

UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION

NATIONAL BROADBAND PLAN WORKSHOP  
DIVERSITY AND CIVIL RIGHTS ISSUES IN BROADBAND  
DEPLOYMENT AND ADOPTION

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2 Opening Remarks:

3 COMMISSIONER ROBERT MCDOWELL

4 Introduction:

5 MARK LLOYD, Moderator

6 Panelist Presentations:

7 What are the gaps in broadband access and  
8 adoption? And what is the best way to measure  
those gaps?

9 MARK PRUNER

10 President and co-founder of the Native American  
Broadband Association

11 CATHERINE SANDOVAL

12 Assistant Professor, Santa Clara University School  
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13 JORGE REINA SCHEMENT

14 Dean of the School of Communication & Information  
and Professor II in the Bloustein School of Public  
15 Policy, and in the Department of Latino-Hispanic  
Caribbean Studies, Rutgers University

16 JIM TOBIAS

President, Inclusive Technologies

17

Panelist Presentations:

18

19 What does the law compel or limit regarding  
government action to close gaps in broadband  
20 access and adoption?

21 MARY FRANCES BERRY

22 Professor of American Social Thought and Professor  
of History, University of Pennsylvania

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## 15 Panelist Presentations:

16 What works now to close the gap in broadband  
access and adoption?

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1 PROCEEDINGS

2 MR. LLOYD: Good morning.

3 MS. LEWIS: Good morning.

4 MR. LLOYD: We are running just a tad  
5 late, but we will catch up, and we've got a good,  
6 long day ahead of us.

7 My name is Mark Lloyd. At the moment,  
8 I'm not going to say much more than that, but I  
9 will introduce Commissioner Robert McDowell, who I  
10 first met when I was doing work on DTV, and here,  
11 at the FCC, we've sort of split between democratic  
12 and republican commissioners, but one of the  
13 things that I first noticed about Commissioner  
14 McDowell was that in DTV work, he actually called  
15 up the FCC to find out how they were treating  
16 consumers, and I was extraordinarily impressed  
17 with that, and I've known his assistant, Rosemary  
18 Harold, for a number of years, and we both go back  
19 to some extent to Wiley Ryan Fielding.

20 So, it is really a pleasure to introduce  
21 Commissioner Robert McDowell to this panel. Thank  
22 you, sir, for joining us.

1                   MR. McDOWELL: Well, thank you, and  
2 thank you very much, Mark, for all your hard work  
3 on this issue in particular and putting together  
4 today's workshop. It's extremely important.

5                   So, does everyone know what today is the  
6 50th anniversary of? The airing of the Twilight  
7 Zone.

8                   (Laughter.)

9                   MR. McDOWELL: Now, driving, I was  
10 trying to figure out a segue to this panel on  
11 that, and I'm still working on it, but the  
12 relevance, but I thought that was sort of  
13 interesting. Hopefully, we can keep diversity and  
14 civil rights issues in broadband out of the  
15 Twilight Zone and well-grounded in reality. But I  
16 thought that was a little interesting trivia  
17 piece.

18                   So, on Tuesday, SSC staffers working on  
19 the plan, of course, talked about many of the  
20 promises and challenges facing folks, such as us  
21 at the FCC policymakers all around, including  
22 those raised by the uneven levels of broadband

1 access and adoption by different demographic  
2 groups.

3 Yesterday, I held a panel on capital  
4 formation, and it only lasted an hour-and-a-half,  
5 where part of that is how can we get investment by  
6 entrepreneurs in the broadband space in all facets  
7 of the broadband space? We will be having an  
8 additional hearing or workshop on that. I don't  
9 know if we have a date for that yet, so, I'm not  
10 sure if I'm ready to make that announcement, but  
11 coming up soon. So, please stay tuned.

12 So, having access to capital, first of  
13 all, you have to have the capital to have access  
14 to. That was sort of the yesterday's hearing, and  
15 then what is the access to capital? What are the  
16 challenges there for that? So, please stay tuned  
17 because a lot of these issues aren't really about  
18 black, white, or brown. They could be resolved by  
19 the color green. And, so, I wore my green tie  
20 today to symbolize that. But whether you are  
21 building a broadband network or whether you are  
22 writing applications or whether you're a consumer



1 that would like to benefit from those  
2 technologies, then you need to buy a device.

3 Really, a lot of this boils down to  
4 money and resources and how are we going to be  
5 able to get these powerful technologies that can  
6 really improve the human condition so dramatically  
7 and so quickly? How do we get those resources  
8 into the hands of as many people as possible?

9 So, anyway, that is a big issue for us.  
10 We do have some good news. Of course, out in the  
11 marketplace, the use of wireless devices is high  
12 among demographic segments such as young, urban  
13 residents, but many in that group are not adopting  
14 more powerful laptop or desktop connections to the  
15 Net. And we need to find out why that is. And,  
16 obviously, cost is one of those factors. But does  
17 this group question whether more robust Internet  
18 access is worthwhile to them to begin with? And  
19 that has to do with getting the word out and  
20 education. So, information and money, I think, go  
21 hand-in-hand in this whole equation.

22 But I want to thank everyone in advance.

1 I don't want to blather on for too long because we  
2 want to hear from you all. I've got a lot going  
3 on today, as you can imagine, so, I'm not going to  
4 be able to stay for as long as I would like, but  
5 Rosemary Harold, my esteemed legal adviser for all  
6 things media and then some, it's a long title,  
7 but, anyway, will be here, as well, covering all  
8 this for me.

9 So, one of the things, when we submit a  
10 broadband plan to Congress, we're going to be  
11 talking about a lot of things that might be well  
12 outside of our jurisdiction. It's directly what  
13 the FCC can affect, but that's what Congress  
14 wanted. We're an expert agency on these matters.  
15 I think the chairman and his team have done a  
16 terrific job of casting the net as widely as  
17 possible and harvesting as much data as possible.  
18 There's relevant data and irrelevant data in  
19 there. There's good data and less-than-good data,  
20 so, obviously, we want relevant, good data, so,  
21 hopefully, today, we can start to drill down and  
22 focus on that.

1           But, also, when the FCC acts on  
2 something as a result of this broadband plan, I  
3 hope it will be sustainable. Pretty much almost  
4 everything we do, any order we issue we gets  
5 appealed by somebody, and that's the way our  
6 system works, and that's a healthy thing.

7           But, speaking of the Twilight Zone, we  
8 want to stay out of the Twilight Zone of  
9 overturned orders, if possible. So, I know  
10 they'll be some discussion of what's within our  
11 legal realm to do and what can do that will be  
12 sustainable because I think it's  
13 counterproductive. We want to dream big and push  
14 the envelope as much as we can, but we can  
15 actually end up taking steps backward and turning  
16 back the clock by sometimes years or decades if  
17 what we do ends up getting overturned and setting  
18 a bad precedent. And then we're sort of painted  
19 into a corner.

20           So, let's stay out of that Twilight  
21 Zone. I couldn't really find a better way to use  
22 that little factoid for the day.

1           But, anyway, thank you, all, so much. I  
2 will conclude at this point and really, we will  
3 greatly value everything you have to say, and this  
4 will be an ongoing discussion. This is certainly  
5 not the end of these very, very important issues.  
6 And thank you, Mark again for everything you're  
7 doing.

8           MR. LLOYD: Thank you, Commissioner.  
9 Thank you. So, the title of this program is  
10 "Diversity and Civil Right Issues in Broadband  
11 Deployment and Adoption." And if I could say just  
12 a couple of words, not much, but just a couple of  
13 words about both diversity and civil rights, and  
14 then see if we can get on to our panel.

15           When I or we at the FCC say "diversity,"  
16 we are not talking about political ideology, we're  
17 not talking about race or ethnicity, we're talking  
18 about diversity. We're talking about all  
19 Americans and being as inclusive as possible. So,  
20 this is not an issue that we think is limited to  
21 one particular group, it's not a code word for  
22 black or Latino. Diversity means diversity.

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1           And when we say "civil rights," all  
2 Americans have civil rights. Commissioner  
3 McDowell has civil rights. I have civil rights.  
4 Lou Dobbs has civil rights. All Americans have  
5 civil rights. Civil rights lawyers understand  
6 this. Again, this is not a code word for some  
7 particular group or disability or political  
8 affiliation or anything else.

9           What do these issues, diversity, and  
10 civil rights really have to do with the FCC's work  
11 in creating a broadband plan, and my work here,  
12 I'm an associate general counsel at chief  
13 diversity officer. I am a counsel to the  
14 Commission. I do not set policy, but I work to  
15 advise policymakers on a range of issues with some  
16 expertise and concern about diversity and civil  
17 rights. And, like many Americans, I rush to find  
18 out if there was a way I could help a new  
19 administration, and I was allowed to do that not  
20 by President Barack Obama, who probably has no  
21 idea I'm even here, but by the chairman of the  
22 FCC, Julius Janikowski.

1           So, it really is an honor to be here to  
2     be able to work on these set of issues, and we  
3     will, as you see, have an extraordinarily diverse  
4     panel. We will discuss a range of issues. We've  
5     brought a number of really topnotch scholars.  
6     Some of them happen to be friends who are working  
7     on these issues. And we were also privileged to  
8     be join by a number of folks from the Federal  
9     Government.

10           Now, the role that we, in the  
11    government, play here really is a role as  
12    questioners to try to listen and to learn from the  
13    public. We really are here, and this is a session  
14    to listen.

15           Before I go too far down the road, I  
16    wanted to let you know that the person who's in  
17    charge of this room is a guy named Calvin Osborne.

18           Calvin, are you here somewhere? He is  
19    right behind you. So, if you need something, some  
20    direction, he's the one who's directing me. He is  
21    our in-room coordinator.

22           Christian Fiascunari is our online

1 coordinator. John Finney is working the timer for  
2 us and keeping us on track. We're a little bit  
3 late, but John's going to help us get back on  
4 time. And Corrin Barksdale is working the AV  
5 behind the desk there, sitting where usually the  
6 commissioner sits. So, she's very comfortable  
7 there, as you can see.

8           So, we've got really a very good team,  
9 and all these folks are from the Office of  
10 Communications and Business Opportunities, and Tom  
11 Reed and his office has really been very helpful  
12 in working with me, and really, that's the extent  
13 of my work here. I work with other folks. I  
14 don't have a gigantic office, and as I think David  
15 Honig said to one paper, I don't even have a  
16 corner office.

17           So, all that aside, we have an  
18 extraordinarily important day ahead of us. I hope  
19 that you can stay for most of it, and we will  
20 start really with the discussion of what used to  
21 be called information haves and have-nots. It was  
22 then called the digital divide, and we're now sort



1 of talking about it in terms of gaps of access and  
2 adoption to advance information technology.

3 My friend, Maureen Lewis, who is with  
4 NTIA, is going to be here to help me out.

5 John Horrigan, who was with Pew, and has  
6 left that wonderful organization to somehow join  
7 the madness here at the Federal Communications  
8 Commission will also be here. And I've asked John  
9 if he could sort of start us off with a set of  
10 slides and a presentation of sort of what do we  
11 know now regarding gaps in access and adoption for  
12 the different communities in the United States?  
13 And, so, with that, John Horrigan? Thank you.

14 MR. HERRIGAN: Thanks very much, Mark.  
15 It's a pleasure to be here. And I appreciate you  
16 giving me the chance to be on the panel today.

17 What I'd like to do is just go through a  
18 couple of slides to provide sort of a data  
19 overview of where we stand with respect to  
20 broadband adoption. So, let's just get right to  
21 it.

22 You can see that, according to a number

1 of different sources, including the Pew Internet  
2 and American Life Project, broadband adoption in  
3 the United States stands at close to two-thirds of  
4 Americans having a broadband Internet connection  
5 at home.

6 So, you can see across a couple  
7 different measurement techniques, a couple  
8 different sources, broad consensus said close to  
9 two-thirds of Americans have broadband at home.  
10 Looking at trend data over time, you can see that  
11 we passed for broadband adoption among adult  
12 Americans 50 percent sometime in 2007, and,  
13 actually, when you look at that rate of going from  
14 about 0 to 50 percent adoption is a fast adoption  
15 rate when you compare broadband with other kinds  
16 of information technologies. It's faster than it  
17 took the personal computer and cell phones to hit  
18 50 percent, for instance.

19 So, certainly, people at a good rate  
20 have been adopting broadband over the past couple  
21 years. Of course, what remains to be seen is are  
22 we at an inflection point at that curve as we hit

1 that 63 percent point, and we can talk about that  
2 a little bit later, perhaps.

3           There are, as Mark said, however,  
4 significant gaps when you look across different  
5 demographic and socioeconomic categories. If  
6 you're among the least-educated Americans and  
7 among the lowest income Americans, you're about  
8 half as likely to have broadband at home than the  
9 national average. And really, education and  
10 income are the two strongest predictors of whether  
11 you have broadband at home.

12           Geography comes into play, as well, for  
13 Americans, many because of lack of access of  
14 infrastructure, have lower rates of broadband  
15 adoption, and you can see with respect to age,  
16 even though senior citizens are adopting broadband  
17 at a very fast rate, they remain about half as  
18 likely to have broadband at home.

19           Now, focusing on the bars that pertain  
20 to race, you can see that African-Americans and  
21 Hispanics significantly lag the national average.  
22 I should say for the 40 percent number for

1 Hispanics, that does come from a survey in which  
2 there was a Spanish language option, so, that is  
3 from a fairly good sample of Hispanic Americans.  
4 Forty percent of Hispanics have broadband at home.  
5 Forty-six percent of African-Americans. And,  
6 according to the Pew data, that figure for  
7 African-American adoption has remained about the  
8 same in the past two years. It's grown only 6  
9 percentage points since 2007.

10 At the same time, and Commissioner  
11 McDowell alluded to this, African-Americans are  
12 really the most active group in using the mobile  
13 Internet. So, that represents an interesting  
14 crosscurrent. African-Americans plateauing to  
15 some extent on wireline broadband access, yet,  
16 rapidly embracing the mobile Internet.

17 The why behind that is really an open  
18 question, and it's something that we with a  
19 broadband plan here at the Commission plan to  
20 explore in the coming months as we develop the  
21 plan.

22 The figure there for Hispanics I should

1 say came from a survey in which there was not a  
2 Spanish language option, so, that context is  
3 important interpreting that number for Hispanics.

4 One thing we're very interested in at  
5 the broadband plan is what are the reasons behind  
6 non-adoption, and this just comes from some  
7 research from Pew that charted out why people say  
8 they don't have either Internet access or  
9 broadband access, and most people or about half of  
10 non-adopters site something pertaining to  
11 relevance.

12 Let me just move on since we have  
13 another slide or two before I conclude.

14 And this final slide highlights what  
15 we're calling the growing cost of digital  
16 exclusion, and what I mean by that, just to call  
17 out the employment example, is that we did talk a  
18 lot about the digital divide 10 years ago or so,  
19 and 10 years ago, if you looked for a job, if were  
20 embarking on a job search, you looked at ads and  
21 print publications, you probably activated your  
22 social networks. Some of the people in your

1 social network had e-mail, less than half, but if  
2 you were looking for a job and you didn't have  
3 Internet access, there were plenty of alternatives  
4 10 years ago.

5 Today, the story is very different.  
6 Three-quarters of Fortune 500 companies as of 2005  
7 said that they basically required online access in  
8 order to apply for a job.

9 So, these days, if you don't have  
10 broadband access, you're severely disadvantaged in  
11 a way that wasn't the case years ago. I  
12 (inaudible) to you the rest of that slide to look  
13 at other examples where not having broadband  
14 access is extremely costly and more costly  
15 arguably than it was 10 years ago. So, the cost  
16 of digital exclusion is an important point we're  
17 going to be digging into at the broadband plan,  
18 and I think it is worthwhile for all of us to  
19 think about today as we talk about these issues.

20 Thank you, Mark.

21 MR. LLOYD: Thank you, John. And I know  
22 you're going to stay here for a little while, but

1 just so folks in the audience understand that you  
2 have to leave a little bit early to go to Capitol  
3 Hill. So, thank you for being able to make this  
4 time for us at least.

5 MS. LEWIS: Sure.

6 MR. LLOYD: One of the challenges that  
7 we're facing is: How do you actually understand  
8 who is online, who is not online, why, why not?  
9 And, so, we're going to dig a little bit into  
10 these numbers, and I've asked my friend, Jorge  
11 Schement, who is dean of the School of  
12 Communications Information and professor at the  
13 Bloustein School of Public Policy and the  
14 Department of Latino-Hispanic-Caribbean Studies at  
15 Rutgers University to join us to give us a little  
16 sense of the swift change in demographics and how  
17 folks really construct their median communications  
18 environment?

19 So, with that, Professor Schement,  
20 please.

21 MR. SCHEMENT: Thank you, Mark. Thank  
22 you, everybody.

1 All right. How's that? I feel like  
2 Edward R. Murrow.

3 Thank you, thank you, all. What I want  
4 to talk about today is changes that we're all  
5 aware are taking place, but I'm going to suggest  
6 that there are some nuances to them that either we  
7 haven't expected or that are going to produce some  
8 consequences we're not currently thinking about,  
9 at least not in the policy arena.

10 So, I want to start out with a caution  
11 and a challenge.

12 My caution is that we have a tendency to  
13 talk about groups and very big swipes, large  
14 groups. I'm going to suggest that there's a  
15 tremendous amount of variation out there in terms  
16 of how people construct their information  
17 environments, either in their homes or their  
18 communities, and that that is going to have a  
19 bigger impact on the success of our policies in  
20 the 21st Century, and my challenge is that policy  
21 moves by metaphors. It's the metaphors we develop  
22 that cause us to understand policies or proposed



1 policies and that it's time for some new  
2 metaphors, and I'm going to indicate, I hope, why.

3 First, two very long trends that have  
4 been taking place in the United States since its  
5 beginning our now reaching their end. The first  
6 is the decline of the number of people per  
7 household. That's beginning to flatten out.

8 And the second is in the number of  
9 single person households. That's going to  
10 continue to climb for awhile, but, as it's going  
11 to reach a saturation point, as well. These are  
12 dynamic changes that completely change the nature  
13 of households. In the 20th Century, they are not  
14 going to be the driving changes in the 21st  
15 Century.

16 I also want to suggest that we have to  
17 start thinking of the household differently.  
18 Fifty-five percent of households do not include a  
19 married couple. Twenty-seven percent of  
20 households have only one person, and that percent  
21 continues to grow. Two-thirds of households do  
22 not have children, which explains, in part, the

1 difficulty in passing bond issues for things  
2 having to do with schools in many parts of the  
3 United States.

4           Seven percent of households are  
5 traditional. That is the working father,  
6 non-working mother with children. Any of you who  
7 grew up in that kind of household, it is only 7  
8 percent of households today, and that percent  
9 continues to decline. And, of that percent, while  
10 75 percent of the population in Anglo or white,  
11 only 60 percent of traditional households are. In  
12 other words, the traditional household is evolving  
13 out of being a predominantly white, middle-class  
14 profile into something else.

15           Here is the split as we see it.  
16 Geography is going to count. This map here shows  
17 you that a 300-year pattern of historical  
18 circumstances has placed Hispanics, for the most  
19 part, Latinos, for the most part, in the west and  
20 in Southern Florida. African-Americans across the  
21 southeast. That's beginning to change.

22           This map here shows you where the rates

1 of growth are for the Latino population in the  
2 coming decades, and they will be primarily in the  
3 southeast and in the Midwest. In other words, the  
4 southeast is going to become more multi-ethnic,  
5 and that's going to create some very interesting  
6 circumstances politically, economically, and  
7 culturally for people living in the southwest, and  
8 the same is going to happen in the Midwest.

9           Nevertheless, the most ethnically mixed  
10 part of the United States is probably going to be  
11 the southern tier. The northern tier is going to  
12 have less ethnic mixing than the southern tier.  
13 The southern tier is going to become  
14 linguistically mixed, ethnically mixed, culturally  
15 mixed. It's going to be a very different place  
16 from the place that, perhaps, we grew up in.

17           Immigration is going to play a big role.  
18 The key thing here, of course, is that the  
19 majority, that is over 50 percent of all the  
20 immigrants who come to the United States, come  
21 from Mexico, but the second largest group are  
22 Filipinos. I haven't heard anybody in Washington

1 talk about Filipinos in a long time. Yet, they're  
2 the second largest group, and there are more  
3 Germans coming to the United States than Chinese  
4 coming to the United States, even though we talk  
5 about a lot about Chinese immigration.

6 In my home state, the most common  
7 surname at graduation was the name Patel, and the  
8 second most common surname at graduation was the  
9 name Rodriguez. So, that gives you a sense of age  
10 tiers, also, as to who is moving up.

11 Regional variation by ethnicity is also  
12 going to be significant. That is, the majority of  
13 Latinos in the United States may be  
14 Mexican-Americans, but in a state like  
15 Pennsylvania, the majority are of Puerto Rican  
16 descent. That means different language  
17 characteristics, different dialogues, different  
18 food interest, and also different cultural and  
19 political patterns.

20 And to pursue the Pennsylvania example  
21 just a little bit further, the only sources of  
22 increased population for Pennsylvania in the last

1 decade and in the coming decade are from either  
2 immigration or from the birthrates of Latinos.  
3 Everybody else is of zero population growth or  
4 below.

5 So, that translates into cities that are  
6 going to look not the same, convergence is not  
7 going to be the characteristic of American cities,  
8 but divergence is going to be the characteristics.

9 Here are projected populations for Los  
10 Angeles and for Philadelphia. Philadelphia will  
11 have a significant Anglo population well into the  
12 21st Century. Los Angeles' majority population is  
13 already Latino and will continue to be so. In  
14 fact, the rates of change in these charts are less  
15 than what we actually have observed.

16 All right, let's talk a little bit about  
17 technology use.

18 This is an overly-complicated chart.  
19 There's a graduate student who's going to get in  
20 trouble.

21 (Laughter)

22 MR. SCHEMENT: That breaks down

1 telephone penetration, and we're talking about  
2 telephones, right? Telephone penetration by  
3 income and by ethnicity.

4 Median income is everybody below median  
5 income, that is the 50 percent of households below  
6 median income actually make up two-thirds of that  
7 chart, and what we see in those tow-thirds is that  
8 even within the same income level, we still see  
9 ethnic disparities, we still see ethnic  
10 differences in access. So, it's not just about  
11 money; there's something else going on that  
12 prevents people in the same income group from  
13 having the same levels of access to information  
14 technology.

15 And telephone is important. I'm going  
16 to come back to that because I'm suggesting that  
17 we're not going to see levels of broadband access  
18 higher than levels of telephone access. So, the  
19 phrase when everybody's on the Internet is  
20 actually a hyperbole. It does not seem likely  
21 that that zone of people who don't have access to  
22 telephone are going to somehow get access to

1 Internet or broadband without having access to  
2 telephones. So, telephone is likely to be a  
3 significant barrier to increasing Internet access.

4 The following data comes courtesy of my  
5 friend, John Horrigan. It's very tiny. But what  
6 it is basically demonstrating is that Internet use  
7 varies not only by income, but also varies by  
8 ethnicity in the same way the telephone does.  
9 Here, as well, this is looking at what percentage  
10 of the population uses e-mail or accesses and then  
11 uses the Internet. Those red entries are  
12 differences in ethnicity. It turns out that just  
13 like with telephone, there are ethnicity  
14 differences even when we control for income.

15 The next one shows where the real  
16 catalyst for change is taking place, and that's in  
17 wireless telephony. Minorities are leading the  
18 way in terms of adopting wireless technologies.  
19 In fact, I would say to my colleagues in the phone  
20 companies they are your early adopters, therefore,  
21 their subsidizing everybody else. They're helping  
22 to create the network for everybody else who's

1 using it. So, maybe they deserve a break of some  
2 kind. It's just a thought.

3 And then here we have that percentage of  
4 the population that reports using a high-speed  
5 connection or broadband, it's much, much lower.  
6 We're talking in the middle range in the 50s, but,  
7 even there, we see some changes.

8 So, a point I've been trying to make  
9 here is that technology access is not something  
10 that is solely dependent on income. It is also  
11 dependent on aspects of ethnicity, but so is  
12 content.

13 So, what we see, and this is an old  
14 chart, and somebody's working on updating it for  
15 me. They didn't get it done in time. This is an  
16 old chart, but, nevertheless, it makes a point I  
17 want to make about using the Internet, as well as  
18 watching TV. The TV set can be turned on,  
19 Internet access can be achieved, but what people  
20 are doing on it is quite different. There's a  
21 tremendous amount of cultural diversity that takes  
22 place.



1           And this is what that cultural diversity  
2 results in. As you probably know, Americans buy  
3 more salsa than ketchup. They've been doing that  
4 for 25 years. They buy more corn chips and potato  
5 chips also for 25 years, and these foods that we  
6 see here are no longer identified as foreign foods  
7 by most Americans. Piñatas show up at in Anglos  
8 kids' birthday parties, and Anglos kids have  
9 learned to do what Mexican kids knew how to do 500  
10 years ago, play with their tortillas.

11           So, the cultural is changing, as well.  
12 And then, finally, I just want to make a couple of  
13 quick points.

14           My bottom line point is this: We have  
15 increasingly become aware and spent time thinking  
16 about the diversity of who uses the technologies  
17 that we care about, such as telephone and  
18 broadband, but the policies we create act as if  
19 they're no differences. The policies we create  
20 don't take that into account at all. So, there is  
21 a big disparity moving into a century that is  
22 going to be more diverse than it's going to be

1 convergent for the population in the United  
2 States.

3 So, my final challenge is we need to  
4 think of some different metaphors and different  
5 ways of constructing policies that not only take  
6 this into account, but make life better for these  
7 folks.

8 Thank you very much.

9 MR. LLOYD: Great. Thank you, Jorge.  
10 An awful lot to think about.

11 I started out talking about the fact the  
12 diversity is not necessarily about color, and I've  
13 asked Jim Tobias if he could join us.

14 Jim has been working with the disabled  
15 community for a number of years and has been  
16 trying to find ways to promote inclusive  
17 technologies, and he has, I think, graciously come  
18 from not Washington, D.C., to join us and provide  
19 us with some information about how do we really  
20 measure the population that's increasingly getting  
21 older, and, to some extent, like me, maybe needing  
22 glasses and having some other challenges, and a

1 wide variety of other things that we call  
2 disabilities.

3 So, Jim Tobias, please.

4 MR. TOBIAS: Thank you, Mark, and thanks  
5 to the whole commission for this opportunity to  
6 speak here this morning. I think, to some, it may  
7 be a new demographic way of slicing the American  
8 public. If you think about disability, it may not  
9 be a condition that we all aspire to, but it's  
10 probably a condition that we all will enter if  
11 we're lucky enough to live long enough, we all see  
12 and hear at decreasing levels of effectiveness as  
13 we age. So, I want us to consider disability,  
14 and, therefore, accessibility as something that  
15 eventually will affect us all. So, it's not  
16 necessarily a separate category.

17 I just want to begin by looking at the  
18 current levels of adoption of both Internet and  
19 broadband. The top level numbers there show 65  
20 percent adoption of the Internet in general across  
21 the public, and the bars below indicate for each  
22 disability category how much lower those numbers

1 are both for Internet adoption and for broadband  
2 adoption. So, you see with any disability  
3 whatsoever, the number drops rapidly already, and  
4 then looking at hearing impairment, visual  
5 impairment, cognitive impairment, and mobility  
6 impairment, those numbers are also very low.  
7 They're approximately half of the non-disabled  
8 population.

9 Slicing it the other way, looking at  
10 people who don't use the Internet now, 26 percent  
11 of them identify as having some disability. So,  
12 we have to wonder what is causing this. And we  
13 have some pretty good data, I think as the  
14 Commissioner mentioned before, and then we have  
15 some not so pretty good data, and I'm going to  
16 argue that we should improve our data collection  
17 and look both wider and deeper.

18 So, let's begin with the standard  
19 demographic factors that we already know predict  
20 low levels of adoption or non-adoption of Internet  
21 and broadband.

22 People with disabilities, if you see in

1 the chart here, compared to people without  
2 disabilities have much lower rates of employment,  
3 they have much lower household income. If you  
4 look at just the numbers of 100 percent poverty  
5 level or below, the people with disabilities are  
6 twice as likely to be in households with low  
7 income. And people with disabilities are, as I  
8 said, older. They're a small percentage of people  
9 age 21 to 64, but a much larger, more than  
10 one-third of the population 65 and older, and,  
11 obviously, as you go to 75 and 85, those numbers  
12 climb well above the 50 percent mark.  
13 Seventy-five percent, I think, is the number for  
14 people 85 years and older have some disability.

15 Educational attainment is also less than  
16 half of the non-disabled population with respect  
17 to having a college degree. So, these are the  
18 kind of standard factors that we see as predicting  
19 people who would not be certainly early adopters  
20 and might be non-adopters of broadband and  
21 Internet.

22 In addition, accessibility or disability

1 imposes its own burden, some of which are actual  
2 and some of which are perceived.

3           If we look statistically, people who  
4 find it difficult or impossible to use the  
5 Internet, 28 percent of non-users say that their  
6 disability makes the Internet difficult or  
7 impossible to use. Even people who use the  
8 Internet recognize that it impairs their ability  
9 to use it. Twenty percent of people who use the  
10 Internet say that their disability makes it hard  
11 to use.

12           So, this is a challenge not only to  
13 designers. If we could leave this burden at the  
14 designers' fluorescent-lit laboratory room, you go  
15 solve this usability and accessibility problem, I  
16 think we would have solved it a long time ago, and  
17 I'll talk a little bit more on this slide later  
18 about what I hope will echo Professor Schement's  
19 point about the narrative nature of non-adoption  
20 and how do people explain why they don't get the  
21 Internet and why they do get the Internet.

22           So, among the both real and perceived

1 issues that people with disabilities face, there  
2 was a certain amount of technological pessimism,  
3 and I think all of this can recall experiences  
4 where we tried something and it didn't work right  
5 the first time we tried an ATM or we tried to pump  
6 gas, self-serve gas into our car, something went  
7 wrong. The next time we try it, we're confronted  
8 by that situation, and maybe we've done our  
9 homework and caught up and figured out how to do  
10 it, or maybe we're a little more wanting to avoid  
11 those situations.

12           People with disabilities tend to  
  
13 confront those situations more often than people  
14 without disabilities, and, so, they develop what's  
15 called technological pessimism. They just assume  
16 that it's not going to be easy or it's not going  
17 to work for them, and I think we're seeing this  
18 definitely in the marketplace, and we're seeing it  
19 in "clinical settings," as well, where people are  
20 a little more reluctant to try new technologies.

21           And there was a narrative portion of  
22 this. You don't see people with disabilities

1 featured prominently in some of those glorious,  
2 glowing commercials about broadband and Internet  
3 access, it's always the on-to-go executive  
4 storming down the street or the kid Twittering to  
5 his friends and what have you a skateboard.  
6 People with disabilities are not featured there,  
7 and, so, "it doesn't seem like this technology is  
8 for me."

9           Then there's the very real issue of  
10 accommodations. In other words, if I'm a person  
11 with a disability, I may need a screen reader or a  
12 screen enlarger or just a larger monitor in order  
13 to see what's on the screen, and those  
14 accommodations can be not only expensive, but  
15 technologically complex. It may be hard for me to  
16 figure out how to use them, that genius  
17 14-year-old neighbor that everybody has who helps  
18 fix the regular technology things that go wrong is  
19 probably not an expert in assistive technology,  
20 so, we need to figure out some way of increasing  
21 not only the awareness, but the ability to pay for  
22 those accommodations and to support those



1 accommodations.

2           So, I'm going to argue that what we  
3 really want to focus on in our studies is not, at  
4 least from the point of view of the communities of  
5 people with disability is not bandwidth per se,  
6 but related issues and some very unrelated issues.  
7 I think we want to focus on, as Professor Schement  
8 mentioned, the different TV shows people watch by  
9 ethnic category. I think we'll have the same data  
10 that we need to find out about the applications  
11 that people with disabilities are using on the  
12 Internet.

13           The issue of job applications makes my  
14 Spidey sense go all tingly. If Fortune 500 firms  
15 are relying on the Internet for people to apply,  
16 and if that application Web page is inaccessible,  
17 what does that do to limit people with  
18 disabilities access to those jobs? And if they  
19 have to go an alternate route and say if you can't  
20 fill out this form, dial this number, and talk to  
21 my secretary, they're pre-identifying themselves  
22 in a way that other applicants wouldn't be. So,

1 that's a little bit problematic.

2 I think we need to focus on that  
3 ecosystem approach. What are people on the  
4 Internet to do rather than how many bits are they  
5 using per minute over what portion of the day? I  
6 think we want to look at retention of broadband  
7 service. We have some very interesting studies of  
8 people who once had the Internet and now no longer  
9 do. Who's following those people to find out was  
10 that an economic issue or was it a usability  
11 issue, accessibility issue, couldn't find the  
12 applications that they wanted, couldn't find the  
13 accommodations that they needed?

14 There are some technological issues.  
15 I'll just mention one. Video telephony for sign  
16 language is a bandwidth-sensitive service, and it  
17 is very crucial service for native sign language  
18 speakers. So, we want to make sure that we're  
19 measuring and even requiring enough bandwidth for  
20 those households to be able to place not just one  
21 video call for sign language, but possibly several  
22 from the same household if there are many sign

1 language users within it.

2 And I'll close with just a couple of  
3 other research issues. My time seems to have gone  
4 faster than I anticipated, but I'll go through  
5 that anyway.

6 As you saw in the first slide where we  
7 split out the different disability categories, we  
8 need to keep that in mind, as well. People with  
9 disabilities are as diverse as any other  
10 population, even with respect to their disability.  
11 The technological needs, the market behavior of  
12 people who are hard-of-hearing is different from  
13 those who are deaf, is different from those who  
14 are blind, who have low vision. So, we need to  
15 slice that up a little bit more finely as I think  
16 we do within the other diverse communities that  
17 we're looking at.

18 Recruitment for the studies that we're  
19 going to do is essential, as well, to not just  
20 identify people through advocacy organizations or  
21 through the easiest research subjects defined are  
22 not in any way representative. They tend to

1 better connected socially, they tend to be earlier  
2 adopters of technology, stronger social networks,  
3 higher education attainment.

4           We need to reach out to the full width  
5 of those disability communities. And we need to  
6 look at, we have 30 years and more of experience  
7 in making technology accessible to people, and we  
8 need to look at those programs very carefully from  
9 a policy perspective and identify what works and  
10 what hasn't worked. How much can we count on  
11 families to help the elders in those families  
12 adopt and use technologies? How much can we rely  
13 on senior centers or gerontologists or speech  
14 therapists? How can we identify?

15           And there's an interesting study  
16 recently about hair salons as health maintenance  
17 monitors. That is if people were coming in the  
18 hair salon in slippers when they usually came in  
19 shoes, that was something like hey, maybe  
20 something's going on with my client here, and I  
21 want to make sure that she's okay and her  
22 household is working the way it needs to work, and

1 I think we can do some of that very intelligent  
2 light, regulatory touch in identifying some  
3 successful policy alternatives.

4 Thank you very much.

5 MR. LLOYD: Thank you. So, as you can  
6 see, this is an extraordinarily complex project.  
7 For the FCC to report to Congress to provide a  
8 broadband plan on providing access to all  
9 Americans, if we take all Americans seriously, we  
10 can see just with these first two presentations  
11 that it is not as simple as most Americans or  
12 quite as simple as we've been approaching it so  
13 far. I really appreciate the presentations and  
14 the suggestions.

15 One of the challenges Shana Bearhand at  
16 the FCC talks a little bit about this is that our  
17 relationship with original Americans is a little  
18 distinct. They are often very distinct political  
19 entities. And trying to get information about how  
20 to provide service to Native Americans is  
21 something of a challenge, and Shana introduced us  
22 to Mark Pruner, who is here, who is the cofounder

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1 or founder, cofounder or founder of the Native  
2 American Broadband Association, to give us some  
3 sense of what do we know about broadband service  
4 in Indian land and for Native Americans.

5 MR. PRUNER: Thank you, Mark. As you  
6 said, I'm the cofounder and president of the  
7 Native American Broadband Association. What we do  
8 is bring information to tribes about the Recovery  
9 Act Fund in the \$7.2 billion and also bring  
10 information to you all and other government  
11 officials about the issues confronting Natives.

12 To follow-up on Commissioner McDowell's  
13 theme, we're the minority in the Twilight Zone.  
14 If you looked at all of the slides that were up  
15 there, there was only one slide that listed Native  
16 Americans, and that slide had no information about  
17 them. American Samoa, it's better tracked by the  
18 FCC than tribal reservations are.

19 So, let's take a look at the universe of  
20 Native American tribes. There are 563  
21 federally-recognized tribes. That is a number  
22 that's in and of itself tends to cause problems

1 when government officials try to deal with tribes.  
2 They go how are we going to deal with 563  
3 different entities? As a practical matter,  
4 they're probably more 160. Of the 563 tribes, 200  
5 are them are native villages in Alaska; another  
6 150 to 200 are very small also native villages in  
7 California and the west coast. In California,  
8 they're called Rancherias.

9 The one thing you see when you're  
10 dealing with tribes is that there are vast  
11 differences, both culturally and from a  
12 governmental viewpoint. The one thing that is  
13 common with many tribes is that they're remote.  
14 They're in the areas that the white settlers  
15 didn't want to have. They were either pushed  
16 there or they started there. So, because they're  
17 remote, they're out of sight, and they're also out  
18 of databases. And in a connected world, this  
19 compounds a digital divide. If you're not in the  
20 databases, you can't be part of the planning  
21 process.

22 If you look at Native tribes, the one



1 thing XXX BEGIN TRACK MZ000219 XXX that they all  
2 share is that they're all sovereign nations, and  
3 if you want to get a tribal leader's attention,  
4 say anything having to do with tribal sovereignty  
5 or that might potentially impact the tribal  
6 sovereignty.

7 Let's take a look at what data there is  
8 available. The best data generally comes from the  
9 Bureau of Indian Affairs, a division of the  
10 Department of Interior. They have very good,  
11 solid information about the location of  
12 reservations and the population.

13 The one caveat there is if you're  
14 dealing in Alaska, you really need have to have a  
15 Alaska expert because the Alaska Native Claims  
16 Settlement Act wiped out all tribes and all  
17 reservations in Alaska, with the exception of one.  
18 And up there, you have Native corporations and the  
19 Native villages that I spoke of.

20 Another issue is if you look at the Pew  
21 Web Site, you search for Indians, tribes, or  
22 Native Americans, nothing comes up. So, you can't

1 go to standard places to find information about  
2 Native Americans.

3           You take a look at FCC Form 477, and  
4 there's information there that includes  
5 information on Native Americans, but it's not  
6 mapped to reservations. So, you can't see what's  
7 going on, and that's a real issue because if you  
8 base it on census blocks, if you base it on ZIP  
9 codes, most reservations are surrounded by Anglo  
10 communities right on the other side of the border,  
11 so that if you have a ZIP code that crosses the  
12 boundary and you're trying to use that in place of  
13 actually researching the information from the  
14 reservation, you're going to pick up a lot of  
15 people in the non-Native community in that ZIP  
16 code or that census block.

17           The nice thing is the Department of  
18 Census is redoing the census blocks for Native  
19 Americans. They will in this next census be  
20 contiguous with the reservations. So, we should  
21 get some good, solid, Native American data out of  
22 that.

1           As I mentioned, one of the biggest  
2 problems is the whole out of sight, out of  
3 database problems. A classic example is that is  
4 the electrical grid mapping that was done. Many  
5 of the electrical lines ran up to the reservation,  
6 and then there's no data. It's a black hole, it's  
7 the Twilight Zone. And that means that people  
8 don't plan because they don't have the data for  
9 it.

10           My favorite one was the computer that  
11 was designed to improve the electrical grid. It  
12 saw this black hole, thought that it was some sort  
13 of geographical feature, and literally proposed  
14 the routing of the new lines right around the  
15 borders of the reservation, totally ignoring the  
16 fact that there were actual lines there and that  
17 they could cross the reservation.

18           The other thing that you want to be very  
19 sensitive of, and this is a big problem with the  
20 mapping, is tribes think of themselves as the  
21 equivalent of states, and under most federal laws,  
22 they are treated as states. So, you don't want to

1 go to a state and ask them to collect information  
2 from the tribe. That's what's being done with the  
3 national map, and we're working on that. We think  
4 we have a fix for it, but you're going to have a  
5 lot of upset Natives if you're expecting states to  
6 get information from tribes.

7 My favorite one that really gives  
8 statisticians in Washington weird looks on their  
9 faces is many of these reservations don't have  
10 street addresses. Where people are located, they  
11 don't have street names, and they certainly don't  
12 have street numbers.

13 There are at least two reservations I  
14 know where every individual on that reservation  
15 shares the same post office box. And in one of  
16 those cases, that post office box is not on the  
17 reservation.

18 So, once again, if you're doing it by  
19 ZIP code, you'd be looking at individuals that  
20 aren't even on that reservation.

21 So, what do we do and why do we care in  
22 the National Broadband Plan?

1           The reason is care is these are  
2           sovereign nations, they have been there for 200  
3           years, they're going to be there, and they need to  
4           be dealt with.

5           Two, you look at the numbers here, and  
6           it cracked me up when I was looking at the numbers  
7           for any group you wanted to name. The broadband  
8           penetration in the Native community is estimated  
9           at 5 percent. The lowest number I saw up there  
10          was, I think, 20 percent for any other group, and  
11          most of the groups are over 50 percent. So, the  
12          group that most deserves efficient and effective  
13          planning from the FCC, and you don't need to work  
14          with 563 entities. There are tribal associations;  
15          there are 20 of them that cover 98 percent of all  
16          of the tribes, and they're very useful to work  
17          with.

18          In addition, this is a crucial year.  
19          We've got four months before the national  
20          broadband comes out. We've got 11 months left for  
21          the \$7 billion in the BIP and BTOP funds to be  
22          allocated to the primarily rural areas. The

1 networks that were put in originally, the  
2 railroads and the electrification networks are  
3 still where they were put in in 1870 and 1930.  
4 So, what gets done this year and funded this year  
5 is going to be there for the next 30 to 40 years.  
6 So, for Natives, this period of time over the next  
7 four months with the FCC and over the next 11  
8 months with the NTIA and the Rural Utility Service  
9 that are funding those programs is absolutely  
10 crucial for us.

11 So, I thank you for your time.

12 MR. PRUNER: Great. Thanks, Mark.

13 Professor Catherine Sandoval has been working on a  
14 wide variety of issues in media and telecom for a  
15 few years. She's not that old. Certainly not as  
16 old as I am. And she actually was here, I don't  
17 know, just a few weeks ago, and started a  
18 presentation. We had done it at night and  
19 Professor Sandoval clearly had much more to say,  
20 and, so, we sort of worked both on this  
21 presentation, which she helped me with greatly and  
22 just sort of helping to sort of think through what

1 we ought to be looking at, and I've asked her to  
2 sort of bat cleanup here and to give us some sense  
3 of the challenges. And we've, I think, gotten a  
4 pretty clear sense of that, but challenges both  
5 related to language and the sort of new  
6 technologies that folks are adopting.

7 So, Professor Sandoval?

8 MS. SANDOVAL: Thank you. Thank you  
9 very much, Mark, and thank you to the whole team  
10 for putting this together. I know that there were  
11 also many advisors who were instrumental in this  
12 hearing and making sure that the FCC, as we're  
13 looking at broadband, really puts front and center  
14 the issues of diversity.

15 So, I wanted to talk a little bit about  
16 some of the access gaps, and then also how this  
17 ties in with some of the issues about other  
18 technologies and looking at are these other  
19 technologies complements to wireline or cable,  
20 terrestrial, if you will, broadband or are they  
21 substitutes?

22 So, when we've talked about access gaps,

1 we've discussed some of the different categories.

2 So, one of those categories would be rural, and  
3 within rural, my colleague here, Mr. Pruner, I  
4 think has identified some very important issues  
5 with regard to Native Americans, but there's also  
6 a huge number of Native Americans who are urban,  
7 and in the State of California --

8 MR. PRUNER: I didn't have time for that  
9 part.

10 MS. SANDOVAL: Right, exactly. In the  
11 State of California, I'm a member of the Board of  
12 Expert Advisors for the California Emerging  
13 Technology Fund, and, so, one of the groups that  
14 we've identified as having very low levels of  
15 Internet access overall, but also broadband  
16 access, is Native American tribes, and, of course,  
17 there are issues both in the tribal lands, but  
18 also urban issues, and, so, I'll also be talking  
19 about some of the urban issues.

20 So, we've talked about other categories,  
21 income, education, language, non-English-speaking  
22 race, ethnicity, age, and disability, and, of



1 course, many of these things often overlap.

2 So, in talking about rural, so, one of  
3 the issues, as well, about rural gaps is also how  
4 rural is defined. And in states like California,  
5 this creates a lot of problems because many of the  
6 federal rules basically exclude areas that contain  
7 certain major cities, and my colleague, Professor  
8 Al Hammond, has done a lot of work on this  
9 particular issue.

10 So, for example, in central California,  
11 because of the size of the City of Fresno, most of  
12 the rural areas around it are excluded from the  
13 definition of rural. Although, if you went there,  
14 what you would see is people picking strawberries  
15 and picking other crops in the field, and very,  
16 very quickly, you get into extremely rural areas  
17 that are farmlands, but, yet, because of their  
18 proximity to Fresno, they are not defined as  
19 rural, and, therefore, become ineligible for  
20 certain types of rural support.

21 So, we need to really look at those  
22 distinctions, and, so, I'm looking at the example

1 of California in part because I'm from Los Angeles  
2 and now live in the Bay Area, but, also, we've  
3 been looking at these issues.

4 So, for example, in the San Joaquin  
5 Region, where Fresno is, 285 communities in that  
6 area lack any broadband access apart from mobile  
7 access, and even in what we call the Inland Empire  
8 by San Bernardino, there are 189 communities that  
9 also lack broadband access, but, again, are not  
10 counted as rural because of the presence of San  
11 Bernardino in San Bernardino County.

12 So, the other piece, when we look at  
13 areas where there are basically availability gaps,  
14 and, so, one part of the availability gap is  
15 rural. So, a lot of that is about build out.  
16 They're too far from the DSL headend to be able to  
17 get DSL. Cable was never built there.

18 And, in the case of Native Americans, I  
19 think that there are a number of issues that  
20 actually are involved with that, as well.

21 I used to be the undersecretary for the  
22 State of California's Business Transportation and

1     Housing Agency, and one important thing on the  
2     transportation side is, for example, in the County  
3     of San Diego, there are more Native American  
4     tribes in the County of San Diego than there are  
5     cities in the County of San Diego. And, so,  
6     basically what happens with this state is that the  
7     state allows the localities, usually the county,  
8     to have a vote in how some of the highway money  
9     will be used within the state. And, so, the  
10    County of San Diego decided that they didn't want  
11    to give the tribes a vote because, guess what,  
12    there are more tribes than there are cities, so,  
13    the tribes could outvote them.

14                 So, the tribes are an advisory  
15    committee, and, so, naturally, when the county  
16    decides how it's going to spend its money, the top  
17    priority of the county is not improving highways  
18    to tribal areas. So, it's structurally designed  
19    so that they can outvote the tribes. They do that  
20    by not giving the tribes a vote. But what happens  
21    is that often telephone poles follow highways. If  
22    there are no telephone poles, then you can't get

1 DSL. If there are no telephone poles, you don't  
2 have the ability to do the attachments that are  
3 important for cable. And, so, you'd end up  
4 without cable. And, so, there are a lot of issues  
5 about why deployment doesn't happen, and, so, we  
6 need to take this holistic look at this range of  
7 issues. And the same thing happens in some of  
8 these other areas that are farm-working areas or  
9 other types of rural areas.

10 And then I'm also very concerned about  
11 some of the laws some of the states have passed  
12 that allow video franchises, which I think will  
13 bring about good things, but have no requirements  
14 or very limited requirements for build-outs to  
15 low-income communities. So, the question is:  
16 Will we see that investment in the future?

17 So, on the one hand, we have these  
18 availability issues which are really critical, and  
19 then, on the other hand, you have adoption issues.  
20 So, one of the things that the Public Policy  
21 Institute of California and California Emerging  
22 Technology Fund have found is that the county in

1 California with the lowest adoption rate for  
2 broadband and for Internet as a whole is Los  
3 Angeles; the second largest city in the nation,  
4 the largest city in California, where only 48  
5 percent of the residents have Internet access at  
6 home.

7 So, this is largely not a problem of is  
8 the infrastructure available, but issues of  
9 affordability and other issues which affect  
10 adoption. So, I'll talk about that.

11 So, issues driving access gaps. One,  
12 lack of a computer. So, do you have a computer at  
13 home? So, this is some of the data, and I  
14 apologize, there wasn't data available on Native  
15 Americans that I could find easily.

16 MR. PRUNER: There isn't.

17 MS. SANDOVAL: Right, there you go. So,  
18 this shows you some of the data on people with  
19 computers at home, and, so, I imagine if we were  
20 able to go granularly into the age of the  
21 computers, that there might be huge difference  
22 there. And, so, we see a big difference in terms

1 of just physical lack of computers, and then once  
2 you get in addition of the lack of computers,  
3 there's also a lack of knowledge about computer  
4 use and Web use and its benefits. And when you do  
5 surveys, there are also a number of concerns that  
6 people have when you talk to non-users.

7 So, again my colleague, Professor  
8 Hammond, along with Professor Rafael at Santa  
9 Clara, did some surveys talking to individual  
10 community members about what their concerns were  
11 with regard to the Web and why they didn't have  
12 access or what they also wanted in a proposal  
13 within the Silicon Valley to do a wireless  
14 network, and chief among the concerns were about  
15 computer safety, right? Privacy. They're  
16 concerned about privacy, they're worried about  
17 identify theft, and they're also worried about the  
18 content that a computer might bring into the home,  
19 including pornography. And, so, educating people  
20 about filters, how to use filters, but also how do  
21 you manage these issues? Is part of dealing with  
22 the fear and real concerns about what computer use

1 will bring, but there's also a lack of knowledge  
2 of the benefits, and I think one of the things  
3 that's important is to make sure that, as the FCC  
4 investigate these issues, that the FCC doesn't  
5 simply ask people who are already online well,  
6 what do you think broadband is and what do you  
7 think are the barriers to getting even better  
8 broadband? You also have to ask people who are  
9 not online.

10 So, in the State of California, we've  
11 been having meetings in six different languages  
12 asking people what the barriers are, and, so, that  
13 kind of in-language discussion is going to very  
14 important.

15 So, this emphasizes some of those  
16 issues, and basically this data has been  
17 replicated, as well, in the national level.

18 So, in California, we found that while  
19 83 percent of English-speaking Latinos use the  
20 Internet, only 31 percent of California  
21 non-English-speaking Latinos use the Internet, and  
22 only 17 percent subscribe to broadband. And,

1 again, the question that you ask is also very  
2 important. If you ask somebody do you subscribe  
3 to broadband? Well, first of all, the FCC is  
4 spending a lot of time trying to figure out what  
5 broadband is and how we should define it. And,  
6 so, that assumes that even the government knows  
7 what broadband is, let alone that the person knows  
8 what broadband is.

9           And one scholar sent me a study that he  
10 was working on south Texas, which is where  
11 Professor Schement is from. In the Harlingen  
12 area, to found out about the state of Internet  
13 access, they did some door-to-door research,  
14 knocking on doors, talking to people in Spanish,  
15 and the first question they asked was not: Do you  
16 have broadband, not: Do you use the Internet, the  
17 first question was: Do you know what the Internet  
18 is? So, we need to think about how we frame the  
19 question in talking to the community.

20           So, the same gap has been documented by  
21 Pew at the national level, so, this is not just a  
22 fluke of our state, but it's also a national



1 issue, and Pew has also documented similar gaps  
2 for African-Americans, non-high school graduates,  
3 people with low incomes, and then also people with  
4 disabilities, right. And then as you add onto  
5 disability language issues, rural issues, race and  
6 ethnicity issues, all of these issues can pile on.

7           So, one of the things I was speaking to  
8 John Horrigan about earlier was the importance of  
9 data sources, including Pew, but also the FCC  
10 making sure that as we're looking at the broadband  
11 issues, that we don't just survey in English and  
12 that we don't try to characterize the  
13 English-speaking world as America because America  
14 is increasingly diverse, so, we need to reach out  
15 in other languages, and also look at the computer  
16 issue, and then I want to close by talking a  
17 little bit about the wireless use issue.

18           So, as has been discussed, Latinos and  
19 African-Americans do have high levels of wireless  
20 use, and minority communities are more likely to  
21 also be cell phone only households, but even  
22 though some of the surveys are showing that

1       Latinos are more likely to use the cell phones for  
2       e-mails and Web than are Anglo households, this  
3       also doesn't mean that this is necessarily the  
4       solution to the broadband problem.

5                   This gets back to what I was saying  
6       about looking at complements, not substitutes,  
7       because part of the issue is that especially for  
8       cell phones, there are many limitations on  
9       bandwidth, much more limited availability of  
10      bandwidth and a lot of rules that the Internet  
11      service provider imposes on bandwidth  
12      consumptions. Some ISPs decide what applications  
13      you can download. A fundamentally different  
14      concept of the Internet.

15                   I think it's different, but it's not  
16      what most of us think about with regard to  
17      Internet. Most wireless companies prohibit  
18      attaching a computer. So, you have device  
19      attachment prohibitions. Some allow computer  
20      attachment for extra fees, and, so, these device  
21      attachment issues come into play. And, so, there  
22      are a number of issues that really indicate that

1 these technologies are complements and not  
2 substitutes.

3           And then, also, I think when we look at  
4 barriers that we need to be talking about issues  
5 about access to credit. So, for some services,  
6 you need a credit card or you need good credit to  
7 be able to get access to the services. So, as  
8 we've talked about with income, let alone what's  
9 happening with the recession, people who are  
10 losing their houses are going to have terrible  
11 credit.

12           So, one reason I think that Latinos and  
13 African-Americans have such high levels of  
14 wireless use is because the availability of  
15 prepaid wireless where credit is not an issue.  
16 So, we're just starting to see the emergence of  
17 prepaid Web, and, so, prepaid Internet, and I  
18 think that that's going to be critical.

19           So, I think I'll end there. I talked  
20 about the access to credit, so that the FCC needs  
21 to identify and report on these access gaps, but  
22 also to look at different types of Internet access

1 and not say well, just because you're able to on a  
2 two-inch screen access your e-mails, that doesn't  
3 necessarily mean that we've solved the broadband  
4 problem because we have to differentiate between  
5 what products are really complements and what  
6 products are substitutes.

7 Thank you.

8 MR. LLOYD: Thank you, Professor  
9 Sandoval. Really an awful lot of data that we're  
10 sort of throwing at you. The first session really  
11 is about what do we know, and then we'll get to  
12 other questions about what we can do about it.  
13 But we are giving you a lot of data and sort of  
14 demonstrating the really true complexity of the  
15 first task here.

16 Maureen Lewis, who is with NTIA, I know  
17 Maureen has a couple of questions, but NTIA has  
18 played, I think, an important and special role in  
19 identifying even the terms information has or  
20 have-nots or the digital divide, and, Maureen, if  
21 you could talk a little about that role.

22 MS. LEWIS: Sure.

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1           MR. PRUNER: And I'm also going to  
2           surprise you hear a little bit. If you could talk  
3           about your role in pushing 706 of the 1996  
4           Telecommunications Act.

5           MS. LEWIS: Thanks very much, Mark.  
6           It's really a pleasure to be here among so many  
7           veterans of the sort of digital divide wars, and I  
8           go back some ways with some of the panelists here  
9           and some of the audience members back when I was  
10          with the Alliance Republic Technology, pushing for  
11          the FCC's implementation of Section 706 to promote  
12          the deployment of ubiquitous broadband access to  
13          the home.

14          I met some of my colleagues here today,  
15          and, so, while I'm saddened that we're still  
16          talking about the fact that there are so many  
17          access gaps in America and that we're still  
18          working very hard to close those gaps, I'm really  
19          pleased to be here to represent the National  
20          Telecommunications and Information Administration,  
21          which is the president's advisor on  
22          telecommunications policy, and, as you know,

1 President Obama is very committed to making sure  
2 that the gaps that we've been talking about here  
3 are closed.

4 So, one of the things that I'm doing in  
5 concert with my colleagues at NTIA, we're working  
6 very hard to implement the broadband technology  
7 opportunities program, which is a grant program  
8 which gives the opportunity for a number of  
9 different entities, non-profits, state and local  
10 governments for-profit entities. NTIA has been  
11 allocated up to \$5.2 billion for broadband  
12 projects to promote the deployment of broadband  
13 infrastructure to un-served and underserved areas.  
14 We're also going to be providing grants to help  
15 establish or expand public computing center  
16 capacity, as well as to promote the adoption of  
17 broadband technologies.

18 In addition, NTIA is working to provide  
19 grants to the states to allow states to map their  
20 broadband access to help in the development of a  
21 national broadband map. So, we're working very  
22 closely with our colleagues at the Federal

1       Communications Commission, and it's really a  
2       pleasure to be here, and I do have a couple of  
3       questions that I'd like to ask, if I could.

4                 One of the things that I guess I heard  
5       Mr. Tobias mention was this whole idea of  
6       technology pessimism, and you talked about it  
7       being high among the disabled community, but it  
8       struck me as you talked about it that the income  
9       gaps and the language gaps and the education gaps,  
10      those are also probably areas where people who are  
11      struggling to survive are experiencing technology  
12      pessimism, and I wondered if any of the panelists  
13      wanted to speak to that, and whether or not also  
14      you are aware of any studies that might have been  
15      done that demonstrate once exposed to broadband  
16      and broadband applications that the high-level of  
17      concerns about relevance change.

18                MS. LEWIS: I think it's a very  
19      important issue because I think it cuts across all  
20      of the adoption lowering factors. I really think  
21      it is a generic -- and consumer research over the  
22      years, especially the typology of Everett Rogers



1 with the innovator, early adopter, et cetera, and  
2 then unnecessarily negative term laggard, which I  
3 don't know, I mean, there are probably reasons for  
4 people not to adopt technology.

5           So, we need to be clear that we  
6 shouldn't be at an evangelical mode, but I agree.  
7 I think that diving into some of those questions  
8 about relevance, I don't think it's just us, and I  
9 think we're probably more early adopters here in  
10 this room than not.

11           It's not just our enthusiasm about these  
12 capabilities that's really transformed  
13 transformational technology that projects on to  
14 non-adopters what's the matter with you folks? I  
15 really think there is something there, and I think  
16 we need to dive into it. It is, I think, much  
17 more a cultural issue, a personal psychology  
18 issue, a lifestyle issue, and a social network  
19 issue, all right. People who don't have a lot of  
20 friends who use the Internet don't hear about how  
21 good it is in ways that would encourage them to  
22 adopt it. So, just to find out more about it and

1 then to look at the -- again, I'd like to  
2 emphasize a light touch regulatory regime that  
3 would encourage dissemination, induced  
4 dissemination rather than enforced, mandatory  
5 usage.

6 MR. PRUNER: I think Jim's right. In  
7 the Native American community, we see just the  
8 opposite. The Native public media, which is the  
9 one place that you can get some information, they  
10 run their operation on a shoestring, but they do  
11 have valuable information. Has shown that when  
12 Natives have the opportunity to get broadband and  
13 to use the Internet, they adopt it and they adopt  
14 it quickly. Part of that is cultural, as you were  
15 talking about. Is the fact that Native Americans  
16 have always been great storytellers, and they also  
17 like to create art. Both of those things they  
18 enjoy doing in a multimedia manner, and we see  
19 lots of that.

20 My favorite story was Wednesday, we met  
21 with NTIA and RUS about the provisions having to  
22 do with Natives, and we notified tribes on Friday

1 because this area is moving so quick. Three  
2 people flew all the way from Barrow, Alaska, the  
3 very northern point in Alaska, took them 24 hours  
4 to get there to Washington, and she was telling us  
5 about how Internet service is used there, it's  
6 satellite-based. Sixty-five percent of the people  
7 in this remote, native village use the Internet,  
8 and it's not a very high income area, but when  
9 they have to make a choice between having running  
10 water and having Internet service, they pick the  
11 Internet service.

12 MS. LEWIS: Wow. I think, also, that  
13 not all of these issues are demand side, that  
14 there are some things that the supply side is  
15 doing that also sometimes can thwart access or  
16 accessibility.

17 So, one example of that, when I was here  
18 about a month ago, I was on the Metro, and I saw  
19 an advertisement for this particular company that  
20 was advertising unlimited Web, text, and phone,  
21 and I wrote a paper recently called "Disclosure,  
22 Deception, and Deep Pocket Inspection," which

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1 (inaudible) is going to publish, and part of what  
2 I argue is that carriers should not be able to  
3 advertise their Internet service as unlimited if  
4 it's not actually unlimited. And it's very  
5 important to disclose to people what are the  
6 material limits, especially when you're placing  
7 material limits on applications, let alone device  
8 attachment, et cetera.

9 So, I took down the name of the company  
10 and then when I got back to California, I went  
11 into their Web Site and called it up. Well, my  
12 14-year-old niece a couple of years ago, I had  
13 hired her to help me get my files in better order,  
14 and I was watching her work on the computer, and  
15 she did this little zoom thing and it made  
16 everything bigger. I said, oh, my God, how did  
17 you do that? All right, so, she shows me how to  
18 use the zoom button, thank God as I get older.  
19 But now I learned from my niece how to use the  
20 zoom button.

21 And, so, this print was so small, and I  
22 thought well, I know the magic button; I'll use

1 the zoom button. Guess what, it wouldn't let me  
2 zoom it to make it bigger, and especially because  
3 they had all this unlimited, and then there was  
4 this really small print, and I thought I'll just  
5 zoom it and make it bigger. They disabled that.  
6 You couldn't make it bigger, which certainly has  
7 huge issues for people with disabilities. Okay, I  
8 can see with glasses, let alone my aunt who really  
9 needs the print to be this big, but it also  
10 creates huge issues for just consumer information.

11 And, so, I think it's easy to say oh,  
12 it's a demand side, people don't know or whatever,  
13 but we also have to look at what is happening on  
14 the supply side that also thwarts use and creates  
15 this discouragement?

16 I also wanted to ask the panel, as NTIA  
17 looks to resume some of its research on closing  
18 the digital divide, what other areas ought we be  
19 focusing on? I mean, certainly Mark talked about  
20 making sure that we work to identify gaps in the  
21 Native American community.

22 NTIA has worked with the Census Bureau,

1 a sister agency of the Commerce Department, to  
2 gather data on Internet use and availability. So,  
3 are there some other areas that within the context  
4 of a digital divide study that we ought to be  
5 really focusing on where we can get more  
6 fine-tuned information?

7 MR. SCHEMENT: I have two, quick  
8 suggestions. One is in the early 1980s, when I  
9 first started looking at data that had to do with  
10 the relationship between income, ethnicity, and  
11 access to the telephone, I saw these gaps even  
12 within the same income range, and I couldn't  
13 explain them. So, now, it's 25, going on 30  
14 later. I still can't explain them. We still  
15 don't understand why these kinds of gaps persist,  
16 and there are answers.

17 And, so, I would say one is, to the  
18 extent that NTIA can get a better handle on that,  
19 then they can make some progress on closing the  
20 gaps.

21 The second thing is that we talk about  
22 access, and here is an example of I think the

1 failing of policy. We talk about access as if it  
2 is the final goal, when, in fact, the technology  
3 is a very complex technology that also requires  
4 skills, competencies, and a basis for  
5 understanding them.

6 I understand that it's very difficult  
7 for one agency to cooperate with another agency,  
8 but I would hope that in the 21st Century, when we  
9 talk about access, we also talk about education  
10 and we also talk about the social capital needed  
11 to make something of it.

12 And let me tell you why I think it's  
13 important. In telecommunications and  
14 telecommunications economics, we have relied for  
15 many years on a concept we call the theory of  
16 network externalities. And that means that, as  
17 you add more people to the network, the network  
18 becomes more valuable to the people who are  
19 already on the network because they have more  
20 opportunities to connect. What we are beginning  
21 to understand about Internet networks are that it  
22 isn't just about whether you're connected to the



1 network, it's about the innovation that takes  
2 place on the network. The business model of the  
3 Internet doesn't produce content that you consume,  
4 it sells content you produce. Right? That's how  
5 YouTube, that's how all of these business models  
6 function. They're counting on you to produce the  
7 content.

8 So, the theory of network externalities  
9 in the Internet Age should probably be called the  
10 theory of dynamic network externalities because it  
11 is what we bring to it that gives the network its  
12 value, therefore, we want all these people who  
13 aren't connected to bring something to it because  
14 the changes are what they have to offer is not  
15 what we've been bringing to the network; there are  
16 other things out there on the network that's going  
17 to make the network more valuable.

18 So, for those reasons, I think the  
19 stakes are high.

20 MS. SANDOVAL: And I think, also, just  
21 doing focus groups, as Professor Schement is  
22 suggesting, with the non-users to find out about

1 barriers, it's very important to do that in a  
2 variety of languages, to also make those  
3 accessible, look at a variety of groups where  
4 we've identified some of the gaps, that that's  
5 absolutely going to be critical.

6           And then NTIA has long been a leader  
7 also in looking at traditional media, what we'd  
8 call now traditional media like broadcasting.  
9 Over 90 percent of Americans still use radio for  
10 news and information and reliance on radio is even  
11 higher for African-Americans and for Latinos, and  
12 there are a number of tribes that also have  
13 commercial and non-commercial radio stations.

14           So, radio and television continue to be  
15 a very important media, especially for a lot of  
16 communities that do not have access to computers,  
17 and, so, we have to think, again, about  
18 complements, not substitutes, and how can these  
19 work together?

20           I've been doing a study on minority  
21 radio broadcasters. I've identified approximately  
22 325 different minority owners of approximately 850

1 minority-owned radio stations, about 72 percent of  
2 those are programmed specifically to serve  
3 minority communities. So, there's a very high  
4 relationship between minority ownership and  
5 content, and about 300 of them have very active  
6 Web Sites, and, so, we see the broadcasters are  
7 leveraging into the Internet, but, also, they're  
8 long-trusted voices who may also be able to help  
9 leverage access in the communities and know what's  
10 going on to be able to help in that assessment and  
11 to improve access to a variety of technologies.

12 MR. PRUNER: Yes, and a couple of quick  
13 points on that.

14 Professor Sandoval is right, Native  
15 public media is called that because those are the  
16 Native radio stations, and the woman there has  
17 done a wonderful job of reaching out beyond that.

18 The other thing, I think one of the  
19 reasons Natives are often left out is they're  
20 remote, and the survey costs are expensive. So,  
21 while you were talking about don't survey  
22 broadband people who are already on the Internet

1 necessarily, if you have no data, some data is  
2 better than none. So, a bottom-up approach with a  
3 Google mash-up with longitude and latitude-based  
4 data as proposed to stress address data where the  
5 people can get involved.

6           Professor Schement was talking about  
7 network externalities. Bob Metcalfe has  
8 Metcalfe's law, that the power of the network is  
9 the square of the numbers of users. He and I got  
10 into a discussion as to who first used the word  
11 "Internet" many years ago, and, so, if he has a  
12 lock, I could have Pruner's paradigm, which is  
13 that when you have two communities on and off the  
14 reservation, if you multiply the penetration rate  
15 times the speed in each community and then look at  
16 the difference, that's the harm that's being done  
17 in that community. So, you might look, because if  
18 one area doesn't have the bandwidth and the uses  
19 that the other area has, both communities are hurt  
20 because they're common, economic unit. So, that's  
21 another thing to look at is how the surrounding  
22 communities are being affected.

1                   MR. LLOYD: So, we have a number of  
2 questions from the audience, both the online  
3 audience and the audience in front of us. We have  
4 almost a half hour, actually, to try to get  
5 through some of these, and I'm going to ask, to  
6 the extent possible, short answers, but some of  
7 these are some tough questions.

8                   There was a question that I can answer,  
9 and that was: Will slide presentations be  
10 available online? And they will be available  
11 online.

12                   Let me also say that Dr. Nicole Turner  
13 Lee was here to present I think a couple of  
14 sessions ago, and the Joint Center for Political  
15 Studies has some really very good poll data online  
16 about particularly the African-American use of  
17 broadband, and I believe those studies are both  
18 online on our Web Site and also on the Joint  
19 Center for Political and Economics' Web Site, as  
20 well.

21                   A couple of questions here. What  
22 happens to immigrant data, and are they

1 incorporated into the demographics for other  
2 populations? And, so, we have data for  
3 African-Americans, do we have African-American  
4 immigrant data? We have --

5 MR. PRUNER: Actually, we think of you  
6 all as the immigrant community.

7 (Laughter)

8 MR. LLOYD: So, we have data on  
9 Asian-Americans, just a little, although, we  
10 haven't had much discussion really. I think Jorge  
11 talked a little bit about Asian-Americans. We've  
12 got data on Asian-Americans, but do we have  
13 immigrant Asian-American data, and the same thing  
14 for Latinos. Do we have good immigrant data?

15 Anyone?

16 MR. SCHEMENT: We don't have very good  
17 immigrant data for the reason that when we do our  
18 surveys, and it doesn't matter who's doing the  
19 surveys, the more different groups you're serving,  
20 the smaller the cells are in the survey of the  
21 number of people surveyed, and below a certain  
22 point, it's very difficult to draw any kinds of

1 conclusions because you have so few people in the  
2 survey.

3 So, in the future, that problem is going  
4 to get worse because there's going to be more  
5 diversity in the population, and we'll either  
6 follow an approach that says well, ignore all of  
7 that and just lump everybody together and we'll  
8 tell you what we think is happening to some uber  
9 group, or we'll have to have larger sample sizes.  
10 Larger sample sizes means more money, and, so,  
11 that will make surveys more expensive.

12 So, I don't anticipate that we're going  
13 to have better quality information about a lot of  
14 different groups unless we really work hard at it  
15 and unless we put the resources into doing it.  
16 Although, I will argue that the demand for better  
17 data is going to go up because the private sector  
18 is going to want that data.

19 MR. LLOYD: So, one of the questions we  
20 had pretty early on from our friend, Janelle  
21 Trigg, really is about data related to small  
22 businesses and broadband. Do we know and do we

1 aggregate data in a way to determine what it is  
2 that small businesses are both doing, who those  
3 small businesses are? What do we know about small  
4 business and broadband?

5 MS. SANDOVAL: I think it's extremely  
6 limited, and I think what these great questions  
7 are pointing out is that the researchers and the  
8 government has not necessarily been asking the  
9 right questions or using the proper methodologies,  
10 and, so, I think that a lot of businesses are  
11 growing with adoption, but that there are still  
12 gaps and that businesses could benefit more from  
13 some training, but also some of that will also  
14 depend upon what's the benefit they're going to  
15 get out of it in terms of their users?

16 And, so, if they have a lot of customers  
17 who are not online, the business may benefit from  
18 doing some business side stuff, but less so with  
19 the customer. So, I think that this is an area  
20 that definitely merits greater exploration, as  
21 well as when you look at, again, the application  
22 side. By that, I mean the policies of Internet



1 service providers that might potentially constrain  
2 use of applications as something that also affects  
3 small businesses, as well as people who are doing  
4 innovative things, in particular when you talk  
5 about bandwidth intensive uses, that can run up  
6 very quickly against network management policies.

7 MR. PRUNER: Yes, and one thing on the  
8 flipside of that, the Department of Commerce has  
9 lots of information, but you have to pay for it.  
10 You have to subscribe to it. So, I would  
11 encourage any information that is gathered -- and  
12 it may not be the Department of Commerce, but  
13 there is a Web Site that has lots of  
14 business-specific data. You go there, you have to  
15 pay a subscription fee. If you're a small  
16 business and you need one fact for that day, and  
17 you know it's there, you can see the study, but  
18 you've got to pay for it, a lot of small  
19 businesses aren't going to do that, whereas a  
20 large corporation can subscribe for the whole  
21 corporation.

22 MR. LLOYD: So, Maureen, did you want to

1 speak that?

2 MS. LEWIS: Yes. No, I was going to say  
3 the Department of Commerce does publish a lot of  
4 statistical data that is available on our Web Site  
5 --

6 MR. PRUNER: Right, there is a lot --

7 MS. LEWIS: -- for free (inaudible).

8 MR. PRUNER: Yes, I don't --

9 MS. LEWIS: But, yes, so, I just want to  
10 make sure that people do understand that, but, to  
11 your point, there is an agency at the Department  
12 of Commerce, the Minority Business Development  
13 Agency that I know is very interested in making  
14 certain that minority businesses in particular are  
15 adopting broadband, and they have done some  
16 studies that I think the last one was maybe about  
17 two or three years ago. So, that information is  
18 online at mbda.gov.

19 MR. TOBIAS: I think this is an area  
20 where public-private partnership would be  
21 extremely valuable to both sides. In other words,  
22 you have carriers and broadband manufacturers who

1 would be very interested in working on awareness,  
2 adoption, sustainability, retention research. So,  
3 you have this huge program there with more or less  
4 captive grantees who are predisposed to agree to  
5 participate in research studies that are not  
6 naturalistic like the ones we mostly get a chance  
7 to do, but are actually designed studies that say  
8 here's an intervention that we plan on  
9 accessibility or in small business adoption or  
10 whatever, and here's the control group and here's  
11 the test group, and you can get some great results  
12 using the program that you already have rolling  
13 out.

14 MR. LLOYD: "Captive grantees."

15 (Laughter)

16 MR. LLOYD: What a term. Cathy, I think  
17 this is for you. Eighty-three percent of  
18 Hispanics use broadband in California. What  
19 percentage of that is the total Hispanic market?  
20 Do you have any --

21 MR. SCHEMENT: What percent of  
22 California is the total Hispanic market?

1 MS. SANDOVAL: So, Professor Schement  
2 was saying the question is: What percentage of  
3 California is the total Hispanic market? I don't  
4 have that number right off of my fingertips, but  
5 California is one of the states that has no racial  
6 or ethnic majority. It is a plurality, and I  
7 believe that Hispanics make up around 35 to 40  
8 percent of the population in the State of  
9 California. When you're talking about cities like  
10 Los Angeles, it's much higher, but we also have a  
11 very substantial Asian population, both  
12 longstanding residents who've lived there for  
13 decades and generations, and recent immigrants,  
14 and certainly, my study showed there were a number  
15 of Chinese and Vietnamese language radio stations  
16 in the Los Angeles area, as well as just a huge  
17 diversity in Los Angeles.

18 So, I could follow-up if somebody wants  
19 to e-mail me and get some more information on  
20 that, but I think that the point is from what Dr.  
21 Schement was saying, that the Latino population,  
22 in particular, is growing and growing nationally

1 also in places like Georgia, that there's huge  
2 growth, and, so, some of these issues that we're  
3 seeing in California are also replicated in other  
4 states.

5 MR. LLOYD: So, I've got a couple of  
6 questions that I'm going to combine here.

7 One is directed to Mr. Pruner. What  
8 potential exists for a Native American-oriented  
9 cable television network that would be provided  
10 through increased broadband availability?

11 And the other question has to do with, I  
12 think, radio programming in prompting adoption.  
13 And, so, these are really more questions about is  
14 there better content or is there a different sort  
15 of content that can be provided that would promote  
16 adoption?

17 MR. PRUNER: Yes, and that's one thing  
18 we've been pushing for with NTIA is to take the  
19 reserve funds and put them into sustainability  
20 projects for education. So, yes, we think that  
21 there are programs that can be done.

22 I went through, and of the 2,200

1 applications that were filed for the BIP and BTOP  
2 Programs, 60 of them approximately mentioned  
3 Indians, Native Americans, or tribes in any way.  
4 Of that, 24 tribes actually applied.

5 What we saw in several cases were people  
6 were throwing in Native Americans as kind of a SOP  
7 to get additional points. So, if you're planning  
8 on doing cable television programming with the  
9 Native community, you need to talk to the Native  
10 community before you do that.

11 In one situation in Washington State,  
12 the reservation is the size of Massachusetts.  
13 They want to put WiMax across the entire  
14 reservation. A local broadband supplier came to  
15 them and said well, we'd like to do that over here  
16 in the western portion where it's adjacent to us.  
17 Please withdraw your application. They didn't  
18 think that was good idea, and they said we're  
19 going to go ahead and file. When they looked it  
20 up online, it turned out the other company was  
21 filing to serve their land even though they don't  
22 necessarily have a right to go on it.

1           So, any time you're working with Native  
2 groups for Native programming, the thing to do is  
3 to contact them.

4           As I said, there are some commonalities,  
5 particularly in a region. Northwestern Indians  
6 generally share a culture. You've got the  
7 Algonquin language in the northwest. But to do  
8 programming for all Natives and all areas, while  
9 we all get along and we work with each other,  
10 we're all very prideful of our particular nation.

11           MR. LLOYD: Well, one of the challenges,  
12 and, Jorge, I know that you speak to this, and you  
13 may want to sort of jump in here, is that it seems  
14 to me that when we look to spurring adoption, that  
15 we need to have a much better understanding of how  
16 different populations are attracted to some  
17 particular content, or even to Cathy's point, a  
18 particular application. And I guess that's also  
19 Jim Tobias' point.

20           So, for the purposes of this panel, how  
21 do we get that information about how these  
22 different populations are attracted to particular

1 content, whether it's cable television programs,  
2 radio, or whatever?

3 MR. SCHEMENT: It's a good question, and  
4 as an example of the differences in  
5 characteristics of adoption, we did some household  
6 interviews in rural Pennsylvania a few years back  
7 with Latino families in rural Pennsylvania. All  
8 right, so, there weren't all that many of them  
9 that we interviewed. But we found that they were  
10 all highly connected in some way. Either they had  
11 Internet access or wireless or something and that  
12 the driving motive for all of them was what,  
13 talking to grandma in Mexico. That was the  
14 driving motive. In other words, communal family  
15 characteristics were driving these particular  
16 adoption characteristics.

17 Now, my guess is that we could identify  
18 a number of Latino families with some different  
19 characteristics elsewhere, and we might or might  
20 not see that turn up, but the by and large  
21 different groups tend to be driven by similar  
22 motives, but also by dissimilar motives. My



1 suggestion is that we need to do what we haven't  
2 really done very well, is just go out and talk to  
3 people. Go out and find these communities and sit  
4 down and talk to people in the community and look  
5 at the change that's taken place in communities.

6 I taught at Rutgers in the 1980s. There  
7 was no discernable Latino population, and I really  
8 missed getting pan dulce for breakfast. Now, New  
9 Brunswick is half Mexican. All right, so, in  
10 about a 20-year period, that part of central New  
11 Jersey will begin to change quite dramatically.  
12 Now I can get more bread than my age says I should  
13 eat.

14 (Laughter)

15 MR. SCHEMENT: Any time I want. So,  
16 these sorts of changes tend to take place under  
17 the radar screen even for some of us, and, yet, we  
18 need to be quite cognizant of them, and I think we  
19 just need to get out and talk to people.

20 MR. TOBIAS: I think that's absolutely  
21 right. It's exactly the same with respect to the  
22 disability communities that there are assumptions

1 about the needs, and then there are the realities,  
2 and some of the assumptions are right, but you  
3 won't know that for sure until you go out and talk  
4 with consumers, and consumers are very diverse,  
5 not only across disability characteristics, but  
6 their own preferences, just as any other consumer  
7 would be.

8 If we want to ask the question: Why do  
9 people make the move over to Internet or  
10 broadband, we have to understand how they're  
11 getting their information and communication needs  
12 met now. What are they using? And who are they  
13 communicating with now?

14 It's a two-party communication; it's not  
15 enough if I adopt Skype, I have to find somebody  
16 else I want to talk to who also has Skype and is  
17 Skype-accessible for both of us. That's the kind  
18 of qualitative, to begin with, very rich,  
19 narrative, and interview and focus group-driven  
20 data collection that, again, I think NTIA is  
21 really well-positioned to get started on.

22 MR. LLOYD: So, one of the challenges I

1 think that we had is -- well, let me just ask this  
2 question: Do we have good information about the  
3 Asian-American community in the U.S.? I know  
4 there's a sort of model, minority myth about  
5 Asian-Americans, and we don't have to worry about  
6 them, that they all have Internet and they're all  
7 online. But, it seems to me there's an  
8 extraordinary difference between recent immigrants  
9 and Asian-Americans and Asian-Americans who've  
10 been here for a long period. This is an  
11 extraordinarily diverse population with many  
12 different language challenges, as well.

13 MS. SANDOVAL: Yes, I think with  
14 Asian-Americans, it's a group that, again, where  
15 the Internet access reports seem to show an  
16 extremely high adoption rate XXX BEGIN TRACK  
17 MZ000220 XXX but, yet, for example in the State of  
18 California, as the California Emerging Technology  
19 Fund has been doing these interviews in six  
20 different languages, so, I know that they're  
21 interviewing people in English, Spanish, Chinese,  
22 Vietnamese, I believe Hmong, and Korean.

1           And, so, for example, the Hmong  
2           population has for a long time been low-income and  
3           also tends to be a very rural population, and, so,  
4           one would expect there to be different  
5           characteristics that are not well-documented.

6           Filipino is another one, and, so, I  
7           think that there is this assumption that all the  
8           different national groups where there's huge  
9           variations have the same access and the Census  
10          does have some data on income levels for these  
11          different ethnic groups or different national  
12          groups showing huge variations in income, and, on  
13          that basis alone, we would expect huge variations  
14          in Internet access.

15          So, I think it is an area that needs to  
16          be disaggregated more where you're putting  
17          together age, generational information,  
18          immigration information, linguistic information,  
19          rural, urban information to try to get more at the  
20          complexity and are there any particular groups  
21          where we really see lower levels of access?

22                 MR. SCHEMENT: This appeal to

1       desegregation, I think, is quite important. I  
2       mean, if you think about it, it is a travesty to  
3       refer to the world's largest population as Asians.  
4       Right? I mean, if Filipinos and Chinese have more  
5       in common besides geography, it's not that much.  
6       I mean, they are as different as Europeans are  
7       from each other and as we are from them. And, at  
8       the same time, we share a lot of the same  
9       interests.

10                So, desegregations don't mean that we  
11       see everybody's differences alone. What it means  
12       is that we pay attention to nuances rather than  
13       lumping everybody together and try to achieve one,  
14       big outcome. And the reason we have done that for  
15       all these years is because the 20th Century was a  
16       century of mass marketing of all kinds. It was  
17       about aggregating audiences that made the great,  
18       national markets what they are. It's what Sears  
19       and Roebuck did in the 19th Century, aggregated  
20       audiences.

21                So, by aggregating audiences, we  
22       developed a sense of population should be

1 aggregated. So, in the 21st Century, what do we  
2 see business doing? Desegregating markets in  
3 order to penetrate markets more deeply.

4 So, it's a good time to desegregate the  
5 way we think about populations, as well.

6 MR. PRUNER: And I think the other thing  
7 is quantitative tends to drive out qualitative.  
8 We're very good at putting things in spreadsheets,  
9 and we're uncomfortable if we can't put it in a  
10 spreadsheet, but everybody here has talked about  
11 going out and talking to the people, and we're  
12 developing systems now to search qualitative data,  
13 to search anecdotal data, and be able to base some  
14 policy decisions on it. And I think that's a  
15 trend you see out there in businesses, and it's a  
16 good trend to move into government, too.

17 MR. LLOYD: So, I just got a note from  
18 one of our online participants that Native Public  
19 Media, which, in addition to working in radio, is  
20 a policy advocacy group, is in the final stage  
21 analysis on a demographic study of Internet use in  
22 Indian Country, and the study is comprehensive,

1 includes case studies, qualitative data. NPM has  
2 been working in concert with New American  
3 Foundation and the study brought strong  
4 demographics on use and will be released in mid to  
5 late November, in time for us to really sort of  
6 think about our broadband plan.

7 Maureen, did you have something you  
8 wanted to --

9 MR. SCHEMENT: Somebody had a question  
10 back there. This gentleman here raised his hand  
11 several times.

12 SPEAKER: (Off mike.)

13 MR. LLOYD: So, let me repeat the  
14 question. We just want to make sure -- this is  
15 one of the reasons that we're not sort of just  
16 (inaudible) hands, but this is a question about  
17 the concept of digital pessimism.

18 MR. SCHEMENT: Technology.

19 MR. LLOYD: And technology pessimism,  
20 and what it is that the government can do to  
21 address this.

22 MR. TOBIAS: Well, I'm guilty, I guess,

1 of raising it. I only meant it with respect to  
2 people with disabilities, generalizing from their  
3 unsatisfactory experiences with technology over  
4 time. But I think maybe it is a more general  
5 trend, but we know that there are ways around  
6 that, that to the extent that peer networks get  
7 established, and this is what new technologies are  
8 so great at.

9 We see logging and blogging and what  
10 have you in the disability communities are  
11 restoring what in some of those communities never  
12 existed. That is, when we speak of the disability  
13 communities, especially for people who become  
14 disabled later in life, they're not a community,  
15 they're not a native, knit community, and, so,  
16 we're using these new technologies to try to build  
17 the community, and that is very powerful both in  
18 communicating the technologies that don't work and  
19 the technologies that do work.

20 It's important though as we move into  
21 these kinds of more diffuse or abstract notions  
22 that if there's no regulatory oversight to begin



1 with, in the accessibility field, everything  
2 begins with the law of mandating accessibility.  
3 Without that, we really don't get a rich ecosystem  
4 that has any accessibility in it because it's too  
5 easy to ignore the issue.

6 So, I think we have to maintain focus on  
7 both of them, but, certainly, I'm not even an  
8 academic, but I get to say more research needs to  
9 be done. But we do have some very tantalizing  
10 notions of how to intervene efficiently to push  
11 back some of the technological pessimism.

12 MR. LLOYD: So, we have, I think, just a  
13 couple of minutes left here. And what's the  
14 question?

15 MS. PETERSON: I live in Durham, North  
16 Carolina, and we have a training program to train  
17 intercity youth in the IT industry (off mike).  
18 What is happening in that industry to make sure  
19 that young, African-American men are being trained  
20 to get employment because the other problem, not  
21 just that the training is not there in our  
22 community, the companies, once we're training our

1 young men and women in the African-American  
2 community, these companies are not even hiring  
3 them.

4 MR. LLOYD: Okay, so, one of --

5 MR. SCHEMENT: So, how can --

6 MR. LLOYD: Yes, so, we will have two  
7 other panels following this. One is going to be  
8 on one of the legal issues, sort of compelling the  
9 Federal Government to do one thing or another, and  
10 what are the limitations? And the final panel for  
11 this afternoon will be on best practices, and we  
12 hope to really sort of address that question about  
13 training and what's being done in particular the  
14 African-American communities in that final panel  
15 about best practices.

16 So, we're going to, I think, wrap up  
17 this panel. I have one question really just to  
18 sort of see if I can end things with, and that is:  
19 Do we have any data that suggests diversity of  
20 ownership makes any difference at all in terms of  
21 providing diverse service or providing service  
22 that might encourage adoption in particular

1 communities?

2 MR. SCHEMENT: Cathy Sandoval mentioned  
3 the study that she's doing which I am extremely  
4 interested in because I, 35 years ago, wrote a  
5 dissertation under Everett Rogers that looked at  
6 minority ownership of radio. At the time, there  
7 were only 70 radio stations that broadcast to  
8 minorities in the U.S., and only 14 of them were  
9 owned by minorities.

10 So, already, there's some change that's  
11 taken place. But this was an era of very few  
12 media outlets, and in the era of very few media  
13 outlets, what we found was that everybody was  
14 driven to make money and social issues went by the  
15 wayside, and it didn't matter what the ethnicity  
16 was.

17 We no longer live in that era. We live in  
18 an era of a multiplicity of all kinds of outlets,  
19 and I'm hoping that what Catherine will tell us is  
20 that things have changed.

21 MS. SANDOVAL: So, my examination of  
22 things on the radio side -- I, again, have been

1 focusing on minority owners and their  
2 contributions, and one way to look at that is also  
3 looking at their Web Sites. So, one of the things  
4 I have been struck by is the discussions on the  
5 Web Sites.

6 So, for example, many of radio one  
7 stations have links to studies on Black America.  
8 There are also several African-American-owned  
9 stations who are doing a campaign. There's a  
10 particular person whose execution has actually  
11 been stayed by the Supreme Court and who are  
12 urging their listeners and viewers on the Internet  
13 to act on that.

14 The Navajo Nation talks about how it  
15 uses its stations, which is actually programmed in  
16 country, to also educate people about news of the  
17 day in the Four Corners Region and the Navajo word  
18 of the day to try to do language preservation.  
19 And, so, a lot of when you see the Hispanic  
20 owners, they talk about what they're doing in  
21 terms of trying to reflect the community and its  
22 particular needs.

1           So, I think that there is a lot of  
2 examples, but, again, when we talk about  
3 ownership, we have to identify what are we talking  
4 about?

5           With telecommunications and broadband  
6 infrastructure, a lot of that increasingly is  
7 owned by very large companies. When we talk about  
8 cable or DSL or wireless, when we look at Internet  
9 service providers, what we've seen is huge  
10 consolidation as opposed to, at the time of  
11 dial-up, there were over 6,000 independent  
12 Internet service providers in the United States.  
13 The number now is far lower, and, so, it would be  
14 interesting to see as we've had consolidation in  
15 the Internet service provider industry, what has  
16 happened in terms of service to actual local  
17 communities. I think that that is a concern.

18           And, so, where you do tend to some  
19 ownership diversity is with applications side,  
20 where people are developing specialized  
21 applications that may be more responsive to the  
22 needs of particular communities, as well of

1 interest to all communities. So, I think that  
2 this is important area to be explored.

3 MR. LLOYD: This is great. I want to  
4 thank all the panelists. The time has gone by  
5 very quickly, and a lot of information and data  
6 and probably more questions than anything else  
7 sort of coming out of this, but I think we've got  
8 some really good advice about the importance of  
9 both disaggregated data, very detailed data, but  
10 also qualitative studies in talking to people in  
11 communities and the range of things from  
12 disability to language to applications to  
13 ownership to take into account as we look forward.

14 We're going to take a break. We're  
15 going to come back with another panel in about 15  
16 minutes looking on legal issues. Again, thank you  
17 very much.

18 (Applause)

19 (Recess)

20 MR. LLOYD: So, we're going to get  
21 started here. We have one panelist who I know who  
22 is here that we're waiting for, and I'm sure

1 she'll come back shortly. We are privileged to be  
2 joined by Commissioner Michael Copps, who has been  
3 fighting the good fight for diversity here at the  
4 Federal Communications Commission for how many  
5 years?

6 MR. COPPS: Eight years.

7 MR. LLOYD: At least a couple  
8 administrations. Eight years. And, again, very  
9 privileged to have you join us, and I know that  
10 you didn't want us to make a big deal, but if you  
11 could just sort of give us a couple of words. You  
12 made a point of reestablishing the Diversity  
13 Advisory Committee because I know this is an  
14 extraordinarily important set of issues for you,  
15 and, so, if you could give us an invocation,  
16 Reverend, we'd love if you could sort of start us  
17 off.

18 MR. COPPS: All right. Well, thank you.  
19 I do not have a speech. I came down primarily to  
20 listen for the next 30 minutes or an hour or so.  
21 That's what I want to do. I am so privileged that  
22 you are here at the FCC, and we are thrilled to

1 have Mark Lloyd helping us work our way through  
2 all of this, and I'm so grateful for everybody on  
3 this panel for being here and the previous panel  
4 and the next panel, too, today.

5           This is really the hour. This is kind  
6 of where the rubber really hits the road now.  
7 We've got in this country an opportunity to do  
8 some good things, whether it's building broadband  
9 or creating equal opportunity, and not just  
10 through broadband, but through a number of other  
11 policies, whether it's building media democracy,  
12 which is something I've been interested in for  
13 years and years. There's a window of opportunity  
14 that's open in this country now. How long it will  
15 stay open and how wide it is open, nobody knows.  
16 So, the premium is on action. So, I'm glad to see  
17 this commission mobilize the way it has been  
18 mobilized under the chairman, Chairman Janikowski,  
19 to really get the data that we need not only to  
20 inform our actions, but to sustain our actions  
21 going forward and get that policy formulated for  
22 broadband between now and next February.



1           There are other areas where I think we  
2 already have a lot of data. We know a lot of  
3 what's lacking in media diversity and in other  
4 things where I think we need to act now. As I  
5 say, we don't know how long that window will stay  
6 open, and a year from now, everybody might be  
7 circling the wagon saying whatever happened to  
8 that wonderful opportunity that we had to build  
9 broadband, create equal opportunity, create media  
10 democracy, and all of the rest.

11           To me, access to modern  
12 telecommunications is tantamount to a civil right,  
13 is a civil right. You got to have it. If you  
14 have no access to that, whether you're in the  
15 inner city, the rural countryside, a tribal land,  
16 a member of the disabilities communities, you are  
17 hobbled. You are really hobbled in being a fully  
18 participating member in American society going  
19 forward.

20           This is the infrastructure challenge of  
21 our era, getting this stuff out in the 21st  
22 Century is certainly equally important and maybe

1 more important than it was in the early days to  
2 build roads and bridges and harbors and canals and  
3 railroads and highways and rural electricity and  
4 then basic plain old telephone service. This is  
5 the roads and the highways and the bridges and  
6 canals and everything else in the 21st Century and  
7 getting out to every American. That's going to be  
8 the trick here. I have no doubt we're going to  
9 succeed in getting it out even more than we have.  
10 We get out more and better services to a lot of  
11 the American people, but it's that final  
12 hard-to-reach group where so many of our diversity  
13 communities and others live that we really are  
14 going to have to be creative and innovative. So,  
15 I'm just thankful that all of you are here and  
16 working hard. We're all working hard on it.

17 I'm going to be going with Commissioner  
18 Clyburn down to South Carolina next week. We're  
19 going to do some outreach down there and not only  
20 talk about broadband deployment, but to try to get  
21 the message on broadband adoption out so that  
22 people can understand because not everybody does.

1 Tremendously impact who they are by this, and what  
2 kind of windows of opportunity it opens for every  
3 individual to be a productive member of society,  
4 employed member of society, and a fulfilled member  
5 of society, too.

6 So, this is a priority of mine, this  
7 diversity realizing the next chapter in civil  
8 rights through this technology really and  
9 expanding opportunities.

10 So, I'm grateful, and, with that, I will  
11 hush up and listen to you folks who know a lot  
12 more about it.

13 Thank you.

14 MR. LLOYD: Thank you. Thank you, sir.  
15 We really appreciate you coming in.

16 Just a couple of housekeeping notes.  
17 Our Room Coordinator, Calvin Osborne, has asked me  
18 to remind folks that we do have index cards in the  
19 back, and, Calvin, if you could raise your hand  
20 again so folks know if you need to ask questions,  
21 please get those index cards and Calvin will be  
22 sure to get those to me. We want to make sure

1 that the questions get on mike, and also we can  
2 make sure that we're sort of staying on topic  
3 here.

4 The other housekeeping note was I wanted  
5 to make sure that folks who were interested  
6 particularly in the last discussion about data,  
7 that the organization, I think it's the  
8 Greenlining Institute has got really very good set  
9 of data about different uses of the Internet by  
10 different ethnic populations, and if you go to the  
11 Greenlining Institute Web Site, you'll be able to  
12 get that data. Again, very interesting set of  
13 statistics on broadband use.

14 The last panel, we talked about data,  
15 what do we know, how do we get better data, what's  
16 the better data that we have to get? As  
17 Commissioner Copps, I think, properly said, this  
18 is one of the tough panels. We could spend a week  
19 on this question of what are the legal obligations  
20 of the Federal Government in trying to address the  
21 issues of civil rights and diversity in the United  
22 States. With regard to broadband access and

1 adoption, we've only got a few minutes really.

2 And, so, I want to get right to that.

3 I also want to note that we will  
4 continue a conversation. This is a listening  
5 session. This is not the end of a conversation.  
6 This is the beginning of a conversation, and we  
7 encourage questions both from the audience and  
8 online.

9 And I think, with that, let me introduce  
10 my friend, Dr. Mary Frances Berry. Dr. Berry is  
11 really one of the prominent legal scholars of our  
12 time, both an historian and someone who  
13 particularly is chair and member of the Civil  
14 Rights Commission for many years, has worked very  
15 closely on the question of what it is that the  
16 Federal Government must do or is limited to do  
17 regarding civil rights issues. And both in  
18 collecting data and then driving the folks,  
19 whether they were the president or whomever to  
20 actually do something about that data.

21 And let me also say that we have very  
22 full biographies of everyone both online and I

1 think there may be some biographies passed off.  
2 So, I'm not doing any of the panelists justice  
3 here with these brief introductions, but we do  
4 want to get to the discussions as quickly as  
5 possible.

6 Dr. Berry, with that.

7 DR. BERRY: Well, Mark, thank you very  
8 much for having me, and I want to say to  
9 Commissioner Copp how much I have appreciated his  
10 leadership and commitment, which has been  
11 sustained over the years on this subject as well  
12 as others that are important to our country. Also  
13 to say that since he said what he said, I don't  
14 have to say that.

15 (Laughter)

16 DR. BERRY: As a matter of fact, I don't  
17 even have to read the line where I talk about  
18 enhanced broadband access in equity is one of the  
19 major civil rights challenges of our time. So, I  
20 don't have to read that.

21 And, also, I will say that the first  
22 time I encountered this subject of communications

1 in any sustained way was when I was first  
2 appointed to the Commission and it had just done a  
3 study called "Window Dressing on the Set," which  
4 was about the FCC, and in those days, the  
5 Commission had to explain why communications was  
6 so important. And, so, they spent a quarter of  
7 the report explaining why it was important to  
8 people to have access and to be recognized and  
9 acknowledged and all the rest of it.

10 Well, we don't have to do that today  
11 because we understand that, and we understand in  
12 terms of the mission of the FCC, which is clearly  
13 stated and what this broadband plan is about, how  
14 important it is to include all the people who have  
15 been left out.

16 And it's not just as I heard someone say  
17 on the last panel because they use the Internet or  
18 they use Skype or something to get in touch with  
19 momma wherever momma or grandmamma lives. The  
20 point is to do more than that. What you want  
21 people to do is to utilize it for all of the  
22 things that can be done so that they are

1 acknowledged that they have resources and that  
2 they can be engaged, which is even more important  
3 because if they are not connected, they can't be  
4 engaged in all sorts of ways that are  
5 informational and are educational and relate to  
6 whether they, indeed, are going to be redundant in  
7 a society where it is technologically advanced as  
8 we move whether they are going to be able to  
9 become productive members of society. So, it's in  
10 the national interest, as well as in the  
11 individual interest, that we do more than just  
12 playing around with this thing.

13 Now, if we all agree with this, and I'm  
14 sure we do, then all we have to talk about here is  
15 what are the legal barriers? I want to talk about  
16 the legal barriers and how you overcome them to  
17 try and target on the groups that have been left  
18 out, and to make sure that people are included.

19 The primary barrier, of course, is that  
20 Metro Broadcasting 1990 decision is gone. We  
21 don't have it anymore. So, therefore, we have  
22 strict scrutiny, which anything that targets



1 people and race is the bugbear in the room  
2 because, in fact, when you talk about disability  
3 rights and gender and all the rest, you have a  
4 lower standard that you have to worry about as you  
5 develop these plans.

6 So, race is really the primary problem  
7 here. And, so, we have strict scrutiny, and since  
8 Adarand, what you got to do is make sure that you  
9 prove that there is a compelling governmental  
10 interest and make sure that you show that you  
11 narrowly tailored whatever you do in this plan,  
12 and that you tried every alternative possible and  
13 that whatever you're doing is of short duration.

14 And, in addition, the FCC is hamstrung  
15 by the Lutheran Broadcasting Case, Lutheran Church  
16 Case of 1988, which you have, which throughout  
17 your employment regulations, which I guess FCC  
18 recognized it was a bad case based on how that  
19 evolved over the years.

20 Sometimes, what lawyers have to do is  
21 understand when to avoid litigation. You don't  
22 litigate something that's going to set you up as a

1 target, and I have the hardest time in the world  
2 explaining that to the lawyers I deal with in  
3 various non-profits who like to go to court.  
4 They're like surgeons who like to do surgery.

5 (Laughter)

6 DR. BERRY: But then we still have now  
7 the Michigan Case, and we have O'Connor's opinion  
8 there, and that can be used, and that was not  
9 affected by the Seattle Case because there's  
10 nothing in the Seattle Case that affects that or  
11 the New Haven Firefighters Case. And the nice  
12 part when you're dealing with this subject is that  
13 we're not talking a zero sum game as we do with  
14 schools. Schools, somebody gets in and then  
15 somebody doesn't get in, and then they get mad and  
16 they sue. We're not talking about jobs where  
17 somebody gets promoted and somebody doesn't. What  
18 we're talking about is figuring out where  
19 everybody can have access.

20 So, what is it you do since I have two  
21 minutes and eight seconds? What is it that you do  
22 that I think will pass muster, given these

1 standards, and I think it's impossible to do it.

2 The earlier panel on data, data, of  
3 course, is very important, but the first thing you  
4 have to do is show in your plan why the country  
5 needs technologically adept folks in the national  
6 interest, and I mean in detail, I don't mean just  
7 saying. You can't just say things, you have to  
8 show, not tell. You have to show, not tell in  
9 order to get over the barriers that the courts  
10 have set up, and the courts are going to change,  
11 but not this minute.

12 Overwhelming evidence of lack of  
13 utilization has to be there. Overwhelming  
14 evidence. I mean, you might think its' too much.  
15 Overwhelming evidence, lack of access, and  
16 overwhelming evidence of people not using it. You  
17 have to show that with data, and you can get data  
18 not just from NTIA and the work that they're  
19 doing, but the agency can get data directly from  
20 companies. That is the service providers. We did  
21 that, and as a commission government agency is  
22 going to do that. You get the data of who served

1 neighborhood by neighborhood who these people are  
2 and use the data and set it up and show it in your  
3 plan, and also show that you have accepted and  
4 rejected various approaches to trying to meet your  
5 overall goal.

6           You've got to show that in the plan. We  
7 thought we'd tried this, but that doesn't work  
8 because of that, and then we tried that. This is  
9 required under the standards that are there. Then  
10 you've got to show finally that you are going to  
11 monitor whatever you do and that you're aware that  
12 technological change is a moving target and that  
13 you have to keep moving on it and you have to show  
14 that, not tell that. And then you have to analyze  
15 once you look at the plan that you develop, who is  
16 likely to bring a legal attack and why would they  
17 bring it, and what are they likely to argue, and  
18 how do we repel them before we wait until they do  
19 it? And if you do all of that, I believe you can  
20 develop a plan that will ensure success and  
21 meeting the needs of our people and exercising the  
22 FCC's responsibility.

1 Thank you. I made it.

2 (Laughter)

3 MR. LLOYD: We're going to keep the  
4 other panelists to that. Thank you very much for  
5 that, Mary. It's really very helpful.

6 Geoff Blackwell, you've been working on  
7 these issues for quite awhile, and I know you're  
8 going to say this, the relationship between the  
9 Federal Government and Native American Tribes is a  
10 little different, it puts, I think, a different  
11 twist on these set of issues.

12 What does the Federal Government need to  
13 do regarding Native Americans?

14 MR. BLACKWELL: Thank you, Mark. Thank  
15 you very much for the invitation to be here today  
16 in one of my favorite rooms in this building.

17 And, to Commissioner Copps, once again,  
18 I will tell you on behalf of Indian Country, if  
19 you keep this up, we're going to have to build a  
20 monument to you in Indian Country.

21 (Laughter)

22 MR. BLACKWELL: But I'll begin by saying

1 (speaking in Chickasha). Greetings on behalf of  
2 Chickasaw Nation Industries, the National Congress  
3 of American Indians, Native Public Media, which is  
4 a project of the National Federation of Community  
5 Broadcasters. I'm pleased to be able to join you  
6 and share this time and share some views.

7 Answering Mark's question, in order for  
8 the new National Broadband Plan to operate to  
9 success in Indian Country, the legal barrier that  
10 has to be overcome is really one of understanding  
11 and action. It's going to require a new,  
12 unprecedented level of government-to-government  
13 coordination between the FCC and the other  
14 agencies and American Indian and Alaska Native  
15 federally-recognized tribal entities.

16 And the reason for this is pretty  
17 simple. For the three sovereigns that are  
18 recognized in the United States Constitution, one  
19 of them was entirely left out of the  
20 Communications Act of 1934 and the Telecom Act of  
21 1996, and it has caused the myriad type of  
22 challenges and conditions to which the

1 commissioner and Professor Berry alluded to, and  
2 I'm not going to spend my time talking about all  
3 of the incredible needs for broadband in Indian  
4 Country, just suffice it to say we bury the needle  
5 in the red; no pun intended.

6           And the Commission has very good tools  
7 to be able to do this, a very good framework that  
8 has developed over the last 10 years that it can  
9 draw upon. There is very creative tribal policy  
10 statement that envisions new types of removals to  
11 barriers to entry. The Commission has created  
12 very special, enhanced programs under the  
13 Universal Service Fund, particularly the Enhanced  
14 Tribal Lands Lifeline and Link-Up Program that  
15 created significant rises in the telephone  
16 penetration rate in Indian Country.  
17 Unfortunately, that penetration rate is still just  
18 below 70 percent, so, it's worth it to remember  
19 that there are many places in tribal America where  
20 we face an analog divide as well as a digital  
21 divide.

22           There are other creative programs, such

1 as the Tribal Lands Bidding Credit. While having  
2 not been as successful as we'd hoped over the last  
3 10 years, it does create an interesting regulatory  
4 question and opportunity for industry to work  
5 directly with tribes. And that must be kept in  
6 the front of our regulators' minds that, in Indian  
7 Country, we're very focused on what will be good  
8 both for our communities and for industries. Our  
9 primary concern, of course, is growing stable,  
10 reliable economies, and economies based on  
11 knowledge.

12 As far as constitutional concerns, Mark  
13 did not warn me that I would be seeing on a panel  
14 with so many professors. I felt as though maybe I  
15 should stand to answer or prepare for an  
16 examination.

17 (Laughter)

18 MR. BLACKWELL: But he did give me a  
19 good, leading question: The Adaran strict  
20 scrutiny does not apply to tribes,  
21 federally-recognized tribal entities, their  
22 citizens, their institutions, and



1       instrumentalities because tribes are classified as  
2       political, they're politically classified, not  
3       racially classified.

4               Now, some tribal leaders would say that  
5       only means that we suffer under a separate part of  
6       the Constitution. But, therefore, a rational  
7       basis review is what applies to Federal Government  
8       action when taken with regard to  
9       federally-recognized Indian tribes. And you have  
10      examples of this throughout government. The  
11      Bureau of Indian Affairs, the Indian Health  
12      Service, the Administration for Native Americans.  
13      Indeed, within this building, you have the  
14      programs that I've previously mentioned, as well  
15      as the work of the Consumer and Governmental  
16      Affairs Bureau and the Office of Intergovernmental  
17      Affairs, and the senior attorney and tribal  
18      liaison.

19              It's worth it to say there are those who  
20      doubt the veracity of this, much as Professor  
21      Berry alluded, we must look to those who would  
22      challenge this. And it's true, every day, tribal

1 jurisdiction, federal jurisdiction, state  
2 jurisdiction is challenged in court. What is true  
3 is that the bedrock cases for this stand for the  
4 principle of tribes as governments, and we  
5 certainly believe at the National Congress of  
6 American Indians and at Chickasaw Nation  
7 Industries that that is a concept that shall not  
8 be shaken in the future again.

9 By way of background, to give you some  
10 resources, these issues are laid out in the  
11 recommendations that the FCC's Diversity Advisory  
12 Committee recently adopted and promulgated to the  
13 FCC. It's my honor to serve on the Constitutional  
14 Subcommittee that Mr. Honig chairs, and he very  
15 astutely worked with the subcommittee to also  
16 address almost a subsidiary issue that may  
17 implicate, that should implicate Adarand and the  
18 review that Professor Berry mentioned.

19 There are those within the larger  
20 minority community who, indeed, are racially  
21 descended from tribes or Native Americans. It's  
22 an unfortunate fact of history that it's not

1 always been fashionable to be American Indian,  
2 and, in some ways over time, they have lost their  
3 connection to their tribes and do not have the  
4 opportunity to become citizens of  
5 federally-recognized tribes.

6           Nevertheless, they suffer under what I  
7 think this room regards as traditional civil  
8 rights and social justice issues, and would,  
9 therefore, the Adarand (inaudible) review would  
10 apply, and the Diversity Advisory Committee made a  
11 recommendation regarding that when it said,  
12 nevertheless, if there are Native Americans who  
13 pursue full file review before the commission,  
14 that the commission allow that opportunity.

15           So, that being said, and counting down  
16 on my time, I want to give you the impression that  
17 it is very, very important for the Federal  
18 Government to work directly with our elected  
19 tribal leaders. They are the ones that know the  
20 ground the best. They are the ones that have been  
21 elected by their peoples to represent them. It is  
22 our job as institutions and experts and to

1 (inaudible) to train them to be able to talk to  
2 you to inform them just as much as we inform the  
3 Federal Government.

4 And I look forward to questions, and I  
5 will throw it back to you, Mark, in terms of  
6 potential questions involving -- for Indian  
7 Country, we like to say, and it's going to  
8 challenge the FCC, one size fits none.

9 So, with that, thank you for my time.

10 MR. LLOYD: Wow. Thank you, Geoff. I  
11 love saying Dr. Einstein. And that's not really  
12 the reason that you're on this panel. You have,  
13 Dr. Mara Einstein, one of the other disadvantages  
14 of being one of the few folks, even though you are  
15 a professor, you're really not a lawyer.

16 DR. EINSTEIN: No. And I don't play one  
17 on TV either.

18 MR. LLOYD: And you don't play -- but  
19 you do have significant experience in the  
20 industry.

21 DR. EINSTEIN: Okay.

22 MR. LLOYD: And you've also written, I

1 think, some really important work questioning the  
2 FCC's definition and use of the term "diversity,"  
3 and are now doing some really interesting work on  
4 religious institutions in the United States. And,  
5 so, I really wanted to ask you to sort of speak to  
6 some of those issues here. So, with that.

7 DR. EINSTEIN: My pleasure. Thank you.  
8 I want to thank Mark for asking me to be here and  
9 also for Commissioner Copps for coming.

10 Since I was given seven minutes, I'm  
11 going to read my notes because, as a professor, I  
12 tend to go into wild fancies and discussion, so, I  
13 want to stick to topic.

14 Based on what Mark sent me, I want to  
15 address two questions as it relates to content  
16 diversity. Should the FCC allow market forces to  
17 be the sole determinant of broadband access and  
18 adoption? And should the FCC fund specific  
19 applications such as education, health care, or  
20 should particular groups be taken into account  
21 when making policy decisions?

22 As some of you may know, in 2003, I

1 conducted quantitative research on the impact of  
2 media consultation on content diversity. My  
3 finding suggested that consolidation did not  
4 significantly affect diversity in entertainment  
5 programming. This surprising finding forced me to  
6 ask a new research question: If consolidation  
7 isn't restricting diversity, then what was?

8 The answer lies in the underlying  
9 economic structure of the industry, specifically  
10 media outlets old and new are reliant on  
11 advertising as their primary source of revenue.

12 Advertising and marketing raise two,  
13 important issues. First, the price of advertising  
14 is dependent on the size of the audience, so,  
15 content is driven by what appeals to the largest  
16 number of people. In line with an  
17 advertising-based revenue structure and true to  
18 basic economic theory, programmers create similar  
19 content because it's the most effective means of  
20 creating the largest possible audience.

21 Second, in today's cluttered and  
22 fragmented media environment, it's difficult to

1 create awareness of media content. Thus, its  
2 companies with the capital to invest in marketing  
3 or the ones with the most media outlets through  
4 which to promote themselves.

5 So, for example, USA promotes NBC, which  
6 promotes Hulu, which may soon be promoting  
7 Comcast, right? That are going to be able to get  
8 the audiences' attention. Given this, large media  
9 companies are best positioned to be successful in  
10 this marketplace. Even in the digital space, the  
11 existing advertiser-based economic model  
12 predominates from Google to blip.tv, to millions  
13 of personal and corporate blogs, advertising is  
14 the fuel that runs the media engine. When it  
15 comes to revenue generation, new media looks  
16 exactly like old media, and this economic model is  
17 anathema to content diversity.

18 Let me give you a recent example of how  
19 dependence on advertising affects consent. After  
20 the success of YouTube, numerous video Web Sites  
21 popped up that appealed to specific demographic or  
22 interest groups, including TeacherTube to -- and

1 I'm sure you're not surprised, PornTube and  
2 SexTube.

3 The most successful of these, however,  
4 was GodTube, started by evangelical Christians,  
5 the site was made up of clips from local churches,  
6 Christian music videos, home videos of kids  
7 quoting from the Bible, and so on.

8 While the content was primarily  
9 Christian, the site did include videos for  
10 multiple religious groups. There were reports  
11 about censorship on the site, but we'll leave that  
12 aside for now.

13 As the site developed, the founders  
14 added a social media element to the site, ala  
15 Facebook, which provided social networking tools  
16 to congregations around the country. This is  
17 important because many churches might not feel  
18 comfortable on a Facebook or a MySpace, but within  
19 the confines of GodTube, they would be surrounded  
20 by family-friendly content.

21 All of this changed last year, however,  
22 when a venture capital firm invested \$50 million



1 in GodTube. Almost immediately, the site was  
2 completely revamped. Gone are the churches, gone  
3 is the commercial-free environment, gone is the  
4 multiplicity of religious viewpoints. Instead,  
5 personal videos have been replaced by a  
6 significant number of commercially-produced  
7 videos.

8 Advertising pervades the site through  
9 pre-roll or by appearing in the bottom-third of  
10 videos, and instead of hundreds of small churches,  
11 the social networking area contains exactly 22  
12 sites, several of whom are connected to larger  
13 media entities. This is a perfect example of why  
14 the market can't or rather won't sell the problem  
15 of the digital divide as it relates to content.

16 Since the market is not the answer, how  
17 should the FCC promote access and diversity?

18 Before I answer that question, I need to  
19 interject that today's problems are not the ones  
20 we faced six years ago. In the television  
21 marketplace, for instance, the issue was one of  
22 access. What we learned back then was that

1 structural regulation is ineffective in creating  
2 content diversity. If you want content diversity,  
3 you need to regulate content. I know that's  
4 controversial (inaudible) lawyers.

5 The issue, however, is less one of  
6 access than awareness. It's relatively  
7 inexpensive to create a Web Site. It is  
8 expensive, however, to let people know it exists.  
9 I would add it is also expensive to have broadband  
10 Internet access and to maintain a staff that can  
11 provide continually-updated content.

12 The government can fund and promote  
13 categories of content without specifying what  
14 exactly the content should be. This has been done  
15 in the past, and I'm thinking here of the  
16 Children's Television Act, and it would not  
17 infringe on the Constitution.

18 Priority should be given to community  
19 news sites, unbiased health care information, job  
20 assistance, education, and perhaps even a  
21 government-sponsored GodTube, where all faiths are  
22 welcome.

1           While this would not specifically name  
2           minor or ethnic groups as recipients of funding,  
3           it would not preclude them either.

4           For example, sites addressing specific  
5           health care issues, such as obesity, which is  
6           highly correlated with certain minorities and  
7           economic status should be funded. I would also  
8           stress that they would not be government-run  
9           sites. All right. The government is not taking  
10          over the Web Sites, too, and, with all due  
11          respect, the FCC and the HHS sites are anything  
12          but user-friendly. And you've been there,  
13          obviously.

14          Finally, while I agree with using anchor  
15          institutions for content creation and information  
16          dissemination, because of my more recent research  
17          in media and religion, I do not recommend funding  
18          through religious institutions.

19          First, it is difficult for evangelical  
20          organizations to separate proselytizing from their  
21          secularly-funded programs. This is particularly  
22          notable in 34 percent, fully one-third of the

1 population identifies as born again, and their  
2 churches reflect this belief system.

3 Second, mega church congregations, those  
4 catering to 2,000 congregants or more, are one of  
5 the fastest-growing segments of churchgoers, and  
6 these institutions are already extremely  
7 Internet-savvy. They're also usually upper middle  
8 class and have a tremendous amount of funding  
9 internally.

10 I would add that an increasing number of  
11 synagogues have also effectively used the Internet  
12 for everything from presenting live services to  
13 assisting with distance learning for bar and bat  
14 mitzvah.

15 Third, while the prevailing gallop  
16 research has claimed traditionally and for a very  
17 long time that 40 percent of Americans attend  
18 church on a weekly basis, new research puts that  
19 figure at a more realistic 20 percent, suggesting  
20 that people might be better reached through other  
21 institutions.

22 In sum, the FCC, in revising its

1 broadband policy, it must also take into  
2 consideration what is being conveyed through the  
3 Internet and who and who is not being served by  
4 that content.

5 Thank you.

6 MR. LLOYD: Wow. Lots of, I hope,  
7 provocative things for the panel to consider in  
8 looking forward to the conversation moving  
9 forward.

10 Professor Hammond, I've been working  
11 with Al for a number of years as a colleague, and  
12 I think one of the few panelists today who  
13 actually has a PowerPoint slide. So, one more  
14 professor and a lawyer.

15 So, Al Hammond, please.

16 MR. HAMMOND: Good morning. Thank you,  
17 Mark, for inviting me to be here today and thank  
18 you, Commissioner for all your work. I've cited  
19 it many times.

20 The FCC has a number of enumerated tasks  
21 which Mark enumerated in his letter to us. It's  
22 to provide a roadmap towards achieving this goal

1 of ensuring all Americans reap the benefits of  
2 broadband, and I won't go through all these things  
3 that it's supposed to identify, but the question I  
4 was asked to address is: What does the law compel  
5 or limit regarding government action to close gaps  
6 in broadband access and adoption? And Professor  
7 Berry has spoken on the diversity issue, so, I  
8 will limit my remarks to what is the FCC supposed  
9 to do?

10 So, I'll talk briefly about mandates,  
11 very, very briefly about some obstacles, and then  
12 possible restraints. As I said before, leaving  
13 out the constitutional piece and focusing more on  
14 the regulatory piece.

15 So, the mandate. Well, there are  
16 several places you can go. First of all, to the  
17 preamble, to make available to all people of the  
18 United States without discrimination on the basis  
19 of race, color, religion, national origin, or sex,  
20 a rapid, efficient, nationwide communication  
21 service. And that was the Communications Act of  
22 1934, as amended by the Telecom Act of 1996.

1           Going on, the FCC is also supposed to  
2 encourage the deployment on a reasonable and  
3 timely basis of advanced Telecom, and that's 706  
4 in the Telecom Act of 1996.

5           Including in the 706 mandate is that the  
6 FCC should initiate periodic notices of inquiry  
7 concerning the availability of broadband,  
8 determine whether deployment is reasonable and  
9 timely, and, if not, take immediate action to  
10 accelerate deployment by removing barriers to  
11 investment and promoting competition.

12           So, under the ARRA, the FCC is also  
13 supposed to develop a national broadband plan,  
14 again, to ensure that all people of the United  
15 States have access to broadband. And the FCC also  
16 has a requirement to conduct a triennial review  
17 and to report to Congress on efforts to identify  
18 and eliminate regulatory barriers to market entry  
19 in the provision, and the ownership of  
20 telecommunication services and information  
21 services by entrepreneurs and small businesses,  
22 and to identify proposals to eliminate statutory

1 barriers, as well.

2 So, if you put that all together, the  
3 Commission is required to facilitate inclusive,  
4 non-discriminatory, affordable access to broadband  
5 in a reasonable and timely manner, and if we're  
6 not reasonable and timely, take immediate action  
7 to accelerate deployment by removing barriers to  
8 investment and promoting competition.

9 I don't think we've ever put all that  
10 together before. I certainly haven't seen it  
11 anywhere.

12 So, that also includes the  
13 identification and elimination of regulatory and  
14 statutory barriers to market entry by  
15 entrepreneurs and small businesses.

16 So, it seems to me that there's a  
17 mandate that's quite expansive to make sure that  
18 all Americans have access and to do so, in part,  
19 by encouraging small businesses, minority  
20 businesses to enter the market to enhance and  
21 create the competition which may not be in  
22 existence in certainly communities which are now



1 presently un-served and underserved.

2           So, there are a number of obstacles to  
3 access, and the panel previous to ours has talked  
4 about that in some detail, and we can talk about  
5 substantial disparities in Internet use in terms  
6 of adults with household incomes of less than  
7 \$40,000 compared to those with more than \$40,000  
8 on average. Forty-nine percent versus ninety-two.  
9 The disparities between African-Americans and the  
10 national average, the low-income minorities, as  
11 well, versus non-minorities without regard to  
12 income.

13           And we can also talk about the absence  
14 of relevant content, which in the Pew Forum Study  
15 most recently, 50 percent of individuals without  
16 broadband access reported that it wasn't anything  
17 relevant to them, and that was why they were, in  
18 part, reluctant to engage in it, and, yet, you  
19 have several organizations, the National Urban  
20 League, the National Council of La Raza, and One  
21 Economy, pointing out that there is relevant  
22 content that needs to be provided and that needs

1 to be created specifically that is engaging in a  
2 formative, and that facilitates people increasing  
3 their access to the Net.

4 That would be public purpose media, I  
5 guess would be the way to call it, and that  
6 tailors content to the cultural, financial,  
7 geographic, and professional needs of individual  
8 communities that these media companies would seek  
9 to serve.

10 Now, in the past, that type of service  
11 has been provided by community-based  
12 organizations, wireless ISPs, small ones, and  
13 (inaudible) and also government-initiated  
14 broadband networks, which have targeted  
15 communities of color and communities of low income  
16 as likely markets for the provision of services,  
17 and they have demonstrated that there are  
18 responsive strategies that may be employed in  
19 those areas.

20 But there are possible constraints, and  
21 I think one of the things that both the research  
22 that I've done in terms of the impact of multiple

1 ownership rules, FCC's multiple ownership rules on  
2 minority broadcasting, and I'm sure that Cathy has  
3 been involved in, as well, is that the Commission  
4 tends to silo its decision-making, and, so, while,  
5 on the one hand, it says we have to encourage  
6 minority ownership, we have to encourage  
7 gender-based ownership, even with the  
8 constitutional limits, they also say well, we're  
9 going to increase the multiple ownership limits,  
10 and they don't compare the impact or anticipate  
11 the impact of the change and the limits on the  
12 small businesses that are also operating on the  
13 space.

14 Some of the things that we need to be  
15 considering when we talk about the regulatory  
16 environment having an impact on these policies  
17 would be the following: Universal service,  
18 because you're going to need funding to pass the  
19 ARRA. If you have \$7 billion provided by the  
20 ARRA, but you look at the \$28 billion in demand  
21 that came in with the applications, then you  
22 compare that with the \$30 billion that I think

1 AT&T is spending on its network. There's just not  
2 enough money there.

3 So, where's that money going to come  
4 from in the future? It's going to come from the  
5 Universal Service Fund, more than likely. That's  
6 going to be an area.

7 You can see from the list, there are a  
8 number of other things, Rural ETC Policies,  
9 whether or not we continue to encourage  
10 government-led broadband initiatives, Net  
11 neutrality, network interconnection, reciprocal  
12 compensation, and, also, whether or not we  
13 reinstitute some sort of a resale and cost of  
14 network elements policy that would allow these  
15 small companies to actually compete.

16 I'm running out of time here. As I said  
17 before, Mary talked about this. I'll leave the  
18 constitutional environment and diversity out. But  
19 I just want to encourage the FCC when it thinks  
20 about diversity, when it thinks about encouraging  
21 competition from these small companies, that it  
22 understands that there's a much larger environment

1 that we're working with, and you can't implement  
2 that policy without taking into account what  
3 you're doing in the rest of the regulatory space.

4 Thank you.

5 MR. LLOYD: Great. Thank you, Allen.  
6 It's really very useful.

7 Thomas Henderson, although you have  
8 taught in the past, you are a working lawyer, and  
9 you represent real clients in courts and get paid  
10 to do that. I mean, you're a real lawyer.

11 (Laughter)

12 MR. LLOYD: Not like some of us aren't.  
13 So, we're really looking to your take on this  
14 about what we can do and what some of the  
15 limitations are. Not that you're not a real  
16 lawyer, Mary.

17 SPEAKER: (Off mike)

18 (Laughter)

19 MR. HENDERSON: Well, I will say that I  
20 am just a civil rights lawyer when you get down to  
21 it. And I say that in particular because I don't  
22 have anywhere near the background all of you do in

1       this subject matter and the terminology and so  
2       forth. I struggled to learn various areas that I  
3       deal in, and I have a little familiarity with the  
4       FCC, but I don't pretend to really have a good  
5       grasp on the content and the possibilities of the  
6       discussion about broadband and so forth.

7                I want to, again, thank you for the  
8       opportunity to speak today, and I want to thank  
9       the Commissioner for his comments and say that,  
10      from what I have begun to understand about the  
11      enterprise that the FCC is engaged in, I agree, it  
12      is a time of historic opportunities. And it is  
13      the moment to act, and acting now can, I think,  
14      have a vast affect on society and reaching into  
15      the future.

16               It's terrific that you're having this  
17      session today. I would also suggest that it is  
18      imperative, and I know you know this, but it's  
19      imperative to follow-up on this and do the  
20      details.

21               Doing work designed to promote or  
22      facilitate the evolvement of everyone in

1 government resources and opportunities is not  
2 easy; it's hard work. The Supreme Court has made  
3 sure that it is hard work, but it's work that can  
4 be done, and I hope to share at least a few ideas  
5 today on the kinds of things that can be done, but  
6 it has to be done and done well, and, to be  
7 candid, I think it's very important that the FCC  
8 do it particularly well because, in the past, in  
9 my view at least, the FCC has not always done it  
10 well, and that its paid the price in the courts  
11 and in some perceptions by the courts.

12 So, I think it's particularly important  
13 that the FCC lay a firm foundation and do the work  
14 necessary to design a program that effectively is  
15 going to reach and provide opportunities and  
16 access for everyone.

17 You understand, of course, this is an  
18 impossible task, not even seven minutes, but a  
19 couple of days, it's a bit of an impossible task  
20 to try to talk about what is permissible and what  
21 isn't and whether the kinds of things you need to  
22 look at. I hope only to touch on a few points, I

1 think, of interest that show the opportunities  
2 that I think the FCC has in developing policies  
3 and the basis on which to move forward.

4 The scope, I'm not even sure what the  
5 scope is, but it seems to me that the scope of  
6 what we're talking about today is, on the one  
7 hand, making services available to people, making  
8 information available to people, giving access to  
9 people, and to the extent the FCC controls or  
10 regulates that, there are lots of opportunities to  
11 make sure that things are done in a way that reach  
12 everyone.

13 But, as well, it seems to me that we're  
14 also talking about making sure that there are  
15 opportunities available in the industry, in the  
16 work of the FCC, and in the industry that's  
17 working in the whole broadband area, including,  
18 for example, employment opportunities there,  
19 contracting and subcontracting opportunities  
20 there, and ownership, as I think Allen was  
21 alluding to. The ownership opportunities, the  
22 opportunity to participate in this marketplace.



1           So, understanding that enormously broad  
2 scope, let me say a couple of things.

3           One, it is clear even after the  
4 decisions, the most recent and interpreted as  
5 hostile decisions about what I'm going to refer to  
6 as affirmative action, the Hartford Case, even  
7 there, it's acknowledged that race-neutral efforts  
8 or -- and I'm going to use race because, as Mary  
9 said, race is the hardest one, the strictest  
10 standards, so, if you can take care of race, you  
11 can take care of anything else.

12           But even after Hartford, it's clear that  
13 you can act with an awareness of race to plan  
14 things, to accommodate to take into account, to  
  
15 allow the greatest participation of race so long  
16 as you're not classifying people or treating  
17 people differently.

18           So, you can use geography, you can use  
19 demographics, you can use specialized programs,  
20 you can use outreach and so forth in ways that are  
21 designed for inclusion without running afoul the  
22 Constitution.

1           And although race in the world I work  
2       in, race-neutral remedies are sometimes disparaged  
3       and seen as not effective, there are lots of  
4       reasons to consider them thoroughly.

5           One, you can get a lot done through  
6       race-neutral means that you don't have to employ  
7       race-conscious ones. Secondly, they can be really  
8       useful in identifying where the real barriers are.  
9       Where are the real problems? Where are the real  
10      barriers to access? Because if you do  
11      race-neutral things and you're still not getting  
12      there, you're going to be able to identify the  
13      problems that really need work to be solved. And  
14      the third thing is employing them and using them  
15      provides a very good basis for race-conscious  
16      actions if you need to take them.

17           With regard to employment, there are  
18      already means available. The Executive Order  
19      11246 requires and federal contractor not to  
20      discriminate and that has given a fulsome  
21      interpretation by the OFCCP that requires analyses  
22      of the workforce to see whether the workforce of

1 any contractor matches the available labor market,  
2 and, if not, provides for goals and timetables to  
3 get there.

4 So, those kinds of measures are  
5 available already and important.

6 With respect to contracting -- well, and  
7 let me say I think there's undiscovered  
8 possibilities in considering Title VI of the Civil  
9 Rights Act, which provides that recipients of  
10 federal financial assistance are prohibited from  
11 discriminating and the Supreme Court has held that  
12 that can include an effects test, that is having a  
13 discriminatory effect. Government agencies can  
14 require by regulation that people not take actions  
15 that have discriminatory effect. It seems to me  
16 that provides lots of possibilities for the  
17 Commission in terms of pursuing policies that  
18 would include everyone and not exclude folks.

19 I don't have time to go into the more  
20 difficult and rigorous requirements. If you want  
21 to take race-conscious action, I would, I think,  
22 simply suggest that one place to look is the

1 Department of Transportation. The Department of  
2 Transportation, after Adarand came, Adarand was a  
3 Department of Transportation case. After that  
4 case came down during the Clinton Administration,  
5 the Department of Transportation undertook a  
6 thorough review of that program, redesigned  
7 regulations. It's the Disadvantaged Business  
8 Enterprise Program. The new regulations were  
9 adopted, and that program so far has been upheld  
10 in the federal courts as being constitutional.  
11 So, it's one place to go and take a look.

12 MR. LLOYD: Very, very helpful. Thank  
13 you, Thomas. David Honig chairs the  
14 Constitutional Committee of the Diversity Advisory  
15 Committee. That's sort of the short name for the  
16 Diversity Advisory Committee, and David was one of  
17 the forces behind creating these panels, and I  
18 asked David to sort of bat cleanup here and sort  
19 of pay close attention to what folks were saying  
20 and see if we could sort of cover some more ground  
21 and figure out where the holes were.

22 So, with that, David Honig, executive

1 director of the Minority Media telecommunications  
2 Council.

3 MR. HONIG: There were no holes.

4 (Laughter)

5 MR. LLOYD: I don't believe that.

6 MR. HONIG: What we've heard is some  
7 remarkably brilliant and astute observations about  
8 the nexus between traditional civil rights and  
9 access to modern communications, as Commission  
10 Cops expressed it, and some elements of that that  
11 Professor Berry and Professor Hammond expressed.

12 The subset of all of that that the FCC's  
13 Advisory Committee and Diversity addressed and  
14 voted on unanimously in two recommendations is  
15 what I wanted to speak to today, which is this  
16 question that Tom Henderson teed up about the  
17 opportunity of entrepreneurs to have an ownership  
18 stake where they can monetize their creative and  
19 entrepreneurial and managerial talents fully,  
20 where everyone can do that. And the Diversity  
21 Committee looked at really two questions.

22 First, in light of Adarand, which has

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1       been discussed earlier, what should the Commission  
2       do to develop within the constraint of strict  
3       scrutiny sound policy, which may or may not wind  
4       up being race-conscious, to address in this case  
5       disparities in ownership?

6               What the committee recommended requires  
7       a little bit of history. This question was first  
8       teed up in 1995, after Adarand. By then, General  
9       Counsel Bill Kennard subsequently the chairman.  
10       There were six studies that the Commission had  
11       undertaken which were released in December of  
12       2000, which covered the waterfront studies  
13       normally would in this area trying to develop  
14       history and the economics and what were the  
15       disparities in order to justify potentially  
16       race-conscious initiatives.

17              Then, after that, for the last several  
18       years, not much happened. The studies did not get  
19       translated into policy. There was an updating of  
20       the record in 2004 and again in 2007, but,  
21       meantime, these studies were quite valid, have sat  
22       on the shelf. The data underlying them is often

1 data from the late 90s, and leaving aside whether  
2 or not a court would regard data that's stale as  
3 not useful. Certainly, the industries have  
4 evolved and a whole new industry has been created  
5 largely since then. So, it would just be good  
6 policy to develop new studies.

7 The Committee recommended that seven  
8 such studies be done, updating first six of them  
9 to update the previous ones, and one new one on  
10 broadband services and access to capital and  
11 market entry barriers in broadband.

12 The Committee also took up the question  
13 of what would be a less-dilute definition of  
14 eligible entities which now is the definition of  
15 small businesses. In terms of impact on  
16 minorities and women that would still be race and  
17 gender-neutral. And whether that's used instead  
18 of or until these Adarand studies conclude that it  
19 might be necessary, and maybe it isn't, but it  
20 might be necessary to use race-conscious means.

21 What would that look like? Well, it's  
22 really a paradigm that was borrowed from state



1 university systems where the voters in the states  
2 had voted not to permit the use of state funds for  
3 race-conscious remedies. And this is a paradigm  
4 locally known as Full File Review or FFR.

5 In the context when we translated that  
6 paradigm into the FCC's world, it is basically  
7 that in designing a definition for how is an  
8 eligible entity either in the waiver context or in  
9 the comparative, non-zero sum context. An entity  
10 might be considered eligible for relief if it has  
11 overcome a disadvantage. The overcoming of which  
12 is predictive of entrepreneurial success.

13 Certainly, there is a long history, particularly  
14 with broadcast comparative hearings and auctions  
15 of the Commission having comparative processes  
16 which lead to the selection of a winner who then  
17 does not perform, leaving the losers to say well,  
18 we put in all this work, why didn't they pick us?  
19 And then the Commission has spent all the time,  
20 meantime, the public isn't getting service.

21 So, the idea would be to look at what is  
22 predictive of entrepreneurial success? The social

1       disadvantages that could be overcome could be,  
2       among many others, disadvantages that derive from  
3       having experienced racial discrimination or gender  
4       discrimination or the various disabilities that,  
5       unfortunately, attend veterans' status or living  
6       in certain geographic areas or certain kinds of  
7       disabilities and others. And this is two degrees  
8       of separation removed from race. There would be  
9       no advantage because of race, there would not even  
10      be an advantage because of having experienced  
11      racial discrimination, rather the advantage comes  
12      from the success due to the person's (inaudible)  
13      in overcoming those or any other disadvantages.

14                 So, that is pretty clear race-neutral,  
15      yet, we believe that it would be properly focused  
16      on these industries and that it would survive any  
17      review that looks at whether it's race-conscious  
18      or race-neutral.

19                 Now, several recommendations were made  
20      by the Diversity Committee as how this would be  
21      implemented. In particular, the committee  
22      recommended that an FFR, Full File Review Program

1 would strive to achieve these goals, that it would  
2 have a meaningful impact on ownership diversity,  
3 it would use inexpensive, user-friendly  
4 procedures, it would be expeditious in terms of  
5 application processing and review, clarity and  
6 consistency of decision-making, and a minimal need  
7 for the commissioner's own involvement in  
8 overseeing the day-to-day operations of the  
9 programs through which it's applied, and, of  
10 course, most important, that to the extent  
11 possible, any inherent subjectivity that comes  
12 from evaluating applications in this way be  
13 reduced.

14 In the interest of time, I'll leave for  
15 questions on how this would work in practice, how  
16 the disadvantages would be identified, how a  
17 certification could be used as a coin by companies  
18 to raise investments and to secure capital, and  
19 how the rights of entities that might not be  
20 regarded as having been eligible entities can be  
21 adequately protected under the standards that  
22 courts apply.

1           MR. LLOYD: Thank you, David. That's an  
2 awful lot. So, we've covered, I think, a great  
3 deal of ground here. Maureen, did you have some  
4 questions or some --

5           MS. LEWIS: Well, yes. Thank you, Mark,  
6 and I wanted to sort of tie back an issue that we  
7 identified in the first panel about the lack of  
8 data and issues related to the data that we do  
9 have about relevance and people identifying lack  
10 of relevant content or relevance of broadband  
11 technology to their lives as a reason for they're  
12 not adopting it. And tying that thought into  
13 Commissioner Copp's comments and some of his other  
14 statements and others on the panel, including  
15 David and others, about broadband access as a  
16 civil right. And I'm wondering about whether or  
17 not in the language that we use as we characterize  
18 and define the problem, that as we talk to  
19 underserved communities whether or not we help  
20 them to consider adopting this very important  
21 technology by talking about broadband access as a  
22 civil right and whether or not you think there may

1 be a way to help bring heightened awareness.

2 MR. LLOYD: Please, go ahead.

3 DR. EINSTEIN: Well, I was just going to  
4 say because I was sitting here thinking about  
5 that, when someone, I forgot who, which one of the  
6 panelists mentioned the question of relevance.  
7 Who is it? Who said that? That's when you wrote  
8 it down.

9 MR. LLOYD: Allen. I might be Allen.

10 DR. EINSTEIN: But, in any case, one of  
11 the reasons why some people don't see the  
12 relevance of it is because what's already there,  
13 is because they don't understand how that relates  
14 to anything. I mean, part of it is it is a civil  
15 right in the sense if you explain to them that if  
16 they want access to jobs, opportunities, health  
17 care, if they want to get rid of disparities, if  
18 they want to improve the quality of their lives,  
19 overcome discrimination, have mobility, all the  
20 rest of those things, all the goods that society  
21 has to offer, that one thing you need to do to  
22 access those is to be able to use this. And if

1     you explain that to them, your civil rights will  
2     not be fully realized unless you are able to do  
3     this, then you educate them to do it. You don't  
4     just say well, what did you see on there that were  
5     interested in? And then you say well, let's put  
6     some content on there that's directed. That's  
7     fine; I'm all for putting content that's targeted  
8     at them, specifically directly to people, but  
9     there's a lot of stuff that's on the Internet, and  
10    there will be more that is useful for people, and  
11    they need to have it, and they need to have it  
12    right now.

13                 MR. HAMMOND: In previous incarnations,  
14    I had to talk to people about the relevance of  
15    telecommunications to their lives, and the way I  
16    did it was by asking some simple questions like  
17    how many of you have a bank branch in your  
18    community? No one raised their hand. Well, how  
19    many of you have an ATM six blocks from your  
20    house? No one raised their hand. Well, how many  
21    of you have a hospital that is within 6 blocks or  
22    10 blocks of your house? And no one raised their

1 hand.

2 Well, it becomes pretty obvious when you  
3 don't have those things available to you and you  
4 start thinking about how hospitals have closed  
5 branches because of expense, banks have closed  
6 branches because of expense, and a move to having  
7 services provided online, that if that's the only  
8 way for you to get those services, not being  
9 online becomes a substantial problem. And I think  
10 if you start talking to people about what they  
11 have available to them in their daily experience  
12 before you relate the relevance of broadband to  
13 them, they get it immediately. And I was talking  
14 to a bunch of college students in Brooklyn.

15 MR. BLACKWELL: I would add, Professor  
16 Berry, in addition to all the uses that you spoke  
17 about, the very basic ability to participate,  
18 civic participation in the democratic process. I  
19 mean, our most recent election for president, one  
20 only needs to look at what happened in that  
21 election and how those campaigns were run to see  
22 the importance, relevance of the Internet.

1           In Indian Country, there's a very  
2 interesting study that was cited often in the  
3 early parts of this decade addressing this very  
4 concern for tribes, the concern, if I may  
5 re-characterize it a little bit, the concern about  
6 the very steep, but short, learning curves about  
7 the value of broadband and the Internet. There  
8 was study that was done by EDA that asked 50  
9 elected tribal leaders to prioritize their  
10 governmental needs, and telecommunications ranked  
11 14th on the list below things like education and  
12 law enforcement, public safety, health services.  
13 So, there is an ever increasing need to continue  
14 to educate, reeducate.

15           Maureen, also, I appreciate you asking  
16 this question because there is an institution that  
17 was mentioned in the earlier panel that I work  
18 with, Native Public Media. I serve on the tribal  
19 advisory committee to Native Public Media, and  
20 there are several of us in Indian Country that are  
21 looking forward to a report that they're going to  
22 be coming out with in November that I would submit



1 request that the FCC take a good look at. It's  
2 called the Blueprint Project, and it is a holistic  
3 look and review at how communications and media  
4 technologies are used in Indian Country, and  
5 you've heard about the terrible anecdotal 5 to 8  
6 percent broadband penetration rate in Indian  
7 Country. As we learn more how to use it, we will  
8 continue to push for more deployment of services.

9 DR. EINSTEIN: I don't know whether Mr.  
10 Honig was talking about the post-Adaran studies  
11 that were done, whether you were just talking  
12 about the one at the FCC. I couldn't tell. You  
13 were --

14 MR. LLOYD: Yes.

15 DR. EINSTEIN: But what I wanted to  
16 point out, I was thinking about it because I was  
17 involved with that process. It was when Clinton  
18 did his mend it, don't end it thing. All of the  
19 federal agencies did these studies, so, if you've  
20 not looked at them, instead of reinventing the  
21 wheel, you might look to see what they came up  
22 with, and they all implemented something for

1       awhile until the politics changed, and see if  
2       there's anything that's useful in that because  
3       there was a lot of time and energy put into those  
4       studies.

5                   MR. LLOYD:  Dr. Einstein, you had  
6       suggested that the Children's Television Act might  
7       be a model to look at to spur the development of  
8       content that might promote adoption.

9                   Any comment from the panelists?  Do you  
10      want to expand on that or is there any comment  
11      from the panelists about that idea?

12                  Al?

13                  MS. LEWIS:  Well, certainly  
14      organizations like One Economy have been very  
15      successful in expanding adoption or encouraging  
16      adoption by providing content that is relevant to  
17      the people that they're serving in housing units,  
18      whether it be about jobs or about health or about  
19      schools.  It's not a surprise and it's not rocket  
20      science that a community would do something that  
21      would help them find out information about  
22      something that they're concerned about or need.

1           So, I think it might be valuable to  
2           examine those already existing laboratories where  
3           these things are actually going on and being  
4           successful.

5           When Dr. Einstein mentioned about  
6           content, she said as sort of an aside, I guess,  
7           that you lawyers will be objecting to that.

8           DR. EINSTEIN: Yes.

9           DR. BERRY: Something she said about  
10          content, and then, of course, nobody objected when  
11          she finished. So, she seems to think that people  
12          would object to it. I guess she thought there'd  
13          be some First Amendment concern, but we've gone a  
14          little bit beyond that.

15          And you made that point, and I wanted to  
16          see what you meant by it, and, also, you made one  
17          other one. While I have the floor you could tell  
18          me. You said in passing something about evidence,  
19          that you shouldn't use religious institutions.

20          DR. EINSTEIN: Yes.

21          DR. BERRY: And, in part, because they  
22          had difficulty separating proselytizing from the

1 services.

2 DR. EINSTEIN: Yes.

3 DR. BERRY: You said something about  
4 proselytizing, and I know that in the whole  
5 think-based arena of programs, one of the issues  
6 that I've been considering in another connection  
7 is whether, indeed, it is true that you can  
8 separate the two. So, I just wondered if these  
9 were just asides or if you had some substantive  
10 study or something.

11 DR. EINSTEIN: Yes.

12 DR. BERRY: Or points that you were  
13 making.

14 DR. EINSTEIN: In terms of providing  
15 funding to religious organizations as a means of  
16 creating content, I have concerns about religious  
17 institutions, and actually in my last book, there  
18 is some information about the inability  
19 particularly of some of the faith-based  
20 institutions not separating their proselytizing  
21 from the funding that they did, the funding that  
22 they got.

1           So, if they were doing church programs,  
2           and I can give you some citations if you want,  
3           certain church programs or prison programs, if you  
4           were given information about how to transition  
5           into out of prison, you were also taught about  
6           Jesus and receiving a personal -- and it was  
7           supposed to be the sort of thing where, perhaps,  
8           there was some kind of a 12-step program or a drug  
9           program that the drug program would be on one part  
10          of the church and then if anything else would  
11          happen, proselytizing would happen somewhere else,  
12          but always what seemed to happen is that as soon  
13          as someone stepped out of the drug program,  
14          everybody stepped outside for a cigarette, and  
15          then --

16                 DR. BERRY: Oh.

17                 DR. EINSTEIN: You get the  
18          proselytizing. So, it's a very difficult to  
19          separate those two things, and if we get into an  
20          issue in terms of separation of church and state,  
21          that's what my concern is.

22                 DR. BERRY: Then on the content point,

1 what was --

2 DR. EINSTEIN: The content point, in  
3 terms of religion?

4 DR. BERRY: (Off mike.)

5 DR. EINSTEIN: I don't have a problem --

6 DR. BERRY: No, no, when you said  
7 something about lawyers were going to.

8 DR. EINSTEIN: Oh, lawyers. I thought I  
9 was going to get an objection from lawyers in  
10 terms of the First Amendment as it relates to  
11 saying that we need to regulate content. And  
12 you're suggesting that lawyers have moved past  
13 that?

14 DR. BERRY: This lawyer has.

15 DR. EINSTEIN: (Inaudible) lawyer has  
16 moved past that. No, there's other lawyers who  
17 say -- I'm surprised, and you were sitting next to  
18 me. I thought there would be some legal objection  
19 to that when coming out of --

20 MR. SCHEMENT: No, no objection.

21 DR. EINSTEIN: I thought there would be  
22 some legal objection to that when coming out of

1 2003, one of my issues was that there's been an  
2 awful lot of regulation in terms of structure, and  
3 it seems to me that consolidation always comes up.  
4 To me, it's a red herring. Consolidation is a red  
5 herring, and the big issue is the economic  
6 understructure, and as long as organizations or  
7 Web Sites or television programs have to aggregate  
8 eyeballs, they're going to produce the same  
9 programming no matter who it is that's creating  
10 the content.

11 So, that was my issue in terms of that,  
12 but if you want different content, I believe that  
13 you have to regulate what the content is.

14 Now, are you going to streamline it to  
15 be particular for particular groups, and I think  
16 that was to somebody else's point, can you  
17 specifically say this is the African-American  
18 community? We certainly have to address it  
19 because I think those statistics Professor Hammond  
20 put up was from the recent Pew study that only 43  
21 percent of African-Americans have broadband in the  
22 home. That's deplorable to my mind when you

1 consider that Americans as a whole, it's 63  
2 percent of Americans have broadband in the home.

3 But one last point I wanted to make, and  
4 a tax onto what some other people were saying.

5 It seems to me it's a chicken and egg  
6 issue in terms of adoption. When people realize  
7 that there's content online, then they'll go on,  
8 but that they have more interest in broadband, but  
9 they don't know that there may be content online,  
10 so, they stay away from broadband, and this comes  
11 up again and again in terms of different media in  
12 terms of people's adoption.

13 So, to your point, it may not be that we  
14 need new content, it's that we need to let  
15 particular groups know that content exists that's  
16 important for them.

17 DR. BERRY: And I want to be clearer.  
18 I'm only in favor of content regulation if the  
19 content that is put on is content I agree with.

20 (Laughter)

21 DR. EINSTEIN: Here, here. Okay.

22 MR. LLOYD: Al, any of the panelists



1 want to jump in there?

2 MR. HAMMOND: Well, I guess the First  
3 Amendment prohibition and also the Section 326  
4 prohibition against the Commission being involved  
5 in dictating content might have something to say  
6 about how the Commission proceeds to encourage  
7 responsive content. It's one thing to encourage  
8 responsive content, another thing to dictate what  
9 that should be. And I think that that line is not  
10 going to be undrawn in the future.

11 There are a number of entities that we  
12 can encourage. And I think that's where the focus  
13 should be.

14 MR. BLACKWELL: I -- I --

15 MR. LLOYD: You're hesitating.

16 MR. BLACKWELL: Well, yes. Hesitant as  
17 I am to speak on this particular issue, Dr.  
18 Einstein and my colleagues on the panel, I would  
19 caution you not to paint with too broad a brush  
20 with the definitions that you use when you discuss  
21 content regulation. And this coming from a person  
22 who was raised in a society that, for a long, long

1 time, didn't have the opportunity to define their  
2 own selves in the media, and only now the first  
3 generation that was born into the new era of  
4 Federal Indian Policy of self- determination  
5 following policies that were designed to stamp out  
6 the Indian-ness in Americans.

7           When you speak of religion and when you  
8 speak of content regulation, there is a  
9 renaissance of tribal culture that is happening  
10 right now in Indian Country, and many tribes are  
11 interested in getting involved in the  
12 communications revolution to support, to take  
13 control and develop culturally-appropriate uses  
14 for themselves, and what you may define as  
15 "religion," other tribes may define as the way.

16           So, I only share that to try to add a  
17 little perspective to the panel. Thank you.

18           MR. LLOYD: So, please, we're  
19 encouraging a discussion among the panel. Please  
20 jump in.

21           MR. HENDERSON: Well, I was just going  
22 to say that I think most lawyers would say that

1 regulating content to the extent you were trying  
2 to exclude it would run afoul the First Amendment.  
3 On the other hand, promoting or encouraging  
4 content to serve communities that may otherwise  
5 not be served is a different matter. And I think  
6 there are ways to do that permissibly.

7 The other point I wanted to make, and,  
8 again, because I don't know a lot about the  
9 subject matter here, and my knowledge is somewhat  
10 limited, but in terms of the discussion about  
11 adoption and use and so forth, it seems to me that  
12 it bears careful study and analysis as to why  
13 that's so.

14 Some of it certainly may be simply a  
15 matter of individual preferences or what have you,  
16 but I think if history teaches us anything in this  
17 country, there are often far deeper, more powerful  
18 institutional forces that have determined who has  
19 access to what, and how people get access to  
20 things that need to be carefully examined.

21 We are a historical country. We like to  
22 think that everything is fine, anything that was

1       troublesome about race or gender or ethnicity is  
2       somehow in the past. After all, we now have a  
3       black president, so, it must be true. And the  
4       problem is we don't go back and look carefully.  
5       We don't look at what's going on now and what's  
6       happening now and why things are the way they are  
7       now in the context of our history, the history of  
8       this industry, the history of access to resources.

9                So, while there are certainly other  
10       things that should be looked at, I would suggest  
11       that things, our own history teaches us that we  
12       have to look very, very carefully at the forces  
13       that are at work and what are the barriers? Why  
14       is there limited access, and what are the barriers  
15       to identifying them, and then design effective  
16       approaches to overcome them.

17               MR. BLACKWELL: May I follow on that?

18               MR. LLOYD: Very quickly, and then we're  
19       going to try to get some questions from the  
20       audience.

21               MR. BLACKWELL: Okay. I think Indian

22       Country is a perfect example of what you just

1 mentioned. I mentioned earlier that the tribal  
2 governments were left out of the 34 Act and the  
3 1996 Telecom Act. It may behoove the FCC to  
4 engage in a dialogue that begins to recognize that  
5 the larger, economic, competitive framework  
6 doesn't operate to success in certain parts of the  
7 United States, in certain places and certain  
8 communities.

9 I mentioned earlier to you, Mark, that  
10 one sizes fits none. What we've learned over the  
11 last 10 years since the FCC began working directly  
12 with tribes is that the business models in Indian  
13 Country, there may be a variety of different types  
14 of entities involved, they may be carrier- driven,  
15 it may be tribal and industry-driven,  
16 public-private partnership, or, in many cases,  
17 it's tribes becoming de facto carriers of last  
18 resort. But what we've learned is that in every  
19 situation, there is a tribal-centric approach to  
20 the business model that recognizes we're talking  
21 about a remote, cyclically-impooverished region of  
22 the country that shares some cultural

1 commonalities.

2           So, let me say this: One of the  
3 exciting things to me when I read the Stimulus  
4 Bill and the provisions for the stimulus monies  
5 for broadband is that they enumerated all of the  
6 community-oriented regulatory goals for those  
7 monies, and my hope was that it signaled a step in  
8 regulation that recognized the value of community  
9 as much as the value of competition.

10           There are tribal leaders who participate  
11 in the Telecommunications Subcommittee at the  
12 National Congress of American Indians that I chair  
13 that stand up and say we've been forced to invest  
14 our own monies. We've been forced to dig deep  
15 into our pot and create these networks. And once  
16 those networks are created, those become an asset  
17 and trust resource of our nation.

18           So, please, Federal Government, don't  
19 regulate in a way that unknowingly changes the  
20 market that can obviate the operation of this  
21 business model that was created in places like  
22 Eagle Butte, South Dakota, rather than K Street

1 and Wall Street.

2 Thank you.

3 MR. LLOYD: So, we have a number of  
4 questions from the audience. One says, "For Mr.  
5 Hammond. What legally can be done to bring back  
6 resale and network access opportunities for small  
7 business and entrepreneurs?"

8 MR. HAMMOND: Well, I think the  
9 Commission would have to revisit some of its  
10 decisions with regard to the unbundled network  
11 elements that were, for awhile, made available in  
12 the 251 and 252 of the Telecom Act of 1996. And  
13 to do so in light of the recognized value that  
14 broadband has and the fact that there are pockets  
15 of non-deployment or under-deployment, certainly  
16 areas that are un-served and underserved that will  
17 not get that service unless small entities enter  
18 those markets, provide those services, and that in  
19 order for those wisps, if you will, and collects  
20 to be successful in getting the traffic out of  
21 those communities and into the major networks,  
22 they're going to have to have interconnection

1 policies, they're going to have to have access to  
2 certain elements of the larger networks in order  
3 to make that work.

4 That's what I meant by you can't have a  
5 policy favoring increased broadband deployment in  
6 areas that are underserved or un-served and not  
7 recognize that they're going to operate in a  
8 broader, regulatory, and economic environment.  
9 So, in order to be successful, in order to get the  
10 information from Google or from other places,  
11 remote sites, you're going to have to pull that  
12 information in or you're going to have to go  
13 outside the sort of geographic boundaries of that  
14 small entity to get access to it. And that's  
15 going to require interconnection with all the rest  
16 of the networks.

17 What 151 says in the preamble is to make  
18 available to all Americans a nationwide and  
19 worldwide communication system, not a four-block  
20 wide or a six-block wide or small territory-wide  
21 communication system. So, that's what I would  
22 suggest.



1                   MR. LLOYD: Thank you. This is from  
2 Eric Garvane, if I'm pronouncing it correctly,  
3 Garvane, Garvane.

4                   What are the legal barriers and  
5 opportunities for low-income individuals who want  
6 to develop innovative and invention to increase  
7 adoption access?

8                   One of the things that we've talked  
9 about, disability, we've talked about Native  
10 Americans, we've talked about race. We haven't  
11 talked about class and whether there's anything  
12 regarding poverty status that the Federal  
13 Government needs to do or just needs to be  
14 cognizant of regarding its actions.

15                   Any thoughts from the panel about that?  
16 David?

17                   MR. HONIG: We didn't focus on it in the  
18 Diversity Committee, except to the extent that the  
19 overcoming of poverty might be predictive of  
20 success in entrepreneurship in FCC-regulated or  
21 influenced industry. Certainly if capital is  
22 required, your current low-income status might not

1 be helpful irrespective of other values. But  
2 you're overcoming it might, and it might also tend  
3 to be somewhat predictive of your knowledge of  
4 that community from whence you came, its needs,  
5 and how you could, as Al was just saying, be  
6 responsive to those needs in ways that other  
7 companies might not have the knowledge or  
8 institutional expertise to do.

9 MR. LLOYD: Mara?

10 DR. BERRY: Yes, I think that's right.  
11 But I also think that empowering the poor should  
12 always be a goal on its own. Not a goal instead  
13 of, but an additional goal. And there will be  
14 overlap, of course, because many of the groups  
15 that we're talking about are disproportionately  
16 poor. But that recognizing that there are class  
17 differences and recognizing that there is poverty,  
18 I mean, it's deal all across society now, and we  
19 do it for higher education access, we do it  
20 everywhere, that not just as one element of trying  
21 to figure out who's disadvantaged and trying to  
22 get to a race-neutral policy or something, which

1 is important. So, I think empowering the poor  
2 ought to be one of the goals that you ought to  
3 consider. And, of course, you don't have the  
4 legal problem because there's no strict scrutiny.  
5 Yes.

6 MR. LLOYD: To Thomas, did you want to  
7 --

8 MR. HENDERSON: Well, I was just going  
9 to say that, to take off on the point that Mara  
10 just made, that because, unfortunately, the  
11 Supreme Court decided some time ago that poverty  
12 was not a suspect classification, therefore,  
13 however, the only upside of that is that a  
14 government entity can take actions designed to  
15 assist folks on the basis of income or poverty  
16 without being subject to strict scrutiny.

17 And I would say that goes at the  
18 consumer level, that level, as well as, for  
19 example, the Department of Transportation program  
20 I referred to that is a disadvantaged business  
21 program. Race and gender will get you into that  
22 status, but so will other forms of disadvantage,

1 including poverty and so forth.

2 I was concerned with, I think, the  
3 comments of Professor Einstein, were eye-opening  
4 about the old media looking a lot like new media  
5 when it's driven by advertising, and, so, the  
6 opportunity for disadvantaged businesses to get in  
7 and participate also is an opportunity.

8 MR. LLOYD: Sure. Please, Geoff.

9 MR. BLACKWELL: You have a speaker on  
10 your next panel that I don't want to preview or  
11 involvement, but Toni Bush, who chairs the Telecom  
12 and Broadband Issue Subcommittee of the Diversity  
13 Advisory Committee, it's why I don't serve under  
14 her chairmanship of that subcommittee, as well,  
15 and we worked on a recommendation involving the  
16 Universal Service Lifeline and Link-Up Programs  
17 that the recommendations to the Commission  
18 implement those in the broadband context, as well.  
19 And it's important to note, I think, that from our  
20 perspective in Indian Country, the Enhanced Tribal  
21 Lands Lifeline and Link-Up Program, much as  
22 Professor Berry said, it is not a racial program,

1 it is a jurisdictional, it is an income-based  
2 program and has operated in great success on  
3 tribal lands. It is for those income persons,  
4 Indian, non- member-Indian, and non-Indian on  
5 tribal lands.

6 We also very quickly brushed over the  
7 last question. I have a suggestion on your last  
8 question in terms of opening up new opportunities.

9 It's a little bit further a field from  
10 the unbundled network elements regulations, but  
11 the Commission may consider reexamining the  
12 secondary markets rules for access to spectrum.  
13 We found that in Indian Country, there is not a  
14 lack of spectrum, there's a lack of access to it,  
15 and there are many regulatees above our lands that  
16 just simply don't have the business model that  
17 allows them to provide meaningful services. And I  
18 would inject the idea that in a review of those  
19 rules, there's all sort of rules, that there be  
20 the concept of demand aggregation for the uses of  
21 these spectrums, as well.

22 Thank you.

1 MR. LLOYD: Al?

2 MR. HAMMOND: One more point on the  
3 universal service concept, and that is that, right  
4 now, the Universal Service Fund is under a  
5 tremendous amount of pressure, at least the larger  
6 entities that are providing a substantial amount  
7 of that money are facing competition and perceive  
8 that as cutting into the size of the fund, and  
9 there are questions about who's to be eligible for  
10 continuation of that fund, if it's for build out,  
11 and there are also questions about whether or not  
12 the eligibility in terms of Lifeline and Link- Up  
13 are going to be changed, as well.

14 So, again, you can't make decisions on  
15 one area without being aware of the pressures that  
16 are going to come from other areas.

17 DR. BERRY: Can I just say this?

18 MR. LLOYD: Please. Sure.

19 DR. BERRY: That's the second time that  
20 Professor Hammond has made that point, which I  
21 think is the most important point that has been  
22 made here today. He's made it in two different

1 ways. That whatever you're doing here at the FCC,  
2 you have to, as you develop this policy, look at  
3 everything you do to see how it fits, doesn't fit,  
4 how it will work with the policy goal that you  
5 have for this access and utilization because  
6 there's a tendency in organizations to simply  
7 focus on the one thing you're supposed to be  
8 working on, and to try to develop something  
9 that'll make that work without looking to see that  
10 all the moving parts have some kind -- there's a  
11 resistance, too, in organizations for people who  
12 are doing parts of other things of having whatever  
13 they're doing evaluated in light of how it fits  
14 with what you're trying to do.

15 So, and it's important to do that, also,  
16 for a legal reason. When I talked earlier about  
17 alternatives and showing that you have pursued  
18 alternatives, one of the ways you do that is by  
19 this wholesale kind of review of everything and  
20 seeing if there's some different way to put things  
21 together, and that's what you show when you're  
22 under legal attack for these things.

1                   And the last point I'll make because I'm  
2                   just trying to do this so I won't forget is that  
3                   when you are analyzing in terms of possible legal  
4                   attacks and when you develop the strategy, make  
5                   sure you include the views of people who don't  
6                   agree with you. And then analyze them. And  
7                   that's because there's a tendency in organizations  
8                   when we do plans like this to only include what we  
9                   believe and not include and dissect the objections  
10                  that are raised at every point about everything  
11                  that we plan to do.

12                  Okay. I'm done.

13                  SPEAKER: (Off mike) a question.

14                  MR. LLOYD: Just if you could write the  
15                  questions down so that we can make sure we've got  
16                  it on mike. And, Calvin, if you could --

17                  SPEAKER: (Off mike) it's a very easy  
18                  question. I'm not the world's best writer. I  
19                  would really like to ask this question.

20                  TV is free in this country. The FCC,  
21                  years ago, passed that television would be free,  
22                  and I think in this country we're really serious



1 about everyone really getting broadband. I think  
2 the FCC is going to have to look at a way, how can  
3 we bring about free broadband to a lot of the poor  
4 areas?

5 For instance, persons who live in public  
6 housing. We have many many people --

7 MR. LLOYD: And, so, the question is  
8 then --

9 SPEAKER: So, the question is: Could  
10 that be a recommendation that the FCC would make  
11 that a percentage, so many hours that persons  
12 could have free broadband if you live in poor  
13 areas and the rural areas of this country?

14 MR. LLOYD: Okay.

15 SPEAKER: How we do TV. And I just want  
16 to say that --

17 MR. LLOYD: Okay, so --

18 SPEAKER: Free TV and cable TV are two  
19 different things, but if a home wants cable, they  
20 have to pay extra, but if a home can't pay for  
21 that, they can plug in their TV and still get so  
22 many local channels of free TV.

1 MR. LLOYD: All right.

2 SPEAKER: Free information.

3 MR. LLOYD: All right. So, we're going  
4 to make sure that we write questions down to try  
5 to keep them short, but, David, did you want to  
6 try to address that?

7 MR. HONIG: There are two proceedings in  
8 which that question is being teed up now without  
9 expressing an opinion on them. One of them is an  
10 adjudication involving a company that wants to  
11 provide a free, national, wireless broadband  
12 service to 95 percent of the country, and that  
13 application is pending. And the other is the  
14 question of whether to extend the Lifeline and  
15 Link-Up Programs to include broadband or, perhaps,  
16 create a parallel program that includes broadband,  
17 and, thus, reduces the cost for those who are not  
18 online because primarily of issues of  
19 affordability.

20 There is also an element of what you've  
21 asked and what Professor Hammond has said that  
22 makes it difficult for many new entrants to offer

1 a service for free, and much of that was teed up  
2 in Commissioner McDowell's workshop yesterday on  
3 capital formation, and that is that it's always  
4 been difficult in any FCC-regulated industry for  
5 small businesses and disadvantaged businesses to  
6 raise capital. It is especially difficult in the  
7 broadband space.

8           Among others really, two main reasons:  
9 One is that investors want to know when they're  
10 going to get paid. And that means when you're  
11 going to sell the business to someone else. Well,  
12 right now, new industry, we don't know who's going  
13 to be there in five years to buy the business.  
14 We've certainly seen that because this is such a  
15 disruptive technology, the winners and losers that  
16 you predict today might be a complete different  
17 set of winners and losers in just two or three  
18 years. Look what happened to CLECs, for example.

19           And, second, that certainly is  
20 exemplified by what happened after the 2006  
21 changes to the designated entity rules. Not only  
22 is regulation regarded by many investors as

1 particularly discouraging to investment, it's not  
2 knowing what the regulations will be, the lack of  
3 servitude and predictability, and, thus, the  
4 ability to make long-term business plans  
5 irrespective of what the regulation ends up being  
6 that causes this program, so that if you are a  
7 small business coming in and you want to do  
8 something as unique as offering a free service as  
9 attendant to what you're doing, that requires a  
10 measure of risk that the market isn't tolerating  
11 for reasons other than the fact that it's free and  
12 unique and innovative or needed.

13 MR. LLOYD: So, Al, you wanted to  
14 address this, as well?

15 MR. HAMMOND: Just one of the ways in  
16 which there's been an attempt to make the Internet  
17 free or broadband free was the use of free or  
18 unrestricted spectrum in the wireless realm, and  
19 that's what Wi-Fi basically was. The idea was  
20 that you didn't charge for the spectrum, and,  
21 therefore, you're reduced to economic barred entry  
22 for companies coming into the space.

1           They were then able to come up with  
2 models that didn't require such an upfront cost to  
3 the individual subscriber. But there are  
4 tradeoffs, and when we work with a group that  
5 tried to create a 41-jurisdiction wireless and  
6 broadband network in California, one of those  
7 tradeoffs that was proposed was that there would  
8 be a different protections for privacy rights, for  
9 instance, of those who got the service for free  
10 and also be more advertising because it was an  
11 advertising model, not unlike free TV, that was  
12 going to be used. But the problem with that is  
13 that then you can't -- I don't know about you, but  
14 when I go online and I go to certain sites, I  
15 can't move down to the information I want because  
16 I got to look at this ad first before I can get  
17 there. But that ad is there to sort of finance  
18 the access that I'm getting.

19           So, there are models available for that,  
20 I just hope that the FCC at least with regard to  
21 spectrum will consider those with regard to white  
22 spaces, for instance, as a spectrum that if it's

1 made available for free, would stimulate not a  
2 rebirth, but an enhancement of what was done in  
3 Wi-Fi because the spectrum technology has certain  
4 propagation characteristics that allow it to  
5 penetrate buildings and go through trees, which  
6 Wi-Fi doesn't do. But there's certainly  
7 opportunities to do that.

8 MR. LLOYD: So, I've got two questions  
9 here from Janelle. One is that the FCC has  
10 employed race-neutral means since 1995 to foster  
11 diverse ownership in telecommunications, however,  
12 there are still low levels of diverse  
13 participation. What does that FCC need to show to  
14 modify its small business policies? I think  
15 that's sort of -- well, that's one question.

16 Another question is: The FCC study when  
17 being number one, which was really the civil  
18 rights (inaudible) policies, but we'll call it the  
19 FCC study. The FCC study when being number one is  
20 not enough, talking about no urban or racial  
21 dictates illustrated that market forces are  
22 distorted and discriminatory when advertising

1 dollars are involved.

2 If content for all people is to  
3 flourish, how should the FCC address the reality  
4 of minority owners that are harmed by such  
5 discrimination?

6 So, any -- Thomas then David.

7 MR. HENDERSON: Yes.

8 MR. LLOYD: Either one of those.

9 MR. HENDERSON: The short answer to the  
10 first question, I think, is that to be candid  
11 about it, that the FCC needs to go back and take a  
12 look at its history. I've done a little bit of  
13 that as to what data is available because I think  
14 the data will show that at least the FCC was  
15 involved in what was a discriminatory market and  
16 the discriminatory distribution of licenses. I  
17 think there's a long history there, not unlike the  
18 history of any other institution in this country.  
19 That would provide the basis for remedial efforts  
20 to counteract that.

21 My concern is that the FCC has -- it  
22 seemed to me from my limited exposure -- tried to

1 take refuge in the diversity language in the  
2 statute and never really faced up to squarely the  
3 history of discrimination in this industry and its  
4 responsibility as a federal entity to respond to  
5 and to remedy the effects of that discrimination.  
6 I think it needs to do that now, and I think  
7 that's the reason that it got into trouble in the  
8 Lutheran Church Case and others, and it needs to  
9 be squarely faced and remedied, but you've got to  
10 do the homework to do that and the hard work of  
11 putting that together.

12 So, that's my relatively short answer to  
13 your first question.

14 My relatively short answer to your  
15 second question, which I think the fact that  
16 advertising is continuing to drive what's  
17 available is one illustration of why I think it is  
18 critically important for the FCC to carefully  
19 consider and craft a non-discrimination regulation  
20 with respect to the use of the resources that it  
21 has regulated because the ability to act to  
22 prevent discrimination would empower the FCC to do



1 a lot. There's a lot that you can do, including  
2 requiring that the actions of actors in the field  
3 or in the industry not have the effect of  
4 discriminating or the unjustified effect of  
5 discriminating.

6 So, I think that would be a huge and  
7 powerful tool and mechanism to carefully regulate  
8 to prevent discrimination in advertising and other  
9 needs from really affecting what's there and who  
10 has access.

11 DR. EINSTEIN: Can I take some --

12 MR. LLOYD: So, Mara, then David. Yes,  
13 please. Go ahead.

14 DR. EINSTEIN: I have to say I was  
15 really shocked about a year ago; I attended a  
16 conference called the Future of Television, what's  
17 happening in television, and it was all about  
18 things like blip.tv and Break Media and all these  
19 new broadband content providers, and every last of  
20 them said that advertising was going to be the  
21 revenue model. I mean, I couldn't believe it; you  
22 could have knocked me off my chair. These are

1       supposed to be all the newest, latest television,  
2       and they're coming up with the same sort of  
3       things. Remember a year ago, we were in the midst  
4       of the beginning of the recession, and, so, that's  
5       exactly the time when the bottom is going to fall  
6       out of the advertising market, and that's what  
7       people are looking to fund what is going to be the  
8       existing content, which, to me, made absolutely no  
9       sense.

10                That being said, whether it's an NPR  
11       kind of thing or a CPB example or some kind of  
12       government funding so that there's a place where  
13       content other than that that is supported by  
14       advertising money can exist within the broadband  
15       space, but there also has to be funding for the  
16       marketing of it, and that's a real argument I'm  
17       trying to make here. Given how ubiquitous the  
18       Internet is and how much information is on there,  
19       the only ones we're hearing about are sort of the  
20       information that's provided by the big providers  
21       who have the money to tell us that that stuff  
22       exists. There's lots of other information out

1       there, but unless you're a researcher and know how  
2       to get it, you can't reach it. And we have to be  
3       very good at teaching broad parts of our public  
4       what exists.

5                   The other thing I wanted to suggest also  
6       is some of you might have seen this last week. An  
7       investor had invested in a new community news  
8       organization, but the staffing of that was going  
9       to be provided by the local NPR station and also  
10      by the local journalism school, the graduate  
11      journalism school.

12                   So, that's the other issue when you  
13      start to bring new content into this space is you  
14      have to have a staff that's able to constantly put  
15      up new information because if you're not putting  
16      up new information all the time, you don't end up  
17      at the top of the Google search. Right? And the  
18      content has to be new and updated, so, you have to  
19      have the staffing for that sort of thing. So,  
20      also new and innovative ways has to be understood  
21      about how to put the manpower and the labor behind  
22      these Web Sites, as well.

1 MR. LLOYD: Good. Thank you. David?

2 MR. HONIG: I want to address both of  
3 Janelle's questions. There were two cases, well,  
4 several, but two that I want to just flag in the  
5 Supreme Court that addressed this question of  
6 race-neutral remedies, and what had to be  
7 undertaken by a governmental unit before it could  
8 consider race-conscious remedies.

9 In the City of Richmond v. Croson in  
10 1989, one issue that arose was must each and every  
11 conceivable race-neutral method be tried and have  
12 had to have failed before a race-conscious remedy  
13 could be considered, and the answer was no, a  
14 reasonable subset of them must, but not every  
15 conceivable one that the power of the mind of man  
16 or woman can think of.

17 In 2007, I think it was, parents  
18 involved, Justice Kennedy's opinion.

19 DR. BERRY: 2006.

20 MR. HONIG: It seemed to change that,  
21 and if I read it correctly, it is that virtually  
22 everything that can be thought of that is

1 race-neutral must have been tried and have failed  
2 before one can consider a race-conscious remedy.

3 Now, in the case of the FCC, the one  
4 thing that it could do that would certainly both  
5 make sure that maybe race-neutral remedies could  
6 work is to actually try them, and then if they  
7 don't work, to be in the position to consider  
8 race-conscious remedies fairly quickly.

9 There are some 44 still pending  
10 recommendations by the Diversity Committee, some  
11 of them arising from 2004, 2005, a prolific  
12 period, still waiting for Commission action. In  
13 just the broadcasting field, there are 14  
14 proposals still teed up a year-and-a-half comments  
15 have been filed, going to how to diversify  
16 broadcast ownership, all race-neutral, all  
17 deregulatory, and we're still waiting. And some  
18 of them dated back to 1970s.

19 The example that Janelle mentioned, the  
20 rule against advertising discrimination, it  
21 provides a good example of why the Commission  
22 should really act a little quicker and have a

1 higher priority so this doesn't happen to  
2 broadband.

3 That proposal to ban discrimination in  
4 advertising, the involvement of it by FCC  
5 licensees was first made by NABOB in 1984. It  
6 took five tries to get the Commission to adopt it.  
7 Finally, in December 2007, it was adopted through  
8 the initiative largely of Commissioner Adelstein  
9 and Commissioner McDowell. We're still waiting  
10 for the appointment of a compliance officer to  
11 enforce this rule, which is the first new civil  
12 rights mandate by any federal agency since 1977,  
13 and the first one that was unopposed in history.

14 How much money is involved here? If you  
15 take the Ofori and Napoli studies, Napoli's was  
16 (inaudible) in 2002, and extrapolate this, it's  
17 about \$200 million a year that minority  
18 broadcasters alone earned, but never collect.

19 Now, how can we make sure that this  
20 doesn't happen, this infection of the free  
21 marketplace by racial discrimination in broadband  
22 and affecting broadband content?

1                   Well, the Federal Trade Commission is  
2 going to have to either use its existing authority  
3 or find new authority to work in this area. The  
4 one thing that this commission could do that would  
5 be useful would be to reach out to its sister  
6 agency and say please help us to enforce the rule  
7 that we have and to extend it platform-neutrally  
8 to all similar technologies.

9                   MR. LLOYD: So, I'm going to give Mara  
10 the last word, and, unfortunately, we're going to  
11 have to close. We're a little over time.

12                  DR. EINSTEIN: I'm going to talk fast.

13                  MR. LLOYD: I've been given the --

14                  DR. EINSTEIN: I'm going to talk real  
15 fast.

16                  MR. LLOYD: Okay. Go right ahead.

17                  DR. EINSTEIN: Real, real fast. On your  
18 first question only I'm addressing about the  
19 history, and I agree with Tom, and I wanted to say  
20 that there's a lot of information about the  
21 history of the FCC in that Window Dressing Report  
22 that I referred to earlier, and in a book that I

1 published -- I'm not trying to sell it, you can  
2 get it at the library. It's called "And Justice  
3 for All," and it's a history of the Civil Rights  
4 Commission in the struggle for civil rights in  
5 this country, and it has a lot of information  
6 about the reaction to the report, stuff the FCC  
7 did during the Civil Rights Movement, and what it  
8 condoned, and what it has done since, and I think  
9 for this policy statement, I'm persuaded that you  
10 ought to talk not just about diversity, but you  
11 ought to talk about the history of the FCC's  
12 culpability which it needs to remedy with some  
13 detail, and the reason why you need to do that,  
14 this court that sits now doesn't much like  
15 history. I'm talking about the Supreme Court.  
16 When it comes to race, especially. But you ought  
17 to tell it anyway because the court may change or  
18 they may decide to read it, and who knows? But  
19 it's important to do that to lay a predicate for  
20 the discussion of something beyond race neutral,  
21 and on the various alternatives on race neutral  
22 and how many you have to exhaust.



1           I agree with what David said about the  
2 Seattle Case, but other federal agencies have  
3 tried other things that were race-neutral in  
4 response to that 1995 Adarand, and since then,  
5 with varying degrees. So, you might be able to  
6 look at some of things that they have already  
7 done, even if the FCC hasn't done them and it  
8 didn't work, by the way, and then you would be  
9 able to say tick off that one, and that's all of  
10 what I meant in the beginning when I talked about  
11 looking at alternatives and making clear that you  
12 have said that you looked at them.

13           Thank you.

14           MR. LLOYD: Well, thank you for bringing  
15 us back around.

16           So, this has been a rich and very  
17 informative panel. We're going to take a lunch  
18 break for about an hour and come back with a  
19 discussion about best practices and how to move  
20 this forward, and thank the panel very much for  
21 joining us.

22           (Applause)

1 (Recess)

2 MR. LLOYD: So, thank you again for  
3 joining us. I know we've got a number of folks  
4 who went out for lunch. Some of them will be  
5 coming back, but we need to end at 2:00 (sic)  
6 because it's Friday and people have got a weekend  
7 to attend to.

8 SPEAKER: It's 2:00. You meant 4:00.

9 MR. LLOYD: Yes, we end at 4:00. I'm  
10 sorry. Again, my name is Mark Lloyd, I'm  
11 associate general counsel and chief diversity  
12 officer here at the Federal Communications  
13 Commission. This is a workshop today looking at  
14 diversity and civil rights issues in broadband  
15 adoption and access.

16 Antoinette Cook Bush and I sat down and  
17 talked about what this panel was about, and she  
18 got so excited and focused about the need to talk  
19 about best practices and what's really working now  
20 that can really help this broadband plan and stop  
21 wasting your time with all this abstract stuff,  
22 and I said you sound an awful lot like Blair here

1 at the FCC trying to get us focused, and, so, Toni  
2 really helped to pull this panel together.

3 And I think we're just going to get  
4 right to it. I think the challenge facing the  
5 broadband team is trying to figure out exactly the  
6 question that Toni posed, which is what  
7 realistically can we start getting going on? And  
8 we've got a good, diverse group of presenters here  
9 to do that, and Toni's going to bat cleanup to  
10 sort of help us focus again and pull things  
11 around.

12 And we're going to start with a good  
13 friend, Laura Efurd, who is with ZeroDivide. You  
14 used to be the Community Technology Foundation, I  
15 think.

16 MS. EFURD: That's correct. (Off mike.)

17 MR. LLOYD: In California. And one of  
18 the things that I was really interested with Laura  
19 sort of coming in is that you actually fund people  
20 to do best practices, and you might actually have  
21 some idea about what they are, and, so, why don't  
22 we start with you?

1 MS. EFURD: Great. Thank you, Mark.

2 Good afternoon.

3 Well, the good news is that there are a  
4 lot of things happening out there and a lot of  
5 good programs that are going on, and, so, I just  
6 want to tell you a little bit about what we've  
7 learned over the last 10 years.

8 ZeroDivide is a public foundation that  
9 has invested close to \$50 million in technology  
10 adoption programs in California specifically to  
11 really address issues in underserved communities.  
12 For us, we look at these communities as low  
13 income, minority, the immigrant community,  
14 non-English-speaking, seniors, and disability  
15 community. Anyone who's not adopting technology  
16 like broadband at the same rates as the general  
17 population.

18 And, so, although we learned earlier  
19 broadband is on the rise, but there are still a  
20 number of communities that are not fully utilizing  
21 this technology. I think some of the panelists  
22 earlier today really emphasized some data that

1 shows these points, and what was really gratifying  
2 to me is this is actually what we're finding at  
3 the ground level, as well, that while income level  
4 is a key indicator of who is adopting broadband,  
5 there are also other factors, such as race, age,  
6 disability status, place of residence, or  
7 geography can also be a determinant factor of  
8 whether someone is a broadband user or subscriber.

9 Really what we found is that technology  
10 adoption or the term "digital divide" is really a  
11 part of a larger set of divides, it's part of the  
12 political, economic, cultural divide that happens  
13 in this country, and, so, we need to look at it  
14 and address it at the level in a holistic way.

15 Sometimes, the data doesn't even tell us  
16 exactly what's happening in the world today. We  
17 talked a little bit about, for example, data  
18 around Asian-Americans and whether it's showing us  
19 the true picture there. Some might be really  
20 surprised to know that even in the very heart of  
21 technology-savvy San Francisco, Chinatown actually  
22 does not have a lot of broadband access, and they

1 have among the lowest rates of broadband users in  
2 San Francisco.

3 So, while access and affordability are  
4 key issues driving broadband adoption in these  
5 communities, ZeroDivide has learned that barriers  
6 to adoption are complex, they vary among different  
7 populations, it's not the same. They cannot  
8 always be resolved with a one-size-fits-all  
9 approach.

10 Some of the other issues that we found  
11 really impact the population's ability to adopt  
12 broadband include relevance, and a lot was talked  
13 about this morning in terms of things that are  
14 really relevant to people's lives. And, so, some  
15 of the programs that we've come across, like the  
16 Mural Music and Arts Program in East Palo Alto and  
17 the DJ Project in San Francisco use the genre of  
18 hip-hop to engage young people in learning  
19 technology and broadband applications.

20 Now, all of them may not come out these  
21 programs as the next breakout hip-hop artist of  
22 their generation, but they will learn technical

1 skills that will help them in their educational  
2 pursuits and in their jobs.

3 Other issues are content and  
4 applications. A recent report by the Tomas Rivera  
5 Policy Institute study showed that, for the  
6 Hispanic community, voiceover IP might be a great  
7 driver for broadband adoption because they can  
8 then connect with members of their families  
9 overseas quite readily and at much lower costs  
10 than through typical telephone.

11 Language is an issue, training and  
12 technical support, and, of course, also privacy  
13 and security concerns. Some of these things were  
14 brought up earlier today.

15 So, let's talk a little bit about what  
16 works. So, over the last several years, what we  
17 found that really works is number one is  
18 leadership. So, really building leadership in  
19 underserved communities that understand the value  
20 of broadband and its applications, this has been a  
21 key driver to technology adoption, and what  
22 happens is these leaders actually serve as

1 translators for their community. They conduct  
2 outreach, they start new programs, they're  
3 entrepreneurs, and create new applications that  
4 the community can choose, and, often, they're not  
5 found in traditional leadership positions.

6           They may actually be the mom in the  
7 neighborhood that all the kids go to her house or  
8 she's the connector in the community, and, so, she  
9 really understands the value to education for her  
10 kids to be involved in technology.

11           So, one of the key issues is really  
12 building the capacity of these non-traditional  
13 leaders to promote technology and broadband in  
14 their communities.

15           The other is relevant content, and we  
16 talked a lot about this earlier, so, I'm not going  
17 to talk that much about it today because we all  
18 know people have to find or use the technology for  
19 something that they really are interested in.

20           The key point I want to bring up here  
21 that wasn't brought up earlier is what we found  
22 particularly in the last three or four years is



1 that it's not just availability of the content  
2 online that drives people to use it, but it's  
3 actually the ability to be a content creator  
4 themselves, right? So, for people who could  
5 actually post videos, to do podcasts, to do blogs,  
6 to interact with their peers online, that is what  
7 is driving people online in addition to other  
8 kinds of things like finding employment or looking  
9 at health care information online, but it's just  
10 really this notion that you, too, can participate,  
11 that you can be a content creator that has really  
12 driven people to become more interested in  
13 broadband and online.

14           The content has to be relevant. This  
15 post on the slide from Generations Online really  
16 looked at how do we get seniors online? So, they  
17 have a very easy, step-by-step application and  
18 training of how to actually connect online, and  
19 they focus on things like connecting with people  
20 from your past and looking at photos and memories.  
21 They focus on how do I connect with my children or  
22 grandchildren online, and those kinds of things.

1           The other key point really is about  
2 focusing on community-based organizations and  
3 building an ecosystem for broadband adoption in a  
4 community.

5           This example that I'm showing is Little  
6 Tokyo, which is a part of Los Angeles. They  
7 actually have about 400,000 residents, a very  
8 low-income area. Half their population is under  
9 the poverty line. And what they have done there  
10 is they've created a wireless system. They  
11 provide free broadband outdoors and they also  
12 provide training through a community technology  
13 center, and they've actually blanketed the  
14 community with free wireless, have actually helped  
15 158 homes get broadband within their homes through  
16 this wireless system, and train them how to use  
17 the technology. And, so, these low-income  
18 individuals are actually connecting.

19           Another major issue and things that we  
20 found worked is sustainability. That was a key  
21 thing for us. We were created in the heyday of  
22 folks investing both from the public sector and

1 private sector in bridging the digital divide.

2 Over the last 10 years, we've seen our  
3 peers disappear. Very few foundations investing  
4 in technology adoption these days. And, so, what  
5 we realized was we needed to help these  
6 organizations who are helping people connect to  
7 technology become sustainable themselves. So,  
8 they would become community assets in the  
9 community for the long-term.

10 And, so, an example of that is Change  
11 Agent Productions, which is associated with a YMCA  
12 in Long Beach, California. They have been  
13 training young people on multimedia technology,  
14 how to do videos, how to connect to broadband for  
15 several years now, and, so, what they've done is  
16 they developed a small production company where  
17 the young people actually produce videos, Web  
18 Sites, do training for a private sector and public  
19 sector companies, and they actually make money.  
20 So, in their first year, they earned \$110,000.  
21 That's gross. They were able to actually make a  
22 profit of about -- that's actually a typo on my

1 slide. It's \$17,000, and they trained and  
2 recruited over 100 minority youth to do this, who  
3 actually got paid to do the work. So, not only  
4 did they see that they could help sustain their  
5 organization that was helping them, they also saw  
6 the value of their own work.

7 The other great thing about Change Agent  
8 Productions is their rates of graduation of the  
9 students who participate in their program is about  
10 95 percent, graduation from high school. Long  
11 Beach Unified, the graduation rate is about 80  
12 percent. So, they're making an impact in their  
13 educational, as well as their economic  
14 opportunities for the future.

15 The last example I want to give is Youth  
16 Radio out of Oakland, California. Getting back to  
17 a lot of what was talked about in the earlier  
18 panels about creating content, this is an  
19 organization that are helping at-risk youth not  
20 only learn how to use technology, but actually  
21 create content themselves. Thirteen hours of  
22 youth-produced editors creating digital media.

1 They trained 100 new youth producers, and their  
2 productions are viewed online, they're on radio,  
3 they're picked up by NPR. So, this is a real way  
4 to get more diverse content into the realm and  
5 also allow youth to see that they can actually  
6 produce that content and make a difference and  
7 connect to broadband.

8 So, I'm going to end my presentation  
9 there and look forward to the question and answer  
10 session.

11 MR. LLOYD: Great. Thanks, Laura. As  
12 the president of the National Urban Technology,  
13 did you found the National Urban -- wow, president  
14 and founder of the National Urban Technology  
15 Center. Patricia Bransford, we're really sort of  
16 interested in, there's been an awful lot of talk  
17 about the importance of broadband for  
18 entertainment, perhaps not as much talk about the  
19 importance of broadband for education, and, so,  
20 really looking forward to your presentation.

21 MS. BRANSFORD: Thank you. I am honored  
22 to be here, and I must say encouraged by the

1 political will that I have heard in this room this  
2 morning.

3 We are entering, I think, an era where  
4 we have an administration that is squarely behind  
5 us, that is committing a fair amount of stimulus  
6 funding to accomplish some of the goals that we've  
7 been looking at for the last 10 years. I would  
8 say Laura's organization started about the same  
9 time that Urban Tech did. In fact, she gave the  
10 first part of my presentation, which is going to  
11 make it easy for me, which is to build this  
12 ecosystem of neighborhood centers where people can  
13 actually go and learn how to use the applications,  
14 where we can conduct after-school programs where  
15 kids can do all the wonderful things that Laura  
16 was talking about.

17 What we have found though in the last  
18 10, 15 years is that these are very exclusive  
19 (inaudible) and people don't go outside of those  
20 centers, and I've had many people just say to me,  
21 Pat, I want to learn word processing. Where can I  
22 go?

1           Well, if you haven't been funded by Boys  
2           and Girls or by another organization, you really  
3           don't feel welcome, and, so, I was happy to see  
4           the latest Department of Commerce NOFA that talked  
5           about public centers, but now we've got to be  
6           concerned with libraries closing and other public  
7           centers that aren't sustainable.

8           We actually are very excited about  
9           moving to a digital campus, quite frankly. One  
10          place where our young people can come to get  
11          state-of-the-art curriculum, that is designed  
12          around storytelling, and I'm looking at this woman  
13          right here because she came to me at break and she  
14          said, Internet, the Web has got to be more  
15          conducive to people with different learning  
16          styles. And that's what we're all about.

17          What we have learned over the last 15  
18          years is that technology can be very effective in  
19          turning on that light bulb and awakening those  
20          spirits, especially the young people who are in  
21          that 30 percent who have not gotten a high school  
22          diploma, whose parents have not gotten a high

1 school diploma, and, therefore, will have children  
2 without a high school diploma. We need to really  
3 focus on that 30 percent in, I think, the next 10  
4 years and spend stimulus money providing civil  
5 rights, as Mary said, to that group of individuals  
6 who are cut off, virtually cut off from education  
7 today.

8 My peers that I'm working with are  
9 telling me that they come to school in the  
10 morning, they leave for lunch, and never come  
11 back. We have 50 percent on average dropout in  
12 this country. In some cities, in Baltimore, it's  
13 77 percent.

14 And, as an IBMer who has worked 30 years  
15 in solving corporate problems, I want to tell you  
16 that technology can solve that problem. But it's  
17 not using word processing necessarily or some of  
18 the tools that are fun to use, it's actually using  
19 technology strategically in the classroom to make  
20 learning more visual, to provide opportunities for  
21 animation and multimedia, rich multimedia  
22 interactive exercises, and then having those young



1 people be able to communicate with their peers  
2 using networking strategies that everybody's using  
3 with Facebook and LinkedIn and what have you.

4 So, we need to really step back now and  
5 say we've gone through our first chapter that was  
6 spearheaded by the Clinton Administration where we  
7 all got our grants from TIIAP and other grants to  
8 go out and build centers. Now we want to look at  
9 more strategic use of technology in education to  
10 include those 30 percent that are dropping out  
11 today.

12 I'm way ahead of these slides because I  
13 know that Laura really gave my pitch. So, I'm  
14 just going to (inaudible) it so quickly. That's  
15 our mission statement. I also have some handouts  
16 here. But just bottom line, just like ZeroDivide,  
17 which was the Community Technology --

18 MS. EFURD: Foundation.

19 MS. BRANSFORD: Foundation, we started  
20 in 1995 to provide technology resources to schools  
21 and community-based organizations in low-income  
22 communities that were on the dirt road to the

1 Super Highway. But, as we built those centers, we  
2 realized that we needed content, we needed  
3 training, we needed applications that helped solve  
4 community problems because many of the 750 centers  
5 that we have put in over the last 15 years have  
6 actually languished because they either didn't  
7 have the content to continue to engage the  
8 community or they could not find the resources or  
9 the funding to continue to pay for the support of  
10 their centers.

11 And, so, that is one challenge that I  
12 think the FCC has to look at in the next few  
13 years, is how do we continue to build the capacity  
14 in the centers, in neighborhoods that are helping  
15 people today, and then how do you give those  
16 centers mobile technology that they can actually  
17 go out to a home in a neighborhood where maybe 12  
18 to 15 people are gathered for training. So, we  
19 need to move out into the community now where  
20 people are because a lot of people aren't coming  
21 to centers. And, so, that's one thing that we  
22 have learned.

1           This just says that we have reached  
2           about 1 million people. It is basically in  
3           partnership with Department of Justice, who was  
4           our first big partner in Weed and Seed Sites, and,  
5           so, we are actually the technology provider that  
6           builds capacity in those centers.

7           But, as we were looking at content, we  
8           found that young people were very excited about  
9           technology and that we could teach social and  
10          emotional skills. We could build life skills that  
11          are so important for academic achievement, and we  
12          also think that the next breakthrough application  
13          is to build assessment tools that actually look at  
14          those impacts of life experiences and collect data  
15          that we can then use to correct problems as they  
16          occur.

17          I'll just give one example. I just need  
18          to know when I'm running out of time. I'm not  
19          sure how to read the timer. Are you going to tell  
20          me?

21          MR. LLOYD: Okay, you have about two  
22          minutes. You have about two minutes.

1           MS. EFURD: Okay. I'm just going to  
2 tell a quick story that I think really illustrates  
3 the importance of what I'm saying. And it's  
4 really analogist to the electronic health records,  
5 by the way, that we see are really actually a  
6 commitment of this administration with a lot of  
7 funding behind it. This would be an assessment of  
8 every student from the time that student comes to  
9 school, pre-school until high school, looking at  
10 social, emotional skills, leadership, social  
11 development, because those are the skills that are  
12 necessary for academic achievement.

13           The quick story is, this June, we were  
14 visiting our grandson in California. He goes to  
  
15 very fine school, and he's a gifted student, and  
16 he got his report card and he got all As in the  
17 academics, but there was one line there, Tommy  
18 feeds into negative behavior in the classroom.

19           Now, this came in June, his mother had  
20 no idea when it occurred. It could have occurred  
21 February, March. She didn't know what the  
22 negative behavior was. She didn't know even how

1 to discipline him or if she should discipline him.  
2 I said, why don't you e-mail the teacher? The  
3 teacher was on vacation by then. It was later in  
4 June. But one teacher did e-mail her back and  
5 said there was just one person that wanted to put  
6 that on the report card.

7 So, in my mind, that was a teaching  
8 moment. That was a time when teachers or the  
9 educators actually could have looked at what are  
10 the best ways to use this moment to make Tommy a  
11 leader, to make him more positive about education,  
12 to give him, if you will, enthusiasm for moving  
13 ahead. And, so, I would say that if we can build  
14 those data systems, large data warehouses like  
15 Amazon.com has that says this is the way this  
16 student learns and this is the way we need to give  
17 him the opportunities that he needs to move ahead.

18 I think that I'm out of time, so, I'll  
19 take a break here and wait until the questions.  
20 How's that?

21 MR. LLOYD: That's great. Thank you.

22 MS. EFURD: Okay.

1                   MR. LLOYD: Thank you very much. So,  
2 Heather Dawn Thompson, partner in law firm  
3 Sonnenschein Nath & Rosenthal, LLP. We've been  
4 talking an awful lot about the challenges in  
5 Native American Land, but there are some things  
6 that are actually working, I understand. So,  
7 could you sort of give us at least somewhat of a  
8 brighter picture about service to Native American  
9 Land?

10                   MS. THOMPSON: Sure. Thank you so much  
11 for having us here, Mark, and we really appreciate  
12 being included in these panels.

13                   (Speaking in Lakota) My name is  
14                   (speaking in Lakota). My English  
15 name is Heather Dawn Thompson. I  
16 am from the Cheyenne River Sioux  
17 Reservation in South Dakota, and I  
18 am now a partner here in D.C. at  
19 Sonnenschein, and I work with  
20 several tribal governments  
21 regarding their telecommunications  
22 issues. And, so, we're just

1                   delighted to be here and be  
2                   included. Thank you so much.

3                   I know that Mark and Geoff were here  
4           earlier on some of the panels, and, so, they've  
5           gone over some of the challenges in Indian  
6           Country. In many respects, we share many of the  
7           similar issues with other minority communities  
8           with access and a lot of dissimilar concerns from  
9           both a legal and a social and economic  
10          perspective.

11                  With that said, there are, of course,  
12          some very unique things within tribal communities  
13          because we, in addition to being minority groups,  
14          are also governments. And we receive our services  
15          through our tribal governments. There are over  
16          560 governments in the United States, tribal  
17          governments still, and we, unfortunately, continue  
18          to be some of the most impoverished and  
19          least-accessible.

20                  In your history books, you sort of  
21          remember where they put the Indians. Well, we're  
22          sort of still there. And it's sort of hard to get

1       there, and it's hard to get telecommunications  
2       there.

3               I always tell a couple of funny stories.  
4       These are cell phone related, but they have  
5       similar overplay in the broadband area.

6               For a very long time when I would go  
7       home with my cell phone, the cell service  
8       literally stopped as soon as you crossed the  
9       Indian border onto Indian reservation. I'm from  
10       South Dakota. I'd be driving, talking on the  
11       phone, I cross the reservation border, and my cell  
12       service would stop. So, whenever I was home, I'd  
13       have to drive about an hour-and-a-half from my  
14       grandmother's house across the border in the  
15       adjoining, non-Indian community in order to talk  
16       on the phone, send my e-mails, do my text, and  
17       then go back home for the night. And we're sort  
18       of very similar, unfortunately, in the broadband  
19       arena. You can have complete service surrounding  
20       you, and then it just sort of stops at the  
21       reservation borders.

22               And Mark and Geoff went through some of



1 the reasons why that's true earlier as far as data  
2 and access, but, unfortunately, I think one of the  
3 simplest explanations and one of the reasons why  
4 there are some success stories which I'm going to  
5 go into is that a lot of people aren't familiar  
6 with tribal governments. It's uncomfortable for  
7 them, and, so, they just don't deal with it. They  
8 just build around us. And this, unfortunately,  
9 has been true with almost all of America's  
10 infrastructure. The railroads, the electrical  
11 utility lines, the cell towers, everything has  
12 just gone around our communities and left this  
13 hole of infrastructure. And, so, we are hoping,  
14 praying, begging that this doesn't happen with  
15 broadband and that we are included in this  
16 national plan in a very positive and proactive  
17 way.

18 And some of the things that have been  
19 happening already in Indian Country that are very  
20 good examples of how you can do this and how it  
21 can work are threefold. I'm going to talk about  
22 tribal government self-determination, creative

1 financing, and federal inclusion.

2 From a tribal government  
3 self-determination standpoint, as in many of our  
4 communities, what's happening now isn't working,  
5 all right, and they're not reaching out to us,  
6 they're not building out into our communities,  
7 and, in fact, a lot of these broadband companies  
8 are saying that they're serving our communities in  
9 order to get grants, in order to have special  
10 status, and they're actually not serving our  
11 communities.

12 And, so, what you've had is by default,  
13 many of the tribal governments have created their  
14 own telecommunication companies. Unfortunately,  
15 it's not that many. Out of 560 tribes, we only  
16 have about 8 or 9, but where these tribes have  
17 created their own tribal communications has been  
18 extraordinarily successful. We have seen an  
19 average 85 percent increase in service gains.

20 One example is the Mescalero Apache.  
21 They went from about a 60 percent penetration rate  
22 for phone service to about 99 percent. And, so,

1 we've seen this be very successful in the  
2 wireline, in wireless service areas, and we're  
3 hoping to see this also within the broadband  
4 arena.

5 Tribal governments have incentive to  
6 serve their community and make sure that their  
7 people have access, and, so, where it might not be  
8 economically feasible or a really great business  
9 model for the private sector, that government's  
10 going to make sure that their community has  
11 access.

12 And, so, that has been one of the  
13 strongest models to ensure penetration in the  
14 telecommunications arena for tribal governments,  
15 is make sure that the governments themselves, that  
16 whatever rules we have in place, whatever grants  
17 we have in place, that the tribal governments  
18 themselves are empowered to create those  
19 telecommunication companies and provide those  
20 services themselves. That has been, by far, one  
21 of the most successful models thus far in Indian  
22 Country. And we are advocating to grow that model

1 across the board, including spectrum and  
2 frequencies and licensing, rights of way issues.

3 Across the whole board, the goal is  
4 tribal self-determination. The government knows  
5 what's best for its people and how to deliver it  
6 to its people, and it's going to make sure that  
7 those services are provided in a good way.

8 The second part of that is creative  
9 financing. Many of our communities are  
10 underserved because it's not necessarily a strong  
11 business economic model for a lot of the private  
12 companies out there, and this is sort of true for  
13 the governments, too, but the governments have  
14 public incentives. And, so, they have been very  
15 creative about the financing that they put  
16 together in order to provide these services from  
17 going to foundations to using the Lifeline and the  
18 Link-Up has been really instrumental, and we hope  
19 to see that expand into broadband. Quite frankly,  
20 no business model works in Indian Country without  
21 that subsidy. It just wouldn't happen.

22 They've done 911. One of the tribes in

1 South Dakota, the Ogala Sioux, has started their  
2 own 911. As far as I know, I think that's the  
3 only reservation in the United States that has 911  
4 service. But that 911 service and the charge for  
5 that has helped subsidize the entire  
6 telecommunications system there on the Indian  
7 reservation.

8 They have gone and asked for a waiver of  
9 matching funds. They have asked for grants  
10 instead of loans through the RUS System. So,  
11 these are the only, by cobbling together sort of  
12 this creative financing structure, have we been  
13 able to provide any telecommunication services.  
14 So, that has sort of been the second really  
15 successful example of how you can do this in  
16 Indian Country, but it does take creativity, it  
17 does take flexibility, which the Federal  
18 Government, unfortunately, isn't always well-known  
19 for. But we continue to advocate to be very  
20 flexible in the financing aspects.

21 I have 13 seconds. Is that right?  
22 Okay. The third and final area of where we've

1       seen success in increased federal consultation  
2       like today. We very much appreciate being  
3       included on this panel.

4               In many subject matters, you can imagine  
5       within the Federal Government, tribal governmental  
6       voice is almost non-existent, and, so, when that  
7       happens, the policies, the procedures, the  
8       economic stimulus funds, all these decisions are  
9       made in a vacuum about what works best for Indian  
10      Country, and it ends up usually being decisions  
11      that are not appropriate for Indian Country  
12      because our governments are different, the legal  
13      structure is completely different, the  
14      constitutional relationship is completely  
15      different. It's not impossible, but it is  
16      different.

17             And, so, we continue to encourage  
18      consultation and committee. The FCC has started  
19      to become a leader in this area, and, for that,  
20      we're very grateful, and we are starting to see  
21      that trickle down to Commerce and Agriculture for  
22      the other aspects of communication, but we really

1 sort of do turn to the FCC to ask you to be our  
2 advocates with the other agencies that are still  
3 learning the differences both from a legal and a  
4 practice standpoint in Indian Country.

5 Okay, I'm done. I'm over. Sorry.

6 (Laughter)

7 MR. LLOYD: Thank you very much. Very,  
8 very useful.

9 One of the conversations that we've had  
10 off and on throughout the day, and I think almost  
11 throughout all of the workshops related to  
12 broadband and the FCC's broadband plan, it has to  
13 do with money and resources and the investment  
14 community, and, so, we really are privileged to  
15 have you, Jonathan Glass, to come here and join us  
16 and to provide us some perspective about best  
17 practices and what do you see from your firm and  
18 what we ought to be looking at.

19 MR. GLASS: Sure.

20 MR. LLOYD: So, thank you for joining us  
21 here today.

22 MR. GLASS: Thank you, Mark, for

1       inviting me to participate and inviting our firm  
2       to participate in this important panel.

3               My name is Jonathan Glass, and I'm  
4       principal with Council Tree Investors, and we're  
5       an investment fund devoted to increasing ownership  
6       in telecommunications media and other industries  
7       by minorities and women. While, at the same time,  
8       delivering returns to our investors.

9               Over the last two decades, our  
10       investment projects have included work with  
11       Latino, Native American, and African-American  
12       entrepreneurs. Business people with drive,  
13       creativity, intelligence, and, unfortunately, too  
14       often, a lack of access to capital.

15              And, as an example, we provided critical  
16       capital at the development stage of Telemundo, a  
17       Spanish language programmer, which, today, is  
18       owned by NBC, and then on a very local level,  
19       Garden State Communications, owner of WWSI TV in  
20       Philadelphia, we got it to be the first  
21       African-American-owned, full power TV station in  
22       Philadelphia, which provides Spanish language



1 programming.

2 Our philosophy is very simple, that  
3 diversity is good business. In our experience  
4 where there are untapped markets due to  
5 historically un-served populations, there's an  
6 opportunity to create new businesses devoted to  
7 those populations, and, out of that, new wealth  
8 and capital formation.

9 This taskforce must ask itself how can  
10 you spur investment in poor communities? How can  
11 the private sector help to address the  
12 disproportionately high number of broadband  
13 un-served and underserved people in particularly  
14 poor minority communities?

15 There actually is a simple answer if  
16 implemented, and that would have a major impact,  
17 and that is increase the level of ownership  
18 diversity of broadband service providers.

19 When the key assets for providing  
20 broadband services are owned by a diverse group,  
21 then those owners will tend to develop services  
22 tailored for the un-served and underserved poor

1 and minority communities. We at Council Tree can  
2 tell you this from experience. We've helped to  
3 build such businesses.

4           Diversifying ownership and attracting  
5 capital does not occur in a vacuum. It requires  
6 effective public policy. In Council Tree's  
7 experience, the most successful policy tool ever  
8 implemented to diversify ownership, attract  
9 capital, and spur investment in poor communities  
10 was the FCC's Designated Entity Program prior to  
11 the rule changes made in 2006. Essentially, the  
12 Designated Entity Program allowed today's small  
13 businesses and very small businesses prior to  
14 Adarand, specifically in minority and women-owned  
15 businesses, the ability to acquire spectrum and  
16 FCC auctions, either spectrum set aside or closed,  
17 only available to those designated entities, or  
18 with significant bid discounts.

19           We experienced firsthand how this policy  
20 created greater diversity of backgrounds of the  
21 owners of these licenses, and, in turn, innovation  
22 and better service to the un-served and

1 underserved markets.

2 For example, both Leap Wireless and  
3 Metro PCS began as DE licensees, and evolved into  
4 the Cricket brand, which I see all over  
5 Washington, D.C., which is very exciting, and  
6 Metro PCS brands, which disproportionately serve  
7 urban and minority communities.

8 In the broadband, to diversifying  
9 ownership of the next generation of wireless  
10 broadband licenses through a reinvigorated DE  
11 Program will help the FCC achieve the goal of  
12 increasing broadband service and uptake among  
13 un-served and underserved populations.

14 As this taskforce knows, wireless  
15 broadband is one of the key areas of future  
16 delivery of broadband. Wireless is really the way  
17 to get things out there, specifically where fiber  
18 isn't accessible and copper is not accessible.

19 So, specifically, the Designated Entity  
20 Program has the potential to once again be a key  
21 policy tool for achieving the FCC's broadband  
22 diversity goals. The FCC, however, must restore

1 the rules to their pre-2006 status in order to  
2 make the program work best.

3 I'll give a little background on this.  
4 In 2006, on the eve of the \$14 billion Advanced  
5 and Wireless Services Auction, the largest  
6 spectrum auction at that time, then Chairman  
7 Martin changed the DE rules by increasing the  
8 regulatory burdens on DE licenses. The Commission  
9 doubled the amount of time a DE licensee must hold  
10 this license, and severely restricted the DE's  
11 ability to wholesale capacity of third parties.  
12 It previously did away with closed auctions among  
13 DE-only bidders, and instead had DE bidders  
14 competing with some of the largest corporations in  
15 the world for licenses. In other words, the DE  
16 licenses became more encumbered than their non-DE  
17 counterparts, and DE bidders were given less  
18 opportunity to secure spectrum.

19 What was the result? I know that  
20 Chairman Janikowski is very data-driven in his  
21 decision-making and wants the Commission to go  
22 that way. The data is pretty simple. Before

1 2006, just over 50 percent of the dollar value of  
2 licenses were awarded to designated entities,  
3 pretty significant. After those rule changes, the  
4 numbers plummeted to less than 3 percent in both  
5 the 2006 AWS Auction and the more recent 700  
6 megahertz auction. And even more serious  
7 specifically to this panel, women-owned businesses  
8 won no licenses, and minority-owned companies won  
9 only 7 of 1,090 licenses. So, pretty significant  
10 decline, and that was just making those two  
11 changes.

12 So, and as I'm saying, I'm speaking as a  
13 private investor, saying that if these rules  
14 change, we'll get the flow of capital back into  
15 designated entities, and this will lead to more  
16 service, better service for the poorer communities  
17 and the minority communities.

18 To be fair, the Designated Entity  
19 Program, some people have voiced concern that it's  
20 vulnerable to abuse and it's constitutionally  
21 infirmed. Both of those arguments are without  
22 merit. Have there been abuses of DE rules in the

1 past? Yes, but, as a percentage of total DE  
2 licenses, such abuses were very few. Other FCC  
3 rules have been abused, but that doesn't mean we  
4 threw out those rules. That is why we have the  
5 FCC Enforcement Bureau and the courts. People who  
6 violate rules should be punished, but let's not  
7 punish underserved communities by throwing out the  
8 enabling DE rules altogether.

9 In terms of Adarand, I won't go too into  
10 it, because I see I'm almost running out of time  
11 or I have run out of time. But there was a D.C.  
12 Circuit Court that basically said in a ruling that  
13 the rules still stand for the Designated Entity  
14 Program. And, let's see. In fact, the Diversity  
15 Advisory Committee adopted a resolution to restore  
16 the DE Program to it's pre-2006 status just  
17 recently. And we think that it will have an  
18 incredible impact in the broadband context in  
19 terms of building new networks, new wireless  
20 networks.

21 Just a quick thing on Indian Country, we  
22 also see a significant opportunity there from an

1 investment standpoint. In terms of broadband,  
2 there definitely is a divide there, and we, today,  
3 are involved in a venture that has applied for a  
4 stimulus grant to provide satellite, middle mile  
5 service to Alaska and Hawaii, areas that have a  
6 very large Native populations and very un-served  
7 areas.

8 So, it's programs like those, it's focus  
9 grants, universal service funding for broadband in  
10 Indian Country, and a restored DE Program will go  
11 a long way to bridge the digital divide.

12 Thank you very much for having me, and  
13 we really are excited about this area, and think  
14 there is a great investment opportunity here, and  
15 we want to play a part of that.

16 MR. LLOYD: Great. Thank you, Jonathan.  
17 Really appreciate it.

18 Antoinette Cook Bush, not only are you a  
19 partner at Skadden Arps, you're in charge of the  
20 Communications Group there. You also chair the  
21 Diversity Advisory Committee at the FCC looking at  
22 broadband, and you've come up with a variety of

1 different recommendations from that committee  
2 about what the FCC should do, and you've really  
3 sort of helped lead this particular panel in  
4 pulling it together. So, I want to end at least  
5 the presentations with you, but please feel free  
6 to sort of figure out where you want to make sure  
7 the other panelists sort of pick things up.

8 MS. BUSH: Well, I want to thank you,  
9 Mark, for your leadership and taking this issue  
10 on, and to congratulate you on your new position  
11 at the FCC. It's really exciting to have a chief  
12 diversity officer at the Commission, and you're  
13 off to a great start.

14 And I also want to thank the Commission  
15 for holding these workshops. I mean, I know that  
16 for the Commission and all the staff that have  
17 been working on it, it's a huge responsibility. I  
18 mean, they've had, I don't know, Blair went  
19 through it the other day, but they've had hundreds  
20 of people come to the Commission from all  
21 different walks of life to talk about the  
22 broadband plan, and I really think -- and those



1 workshops are available via the Internet, on the  
2 FCC's Web Site, and it's really been a tremendous  
3 effort to reach out to the community, one that  
4 we've never seen before. So, thank you very much.

5 Mark did mention that I chair the  
6 Subcommittee on Broadband and Telecom for the  
7 FCC's Diversity Advisory Committee, and we did  
8 just last week have a meeting of our committee,  
9 and we did make recommendations to the Commission,  
10 and this panel is directly a follow-up on our  
11 recommendations. And I'll also note that some of  
12 my committee members are here, and I appreciate  
13 that and all of their hard work in putting this  
14 together.

15 We came up with a number of  
16 recommendations focused on enabling un-served and  
17 underserved populations and minority populations  
18 to have the ability to acquire and make effective  
19 use of broadband service. We had essentially four  
20 proposals. One was that the government should  
21 modify its existing Universal Service Fund,  
22 Lifeline, and Link-Up Programs, which are designed

1 to provide service for basic telephone service in  
2 underserved and low-income communities to expand  
3 it so that consumers in those communities would be  
4 able to use it acquire broadband service.

5 We also recommended that the government  
6 should look at similar programs that are in place  
7 for tribal communities and look at expanding the  
8 programs there.

9 We suggested that the government review  
10 the E-Rate Program, which provides affordable  
11 access to telecommunication services for schools  
12 and libraries with the idea of making sure that  
13 those entities, the ones that we have left, are  
14 able to provide broadband service.

15 For those of you who don't live in  
16 Washington, there's been a lot talk here about  
17 closing libraries, so, it's a sensitive subject.

18 The third proposal was that the  
19 government should consider incentives for adoption  
20 of Next Generation High-Speed Services at  
21 affordable prices.

22 And then our fourth recommendation,

1 which is directly related to this panel, is the  
2 government should partner with national and local  
3 organizations, such as some of those represented  
4 here, in communities and institutions to build  
5 awareness and foster demand. For example, these  
6 institutions could develop programs to assist  
7 people in leveraging their current technology  
8 devices, such as cell phones or PDAs, into  
9 broadband adoption and relevant applications.

10 And we also listed a number of  
11 organizations, some of which are here today, as  
12 examples of organizations that the government  
13 should work with. I think our thinking was and is  
14 that there are a lot of terrific programs in place  
15 around the country.

16 Congress has allocated significant  
17 funding to a variety of institutions, including  
18 NTIA and the Department of Agriculture or the  
19 Rural Utilities Service, and they're going to be  
20 giving out grants, and it's our hope that some of  
21 those grants will go to entities who have programs  
22 in communities that are working to enable them to

1 expand the reach of those programs rather than  
2 simply reinventing the wheel every time we just --  
3 starting new programs, but look at what's already  
4 going on.

5 And the report, I'll put it in the  
6 record of the proceeding, our recommendation, and  
7 we also made a separate recommendation, which has  
8 already been discussed on the Designated Entity  
9 Program.

10 I did want, and, unfortunately, they  
11 weren't able to be here, either a representative  
12 from LULAC or La Raza because I did want to  
13 mention, for example, that LULAC, which is an  
14 organization focused on the Latino community,  
15 operates 57 community technology centers focused  
16 on the Hispanic community, and, so, that would be  
17 another example of a program that the government  
18 and the FCC could look to as they go forward.

19 And then I wanted to also mention the  
20 day we had our last diversity committee meeting,  
21 the Joint Center for Political Studies issued a  
22 report, and our committee is going to be taking a

1 look at their report, but there has been some  
2 discussion about cell phones here, and when we  
3 look at sort of the vast disparities, and they're  
4 very dramatic when you look at minority  
5 communities, the one place where they're not  
6 dramatic is in cell phone use. And according to  
7 the Joint Center report, in the United States  
8 today, 84 percent of white Americans have cell  
9 phones, 83 percent of African-Americans, and 89  
10 percent of Hispanic. And, so, that's the one  
11 common area where -- actually, Hispanics exceed  
12 everybody else, but, in addition, it's the one  
13 area where everybody has access to the technology.

14 And I think that that's something that  
15 we would hope the FCC would look at as we talk  
16 about wireless deployment, the fact that cell  
17 phones have really penetrated across the country  
18 all demographics. There was discussion about the  
19 fact that we have prepaid services, Cricket,  
20 Virgin Mobile, others that offer low-cost  
21 alternatives that, given the penetration, we  
22 really ought to look at how can we use cell phones

1 to help advance broadband as we move forward.

2 And then the other area that I'd like to  
3 mention now that I'm completely out of time, and  
4 I'll just say it, but also looking at other kinds  
5 of things that advanced deployment. We talked  
6 about content.

7 What are content providers in this  
8 country doing? Black Entertainment Television, TV  
9 One, Telemundo. I mean, we've got a broad range  
10 of content providers, Univision targeting the  
11 minority communities. What kinds of ideas do they  
12 have about what we can do to help in this arena?

13 And then we also have other kinds of  
14 organizations. Is there a way that radio should  
15 be a part of this? Radios are now accessible on  
16 iPods. I think we really need to take a very  
17 broad look at what's out there and how we can use  
18 what's out there to help these communities.

19 Thank you.

20 MR. LLOYD: Great. Thanks, Toni. And,  
21 yes, time, it just sort of clicks away, doesn't  
22 it, once you start going.

1 MS. COOK: Yes.

2 MR. LLOYD: Patricia, where would you  
3 place education in terms of its value as an  
4 application to promote adoption by communities  
5 that seem to not be adopting advanced  
6 telecommunication services? And should we be  
7 looking at the problem of adoption in terms of how  
8 much does this promote solving the problem of  
9 education in this country?

10 MS. BRANSFORD: Well, education has had  
11 a major role in increasing access and adoption of  
12 broadband over the last 15 years. It's been the  
13 education that has been done by all of the  
14 non-profits that have been at the table.

15 Now, what we've also found that  
16 education and broadband work hand-in-hand in the  
17 sense that the more an individual uses broadband,  
18 the more educational opportunity they have. So,  
19 it's almost a multiplier effect in a way.

20 We are focusing on that 30 percent  
21 because that is what also causes the dropout rate  
22 in this country. We talked about the holistic

1 look at the gap, and we think that broadband  
2 technology, again, in the next chapter, can play a  
3 major role in a very strategic way looking at  
4 education and how it is provided in our schools,  
5 and why our kids are dropping out. I think that  
6 they're not engaged, the content is not relevant  
7 culturally.

8 We have developed the Youth Leadership  
9 Academy, which is now Web-based. We have  
10 demonstrated effectiveness in many different  
11 schools. Interestingly enough, sustainability is  
12 our big challenge in the sense that if we get a  
13 two-year grant to fund a project and we show  
14 results like kids (inaudible) or better and  
15 they're socially adept and they know technology  
16 and they're becoming leaders in the community XXX  
17 BEGIN TRACK MZ000225 XXX as soon as that funding  
18 ends, the school has to drop the project, and, so,  
19 it's really the sustainability of funding and  
20 being able to see things long-term and not in the  
21 small funding bites that we have today.

22 MR. LLOYD: So, Laura, I saw you nodding



1 your head. Is sustainability the problem, whether  
2 it's education or health care, whatever the  
3 community use is, and what's the --

4 MS. EFURD: Yes, sustainability is a key  
5 issue, but I just wanted to add a quick anecdote  
6 on the education issue.

7 We are putting in a wireless system in  
8 Evergreen public housing in Sacramento, and they  
9 have quite a few Hmong families. These are  
10 immigrants from Laos and Vietnam, and they would  
11 not let their children attend the technology  
12 training classes. And, so, the staff had to go  
13 and just really explain to them. They just didn't  
14 understand what it was about, what the value was,  
15 and once they said this is going to help your  
16 children's education, then they were all for it.  
17 Once they made that connection to education, it  
18 was a huge driver for allowing their children to  
19 participate in training.

20 But sustainability really is a key  
21 issue, and it was really interesting to hear  
22 Commissioner McDowell talk about capital markets

1 for entrepreneurs in broadband technologies, and I  
2 think what's even more difficult in the non-profit  
3 sector who are the key organizations that are  
4 trying to provide that additional assistance to  
5 get people connected to broadband, that capital  
6 markets there are even more broken.

7 All right, so, just as Patricia was  
8 explaining, it's based grant to grant to grant.  
9 There's no sustainable funding where someone can  
10 say I can take this community over 10 years and  
11 bring them into the broadband age because they  
12 don't know year to year whether they're going to  
13 get funding.

14 And that's what we experienced. We have  
15 \$50 million 10 years ago to bridge the digital  
16 divide in California. There was no way we could  
17 do it with that amount of money. And started  
18 looking at well, how could we actually really  
19 begin to look at the markets in these underserved  
20 communities, build technology applications that  
21 they wanted to use, and be able to basically put  
22 those out in the marketplace so they can sustain

1 their programs.

2 And I think those are some of the key  
3 things, and my sort of call to the Commission  
4 would be to see what the White House Office of  
5 Social Innovation is thinking around a  
6 sustainability in general, and connect that to  
7 what's happening in the broadband plan, as well,  
8 to be able to seed some really innovative ideas to  
9 promote that in underserved communities.

10 MR. LLOYD: So, Toni, did you want to  
11 jump in there?

12 MS. BUSH: Well, it wasn't on an  
13 education point.

14 MR. LLOYD: Oh, no, but go ahead.

15 MS. BUSH: But I think it goes to the  
16 importance of having people educated and  
17 comfortable using technology, which was one of the  
18 previous panels -- and I can't remember who, I  
19 just know I didn't say it, but I heard it. One of  
20 the previous panels or workshops, somebody  
21 mentioned the fact that, amongst the large  
22 companies in America, it was a very significant

1 number, it was like 50 or 60 percent of them no  
2 longer advertise in the paper. That all of their  
3 job advertisements are done online. So, if you  
4 don't have access to the Internet, you can't even  
5 get a job.

6 And it's the same thing with cell  
7 phones. If you don't have a phone, I mean, there  
8 are a lot of issues that we don't think about, but  
9 how dependent we are on technology now, and for  
10 communities where there's high levels of  
11 unemployment, if you also have no access to the  
12 Internet, you won't even be able to find 70  
13 percent of the jobs that are out there.

14 MR. LLOYD: Jonathan, one of the  
15 questions that keeps, I think, coming up  
16 particularly with regard to traditionally  
17 underserved communities, whether it's the disabled  
18 community or minority communities or communities  
19 in rural areas, is that the market simply doesn't  
20 support funding or investing in those particular  
21 communities, but Council Tree has made, I think, a  
22 business of finding ways to support those

1 particular communities.

2 Can you give some perspective about how  
3 you look at these markets? It may be a little  
4 different in the way other investors --

5 MR. GLASS: Yes. I think it's  
6 interesting. I was just jotting down here, and I  
7 think part of the answer is there really does have  
8 to be a public-private partnership in markets  
9 where it's uneconomic if there aren't enough  
10 returns. So, the government does have to step in,  
11 and we were very gratified to see the Stimulus  
12 Program and the \$7.2 billion between RUS and NTIA  
13 being made available to bring broadband to these  
14 communities. The idea is that it's going to be  
15 hard to serve an area that isn't near a fiber  
16 line. So, you have to bring something to it.

17 Right now for us, we're very focused on  
18 satellite as a way to get out there, but without  
19 the government grant and government involvement,  
20 it just wouldn't work, and then, as I talked about  
21 the DE Program, a significant entry into the  
22 wireless area is the cost of a license. If there

1       isn't a DE Program where there are discounts given  
2       to small and minority-owned businesses, it's going  
3       to be very hard to get into those areas, but, on  
4       the other hand, as I said, it's very important for  
5       the ownership -- if the ownership is a diverse  
6       ownership group, it's also going to look to serve  
7       those markets where if it's not diverse, they're  
8       not going to serve those markets.

9                So, I think government has a very  
10       important role to play here, and we've looked at  
11       ways where you can leverage government capital  
12       with private capital to get returns for us as an  
13       investor, but, also, achieve the social goals that  
14       are very important that we need to see done.

15               MR. LLOYD: So, do programs like  
16       Lifeline and Link-Up support a sustained economic  
17       model, and is it sustainable enough for an  
18       investment firm to be interested?

19               MR. GLASS: Yes, I think so. One  
20       company that we looked at awhile back was a  
21       provider of wireless service to Native population  
22       in Arizona, and it was dependent on Lifeline

1 because, just given the density and the population  
2 in that area, it was impossible to get a return.

3 So, I think government, again, Lifelife  
4 is very important, and I think, Heather, you had  
5 said that we have to see Lifelife for broadband,  
6 as well, because, as Toni had said, wireless has  
7 really been evened out in terms of penetration and  
8 I think that, likewise, we have to see broadband  
9 somehow do that and part of it is the success of  
10 the DE Program and creating some companies that  
11 have really served this market and also made the  
12 product more affordable. Affordability is another  
13 key aspect of this, and how do we make this an  
14 affordable product for everybody?

15 MR. LLOYD: Great. So, we've got a  
16 couple of questions from folks in the audience.  
17 This is actually for Patrician Bransford. How  
18 would the digital campus work? I think you  
19 mentioned a digital campus. And how do you  
20 envision extending the educational resources to  
21 the home? Lack of in-home computers, Internet  
22 connections is obviously a challenge.

1 MS. BRANSFORD: Let's start with the  
2 digital campus. We think that one of the  
3 challenges in low-income, minority communities is  
4 being able to navigate the Internet. Children's  
5 Partnership said that, other organizations have  
6 said it, as well. And we believe that the  
7 solution to that is bringing the resources  
8 together in one portal, that homes can access. We  
9 need to make it user-friendly, and that that then  
10 would be, if you will, the ecosystem for our  
11 curriculum for education. That teachers can go  
12 there and produce their digital curriculum on the  
13 spot, that they can get resources in libraries and  
14 museums all over.

15 To me, it's like AOL was years ago. And  
16 then as the market matured, we didn't need AOL,  
17 but I think now low-income communities need a  
18 digital campus for education.

19 The other question had to do with home.

20 MR. LLOYD: Right.

21 MS. BRANSFORD: And that's a very  
22 important piece of it. In fact, we take computers



1 that corporations give us. Pfizer, for example,  
2 has given us up to 600, year-old computers when  
3 they laid off 1,800 people in New York, and we  
4 actually will deploy them in the home of students  
5 that are in our programs in the high schools.

6 One program I should mention is Get  
7 Healthy, Get Smart, which is in 40 schools. We  
8 reach 10,000 students. Parents are involved. We  
9 will give them computers for their homes so that  
10 they also can get access to the health education  
11 that we are integrating into the classroom.

12 This is being funded right now by Elton  
13 John Foundation, that is very interested in  
14 reducing the incidents of sexually-transmitted  
15 diseases. For our minority girls 13 and over,  
16 it's 48 percent at this point. That's a huge  
17 number, and it's really caused by not having  
18 education. And, so, this will be a way to get  
19 families involved to support what we're doing in  
20 the classroom. It's an absolute critical part of  
21 closing the divide.

22 MR. LLOYD: This is to Mr. Glass. When

1 wireless is taken as a key to broadband adoption,  
2 are you speaking about air cards used with laptops  
3 or do you believe cell phones or Smart Phones  
4 serve as a comparable conduit for broadband?

5 MR. GLASS: I guess I think Smart Phones  
6 and air cards and however you can access it, so  
7 long as you can get the content that you need. I  
8 think that's fine. I mean, I would hate to see  
9 kind of low-level cell phone Internet access as  
10 being the only way to access the Internet for  
11 poorer communities because my BlackBerry is not  
12 that good. I can only imagine that a regular cell  
13 phone is ever worse. So, I would want to see more  
14 of it, but I think we need levels of entry, and if  
15 that's the first entry point, that's great, but  
16 I'd like to see more --

17 MS. BRANSFORD: Robust.

18 MR. GLASS: Robust, robust access as  
19 part of it.

20 MS. BRANSFORD: Yes.

21 MR. LLOYD: So, and, Laura, you are  
22 funding folks to do work in providing broadband

1 services in some underserved communities.

2 What do you find as the most sort of  
3 frequent request for funds that you get, and what  
4 are people asking for and how do you decide what  
5 makes the most sense to fund?

6 MS. EFURD: Yes, so, I would say that  
7 the most request we get really is to support  
8 public institutions or non-profit organizations  
9 that are then helping these communities connect to  
10 broadband. We get a lot of applications for  
11 training, people on multimedia technology because,  
12 as I was saying earlier, really, in the last  
13 several years, the desire to connect to broadband  
14 has been a lot about being a content creator  
15 themselves. So, it's not just about sort of being  
16 a viewer of online content, but actually a  
17 participant and a contributor. So, I think that's  
18 been key. We really look at what's relevant for  
19 the community that they're trying to serve.

20 A project we looked at recently I  
21 thought was very fascinating in that they were  
22 looking at putting computers and laptops into

1 primarily churches. The previous panel won't like  
2 this, but in churches in remote areas of Hawaii  
3 that served predominantly Native Hawaiian seniors,  
4 and that this Hawaiian language content including  
5 the Bible and other kinds of things that they had  
6 translated into Hawaiian that were all online.  
7 For them to be able to access that content, and  
8 for a Native Hawaiian senior who wants to see more  
9 Native Hawaiian content, I mean, that was a huge  
10 driver for them.

11 So, I think we look at what is the  
12 relevancy? It may not seem the most logical, and  
13 I think that's a problem when looking at this from  
14 the federal level. There's a great desire to  
15 scale programs, and I think there are a lot of  
16 great programs that can be scaled, but there are a  
17 lot of programs that have to be really targeted to  
18 the community that it's going to serve and be  
19 relevant to that community, and that doesn't  
20 always lend itself to scale in a large way, but to  
21 serve that niche in that community. So, I think  
22 that's probably the largest factor that we

1 consider.

2 Just one point on cell phones as an  
3 entry-level point. We have a project that we're  
4 investing in called EDTEXT. So, it's all about  
5 texting so that teachers can text to parents  
6 because that's the kind of technology that they  
7 have, and I think even at that point, as the  
8 parents are getting used to communicating with the  
9 teachers via text, it just gets them in that mode  
10 of oh, this is important, I need to do this, and  
11 then the next level would be can we help them get  
12 a computer at home so they can actually connect  
13 via e-mail and other things like that.

14 So, I do think there is something about  
15 that entry point, I think a lot more demonstration  
16 programs need to be funded in that particular  
17 area.

18 MR. LLOYD: And, Heather, there's a  
19 question about the range of Native American  
20 adoption of both telephone and broadband service  
21 in that there's such a variety among Native  
22 American both tribes and whether they're in urban

1 and rural areas. We have some very wealthy Native  
2 American tribes and we have some very poor Native  
3 American tribes.

4 When you look at what's working in the  
5 Native American community, is there a connection,  
6 is there a correlation between what's working is  
7 working for a tribe that has money and it's not  
8 working for a tribe that doesn't have money?

9 MS. EFURD: That's a great question. I  
10 think like any community, if you have money, it's  
11 easier. There is a misperception though that a  
12 large percentage of our communities do have money,  
13 and out of the 564 tribes, there are probably only  
14 about 40 or so that are the ones that you see on  
15 the TV that have really large incomes due to their  
16 economic endeavors. We're hoping the other ones  
17 are the on the way.

18 With that said, a lot of our impediments  
19 in addition to the income levels, which applies  
20 across the board, are the physical remoteness that  
21 we've been talking about. Even if you start to  
22 make a little bit more money, you sort of come up

1 in those ranks.

2 We're still so isolated in Alaska, in  
3 the Great Plains, that we continue to have these  
4 barriers to build out from the private companies.  
5 So, those continue to still be there, and until  
6 the governments and the Native- owned companies  
7 are empowered to sort of do it themselves, we're  
8 probably going to continue to see that.

9 We also have similar cultural barriers  
10 as far as adoption. Not all of our community  
11 speaks English, and until some of the content  
12 that's available is going to be more particular to  
13 those communities, it's going to continue to not  
14 be valued as a high priority. A lot of people in  
15 our communities don't see the value to them. They  
16 are both physically isolated and also, quite  
17 frankly, emotionally and sort of socially isolated  
18 from the rest of the United States, as well. So,  
19 unless it's in their language and perhaps it's  
20 teaching them something that's relevant to their  
21 community or to their kids, it's not going to  
22 register with everybody immediately as being a

1 high priority for them. Especially when it's  
2 expensive.

3 MR. LLOYD: Wow, very interesting. We  
4 have a question here. There's a comment about  
5 broadband and national competitiveness. The U.S.  
6 is behind other countries in broadband adoption.  
7 Looking at the examples of what works here, is  
8 there anything that you see that might help the  
9 U.S. sort of catch up with Iceland, or do you  
10 know?

11 MS. BRANSFORD: Yes, that was a chart  
12 that I have in the handout.

13 MR. LLOYD: Yes.

14 MS. BRANSFORD: And, in fact, it shows  
15 the United States ranked 18 among developed  
16 nations, and that's down from 15 two years ago.  
17 So, we're sinking, and this is, I would call it, a  
18 national crisis. And it really actually comes  
19 from, again, not looking at that classroom as a  
20 place to integrate technology.

21 What other countries are doing  
22 differently, first of all, they are motivating



1 teachers to see the benefit of technology. This  
2 is a national mandate, by the way. It's not  
3 necessarily market forces working here. Using  
4 technology aggressively for teaching and learning.  
5 Invest in equipment for schools and in training  
6 teachers to use the technology, and I would add  
7 here to put in homes to support what's going on in  
8 the classroom.

9 And, finally, the other countries are  
10 providing all schools and students with the same  
11 opportunities, and, so, you don't have that  
12 diversity based on income. We have very poor  
13 schools in the United States that are producing  
14 dropouts.

15 I have heard that a child that comes in,  
16 it could be a gifted student who comes into one of  
17 those warehouses or factories, dropout factories,  
18 drops out, and, so, we need to go and seriously  
19 look at those schools that need to be integrated  
20 with the tools that we know will work because  
21 other countries are doing it, it works in those  
22 countries, and we're sinking, and it's a crisis.

1           MR. LLOYD: We have a question here for  
2 Toni. Universal Service Funding money has been  
3 deployed since the 1996 Telecommunications Act to  
4 schools and libraries in the billions.

5           Would it be helpful to ascertain the  
6 current status of Internet connectivity to those  
7 awardees so that the government knows what schools  
8 and libraries need additional funds or where  
9 broadband can be deployed quickly and efficiently.

10          MS. BUSH: Makes sense to me. I have to  
11 admit, it's not my area of expertise, but, you  
12 know, my assumption is that actually as part of  
13 the broadband mapping plan, that that is one of  
14 the things that's going to be done because it's  
15 going to be looking at, you know, how broadband is  
16 being deployed.

17          And I also know that the FCC conducts  
18 audits of the programs, the E-rate program, and  
19 has been doing that. And so I think that, yes,  
20 that's very important, and also at, you know, some  
21 level, looking at sort of qualitatively, you know,  
22 what works and what doesn't work, not just who,

1     you know, has been connected and who hasn't, but  
2     are there ways of doing that or places that have  
3     proved more effective or less effective that I  
4     think we should be looking at.

5             MS. EFURD: Mark, I would actually - I  
6     totally agree with Tony. I would add to that  
7     also, what would be really helpful is to get a  
8     picture of also what the connectivity is among  
9     other non-profit institutions and community anchor  
10    institutions, whether they're community health  
11    clinics or, you know, local economic development  
12    organizations, you know, small social service  
13    agencies serving immigrant populations, because  
14    that's where a lot of people connect to first and  
15    that's where they're going to learn about how they  
16    can utilize the technology and bring it into their  
17    home and use it, but a lot of those institutions  
18    themselves are barely connected, you know, they're  
19    all running everything off of one DSL line, and  
20    they, you know, they can't do all the work they  
21    need to, so I think that would be another  
22    important aspect to look at.

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1           Because there's sort of this, you know,  
2           this layer of infrastructure in our country that's  
3           sort of disconnected, and we don't have a good  
4           picture of what they're doing, but they're  
5           providing so much to these communities.

6           MR. LLOYD:   So --

7           MS. BUSH:   I was just going to say, I  
8           would say one other thing that I think we ought to  
9           be looking at, is that when we look at, you know,  
10          the fact that, you know, applications and content  
11          is often a driver, you know, what kinds of content  
12          are lurking and what lurks in different  
13          communities, you know, with first seniors.

14          I mean, you know, my mother is like an  
15          avid bridge player on the internet, she may never  
16          respond to your email, but she's got that bridge  
17          down. And so I think that, you know, we do need  
18          to get an assessment of, you know, what are the  
19          actual applications, you know, and I think we can  
20          get, you know, information. There's a lot of  
21          applications that, you know, wireless providers  
22          are using now that ISP's and others are providing

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1 to subscribers, you know, just to get a sort of  
2 feel for them, like how many people are, you know,  
3 spend, you know, how much time playing games,  
4 doing research, you know, so what are, you know,  
5 those people that have it, you know, what are they  
6 looking for in helping us decide what areas we  
7 should be looking at.

8 MR. LLOYD: We had a question that was  
9 for an earlier panel that I put to the side  
10 because it actually seemed like it might actually  
11 be better asked to this panel, and that is, once  
12 you make sure everyone is connected with  
13 broadband, what's next? How you give an incentive  
14 to the underrepresented and underserved American  
15 citizens, not just consume the technology, but  
16 become participants, and how do you teach them to  
17 produce with broadband? So anyone want to --

18 MS. BRANSFORD: I just think we've got  
19 models that we're running right now where we see  
20 students actually taking over. If you give them  
21 the tools, they will use those tools. We had a  
22 graduation ceremony and we had a teacher get up, a

1 six foot man got up and said, you know,  
2 approaching the subject of sexually transmitted  
3 diseases was very difficult for me, but I knew I  
4 had to do it because the education is important.  
5 I put those tools out there to the students, I  
6 gave them the interactive exercises, they took  
7 over, they led the class. And so I will say that  
8 they're more adept really than I think most of our  
9 adult teaching staff, and we're - by the way,  
10 that's all converging, as well. But I don't think  
11 we have to worry about students really beginning  
12 to create, that's my feeling about that. What do  
13 you think?

14 MS. EFURD: I totally agree. I think  
15 the question is a little - it's almost backwards,  
16 because I think it's - once people know what they  
17 can do, they want to participate, they want to be  
18 active in their community and use the internet to  
19 connect with civic engagement activities and  
20 advocacy, they want to do that, or they want to,  
21 you know, put all their pictures up on Flickr or  
22 connect with their relatives via Facebook.

1           So I think that, you know, it really is  
2 opening those doors, both from a perspective of  
3 providing the access making it affordable, but  
4 also having them learn. This is what the  
5 opportunities are. And then I think from there, I  
6 don't think any of us can predict, you know. I  
7 just think there will be some really interesting  
8 innovations that happen in communities that you  
9 didn't think would happen, you know.

10           The great thing about underserved  
11 communities is, they're really used to doing a lot  
12 of very little, and so there's a lot of innovation  
13 going on, and so I think once you sort of give  
14 them that boost, you know, amazing things will  
15 happen.

16           MR. LLOYD: So, Heather, you looked like  
17 you wanted to jump in there, as well.

18           MS. THOMPSON: I just wanted to, you  
19 know, reiterate I think - I agree with what you've  
20 both said on this instance, and people are hungry  
21 to participate in this. And I think, you know,  
22 one of the things within the native community that

1 people are most excited about is to be able to  
2 stay in our nation.

3 I mean look at me, I live in Washington,  
4 D.C., it's very hard, our unemployment is 90  
5 percent where I'm from in Cheyenne River, there  
6 are very limited job opportunities, and so to be  
7 able to have this type of access and start  
8 businesses at home and empower your community, I  
9 mean people are just chomping at the bit to open  
10 up this broadband and get going and to be able to  
11 empower from within.

12 MS. BRANSFORD: I would --

13 MR. LLOYD: Please, go ahead. So,  
14 Jonathan, did you --

15 MR. GLASS: No, I may just - I guess the  
16 point is that, you know, in that case, it really  
17 is about getting the networks to reach those  
18 markets. And there are many things that we're  
19 talking about, but I mean that is I think --  
20 number one, to get the numbers higher is to get  
21 networks built, and number two is to get people to  
22 adopt, which, you know, I commend these



1 organizations for doing that, I mean I think  
2 that's key, and that helps business, too, if  
3 people are adopting, so --

4 MR. LLOYD: Sorry, Patricia, go ahead.

5 MS. BRANSFORD: I was just also going to  
6 put up another plug for a mandate. We've seen No  
7 Child Left Behind really take off. I know New  
8 York just spent tens of millions of dollars  
9 putting together an administrative system to track  
10 schools for No Child Left Behind, but that is the  
11 measurement system, that's an administrative  
12 system. It doesn't really help those 50 percent  
13 kids who are dropping out. And so they have the  
14 same mandate for education, for instructional  
15 technologies. We would see that 30 percent  
16 collapse. And I think we would get very close to  
17 100 percent graduation. I mean I - that's my  
18 dream at least, that, you know, I am really  
19 passionate about that 30 percent, which - the 30  
20 percent that isn't adopting, but the 50 and over  
21 that are dropping out of school, I think if we can  
22 bring those kids in, we will see this gap, you

1 know, now. So I'm for the mandate, I'm for a No  
2 Child Left Behind.

3 MR. LLOYD: In broadband?

4 MS. BRANSFORD: In education.

5 MR. LLOYD: Yes.

6 MS. BRANDFORD: Real - children.

7 MR. LLOYD: So, Tony, I'm going to ask  
8 you if - let's sort of pretend that Blair is  
9 sitting right here and he's saying, all right, so  
10 all this is great, we're hearing all these  
11 wonderful things that are going to happen with  
12 broadband, and folks are going to connect, and  
13 folks are - what is the takeaway for the broadband  
14 team regarding what they should put in that plan  
15 and what they learned from best practices? Is it  
16 that there are best practices out there and the  
17 government should just continue to fund them, is  
18 it - like what's the takeaway for them?

19 MS. BUSH: Well, I think the takeaway is  
20 that - what I, you know, in my dream world I think  
21 that the broadband plan would recommend to  
22 Congress that they identify programs, you know, in

1 communities that are working now, and you know,  
2 and expand those programs, you know, and that  
3 they, you know, say, okay, we've got, you know,  
4 these programs that are, you know, deploying  
5 broadband, that are providing education and  
6 training, you know, in these communities, and  
7 let's expand them and try to replicate them in  
8 other communities since we already have the model  
9 in place to do it, and that, you know, I think  
10 that's where I would, you know, that would be my  
11 recommendation.

12 MR. LLOYD: And it may have been you,  
13 Patricia, but there was someone who mentioned best  
14 practices outside of the United States. And I  
15 know that we've got a recommendation from Congress  
16 to come up with a set of metrics I think regarding  
17 deployment, and to measure that versus what other  
18 countries are doing. Do you have any sense that  
19 we've got a sense of the best practices in other  
20 countries?

21 MS. BRANSFORD: Well, that's not a field  
22 that I have any information about. But I think it

1 is a very good idea to begin looking at what is it  
2 about other nations that they are successful in  
3 graduating students, in increasing the quality of  
4 education and health through education, and  
5 preventative medicine, and we are not able to do  
6 that, because we've got this barrier that stands  
7 between the U.S. and the distribution of  
8 information and education, and that's the lack of  
9 broadband. We're not using it strategically, and  
10 that, for me, is the main thing.

11 I think it's great to look at all of  
12 what the communities are doing in neighborhoods,  
13 you know, but I think a national mandate to  
14 actually look at education, compare it to other  
15 nations and come up with some metrics is really I  
16 think the way to go. And then we'll include  
17 teachers, all teachers, all principals, all  
18 students, they'll all line up and be universal  
19 users of broadband.

20 MR. LLOYD: So the same question.

21 MS. BUSH: Well, I just was going to say  
22 I don't completely agree, because I think that,

1 you know, too much emphasis on what's going on in  
2 other countries can sort of distract us from what  
3 we're doing here. And I think we have to realize  
4 that a lot of the countries that are listed as  
5 ahead of us are very different, they're much more  
6 homogeneous, they're small in population, they've  
7 got more money, you know, there are a lot of other  
8 factors I those countries that, you know, we just  
9 can't duplicate that, and that it's not, you know,  
10 going to be realistic for us I think to spend too  
11 much time on that.

12 I think - and it's not to say that only  
13 focusing on sort of community programs is the  
14 right answer, but I do think what you're saying  
15 about the importance of a broadband mandate, I  
16 think it's important that that is going to be key,  
17 you know, and that we have a realistic plan that's  
18 funded for implementing whatever is decided. I  
19 think that's, you know, going to be the key to it.

20 MR. LLOYD: Yeah, I think that makes an  
21 awful lot of sense. Despite that, I am going to  
22 ask Heather, do you know anything about what

1 Canada does in its treatment of indigenous  
2 populations, and is it different from what we do  
3 here in the U.S., with regard to providing  
4 telecommunication services?

5 MS. THOMPSON: It's a great question and  
6 I don't know the answer to it. We have very  
7 similar legal structures with Canada, as far as  
8 the tribal government and the governments having  
9 jurisdiction over their lands, and therefore, the  
10 federal - the tribal governments having  
11 jurisdiction over their lands, and therefore, the  
12 federal government deployment plan having to take  
13 that jurisdictional situation into consideration.  
14 And, in general, Canada has a better relationship,  
15 I hate to say that, the Canadians are probably  
16 going to be very mad at me, but in general, they  
17 actually do have a somewhat better relationship  
18 with their tribal government, primarily because  
19 they have a built-in constitutional protection  
20 that are a little bit stronger.

21 So I'm not even going to guess as to how  
22 that is applying to the broadband arena, but I

1       imagine there are a lot of similarities and it  
2       would be worth looking at.

3               MR. LLOYD:  Very interesting, okay.  
4       Should a broadband school be created for students  
5       who dropped out, let's see, in low to moderate  
6       incomes?  Considering access now is 600 to 1,500  
7       per year per house; what price would have major  
8       increase in use, broadband school?  No, no takers?

9               MS. EFURD:  I think every school should  
10       be a broadband school.

11              MS. BUSH:  I mean I think that it's  
12       something that, when we're looking at it, we also  
13       have to sort of look at it in the context of, you  
14       know, that community's educational system,  
15       because, you know, the one thing we also know is  
16       that I mean simply having access to broadband by  
17       itself is not going to be enough, and that, you  
18       know, there's parent training involved, there is,  
19       you know, there are - people have to be involved  
20       to help the students deal with the many issues  
21       that they have in their lives that are not just,  
22       you know, lack of money, but, you know, typically

1 they are faced with a lot of challenges, and that  
2 is has to be - it's an important part, but it has  
3 to be part of a more comprehensive program that's  
4 focused on educating kids in low income  
5 communities.

6 MS. EFURD: I would add to that, Tony,  
7 that we don't fund directly schools, but we fund a  
8 lot of after school programs who work with kids  
9 who are particularly - who has - may have been  
10 dropped - dropped out of school at one point. And  
11 what we found is that the broadband applications,  
12 the ability to really do video and be able to  
13 share that with people and to tell their story  
14 really does help them in a number of ways. It's  
15 therapeutic to some extent because they can  
16 actually really explain what their situation - I  
17 mean some of these kids, it's amazing, the  
18 violence that they see every day and they have no  
19 outlet of how to communicate that and what that  
20 means to them and what that means to their  
21 community. So the ability to do that and the  
22 ability for them to share that and have people

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1 actually watch it on YouTube or whatever and get  
2 that validating feedback is huge in terms of their  
3 motivation to move on.

4 So I think, you know, these  
5 opportunities that these new technologies have for  
6 kids really is quite amazing. There's a school in  
7 Sacramento that actually they do a video journal  
8 every day, I mean they're using all of these  
9 different applications and connecting to each  
10 other via broadband, and you know, how amazing  
11 would that be if that happened in every school in  
12 the nation and that they had access to this kind  
13 of technology.

14 MR. LLOYD: Okay. Heather, please.

15 MS. THOMPSON: I just wanted to sort of  
16 put on the radar screen for the FCC staff who are  
17 working on these education issues that it's a  
18 little bit different in Indian country. Our  
19 school department is the federal government, it's  
20 the Department of Interior. I think other than  
21 Department of Defense, we're the only other  
22 federal school board, you know, school out there.

1 And so it's a little bit complicated and difficult  
2 because as these funding programs go forward, the  
3 funds are actually not often available to other  
4 federal agencies, and so they get left out of  
5 these growth areas, like Telecom. It's the same  
6 thing for our health services, our hospitals are  
7 the Federal Indian Health Service, and so they're  
8 often not eligible for a lot of these programs  
9 that are moving forward and they don't get funded  
10 through Congress for these specific initiatives,  
11 so we end up having these holes in our hubs.

12 So it's interesting to hear the  
13 conversation about, you know, funding community  
14 hubs, ours is the Bureau of Indian Education and  
15 the Indian Health Service, and even our tribal  
16 government building is the Federal, you know, is a  
17 federal building. And so it's an odd thing to be  
18 advocating for other federal agencies to receive  
19 funding, but, in essence, that's the extension of  
20 the tribal government, and so it's just something  
21 interesting to keep in mind.

22 MR. LLOYD: Very interesting, all right.

1       So are there any other - well, we have a question  
2       here about civil rights organizations in the U.S.  
3       and whether or not those organizations really  
4       understand the importance of broadband services.  
5       I don't know if I would ask - put any of you guys  
6       on the spot with regard to that question. But I  
7       think we've sort of exhausted at least some of the  
8       questions for the panel. Tony, were there some  
9       sort of closing thoughts that you had about some  
10      takeaways here?

11               MS. BUSH: Thanks for putting me on the  
12      spot. Is that you or do I have a closing  
13      response? I think that one major takeaway is that  
14      there are a lot of people doing a lot of work on  
15      these issues around the country, and that we have  
16      unique challenges that are being faced by many  
17      communities, but probably none quite as unique as  
18      what's facing the tribal communities, because of  
19      their relationship with the federal government and  
20      the other issues that Heather I think has really  
21      articulated very well today.

22               And I think that we see that there is -

1 I feel that there is a lot of hope and expectation  
2 as a result of what the FCC is doing, what  
3 Congress has done, and this emphasis on broadband,  
4 and the, you know, I'm actually very optimistic  
5 also because, you know, there's a tight deadline  
6 on everything, on giving out the grant money, on  
7 pleading the broadband plan that, you know, things  
8 are really moving forward, and so I'm just, you  
9 know, want to say that I think that if there's  
10 anything we can do further to help the commission  
11 as you try to, you know, distill all this down,  
12 you should let us know.

13 MR. LLOYD: Well, thank you all again.  
14 And as I said, I think at the beginning of the  
15 day, this is really just the beginning of the  
16 conversation, this is not the end. If there are  
17 any written remarks or comments or follow-up that  
18 you want to do to make sure that we get on the  
19 record, we'd love to have that.

20 We hope to continue this conversation,  
21 but I think the recommendation regarding focusing  
22 on the best practices, what really works out

1 there, finding a way to fund them, to keep them  
2 sustained, has been heard here, and again, I just  
3 wanted to thank you all for coming down and  
4 sharing your time. Thank you.

5

6 (Whereupon, the PROCEEDINGS were  
7 adjourned.)

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