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OFFICE OF THE WASHINGTON STATE
LIQUOR CONTROL BOARD
BOARD MEETING

VERBATIM REPORT OF TAPE-RECORDED PROCEEDINGS
February 20, 2008

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BOARD MEMBERS PRESENT :

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MS. LORRAINE LEE
BOARD CHAIRMAN

MS. RUTHANN KUROSE
BOARD MEMBER

MR. ROGER HOEN
BOARD MEMBER

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GLOSSARY OF PARENTHETICALS

(Indiscernible): Words were heard, but not understood.

(Inaudible): Sounds were heard, which was an apparent response, but could not be understood.

(No audible response): There was no sound.

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P R O C E E D I N G S

CHAIRMAN LEE: Good morning. Welcome to our regularly scheduled meeting of the Liquor Control Board. This is Wednesday, February the 20th, and I am Lorraine Lee, Chairman of the Liquor Control Board. And to my right is Roger Hoen, Board Member, and to my left Ruthann Kurose. And the other person in the room (inaudible) table is PK Dan.

(Overlapping conversation.)

CHAIRMAN LEE: We will have several items on the agenda today. For those of you who haven't received it, there are copies of the agenda in the back along with a

1 couple of handouts. We also have a sign-up sheet. If
2 you could please indicate (inaudible). And if you wish
3 to speak to any of the agenda items, please indicate
4 that and there will be an opportunity - opportunity for
5 you to do that.

6 Just - just a very quick item to start it, the
7 approval of the minutes of the last board meeting,
8 February 13th. There were two of us present, Roger and
9 myself. Roger, any - any comments on --

10 BOARD MEMBER HOEN: No, I don't have any
11 anything. I reviewed that. I move that we adopt the
12 minutes as printed.

13 CHAIRMAN LEE: Okay. I second approve. So these
14 minutes will be approved.

15 All right. What I would like to do - and this is a
16 pretty large crowd for our board meeting - is go around
17 the room so that folks can identify themselves. And if
18 you could state your name and who you represent,
19 organization (inaudible) just so that we know who is all
20 in the room. Why don't we start with Martha.

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3 (Introduction portion of the
4 meeting was omitted as the
5 majority of the speakers were not
6 at a microphone and were
7 inaudible.)
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10 CHAIRMAN LEE: Okay. Thank you very much. There
11 are two seats up here, if anyone wants to come up. I
12 promise not to call on you.

13 All right. To start us off, we have Martha Lantz,
14 our Assistant Attorney General who advises the Board, to
15 review and recap the decision that was issued by the 9th
16 Circuit Court of Appeals on the lawsuit Costco versus
17 Hoen.

18 UNIDENTIFIED SPEAKER: (No audible response.)

19 CHAIRMAN LEE: Yes, please. Martha, if you could
20 speak to us so that everybody can hear you. We are also
21 tape recording this meeting.

22 MS. LANTZ: Good morning. The Board has asked me
23 to present really briefly - to particularly those of you
24 in the room who were not intimately in the progression
25 of the Costco lawsuit - just what was at issue and where

1 we are now with the 9th Circuit Court of Appeals being
2 issued. And my intent here is to present this
3 information very briefly and hopefully somewhat
4 objectively, but with the caveat that, of course, I'm
5 presenting it from the point of view for the Liquor
6 Control Board, so I understand that some of you might
7 not agree, but that's - that's my purpose here.

8 So basically what happened a number of years ago now
9 is that Costco filed a federal court lawsuit against the
10 State of Washington, specifically against the Liquor
11 Board, challenging a number of regulatory controls over
12 beer and wine distribution.

13 Those were the requirements that beer and wine be
14 delivered to the life of the premises and couldn't be
15 warehoused by a retailer, the requirement that retailers
16 purchase from distributors and that retailers can't sell
17 beer and wine to other retailers, and then a number of
18 more directly pricing related challenges surrounding the
19 state policy that uniform pricing fee in place for beer
20 and wine (inaudible), anyone who wants to buy beer and
21 wine from a supplier or from a wholesaler be able to do
22 so at the same price regardless of the (inaudible) or
23 economic power of the purchaser.

24 And those specific challenges were, as I said, the
25 uniform pricing and related to that is the (inaudible)

1 volume discounts that you can't get a better deal for
2 buying more; the delivered pricing requirement, that the
3 price of the product is the same regardless of whether
4 delivery is provided by the - the wholesaler or whether
5 the retailer comes and picks the product up; beer and
6 wine cannot be purchased on credit in the transaction
7 between the wholesaler and the retailer; and, finally,
8 there is an across the board requirement that the price
9 that a manufacturer offers to a wholesaler and then a
10 wholesaler offers to a retailer include a 10 percent
11 markup.

12 The final two challenges were to the requirement -
13 the administrator requirement that the prices at which
14 the beer and wine are - are to be offered would be
15 coasted with the Liquor Board, provided electronically
16 to the State and that those prices once they were
17 selected by the manufacturer or the wholesaler had to be
18 held and couldn't be changed for 30 days.

19 The lawsuit was resolved in the trial court largely
20 with the challenge restraints being set aside by the
21 trial court with the exception that the trial court said
22 that the ban on sales between retailers was - was
23 acceptable.

24 The Liquor Board appealed that decision of the trial
25 court with the exception of the retail-to-retail

1 (inaudible) to the 9th Circuit Court of Appeals and
2 about a month ago now we received an opinion from the
3 9th Circuit Court of Appeals. It is about 45 pages'
4 worth.

5 The upshot of the opinion is that the Court reversed
6 the trial court on a number of grounds and basically
7 said that the Court's interpretation of the State of
8 Washington's policy behind most of these regulatory
9 controls was that uniform pricing was the goal and that
10 the mechanism by which the uniform pricing was to be
11 achieved included the ban on credit, the ban on volume
12 discount, the delivered pricing, and that the Court
13 found that the administrative tools of price posting and
14 holding was a mechanism to enforce the policy on
15 uniformity.

16 And the Court found that - that all of those controls
17 were valid and could be upheld except that the Court
18 said set aside the mechanism of the price posting and
19 the price holding.

20 So where that leaves us as an agency from our best
21 perspective at this point is that the Court has said,
22 you know, regardless of whether it is ultimately the
23 policy choice that the State wants to stick with, but
24 for now the policy choice on price uniformity is upheld,
25 but that the agency, the Liquor Board, can't use the

1 post and the hold as they do currently as a means of
2 enforcing those.

3 The timing of it as of yesterday is that Costco has
4 filed a request to the Court - to the 9th Circuit to
5 either the three judges that heard the case to rehear
6 the case or in the alternative that the court engage in
7 an en banc review where 11 of the 9th Circuit judges
8 would hear this case.

9 And the court rules dictate that the court has up to
10 21 days to process and deal with Costco's request for
11 either of those two options and after that 21 days,
12 there is no set period as to when the Court needs to
13 determine how it is going to rule, if it considers at
14 all Costco's request for rehearing. So that the short
15 answer to the timing is that the Court's judgment, the
16 Court's opinion that sets aside the post and hold
17 doesn't go into effect until the 9th Circuit has
18 disposed of, one way or the other, the request for the
19 rehearing that was filed yesterday and remains pending.

20 So the next steps that are on our agenda for next
21 steps is what - the agency started its planning process
22 with the notion or the idea that we are going to need to
23 come up with other alternative mechanisms that we can
24 use other than the existing concept of the posting and
25 the holding to carry out the policies of uniform pricing

1 that the Court found to be valid policy choices, at
2 least for the moment. So that's where the next
3 steps piece comes in that I know is going to be
4 discussed.

5 And basically my job was to try to place it in the
6 context of the litigation, which I hope I have done and
7 unless there is any specific questions --

8 CHAIRMAN LEE: I have a couple questions.

9 MS. LANTZ: So --

10 CHAIRMAN LEE: So - so the petition that Costco
11 filed yesterday was to ask for two possibilities, one
12 for the same judges who made the decision to reconsider
13 it and then the other option is for a full 9th Circuit,
14 which is an 11-judge panel, to look at that? So those
15 are two possibilities?

16 MS. LANTZ: Correct.

17 CHAIRMAN LEE: Okay.

18 MS. LANTZ: And they are requesting - and they
19 can be properly requested in the same document, so the
20 Court can do either --

21 CHAIRMAN LEE: Either.

22 MS. LANTZ: -- of the two things --

23 CHAIRMAN LEE: Okay.

24 MS. LANTZ: -- if it wants to.

25 CHAIRMAN LEE: And the Court has up to 21 days to

1 make a decision whether or not to reconsider?

2 MS. LANTZ: Well, the court has up to 21 days.

3 Because the request included the request for the full
4 court, the en banc review, copies of Costco's requests
5 were circulated to all the judges on the 9th Circuit and
6 any one of those judges has up to 21 days to request the
7 three judges who heard the case to make a decision on
8 whether they want it back and/or in that 21 days any of
9 the judges that now have a copy of the material in their
10 files can let the rest of the court know that they think
11 it should be heard en banc.

12 So the 21 days appears to be the time frame in which,
13 you know, the judges who now have the material can
14 consider it and make their decision, although, I think
15 that that's the outside limit. I don't think anything
16 would stop any of those judges from making the request
17 to the panel, "Are you going to rehear it or not"
18 earlier, which would, as I read the rules, you know,
19 cause the time frame to be compressed somewhat. So --

20 CHAIRMAN LEE: Okay.

21 MS. LANTZ: -- still some uncertainty surrounding
22 the time with that.

23 CHAIRMAN LEE: But we just want to be as clear as
24 possible in terms of the process, in terms of the time
25 lines, so that for our planning purposes we have a

1 general idea when decisions need to be mailed, certain
2 things, anticipating to the extent that we can
3 anticipate when that might happen.

4 So if the Court decides to take the case, the 9th
5 Circuit re-hear it again, then what? How long can we
6 expect a decision? Is there any time frame for that,
7 any best guesses?

8 MS. LANTZ: I don't have one. I think it is
9 completely up to the Court. If the Court were to act on
10 Costco's request, the first thing that - if they were
11 inclined to act on it, the first thing that they would
12 do is to give the State and the Intervenors - the beer
13 and wine wholesaler (inaudible) are parties to the case
14 as well - to give them the opportunity, us the
15 opportunity to provide written responses to Costco's
16 motion. So all of that takes certainly some time, but
17 no set time frame.

18 CHAIRMAN LEE: Okay. What about the alternative,
19 if the Court says no, this - this decision is not going
20 to be revisited by the 9th Circuit, then what?

21 MS. LANTZ: Then it is the end of the road in the
22 9th Circuit and we would be in the position where the
23 Court would issue a mandate that would cause a judgment
24 to go into effect. Within five days - or seven days,
25 I'm sorry - seven days of its decision to terminate

1 review in the 9th circuit, this mandate would issue. So
2 whenever the Court makes its decision, if that is their
3 decision not to consider Costco's motion or to grant
4 Costco's motion plus seven days, with the caveat that
5 either party could then move for a stay of the mandate
6 to set that aside to maintain the status quo in order to
7 allow either or both parties to petition to the United
8 States Supreme Court for review of the 9th Circuit.

9 But those things don't happen automatically. There
10 is not an automatic stay of the judgment the way that
11 there is an automatic stay of the judgment now because
12 of Costco filing, so --

13 CHAIRMAN LEE: Okay. So at this point, given
14 that Costco did file this petition for rehearing,
15 everything is status quo in terms of the laws that have
16 been issued in the lawsuit still remain in effect; is
17 that correct?

18 MS. LANTZ: That is correct, yes.

19 CHAIRMAN LEE: Okay. All right. Do you have any
20 questions?

21 BOARD MEMBER KUROSE: (Inaudible) just that the
22 judge will determine whether they grant a full
23 (inaudible)?

24 MS. LANTZ: Up to 21 days, right, so I think it
25 leaves some (inaudible) and I don't have any experience

1 other than this case with 9th Circuit practice, but in
2 theory I think they could start that process sooner, but
3 21 days is the outside edge by which the Court needs to
4 at least initiate the process of what they are going to
5 do about the motion that Costco has filed.

6 CHAIRMAN LEE: Okay. Roger, any --

7 BOARD MEMBER HOEN: One question with the - the -
8 if the (inaudible) court chooses not to take the case
9 back and then either party petitions the Supreme Court
10 to take the case, can a stay be issued by either or the
11 (inaudible) court that it's being challenged in the
12 Supreme Court or --

13 MS. LANTZ: I think that the motion to stay the
14 mandate - because one party or the other is
15 contemplating an appeal to the United States Supreme
16 Court (inaudible) filed with the 9th Circuit and at some
17 point I think that - oh, the - yeah, as I recall, the
18 first decision to stay comes from the 9th Circuit, but
19 the decisions after that I think would have to come from
20 the United States Supreme Court. So your first request
21 to maintain status quo while you are working on filing
22 your petition goes to the 9th Circuit. I - I think
23 that's right.

24 CHAIRMAN LEE: Okay. Well, we do have people
25 from the other parties in the lawsuit.

1 MS. LANTZ: (Inaudible.)

2 CHAIRMAN LEE: Costco, John Guadanola, do you
3 have any other illuminating information to the process
4 to supplement what Martha has shared with us? We are
5 not talking about the substance, we are just talking
6 about what is next in terms of the appellant process in
7 this lawsuit. Anything you want to add?

8 MR. GUADANOLA: (Inaudible.)

9 CHAIRMAN LEE: Okay. Shall we move on?

10 BOARD MEMBER HOEN: Thank you.

11 CHAIRMAN LEE: Okay. Thank you, Martha.

12 MS. LANTZ: Mm-hmm.

13 CHAIRMAN LEE: I know for you who have lived this
14 for several years, you are very familiar with the
15 details, but I know that there those of us who may be
16 hearing this for the first time, just to understand
17 where this lawsuit has been (inaudible) now and for us
18 what is the next step.

19 Let me be real clear that we the Board do not intend
20 to make any decisions today. This is to hear from
21 stakeholders and just to understand what our options
22 are, what is the process and when do we need to do
23 certain things and what - when might that be.

24 So what we have done is tried to think ahead, what
25 does it mean to implement the Costco decision as issued

1 by the 9th Circuit if we had to issue it - I mean, if we
2 had to implement it? And we just found out that
3 yesterday Costco filed a petition, so now we know that
4 the timeline is a little bit further out than what we
5 had anticipated (inaudible) this particular board
6 meeting.

7 What we did ask was for the staff - the LCB staff to
8 take a look at what does it mean to implement this
9 decision. And as you heard from Martha Lantz, that the
10 9th Circuit had struck down two particular regulations
11 and they deal with the - the price posting requirements
12 of suppliers and wholesalers and the 30-day hold period.

13 So Rick Garza is going to come up and he is going to
14 walk through - walk through - oh - a two-page document
15 that was sent out ahead of time last week as part of a
16 draft agenda, and this is to invite stakeholder
17 comments.

18 I know that we received one stakeholder comment at
19 the end of the day yesterday. We haven't reviewed that.
20 So this is an invitation for stakeholders to comment on
21 this two-page document. If you don't have it, it is in
22 the back of the room.

23 Brian, if I could ask you - I think there is - there
24 is some sign-up sheet. If you can bring that up so I
25 can see who might want to speak to this and the next

1 agenda item. Thank you.

2 MR. GARZA: Good morning. I will be brief so
3 that we can get folks to provide comment, if they like.
4 Obviously this is happening quickly because until
5 recently we were concerned that if Costco did not
6 appeal, that the post and hold requirement would go away
7 on the 26th of February, so we had planned on next
8 Wednesday and provided an option that would be available
9 if the post and hold went away.

10 And so just very briefly, I'm not an attorney, I will
11 tell you how I understand this, is if the post and hold
12 requirement goes away, what the Board's position would
13 be is it would be very difficult for us to enforce the
14 uniform pricing provisions and the 10 percent minimum
15 markup provisions.

16 And basically what that means is that when a
17 distributor - when a manufacturer sells to a distributor
18 or a distributor to a retailer, they must make that
19 product available at the same price to all of their
20 customers and that is called uniform pricing.

21 Well, with the post and hold going away where the
22 manufacturer/distributor posted that price, was required
23 to hold it for 30 days, obviously you have got a 30-day
24 period of time which would appear to be enough time for
25 that to be made available to all of their customers. So

1 that was the means by which we informed - or we enforced
2 the uniform pricing provisions, which were not
3 invalidated. The only thing that was invalidated at the
4 point that we are at right now is the post and hold.

5 So as staff looked at that - you know, a number of
6 staff looked at it - we tried to figure out how can we
7 legally, without post and hold, enforce the uniform
8 pricing provisions. And that's what I'm going to share
9 with you really quickly and then provide you an
10 opportunity to give us feedback with respect to that.

11 One of them would be that we have this electronic
12 system right now where manufacturers and distributors
13 post their prices. What we are suggesting - if you run
14 to the second page, I believe, there quickly, on the top
15 was that the - the filing would occur, would continue to
16 occur by the - by the manufacturer and distributor when
17 there is new product or changes in the prices from what
18 we had posted previously or filed previously.

19 So I will just walk through it with you quickly.
20 Manufacturers and wholesalers continue to submit price
21 information electronically to the Liquor Control Board;
22 however, the filing requirement applies only when new
23 products are added or when previously filed prices are
24 reduced or increased.

25 The submitted prices will be confidential and

1 available only to the Liquor Control Board for its
2 internal investigative purposes. Obviously, the system
3 that we have right now after a period of time when it
4 goes into effect was available for public viewing. This
5 would no longer be available. The kiosk function would
6 be turned off and the licensee will not be able to view
7 prices of any other licensees.

8 Prices will be reviewed for compliance with a 10
9 percent markup requirement and for compliance with
10 uniform pricing, which is what I spoke of earlier.

11 Additionally the Liquor Board will employ additional
12 methods to track and enforce compliance with a minimum
13 markup uniform pricing requirement such as scheduled
14 audits, random audits, audits in response to complaints
15 from licensees. Audits will consist (inaudible) review
16 of the prices (inaudible) Liquor Board and also
17 additional records requested and obtained from
18 licensees. So I think, in essence, that tells us what
19 we are looking at creating in some way, at least with
20 respect to the Liquor Board.

21 Now, if we look at - and the staff did look at what
22 some other states do in respect to these requirements as
23 far as uniform pricing. And, obviously, some of them
24 don't have an electronic system, so they actually have
25 to go out to those particular places and do audits.

1 Many of these manufacturers are out of the country so
2 obviously that creates problems for the Liquor Board.
3 Since we have an electronic system now that we can use,
4 it seemed like the most practical way of being able to
5 enforce the uniform pricing and the 10 percent minimum
6 markup requirements.

7 So that's our best thinking at this point and I guess
8 I would give it back to the Chair to hear comments with
9 respect to that proposal.

10 CHAIRMAN LEE: Yes, (inaudible). Are there any
11 questions for Rick in terms of what the proposal is -
12 there is?

13 What - what is the - can you give us a sense of the
14 volume of the price posting that we use on this system?

15 MR. GARZA: The number of --

16 CHAIRMAN LEE: Yeah.

17 MR. GARZA: -- manufacturers and the distributors
18 that we are posting monthly? Their prices? I think I
19 would hand it off to Randy, but I'm thinking over
20 100,000 a month. Randy?

21 MR. REYNOLDS: (Inaudible) would probably be the
22 best person, but I think it is (inaudible) postings
23 probably in the neighborhood of 70,000.

24 UNIDENTIFIED SPEAKER: 70,000 to 80,000?

25 MR. REYNOLDS: 70,000 to 80,000 a month.

1 UNIDENTIFIED SPEAKER: A month?

2 MR. REYNOLDS: And then a distributor, probably
3 150,000 a month. Not all of those changes, that's
4 (inaudible) I think it changes probably 30,000 a month
5 average suppliers, and distributors well over that --

6 UNIDENTIFIED SPEAKER: (Inaudible.)

7 MR. REYNOLDS: -- so quite a large number of
8 prices.

9 MR. GARZA: One of the things that I didn't
10 address - sorry Lorraine - that (inaudible) reminded me
11 of. On the first page on the bottom, we did talk about
12 the hold requirement being gone. What we are looking at
13 doing in our electronic system is we would flag for
14 changes in price 14 days or less. It is really not - it
15 is not a hold requirement. You are not required to
16 hold.

17 The manufacturers and distributors, if post and hold
18 is eliminated, would be able to change prices daily, but
19 we want to look and see with respect to the uniform
20 pricing provisions whether there is changes in prices
21 that are occurring 14 days or less.

22 Why 14 days? Fourteen days is the requirement that
23 Oregon has today and so that was a number that we are
24 using. Obviously we are interested in hearing what you
25 would think about that, whether it should be more,

1 whether it should be less, but that would be the number
2 of days that we would look at - that we would begin to
3 look if there were prices changing fewer than 14 days as
4 to whether those prices are being made available to all
5 customers or just one or two. So that would be a means
6 for us to be able to try and enforce that uniform
7 pricing piece.

8 CHAIRMAN LEE: Okay. Thank you (inaudible). So
9 this is staff's best thinking as to what is next. And,
10 as you explained, the 14 days, that time was looking to
11 another state like Oregon who actually has a hold period
12 of 14 days.

13 And - and we do want this to be a little bit
14 interactive. As I said, this is the staff's best
15 thinking. For the folks from the industry, we are
16 certainly interested in hearing from you, you know, what
17 would this mean to you, what does this proposal mean to
18 you, how it might change your practices, does 14 days
19 make sense or not?

20 I have a list here - a sign-up sheet - and I will
21 just call on you. You didn't indicate - we didn't
22 actually ask you to note whether you want to talk about
23 this next item on the agenda, Tied House concept, or
24 whether you want to talk about this next step part, so I
25 will just call on you and you can tell me if you want to

1 speak to this issue now. Christine Talianus?

2 Christine?

3 UNIDENTIFIED SPEAKER: (Inaudible.)

4 CHAIRMAN LEE: Okay.

5 MS. TALIANUS: I don't really want to go first --

6 CHAIRMAN LEE: Okay. Okay.

7 MS. TALIANUS: -- or I don't want to speak to

8 this issue.

9 CHAIRMAN LEE: Oh, okay, not this issue. Okay.

10 That's fine. All right. How about John Sullivan? Do

11 you want to speak to this issue and do you want to go

12 first?

13 MR. SULLIVAN: Sure.

14 CHAIRMAN LEE: Okay.

15 MR. SULLIVAN: I would love to.

16 CHAIRMAN LEE: All right.

17 UNIDENTIFIED SPEAKER: Hi, John.

18 CHAIRMAN LEE: Good morning.

19 MR. SULLIVAN: Well, (inaudible) to say the more

20 things change, the more they remain the same. A couple

21 of footnotes, I guess, to Martha's presentation on the

22 decision, which I think are important backdrop to the

23 Board's consideration of this issue. Number one,

24 (inaudible) agree with Judge Peckman that the restraints

25 for all anticompetitive (inaudible) operate at the

1 raised prices and hurt consumers. Number 2, the 9th
2 Circuit agreeing with Judge Peckman that the stated
3 rationale for the restraints, that is to increase price
4 to reduce consumption, was not a rationale that was, in
5 fact, achieved by the restrictions. So when the State
6 went to trial and said we have these things to promote
7 temperance, that proposition was not proved.

8 So as the Board considers today whether or not to
9 continue to maintain and (inaudible) these restraints
10 that were found to be anticompetitive and not serving
11 any public purpose, the question is apart from whether
12 or not it is legally permissible under federal law. Why
13 would the Board do it if it hurts consumers and didn't
14 promote temperance?

15 So in that respect, look at the two objectives that
16 are thought to be served by the modified approach. One
17 is to continue to (inaudible) enforce uniform pricing.
18 This is a technical point. As you can see in our motion
19 for rehearing, if you excise the post and hold
20 requirements from the statute, there is, in fact, no
21 remaining uniform pricing requirement. So you cannot
22 justify the continuation of the post and what I will
23 call a quasihold through a uniform pricing rationale.

24 Second, in terms of having this to promote
25 enforcement of the minimum markup, I would suggest

1 respectfully that it is a red herring. As - as the
2 Liquor Board heard through the deliberations of the task
3 force, the 10 percent markup requirement is - is
4 practically irrelevant in a commercial sense in that
5 nobody sells for less than a 10 percent markup.

6 So the question then becomes this - this requirement
7 of posting upon price changes is going to impose a
8 significant burden on those (inaudible) want to change
9 their prices. The result obviously is to discourage
10 people from change prices, so - which will be
11 detrimental to consumers.

12 So the question is why have a system that is going to
13 exacerbate the anticompetitive effects, will not serve
14 any public temperance purpose if - if the - if the
15 counterpart is simply the burden (inaudible) and you are
16 not serving any public - any public purpose. So that's
17 a question.

18 Now, the Board suggests that it is going to increase
19 the devotion of resources to monitoring these hundreds
20 of thousands of postings that are coming in every month.

21 Number one, the evidence at trial was that
22 historically there has been virtually no monitoring of
23 those postings for anticompetitive reasons or for any
24 other reason. Basically they come into the computer and
25 the computer checked to see whether the 10 percent

1 markup was - was (inaudible) and that was essentially
2 the extent of what the staff did with that information.

3 So, again, why impose this tremendous friction on
4 commerce if the Board is not going to effectively be
5 doing anything with it.

6 Second, as far as the question on devotion of
7 increased resources to this, the question is why? Why -
8 why would you devote increased resources to monitoring
9 these hundreds of thousands of postings when there is no
10 public purpose being served at a tremendous opportunity
11 cost in that every bit of effort that the Liquor Board
12 devotes to policing these things means that it can't do
13 something else which is more closely related to public
14 health and safety?

15 Finally, a couple points which we will sort out in
16 court and that relates to the legality of what the Board
17 is proposing. In effect, by - by saying that you will
18 have a red marker on your - red target on your back if
19 you make a price change within 14 days, that is a
20 (inaudible) continuation of the hold, which we think is
21 quite inconsistent with the Court's ruling.

22 And, again, as I pointed out at the outset, with the
23 lack of a statutory mandate for uniformity, there -
24 there is no basis to - to continue this in the name of
25 promoting uniformity. Thank you.

1 CHAIRMAN LEE: Thank you, John. John, just -
2 just a couple of follow-ups. So the brief that you just
3 referenced sets out the legal arguments, right?

4 MR. SULLIVAN: (No audible response.)

5 CHAIRMAN LEE: Okay. And I saw that we received
6 a fax from Costco at the end of the day yesterday
7 specifically to this proposal.

8 MR. SULLIVAN: That's correct.

9 CHAIRMAN LEE: Okay. So those are separate
10 documents. I just want to make clear what we got.
11 Okay.

12 MR. SULLIVAN: That's - that's right. What -
13 yesterday's letter was more focused on the policy --

14 CHAIRMAN LEE: Uh-huh.

15 MR. SULLIVAN: -- issues and the brief is more
16 focused on the --

17 CHAIRMAN LEE: The legal argument, okay.

18 MR. SULLIVAN: -- the issues of - of legality,
19 recognizing the issues of legality will probably get
20 sorted out somewhere else, but we just wanted you to
21 understand that the - the proposal is problematic in
22 that regard.

23 CHAIRMAN LEE: But because Costco is a retailer,
24 Costco actually does not need to submit its prices on
25 its price posting (inaudible). So how exactly does

1 Costco get impacted if the proposal was actually
2 implemented? How do you anticipate the pricing from the
3 wholesalers that serves you or the wineries that you buy
4 direct from? So I'm just trying to understand why - why
5 this 14-day period is so significant.

6 And when you say the red marker, we are not saying
7 that the buyers have to hold it, we are just saying
8 well, that's something that is going to prompt the
9 attention of our investigators. So I'm just trying to
10 understand the business impact to Costco or any other
11 retailers that might be interested in this.

12 MR. SULLIVAN: Right. Well, as - as citizens and
13 constituents of the State, of course we don't like to
14 see public resources devoted to anticompetitive purposes
15 or being spent on objectives that are not (inaudible)
16 any public policy goals.

17 But as I indicated in my - in my remarks, the more
18 friction that you put in the process of price changes,
19 I - somebody has to file price changes every time they
20 change it. This is, of course, something that is
21 utterly unheard of in any other aspect of the economy,
22 other than - other than this - than this realm.

23 If you have - if it is going to be a burden to change
24 those prices and if it is going to subject you to
25 enforcement risk as a manufacturer or a wholesaler, why

1 would you engage in that activity? So it - it makes it
2 harder for us to - to secure competition in the
3 marketplace --

4 CHAIRMAN LEE: Okay.

5 MR. SULLIVAN: -- which in turn makes it more
6 difficult for us to pass on value to our - our customers
7 and citizens of the State.

8 CHAIRMAN LEE: Another realm being other than
9 alcohol?

10 MR. SULLIVAN: Yes.

11 CHAIRMAN LEE: Okay. All right. This is - this
12 is a question for staff. When we come back to this, I -
13 I do want to know what other states do (inaudible)
14 having a (inaudible) requirement and what that period of
15 time is. My understanding is that is quite a range.
16 Some states do not have a hold requirement. Some I saw
17 (inaudible) - and I could be wrong on this - as long as
18 six months. So I just want to understand how the
19 industry operates.

20 And I understand that alcohol is unique. And that is
21 something that we have always emphasized, alcohol is
22 unique. So in terms of what other states do, I think it
23 is important to know, you know, how other states
24 approach this, too. We heard that Oregon actually
25 requires a 14-day hold, but other states may do it

1 different. And, like - like I said, I think some states
2 probably don't have a hold, but, you know, what do they
3 do in terms of monitoring.

4 MR. SULLIVAN: Right.

5 CHAIRMAN LEE: Anything else?

6 MR. SULLIVAN: Right. Well, I guess the question
7 is given the extremely sporadic enforcement activity
8 relate- - related to - to uniform pricing and
9 (inaudible) markup, why can't the enforcement objective
10 be achieved by simply requesting records on an ad hoc
11 basis as needed from licensees, which is how a number of
12 jurisdictions approach it, as I think you are aware of.

13 CHAIRMAN LEE: Okay.

14 MR. SULLIVAN: Thank you.

15 CHAIRMAN LEE: Thank you, John.

16 Joe, is this in this issue or the Tied House?

17 MR. DIETER: If I could just make one comment.

18 CHAIRMAN LEE: Okay.

19 MR. DIETER: There is something about friction
20 that I just sense is not something that I would
21 necessarily want to - to ease up. There is a - there is
22 a responsibility that comes - any time you talk about
23 alcohol and drugs, there is - there is a higher level of
24 responsibility that comes with it. And as uncomfortable
25 as that might be and as challenging as it might be to -

1 to maybe Costco, I still think the fact that there is
2 friction there - and even if you say - if the
3 enforcement seems to be, gosh, is anyone even reading
4 those printouts when they come in or are they accessing
5 that, the mere fact that there is always a possibility
6 that they will and that there is still that option of
7 that avenue available to use that if the need arises -
8 in other words, if we see that, gosh, how can we get a
9 handle on this or how can we access an issue that might
10 come up and become an issue, do we have any access, no,
11 we don't.

12 We do have an access via the posting standards via
13 this thing that causes friction. But I submit to you
14 that friction at times is the very thing that is called
15 accountability and it is the very thing that, gosh, it
16 is not comfortable, but yet it serves a purpose.

17 And I submit to you the purpose is that there is
18 still - there is still that thing that gnaws at us at
19 times, that challenges you times and goes guys, we do
20 have a responsibility and there is a vehicle there to -
21 to approach this issue and as long as that is there - if
22 we took that away, then there could be some issues that
23 would arise.

24 We would go, gosh, I wish we had that access. We
25 don't have it anymore. We lost it. And I - I don't

1 know a lot about it, but that's just a sense I got as I
2 listen to Costco's, you know, stance or their - their
3 perception in - in what I reviewed. Thank you very
4 much.

5 CHAIRMAN LEE: Thank you, Joe. So you are
6 suggesting (inaudible) healthy friction?

7 MR. DIETER: I believe - keep in mind, I was
8 involved in law enforcement for 30 years. It is a hard
9 thing - it is a hard thing, but in the end somebody has
10 to be (inaudible). In the end, somebody has to just
11 say, guys, this (inaudible) but we got to have standards
12 somewhere. And I submit to you - and I don't know a lot
13 about this, but I just sense when I keep hearing
14 friction, I go friction is the very thing that keeps all
15 of us on task.

16 UNIDENTIFIED SPEAKER: Alcohol is an (inaudible)
17 product.

18 MR. DIETER: It is. It is. If it was something
19 else, I - I would go heavens sake, let them have their
20 way, but with this, I would just encourage us to keep an
21 option there, keep friction going. Friction is - is
22 painful, but it is good for us.

23 CHAIRMAN LEE: (Inaudible) thank you, Joe. Susan
24 Peterson.

25 MS. PETERSON: Not for this issue.

1 CHAIRMAN LEE: Not for this issue. Okay. How
2 about Jan Gee. Jan?

3 UNIDENTIFIED SPEAKER: Jan?

4 CHAIRMAN LEE: Would you like to speak to this
5 issue?

6 MS. GEE: Maybe just a couple comments.

7 CHAIRMAN LEE: Okay.

8 MS. GEE: I signed - I said yes because I wasn't
9 sure - excuse me - what would go on today. So I'm Jan
10 Gee with the Washington Food Industry, the independent
11 grocers. And I guess from our perspective we are
12 questioning the - the value of continuing the process
13 for the Board . . .

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(End of Tape 1, Side 1.)

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24 MS. GEE: . . . uniformed pricing to this posted
25 hold process or (inaudible). I don't know who suggested

1 some form of audit or you can be assured that if
2 retailers ever found out there wasn't uniform pricing,
3 they would be the first at your doorstep reporting if
4 that's the law, if that's the current law.

5 So, you know, is there some natural mechanism that
6 industry (inaudible) would assist the LCB in regulating
7 uniform pricing while we are under that law.

8 So I - I - the other thing is we testified and
9 discussed with you prior to when we were talking about
10 post and hold, the importance for the retail industry of
11 being assured of the set price in advance for their ads
12 and that that price would hold with - with them -
13 between them and their wholesaler. And I think that's
14 the mechanism of the private sector.

15 We negotiate that ourselves with our suppliers
16 saying, you know, I'm not getting - advertising your
17 sale price unless you guarantee to me you are going to
18 hold that price for "X" number of days, long enough for
19 them to issue their ads, to carry their ads, to be able
20 to sell the published price, which is the legal
21 requirement of a retailer. If you publish a price, you
22 have to sell for that price.

23 So I would just advocate that I think there is a
24 natural process within industry, as we do with all our
25 other products, that negotiating our price with our

1 wholesalers, of being assured that we have got that sale
2 price or whatever price it is that we are advertising.

3 And - and so I would just - I thought the Three-Tier
4 Review process was excellent in that I think we all
5 agreed at one level or another that the laws are too
6 complex. They are cumbersome. And I felt that we all
7 agreed there needed to be some streamlining. We had
8 different areas we felt needed to be streamlined
9 depending on where we are coming from.

10 But I would just ask the Board to ask themselves one
11 more time is this an opportunity to streamline the
12 process and - and looking at the natural mechanisms that
13 occur in private sector to assure the uniform pricing
14 (inaudible). Thank you.

15 CHAIRMAN LEE: Okay. Thank you, Jan, except I do
16 have a couple --

17 MS. GEE: Oh.

18 CHAIRMAN LEE: -- couple questions. So these -
19 I'm just trying to understand the discussions that go on
20 between retailers and their suppliers or distributors.
21 So this advertising of prices, how far does that take?
22 How far in advance are we talking about? Are we talking
23 a month? Are we talking six months? Is this - so what
24 are some of the natural mechanisms that - that really -
25 (inaudible) are saying we could rely on?

1 That's what we don't, you know, fully understand,
2 especially when we look at the number of off-premise
3 licensing - these are grocery stores, convenience
4 stores. There is over 5,000.

5 MS. GEE: Right.

6 CHAIRMAN LEE: We have very different business
7 models. We have Costco, we have the Safeways, we have
8 independent grocers. Is there a standard in terms of
9 how the industry negotiates these prices? What does
10 that look like?

11 MS. GEE: Well, in that - you just point out that
12 the - how I'm going to respond to you, we do have very
13 different formats in that we have convenience stores.
14 We have the independent grocers that have a lot more
15 flexibility and can respond much more - more quickly
16 because their decision-making is much closer to home,
17 where you have got national chains that have a system
18 set up where they have to go through several layers.

19 So I know that for at least for our Thriftway and Red
20 Apple process - because you all know Bob Roderick
21 (phonetic). Bob is the one that assists them in their
22 ads (inaudible) that he - he has to have a two-week
23 advance notice to do the ad and it needs to be then
24 placed with the newspaper. So they have got like a
25 three-week advance period, at a minimum, to then - to

1 get their ads from the time - when it hits the
2 newspaper. So I wouldn't - maybe Holly can answer for
3 somebody like a Safeway that is national, but I would
4 say the independents are much more flexible and easier.

5 So I would say that that's probably a minimum there
6 and probably the nationals require at least a week or
7 two, at least, more, and Costco would probably - of
8 course, their decision-making is much closer to like the
9 independents are.

10 CHAIRMAN LEE: I see. So - so for a national
11 chain, because there may be different layers that the
12 pricing decisions have to go through, there may be a
13 longer period to the three months as opposed to
14 independents where retailers might be more - more
15 frequent changes in their prices.

16 MS. GEE: Again, I will defer to Holly, but in my
17 experience working for the chains for 20 years, I don't
18 think they would require that much advance notice on a -
19 and it is not so much pricing that is the ad, the
20 preparation of the ad, the placements, that type of
21 thing, that is the backlog, so --

22 CHAIRMAN LEE: Okay. Any questions of staff?

23 MR. GARZA: Just to clarify - I put my back to
24 it, when the staff looked at this, the most efficient -
25 you talked about an efficient process for us hiring 25,

1 50, 100 auditors to go out and audit these entities that
2 are in the state and out of the state is not an
3 efficient way. That's why we get back to the electronic
4 system provides us with the opportunity. We would audit
5 that electronic system and the filings that occur when
6 changes occur. So for us, just so you know that is the
7 most efficient way of doing it.

8 MS. GEE: I think that's a good point. We are
9 not on your side of it, so that's good knowledge for us.
10 You know, we are look from our side, so --

11 CHAIRMAN LEE: Thank you.

12 MS. GEE: -- thank you.

13 CHAIRMAN LEE: Camille Goldy.

14 MS. GOLDY: Not this issue.

15 CHAIRMAN LEE: Not this issue, okay. Inga
16 Manskopf.

17 MS. MANSKOPF: Not this issue.

18 CHAIRMAN LEE: Jeanne Niedermeyer? I don't think
19 this - anybody else who wants to speak to this issue?
20 Oh, John (inaudible).

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(Conversation in the background.)

MR. GUADANOLA: I'm John Guadanola. I'm legal counsel for the beer and wine wholesalers society and I don't want to spend too much time arguing with John, although I - I have enjoyed debating this case. I have enjoyed it more recently than I did before, but there is a couple of comments I would make.

I don't agree with John's characterization of what the 9th Circuit said. The 9th Circuit said that these various limitations on practices are in fact - they are restrict (inaudible) ways (inaudible) on their products. They did not say that the laws are ineffective in accomplishing the State's purposes.

Judge Peckman looked at that issue in the context of all of these restraints. She concluded that they were ineffective. I, frankly, don't agree with her. She was wrong on the law. She was wrong on the law and I think she is wrong on that.

What the 9th Circuit said was when you look at the issue of whether price post and hold has been proved to

1 further temperance, they couldn't conclude that there
2 was a clear and unavoidable conclusion, that she was
3 wrong in saying that the evidence (inaudible).

4 So it is - it is a very convoluted way of saying that
5 they don't think - they didn't think the burden of proof
6 on (inaudible) was raised on that point. They are not
7 saying that there is a finding by a court or anyone else
8 that these laws were ineffective.

9 The second point that - that John makes that I think
10 needs to be thought about is this entire discussion is
11 about what is good for consumers. (Inaudible) is good
12 for consumers. And some of you heard me say this
13 before, what is best for consumers when we are talking
14 about alcohol, the best price for consumers is not in
15 the best interest of society. You simply - I agree with
16 the comments, friction has a lot of value to the
17 situation where we are trying to restrain things.

18 The final point I would - I would disagree with John
19 is the statutory basis for what you are doing.
20 (Inaudible) has at the very beginning before the intent
21 provision a statement that says it is unlawful to change
22 a price without first giving notice to and getting
23 approval of the Liquor Control Board. That's followed
24 by the specific posting requirement. So I think there
25 is plenty of legal authority for the Board to act the

1 way that they want to.

2 Now, we completely agree that there ought to be some
3 system of enforcing uniform pricing. You could make an
4 argument, I think, that purposes a hold without filing
5 would be legitimate, if there is going to be a filing.

6 And - and a couple of points that I think need to be
7 considered, one is advanced filing. It does not make
8 sense to me to say that filing should - with you guys
9 should be simultaneous with the price becoming
10 effective. There is too many sort of procedural issues
11 there. I think there ought to be some - it doesn't have
12 to be very much, 24 hours, 48 hours, something like
13 that.

14 And then putting the final structure together, I
15 think you have to give careful consideration to how
16 filings by suppliers relate to supply and (inaudible)
17 for distributors. You know, right now, the - the
18 suppliers post 30 days in advance and distributors react
19 to it. If you press that time too much, you might
20 inadvertently find yourself in a situation where filings
21 are rejected for a 10 percent rule; for example, if the
22 distributor files a price change before the manufacturer
23 has. So that is just something that needs to be thought
24 about.

25 As I understand the system, what you are saying is

1 that you can change prices at any time. If you drop
2 your price and go back up in less than 14 days, that
3 will trigger then an inquiry. If your price stays down
4 for 14 days, that's presumed to be lawful.

5 I would suggest just for consideration by the Board
6 that it might be - it might be smart - I don't know if
7 smart - something to think about would be changing the
8 presumption of the second part to say that if - if a
9 person changes - drops their price and raises it again
10 within less than 14 days that you are going to presume
11 that that increased (inaudible) denies customers the
12 reasonable opportunity to get access to the price unless
13 it can be justified.

14 So rather than you having to go in and prove that, in
15 fact, people were denied, you put the burden of
16 justifying the quicker-than-14-day change on the company
17 that wants to make it.

18 CHAIRMAN LEE: Well, that's a lot of detail.

19 MR. SULLIVAN: And I apologize. We had a meeting
20 this morning, so I was not able to give you written
21 comments in advance.

22 CHAIRMAN LEE: Okay.

23 MR. SULLIVAN: We had to have a meeting this
24 morning. And if you don't mind, Chairman, I would be
25 happy to submit some written comments.

1 CHAIRMAN LEE: I think that would be really
2 helpful because staff really needs to understand how the
3 current proposal or any other alternative proposal might
4 work or what - what are some of the other
5 considerations.

6 So, Jennifer and Randy, do you have any clarifying
7 questions for John?

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(No audible response.)

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15 CHAIRMAN LEE: No? Okay.

16 UNIDENTIFIED SPEAKER: We will be glad to get
17 (inaudible). Thank you.

18 CHAIRMAN LEE: Okay. I think that's fine. Thank
19 you, John.

20 MR. SULLIVAN: Questions?

21 CHAIRMAN LEE: Any questions for (inaudible).
22 Okay. Anyone else on this issue? Yes?

23 UNIDENTIFIED SPEAKER: I just wanted to ask one
24 quick question. If you are going to send the
25 commentary, we would also like to take advantage of

1 that. I (inaudible) an opportunity to get (inaudible)
2 at this point. So is there going to be a period of time
3 where we can provide written comments on this issue?

4 CHAIRMAN LEE: Yes, I don't see a problem with
5 that now that we have a little bit more - more time.
6 What do you suggest?

7 MR. GARZA: Well, I guess one of the things - and
8 it is a good point (inaudible). I think what I heard
9 Martha said was possibly at least 21 days, at this
10 point, before it is possible that there is a decision
11 made not to accept the appellate court - is there - when
12 would be the soonest that we need to make a decision is
13 the question? Martha? We don't know that, do we?

14 MS. LANTZ: Right. That's what we don't know.
15 That would be whenever they make their decision plus
16 seven days barring an appeal to the U.S. Supreme Court,
17 so --

18 MR. GARZA: So you are thinking it could be as
19 many as 21 days, but then another seven would give you
20 28 days, so I would think that we would have some
21 comment back to us within a couple of weeks.

22 CHAIRMAN LEE: How about by the end of the
23 month --

24 MR. SULLIVAN: As I read the rule --

25 CHAIRMAN LEE: -- on the 29th ?

1 MR. SULLIVAN: -- they could make a decision to
2 grant the hearing sooner, but the soonest that they
3 could deny it would be 21 days.

4 CHAIRMAN LEE: Okay.

5 MR. SULLIVAN: -- (inaudible) 21 days to ask for
6 review.

7 MS. LANTZ: Right, I agree with that.

8 MR. SULLIVAN: So they couldn't deny it in less
9 than that. And then you have got - since the 28 days
10 would be the soonest with the (inaudible).

11 CHAIRMAN LEE: All right. Would until the end of
12 this month, February 29th, which is a Friday, is that -
13 does that seem like adequate time? (Inaudible.) Does
14 that work?

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(No audible response.)

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24 CHAIRMAN LEE: Okay. All right. So I think any
25 further written comments or anything that you have heard

1 today that may (inaudible) some more thoughts,
2 additional thoughts, you have until the end of this
3 month, February 29th, at 5:00 p.m. to (inaudible) or
4 somebody else to PK.

5 UNIDENTIFIED SPEAKER: To PK.

6 CHAIRMAN LEE: To PK. PK will be the keeper.

7 All right. I do want to express my appreciation to
8 John Sullivan and John Guadanola and (inaudible) this -
9 this discussion has taken place in the legal arena and
10 for the lawyers who go through the legal nuances, that's
11 the discussion there. Now it is good to have broader
12 discussion and I do appreciate everybody's attendance on
13 this issue.

14 BOARD MEMBER KUROSE: The (inaudible) is a good
15 thing.

16 CHAIRMAN LEE: Yes. My colleague appreciates the
17 dynamic friction in the discussions and looking at
18 different issues.

19 Let's move on - yes?

20 MS. JACOY: I have got a question --

21 CHAIRMAN LEE: Yes.

22 MS. JACOY: -- Regarding the manufacturer side.

23 Do they have the same 14 days or is this just
24 (inaudible)?

25 CHAIRMAN LEE: No. It does apply to

1 manufacturers. It is everybody who is required to post
2 on the system now and --

3 MS. JACOY: If they want to lower their prices
4 and they do, then they change their prices quicker than
5 14 days, they also get the (inaudible)?

6 CHAIRMAN LEE: It means that any - anybody who
7 has to post would post and if it is shorter than 14
8 days, the current proposal is, yes, that would trigger
9 an inquiry.

10 MS. JACOY: All right. (Inaudible) one day
11 opportunity to buy in --

12 CHAIRMAN LEE: Mm-hmm.

13 MS. JACOY: -- We have to get them to change
14 their prices immediately.

15 CHAIRMAN LEE: (Inaudible.)

16 MS. JACOY: If they call me up and reduce their
17 prices --

18 CHAIRMAN LEE: Uh-huh.

19 MS. JACOY: -- (inaudible) --

20 CHAIRMAN LEE: Uh-huh.

21 MS. JACOY: -- do I have to make my decision
22 right now and I do --

23 CHAIRMAN LEE: Okay.

24 MS. JACOY: -- and I have to go through that
25 system of filing electronically (inaudible) and I say

1 (inaudible).

2 CHAIRMAN LEE: That's what is contemplated; is
3 that right?

4 UNIDENTIFIED SPEAKER: (Inaudible.)

5 CHAIRMAN LEE: Yes. The answer is yes.

6 MS. JACOY: Okay.

7 CHAIRMAN LEE: Yes. All right.

8 MR. GARZA: I guess just one thing is the
9 (inaudible) only comes if you violate the law. So what
10 we are looking at is an opportunity when we look at that
11 (inaudible) day - which would be - it just means that we
12 are looking at the filings that occurred and do those
13 prices remain available (inaudible). It doesn't presume
14 that there is a violation of the law there, so to speak.
15 I wanted to clear that you. Thanks.

16 MS. JACOY: Well, yeah, I know (inaudible) they
17 don't have these resources. Their - their system is a
18 step down (inaudible) down. (Inaudible.)

19 CHAIRMAN LEE: I see. Uh-huh.

20 MS. JACOY: (Inaudible.)

21 CHAIRMAN LEE: Uh-huh.

22 MS. JACOY: When you have (inaudible) a while for
23 them to (inaudible) part of that right now to get a
24 (inaudible).

25 CHAIRMAN LEE: I see.

1 MS. JACOY: (Inaudible) I'm not sure if they
2 don't need to react as quickly --

3 CHAIRMAN LEE: Uh-huh.

4 MS. JACOY: -- to the (inaudible).

5 CHAIRMAN LEE: I see. And you are a distributor?
6 I'm sorry.

7 MS. JACOY: (Inaudible.)

8 CHAIRMAN LEE: You are a distributor. Okay.

9 Okay. Well, these are the things that we want to hear.

10 Okay. And for Katy Jacoy, who represents California
11 wineries, those who have (inaudible) system, what does
12 it mean for small business and, you know, how often are
13 they going to be changing their prices. We don't know
14 because under our current system, it's no less than
15 (inaudible) days. Right. So whatever the market is
16 doing, this is what we need to understand.

17 Okay. Next let's move on to (inaudible).

18 BOARD MEMBER HOEN: I would just like to make one
19 comment.

20 CHAIRMAN LEE: Yes.

21 BOARD MEMBER HOEN: The - the - John, you raised
22 a number of items that were the decision of the --

23 CHAIRMAN LEE: Which John?

24 BOARD MEMBER HOEN: Oh, I'm sorry. Sullivan.

25 CHAIRMAN LEE: Oh, okay.

1 BOARD MEMBER HOEN: That while the district Court
2 of Appeals, however, you suggest that they are
3 ineffective if we continue with the areas that we want.
4 Listening to you I thought - I thought we wanted
5 something, but - but to me, now that changes my view in
6 the fact that we needed to prove that - that they worked
7 and probably didn't do it well. But now in evaluating
8 those other areas, if - it occurs to me that the burden
9 of proof (inaudible) don't work shift.

10 And as I review the - where we are going, I'm going
11 to be looking very seriously at who has the proof that
12 these questionable practices, as you put them, don't
13 work, so . . .

14 CHAIRMAN LEE: What I - that's an interesting -
15 an interesting point. I think part of it is a legal
16 discussion. We - we didn't convince Judge Peckman,
17 (inaudible) understand it, Martha, and this is also an
18 area that is evolving in the courts as to the burden of
19 proof on the examining of these regulations from an
20 antitrust standpoint, just like how much proof to show,
21 you know, the desired outcome of temperance with a
22 regulation that is challenged. That's an evolving area
23 where it is not that clear.

24 MS. LANTZ: Yes, I think that's fair to say.

25 CHAIRMAN LEE: Okay.

1 MR. GUADANOLA: May I comment on that, Madam
2 Chair?

3 CHAIRMAN LEE: Sure.

4 MR. GUADANOLA: That the essence of the 9th
5 Circuit is that a state has the ability to regulate
6 economic activity in a matter that limits competition.
7 In fact, that part of the decision is not limited to
8 beer and wine or alcoholic beverages. As long as they
9 are doing it in a manner that doesn't promote
10 (inaudible) and doesn't promote conclusivity among the
11 participants in the marketplace, they can regulate that.

12 The question of the burden of proof comes in when we
13 get to the second step, which is if it would otherwise
14 be preempted by the Sherman Act, that is to say by the
15 21st amendment, that burden of proof issue has not been
16 resolved.

17 But once you have a - once you have - a state has the
18 authority to pass a law, then I think it's - it's
19 entirely appropriate for the Board to say we are going
20 to take the position that we will not change the law
21 unless you prove to us that the change will not cause
22 harm or you can say we are going to change the law
23 unless you prove to us that - that changing it will
24 cause harm.

25 So I think it is within your prerogative to establish

1 that as a policy decision, so I don't think - I don't
2 think there is ever going to be a legal issue on the
3 burden of proof, I hope.

4 CHAIRMAN LEE: Okay. (Inaudible.) All right.
5 Let's move on. Okay. Mona, please. Could you identify
6 yourself, please?

7 MS. MOBERG: Again, I'm Mona Moberg. I work for
8 the Liquor Control Board here in the director's office.
9 I'm a project manager and I'm going to speaking to this
10 issue paper that hopefully you all were able to pick up
11 a copy in the back. And there is a couple of appendices
12 that I will also refer to in this document.

13 And being that I have a general (inaudible) comment,
14 I'm going to try to go through this quickly. I'm not
15 going to read it verbatim, so I'm going to try to hit
16 the high points for you.

17 I do want to start out and preface this discussion
18 that it will be very clear that this document is
19 describing a concept for change. It is not a
20 recommendation. It is not a proposal. It's just
21 clearly articulating kind of a what-if concept and
22 gathering some feedback on that. So I wanted to make
23 sure that everybody understood that.

24 So it is intended to summarize a lot of the comments
25 that we received to get a general sense of how folks

1 thought about this concept and what was the general
2 feeling.

3 So to give you a little bit of information about the
4 issue itself, the Tied House statute - and it is
5 specifically RCW 66.28.010 (inaudible) prohibits the
6 manufacturers and distributors from having any ownership
7 interest in a retail establishment. It also prohibits
8 them from giving money or like items of value to a
9 retailer.

10 So for those of you that aren't real familiar with
11 it, I was trying to give you a little bit of a
12 (inaudible) without going into too much detail. And I
13 thought one - it was important to note that since, that
14 statute was created in 1935, over 60 exceptions have
15 been created, so we have sort of referred to this
16 statute as a bit of a Swiss cheese because there has
17 been so many things carved out of it. It makes it a
18 little bit more complex.

19 And I think one of our comments here that came from a
20 stakeholder was very - very good. It has been stated
21 that the system is too complex, but it is a complex
22 business environment and a complex mission to regulate
23 alcohol. We heard today that regulating alcohol is
24 different than other products and so it is important to
25 remember that.

1 So just to kind of give you a little bit of a sense
2 how we have gotten here today, in March of 2006 Governor
3 Gregoire signed a bill that assigned a group of folks to
4 take a look at this statute and that group was called
5 the Three-Tier Task Force and it was a broad body of
6 folks that were about 20 to 25 stakeholders on that
7 group. It also had some legislators on it.

8 And they basically were charged with looking at that
9 current (inaudible) system and trying to see if there
10 were any changes to be made to it, realizing they had a
11 very small window of time to look at that statute in its
12 entirety. So they really had very little time to delve
13 into the details.

14 And so we are fortunate to be able to take their
15 recommendations and charter another group. So I want to
16 speak to a couple of the recommendations that actually
17 (inaudible) the work for the Three-Tier - the Tied House
18 review group.

19 If you want to go to Appendix A in your handout, the
20 two recommendations that came from the Tied House - the
21 Three-Tier Review were that looking at recommendation
22 Number 2, specifying the (inaudible) providing money or
23 money's worth. The task force recommends continuing the
24 State's current approach of adopting specific exceptions
25 to the prohibition (inaudible) providing money's worth

1 to retailers and direct the agency to work with
2 stakeholders and re-examine current exceptions and
3 develop a comprehensive list of proposed exceptions for
4 legislative consideration.

5 When developing a list of recommended exceptions, the
6 LCB should consider the following areas: Industry
7 business needs, customer benefits, whether it creates
8 unwanted inducement for retailers, the potential for
9 increased misuse of alcohol and enforcement resources.

10 Their other recommendation around Tied House was the
11 piece around financial (inaudible) ownership, and that's
12 Recommendation Number 3. And they encourage the
13 liberalization of the Tied House ownership restrictions
14 and that the legislature work with the LCB to arrive at
15 a workable solution.

16 So going back to the issue paper, that's what - we
17 took those recommendations and then we created another
18 work group in January of '07. I'm up on Page 2, if you
19 are following along.

20 And that new work group was called the Tied House
21 Review Team. And, again, it had a large number of our
22 stakeholders and (inaudible) that many of you are here
23 today. So it is nice to have some of you back here to
24 be able to answer questions or raise questions if you
25 want to. We allowed some continuity by having some of

1 that makeup from the original group continue into the
2 second group.

3 So that's the three - the Tied House Review Team used
4 the work that it had built from the Three-Tier Task
5 Force. We also were able to solicit additional
6 information from other states and find out what their
7 practices were and bring that information together and
8 (inaudible) it an open discussion with this group.

9 The Tied House Review Team was (inaudible)
10 decision-making body, so was a little bit different from
11 the Three-Tier Task Force.

12 From that information we gathered from the six
13 meetings that we had with that stakeholder group, we had
14 an internal LCB planning team where we took the
15 information we learned from each of the meetings, again,
16 looked at the research data, the surveys from states,
17 federal guidelines. And this internal planning team
18 developed a concept for change and actually looked at
19 various models.

20 So talking through sort of what our driver was, when
21 we met with the stakeholders, it was interesting that we
22 couldn't even get a common consensus of whether or not
23 change was needed.

24 So you can see that we (inaudible) options from our
25 stakeholders. Some of them said just keep on doing

1 things the way we are doing them now, we understand the
2 system. Others said relax the financial interest
3 restrictions. Other says adopt the federal guidelines,
4 basically look for outcome and then enforce whatever is
5 happening at the outcome level; grant the LCB to - the
6 Board the discretion to allow exceptions for the money's
7 worth area; so (inaudible) is different right now that
8 goes to the legislature; remove the restrictions on
9 money's worth entirely and basically open it up and
10 allow all money's worth to occur.

11 So it is kind of taking those general thoughts and
12 the research information. We as a planning group also
13 looked at what should be our major goals for looking at
14 any kind of models for change and (inaudible).

15 So while we heard some of the ideas from the
16 Three-Tier Task Force - and there was a couple of those
17 illustrated here as well - we thought the really four
18 important things for us right now were looking at
19 preventing misuse and overconsumption, preventing youth
20 access to alcohol, preventing the coercion between the
21 tiers, and promoting efficient collection of taxes.
22 Those last two were also discussed in the Three-Tier
23 Task Force.

24 So based on all that work and the goals, we came up
25 with three basic models. So the first model offered

1 some change to our current system. For example, it
2 would allow indirect financial interest or ownership
3 and - but it would still prohibit the - most of the
4 monies for activities that we have today. So it was
5 offering a little bit of change.

6 And another change would be around the money's worth
7 area. There would be specific assigned dollar values
8 for what could be provided within a calendar year, for
9 example, to a retailer.

10 The second model offered a little bit more
11 flexibility. For example, it would allow both partial
12 and full interest or ownership between the tiers, but
13 there would be certain criteria that would have to be
14 met to make sure that there wasn't coercion between the
15 tiers, for example. And the (inaudible) would not be
16 threatened.

17 The second model also allowed more money's worth
18 activities, but the money's worth activities would be
19 evaluated against a set of criteria, so they were not as
20 specific, they were more looking at (inaudible) be
21 (inaudible) this criteria, would they meet it.

22 And the third model is the one that we actually took
23 to the Three-Tier - to the - sorry - the Tied House
24 Review Team in December. And this is a concept that
25 (inaudible) had been talking about. And it really was

1 looking at, after we looked at the first two models,
2 what if we looked at something a little bit different in
3 case the items that are in the Court being looked at,
4 the regulations, what if those went away, what might we
5 need to look at a model to - to consider and get some
6 feedback on.

7 So this model sort of had to step back and say what
8 if we started with a clean slate, what if we didn't have
9 a level playing field and our current exceptions the way
10 we are doing business today were not sacred anymore. It
11 would be sort of like starting from scratch. What might
12 that look like?

13 So we presented this concept at a December 6th
14 meeting to our folks that were on the team. We also
15 mailed this to over 80 of our stakeholders and
16 interested parties to get some feedback, so if people
17 weren't able to be at our meeting, as the member of the
18 group, we still wanted to be able to get feedback.

19 And, fortunately, it was kind of exciting to see that
20 we did get a lot of feedback and I think that's worth a
21 lot for (inaudible) understand how things might occur in
22 the business place and what harm might happen if
23 something like this were to occur.

24 So talking through quickly the three concepts that -
25 or the three elements of the concept of change, one of

1 them is a board authority. I mentioned that we did have
2 some comments that said maybe we should give the Board
3 that authority rather than taking it to the legislature.
4 So this would be a situation where the legislature would
5 grant the Board the authority to prohibit financial
6 interest and money's worth practices that are based on
7 values from the legislature. So the legislature would
8 basically define what the parameters for that authority
9 would be.

10 So we would build some type of criteria that the
11 Board could use when evaluating this request so we would
12 have some consistent decision-making on whether or not
13 to grant an exception. And there would be some
14 flexibility with this type of approach because there
15 would be year-round opportunity to having exceptions
16 considered versus having to wait once a year for their
17 legislative session. So currently the way it works now,
18 as I mentioned, it has to go through the legislature to
19 be considered and reviewed.

20 For financial interest, the concept is looking at
21 open it up, allow full and partial financial interest
22 and ownership. And currently today we don't allow any
23 financial interest or ownership by a manufacturer, but I
24 mentioned that exceptions have been given. So, for
25 example, those exceptions have really benefited our

1 Washington wineries and breweries and sort of basically
2 allowed them to act in all three different tiers.

3 And money's worth would be allowed between a
4 manufacturer/distributor/importer and a retailer except
5 any Tied House activity that would impact public safety.
6 That's a very strong emphasis point for us.

7 So currently it is prohibited, again, except as we
8 have defined in various exceptions that have been carved
9 out; things of nominal value, some advertising
10 activities and certain labor functions are allowed.

11 So to try to summarize the comments that we got from
12 our stakeholders - as I mentioned we had 52 responses -
13 and it really was across the Board that we had comments
14 from our manufacturers, our distributors, retailers,
15 prevention community, associations that represent the
16 different tiers, experts within the regulation - the
17 alcohol regulation field.

18 I do want to note that out of that 52, 63 percent of
19 those did come from distributors, so we had quite an
20 overwhelming amount of feedback from our distributors.
21 But in general only five of our respondents felt that
22 this concept was something that was really exciting and
23 that we really should pursue it and move forward on it
24 quickly.

25 But, in general, the rest of the respondents didn't

1 feel that significant change was needed and that the
2 concept would allow really dramatic changes and
3 potentially some unintended consequences. There was
4 also some concern that the concept didn't take all of
5 the ideas from the Three-Tier Task Force into account.

6 And I just want to touch on a few of the quotes that
7 I think will give a little bit of flavor to this and
8 trying (inaudible) too long here. On the Board
9 authority piece, we didn't have a lot of written comment
10 about the Board authority piece itself, but of the ones
11 that we had, I thought it important to share a couple of
12 them from the Washington Food Industry, for example.
13 They strongly believe that the Liquor Control Board
14 should have broad rule-making authority when it comes to
15 protecting public safety; however, that authority should
16 be more limited in situations (inaudible) market access
17 and market forces.

18 Another one from the Washington Restaurant
19 Association said that "Our members believe that the
20 Liquor Control Board should have some rule-making
21 authority and in an effort to (inaudible) this, any
22 delegation of authority to the Board should probably be
23 limited and (inaudible) first, so really try it out in
24 the licensing or money's worth and/or Tied House laws
25 first versus giving it more cart blanche."

1 Moving ahead into the financial interest and partial
2 ownership area, again, the general theme was that the
3 financial interest should remain separate between the
4 tiers. In addition, there was some concern about the
5 federal guidelines, what we call PTB. They are the
6 folks that regulate the relationship and the activities
7 between the manufacturer and the distributor. And they
8 have really limited resources, so there was some concern
9 about how that would work.

10 A couple of quotes, again, from some folks around
11 this particular topic was, "Big distributors within the
12 State could establish retail outlets or purchase
13 existing retail outlets and have a negative impact on
14 established small retailers, distributors and grocery
15 chains. Small retailers may not be able to shift their
16 business strategy quickly enough to survive the change."
17 That was from our beer wine specialty shop.

18 Another one from the Governor's counsel on substance
19 abuse was, "The distinction between cooperative business
20 practices and financial interests (inaudible) result in
21 manufacturer exercising undue control over retail
22 business can be difficult to determine. Blanket
23 regulations cannot cover every potential manufacturer or
24 retail relationship that will evolve into the future."

25 We did have a couple of minority opinions that,

1 again, said this (inaudible) concept. One of them was
2 saying that "The changes outlined by the Liquor Control
3 Board are bold and dramatic. If adopted, they will
4 change the way wine is made and sold in Washington
5 State. In sum, Washington will become the best state in
6 the nation to make, distribute, sell and enjoy wine."
7 That was from a Washington winery.

8 And then a large retailer said, "We encourage the
9 Board to proceed (inaudible) with implementing the
10 concept."

11 So the last area was money's worth and the general
12 theme across the tiers was that we should continue to
13 prohibit the activities and enforce the change of
14 money's worth between the tiers. Many stakeholders also
15 felt that what has currently been allowed should
16 continue to be allowed. So it gets to that part of not
17 necessarily making a lot of change.

18 So a couple of quotes, again, to give a little bit of
19 context. "I strongly oppose manufacturer payment to the
20 retailer for exclusively (inaudible). This change would
21 (inaudible) competition and encourage developmental
22 monopolies (inaudible) separation of the tiers." That's
23 from the Governor's counsel on substance abuse.

24 California Wine Institute's comment was, "A
25 (inaudible) requirement of manufacturers to pay all or

1 part of cooperative product advertising."

2 And another area we actually heard a lot of comments
3 was around (inaudible) and so the Washington Distributor
4 mentioned if slotting fees or explanations of more than
5 money's worth are allowed, the effect would squeeze many
6 companies out of business. Slotting fees are where
7 somebody pays for shelf (inaudible).

8 So, again, I had a few minority - a couple of
9 minority opinions that supported that concept. From the
10 Washington Food Industry, for example, "We believe that
11 the movement toward allowing all activities, even if
12 currently (inaudible) and put (inaudible) emphasis on
13 controls in areas that negatively impact public safety
14 will create a more enforceable system and result in
15 greater efficiencies in the collection of taxes."

16 So to sum that up, the Board is going to recommend to
17 the legislature to conduct an interim study basically
18 taking the whole body of work that we have - and I think
19 because we have a very comprehensive body of work and
20 some models to look at for them to evaluate and give us
21 next steps.

22 CHAIRMAN LEE: Okay. With that, are there any
23 questions or comments to what has been presented by
24 Mona?

25 UNIDENTIFIED SPEAKER: (Inaudible). I'm sure we

1 will hear from others.

2 BOARD MEMBER HOEN: It was well presented. Thank
3 you.

4 CHAIRMAN LEE: Thank you. Okay.

5 MS. MOBERG: Okay.

6 CHAIRMAN LEE: Let's hear from the first one
7 (inaudible), so Christina.

8 MS. TALIANUS: I don't want to go first.

9 CHAIRMAN LEE: That's okay. Okay. How about
10 Inga?

11 MS. MANSKOPF: Good morning, again. Again, my
12 name is Inga Manskopf and I am from the Northeast
13 Seattle Coalition to Prevent Underage Drinking. And our
14 coalition is a very strong one and we represent - we
15 represent a diverse cross-section of our community in
16 northeast Seattle.

17 The reason we have the Northeast Seattle Coalition to
18 Prevent Underage Drinking is because in our community we
19 have high underage drinking rates, especially among our
20 high school students; higher than the state average,
21 higher than the county average, higher than the Seattle
22 average.

23 So as a coalition what we are trying to do is prevent
24 underage drinking in a community-wide level. We are not
25 just focusing on youth. We are not just focusing on

1 parents. We are looking at the whole community.

2 And that's why I am here today. We are working with
3 parents, mostly to teach their kids not to drink until
4 they are 21 years old. We don't need more barriers for
5 parents to overcome when it comes to getting that
6 message to their kids. And I guess my - my - I have
7 several concerns.

8 I will just stick with the money's worth section of
9 what we are talking about here today. One of the
10 barriers that I see for parents is in getting that
11 message across, our marketing strategies such as
12 give-aways at establishments that serve alcohol but are
13 not just for 21 and older - I'm talking about family
14 restaurants, pizza pop parlors, that sort of thing -
15 there should not be giveaways. There should not be any
16 sort of, you know, placements or coasters or whatever
17 promoting alcohol use. Parents don't need to have to
18 explain to their kids about these sort of things.

19 I do want to make it clear that my coalition is not
20 for prohibition, we are just asking that we - we are
21 asking for responsible market and business practices
22 that do not contribute to underage drinking rates in our
23 community. Thank you.

24 CHAIRMAN LEE: Thank you very much. Jeanne -
25 Jeanne Niedermeyer.

1 MS. NIEDERMEYER: Good morning. (Inaudible) I'm
2 a (inaudible). I'm in east Tacoma with the Franklin
3 Pierce Youth First United Council. I'm an employee of
4 the Franklin Pierce School District. I am also a parent
5 of two teenagers, a 15-year-old that is still at home,
6 of course, and then the 19-year-old is at Washington
7 State University, so I pay pretty close attention to
8 anything that may affect they or their friends' drinking
9 habits.

10 And, unfortunately, teens do have drinking habits in
11 our state. And like Inga, I'm mostly concerned with
12 marketing practices that may be impacted by these
13 decisions and specifically about novelty promotion is
14 one of my major concerns.

15 And I'm not sure if I'm understanding it directly,
16 but if novelty items are made available to retailers,
17 the restaurants, taverns, and to stores, I would be
18 really concerned about (inaudible) of the (inaudible)
19 that may be available.

20 My father-in-law, who has long since passed away, was
21 a pharmacist and he used to regularly get promotional
22 items. When my oldest son was about two, he brought
23 home to us a (inaudible) card that was emblazoned with
24 Alka Seltzer. I would be really concerned if there was
25 a display set up with alcohol at my local Safeway that

1 had (inaudible) card that has some alcoholic (inaudible)
2 on the front of it.

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(End of Tape 1, Side 2.)

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11 MS. NIEDERMEYR: . . . would be thrilled to have
12 it on his bookshelf at home along with his display of
13 autographed baseballs. So these are concerns that I
14 have. I'm also especially concerned about the
15 possibility of inflatables, animal mascots, costumes,
16 individuals at point of sale promotion.

17 Children are most likely to want to be involved with
18 a product that they know the brand. Kids in our country
19 know cartoon characters and brandized logos more than
20 they know representation of the public figures. If I
21 were to hold up a picture of anyone - George Washington
22 - and I were to hold up a picture of a mascot from a
23 corporate logo, they would probably be able to recognize
24 the mascot first. And if it is done in such a way that
25 is like the wonderful characters at Disneyland or Six

1 Flags where they have a great costume on, it is very
2 alarming.

3 We had a pirate party at our house for a group of 13-
4 to 16-year-olds just after Halloween and sure enough
5 some of the boys who were pirates were striking a
6 certain pose that is very popular in commercials right
7 now that I'm sure you are all familiar with.

8 So I think that there is a lot to be concerned about
9 when it has to do with any marketing practices that may
10 be impacted by this that have to do with novelties, with
11 distribution of those novelties and with making
12 available in a more child-friendly way the corporate
13 logos of these products. So we need to do the best we
14 can to protect our kids from those.

15 A second concern that I have has to do with pretty
16 much of any of the practices noted that may provide
17 opportunity for retail prices to be lowered. When kids
18 drink, they look for two things and the first one is
19 price. And so if you have a group of 15- to
20 17-year-olds that are trying to buy alcohol, first they
21 are going to pool their money; second they are going to
22 try to think of who they can get to buy it and then they
23 are going to have to decide what they want because the
24 (inaudible) is going to say, "What do you want?"

25 And most kids are going to say, "Get what you can get

1 the most of for this amount of money." And so I would
2 really discourage any practices that might lower retail
3 prices.

4 Price and brand are (inaudible) link to the underage
5 drinking. Anything that makes the brand (inaudible)
6 more familiar, anything that makes those prices go down
7 is going to increase the number of youth that are
8 drinking in our community.

9 So I can be more specific in written comments, if
10 those are available later, but my gut reaction is pay
11 close attention to those (inaudible) any of the activity
12 that is recommended here.

13 CHAIRMAN LEE: Thank you very much. Any
14 questions?

15 BOARD MEMBER HOEN: Thank you.

16 CHAIRMAN LEE: Let's see. Susan Peterson.

17 MS. PETERSON: Okay. Well, as I mentioned, I'm
18 not (inaudible). I don't have any industry background,
19 other than I'm an accountant, but I have nothing to do
20 with liquor wine, beer, food sales anywhere in the
21 country. On the other hand, I am a consumer and a
22 parent of two teenagers. This is an emotional topic for
23 me, so bear with me. This is prewritten because I knew
24 this would happen.

25 Ladies and gentlemen, I'm come before you today to

1 offer my opinions regarding the recommendations that you
2 are considering regarding price wars, promotional
3 (inaudible) et cetera. I speak to you --

4 CHAIRMAN LEE: It is okay. Take your time.

5 MS. PETERSON: I speak to you as a mother of two
6 teenagers in a middle class upbringing. Having said
7 that, my personal experience regarding alcohol is wide
8 and varied. My grandfather I never met because he died
9 of liver disease.

10 I have a nephew who has been in and out of rehab
11 since he was 21 for alcoholism. I understand that means
12 he started in junior high to high school drinking and
13 was a raging alcoholic at 21. He is now 34 and he is
14 still struggling with it. I have been married to two
15 alcoholics, (inaudible) one of whom is the father of my
16 children.

17 On the other hand, I also drink in moderation and I
18 have been a proprietor of a (inaudible) who definitely
19 understands (inaudible) proprietor. My issue is not
20 with alcohol on a whole. My issue is how it is
21 monitored and regulated.

22 It is a controlled substance that is out of control.
23 There isn't a person in this room who doesn't know at
24 least one alcoholic, if not more. And there is probably
25 not one of you who don't know a recovering alcoholic.

1 There might be even some sitting in this room. We don't
2 know. They come from every race, religion and career.
3 They fight the urge to drink each and every day.

4 Please consider them in your decision today. Most of
5 them are adults, but it is youth that I am most
6 concerned about. As mentioned earlier, I have two
7 children who are teenagers who are predisposed to
8 alcoholism due to their family history.

9 Both of their schools are within a block of grocery
10 stores. The high school visits the stores every
11 lunchtime for their snacks. The middle school kids hang
12 out at the school after school - or at the store after
13 school waiting for their bus or to be picked up by their
14 parents.

15 The thought of having beer and wine giveaways,
16 promotional items at those stores scare me to death. It
17 is making beer and wine far too accessible to them and
18 glamorizing drinking. Giveaways tend to take the stigma
19 away from underage drinking. They think it's cool.
20 That's the last message I want to give to my kids.

21 I belong to a coalition to fight underage drinking.
22 (Inaudible) youth. According to my daughter who is in
23 high school, there is a kegger nearly every weekend. It
24 has got to the point the high school kids are being
25 forced to take breathalyzer tests before they attend a

1 sports function.

2 I ask myself where is the kids' parents? How are
3 they getting the beer and the alcohol? What else
4 (inaudible).

5 When you are considering the matters before you
6 today, please understand that you have to base your
7 decisions not only how they affect the adult population
8 but also our youth. You cannot ignore the fact that
9 youth alcoholism is a very real problem in our society.
10 Any decisions you make to foster or promote alcoholism
11 in (inaudible).

12 It is bad enough that you can't watch a sporting
13 event on TV without being bombarded - bombarded by beer
14 commercials. In fact, for many Super Bowls, that's -
15 that's the highlight of the Super Bowl, but what does it
16 say to our youth?

17 Perhaps, the commercials aren't meant to target the
18 young, but nonetheless the young are watching and they
19 are taking it all in. All we need to look at is the
20 cigarette industry in the proof of advertising and its
21 effects on kids. Hopefully that will be a lesson well
22 learned, not a mistake repeated.

23 Responsibility: That's the key word and one that
24 lies in your hands at this point. For every responsible
25 parent out there, there is one who isn't. For every

1 responsible adult, there is one who isn't. Kids are
2 only learning how to become responsible and they need as
3 much help as possible. Please don't make it any easier
4 than it already is for them to have access to alcohol or
5 to glamorize it. Help protect our children by acting
6 responsibly today. Thank you for your time.

7 CHAIRMAN LEE: Thank you very much, Susan.

8 BOARD MEMBER HOEN: Susan, could I ask you a
9 question about your experience working in a pub in
10 England?

11 MS. PETERSON: Mm-hmm.

12 BOARD MEMBER HOEN: I understand that England has
13 (inaudible) a lot of the connections with the three
14 tiers or the restrictions. And I'm just curious, did
15 you have a different experience of alcohol consumption
16 that you observed in England versus here?

17 MS. PETERSON: Much different. I mean, their
18 whole society is built around pubs. It is not, "Let's
19 go shopping. Let's meet at the restaurant. I will meet
20 you at the pub."

21 And they are there from - I will say it starts later
22 in the night. An early outing for them might be 10:00,
23 but I guarantee there are kids in there at the same time
24 the adults are in there. And they will stay until the
25 last bell rings.

1 When I was there - this was back in the mid '80s, so
2 I'm sure things have probably changed since then - but
3 as I said, alcohol, it is their way of life over there
4 and you are tied to your house, whoever it might be,
5 again (inaudible) whatever, and you are forced to go by
6 their rules, their pricing, their guidelines.

7 You really - everything is taken out of your control.
8 There is no such thing as a pub owner in England. It is
9 control - well, at least at that time, I don't know if
10 it is the same now - but at that time it was controlled
11 by the industry a hundred percent. And you are there -
12 as a proprietor, you are there to meet and greet and
13 serve and that's pretty much it. I hope that answers
14 your questions.

15 BOARD MEMBER HOEN: Oh, yeah. Thank you.

16 CHAIRMAN LEE: Thank you very much. Christine,
17 ready now?

18 MS. TALIANUS: I am Christine Talianus and I'm a
19 prevention intervention specialist at two high schools
20 and a middle school. And I will always have a job,
21 always because of this, and I think that's really sad.
22 I never hear any of the real good stories. All my
23 stories that I hear are all the other end.

24 I used to work in treatment. Now I'm in the schools
25 again, but, you know, one thing about drugs and alcohol

1 is they are dream dashers and I see that every day. I
2 see kids that are drinking and driving. They don't see
3 alcohol as a big deal.

4 It is so easy to get. They see it - you know, like
5 with the T-shirts and all the giveaways, they see people
6 just taking it very lightly. And so they do, too. Even
7 though they are passing out, they are blacking out, they
8 are having consequences, school is going down, they
9 still don't see it as a huge problem.

10 I - I like the idea of keeping the prices high and
11 making it not accessible - as accessible, getting rid of
12 the giveaways, not making it so it's just as normalized
13 as it is.

14 These kids are really suffering and it is a lot of
15 them. I'm astounded at northeast Seattle and how many
16 alcohol problems - primarily - I mean, alcohol is a big
17 problem. I thought it would be (inaudible) alcohol.
18 And they are drinking and driving. Lots of them are
19 drinking and driving. They are getting date raped. It
20 is really sad. And so unfortunately I will always have
21 a job.

22 And I really think that us as adults really have to
23 be aware of the messages that we are giving to the
24 teenagers because right now they are thinking alcohol is
25 no big deal. Some of them are like, you know, just - it

1 is legal, it is no big deal. And I always have to
2 remind them, it is not legal for you and it is a big
3 deal.

4 So anyway, I encourage everybody to be very
5 responsible in their decision-making and always think
6 about the messages that we are giving adolescents about
7 drinking. Thank you.

8 CHAIRMAN LEE: Thank you very much.

9 BOARD MEMBER HOEN: Thank you.

10 CHAIRMAN LEE: Camille?

11 MS. GOLDY: Good morning. Good afternoon. My
12 name is Camille Goldy and I'm the community coordinator
13 for the Kelso STOP Coalition and STOP stands for
14 Standing Together on Prevention, so we are another
15 (inaudible) community as Inga and Jeanne already spoke
16 and I would just like to support everything that these
17 ladies have said.

18 So I don't want to take up too much time and repeat,
19 but I just wanted to mention that we are a community
20 coalition that is working to implement evidence-based
21 prevention programs within our community.

22 And one of the things that we know is that as prices
23 go down, youth consumption goes up, so we would like you
24 to take that into consideration, as well as repeating
25 what these ladies have all said about name recognition

1 and marketing to youth. We know that whether it is
2 direct or indirect, it is affecting our youth and they
3 can recognize it more than any political figure like has
4 been said already.

5 So we would just like you to take that into
6 consideration as you make your decisions that we are
7 fighting a battle in Kelso with underage drinking that
8 is pretty intense. And we have a small town where kids
9 say there is nothing to do and so that's why they drink.
10 So they don't really need anymore encouragement with
11 promotional items or marketing because that often
12 affects that.

13 So I ask you to listen to all of the wisdom from the
14 prevention folks in the room. I would just like you to
15 consider that we are fighting a battle to build healthy
16 communities and we would like your support.

17 CHAIRMAN LEE: Thank you for your comment.

18 BOARD MEMBER HOEN: Thank you.

19 CHAIRMAN LEE: Carol Owens.

20 MS. OWENS: I would like to (inaudible) the Board
21 (inaudible).

22 CHAIRMAN LEE: But everybody else hasn't heard
23 from you so maybe . .

24 UNIDENTIFIED SPEAKER: I (inaudible).

25 MS. OWENS: Carol Owens, I'm the coordinator for

1 the Governor's counsel on substance abuse. And I have
2 been on the - the Three-Tier and the Tied House Review
3 Committee along with Mary Segawa from Thurston TOGETHER!
4 And we have struggled a lot with this, trying to
5 understand the industry, being sensitive to all of the
6 marketing and the business practices and at the same
7 time making sure that the voice for prevention and
8 talking about social norms and what kind of messages we
9 are giving to youth and even to adults about the use of
10 alcohol in our society.

11 So the Board has a letter - a letter that I wrote and
12 I think some of you all have - have it also where I went
13 through each of the money's worth items and the impacts
14 and responded to them.

15 Major concerns continue to be anything that markets
16 alcohol in a way that makes it look like it is just
17 (inaudible) of a normal and attractive thing that the
18 only reason I can't do this cool thing is because I'm
19 underage.

20 Anything that affects price, again, I dispute
21 whatever - whoever the judge was in the 9th Circuit. I
22 think we have pretty strong data and evidence that price
23 does affect consumption. And beer is the - still the
24 product of choice, although we are hearing that youth
25 are beginning to look at the more sophisticated

1 products. And the cheaper the product, that does affect
2 consumption and (inaudible) youth access to alcohol.

3 So those continue to be - we have a lot of
4 discussions in the review processes about the things
5 like coasters and why can't I give coasters to - why
6 can't the retailers give out the coasters to the tavern
7 and the manufacturer to the retailer?

8 And I think the point that we have made - I don't
9 have a problem if there is a Budweiser coaster in a
10 tavern where everyone who is in that tavern is of
11 legal - legal age, but when it shows up in a pizza
12 parlor or some of you who from the prevention field may
13 have been at the prevention summit in Vancouver when
14 there were cocktail napkins on the table at an event
15 with several hundred youth involved.

16 It is the idea that anything that we are doing that
17 says this is just a normal part of society and makes it
18 (inaudible) normal, responsible (inaudible) use if you
19 are an adult. But we are trying to get a more
20 reasonable response from youth understanding that it is
21 illegal if you are underage and also having a healthy
22 relationship to the decision-making about use of alcohol
23 as they reach that - that age.

24 So I'm not going to go into specifics because, like I
25 say, these people hear from me more than they ever would

1 want to. And I would be happy to share the written
2 comments with the - with them to the Board if anybody
3 wants to see what our specific comments were.

4 CHAIRMAN LEE: Okay.

5 MS. OWENS: Okay.

6 CHAIRMAN LEE: Thank you, Carol. We always
7 appreciate your input. Just a question for Mona in
8 terms of the availability of all of the written comments
9 that have been sent to us: Those will be available?

10 MS. MOBERG: Yeah, I have got (inaudible) but
11 yeah --

12 CHAIRMAN LEE: Okay. Okay.

13 MS. MOBERG: -- they will be available after
14 (inaudible).

15 CHAIRMAN LEE: So we will make them available on
16 our website or just by request?

17 MS. MOBERG: I think by request (inaudible).
18 There is a lot of them.

19 CHAIRMAN LEE: Okay. So (inaudible).

20 UNIDENTIFIED SPEAKER: And I had a question, too.

21 CHAIRMAN LEE: Mm-hmm.

22 MS. OWENS: This came up the last meeting where I
23 apologized for not letting people that I'm in touch with
24 know about the comment period, but that the comment
25 period was actually closed for this concept. Are you

1 taking additional comments if there are people in the
2 audience that want to give more detail in writing?

3 BOARD MEMBER HOEN: I think we have found a
4 little more time now.

5 CHAIRMAN LEE: Yes. The answer . . .

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10 (Overlapping conversation.)

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15 CHAIRMAN LEE: . . . not 21 days. This is a
16 separate - this is the - part of the Three-Tier Task
17 Force, (inaudible) Tied House Review Team. Now, the
18 next step - and maybe we can talk a little bit more
19 about our suggested recommendation for the legislature
20 to do an interim study on this issue. Maybe you can
21 help explain what that is a little bit more so folks
22 understand that. Could you do that?

23 UNIDENTIFIED SPEAKER: Okay.

24 MS. MOBERG: I would just add to move back to the
25 legal fees, I think.

1 Ruth Ann, what you are getting at, I think there
2 is some recognition that the two pieces are connected
3 with the 9th Circuit ruling as long as it stays in
4 effect. There is another option available and when this
5 concept for change was initially put forth, it was the
6 political landscape what it would be like if all of the
7 Costco-related controls in the lawsuit went away. And
8 at least for now the 9th Circuit has said that
9 (inaudible) and we could have argument for hours and -
10 but you do have, you know, some more time I think to
11 have a legitimate study period.

12 BOARD MEMBER KUROSE: Right. Although for
13 purposes of the legislative piece of it, the time is
14 shorter than 21 days.

15 MS. MOBERG: True. True. But you are not - you
16 are not in the position yet where the lawsuit has
17 dictated a particular outcome. Okay.

18 CHAIRMAN LEE: Why don't we talk a little bit
19 about interim studies in a legislative arena.

20 UNIDENTIFIED SPEAKER: So I think when we met on
21 December 6th maybe there was some confusion around that.
22 Really what the discussion was after having already had
23 five meetings with respect to Tied House and Mona spoke
24 specifically about some of the models were discussed -
25 one of the things that we wanted to do was if we are not

1 successful in the Costco litigation and we know that -
2 and it was argued before the Court that the backbone of
3 the Three-Tier system, some of these Tied House laws
4 (inaudible) but certainly these regulations with respect
5 to uniform pricing and minimum markup, they are built to
6 create a level playing field with respect to the
7 entities that sell beer and wine in this state.

8 So one of the things that we want to do is you are
9 going to have a thoughtful discussion about Tied House,
10 it is not just about the current system, it is not just
11 about tweaking the system, but we - I think with respect
12 to the - to the staff, we want it to be an honest
13 discussion with respect to look if we are not successful
14 in the Costco case and we lose some of the backbone of
15 that system, we need to have what happens if this system
16 is entirely removed. If the money's worth is gone, the
17 financial interest is gone with respect to Tied House
18 (inaudible) what would be the effect?

19 And we were specific in that meeting on the 6th to
20 say we want input from you. We want to know
21 specifically how communities would be harmed with
22 respect to those regulations being removed. We have
23 heard some of that today, but I just want to share with
24 you people have gleaned on to this one last concept that
25 we discussed in one meeting, that there was a lot of

1 discussion about other avenues available and concepts
2 that are available to the Liquor Control Board with
3 respect to Tied House.

4 I think we get caught up with respect to the Costco
5 case because what we have said and what the Board has
6 said is we need to see this case resolved because it
7 helps us understand as a board and I think with staff
8 input where we go from here.

9 And it is not resolved. You just heard from the
10 gentleman from Costco that there is going to be an
11 appeal. So I think what we were commissioned to do when
12 we go back to where we began was to look at our whole
13 entire Tied House system as it relates to the discussion
14 that occurred at Three-Tier Review that was for several
15 months. And so that is really what the culmination of
16 the work of the Tied House Review Team was.

17 We find ourselves in these weird situations with
18 respect to timing with Costco, but I guess what would I
19 suggest is that it was the (inaudible) that we will
20 (inaudible) again. The recommendations - or I should
21 say the concepts have been discussed. I don't think the
22 staff or the Board would suggest any recommendations
23 with respect to the Tied House work group until - again,
24 I think we want to see a resolution with respect to
25 Costco, what are we going to end up with there?

1 But I think what we like to do in the discussions I
2 have had with some of the members of the legislature who
3 chair the committee with respect to the House and Senate
4 is provide a report of the information that we looked
5 over and the work that the work group did over the last
6 few months with respect to Tied House.

7 I just know one of the things that we (inaudible),
8 just so that you know, we believe these regulations and
9 laws would be discussed in the legislature, not in a
10 court. And so that was something that we talked about,
11 which is policies that we set for the legislature and
12 the Governor, not by courts. So if we are going to be
13 true to that - and, in fact, it is a board priority that
14 we look at regulatory reform, we look at honestly is
15 there a better way with respect to Tied House, with
16 respect to Three-Tier, how we regulate beer and wine
17 taking into consideration public safety.

18 And I don't think that this board has decided that
19 they are going to go one certain way with respect to
20 (inaudible) that's being true to the discussions that we
21 had both at the Three-Tier committee and both at the
22 Tied House law is we want to engage the industry that
23 sells beer and wine and all of you in a discussion about
24 what should we be looking at with respect to these
25 regulations.

1 So I guess what I would say is I think we have some
2 time. I think we are looking at what is going to happen
3 with respect to the Costco case that will help us at
4 least know where we are at and then look to the
5 legislature to provide a report to them of the
6 discussions that occurred around this area.

7 The legislature continues to ask these questions,
8 folks, with respect to Tied House. Should the
9 exceptions be considered? Should we do a whole new way
10 of doing? All I keep hearing is that price is important
11 and that consumption is important as far as that, so I
12 think we are not stuck on one particular way of doing
13 this.

14 I guess what I would say is we still want to go even
15 further in discussions when we talked about Frank
16 (inaudible), who was an expert who was involved in the
17 court case of looking at the overall issue. What you
18 heard in the court case which is (inaudible) you want
19 drive consumption, increase taxes for alcohol rather
20 than the regulation. There are others who would say use
21 the regulations. They are very effective in controlling
22 prices.

23 I guess I bring that up with you because I guess what
24 I would suggest in the discussions that staff has had -
25 and they spent 350 hours with respect to Tied House and

1 these regulations - is that we are not convinced one way
2 or the other with respect to these. We continue to ask
3 for your input, but we want to continue to do that, but
4 I - I just - I guess I would share with you is we hope
5 to have discussions with the legislature with respect to
6 the report we provide and - at some time. You know, the
7 legislature is going to be happy to get out of town in
8 the next few weeks. They probably won't be looking at
9 these issues until the following winter, as far as
10 interim study.

11 And we will ask the legislature, both committees that
12 take alcohol policy, to look at the - to look at the
13 recommendations of the Tied House - or the Three-Tier
14 committee that met almost a year ago and to look at the
15 report that we are going to provide as far as
16 information and make some decisions on whether they see
17 a need to move in another direction or stick with where
18 we are at, wherever that is.

19 I guess one thing I would say is that at some point
20 in time I'm sure that the Board is going to be asked
21 where are you on this particular issue with respect to
22 this? And I think at that time the Board will probably
23 be ready to make some recommendations about where we are
24 going, but I guess I would suffice it to say I don't
25 think we are now because we are still dealing with the

1 Costco litigation and we still need a little bit more
2 time.

3 CHAIRMAN LEE: So timing wise, you think in the
4 fall or winter months (inaudible) the legislative
5 committees to have an interim study?

6 UNIDENTIFIED SPEAKER: That's normally when they
7 would do it, Lorraine.

8 UNIDENTIFIED SPEAKER: All right. So, in a
9 sense, this is circling back to the legislature because
10 our laws in Title 66 is what sets out the alcohol
11 regulations in this state. And the marble of that title
12 is it is very, very specific in terms of what industry
13 can and cannot do. And most of these laws that were
14 (inaudible) are set out in the statute.

15 So this is really the legislative - and the Liquor
16 Control Board, as the administrator agency, it is our
17 responsibility and obligation to enforce this. At the
18 time when we are looking at regulatory reform, if there
19 are some changes that we recommend, they look to us as
20 to what they are.

21 So this is - this is - it is a complex area, as you
22 have heard from Mona, over the 70-plus years that these
23 statutes have been in existence, they have been modified
24 to 60 exceptions to the Tied House law itself. And it
25 has probably risen to a level of complexity that folks

1 are saying what are these laws? And it behooves us and
2 I think all of us who take a hard look and that's what
3 we have been trying to do, we have been engaged in that
4 to take a hard look at these laws. Does it make sense
5 in the current marketplace - in the current marketplace
6 with the different business models that exist in the
7 industry but at the same time keeping in mind what does
8 it mean to the consumer, what does it mean to society as
9 a whole? And this is where a good healthy discussion
10 includes that diversity of opinions that we have heard.

11 CHAIRMAN LEE: Thank you very much for those of
12 you who shared your personal stories, your views from
13 the general perspective that you - you represent or are
14 (inaudible) with.

15 Let me ask those of that spoken earlier, if you want
16 to speak to this Tied House concept. (Inaudible) . . .

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(End of Tape 2, Side 1.)

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2 CHAIRMAN LEE: . . . continued their - your good
3 work and looking (inaudible).

4 MS. GEE: You know, we all have the same goals.
5 I represent the Independent Grocers (inaudible). They
6 are your neighbors. Their kids go to school with your
7 kids and their grandkids. We have all have the same
8 goals. None of us want illegal sales to our youth or
9 overconsumption.

10 My husband, yes, he is an alcoholic. He has been
11 sober for 22 years. And my dad died of alcoholism, so I
12 know. We are all here for the same thing, but I think
13 that Rick and the Board has - has said - and I hope that
14 you understand that there is some real unnecessary
15 regulation here. There is some very necessary
16 regulation. But a lot of overlap, a lot of cost on
17 business that doesn't need to be and still assure legal
18 sales and responsibilities in selling and consumption.

19 And I hope that you consider that and know that we
20 are all here for the same thing and we can take the
21 money the Board saves and get more focused on those bad
22 apples. Somebody out there is making illegal sales .
23 You can look at where people are - which licensees are
24 making illegal sales and you can see that our grocery
25 stores are good citizens. We try to be really good

1 citizens.

2 So we are all here together, but I do ask that you
3 work with us and find ways to help streamline the
4 regulation, help the Board refocus their resources to
5 enforcement.

6 So we are eager to work with the Board, with the
7 community and with the legislature and we would like to
8 move forward and we thank you for making that request to
9 the legislature.

10 CHAIRMAN LEE: Thank you, Jan.

11 Joe? And Mary Segawa after Joe. Okay.

12 MR. DIETER: In just listening to this - I listen
13 to concerns from Costco - as they are heading out the
14 door. Thank you, gentlemen. I listen to that and I
15 live to - to even your comments from the association of
16 grocers or what have you, but can I say this? If the
17 condition of our condition was such that, you know what,
18 we were holding our own or we were getting healthier as
19 a community, as a society and because what we have done
20 over the last 30, 40 years - what? - 50 years back to
21 1935 or the '30s or whatever, if we - if it has been
22 serving us well and we are getting better and better as
23 a society, then - and (inaudible) because we don't
24 really need this and this and this and we are looking at
25 our bottom line, profitability, you know, wineries and

1 everyone else and, you know what, I want people to be
2 successful, but I still sense there is this - there is
3 this thing, this compromise, this thing that we have
4 best of intentions, but really everything around us is
5 screaming bottom line. Especially today everything is
6 screaming bottom line. And there is a tendency that
7 says I - I know we have a pure heart or we have a good
8 motive or whatever; in the quiet of the night you find
9 out, gosh, motive isn't nearly as pure as I wanted.

10 I don't even know my own heart when it comes to
11 motives because - but I do know this, the condition of
12 our condition is such that we are not doing better as a
13 community and as a society. We are not. What I see
14 (inaudible) struggle and the spiraling of that
15 (inaudible) even over the last 30 years being out
16 (inaudible) in the trenches and dealing with everything
17 from deaths to - to - to the - to the condition of our
18 condition in our communities, our families, being inside
19 homes all days and nights and then to say somehow, gosh,
20 could we just try to streamline things, can we try to do
21 something?

22 And I go tell me again the motive. Tell me again the
23 motive. When the motive is the more profitable, the
24 motive is in the marketplace today, what are the issues?
25 You know, I keep going, gosh guys, we are - we are

1 sicker today than we were yesterday. And you go oh, is
2 that really true?

3 And all I know is come to our communities and sit for
4 a few minutes and you go - especially come and sit in
5 some areas in our communities and you go do you see the
6 condition of our condition going, gosh, how can that be
7 and you go this is reality of what we live in. This is
8 the cry. It is all around us.

9 And so that's why there is something in me that wants
10 to cry and go, you know what, challenge again the very
11 things that motivate you, the very things that stir you,
12 the very things that are driving you today. And it is -
13 from a business perspective, these are literally, as you
14 articulated, our grandchildren, our children to think
15 that we are going to have customers in the days and
16 years ahead are going to be viable and that are going to
17 be wanting us to go somewhere with our products.

18 I think we find ourselves literally being driven by
19 something that ends up becoming our own destruction and
20 in the end it was all insanity. In the end it was,
21 guys. How did we end up here and we go - and we all
22 start pointing fingers.

23 But here we are again and as we are looking and as
24 you three people are wavering over there and trying to
25 figure out what are we going to do with regulations and

1 can we faithfully enforce the laws that we already are
2 saddled with and have they served us (inaudible) or
3 should we talk about reducing them, the - the invasion
4 of these laws or should we be ratcheting up in relation
5 to the very condition of our condition.

6 And I submit to you instead of going the other way,
7 we ought to be going the other way. And you go well how
8 can that be? And I'm just saying we are trying to take
9 care of our kids, but our parents are sick and our kids
10 have learned well what they are doing and we go well we
11 got to deal with the kids.

12 But I submit to you it is a complex problem, but to
13 somehow think with a Polly Anna set of glasses on that
14 we can do it by being less this or less that or
15 somehow - and all I know is what we have done over the
16 last 30 years has not served us well. And we are not
17 better today than we were yesterday.

18 And so if ever there was a time to say let's get
19 outside of how we are thinking right now, get outside of
20 the box and be even more creative and more sacrificial
21 at times in our approach, I would just encourage you
22 don't compromise. Don't do something that in the end we
23 are another 30 years down the line and we are even in
24 worse shape and we go - and we try to just blame.

25 And so I just - I appeal to you be faithful, be

1 faithful to our communities, be faithful to your kids
2 and your grandkids, be faithful to your loved ones and
3 be responsible. That's all I can (inaudible) you.

4 CHAIRMAN LEE: Okay. Thank you, Joe.

5 Mary Segawa?

6 MS. SEGAWA: Thank you and good afternoon. It is
7 afternoon now, so I will be brief. I'm Mary Segawa.
8 I'm the director of TOGETHER! We are a nonprofit of
9 Thurston (inaudible) focusing on prevention of substance
10 abuse and alcohol and as (inaudible) I did sit on the
11 Three-Tier and the Tied House review committees.

12 So there is just a couple of points that I wanted to
13 kind of summarize on this. One of the things I have
14 heard this morning is that some of what we are doing is
15 anticompetitive and it hurts consumers. I'm okay with
16 that. If anticompetitive means lowering - well, being
17 competitive means lowering the prices and it usually
18 does, then I think being anticompetitive is okay. We
19 want those prices higher. We need those prices higher
20 to decrease that access.

21 I think hurting consumers is okay. This is not -
22 they are not buying bread. They are not buying milk.
23 They are buying alcohol. And we need to treat that
24 differently.

25 I also want to say I know with the industry, you are

1 in a business, you are there to make a profit, I
2 understand that. I also understand that our problems
3 with alcohol are not just the industry's problem. It is
4 not just because the industry does this or that or the
5 other. It is what we all do. It is all of our
6 responsibilities.

7 These prevention people need to take responsibility.
8 We as parents need to take responsibility. Our
9 institutions need to take responsibility. But I think
10 what we hear today is how do we help the industry take
11 responsibility? How do we regulate what they are doing
12 so that their piece of it is also covered.

13 And so the things that - that reduce that, that kind
14 of get them off the hook, are the things we need to be
15 careful about.

16 I'm really sorry the Costco people left because I
17 feel like I'm telling a tale out of school right now,
18 but I just want to end with an experience I had shortly
19 after I came onto the Tied House Review Committee.

20 And I was on an airplane flying from California to
21 Seattle. I was sitting in front of a couple of people
22 and, yes, I was eavesdropping, but they were talking
23 loudly. And it turned out it was a Costco employee and
24 a consumer, if you will.

25 And they started - she started in the discussion

1 about pricing in Washington being higher than
2 California; made the comment that, "Boy, if I could have
3 just emptied my suitcase and filled it with alcohol and
4 brought that back to me, that's what I would have done."

5 And - and so they were talking a little bit about
6 wow, we are trying to get those laws changed. And, you
7 know, my ears were perking up pretty well. Anyway, in
8 the course of this - what? - two-hour flight or so, I
9 didn't count - I lost count of how many alcoholic drinks
10 she ordered.

11 She also was encouraging the Costco employee to have
12 more after he said no he had had enough. We got in late
13 at night. She talked about, "I wonder what bar is open
14 in the airport." And my thought was I hope you are not
15 driving on the highway I'm driving on and this is why we
16 need these laws. So that's all. Thank you.

17 CHAIRMAN LEE: Okay. Thank you very much, Mary.

18 I think (inaudible) from - okay. I'm sorry, I don't
19 know your name.

20 MS. SMITH: My name is Tara. My name is Tara
21 Smith and, again, I'm the drug and alcohol treatment
22 coordinator for Lewis County and also a parent of two
23 boys.

24 And I believe in individual responsibility
25 absolutely. It is my responsibility to educate my

1 children, to answer their questions, to protect them as
2 they grow up, instill the values that I want them to
3 have.

4 There is all sorts of competing (inaudible) and I
5 think that that responsibility and accountability does
6 have to come at all levels. And I love to hear how
7 another comment was made that we all need to work
8 together, we really do. It is not just enforcement. It
9 is not just responsible sales and manufacturing and
10 retail. It is not just a prevention work that we do.
11 But you just have to keep that in mind, we have to work
12 together. And I'm not out to stomp out any private
13 business, people do need to make a living and make
14 money. We all do.

15 And I'm sorry to see Costco leave also because one of
16 the comments that the (inaudible) made was he doesn't
17 see where this has a direct impact on any public safety
18 or social policy. Well, I beg to differ. The Governor,
19 one of her initiatives is reducing drug and alcohol
20 related crashes and fatalities. That is related. It is
21 related to how early somebody starts drinking, how much
22 they drink, how often they drink and it is. Just - it
23 is related. So if somebody has any contact with him, if
24 you could point that out, that would be nice.

25 And I appreciate your comment saying that it - it may

1 benefit the consumers or not benefit the consumers to
2 pass tighter laws, but you can't always just think about
3 yourself and your business. That, again, is where comes
4 in the responsibility to our society, each one of us.

5 The other comment that I would like to make - and,
6 Mary, thank you for making it - I don't care if it hurts
7 the consumer either. It might hurt your business. I'm
8 very sorry, but it is not the bread, it is not the milk,
9 it is not the medicine that your child might need to get
10 better. You don't need it. You don't need - you need
11 the roof over your head. You need your basic needs met
12 and that is not one of the basic needs. So those are
13 just the comments that I would like to make.

14 CHAIRMAN LEE: Thank you, Tara.

15 BOARD MEMBER HOEN: Thanks.

16 CHAIRMAN LEE: Is it Justin?

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20 (No audible response.)

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24 CHAIRMAN LEE: Okay. We are (inaudible).

25 Justin, come on up. And is there anybody else that

1 signed up that I haven't called on?

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5 (No audible response.)

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9 CHAIRMAN LEE: Okay.

10 UNIDENTIFIED SPEAKER: I didn't sign up.

11 Surprise, surprise.

12 UNIDENTIFIED SPEAKER: But you did write a long
13 letter.

14 CHAIRMAN LEE: Okay. Justin and (inaudible). So
15 one minute, okay. All right.

16 MR. NIEDERMEYER: I will keep this short, but
17 keeping this from a personal standpoint, it is - in high
18 school you get to start to see people drop out of
19 general society and just kind of - it kinds of hurts to
20 see them go away and everything. And it has got to the
21 point where people (inaudible) who don't know who was on
22 the quarter, yet they know what the products are on the
23 market, which ones are the cheapest. And they are not
24 afraid to talk about that in front of teachers or staff
25 and they have no shame in it.

1 And I know that our generation is what is going to
2 lead the world when it is my time to be out there and it
3 is getting kind of scary to think that we are going to
4 be the leaders in the world. And if there is any time
5 that we need more regulation and more guidance, it is
6 now and we don't need less guidelines to help us on our
7 way.

8 CHAIRMAN LEE: Justin, thank you very much for
9 reminding us what it is all about. So --

10 MR. WAYT: Thanks, Madam Chair. For the record
11 my name is Phil Wayt, executive director of the
12 Washington Beer and Wine Wholesalers Association. The
13 reason I wrote such a long letter --

14 UNIDENTIFIED SPEAKER: I'm just giving you a hard
15 time.

16 MR. WAYT: -- I know - is because the way the
17 staff concept proposal can be taken is (inaudible) vast
18 and sweeping deregulatory changes and - and that's why
19 we - we went to extremes to comment, which is not to say
20 that from time to time incremental changes to
21 Washington's regulatory system can and should be made,
22 but only after deliberate and thoughtful consideration.

23 And that's a task that must be done by the
24 legislators with laser like precision, understanding
25 that the wrong balance between competition and

1 regulation can have serious, unintended consequences.

2 And I just was interested to hear this, another STOP
3 acronym out there, but (inaudible) in 2006 the Congress
4 passed the STOP act, which is the Servitude on
5 Preventing Underage Drinking Act. And they said
6 alcohol - I'm just quoting from that - "Alcohol is a
7 unique product that should be regulated differently than
8 other products by the states and federal government.
9 Continued stated regulation and licensing of the
10 manufacturing, importation, sale, distribution,
11 transportation and storage of alcoholic beverages are
12 clearly in the public interest and are critical to
13 promoting responsible consumption and preventing illegal
14 access by persons under 21."

15 Thank you.

16 CHAIRMAN LEE: Okay. Roger, with that any - any
17 comments, any --

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(Overlapping conversation.)

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1 BOARD MEMBER KUROSE: . . . dynamic friction,
2 Roger. I - I - I guess I do see it as being our board's
3 role, regardless of what the outcome of the court case
4 was, to continuously review our policy and be able to
5 articulate how each of our practices relates to our
6 public safety mission and I - and looking at the
7 efficacy of our control system to assure that they meet
8 the - our (inaudible) goals of preventing underage
9 drinking and misuse of alcohol.

10 So regardless of what happens in the courts or in the
11 legislature, I think that contin- - continuous review at
12 our (inaudible) and at our policies is important.

13 But I also want to say that I strongly believe that
14 our mission to prevent the misuse of alcohol and promote
15 public safety is through our controls and education
16 programs (inaudible) relevant as it was when the Steel
17 Act was enacted over 70 years ago.

18 Now, I may differ with - I - but I am one who
19 believes that there needs to be some modernization, that
20 we need to look at the system, that we really need to
21 look at our priorities and assure that we are doing the
22 best that we can to have a control system in place that
23 prevents misuse of alcohol and particularly underage
24 drinking. And that's regardless of whether we have a
25 lawsuit over (inaudible) or whether - or what - whatever

1 our other responsibilities are to the legislature.

2 CHAIRMAN LEE: Okay. Okay. Roger?

3 BOARD MEMBER HOEN: I would just like to say that
4 (inaudible) talked about the - losing ground with the
5 alcohol abuse and I would like to say that the - the
6 information that comes to us is that we may all be
7 losing ground, I think maybe the whole world is, but
8 Washington State's statistics are better than average.

9 So when I say that, I think that we are not perfect,
10 but we are better than average, that approaching what we
11 do have, we have to be very careful with what we - how
12 we bring about change.

13 We are at - we are at a crossroads. We have - one of
14 the things we heard is enforcement is understandable and
15 as long as it is everybody, if it is balanced
16 enforcement, if I can count on - you are going to hold
17 me to a standard, but hold the other person to the
18 standard - and I'm afraid that - that you heard Randy
19 talk about 100,000 listings and Lorraine mentioned 5,000
20 stores and so on. At some point, you kind of have to
21 take a look at how - what can we enforce what's - with
22 the resources we have? Can we get more resources?

23 But, again, we have got a - we have got a system that
24 is operating above average, but we are kind of running
25 into a wall, I think, on just what we can enforce and

1 keep track of and assure everyone that you are going to
2 get the same kind of enforcement that the other person
3 does or the same kind of abilities that the other person
4 does.

5 So we - I guess I believe we can't do nothing. And
6 so it is time for - these are dramatic - I mean, these
7 are incredible steps that are being espoused as - if all
8 these laws go away, how - how are we going to deal with
9 this situation?

10 A lot of them are scary. A lot of them are pretty
11 dramatic. But to not - to not review them, to not see
12 what thoughts are out there, I think would be a
13 disservice. So I'm certainly not suggesting that - that
14 as one board member, I'm absolutely supporting
15 everything in concept for change, but I do support the
16 fact that we are studying things, people are studying,
17 people are contributing. We got 100 letters, so there
18 is a lot of interest in this, so pretty well - I really
19 welcome all the input and - and say a few prayers for
20 us, so . . .

21 BOARD MEMBER KUROSE: (Inaudible.)

22 CHAIRMAN LEE: Thank you all very much for being
23 here, especially those who traveled from far, whether it
24 is northeast Seattle or Kelso. I know that it - it's
25 precious time on your calendar set aside to come join

1 us. Let me just reiterate all your voices are needed in
2 this decision, so we greatly appreciate your time.

3 Just in terms of next steps on these, we will have
4 another board meeting to close out what we are going to
5 do on the implementation of the Costco decision probably
6 within a month. Again, the caveat is when the 9th
7 Circuit may act on the reconsideration hearing.

8 And on this - on the Tied House concept for change,
9 we are going to ask the legislature to do an interim
10 study. We are going to do probably a wrap-up or an
11 accounting on all the Three-Tier Task Force
12 recommendations and where (inaudible) on that at a
13 future board meeting, just a status check on that.

14 So, again, I think we can adjourn unless there is any
15 other business? No. We are adjourned. Thank you very
16 much.

17 BOARD MEMBER HOEN: Thank you.

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(End of proceedings.)

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C E R T I F I C A T E

I, KRISTIN D. MANLEY, a certified court reporter of the State of Washington, do hereby certify that the foregoing proceedings were tape recorded; that I was not present at the proceedings; that I was requested to transcribe the tape-recorded proceedings; that the tape recording was transcribed stenographically and reduced to typewriting under my direction.

I further certify that the foregoing transcript of the tape-recorded proceedings is a full, true, and accurate transcript of all discernible and audible remarks.

DATED AND SIGNED this _____ day of _____, 2008.

KRISTIN D. MANLEY
CCR NO. 2211