so if this label does not confirm, well, of course, you might have a lawsuit, I suppose, but again, your purchase decision has already been made by that point. So, I just think that is a bit of a stretch.

On uniformity, the FTC requires now that manufacturers, before they put any product out in commerce, are required to provide certain information. Are you familiar with our certification programs?

MR. PAYNE: (Indicating yes.)

MR. MATTINGLY: Okay. We provide information on behalf of the participants in our programs, this is just for furnaces, boilers, everybody, and the FTC can tell us what information that they require from manufacturers, and we will provide it. We think that, in fact, databases like we provide or that the FTC could do themselves for these products are far more effective and realistic than a label on a product that, again, you do not see it until you actually have the product.

So, we are definitely not against providing

information to the consumers and even information that allows comparisons, and we do that now. You can go on the GAMA web site, and you can find out a ton of information about all sorts of products, and if the FTC does not think that is enough and wants to add to that, well, let us hear it, you know, and I am sure we can probably cooperate.

You had a third point, what was it, that --

MR. PAYNE: The fact that you can identify historic consumption information --

MR. NEWSOME: Use the label to --

MR. PAYNE: -- the fact that you can identify what a product was rated to --

MR. MATTINGLY: Well, just understand, the lifetime of a furnace or boiler, it ranges anywhere from, I don't know, 15 to 30 years depending on the product. So, I am not sure that it is a useful comparison to be making.

Again, there are better ways. There are much better ways to find that information than labels, and they are available, and that is what we ought to be focusing on.

MS. DEMARTINO: And can I ask the question, I know you are mentioning the directory on your web site, do you know how many consumers actually visit that? Is

there a way for you to track actually sort of the eyeballs that go to the directory?

MR. MATTINGLY: Oh, I do not know. I suppose there is a way. Whether we actually do that now, I am not sure.

MS. DEMARTINO: How would consumers find out about the directory?

MR. MATTINGLY: Because the FTC would tell them, the Federal Register would tell them, and we would tell them, and utilities -- local utility companies could tell them, and there is -- all these folks around the table, ACEEE would tell them.

MS. DEMARTINO: Okay. I think, Karim, you were up next.

MR. AMRANE: Well, you have said most of what I wanted to say. Again, we do have a directory to search by product, where most of the information that the FTC requires is already on the directory. You can find the efficiency, you can find capacity, and so the information is there, and so consumers, frankly, when they buy air conditioners, they do not see a label at all. It is not part of how the product is sold, and by just looking at our directory, ARI directory, they will have more information that they could make a decision that way.

So, we feel that the label itself, again, I mean, we are not against information, I think. I think it is good for the consumers to know all about the equipment he is buying, but right now, the label does not do that at all. So, we feel that the directory that we have, that GAMA has, for example, is a better way of communicating with the consumer, and as far as, yes, knowing about the directory, well, we gave you some statistics in our comments of how many hits we have, and then lately, because of the new 13-6 standard, the number was multiplied by or two three, so we do get a lot of hits.

MR. NEWSOME: Just to ask both Karim and Joe, how are these purchases usually done? I mean, is this over the phone? Is the contractor visiting the house? I mean, how --

MR. AMRANE: It is on both the phones and the contractor visiting the house. So, basically you will have a contractor that will come, depending on the contractor, might do a load analysis to see the type of equipment you need, the size of the equipment you need and so on, and then he will suggest to you some of the products that you might be able to buy.

MR. NEWSOME: And a typical contractor, how many different brands are they selling?

MR. AMRANE: It varies. There are some that carry just one brand, but many carry several different type of brands.

MR. NEWSOME: So, what is your thought on if the manufacturers prepare, say, a one-page summary of their listings that have Sears on them and the contractor will have that available for consumers to --

MR. AMRANE: Yes, because the information is already on the manufacturer's literature, so yes, the contractor will have the information already available in the literature that he is providing to the consumer.

MR. NEWSOME: And Joe, what about your --

MR. MATTINGLY: Again, we used to have fact sheets, as I recall, and again, in this day and age, is not a dealer on the internet? I mean, can't you figure most businessmen are on the internet? For that matter, an awful lot of individuals are on the internet, maybe almost everybody. So, I would say that there ought to be some way, rather than this paper stuff, that the information is provided to the consumer via reference to the internet or the dealer can go on the internet with the customer or whatever.

It is just that electronically, we can provide an awful lot of information, probably more information than we can on a piece of paper. I am just trying to

think of the most modern way that people actually operate.

MR. AMRANE: I want to add that today, for example, if you go to the ARI directory and you are looking for equipment, you can now print a certificate of the equipment that you are buying that will tell you the model number and the name of the manufacturer, the efficiency, the capacity and so on, and we could add, for example, additional information, I do not know, operating cost or something like that. So, that is already there.

And I think the certificate, I think it is a great tool that we have just added to the directory that will help a consumer in buying, to know what they are buying, and the contractor, in the case of the contractor, not give them false information, because now they have the certificate, and they can compare what they are buying with what the contractor is telling them.

MR. NEWSOME: Just one more question for you two and then we will move to Jennifer.

Do your members mark the products with the energy information on the metal plates and --

MR. AMRANE: As far as the efficiency, I do not think so. Yes, there is some information about the

capacity, things like that, but I do not think that as far as the SEER rating, for example, I do not think that that is required today by DOE, and I do not think that has been done, no.

MR. MATTINGLY: Again, of course, obviously if there is an FTC labeling requirement in place, they better be complying with it.

MR. NEWSOME: Well, I am talking about not a label. I am talking about --

MR. MATTINGLY: Yes, on the nameplate, for residential products, I do not know, probably not, but again, the FTC requires a manufacturer to provide certain information to you before you go into commerce, before they put the product into commerce, and we provide that to you on their behalf, and since around the room it seems like we are struggling for justification for the label, where if the FTC really wants to be relevant about this and really do an effective job with this, its focus ought to be on the modern, electronic means of communicating this information for products like this where the purchasing decision is made before you see the label.

Why struggle over a physical labeling when what you ought to be struggling over is what are the best ways to get the information to the consumer? Be

relevant, you know? Here we are having debates with states over databases. It ought to be the Federal Register doing that, either directly or by reference to our own directories.

MR. NEWSOME: Okay.

Jennifer?

MS. AMANN: I just wanted to share some information that we have received through limited interviewing with some contractors that install the labeled appliances, and I think some of our findings are purely anecdotal based on one-on-one interviews but may signal areas for further research or certainly we would like to see any research that has been done.

The contractors that we spoke with, some do actually use the label in their sales, they take it with them to show consumers, or they do use it as a verification once the product is installed, but many of the contractors we talked to said that they would prefer to have some sort of information sheet that had a government seal of approval of some kind. I think that could certainly be something that was developed by the manufacturers working together, but that sort of said, we also have to tell the Government this, so it is something that you should believe because we might get in trouble if we do it wrong.

They felt that there would be something very beneficial to that, and if it was something that included a way for them to incorporate local heating or cooling information, whether that is the heating degree days, cooling degree days, for instance, for their region, something regionally appropriate also for energy costs, that that would be very effective, and they would be interested to see something like that, and I think that might be an interesting avenue.

There is another use for the label which is not so much in the initial purchase but in a way for later purchase, and by that I mean for much of this installed equipment, it is not only purchased by the initial purchaser, but when somebody goes to then buy a house, they are buying all the existing equipment that is in that home, and I know for me personally, and I have heard from other people, that it has been very helpful for them to be able to look at the label to see what the efficiency is of the products in the home that they are purchasing.

They can then compare, if they are looking at multiple properties, is this something I am going to want to upgrade soon or has it recently been upgraded with a more efficient product? And many times on older equipment, it is very difficult to find the product

information on the nameplates or to then find efficiency information for that product if it is something that was installed some time ago. And I would say that the label information is also used by energy raters and others in the field to determine the efficiency of the equipment that is used in a home. So, it has a longer shelf life in some ways than just at the pure initial point of purchase.

As far as the contractor issues go, I think we would be interested to hear a little bit more on how the label is or is not or could be used in a purchase decision, and that might be what many of the appliance manufacturers are doing or the appliance retailers, actually putting the Energy Guide on their web site with the product information, and certainly I think that would be really beneficial for consumers. They know a yellow label is a place to find that information, and if they could, when they are shopping online, click on a button to see the Energy Guide for that product, that could be a useful tool for them.

MR. NEWSOME: Thank you.

Steve?

MR. ROSENSTOCK: Thank you.

Just a couple other items to consider, again, in terms of the fact that using contractors, again, with

other consumers, they are not purchasing it, they are buying a home, and the homeowner has already purchased the heating or cooling equipment, and that is 1.5 million units a year, for example, out of the database of, let's say 7 or 8 million per year that are out there. So, in terms of some of this, one thing to consider, especially for new homes, the end consumer has -- it would not matter how big the label is, it does not matter if somebody else has already purchased it for that consumer when you get right down to it. It is a third-party purchase when you get right down to it.

Also, another issue for a lot of utilities has had a lot of rebate programs for high-efficiency equipment. I do not think most of them have used the labels. I think they basically require the contractor or the end user consumer to give them the model number and the serial number, and then they can go to the GAMA or ARI directory to confirm that that was a high-efficiency unit, that it qualified for the utility rebate.

And now, with the federal tax credits out there, again, there is another impetus for the manufacturers to have systems in place to make it easier for the consumer to claim the federal tax credit as well. So, as long as those systems are being developed by the manufacturers

and by contractors, such that they are totally separate from the label, but they are very important information that shows the consumer that they are getting an energy-efficient product. So, I would have to say in terms of energy labels, since they are not seeing the physical product, they are basically going on fact sheets or cut sheets from a contractor, and again, another research item would be, okay, how many of you have actually installed an air conditioner on your own? What percentage of that is -- they are the only ones who would be able to see the label before they buy the product.

If that number from the research shows that it is well under 10 percent or 5 percent or 2 percent, as I would guess, because I sure would not want to put a heat pump in myself, that is for sure, then these alternative methods of contractor web sites, Federal Register databases, again, might be the way to go in terms of, okay, you are getting rid of the label, but you are providing these better alternatives for consumers. That might be one way to describe it.

Thank you.

MR. NEWSOME: Thanks, Steve.

Christine?

MS. EGAN: Just a brief point that I guess if I

were in your shoes, the question I would be asking is, by not labeling, are we taking information out of the marketplace? I mean, you would not want to lose information that is currently available as a result of this. So, that would be my threshold sort of test or question.

But as a follow-on point, one thing I would say is that FTC does have a different credibility vis-a-vis providing consumers information than does GAMA or ARI, and so that FTC seal, that FTC endorsement, has value I think, the fact that it is an FTC energy label, but I think the manufacturers on their own, they do not have that government position. So, that is just one other point.

I want to emphasize the home ownership issue. You are not a government agency, so --

MR. MATTINGLY: I will tell you why, give you a good answer to that one, a real good answer.

MS. EGAN: I am sure.

So, the other question, I do want to emphasize this issue that Jennifer raises of home ownership, because the only actually piece of this that I think is valuable with the label being affixed to the product as opposed to the equivalent of an Energy Guide label online is that when you buy a house, it is actually the

only vehicle that you can get information easily. You could dig if you were really motivated, and granted, I am an unusual consumer, but every house we just looked at -- and I looked at 25 before I bought the 26th -- that is one of the things that we looked at. So, I know that the real estate agent was not surprised by that behavior. So, it is plain, usual information, and maybe it was not the original legislative intent, but if the standard is taking information away, I do not know how you guys factor that into your legislative mandate, but that would be lost if it was not affixed to the product.

MR. NEWSOME: Bernard?

MR. DEITRICK: A number of the points that I wanted to make have been raised very well, but I was going to ask the question, why would you not want to have this permanently affixed to something that is going to change hands? I know that people raise that space heating and cooling is their number one energy consumption, and it is a big thing, may be driving for some people, but it is hugely expensive, and after spending $3 a gallon for oil this past winter, I realized how much it cost to heat my house, and I do not have an easy way to tell what the efficiency of my furnace is and whether going out and buying something new would allow me to save a lot of money or increase

the efficiency of my home central heating.

So, I think the question should be, should we make it so that the Energy Guide, which is really a brand when you think about it, people look for that Energy Guide sticker on all their appliances, whether it should be permanently affixed to the side of any space heating or cooling equipment in a place that homeowners can get to easily in the future.

MR. NEWSOME: Joe, are you going to explain how we can figure out the rating of our furnaces?

MR. MATTINGLY: No. I would like to comment on the credibility issue. Again, the FTC requires manufacturers to provide this information anyway, so they are providing it, and in trying to implement that as effectively as possible and to satisfy market requirements, we have the certification programs, and how many products has the FTC actually tested in the last year? Let us say furnaces.

MR. NEWSOME: We do not have testing facilities.

MR. MATTINGLY: Well, we have tested over 400 a year, and we do that year after year, so like I say, credibility-wise, we are really strong believers not only in providing information, efficient information, to the consumer for these products, but for making certain that the information is accurate. We do not take the

manufacturer's word for it. We test. I just wanted to make sure that was clear.

Again, putting a label on a product, is it the end of the world economically or technically? Heck no, but we are here to try to honestly say, what is the best way to get information out there? And we really think that the FTC, if they want to be relevant in this area, ought to be focusing on a federal database, and again, we have done all your work for you.

MS. DEMARTINO: Can I ask a question?

So, you are saying focus on a federal database. How does that compare to fact sheets that would be made available to consumers at the point of purchase, which may be while they are sitting down with a contractor?

MR. MATTINGLY: No, as I recall the history of regulation here, we used to have a fact sheet requirement, and then it was morphed into a requirement that in lieu of fact sheets, if you would provide an industry directory to the consumer, and that is what we do. I would say that if the dealer is able to do that electronically as opposed to a paper copy, that should be allowed.

MS. DEMARTINO: So, are you saying the dealer -- meaning providing that information to the consumer, to the ultimate consumer?

MR. MATTINGLY: Yeah.

MR. NEWSOME: And we still have those requirements. Since most of the manufacturers are members of associations, they use the directory approach, but here, we are looking at a question of something is changing, and that is the question of whether the label goes on the product or not, and if the label is intended to provide consumers with information when they are purchasing the product, and if that is not happening, is there a better way to do it?

The directories are not -- I would guess the contractor does not necessarily have the directory to put through with the consumer on --

MR. MATTINGLY: Oh, sure he does.

MR. NEWSOME: And that may be something that is being done now, I do not know, but the other option would be to have a one-pager that does have kind of the information that the label has, which this is based on U.S. Government tests and that kind of thing.

MR. MATTINGLY: I will say, we have noticed in gas furnace shipments especially, that since we keep a lot of statistics on those, that the market penetration of the highest efficiency product is really up there nationally, but especially in northern climate states. So, something is working pretty well. I suspect it is

market forces, energy prices and probably Energy Star, but again, a physical sheet of paper to me is like going back to the history that we decided we could do better than; namely, here is a directory, I can show you your product and a whole bunch of others, take your pick.

MS. DEMARTINO: But does that mean that consumers have to ask for that information?

MR. MATTINGLY: Well, right now, of course, the FTC regulations say that manufacturers must provide a fact sheet, or in lieu of a fact sheet, this directory, okay? And it used to be -- I believe that the fact sheet took the place of the label for years, and then some years ago you went back to the label, to the traditional label, whereas the old label used to say, "Just refer the consumer to a fact sheet." Again, I think that was not a progressive move.

MS. DEMARTINO: Right, no, I was just asking the background question, part of my own interest in figuring out how this actually happens, but I know there are a few other people who want to comment, so we will go to Christopher.

MR. PAYNE: Two quick points I would make.

One, it seems as though we have set up a false dichotomy here. We do not have to make the choice of you either label or you create a database. Of course,

you can do both. There is no reason you could not.

The other point I would make is that in interviews I have done with consumers, certainly I, as a researcher, definitely recognize the data quality of the GAMA and the ARI directories, and I would not want them to go away, but as an interviewer of consumers, there is no doubt that the Energy Guide label has a specific brand recognition as a government-sponsored program, that any information provided by a manufacturer or trade organization will not have. That is just the response we have had over and over again from consumers. If it is from the Government, they can trust the information. If it is from a trade organization or a manufacturer, there is always a slight question there.

MR. NEWSOME: Okay. We have a few more comments, but as people are thinking about this, if you are thinking about submitting written comments on this, I urge you to look at the databases that are there. We have our database for a lot of the products. On our web site, we currently link to GAMA and ARI, because they updated more than our annual submission requirements, but just look at the online information in light of what consumers would be looking for when they are purchasing the product, and hopefully that will inform your thoughts as you are sending in comments to us.

Before we move on, we have got Christine and then Steve, but I wanted to ask a question that hopefully we can get to before we end here in a couple minutes for the break, and that is, what percentage of these labeled products are now being sold through the internet? And this is a question for the AHAM type products, too, but before we answer that, why don't we go to -- oh, I knocked 15 minutes off our -- oh, we have much more time, so let us go to Christine and then Steve and then we will go to Joe.

MS. EGAN: Just very briefly, I think that as I am listening to everyone, it seems like one of your research tasks perhaps should be research with the contractors, with the people who actually are face to face with the sale and do the sale every day and get information from them on what would be the most useful tool for informing consumers on energy consumption and improving energy efficiency in the sale of this product.

I think ACEEE has done a little bit of research. It is actually the only research I am aware of with contractors on this issue, but I think that is probably where the answer best resides.

MR. NEWSOME: Okay, and Steve?

MR. ROSENSTOCK: Just a couple quick points.

Again, if you are doing some research, like the

Air Conditioning Contractors of America, there are associations out there that deal with -- National Electrical Contractors, but there are associations out there you might be able to get some data points from in terms of your research. That is number one.

Number two, you said something, which is why I raised the tent card, which is does the label help the consumer when they are purchasing a product? I believe that was the question, I was trying to paraphrase it, or the effectiveness of the label when the consumer is purchasing the product.

MR. NEWSOME: Well, the statute says "assists consumers in making purchasing decisions." If the label is not likely to do that, then the statute gives the FTC discretion not to require it.

MR. ROSENSTOCK: I mean, in this case, again, it will all depend on the research, but in this case, since the consumer does not have access to the label until they have actually bought the product, until the product has actually been installed at their house, I would have to say in this case, for these particular products, the answer is no, just because of the purchasing process, that there is absolutely no way for the end use consumer to see the label.

Now, the only exception is for the new home

market, where the contractor or the home builder is putting in the equipment, they are seeing it, they are actually purchasing it, they are installing it. So, in that case, the label might help them in those situations, but in terms of I will say end use retail consumers for these products, I would say that in the vast or overwhelming majority of cases, no, because they do not see the product, they do not get to see the label when they purchase a product.

MR. NEWSOME: Okay, thanks, Steve.

All right, why don't we go to Jill.

MS. NOTINI: Thanks. After I make this comment, I am going to leave.

Actually, the study we conducted in November of '05 gets at place of purchase and includes a breakdown between builder versus retailer channel and then internet purchases, and then there is also another sort of breakdown that shows if consumers purchased it at retail, did they purchase it like through an online retail site or did they just use that to research prior to a store purchase. So, I think we will include that data and all the backup or whatever you need to see in our comments.

I do not know the numbers off the top of my head. I mean, certainly it is only a very, very small

percentage that actually buy through internet for real major home appliances, excluding, like, microwave ovens and home comfort products, like dehumidifiers and room air conditioners, but for the vast majority of products, they are still purchased at retail.

Okay, thank you very much.

MR. NEWSOME: Thank you.

Okay, let us go over to Karim.

MR. AMRANE: Just a quick comment about the credibility of the data. I mean, FTC is using our data, so the data that FTC is using is coming from ARI. The utilities are using the ARI directory for their rebates programs. CE is using our directory for their rebates program and so on, so I do not think as far as credibility that that is an issue here.

As far as the label, I mean, I think we all recognize that the label is not useful in this particular case because the consumers do not see it. Maybe they could see the label in a directory, and I do not know, but maybe we could come up with a system where consumers would go on the GAMA or the ARI directory, they could click on the product and see the label there instead of having it on the equipment that nobody sees anyway. So, I think that is the kind of thing that we need to explore. Maybe that is the way of the future,

would be for consumers to search equipment like this to buy by looking at directories online and then be able to compare products that way.

MR. NEWSOME: Thanks.

Okay, Joe.

MR. MATTINGLY: Yes, I was just thinking, you know, there is a little bit of legal reasoning here, too. I think the labeling is supposed to be proscribed by the FTC if it will assist the consumer in its purchasing decision of the product that it ends up purchasing. In other words, I do not think it is supposed to assist the consumer in purchasing a home or in purchasing some future product 18 years from now. It is supposed to assist the consumer in making its purchase decision of the product he is purchasing. So, these other arguments I do not think fall within the legal parameters of what you are supposed to be doing there.

Another thing I always like to say, our products are not sexy. They are not. You rely on them every day, they do wonderful things for you, but what else other than efficiency is there to like about the product? So, I think certainly contractors want to sell a more efficient product, it is in their own economic interests to do that, but also, it is not like there is

something else there, some sexy features that are competing with energy efficiency.

MR. ROSENSTOCK: Aren't they coming with tail fins or different colors now?

MR. MATTINGLY: I just always want to make that point, you know?

MR. NEWSOME: One thing I neglected to raise, and that is the issue of water heaters, since when you go into a big retail store, water heaters are there in kind of a showroom environment, so do you see those as different than your other products?

MR. MATTINGLY: I think I would have to admit they are somewhat different. If I go to Lowe's, I see some water heaters there. Usually I see just one brand, okay, maybe two models of one brand. So, it is not really a showroom in most cases. And I wonder at Lowe's, you know, how many of those water heaters are sold to those guys who show up before 7:00 in the morning, the contractors who put them in? It would be interesting to try to find that out.

But I have to admit, some people buy water heaters from retail. I suspect it is percentage-wise still a large minority, but I do not have the statistics.

MR. NEWSOME: Okay.

Christine?

MS. EGAN: I just want to make a clarifying point, just to be clear, that I was not questioning the credibility of the GAMA or the ARI data. I have used the data in a thousand research projects for a lot of years. So, there is no question on the credibility. You cannot disagree, however, that the FTC Energy Guide logo has a different brand recognition and a different association in consumers' minds than does an industry trade association. That was my only point, and I will move forward.

MR. MATTINGLY: And I would like to add that 21 years ago, I completed ten years of service at the FTC, and good on 'em.

MR. NEWSOME: All right, thanks, Joe.

MS. EGAN: But just one follow-on point, which is I agree with Joe that the legislation says it should influence the purchase decision of this piece of equipment. I like that the information is there for other purposes as an energy efficiency advocate, and I would hate to see it go away, but if we are just addressing that mandate, my question is, I ask my contractor, what is the Energy Guide kilowatt hours? And the only way I have easily to get a verification is that if it is not the number that he told me it was,

then I know that there is a glitch.

So, I just think that the question really is, how many people do that? Are people asking, what is the Energy Guide label number? I ask. I do not know how representative I am. I have not researched this question, but it was a part of my purchase decision. So, I am at least a crowd of one. So, I think that is a question for you, is how many people ask that of their contractors, and if they did not have this label, how confident would they be in validating the contractor's claims?

No dismay about contractors, but they are not all as seemingly trustworthy as you would like them to be sometimes. So, it is a way to sort of keep their feet to the fire in terms of honesty of what they are selling you.

MR. NEWSOME: Okay, thanks.

All right, Jennifer.

MS. AMANN: Yes, Christine hit on a couple of the points I wanted to make. I think that there is a certain skepticism on the part of most American consumers, and for many, it is not just on the part of information they are getting from the manufacturers. I think there is a healthy dose of skepticism about information from the Government as well, but any time

that you can verify the two and they seem to match, that is probably a good benefit.

Then as far as the discussion about provision of whether it is a copy of the label itself or a fact sheet at the time of purchase and the issue of a piece of paper changing hands at that point rather than having something electronic, I think most contractors, at least any contractor I have ever dealt with, has handed me a packet of product literature for the product they are trying to sell me. So, having additional paperwork there, whether it is a fact sheet about the energy use of that product or an actual copy of the Energy Guide label for that product, I think is certainly reasonable. It is not introducing paper where there is not anything there. You are also getting a quote in writing and that kind of thing. So, I think it is certainly a reasonable addition to that packet of information.

MR. NEWSOME: Okay, then David.

MR. KLINE: I would like to address the dynamic of the purchase decision process. These typically in heating and cooling are large, hopefully one-time in our lifetime, purchases. I just two years ago went through a major renovation in my house. It is a pre-war home that needed a new air conditioning system, a central system. We took three bids from three independent

contractors. Part of why is your bid $12,000 and your bid $11,000 and your bid $9,000 -- and these are the three numbers that I received for this particular project -- were the equipment included in those bids. One was a 13 SEER rating, one was an 11 and one was a 9. Now, yes, it was --

MR. ROSENSTOCK: Huh-oh.

MR. KLINE: -- and that is why it was $9,000, apparently a close-out from a previous small manufacturer from an independent installer/contractor who had bought a close-out of these less than ideally efficient products, okay?

I scratched that one immediately off my list, but there is a three-stage process in a consumer's evaluation. First, can you tell the difference? Now, I spent time three and a half years on the retail floor at a high-end consumer electronics retailer in New York City, so this is from the real world, from the trenches. There is a three-step consumer evaluation process.

One, can you tell the difference? Higher, lower, more efficient, less efficient? If you can make that decision, yes, fine, you can go on to the second step. If there is no difference between these two products, you will go to another cost-based typically decision tree.

The second step, if you see or perceive a difference, one is better/worse than the other, do you like that difference, is the second step. So, do you see it, do you like it.

And the third step, assuming you like that difference, it is more efficient, will cost you less money during the course of your ownership, 30 years in terms of a home heating system, is it worth the money? If you are saving $54 versus $56 per year and it is a 20-year life span product, guaranteed water heater 20 years life span, and it is $50 more to buy the more efficient products, you are only saving $40 over the course of that 20-year life span. If that product costs you $50 more initially, given the cost of money over time and all that, that is not a good decision for you to make on a purely financial basis. So, those are the three steps of a retail transaction. Do you see it? Do you like it? Is it worth it?

Where is that dynamic in the large heating/air conditioning? It is in the customer's living room with a cut sheet from that builder or contractor saying, "Here is choice A at $13,000 for a 13 SEER, and here is a $12,000 system with an 11 SEER." You pays your money and you makes your choice, but that decision is not in a showroom where you have labels to look at, as in a Best

Buy or a White Goods Store, where you are seeing refrigerators next to each other.

You can tell your eight-year-old child, "Find me the lowest number of dollars per year, and you will get a Coke at the end of the day," okay? Children are very effective shoppers if you give them numbers, but the large venue products -- and I will use heating and air conditioning as examples -- are not sold primarily that way. It is a one-on-one with a contractor in a person's living room with no sheets other than the salesman's book where he says, "Here is A, like that? Here is B, like that? That is $2,000 more." And I think that is the dynamic that you should be addressing in giving the consumer or the dealer or the contractor the tools to say, "Here is my efficient system, and here is my less than efficient but less expensive system."

So, to give that contractor the mandate that they provide that or allow the consumer to get the information to make that three-step purchase process is the real key here, and I personally ran into problems -- and this is just an anecdotal, you know, qualitative of one, but I think it is not an untypical situation, certainly the dynamic of a buying experience --

MS. DEMARTINO: I know we have a few other things to address. I am going to turn this back to

Hampton.

MR. NEWSOME: Okay, just -- and sorry to cut you off --

MR. KLINE: That is okay, sure.

MR. NEWSOME: -- but one more question we wanted to address, because we have got about five minutes for the session, and it was mentioned earlier, the issue of storage water heaters and instantaneous water heaters and whether the current labels should address them in any different way, whether it is combining the ranges or treating them as a product group, and I know, Joe, that your members include both of those areas, and so I just wanted to see if anyone had any thoughts on that.

Joe?

MR. MATTINGLY: Well, yes, we do represent both instantaneous water heater manufacturers and storage water heater manufacturers, and sometimes they are the same people. We know that instantaneous water heaters, I guess the critical number is gallons per minute, and then for storage water heaters, it is first hour rating, how much hot water they produce in an hour.

Instantaneous water heaters in this country at least are kind of a relatively new thing. I know there are tax incentives out there now that seem to be giving them some advantage. I think that it is a case where

you better take a look at whether they are really interchangeable products or not. You know, for a large home with an assortment of hot water needs, does an instantaneous water heater satisfy that situation or is an instantaneous water heater more apropos of a condo or something for a retirement couple?

So, it may very well be that they are not -- they each have sort of their own very valid purposes, and one might be right for you and something different for me, but, you know, preliminarily, I would say that you should not lump them together.

MR. NEWSOME: Okay. And anyone else? Christopher?

MR. PAYNE: I would tend to agree. I think that work done at Lawrence Berkeley National Lab on these various technologies suggests that the proper configuration and installation of those various products has a strong impact on the overall energy consumption of the system. So, unlike a case we discussed earlier of refrigerators where a side-by-side, a top-mount and a bottom-mount are more or less the same thing in operation in terms of keeping the food in them cold, in the case of an instantaneous water heater versus a storage water heater, it is very much dependent on whether or not that person has three Jacuzzi baths off

their bathroom suites and wants to be able to deliver 80 gallons of hot water when they fill that tub, for example, and if they do that with a storage water heater, they incur enormous storage losses in the piping of the home, whereas if they do it with an instantaneous heater, there are first cost issues and blah-blah-blah, my point being it is a more complex technical system, I think, than the appliance we discussed earlier, and for that reason, I would recommend that we keep them separate.

MR. NEWSOME: Okay. Jennifer, did you have a comment there?

MS. AMANN: Yes, I would agree. I think it is an area that is much more complex, and I know I am the one that opened this up by saying it earlier, and I think what might be a more accurate or more reasonable comparison would be an electric storage water heater and a conventional storage water heater and a heat pump water heater, for instance, where you have much more of the same performance style, performance issues in the field. It is a pretty transparent difference to the consumer.

I mean, there is not much difference to them in their amenity or how they use either of these products. It is a tank storage water in their, you know, basement,

attic, utility area, whatever it is, and they both use electricity. So, that might be a more apt area where we would want to combine the two and less technically fraught with complications.

MR. NEWSOME: Joe?

MR. MATTINGLY: A little response on that?

First of all, try and find a heat pump water heater right now. You do not have to worry about the range of the comparability changing any time soon.

MR. NEWSOME: I do not believe that we had anything on those.

MR. MATTINGLY: The other thing, there are some complications, because a heat pump water heater takes heated air out of the heated space, and when you go to compute energy costs, et cetera, you have got to replace that heat in the space. A technical issue.

MR. NEWSOME: Okay. Well, what we are going to do, we have one more session, and that is televisions, and not everybody -- oh, I am sorry, Steve, did you --

MR. ROSENSTOCK: (Indicating no.)

MR. NEWSOME: -- and not everybody may stick around for that, but I just wanted to know if there are additional issues people want to address after television so that people who are thinking about their schedules this afternoon will know. Is there anything

that anybody feels like we have not covered that they really want to talk about after we talk about TVs?

(No response.)

MR. NEWSOME: Okay. Well, let us take a 15-minute break, back here at 3:00.

MS. DEMARTINO: And we have hot coffee outside, so you will get your caffeine and sugar.

(A brief recess was taken.)

SESSION 4: TELEVISION LABELING

MR. KOHM: Okay, folks, we are going to get started. We are trying to be as good as our word today and start and end each session on time, so if nothing else, you can say that they did what they said they were going to do.

I know this is a long slaw to go through a day like this, and I abandoned you for the middle part of the day, but hopefully we can keep up the energy from the morning for just a little bit longer, because the comments that you have made today have been incredibly useful and sparked a lot of thought, and hopefully they will be in this area as well, and David has been waiting patiently all day. I am sure he will sit by passively as we talk about televisions.

Okay, what I want to do is, not surprisingly, set some more ground rules for this discussion since I

am a lawyer who is big on rules. I am going to ask some questions, and the last question, which I absolutely promise I will get to, is the label a good idea, and I know there are those who think it is not, but the assumption for the first few questions is going to be it is. That is not because we think it is.

It is just because that is the way to get the information out, and I promise those of you who want to tell us why it is not a good idea, that we are going to get to that, and we have made no predetermination about that, about that issue. It is just structured so we can get the information on the table.

So, the first question I would like to ask, in 1979, the Commission found that televisions use very little energy. I think what we said was they used about as much energy as a light bulb, and that the range of energy use on TVs was so narrow that labeling would not be of any use. So, the first question on the table is do TVs now use sufficient amounts of energy and is the range sufficiently broad that a label would provide some benefit to consumers?

Bernard?

MR. DEITRICK: I guess that is me.

I do not normally test electronics, I just want to make that clear, and that I am offering you

secondhand data from the program leader who is responsible for actually testing televisions at Consumers Union, Rich Suland (ph.). I spoke with him yesterday with just that in mind, asking if there was enough variability in power consumption of TVs to warrant labeling TVs, and here is the data that he gave me on our most recently tested plasma TVs.

For 42-inch plasma TVs, the average wattage draw was 334, the minimum was 201, and the maximum was 520. So, that is a range of 250 percent difference. For the standby usage for those same 42-inch plasma TVs, the average was 5.9 watts, the minimum was 4/100ths of a watt, and the maximum was 41 watts. So, clearly there is a wide range of wattage draws both during usage and in standby modes.

The one number that he could not give me reliably was how many hours a week a TV is used. He thought it was six a day, but it might be as high as eight a day, and if either of those numbers is true, these large TVs could be one of the largest users of electricity in the household. So, clearly there is differences, and if a consumer is choosing between sets based on picture quality, they can very easily add to their decision-making tree how much energy it is going to use.

So, adding the label to a TV that says how much it uses in standby, how much it uses in active mode, and an estimated annual usage based on the statistically valid usage of a TV in the American households would be a very easily, readily understandable number.

MR. KOHM: Anybody else have thoughts?

MR. JOHNSON: Yes, Doug Johnson with CEA.

Those numbers are relatively meaningless in the absence of any acceptable way of measuring the energy consumption of today's televisions. One of the questions that the Commission has asked is whether there exists or whether the DOE standard is appropriate, and it is not. The standards that are out there for television energy use measurement are outdated, both by technology -- I think the one that is out there right now relates to CRTs that are black and white, and we have come a long way since then.

So, a standard way of measuring the energy use of a product is a necessary first step before any consumer information or labeling program can be promoted, including Energy Star. It is an underlying concept. It is something that needs to be done.

The good news is that industry has already undertaken creation of a new standard for measuring the energy use of digital televisions. This is being

conducted at the international level under the auspices of the IEC, International Electrotechnical Commission. It is underway. I believe there will be a draft out later this year, although for a specific update on that, I would refer you to our written comments that we will submit for the record.

But the point is that there is an international effort underway with broad participation by stakeholders with an interest in TV energy use, and before anything can be done, including measuring what is out in the marketplace, we need a standard way of measuring.

MR. KOHM: That is an important point that actually addresses my next question. Before we move on, is there anybody else who wants to address directly whether TVs use sufficient energy or there is a sufficient range of energy used to justify a label?

MR. HOROWITZ: Yes, this is Noah Horowitz from NRDC. Is this the appropriate time?

MR. KOHM: This is. Go ahead.

MR. HOROWITZ: Good morning or afternoon, everyone, Noah Horowitz from the National Resources Defense Council.

I want to echo the comments from the prior speaker that TVs today, their power use does matter. Many of the large-screen TVs on the market today could

draw as much annual electricity as a new refrigerator. So, we are looking, order of magnitude, around 500 kilowatt hours per year for some of the larger models. So, it is big enough and it does warrant getting the information out.

Towards the second question, is there a spread, we did a study over a year ago measuring in the field various models of all different technologies, and for TVs of a similar size, we found quite a wide spread as well, sometimes more than a factor of two. So, since it is a large power user and there is a spread between models, we think a label is very much justified.

MR. KOHM: Anybody else before we move on to test procedures?

MR. JOHNSON: This is Doug Johnson again. I would like to reference the energy consumption of 19 to 20-inch analog televisions, for example, which decreased from 450 watts in the 1960s to less than 100 watts in the mid-nineties, and during that same period, there were major improvements in product reliability, screen brightness, product performance, phosphor efficiency increased during this time as well, so we are in the early days, I have to emphasize, to a transition to a vastly different product, which is digital television, and the trend both in this category and in other

categories in this industry is inevitably downward when it comes to energy use.

The strong driver for energy efficiency in our industry is technological innovation, but added to that, of course, are very successful programs like Energy Star, which highlight and encourage additional energy efficiency for electronics.

MR. KOHM: Just before we move to Rebecca, when you say the downward trend is toward less energy use, that is within a product category? Because it seems like, given the other comments, that these new kinds of TVs, digital TVs, plasma TVs, use more energy than the old ones. Is that incorrect?

MR. JOHNSON: I would think that is correct, but you are comparing vastly different technologies. You are comparing products that do more for the consumer in different ways than they ever did before. I referenced the history of analog television power consumption just as an example of something that started out up here (indicating) but ended up down here (indicating).

MR. KOHM: Thank you.

Rebecca?

MS. FOSTER: Sure. I think I would like to start out by encouraging the FTC to continue to monitor the test procedure development. The CEE appliance

committee has talked about the question of covering TVs, and it is of interest. We would encourage you all to consider that actively, but obviously we recognize that the test procedure is a necessary first step.

As a broader issue, I just want to refer to some comments that we made previously, which is that really it is the agreed-upon consensus of the CEE committee that the scope of the energy label should cover those products that are the largest energy users within a home, those products whose energy has increased significantly over recent years or for which there has been a significant technical advancement, and I think televisions fall into a few of those differing categories, and we would encourage, aside from just considering televisions, the Commission to develop a process to look at additional technologies or product categories that may be going through similar changes so that the label can stay relevant over time.

MR. KOHM: Thank you.

Steve?

MR. ROSENSTOCK: Hi, Steve Rosenstock.

Just another thing to consider is also, in certain categories, especially I believe it is under 40 inches, there is a huge market battle between plasma and LCD TVs, and especially if you compare LCD TVs or LCD

computer screens to CRTs, the energy efficiency has really been quite amazing. So, I mean, there have been definite efficiency improvements because of the new technologies introduced by the consumer electronics technology that should not be forgotten at this point.

Also, in terms of televisions, one thing there also is a utility concept that we call diversity factors. Typically, there is more than one TV per home. I do not know what the exact penetration is. If it is three TVs per home, the first TV might be used a thousand hours or, you know, the six or eight hours a day. TV number two or TV number three might be one hour or two hours a day. So, the only reason I mention that is that in terms of some of the -- well, statistically, the difference in the annual energy consumption between TV number one, I will say primary TV, versus secondary TV could be quite significant. So, again, just something else to consider in these considerations.

MR. KOHM: And I take it the point is that giving kind of an estimated annual energy usage would be difficult under those circumstances. Is that the --

MR. ROSENSTOCK: I would say -- hmm, it would not be difficult, but again, in terms of variance, the range is going to be very, very significant compared to other products that we have been discussing today, such

as air conditioners or heating equipment. There can be a huge range of operating hours to consider.

MR. KOHM: David?

MR. KLINE: Yes, thank you.

The functionality or usage patterns of the products are, as you mentioned, very, very diverse. Secondary sets could be used two hours per week in a basement, for example, whereas a main television, our latest CEA numbers were that there were over 3.1 televisions per U.S. household. Obviously with 2.1, I believe, persons per U.S. household, that means that not all televisions are being watched. There is only a certain number of eyeballs and hours per eyeball.

I would challenge each one here to think how often or how much you watched TV yesterday. To take it as a very specific example, I know I was doing gardening and did not -- well, my wife wanted planters, but nonetheless, that is a different story -- but I was doing gardening and did not, in fact, watch television. Even when I got to the hotel last night here in Washington, I was tired and went to sleep and did not view television at all yesterday.

Now, I am a big TV consumer and a big sports fan, so on Saturdays and Sundays, I will watch NASCAR racing for four to five hours at a stretch, watching

those little color things go round and round, but that is my entertainment; however, other Sundays, I may go fishing. I think that that usage pattern is probably the most difficult element to define a dollar value for the consumer or to even put a cost or kilowatt hour value for an annual basis.

I would suggest that perhaps a more usage-based metric may be effective, perhaps cost per hour, and let you decide how much you watch it and do your own math. I think in a certain sense, we underestimate consumers. I think they can probably do the math, "Well, I watch it two hours a day, and it costs me 4 cents an hour to run this, it will cost me that much." So, I would suggest that usage patterns, and by applying a standard overall means that you are implying a usage pattern, six hours on per day, 18 hours off, standby. That one size might not fit all consumers.

So, I would suggest that in addition to the measuring techniques, the usage models need to be refined to give an accurate number, because that is what we are all about, is to do an accurate comparison. Information is not a problem. For some manufacturers, it may be, but at least many of CEA's members are good actors. We are global companies. We have a global commitment to the environment and have been, as Doug

said, decreasing the energy consumption over time. It is a question of how fast you want that angle to tilt through either mandated performance or the normal industry course of events, which reduces that energy and the cost of those products.

So, thank you.

MR. KOHM: Before we go on to Doug, I want to put the testing procedure on the table, and I just wanted to ask if there are 2.1 people in a household and 3.1 TVs, does that mean the 0.1 person watches the 0.1 TV?

MR. KLINE: Well, you know, you might have two people in my house, my wife and I -- I will put concrete examples, because the abstract sometimes gets difficult to understand. My wife and I watch the same TV. Does that mean that that TV gets two times the actual energy consumption? No, it cuts it in half. But a smaller 13-inch TV or a 15-inch TV, like your laptop right there, may require only one person to be able to watch it, whereas a larger TV may have multiple viewers and actually save money, like a bus. Buses only get four and a half miles a gallon, yet we are encouraging people to ride buses rather than drive their Honda Prius.

MR. KOHM: Right. Let me ask about the test procedures --

MR. HOROWITZ: This is Noah from NRDC, if I can add something to the prior comments quickly?

MR. KOHM: Noah, we have three other people in line, and we will put you in the queue and call your name in turn.

Is there currently a test procedure that will allow for comparison, and is the DOE procedure that procedure, and if not, why?

I think Christopher was next in line.

MR. PAYNE: I am happy to offer comments, but I am afraid I cannot offer comments to that question. I am not familiar with the DOE test procedure.

MR. KOHM: You can go ahead with the comment that you wanted. I just wanted to put that next question on the table.

MR. PAYNE: I think there are a couple of issues that I could address. I think, one, the overall improvement in energy performance of consumer electronics is admirable, but I do not think that is really relevant to this discussion. It seems to me that the point of the Energy Guide label is to demonstrate to consumers the range of possible energy consumption available in any given product, and I think we have heard from Consumers Union and from NRDC that such a range does currently exist in products. So, therefore,

it makes sense to offer that information to consumers.

I think it is also the case that providing that information to consumers does not necessarily imply any standard be put in place on the allowed performance of a consumer electronics product. Just because we are providing the information does not mean that you cannot manufacture a highly consumptive product.

Third, with consumer electronics, an issue comes into play a little bit more than has been historically the case in some of the home appliance categories, although they are starting to grow, and that is this issue of standby power, the power used by an appliance when it is not, in fact, actively providing the service for which it was manufactured, and I think there is an open question there as to whether the Energy Guide label has a legal authority to report standby power as a piece of information, but I think it would certainly be a useful piece of information to consumers, just as active power has these spreads of energy consumption, standby power also has these spreads of energy consumption.

Typically, these are solely manufacturing engineering choices that are made that determine whether or not a product is going to have a fairly high standby power level number or a fairly low standby power level number. To the consumer, there is effectively little

added benefit or cost to high versus low standby other than the obvious electricity cost. So, having that information available to the consumer about what essentially they are buying into when they plug the piece of equipment in, even if they do not have it turned on, is a useful piece of information.

Finally, I wanted to address this issue of usage patterns and the relationship of usage patterns as a mechanism for creating a reporting regime that would allow a comparison of energy consumption among particular models versus the sort of actual energy consumption in any particular home of a particular home electronics item. It is not necessary, I think, that we concern ourselves particularly with whether a product is being used one hour per day or eight hours per day if, in fact, the main comparison is, okay, if you are using it for an hour per day, does it use twice as much as product B that you are also using for an hour per day?

Where it does come into play, of course, is in the FTC's determination of whether this is a significant energy consumer in the first place, and there certainly measurement can easily determine that question.

MR. KOHM: Okay, we are using much of our 45 minutes, so we are going to call on everybody, but if you could keep your comments as short as possible,

because we have a couple more issues to cover before we finish.

Bernard?

MR. DEITRICK: Christopher kindly covered a lot of what I wanted to say.

MR. KOHM: Okay, good, we would appreciate it if you would --

MR. DEITRICK: But I do want to point out if the FTC does not feel technically capable of developing a standard to determine energy usage of TVs for labeling purposes, there are organizations that would be willing to work with them to develop that sort of testing procedure.

MR. KOHM: I believe not only are we not technically capable, but we are not legally capable. I believe the law requires us to use a DOE procedure.

Christine?

MS. EGAN: I just have two very brief points. One is to emphasize that for every product that you have a label, there are varying degrees to which an individual household relates to that annual operating cost and that annual kilowatt hour consumption, and just briefly, all the research shows that consumers are quite savvy and quite clear at moderating themselves to the average. They understand that I use this TV 12 hours a

day versus one, but consumers are capable of making that decision, and I do not think that FTC needs to worry themselves too much about that use of averages across products. That is what is used for those factors.

The second is that I would just make a point, and perhaps Noah from NRDC or even Andrew from USEPA can comment on this, I know that China has minimum energy performance standards for TVs as well as endorsement labeling. Presumably there must be a test procedure if they were able to set MEPS. And I do not know about it myself, because TVs are not my specialty, but I would be glad to get information and include it in our comments.

MR. KOHM: Okay, and that is a nice segue.

Noah?

MR. HOROWITZ: Very quickly on the prior comment and then I will give you an answer on test procedures. We agree with Mr. Johnson that the duty cycle is important. You have to consider how many hours a day the TV is on and how many hours on standby, and that then gives you dollars per year, which is what is important to consumers. We would be glad to work with folks, if you want to report two numbers, for a light TV user, two hours or less, and then six hours per day, there are different ways to get around that, but that should not be a reason to prevent you from proceeding.

Also, Mr. Johnson said that there has been a -- there are going to be a lot of improvements in the technology. We would love to see that, and that is further reason to get the information on the label, so consumers can see and choose the less power consuming one. At the end of the day, though, these products, many of them now use as much as $500 over the life of their operation. So, these are real dollars.

In terms of the test procedure, we agree there is not currently a consensus test method out there. The IEC, which is populated by many of CEA's members, is genuinely trying to come up with a test method, and we are part of that process, too, and we think that should be available in the next six to twelve months, and from that, your process can proceed. That would apply to LCDs, plasmas, all different technologies and all different size TVs.

MR. KOHM: Okay, I am going to turn this over to Hampton shortly, then Doug, and then I have a couple more questions I would like everybody to address.

MR. NEWSOME: I just wanted to give a brief bit of background on the annual energy consumption or annual operating cost estimates. That is an issue that we have to deal with with a lot of the products that are labeled here.

Generally, the assumptions that are made about annual use, whether it is the number of cycles you run your dishwasher or clothes washer during the week, those are all determined through the DOE test procedure, and if you go into the DOE test procedures, you will see the figures they have there, and, in fact, if I am not mistaken, the current DOE test procedure for televisions does have an annual consumption estimate, and I believe it boils down to six hours a day or something like that.

One other point is that we do have some labels that do not have annual energy consumption at all. For instance, the pool heater label does not have any kind of annual estimate, and I believe that was because of the difficulty people saw in trying to figure out an average use of those products over the year.

MR. KOHM: Okay, before we move on to the next question, Doug?

MR. JOHNSON: Sure, thank you.

I would like to echo something that Noah just mentioned toward the end of his comments, but it is a key point. For digital televisions, the standard for measuring energy consumption should be fair to the various current and future display technologies. That is very important. We have at least two major technologies on the market for digital television

display currently and certainly others to come, but the test is first. Second is the data, based on the test. And the third is the economic evaluation.

So, to answer or to address the two big questions on the table with regard to televisions, no, now is not the time for the Commission to revisit its earlier decision concerning televisions, and secondly, the DOE standard that you have referred to a couple times in your questions is inappropriate.

MR. KOHM: Before we move on, is there anybody who thinks that the current DOE standard is appropriate?

(No response.)

MR. KOHM: Hearing nothing for the record, we will indicate that nobody is speaking up.

The next question I have, and then we will move to Rebecca, but I want to put a couple more questions on the table, because we are kind of rapidly moving toward quarter of. What is the economic feasibility of labeling TVs? In other words, what kind of costs would there be to industry?

Rebecca?

MS. FOSTER: I cannot respond to that, not being a member of industry, and I have one remaining question about test procedures actually.

MR. KOHM: Go ahead.

MS. FOSTER: Which my question is, I heard you say, Jim, that the law requires the FTC to use a DOE procedure, and the procedure that I have heard talked about that is under development is being developed by the IEC. So, what would be the process required? Could you reference that? Would that have to be kind of vetted and adopted by DOE first? Can you talk about that?

MR. KOHM: My understanding of the current law is exactly that, that either the law would have to be changed or DOE would have to adopt the procedure.

Steve?

MR. ROSENSTOCK: Yes, I was going to say, a couple things in terms of test procedures is that there is a DOE process for changing test procedures for products that are what they call federally covered products. Again, under the Energy Policy Act of 2005, DOE has quite the huge workload right now, because under EPACT 2005, they have 29 more products or classes of products where standards were set or new products to set efficiency standards and test procedures. So, just know that their workload has kind of increased quite a bit over the last year or so.

Also, in terms of test procedures, just one anecdote for you. I just remember dishwashing test

procedure. A while back, in the late eighties, I believe that the DOE estimated about 322 dishwasher cycles per year, and last time, when they revised their test procedure for energy, I think they were down to 208. So, that was a reduction in the usage, whether it is based on demographics or otherwise, just using the dishwasher 33 percent, and that obviously has quite an impact on the energy usage per year and the costs and the savings.

MR. KOHM: Would anybody from industry or elsewhere like to comment on what cost there would be to such a label? David, Doug?

MR. KLINE: Sure, I will take a stab at that.

Two costs are involved. First, the testing and developing the number, you have to have engineers, there is procedures. If this is a self-certification process, that is one level of cost. If it is certified by an outside agency, federal or UL or whatever outside agency, that is a significant cost.

Then the second cost would be the actual label itself and the application of that label in the production process. You have to have another operator at another station on the assembly line whose job is simply to put on the label if you are going to put it on in production.

The --

MR. KOHM: Let me interrupt you just for a second. Do you have any estimate of what that cost would be?

MR. KLINE: I cannot say, I am sorry.

MR. KOHM: Okay.

MR. KLINE: We can certainly try to develop some of that information, but I do not have it off the top of my head.

MR. KOHM: That is fine.

MR. KLINE: Secondly, the cost of the label itself. There was talk on the earlier labels about a white field for some of the information within one of the boxes. That would be extremely expensive or significant cost up, because you can take a yellow stock and print one color, black, to create the existing labels. If you want a white box, you would have to use a white stock and print two colors, yellow and black, in order to create or leave the white box. Two-color printing is significantly more expensive on a per-unit basis than simple one-color on a standard stock. So, I would hope that whatever the label configuration, that that particular aspect of the printing or actual fabrication of label would be taken into account.

MR. KOHM: Well, that is interesting, because

that would obviously cut across appliances. Does anybody have any estimates on the difference in cost between one color and two?

Jennifer?

MS. AMANN: Through the research that we did with manufacturers as part of our work, in their interviews, we were given an estimate of approximately 3 cents per label, per product. Is that right, Christina?

MS. EGAN: There was --

MR. KOHM: I am sorry, this is Christine.

MS. EGAN: Yes, Christine Egan with CLASP, and I participated in that research. We did manufacturer interviews to try to get at the cost of labeling, and what we were told, because in all of the cases, there was already a DOE test procedure, so the cost of the test procedure is not associated with the FTC label. It is associated with the DOE procedure, and we assessed what were the costs of the label, and there were two costs, making a template print -- I forget what you guys call it, but a stamp print basically, that is a one-time cost, and then there is the recurrent cost of producing the labels, applying the labels and glue essentially.

The manufacturers actually -- it was interesting who we talked to. We did 15 manufacturer interviews, they came up with a number of 3 cents, but frankly, they

had never really thought about it, because it is a small cost, and it is not one guy on a line whose only job is to put labels on. In fact, in the factory, the guy does a lot of things, one of which is affixing the label, but 3 cents per label is the only number I have ever seen anywhere in the world as far as this cost.

MR. KOHM: And is that for one color, essentially printing in one color?

MS. EGAN: This is for the Energy Guide label. This is the first I have heard that the white actually requires a second color print. I am not actually sure if that is true, because a lot of AHAM's members choose to do it that way, so I do not know why they would be taking on the cost of a second color print, so I think that is a hypothesis worth putting to a graphics printing company.

MR. CALABRESE: Dave Calabrese, and I mean, I can certainly look into this.

MR. KOHM: Okay, and that was David, just for the record, and I believe Doug is next.

MR. HOROWITZ: And if you could put Noah in the queue.

MR. KOHM: Okay.

MR. JOHNSON: CEA has not researched this question. It is something we could certainly do. I

would caution you against accepting estimates at the table today on this question. Certainly there are at least three factors that come into play with regard to cost of labeling. One was mentioned earlier by Mr. Kline, the testing. There is the implementation cost, which certainly includes the physical label itself, and then there is the maintenance of the label as well, but we do not have that research currently, and I would caution you against accepting numbers at the table.

MR. KOHM: Jennifer, you made your comment? Noah?

MR. HOROWITZ: Yes, two points quickly. The test itself that is being considered is using either a fixed clip or a moving test clip, and that just means hooking up a DVD to a TV and a power meter or some variance of that. So, this is not going to be an expensive or difficult test to run, just the details need to be worked out, and they will be on that committee Doug referred to.

Secondly, to try to put all this into perspective, in order of magnitude numbers, in America, we are using 4 billion, B as in boy, dollars to power our TVs. So, while these printing costs and so forth are real, I think when you put it in perspective,

compared to what the consumers are paying for the electricity, this is in the noise. I just wanted to point that out to folks.

MR. KOHM: Christine?

MS. EGAN: I just want to add a follow-on comment both to what Doug said and to what Noah said, which is that I completely agree with what Doug said, that the study that we did, it was a small number of qualitative interviews, so it is by no means meant to be representative of the actual costs, and in particular, also, because of the nature of the interview, it was the manufacturers talking off the tops of their heads, because the number is so small, nobody has ever thought to calculate it essentially for this piece, in particular, and I just want to second what Noah just said, which is whatever that cost, we have to trade that off against the energy savings that would accrue to determine a net benefit to the U.S. economy.

MR. KOHM: Okay, we have one comment in the audience.

MR. SHARP: Hi, my name is Mark Sharp. I am with Panasonic.

MR. KOHM: I do not think it is on, if you could flip the switch.

MR. PAYNE: The red light is on.

MR. SHARP: Can you hear me now?

MR. KOHM: Try the other microphone.

MR. SHARP: Okay, my name is Mark Sharp. I am with Panasonic.

I was going to be content and allow our colleagues to represent our position, but the last comment made me stand up. In an industry where cost pressures are severe, in fact, the real price of televisions goes down more than -- well, it is about 12 percent annually, three cents is not an insignificant cost per unit, and I do not think you realize the number of units, and I was trying to come up with the number in my head, of annual sales of TVs. It is in the millions. So, we are talking about substantial dollars here, and engineers literally rack their brains trying to figure out ways to save pennies on every unit that is produced. So, I would not gloss over that comment so lightly. Thank you.

MR. KOHM: Thank you.

I promised that I would give people an opportunity at the end, and I see we only have six minutes, to talk about whether they think labeling is a good idea at all, and right now I would invite any comments on that issue.

David?

MR. KLINE: Yes, my first concern is the nature of the certification process. In CEA, there is a long history of self-certification, through Energy Star and several other industry initiatives. The question of certifying through an outside agency or verifying the results of your own internal self-certification are a major issue not in terms of costs, but also in terms of development cycle, and I just wanted a clarification from you all and the Federal Trade Commission of which type of testing you would be considering, either self-certification or a third-party outside certification or measurement or verification of internal results.

MR. KOHM: Okay, thank you.

Chris?

MR. PAYNE: Two quick points. One, based on the numbers just presented, a hundred million units per year, 3 cents per label, that would be $3 million to label the units, compared to Noah Horowitz's $4 billion per year electricity cost, and that is a roughly 100 to 1 difference or 1000 to 1, excuse me.

Two, the question of should this product be labeled, I would say that the testing to date done by Consumers Union and NRDC seems to suggest that there is a range of consumption on the market and that the energy

consumption of home electronics is increasing. That is something known by DOE. But I think it is a very valid point that the test procedure is not yet developed fully, and therefore, it would be very difficult for FTC to be able to create a label.

I think that the two can move forward in parallel. I think that FTC can probably make a determination that labeling these products would be a valuable thing and a warranted thing to do once a test procedure is in place, and therefore, give the manufacturers some stability in the marketplace, they know that this is coming, perhaps set a specific date after which, after which the test procedure was developed, that the labeling could take place, and essentially lay out the road map here. I do not think we need to have everything already in place to be able to make the determination if labeling should go forward, and on that basis, I would encourage FTC to label these products.

MR. KOHM: Andrew?

MR. FANARA: Yes, Andrew Fanara with EPA's Energy Star program. I just wanted to make a couple of comments. Rarely do I ever come to a meeting like this where I tend to agree with everyone, but everyone has made a lot of good points.

The one thing I just wanted to add in terms of context is in my roughly ten years of writing specifications at Energy Star, the product that far and away gets the most attention when we talk about it is televisions, hands down. We expressed some interest in looking at test procedures and a new spec for Energy Star in the last six months, and my phone rang off the hook. So, that's anecdotal. Take it for what it is worth, but there was a lot of interest.

In my opinion, probably only cars and the price of gasoline gets more attention from an energy perspective, and I do not have authority to work on cars yet, so...

MR. KOHM: We are well aware of the gasoline issues.

Doug?

MR. JOHNSON: Thank you.

Contrary to Mr. Payne's comments of a moment ago, I think the Commission does have an obligation to analyze this thoroughly, as it does with other issues. It would be premature for the Commission to act at this point or to make a recommendation or to lay a road map in the absence of a test method and in the absence of data based on that test method and in the absence of a thorough economic analysis once that data is in.

MR. KOHM: Bernard?

MR. DEITRICK: I would like to recommend that the FTC proceed with a road map. It makes sense to plan ahead. The one thing that we have been told is that as TVs progress, they become more energy efficient, and one thing that helps that progression is an informed consumer making choices based on that information. That information is not currently available. When consumers can make choices based on that energy efficiency, the average energy efficiency of the TV fleet of the U.S. will increase, and it will lead to real energy savings.

Thank you.

MR. KOHM: We are rapidly approaching the bewitching hour here, and we have a few more people online, so if everybody could keep their comments very brief, we will get everybody in quickly.

MR. HOROWITZ: And please put Noah in the queue, please.

MR. KOHM: Steve?

MR. ROSENSTOCK: Well, just real quick, I think it all depends on since DOE has to revise the test procedure, if you can, talk with some experts with DOE working on the compliance of something to see when they would be able to get around to revising their test procedure for televisions. That could be the key

determinant. It might be they might get to it within the year. With all of their schedules, I highly doubt it. It could be at least two or three, maybe four years before they can get around to doing it because of their schedule, because they are so pressed right now.

MR. KOHM: Jennifer?

MS. AMANN: Just a couple of comments.

We would encourage you to move forward in investigating the feasibility. As you have noted in the documents put out for the workshop today, something does require labeling of these products unless it is determined to be technologically or economically infeasible, and I do not think that is something you are sure of now, and certainly it makes sense to do the research to find that out.

The reason that televisions were not labeled before, as we have discussed and as a number of people have commented on, was that there was little seen variation in the energy cost and that that energy cost was a small fraction of the purchase price. I think the marketplace today shows a far different experience, but it would certainly be worth bearing out with additional research, and I would also agree that that could take place even in the absence of a test procedure since we know that there are industry efforts underway to do

that.

I would also suggest that it could be easier for DOE to come up with a test procedure for this product because industry is working on a consensus standard, and that is something that DOE could adopt if it has been developed by a consensus of industry and if the other advocates at the table also agreed that that was an adequate test procedure.

MR. KOHM: Okay, we are going to just go 15 seconds now and get the last three people.

Christine?

MS. EGAN: Just very briefly, this market is changing very, very rapidly in terms of energy consumption, and the fact that a television could use 500 kilowatt hours on an annual basis, I think that most consumers are completely unaware that with this change to a new technology platform that their television uses as much energy as their refrigerator, and that is very relevant information for the FTC to provide.

MR. KOHM: Thank you.

Noah?

MR. HOROWITZ: Yes, we would like to see FTC commit to adding TVs to their program, and you could develop a road map where time zero is the development of a consensus test method. Definitely, we think Energy

Star is a great tool, but it is not enough here. Your label would be compatible with Energy Star. Energy Star just points out the top 25 percent, and the consumers would not be able to tell within that 75 percent if it is an energy hog or not.

MR. KOHM: And Doug, we will give you the last word, very quickly.

MR. JOHNSON: Appreciate it.

We are at the beginning of a major and exciting national transition to digital television. To set any labeling program at this point would be like setting a program for labeling analog televisions back in the 1950s. The committee or the Commission last looked at this question in the 1970s, well into the history of analog televisions, and here we are at the very beginning of the transition to digital television and with this question in hand. So, I would urge the Commission not to act at this point for all the reasons we have given and for all the reasons we will give in our written testimony.

Thank you.

MR. KOHM: Okay. Well, thank you all very much for one more lively panel, and pardon the pun, keeping the energy up for the afternoon.

I will turn it over for the very last bit to

Hampton. Thanks again.

MR. NEWSOME: Well, I guess we had set off about 15 minutes for any additional issues, and I had asked earlier if anyone had any topics they wanted to cover, and I will ask that again.

Does anyone have any other issues they want to talk about in these last couple minutes?

Jennifer?

MS. AMANN: Yes. If you would, I would like to just respond to some things that were said earlier that I think it is important to get on the record. They are not necessarily additional issues.

A number of issues were raised over the quality of the research that ACEEE conducted, and actually, I think our research was mischaracterized and misrepresented in some ways, and I think it is important to get on the record exactly what our research entailed.

ACEEE did not do a single research task, as I mentioned before, we did a long and comprehensive program of testing on energy labels, and it was an iterative process that used both qualitative and quantitative research. Our qualitative research consisted of focus groups, three major sets of focus groups, each consisting of multiple panels in multiple cities, as well as one-on-one interviews with consumers,

retailers, contractors and manufacturers.

We also then used that research to guide our efforts and to develop designs that would be tested quantitatively, and we did conduct quantitative research. Our quantitative research was done in two tasks. One was a nationwide survey, which was nationally representative, and secondly was a shopping experiment, which was not nationally representative, because it took place in one city.

But I just want to get on the record that we did do qualitative and quantitative research, and all of those findings have been published, and we will be happy to supply the backup data on the actual tests that were done, each individual research task, as a part of that full program.

Another issue that I think it is important to address is this issue within studying of labeling designs of comprehension versus preference of labels. We have found through our research, and I believe Christine could probably comment more on their research internationally, and we have found this in research that we have done on appliance labels and on vehicle labels, that there is often a disconnect between the labels and the information that consumers say they prefer and what they actually understand and comprehend.

So, I think it is important that any research that FTC carries out is not just to ask consumers which label they prefer or which label they think gives them the information the best, but actually test their comprehension, which labels allow them to make decisions, actually use the information and to draw the appropriate conclusions. Again, which labeled product is more or less efficient? Can they get the answer right? There is a definite right and wrong answer there, and to weigh that in any deliberations about which label designs are effective in helping consumers. I think comprehension is more important than preference in this area.

Finally, I would just like to say two things about the research that FTC will conduct. I would like to request that the FTC consider having stakeholders review the research design, particularly people within industry and other organizations that have experience carrying out consumer research, and also in your selection of a research contractor, I think it is important to look for someone who does have experience in working with consumers and doing research on this type of somewhat sophisticated informational products and also products that serve a policy goal.

That is it, thank you.

MR. NEWSOME: Okay, thank you, Jennifer.

Christine?

MS. EGAN: Jennifer hit about 79 percent of the points that I wanted to make, but I want to actually emphasize or draw out a little bit more about what we mean about the difference between preference and comprehension. Testing comprehension is not asking consumers, what do you think of this label? What percent of you think it is understandable? What percent of you like it? What percent of you think this one gives this kind of information, energy efficiency information? What percent of you think it gives energy usage information? That is not testing comprehension. That is testing what people think they understand, what they think the message is.

Testing comprehension is actually experimentally, in a design fashion, measuring people's take-away messages of the label from the label and measuring their take-away message from one label, not five, because there is learning in between if you test five, and seeing, are they getting what we all around the table would agree is an objectively correct answer? And what you find in all of the research is that in general, there is very little consistency in what people actually understand in experimental fashion and what

they say they understand, and that is an essential ingredient. I do not know the extent to which the AHAM research did it, but any study that does not do that, including what you guys would consider doing going forward, is a very flawed study, because that discrepancy has been proven time and time and time again.

So, you really have to get at that actual interpretation in an experimental design fashion, and that is just my one recommendation. I fully support a research committee also and would be glad to participate.

MR. NEWSOME: Thank you.

Okay, David Kline?

MR. KLINE: Yes, one last comment, thank you.

The television industry is a very diverse industry, not only for screen size, ranging from four inches to hang around your neck at a baseball game to the 13-inch set that sits on your kitchen cabinet or under your cabinet or on the kitchen counter, to the 27 to 36-inch TV that may be in your bedroom, to the 60 or 70-inch projection TV or large plasma or LCD screen that are available. 103 inches was the largest one that was at the Consumer Electronics Show in Las Vegas.

That diversity makes the refrigerator top

freezer, bottom freezer, side-by-side, look like a walk in the park in terms of comparing actual products with similar products. If you want a 13-inch to sit on your counter in the kitchen, you are not going to be looking at 60-inch plasma sets. So, I think the product categorization and for a consumer to honestly compare similar products to solve similar solutions, for those consumers, is a very vital area.

There is, secondly, differences in technologies. Even the same 42-inch wide screen LCD or plasma screen have divergent power consumption factors. So, I would like to say that we would very much encourage categorization and being able to actually compare similar products on the sales floor in a primarily retail environment, which the consumer electronics market is.

MR. NEWSOME: Thank you.

David Calabrese?

MR. CALABRESE: Thank you.

Well, I think this was a very good discussion today. I think there are a number of things that we will take back from this. One of the points that I wanted to highlight, I think it is very significant, is the comments from the Energy Star program, both the DOE and the EPA program, comments they made about the

categorical label, similar concerns that we have about the complexity. We have concerns about the complexity as well as the confusion that it causes. They highlighted very aptly, I think, that the problems with the categorical label, as the Energy Star program or the Energy Star logo would interact with, it is very important that that be considered.

Again, our comments on the categorical label, I am not going to repeat those. We feel very strongly about them. In our research, this issue of comprehension versus preference, you will certainly be able to see more of the results or actually most of them, I think all of our results from our interviews are in the study that are on the web site, but that issue is very closely linked. The comments from the individuals that were responding noted that they understood what they were looking at, and that is the reason why they liked the label, label number two in this case, why they preferred that. So, it was an issue of comprehension, and that comprehension led to their preference.

Lastly, and I certainly do not want to belabor any points on the ACEEE study, I just want to clarify, at one point I was reading a quote from the study that references the qualitative versus quantitative effect. There is a passage within the study which notes that the

ACEEE study is not a quantitative but is a qualitative. So, I am just reading what was in there, and I do not want to continue the discussion, or if you like, you certainly can respond, but I was only quoting directly from the ACEEE study.

I thank you very much. I think it was a great discussion today, and we look forward to providing comments.

MR. NEWSOME: Thank you.

I guess, Bernard, you get the last word.

MR. DEITRICK: And I will keep it especially short. When you are first labeling a new product category, I would say keep it simple. A dollar value per year or a dollar value per hour or a kilowatt value per day, something simple, do not categorize. If it does not use a lot, do not label it. You know, look at the things that use a lot of energy, like the big plasma TVs. Do not rate the three-inch iPODs that hang around your neck so that you can watch Lost while you are on the subway. So, the simpler that that program is to start, the better. Then we will see how it works and what improvements are needed, and I am sure that we will be sitting around a table in five years talking about this.

MR. NEWSOME: Well, thank you.

ADDITIONAL ISSUES AND WRAP-UP

MR. NEWSOME: I want to thank everyone for coming today. This is very useful for us, and we appreciate that you have taken the whole day here to share your thoughts and your expertise on these issues.

We will continue to work on this proceeding. I urge you to provide written comments if you feel like you want to supplement what you said today or there are additional points that you want to bring up.

Also, with these studies that have been done, as we mentioned this morning, it would be very helpful if we could get on the record the underlying reports that are associated with those studies so that people can look at the issues that have been raised here today and see exactly what the comments are getting at with those.

But with that, thank you very much, and I am sure we will be seeing all of you again in the future. Thanks.

(Whereupon, at 3:59 p.m. the workshop was concluded.)

CERTIFICATION OF REPORTER

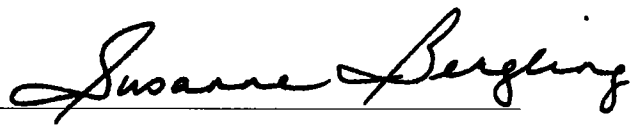
MATTER NUMBER: P064201

CASE TITLE: ENERGY LABELING WORKSHOP

DATE: MAY 3, 2006

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

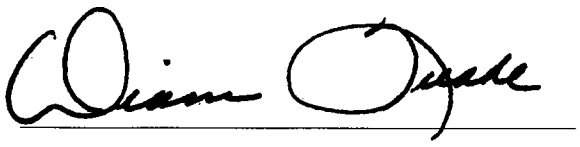
DATED: 05/17/2006



SUSANNE BERGLING, RMR-CLR

CERTIFICATION OF PROOFREADER

I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.



DIANE QUADE