

# Federal Election Commission

Public Hearing on Website & Internet Communications Improvement Initiative  
July 29, 2009

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Wednesday, July 29, 2009

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
9th Floor Meeting Room  
Washington, D.C. 20463

## COMMISSIONERS:

STEVEN T. WALTHER, Chairman  
MATTHEW S. PETERSON, Vice  
Chairman  
CAROLINE C. HUNTER, Commissioner  
DONALD F. MCGAHN II, Commissioner  
CYNTHIA L. BAUERLY, Commissioner  
ELLEN L. WEINTRAUB, Commissioner

## FEC STAFF PRESENT:

ROBERT A. HICKEY, Staff Director  
THOMASENIA P. DUNCAN, General  
Counsel

## SCHEDULE OF WITNESSES:

PANEL 1-LEGAL PRACTITIONERS  
CRAIG ENGLE, Arent Fox LLP  
BRIAN SVOBODA, Perkins Coie LLP  
MICHAEL TONER, Bryan Cave LLP;  
Former FEC Chairman

PANEL 2-ELECTRONIC FILING OF  
DISCLOSURE REPORTS  
MATT DEBERGALIS, ActBlue, Chairman  
& Founder  
PAUL W. HOUGHTALING, Political  
CFOs, Founder  
NATHANIEL PEARLMAN, NGP  
Software, INC., Founder

PANEL 3-WEBSITE ORGANIZATION,  
DATA AVAILABILITY AND  
TRANSPARENCY  
CLAY JOHNSON, The Sunlight  
Foundation, Director of Sunlight Labs  
MICHAEL MALBIN, Campaign Finance  
Institute, Executive Director  
DARRELL WEST, Brookings Institution  
Vice President and Director of Government  
Studies

## PROCEEDINGS (10:11 a.m.)

### PANEL 1 LEGAL PRACTITIONERS

CHAIRMAN WALTHER: Good morning everyone. I would like to welcome everybody here. I'd like to first begin by introducing the members of our Commission. On my left -- on my physical left -- is Vice Chairman Matt Petersen. Farther on my left is Commissioner Hunter and then Commissioner McGahn. And on my right is Commissioner Bauerly and Commissioner Weintraub.

This initiative is undertaken by us in order to learn how we can improve our website and our method of communication with people through our Internet. The FEC was first constituted in 1975 and the Commission launched its first website in 1996. This is the first time we have sought and are receiving formal public recommendations on the means by which the FEC uses its website and the Internet to disclose information to the public. Our goal of this initiative is to learn how we can improve our website and ensure that it continues to be a state-of-the-art resource for disclosure of information to the public, including disclosure of campaign finance data, information about federal campaign finance laws and actions of the Commission.

The issues we are discussing today were included in a Notice of Public Hearing and Request for Comments published in the Federal Register on Wednesday, July 1, 2009. As part of this initiative, the FEC is seeking and has received suggestions and recommendations from all segments of the public, including representatives of the political committees, members of the media, members of the academic community and advocacy groups. The public generally, including many of you, may have turned to the Commission's website in the past and have either found

the information was not organized as intuitively as you may have preferred or unable to access satisfactorily some of the information, or found that some of the information you sought was not available. We have the highest regard for our IT staff and the people who work day in and day out to try and bring to you the best information we have, as quickly as we have, as accurately as we can. But we all know that we can all learn from each other. We can all try and do better. There's nothing that people undertake on this subject that can't be improved with all the latest innovations in technology. Given the rush of data that comes to us we want to explore ways in which those of you that seek information from us can obtain it as quickly and as accurately and as intuitively as possible.

I would consider this -- as we would sometimes hear about it in the politics -- a listening tour. We are here to hear; to try and digest some of the comments that we have received and will receive from you. As I read through the comments, I see many of the comments are so practically helpful that sometimes you wonder why we didn't think of them sooner, and then some, of course, are so technical that we may never fully understand them as Commissioners, but we are here to get that information and relay it onto those who can.

We especially appreciate all of you who are here today, on this panel, and the others here today who are willing to testify, for taking time away from your billable hours to help us do a better job. We had initial plans to meet in a two day period but because of a number of other things that we had to do we are confining this session to one day and then will pick up a second day later next month. And with that I'd ask the approval of my Commissioners to extend the time for written comment until August 20<sup>th</sup> at midnight so we can get further input and have a second hearing when we can afford to schedule one. Hearing no objections, I

will ask the General Counsel, to prepare an amendment to the Federal Register so that we can give a notice to that effect.

I want to also thank personally my assistants Brad Deutsch, Stacey Shin, Tom Anderson, and my intern this year, Marcela Pacheco for the work they did to try and help put this together and to synthesize all the comments that we've received so far on the Internet, to make those available to the Commissioners. Brad Deutsch who prepared most of the content of the Federal Register Notice, became an expert in his own right in the process.

So here today -- we're going to have three panels. Thank you for being here. We have Craig Engle from Arent Fox and his assistant, David Satterfield who's very welcome, and thanks for being here. Brian Svoboda from Perkins Coie and, of course, Michael Toner, our former Chair. He was a Chair here when I first arrived and it was always a great pleasure to work under his leadership, to be here as a Commissioner during that period. And the infamous Karen Trainer, an assistant as well.

We will ask each of you, in alphabetical order, to provide us with some initial comments and then we'll open it up for questions. The concept here is to make it informal, as intuitive as possible so that -- just we can ask questions. I know that some of the Commissioners thought that maybe we'll get that hyper-technical, so to the extent you can keep it in lay persons language, that would be great. And we have with us a couple of people on staff who might be able to answer some questions if they arise. So let's start with Mr. Engle and thanks for being here.

MR. ENGLE: Mr. Chairman, thank you very much. I appreciate the invitation to come here and address the Commission. This is actually -- in my 20 plus years of working in election law -- the first time I've actually sat at this table and addressed the Commission. I have often had it address me in ways in which have been positive and negative. But I would tell you that I completely agree with you, that I have the highest regard for your IT staff. Your staff in public disclosure as well is a remarkable, dedicated group of

individuals. And your mission, primarily as we all know, is a disclosure agency; whether it be campaign finance data or enforcement; regulations and advisory opinions. And without that terrific access I think that the practice of election law would be suffering.

Now when I talked to your office I said that I didn't have many comments that might have been directly on point to the major aspect of this hearing but I did have one thing that's been on my mind for a few years that was somewhat related to it. And your office said that I should come and testify about that and any of the other things. And I think that a hearing like this which is collaborative and certainly not contentious and will lead to maybe focus groups and such; it's a very, very good idea.

The thing that's been on my mind for about the last dozen years are the reporting forms that we use as practitioners. Reporting forms that we use as practitioners in developing, you know, our data for you in an attempt for it to be letter perfect. And to illustrate my point about one of my problems about your disclosure forms is I brought an exhibit with me today. These are the disclosure reports for one Congressional candidate for one election cycle. These are the forms that we have used and put our data in for your Commission to compile and put on the public record. This is an average Congressional candidate. It is a member of Congress who raised about a million dollars in this election cycle and spent about a million dollars in this election cycle. There are only like 3,100 contributors in here. There are only about 1,100 disbursements in here; but there are 1,760 and printed pages in here. And I know we're living in an electronic age and I know that we're putting data into computers and submitting them to you electronically and you're able to search them. But every practitioner always generates a hard copy, first, for his or her own review, for accuracy, and then secondly for record retention. And I think the problem in my mind that creates 1,760 pages here is that your Form 3 only has 3 entries per page. And I think that if you look at your Form 3 we might be in a more data efficient age being able to put more

information on each page. I also think that, when we're like doing our FEC research and compliance work when we're going to your website, we are also getting the data from you in the Form 3 as well. So when we're printing things out we're seeing things that are maybe not as page efficient or the data displayed is not as efficient as the data itself. Now I mentioned that this was 1,760 pages, and when you think about 435 Congressmen you are going to get to about 765,000 pages per election cycle or over 1300 of these binders spread across the United States or in the offices of lawyers and practitioners. You know, last quarter there was a Senate Campaign who in one Senate report -- one quarterly report -- submitted an 858 page report. And again, that's because there are only 3 entries per page. And going back and looking at the Bush/Cheney reports, if you added up the primary, the general and the compliance for that one Presidential Committee -- 495,000 pages of reports, when the data is formatted in the way it is. Now I know that the current Form 3 with its 3 entries per page is kind of like the great-grandson of the first FEC Form 3 that I remember seeing and those were kind of big page reports as well because many of them were handwritten at that time, well before the electronic submission of data. But I will tell you, even the handwritten reports back then could fit 10 entries per page. And then I also remember when we were emerging into the data age that practitioners would come before the Commission with their own software, printing out their own pages asking them -- asking the Commission if these pages would be data sufficient. And you'll -- here's an example of someone coming up with their own software about a dozen years ago printing it out and again, you know 10 items per page. So I think that there is a level of efficiency that we could create here by asking the Commission and it's IT and it's data staff to review how the good data that you are collecting is available *in a good form as well*. And when you look at, you know, FECFile or when you look at Campaign Manager these are pretty efficient ways of organizing data and displaying data. So although form I think is very important

and forms are very important, it's the substance of the data that I think is most important to us. And if we could figure out a way to work together to make that small part of your mission maybe a little more efficient I would be happy to volunteer someone on my staff to help, not me of course, but I'd be happy to volunteer someone. (laughter)

I would conclude by saying that there are many aspects of the Commission that I think are -- what are operating very, very well. And we always should take the time when you look across the United States government and look at the complaints and failures of many agencies you should look at your own agency and think that if you're doing this well now, just think how much better we can do when we have a meeting like this. Thank you.

CHAIRMAN WALTHER: Thank you very much. Those are very helpful comments. Very interesting.

MR. ENGLE: Thank you.

CHAIRMAN WALTHER: Mr. Svoboda?

MR. SVOBODA: Thank you very much, Mr. Chairman. Thank you to all the Commissioners and to the staff for having me here today. It's a good thing that I'm not supposed to be here as a technical expert because I emphatically am not. I'm here as a consumer. So as I was saying earlier before I came into the meeting, I can't tell you how to make the donuts but I can tell you what I like them to look like and how I like them to taste. So it's that sort of subjectivity that I think is going to shape my comments that I make to you now.

I use the Commission's website for legal research. It's unsurprising because I, in fact, am a practicing lawyer. And so there are certain things, certain traps that I run when I do work for a client that I expect to be able to find and see easily on the Commission's website. So, for example, when I'm researching an issue for a client I'll look to the legislative history of the Act and see what Congress had to say when they passed it. I'll look to the explanations and justifications that the Commission has adopted over time. I'll look to your advisory opinions as an illustrative predictive to some degree of

what you may or may not do if you're presented with my transaction in the future. I'll look to your enforcement matters for the same reason; your matters under review. And in fact, you know, with that in the advisory opinions it's not simply the final deliverable of what you churn out but also it will pain you to hear that deliberations by which you reach these decisions are very important to us, to understanding what you might want to do. We understand that there's changes from draft day to the final adopted opinion and those changes can be significant in understanding why you did what you did. You know, maybe not of any sort of binding legal significance, but they're useful to us. The policy statements that you issue on those odd occasions short of actual rules, and I say odd, by the way, to describe the frequency -- not their content.

CHAIRMAN WALTHER: We'll accept that for purposes of the Federal Register. (Laughter)

MR. SVOBODA: The statements of reasons that you put out when you close a MUR or when you issue an advisory opinion. The audit reports that you issue with respect to committees. Those are the things typically -- the basic tracks that I would expect an associate in my firm to look at when they are analyzing an issue for a client. And it's the sort of thing we very much would like to have accessible when we practice before the Commission.

And the first bit of good news I have for you is that the Commission's website is an immeasurable improvement to what my life was like when I began as a first year associate at Perkins Coie, back in the Pleistocene Era. I mean, it's an immense improvement and our jobs are so much easier than they were 11 or 12 years ago. So with that as background, what are the principles basically that I look for on your website? How do I evaluate whether the donut is tasting good or not?

The first is comprehensiveness. I want it all to be there. So if you're going to present the advisory opinions on the website I'd like to see all the advisory opinions. I would like to see the various documents that generated them. But it all should be there. There shouldn't be gaps

in certain areas of subject matter that cause you to have to elsewhere.

The second is user friendliness. You ought to be able to find what you're looking for. So if you do a search, for example through whatever means, you ought to be comfortable that your search, if intelligently formed, is going to generate the results that you would think it ought to generate. If you don't know enough to do a search but wish to browse there ought to be a way to browse so that you can find materials through that way if that's a way you prefer to do research.

The third is the website ought to take advantage of the unique medium that is the Internet. I mean, they call it the World Wide Web for a reason. Pages are meant to link to other pages. One of the best websites, one of the most fun websites I've ever used and was done a long, long time ago, was a website at the University of Texas that was a hyper-text version of Jane Austen's *Pride and Prejudice*. So it printed the entire novel, which thankfully was in the public domain, they didn't infringe copyright. And you could click on a character's name and it would have a brief study of the character. You could click on an anachronistic word that may have existed in Regency England and it would tell you what it meant. It would click on something that was obscure, or an allusion to another work that she was making, that you might not otherwise have gotten and it would explain what that meant. So it was a way not simply of presenting the text but helping you understand the text, and more to the point, directing to other sources that will help you understand the text. That's something that can only be -- at that time could only have been done on the World Wide Web; it now can be done through other electronic media, for example, Kindle and other similar technologies. But you have a medium here that has that sort of flexibility and you ought to take the opportunities to use it.

And then lastly, the Commission's presentation of materials, and I realize there's some tension between this and what I've said before. It ought to be neutral as to content. When I go to the library, for example, the librarian doesn't grab me by the throat and say, you ought

to read *Harry Potter and the Deathly Hallows*. It's the best book in the world. But I'll know how to find it if I'm looking for it, and if it's a new book it will be on a shelf with new books. And so the Commission should be cautious to the extent -- it needs to balance obviously with, you know, respecting public interest in the fact, you know, for example, that there may be people interested in certain things you did today, but it also needs to be respectful of the fact that different people visiting the websites are going to have different views about different things. And that's where you know, for example, the Weekly Digest that you all do is something that strikes me as very useful in that regard. I get on a regular basis a list of what you did and if I want to learn more about it I can. If I want to tell a client to take craven advantage of it in a demagogic way I can. It's there for me, but you're not pushing me to do any of those things.

So with those as criteria then how -- the stuff that I'm looking for, how does it stack up against it? The legislative history? Well, it flunks the comprehensive test. It's not all there, at present. And particularly with McCain-Feingold there is a real gap to be done. It seems to me that one high priority for the Commission should be to get the complete legislative history of the Act and its amendments, including by the way the various appropriations amendments that happen to the Act from time to time, and get those compiled in a way that's searchable online. The explanation and justification; way better than it used to be, a little weak on the search ability test, and that may be something you can explore different technical means of solving that. But one thing I would notice that with your later explanations and justifications -- you have the capacity for word recognition through Adobe so I can click on a particular word and find it in the E&J if I'm looking for that. That's very helpful. Advisory opinions. Very helpful. Perhaps in my life the aspect of the Commission's website that works the best. But there are issues with comprehensiveness. It would be nice to see those older AOs, the agenda documents and the comments back and forth. And again, in terms of taking

advantage of the medium, one of the suggestions that I made in my comments was having links to the agenda documents or having links to the streaming audio of the discussions. I'm not going to say it's an easy thing to do, because there's an employee in the Commission -- it will be hard once they're told to do it -- but compared to some of the other things that perhaps you are asked to do are relatively easy thing to do. And perhaps a good frame of mind to be in as your working with the website going forward. The MURs. It seems interesting that among all the practitioners -- or at least those whose comments I've read in the rulemaking -- everybody seems to think that the enforcement query system is unwieldy in terms of searching, that it's impossible to type a search term and get something that resembles what you're looking for. You either get zero documents or you get a 115,000, and partners at law firms do not like to have their associates bill that much time working through that many materials. Statements of Reasons. This is one area where I think the Commission needs to have some sort of presentation of these on the website, for example, one of the perennial favorites in our line of work is the glorious Mason, Wold, Elliot, Sandstrom statements of reasons on the Dole Audit. Rulemaking is the sole means of establishing regulatory norms. I don't know where to find it on your website. I don't know if it's there anymore. When David Mason was a Commissioner it was there; it was on his website because he helped write it. But now he's gone and as near as I can tell it's gone. So bring it back. Bring all the others back, even the ones that maybe aren't as useful to me or that I can't cite as often. And then lastly the audit reports here --

COMMISSIONER

WEINTRAUB: Doesn't Carl Sandstrom have a copy of it? Can't you walk down the hallway and get it from him?

MR. SVOBODA: Carl's cagey about that sort of thing. He's circumspect in talking about his past official experience. As he should be. And then lastly, the audit reports, I agree with the other commenters that there should be a more comprehensive library of those available on the web.

So those are some impressionistic comments, again, from a consumer of the site; that it's meant to provoke thought and just give you a sense of how one person uses your site. And hopefully there are others who share my experience as well, and I'm interested today to hear the experiences of others. And thank you for having me.

CHAIRMAN WALTHER:

Thanks. That was very, very helpful. Mr. Former Chairman?

MR. TONER: Thank you, Mr. Chairman. I want to thank you and your fellow Commissioners and the Commission's professional staff for holding this hearing. I think it's a great opportunity for the agency to build on the tremendous progress that's been made on the website in recent years. I want to emphasize that my colleague Karen Trainer and I are testifying in our personal capacities; not on behalf of any of our fortunate or misfortunate clients, depending upon their situation.

I won't get to everything that we provided in our written comments but I do think that there's an overarching principle that could guide the agency in this endeavor. And I think that if there were an overarching principle I think it could be to do everything possible to level the playing field in terms of legal research for legal practitioners and political committees across the country. Brian was talking about what it was like in his early years at Perkins Coie and I can have a similar experience when I started out in this field. If you have a client that called at 7:00 at night and had a legal question that actually needed an answer that night, you had some trouble if you wanted to figure out what the agency had said in an advisory opinion, or if you wanted to pull all the MURs that were on point in an issue, you literally had to send a runner down to the FEC office go through microfiche and go through hard copy records. And that wasn't possible at 7:00 at night -- then or now. So I think the fact that we do have these online capabilities is tremendous when you're talking about committees that have time-sensitive questions they are looking to comply with the law -- after all they called you. And

they've got something that needs to move in real time.

And I think that the overarching principle that I think could guide the agency is; what steps could you take in this area so that committees that are not as well off financially, maybe don't have the resources to hire law firms in Washington or have access to the same kinds of information as the committees that are here and the committees that are able to hire these Washington firms. I say that as a member of a Washington firm. But I really think this is an important part of your mission. Because, as you know so many political committees -- whether we are talking about in the House of Representatives or other types of committees operating on shoestring budgets do not have the resources to hire counsel here in Washington. They might have a pro bono lawyer who is helping them with a MUR, or it might have a volunteer counsel who is helping them with an advisory opinion, and do they, at this point, have the same access to the same kind of information as the committees here in Washington? I think the answer is no, they don't. And I think that you are in a position -- perhaps over the next couple of years -- to change that situation, so that in broad measure they would have access to the same kinds of information. So I think that could be one principle -- sort of leveling the legal research playing field for committees across the country.

Another thing I am very sensitive about, having served at the agency, is there's constantly competing demands for your time and resources. And I respect that and I understand where you're sitting. And so it was also a challenge of identifying what are the key things you really want to move on now. Not 18 months from now. Not 3 years from now, right now. And I think that that's a personal judgment that all of you are in the best position to make. But I would recommend serious consideration of identifying the key things and setting public deadlines for doing them. You've got so many good ideas here from all the commenters, but what do you think you could achieve, for example, between now and the end of the year? What do you

think you could achieve between now and the end of next year? You know, these are windows of time; 5, 6 months in terms of the end of this year, and nearly 18 months in terms of the end of next year. That's achievable. That's not 5 years from now. It's not murky. It's very concrete. And what are the key things that you think you could collectively decide how you want to do during that period of time and publicly announce it and make it happen. Which I recognize is easier said than done. But I think that in the past the agency's done a great job of pulling together in some of these projects and making it happen, when you set those types of aspirational goals that are on the one hand ambitious but on the other hand feasible. And I realize that that's a delicate line to walk.

In written comments that Karen Trainer and I submitted we've touched on a couple different things, but we do think there's a couple things that stand out. I agree that the MUR database is a crisis. You know, it does not work. And it's vital that it does work. If you're a political committee in Peoria, Illinois, and you've got 5 days to respond to an RTB finding and you've got a volunteer lawyer who's doing the best they can to help you, they've got to have the ability to access your precedent on the same level as committees that are here in Washington. Right now that is not the case and that's fixable. I recognize a lot of resources and a lot of time and investment that would need to be made in that area but I don't think you could do anything for a research area that would be more valuable for committees in Middle America than doing that. And if, for example, you felt like between now and say the end of next year you could do that, I think that would be a tremendous deliverable for committees across the country, so that they would be confident that if they have an issue in personal use, they have an issue in terms of corporate contributions or conduit contributions, whatever the issue may be that someone who is helping them, wherever they may be sitting if they have access to a PC, they could get access to your precedent. I think would be enormously helpful.

Same thing in the advisory opinion area. I understand that all the

Commissions opinions and the concurring and dissenting opinions are available online but not all the background documents, back into the '70's and '80's. I think that's another example of a concrete deliverable that would be very helpful. Maybe set a deadline to try to do that. Say, "We're going to do that by x date; end of this year," whatever you think is feasible. But it's a great example of something where you've made a lot of progress, you're not that far away from finishing it, you know, pull in consensus to finish it. And announce that you're going to finish it.

And I think the other thing that really stood out is the audit reports. You know, right now they're available online from the 2000 cycle 4 but of course there are a lot of vital audit reports both on the Title 2 side and the Title 26 side that were issued in the '90's that are of important precedential value. Similar situation if you decide you really want to get all those reports online and have them be text searchable across reports. My understanding is right now if you want to look at a common issue among multiple audit reports you cannot do that. And you can look within a particular audit report and do some text searches and that's helpful but, let's say you want to see how the agency across time has handled something on the Title 26 side, you can't do that right now. The ability to do that would be very helpful in the audit process whether you're a presidential committee, you know, taking funds on the Title 26 side or you're a political committee on the Title 2 side. I think that would be really helpful.

But in closing I understand the constant challenge of competing demands for your time and resources and I suspect that that has not changed in recent years. But I do think that if you decide that there are 4, 5, 6 key things that you could do. That you set public deadlines to do and you sit down with the professional staff and you say, "Hey, can we make this happen? How can we make this happen? What do you need to make this happen?" And go do that because I think the agency's had a terrific track record in the past doing that, and I think that in the areas that we're touching on here it could

be tremendously useful for practitioners. More importantly, for political committees across the country that are trying to cope with what I think all of us agree is a very complex regulatory scheme. They don't have the resources to hire high priced lawyers. Giving them the tools to try to do that I think you have the ability to make that happen. I think that would be a very lasting and valuable contribution. Well, thank you again for allowing me to testify and I look forward to your questions. Thank you, Mr. Chairman.

**CHAIRMAN WALTHER:**

Thank you very much. That was also very, very helpful.

And I am pleased to announce that probably today or tomorrow we will let out a contract to put all of the MURs online for the last 24 years, and from the first 24 years up to 1999. And if I understand it correctly that all the people who've responded to our request for proposal are willing and able to get it done within a 120 days. So by the end of the year all of our MURs should be online and be searchable to the extent that they are readable. We're taking them off microfilm, and as a result there may be some loss of searchability in some regards in terms of quality. But that's a start.

And also with respect with Admin Fines we've got an estimate of I think \$55,000 it would take to put all our Admin Fines, which are 1,700 of those, online before the end of the year as well. So your comments are well taken. Audits, the balance of the AOs those are things that we certainly need to work on.

At this point I'd like to turn it over to the Commissioners to ask some questions, and we will proceed informally unless otherwise it doesn't seem like a good idea. So are there any Commissioners that would like to start off with any questions or comments? Commissioner Weintraub.

**COMMISSIONER**

**WEINTRAUB:** Thank you, Mr. Chairman. And I really want to thank the witnesses all of whom are old friends, and it's really delightful to see you here. I can't believe, Mr. Engle, that you have never actually been here testifying in all this time. Well, it's about time. I guess it's something that Michael said that

triggered this. Your focus, not surprisingly as practitioners, has been on how political committees and people who are trying to help political committees are using our data and how we could make it more accessible for them to use it. But you know we've had some other comments that our primary focus ought to be on helping voters to get information or helping the public to get better information on, you know, on who is giving and how the money's being spent. And we should add links to other kinds of voter information and I wonder if any of you, I guess I would start with you Michael because you raised the suggestion -- how do you think we ought to go forward in trying to evaluate, how do we weigh the different kinds of concerns for different consumers of the website, given that different people are going to have different, you know, interests and we're going to have -- as you well know, IT can just soak up a limitless amount of resources. And whenever we have extra money in the budget it's always, what's on the IT list of projects they've been waiting to do. We're not -- given that we're not going to be able to do everything -- how do we evaluate the competing concerns of, you know, voters versus reporters versus -- and let me give a shout out to Ken [Doyle] who not only shows up at to all our meetings, but actually filed a comment in this case, which we appreciate. You know, the voters, the public, the reporters, the academics and the political committees. How do we juggle all that?

**MR. TONER:** I think it's a good question, Commissioner Weintraub. I always thought there were four key constituencies for the agency's website. You have the general public, the electorate: you have the media, who's covering money in politics; you have academia and you have practitioners. There's obviously more communities beyond that, but if it's possible, those four are the paramount ones. And they definitely have different needs and interests. I think that's absolutely right. One approach might be -- and I think what was great about the comments you received is that you really had commenters from all those constituencies, you know, this panel focusing on the practitioner side

and other panels focusing on the academic side and the press side and the general electorate side. And it may be possible to identify two, three, key, four key recommendations from each of those constituencies, and I recognize that there could be some tension between them, but maybe it's okay to recognize that they will be coming from different vantage points. And maybe the practitioner side will not understand the academic side. And I think Michael Malbin's comments are really detailed on the academic side. And that might be okay, you know, they are coming from different communities. And so maybe one goal would be on the practitioner side, you know, what are the three or four key things that all these practitioners have been emphasizing would be helpful and to do the same thing with the different communities.

The other thing I think you have a great opportunity to do is in terms of the Commissions compliance seminars to put those online. I think that would be tremendously helpful. And it would also hit multiple constituencies; obviously the practitioners and the committees but there might other users of the website that would be interested in that. And what a great chance to level the playing field for people, who can't come to D.C. or wherever you're holding those sessions. I think that's a great opportunity for you.

**COMMISSIONER**

**WEINTRAUB:** And I think that we have started to experiment with different ways of using more video capacity and more -- video is old technology but other forms of technology for the people who can't make it to the conferences. I think it's well taken.

**CHAIRMAN WALTHER:** Any comments? Yes, Mr. Svoboda.

**MR. SVOBODA:** Yes, my initial reaction is obviously all of us with different perspectives we're all equal before the Commission. The Commission can't say lawyers first or press first or academics first. The question is, how do you kind of triage these issues? And the first and foremost criteria, it seems to me, is accessibility. If, for example, campaign finance data all exist on the Commission's website, everything that's been filed exists on the Commission's website, and can be

gotten at -- if in a little unwieldy fashion or perhaps in sort of a confusing fashion -- I mean then you are at least part of the way there. But if you know MUR 1343 is not on the website, it's not on the website, I'm not going to find it, I'm not going to know it exists. Nobody else is going to find it. Nobody's going to know it exists. And the reverse is true as well. I mean if there is a chunk of campaign finance data that's not available, not accessible, not open to manipulation or downloading to the public, that's an issue too. So the first criterion I think I would probably look at what's not there that ought to be there that people have a demand to get and that you can give them. That's at the core of the problem. There have been people in the past who've been able with campaign finance data to take downloads and make it very user friendly and very manipulable.

I continue to lament the demise of the FEC info website because for seven, eight years, it was what I used all the time when I was trying to find out what a donor had given. I think there is a gap right now in the private sector at least that I see that I wish somebody in the non-profit community frankly would fill. Should the Commission fill that gap? I'm ambivalent about that. There's part of me that thinks you're well positioned to do it there's part of me also that thinks -- and I think maybe the better part of me that thinks -- that your task at the end of the day is to make the data available so that others can present it, manipulate it, make their arguments based on it and give people the freedom to be able to do that. But accessibility is obviously at bottom. If it's not accessible nobody can do anything with it at all.

CHAIRMAN WALTHER: Any comments? Commissioner McGahn.

COMMISSIONER MCGAHN: Thank you, Mr. Chairman. I don't have much because I read through your comments and a lot of it hit home because I'd experienced many of the same frustrations with particularly the MUR search engine. And I really just thought it was me. I just thought I just didn't know how to use it and I was bad at research and would have to remember old MURs in my head. But it's good to see that I'm not the only one. But you raise a good point

about if you've been doing this a long time you tend to remember, oh, there's a MUR somewhere that sort of talks about this. But if you haven't been doing it a long time there's no way you're going to find any of this stuff. Particularly Statements of Reasons, particularly some of the golden oldies that talk about different procedural thresholds and that kind of thing. And if you've been around you know them; if not, you don't know them. And two of you have worked here -- and we all know Michael was the Chair but Craig was in the General Counsel's office for a brief period of time and then worked for a Commissioner years ago so he's seen it from the inside before the technology.

The thing that struck me about how this place processes information tends to be in the order of the regs. Not by topic. Now as practitioners, am I correct in saying that you really don't think in terms of reg sites? You think in terms of concepts like if a client wants to do a mail piece you think about all the legal issues that come up for a mail piece? It seems to me, and I don't know if this would help, but if you have some sort of annotated code where you actually cross referenced things more and needed -- hyper links is the obvious example. But could you just share a little bit maybe anecdotally about the process of being a lawyer and how dealing with how the Commission views its law is not really the way people in the field deal with the law? Because I think you guys will see things much more topically and we don't really seem to do things topically here. You have the AOs on part of the site. You have the MURs on another part and there isn't a lot of cross pollination to go with Michael's point -- leveling the playing field. Somebody outside the beltway trying to figure out where the Commission is on a certain issue has to connect a lot of dots and know where some of the dots are before connecting. And is that a fair assessment and any sort of constructive ways to develop that, to try to bring a little more cohesion?

MR. TONER: I think it's a great idea, Commissioner. A couple things, and I think we've all experienced this: I remember a lot of time and energy spent on the CFR book the subject matter index

which is near and dear to all of our hearts. That's a tough project. You're trying to, first of all, have a usable index that's not 60 pages long but also one that hits the subject matter topics that are relevant to people. And the cross references, I've always viewed that as a work in progress. It's something that every couple of years it's important to turn to and update that index, because I think we've all experienced a situation where, I know there's a reg somewhere on this. Where in earth is it? And then I thought it was 114.1 and you go there, and no.

COMMISSIONER MCGAHN: And you actually chaired the agency so if you're struggling with that imagine --

MR. TONER: It's embarrassing for me. Right, yes.

COMMISSIONER MCGAHN: Well it's embarrassing for me because I'm currently on the agency and there's times where I knew there was a reg somewhere.

COMMISSIONER WEINTRAUB: And he wrote a bunch of those regs too.

MR. TONER: Right. It's amazing what you forget --

COMMISSIONER MCGAHN: Some actually think I don't really read the regs but I actually do.

MR. TONER: So that's where the subject matter index is so valuable but you go in there and does it cover the waterfronts? So two things I always thought would be helpful is -- every cycle every two years -- to do a systematic upgrade of the subject matter index that's in the CFRs. I really think it's a valuable tool. But the other thing, Commissioner, I think you were getting at, is I don't think the agency has ever thought about: can we have a subject matter of roster key issues, top 50, 75, whatever number we would all agree are the really top subject matter, personal use and straw donor schemes and other types of key legal issues, partnership contributions, you know -- the real conundrums that create problems for people, and do a holistic integrated database where you could touch on those subjects get the relevant regulations that bear on it? The E&J's, the advisory opinions, the MURs in one place? That would be so valuable. As opposed to, "I know there's a MUR that was on personal

use but I can't remember the number." So I think it's a great idea, but, if you feel like you don't have all the resources to do all that right now one starting point might be to dedicate an effort to upgrade that subject matter in the CFR because that's where everybody's fall back is. At least that's where my fall back's been over the years when I have no earthly idea where the reg is.

MR. SVOBODA: Yeah. I agree with that and I think also you have to design the site to accommodate both linear and non-linear forms of research. So, for example, if I know what the reg is I ought to be able to go somewhere click on the reg and find all the advisory opinions, all the MURs, and all the statements of reasons that pertain to it. But I also ought to have the capability to be able to phrase by a good enough search term that I can think by analogy and compare and find authorities that maybe related even if they are not exactly on the same subject. And that depends really -- and this I'm straying into an area where I don't know how it's done technically -- but it depends on how you kind of frame your search engines and how they're structured and set up. And I think it's part of the reason the enforcement query system is so frustrating because you can't really articulate a search that yields a useable result. I began practicing law at kind of the dawn of LexisNexis and I've always been kind of dubious on online research because you'll search for what you're looking for and you'll find exactly what you're looking for. No more and no less; and that's the problem with any sort of search driven technology.

That's why I wouldn't encourage the Commission to rely solely on that as a means of searching materials. I'll give you one example of where I think that I would find useful. I'd like one place on the web where there's just a list of all the MURs and I can just like click on one. You know I can see them all listed from MUR 1 involving Fred Flintstone to MUR 6242, and I could click on any one of them and pull up anything. And just having that sort of basic library there I think conceptually is helpful and strikes me as kind of an easy lift to do. Easy compared

to other things perhaps that you're being asked to do.

MR. ENGLE: Commissioner, I have to agree with you. I personally take a conceptual approach to much of my practice in this area but also in other areas, whether it be tax or real estate. The issue often isn't the regulation but it is the concept or the question. I think that as a practitioner people come to us not for information; they come to us for judgment. And that judgment is on the basis of experience and working with the information. They come to us with a question not about a regulation but about a task that they would like to undertake. So we are very subject matter oriented practitioners as opposed to necessarily information or regulation specific practitioners.

I would add one thing to what these two have said -- which is, you don't have to do everything yourself. It's not this governmental agency's responsibility to shoulder all of this. I think that those things which are core improvements to your mission, is what you should focus on because part of it's our job as well. Part of it is going to be our job as practitioners to keep up with this ourselves. Monitor it ourselves and make sure that our own internal libraries and minds are kept up to date. And that we do work as well, and there are also other groups out there -- non-profits and watch-dogs and academics -- that might be able to do things with your information that are more optional or exotic in the way in which they want to operate it. So I would choose things that you believe are the core foundation to disclosure; I would choose them also on the basis of the subject matter that you are talking about; but also choose them knowing that other people will be doing things with that. Exaggerating that information or formulating it for you ways in which others may be able to use it.

CHAIRMAN WALTHER: I'd like to talk about our EQS system for a few minutes and ask you to comment on that. There seems to be fairly general dissatisfaction with it, but what is it in particular that, say five or 10 things, we could think of right now that we could be working on with our staff? I know that surfaces a lot.

MR. TONER: I'll be brief, Mr. Chairman, and I confess that my technological knowledge is next to zero. My colleague Karen Trainer is light years ahead of me on those issues. But I mean the two things that have been --

CHAIRMAN WALTHER: I've noticed that you and Mr. Engle both refer to your assistants as the ones who really know what's going on in the technological field so -- I suspect that in the interim between now and our next session, they'll be invited.

MR. TONER: That's right.

MR. ENGLE: I have room for growth, your honor.

MR. TONER: The two things that I think -- my sense is most frustrating is, first, obviously not all the MURs necessarily being online. So you have a breadth issue, but perhaps more challenging is a sense that the tech search function does not operate in a comprehensive manner. So that even among the MURs you have online, if you want to get all hits for MURs concerning personal use you can hit "personal use" and you don't get all of those MURs, that's a fundamental problem. Or you get things that don't relate to personal use. And so I think it's two fold.

It's first of all and the Chairman indicated that, I guess a contract has been approved, to put all the MURs online. I think that's tremendous.

I think a parallel challenge would be, what could you do to improve the searchability function, because I think that's vital. If you're a practitioner in Middle America and you're trying to get up to speed on the precedent on issue X that you have the ability to pull up the MURs on issue X. Right now I just don't have a sense that's possible.

CHAIRMAN WALTHER: Mr. Svoboda.

MR. SVOBODA: No, I agree with that totally, and to illustrate the problem, let's say, for example, you had a dispute about contribution limits in a special election. How would I find that in the enforcement query system? Well in a perfect world I'd type "special election" in the search field -- whether through some sort of Boolean form -- in quotes or with a plus sign or something like that, and I

generate some universe of MURs. You know many of which may not be responsive, but some of which are and with a reasonable amount of work I could find the authorities that are on point. I could do that in fact with the advisory opinion search system -- and it works reasonably well. If I did that now with the enforcement query system -- and I wish I had a lap top with Wi-Fi to try it. Maybe I should pull out my Blackberry and do it. I suspect I would get like 142,892 documents and it would be -- I'm exaggerating for effect -- such a long list that it would be impossible for me to go through all of those and find anything that's responsive. And that's the problem you have; which is, there's just no efficient way to search the system. You can't do it through word searches because it yields either too much, hardly anything or incomplete results, as Michael said, or there's no way to browse it unless you want to enter the number sequentially MUR 1, MUR 2, MUR 3 and read them all. And there's just no other way to get at the information. So that's the task for you. It's how to organize it in any way really that helps you get at it.

MR. TONER: And I think on a related issue, as we said in our written comments, sometimes what you do as a fall back is, if you don't think the text search -- if the phrases are working well why don't we do a reg site? I know 110.11 is what I am interested in -- let's plug that in. Sometimes that will work pretty well but as our written comments indicated we played around and had some reg sites, 104.3(d)(4) is one of my favorites; no hits. And you know that -- how can that possibly be? No hits, literally no hits. And so is that a functionality challenge. Is it the fact that there are literally are no hits for that? So I think it's an over-inclusive under-inclusive challenge that's on the table.

BRIAN SVOBODA: It's also how the search dialogue is phrased -- for example, you have a field for a respondent's last name and first name. Well what's the last name of the National Republican Congressional Committee?

COMMISSIONER MCGAHN: You type in mine usually. (Laughter)

MR. SVOBODA: I'll have to remember that.

CHAIRMAN WALTHER: Mr. Engle, do you some thoughts on that?

MR. ENGLE: I quite agree with Michael and with Brian. I think that the advisory opinion search engines are very, very usable. I find them to be the place where I go first. And that often then triggers thoughts about where I should go maybe in a more specific way in enforcement. But I have to tell you my first point of entry is always with the advisory opinions.

MR. TONER: I agree with that point. And for some reason the AO search engine has always functioned at -- in a far superior level in terms of text searchability, and I have always confidence that it really does a great job in delivering the hits. And maybe that's because more of the AOs when you began that process were already in a Word, you know, digital format, as opposed as to the old MUR documents that weren't. I don't know but for some reason the AO search engine you have now is far ahead of the MUR search engine.

CHAIRMAN WALTHER: And that goes for the AOs way back. In other words, it's not just a matter of how they were copied and put on -- digitized or anything it has to do with the actual search engine -- that gets the job done. So if you took that search engine and you combined with MURs and you had a topical index, you might really get somewhere. And then the statements of reasons, of course, and bring those back out of the graveyard.

MR. TONER: Agreed.

CHAIRMAN WALTHER: That's very helpful. Other comments? Mr. Vice Chairman?

VICE CHAIRMAN PETERSEN: Thank you, Mr. Chairman. I don't have a lot of questions to ask other than to say that the comments you submitted in written form and what you've presented for us today are extraordinarily useful. And very much appreciated and lends perspectives on these issues that on the inside where we generally can find what we need, although sometimes we've even found that that can be tricky for us, but to hear it from the perspective of those who actually have to deal with this in

representing clients -- this is extraordinarily valuable. Let me also commend the Chairman for his leadership on this issue.

Certainly the website is our most effective tool at conveying the, you know, the widest array of relevant data to the interest of constituencies that Commissioner Toner mentioned. And so anything we can do to improve that, that vehicle, I think is very worthwhile investment of our time.

The Chairman mentioned how we're expanding the MUR database to include every MUR that goes back to, well basically, since the agency opened its doors. We're also looking at this current time at the possibility of video streaming so that people through our websites could view Commission open meetings and hearings in real time. There are obviously expenses involved with that and some logistical hurdles. Mr. Svoboda mentioned this having some sort streaming video, streaming audio as something that would be useful. I was just wondering -- I just wanted to get your thoughts on how useful of a tool would that be to have live streaming video of Commission meetings and hearings.

CHAIRMAN WALTHER: Just think -- you'd have to look at us instead of just hear us. (Laughter)

MR. SVOBODA: Well first off, having suggested the streaming audio I'm alarmed that you responded so quickly that you are doing it today. I may need to revise and extend my comments depending on how this experience has gone. But it'd be immensely useful. For example, I wasn't able to attend your meeting yesterday. There were subject matters you took up that I was interested in. I honestly don't know for sure what you did and have no real way of knowing other than reading BNA this morning or talking to someone who was there. This is the case for almost everybody with business before you -- they can't come here because they live in Lincoln, Nebraska or they live in Denver, Colorado. So having some economical means for them to know what you did today is a good thing to have happen. And streaming audio actually may be the cheapest and most efficient way to do that.

Again, I'm straying into areas I know little about. But you know, again, it goes with what Commissioner Toner said: Make a list of what's achievable. The perfect doesn't have to be the enemy of the good. You know as much as we'd like to see you, hearing, you might suffice. So I think it would be immensely useful particularly for the open meetings.

COMMISSIONER

WEINTRAUB: It would be more interesting on the closed meetings. (Laughter)

MR. TONER: That would be interesting to hear. Yes, the executive sessions; we'd love to hear that.

MR. SVOBODA: No, I don't think so.

MR. TONER: I know, and I share Brian's comments, and I think those audio pods -- I can't remember what year that began -- where the open meetings there were audio pods placed on the website. I thought that was a tremendous improvement because -- as you know, as practitioners, getting a sense of the points that Commissioners and staff are emphasizing that are not apparent in the final documents. I mean we know we have the final agenda documents. We have the final approved documents, but where are our different colleagues on key points? And when you are trying to advise clients about the risk matrix for different things they are thinking about that's really vital. And so I think those audio pods were a great improvement -- so that no matter what time of day it is you can -- if you know there's a AO that you really care about -- you can go ahead and dial up that oral debate. And the same thing on the rulemaking side, which I think is really helpful.

CHAIRMAN WALTHER: Mr. Vice Chairman.

VICE CHAIRMAN PETERSEN: Just as one follow up on that. On this point, we just had a finance committee meeting recently to talk about this issue, and we're trying to take this issue -- just, I mean, obviously in a perfect world we all want video streaming and it's an aspiration I think that many of you have, but we're trying -- to take it out of the aspirational realm and actually start to try to figure out what sort of concrete steps we can take in

order to make that a reality. Because I do think that that would be an important service. I know that when I was up on Capitol Hill working on oversight committees that oversaw the workings of the agency, that there were many times you couldn't leave the Hill and there were many times when I was a little bit frustrated about the fact that I couldn't see what was going on. Maybe it was a hearing way back during some of the rulemakings or a crucial AO is being considered, and so I remember from the outsider's prospective how useful that could have been. Now that I'm on the inside we're trying to take some concrete steps to make that a possibility. I mean, there are obviously resource issues and there is some logistical hurdles we're going to have to overcome, but at least get us on the pathway to providing that capacity for practitioners, for the general public, for the media, for everyone who may be interested to see what happens in those meetings. So, thank you.

CHAIRMAN WALTHER: Mr. Toner.

MR. TONER: Thank you, Mr. Chairman. And I think another thing that's advantageous by the timing of this hearing of course -- you're coming to the end of your fiscal year on September 30<sup>th</sup>. To the extent there are any dollars that are there and available to you. You know, sometimes I remember sitting in your chairs and saying it was advantageous to focus on what could we do between now and September 30<sup>th</sup> in terms of outlays? I mean if we've got \$50,000 dollars whatever it may be in your budget by September 30<sup>th</sup> that you earmark that for projects like this, you know. And that if you've got the next fiscal year starting on October 1<sup>st</sup>, going to the Hill and saying, "Hey, we'd really love to do these two things. Here's our best estimate of what they'd cost and we don't want any of them five years from now we'd love to do them in fiscal year '10." And sometimes everything being equal that can be a little bit more effective in terms of trying to get that line item from the Hill. But I do remember they released -- and Commissioner Weintraub, you might have a better sense of this -- I remember there was at least a fiscal year or two when we

served together where it was about this time of year, we were in the last couple months, we knew we had some dollars -- obviously not as many as we'd like -- and in setting the priority to spend them. So I think the timing of this is really good.

CHAIRMAN WALTHER: Well, you're right, we are going through that exercise right now, so it is a good opportunity to take a look at some of these things. Maybe there's low hanging fruit that we can actually get a figure on before the end of our year.

MR. SVOBODA: If I may Commissioner, to respond to the Vice Chairman's question about audio or video. You know one real quick work around -- I don't know how easy it would be -- would be simply to post the audio of the meetings more timely. I mean even the same day or next morning if that's possible. You know from where we sit as practitioners obviously we want to know what you do as quickly as possible and that may be one way without busting the budget; you know, where that can be done.

CHAIRMAN WALTHER: There is a commercial software system that I've learned to use -- since I've never learned to type very well and since now I'm working for the government and I don't have secretaries to take dictation -- so I did learn that they have this Dragon, Naturally Speaking Software and I'm just throwing that out. And we could maybe be figuring out a way to convert that to semi-primitive text and get it out fairly quickly without the expense of a court reporter necessarily. Some things like that we might be able to do.

Also, from the American Bar Association to some of the things that have been successful for us -- and I'd be interested in your comment -- are a telephone conferences on hot topics and what things might mean so that if you could have a telephone conference and you could get CLE credit for legal practitioners on, say, "Okay, what does *Citizens United* mean? What is the impact of that? What's the impact when the case comes down? How does it affect where we're going to be going forward?" For example, or things like that, where it's not expensive and anybody can hook in from any part of the country and they can get an

hour or an hour and a half of conversation from learned people on it and really get a sense of where the law might be going in a fairly quick way. Does that sound interesting? Or would that be helpful to you?

MR. ENGLE: I do think that sounds interesting. And one of the things that I always thought about when I was here was that we're not alone at the Federal Election Commission. There are hundreds of different government agencies and commissions sitting in meetings like this all across Washington, maybe the United States asking questions of themselves like we're talking about right now. The Internal Revenue Service is one that has done a remarkable job, in my opinion, over the last half dozen years in improving the information that is available to taxpayers and tax practitioners. The forms that they've generated, their ability to have both formal and informal methods of communicating to taxpayers and tax practitioners has increased markedly. So if there is ever a way in which this agency can talk to that agency and bounce your problems off of them and vice versa I think that that might be a very good way in which you could improve some of the operations that you're talking about. You're not alone.

CHAIRMAN WALTHER: Mr. Svoboda.

MR. SVOBODA: Any time in our line of work where we are able to hear what you all are thinking about an issue or what your staff are thinking about an issue in that sort of context is immensely useful to us. I mean, realizing that you don't make law when you go out and speak at a conference or something like that, still, it's a window to how the agency's approaching particular issues that sometimes it can be a wakeup call to us. Sometimes it can spur us to think on an issue that we hadn't considered before. Sometimes, we'll hear something and think, "You know, boy could that possibly be right?" We'll want to follow up on it -- but it's a fascinating thing to have happen. It happens frequently at your training seminars where subjects will come up and it will just spur us to thought on a particular thing and cause us to gut check something or to realize that maybe an

advisory opinion is in order on something. Or it's having that sort of dialogue is just immensely, I think, important to creative thinking for us and for the other people who you know have business before you. And to the extent that those opportunities can be expanded I think that's all for the good.

MR. TONER: I agree with Brian's comment. Particularly this idea -- definitely experiences over the last couple of years -- well I thought was settled law. And maybe go to a PLI conference or a setting like that where Commissioners or representatives from the Counsel's office are talking and it's apparent it's not so settled. You know it's an issue that's very alive -- and you won't pick that up by reading the Red Book or the advisory opinion processes -- so I agree. Any mechanism you can create where more of that is accessible -- as a practitioner. Again, I think Craig was making this point earlier, a lot of times we're hired for judgment and do you really want to go there on issue X? If it's settled law, well, so be it, if it's not so settled your view, it might be quite different in providing the advice. But the other thing I thought was always very helpful -- and the Counsel's office did this over the years at the Commission's Seminar is -- was the "Recent Developments" module. It was maybe an hour discussion of court cases and certainly while I served there always seemed to be court cases, you know, some judge throwing something out, we're all pleading something. And so it was a very live area of the law where for an hour you could really get a feel for how the agency viewed the court cases. On the reg side, the constitutional challenge of course to the statute and if -- and the Chairman was talking about, well what about having a conference call, an hour conference call maybe every couple of months for people to dial in. I think that would be enormously helpful and it might be no more duplicative work in terms of what you present at those seminars. Because I always thought that that Recent Development section was very informative for people.

CHAIRMAN WALTHER: Well, I think the comment you made about the videoing our seminars would be very

helpful. That's really leveling the playing field in a big way because not everybody can go to Chicago or San Francisco or come here to set aside two or three days -- maybe half of which is really of interest to them. Let me ask one more question. You made the comment, Mr. Svoboda, about the library page. You said the Commission's library page should be easier to find. What were you thinking in that regard?

MR. SVOBODA: Well, there are certain things on the FEC's website where you really have to work to find them. For example, one of the attorneys in my office had a joke about a month ago and sent an email saying we should have FEC scavenger hunt. You know, have an item and try to find it on the website. We may do that. (Laughter)

MR. TONER: Whoever finds it gets a prize. (Laughter)

MR. SVOBODA: There's some statements of reasons I'm looking for. But the library is one of them.

I'll be blunt about how I approach the web page. You have a nice big screen and I probably pay attention to roughly 18% of it, it's the bar at the top and it's the bars on the side. And one of the ways in which you have the site organized right now is that it's very -- it's very layered. You click on one link to get to other links to get to other links to get to other links and it is not always the most accessible way to organize or find information. So there's a couple ways to do that.

The first I think is to think creatively about how you're organizing the site simply from an appearance perspective. The strong axis of your site right now -- the place where a person's eyes would normally be drawn when you go to the web page that right hand side of the screen -- is the Eastern United States. And I suppose that's useful if you want to see Olympia Snow's campaign finance reports. It's less so if you're visiting the site and you're wanting you know, wanting to know immediately, what's there.

Another way may be to simply think about highest priority -- where most of the people who visit your site, realizing that they assured they are not always going

to be lawyers or even most of the time be lawyers; what are they most likely want to go and look and where do you put it where it's most convenient, you know, for them to find? And that's where maybe thinking about the buttons that you have right now on the left hand side and thinking about how those, you know, might be refined would be a good thing to do. I'll give you another example in that same vein. I was struck, I think it was in Larry Norton and Jim Kahl's comments where they were talking about how a conversation with somebody in the Information Division saying, "Well, when I want to look at an FEC report, I click on campaign finance reports and data and I click on the tab for view images of campaign finance reports." And it rang a chord with me because that's exactly how I look for the data. I know there are other people who search the data differently and sometimes -- and I've met some of them -- they don't find the data they're looking for because it's organized in four or five different ways and you're not always getting, everything you want to see. Whereas, if I want to see the FEC report that a candidate filed at least I know exactly where to get it. I'm not sure it's intuitive to somebody else visiting the site that they would know exactly where to get it. And it's that sort of thing not simply with the library, but also perhaps with the campaign finance reports that it's worth doing some brainstorming and thinking what is it that people most immediately want to see and how do we help them in getting it most quickly?

MR. TONER: Just two quick points for consideration. I remember when the agency launched the web crawler function. I can't remember what year exactly that was it was -- sometime in the last few years. And I thought that was a really positive development. I recognize that there's often differences of opinion about what -- it's sort of the equivalent of FEC breaking news or, you know, what -- there are editorial judgments -- about what to put in that crawler and I do remember some lively debates, about what ought to be on that crawler. But I'm a big believer in the crawler. I've got to tell you, because I thought it was an important function if every couple of days there's something that, you know, is upcoming:

filing deadlines; there is a court case that just came out; there's a hearing like this being scheduled; whatever the case may be. It helps drive traffic to the site when you've got things in real time that are recent developments or things that are coming up. So I would encourage greater use of the crawler although recognize that there are at least the debates about what you're going to include in the crawler that have policy overtones, and not everybody agree on what that ought to be.

The other thing is that I really do appreciate are these Weekly Digests, the Friday summaries of the agency actions -- which I know, Mr. Chairman, was initiated during your chairmanship year. Particularly the fact that it's not limited to what happens on the advisory opinion side or the enforcement side or the regulation side it's seemingly a compilation of everything you do for the week. And it's one stop shopping, right? If you're a practitioner and maybe you were out of town for a couple days you've sort of lost track of when was that last open hearing? You've got that Friday Weekly Digest email that allows you to really get everything that happened. And then you can click on and get the background documents if you're interested in what's going on. I think that's a tremendous improvement and I would definitely continue that kind of a process. And Friday I think, by the way, is good day for it. I mean, it's a natural day, right? You have your open sessions on Thursday, it gives you 24 hours to put that together and, you know, sometimes nothing better than heading into a weekend and do some light reading in the Federal Election Commission actions. That'll get you going on a Sunday afternoon. (Laughter) But I think that's been a real improvement and I definitely would continue that going forward.

MR. SVOBODA: You know, Michael makes one comment that it reminded me of something. And it's important I think as you go in this process to keep your eye on the ball. I mean, his notion that you prioritize the five or six things you really want to do in the time to do them in and then discuss how you do them. I mean, focusing your decision making process way strikes me as

something that's a really helpful thing to do. Because one thing -- one pitfall that people fall into when they talk about redesigning a website -- and I say this as somebody who's practiced at a law firm where we've done that, who've been involved in private organizations where we've done -- that is they can be the subjects of intense divisive debates and it's because there are elements of that where everybody's opinion is as good as everybody else. It's pure subjectivity. So I was on the pastoral council of my church, for example, and they were putting up a website and we spent two hours discussing whether the site should read Saint Anne's Roman Catholic Church or Saint Anne's Catholic Church. Do we spell Saint? Do we abbreviate it? And I thought, "Why don't you just look at the bulletin and see what we're doing now?" But that's the sort of pitfall that you can fall into with this sort of debate and I would urge you to be cautious about it.

Think in terms of broad goals, what you want to achieve and then how to do them. And don't be lured by the siren song of, should we have a mauve background or, you know, red, white and blue? Or -- just a thought that was spurred to me on the subject of the crawl -- where I can imagine if I were on my law firm's technology committee and we had a crawl, we'd probably have bitter, long debates over what ought to be on the crawl and at some level it doesn't matter as much.

CHAIRMAN WALTHER: Ah, the old law firm debates. I do remember those. Commission Hunter.

COMMISSIONER HUNTER: Thank you. And thank you again to all three of you for being here. We are hoping to publish a notice of proposed rulemaking for what we'd call the *Shays III* litigation, hopefully within the next month or so; sometime in the near future. And as you know, that's going to include a coordinated communications, federal action activity and state party fund raising. It's going to be voluminous and we're hoping to get a lot of comments from the public on this.

So I'm wondering if there's any advice you have to us that the FEC's not already doing in NPRMs that might help people provide thorough comments --

maybe that includes adding more information on a certain part of the web page, more legislative history, court cases or things that would help you to do the research more quickly, or hyperlinks, or anything that we're not already doing. We may be already doing everything that you think is useful but it's going to be a pretty substantial amount of pages to look through.

MR. TONER: Well, Commissioner, that's sobering. As someone who will probably be looking through those pages. I think two things. I mean, I think that there obviously is going to be tremendous anticipation about what the agency is contemplating in the coordination area and the Federal Election activity area given that the laws have been in such flux over the last five, six, 10 years in those areas. I can't think of anything technologically. I think that the one thing I kind of learned the hard way when I was at the agency is the importance of having at least enough weeks for a comment period. I remember thinking -- and Commissioner Weintraub and I would work a lot on this -- we can have a hearing in four weeks after the NPRM. Well, you certainly can have a hearing, but that doesn't mean it's going to be done informatively. When people don't have time to -- particularly if you're talking about a lengthy NPRM and a lot of complex issues, so I think I kind of learned the hard way that sometimes building more time in the front end of a process like that can lead to better written comments, A, and B., more people will, you know, be able to come for oral comments and perhaps a better end product at the end of the process. Particularly when you're talking about a high stakes rulemaking like coordination. But I can't think of any technological redesigns. Brian maybe you can --

MR. SVOBODA: You know the Chairman threatened to let us ask questions of the other witnesses so I'm going to take advantage of that. I'd be interested in the former Commissioner's reflections on his experience in managing volume in two very controversial rulemakings. The Internet rulemaking and the Political Committee Status Rulemaking, where if memory serves the

agency receive like 103,400 comments and 103,189 of them were from people sending identical emails. So you've had experience in managing the volume before I'd be interested to know your thoughts on that.

MR. TONER: I think a couple of things. Part of it goes to technological issues we're talking about, but part of it -- we're diving into rule making strategy which is a whole other issue. But I think that I remember we would set goals of not having the NPRM be longer than X pages, and often times our strategy was that if any Commissioner which is to have comment on issue, that you accommodate that, right? But the only problem with that is, it's going to lengthen the document because there's more issues that people want to consider. But I have to tell you, at the end of the day, in terms of managing those processes I was a big believer in that, because it's easier to build consensus on an NPRM if everybody has a stake in it and everybody has the ability to get comment on issue X, Y or Z even if your other colleagues. And I certainly had this: Thought you were crazy to seek comment on that concept; you can't be serious that we're going to do that. But it's a way to kind of take the edges off of that kind of project. But I remember when we did the Political Committee Rulemaking and our website was on the verge of crashing, given the number of comments we were getting on line -- I guess the emailable comments. But I have to say, I mean, technologically, the agency hung in there under a very difficult process and I think the same thing on Coordination, II. It's the second version of the coordination rulemaking we -- I can't remember the exact number of comments that we got but we got a tremendous number. But I have a lot of sympathy for all of you in terms of trying to manage this coordination rulemaking, given how complex it is. But I am a big believer in inclusiveness. I mean I have to say, particularly when you're just trying to get consensus to get a document out. And if you have more time in terms of the hearing time; in other words it's going to create a longer document so people who you want to give valued testimony are going to have to read through those 18 different proposals -- or

whatever it is that -- you end up building consensus on but you'll get better comments if you have more time for that to happen. I kind of learned that the hard way, to be honest with you, you know -- the idea of having a hearing four weeks after you send out an NPRM. I think it's tough. But I'll defer to my colleagues if they have different thoughts on that.

CHAIRMAN WALTHER:  
Commissioner Bauerly.

COMMISSIONER BAUERLY:  
Thank you, Mr. Chairman. And thank you for coming and sharing your thoughts with us. I don't actually have any questions I appreciate my colleagues questions and the thoroughness of hearing about your perspective. And I just wanted to make one comment that I particularly appreciate the, sort of, the breakdown that you had, Mr. Toner, for the different primary constituencies particularly; I think, one relevant for the website because I think you're right. That sort of the general public electorate has a different goal. They might actually want to see the maps on the first page and that might be the most useful to them. So I think our challenge is figuring out what are the most critical aspects that we need to update and improve for each of those sets of users. Because they do each have such very different perspectives and we do have to balance that. But I do also share your view that it has improved a great deal and I think some of the improvements that you've noted are the work of -- the hard work of our staff in consultation with many on the outside. This is the first time we've done this in a hearing setting but of course we've gotten -- there's a webmaster email and I'm certain that many have taken advantage of the opportunity to send in their thoughts to the Commission even when we didn't have this open process in a meeting forum. So I appreciate your time today and your comments and particularly take heed of your advice that we need to figure out how to balance all of those constituencies.

CHAIRMAN WALTHER:  
Thank you. Well we are at the end of our time. I do want to thank you again on behalf of all of us for being here and for giving us this great input, and those voluminous volumes are something that

I'll never forget. So that was a nice piece of visual support for your comments.

MR. SVOBODA: For those listening on the Internet they are only two inches tall.

CHAIRMAN WALTHER: You are the first formal panel we've ever had on how to improve our website. It was a great start for all of us and, again, thanks very much.

MR. TONER: Thank you.

MR. SVOBODA: Thank you.

MR. ENGLE: Thank you.

CHAIRMAN WALTHER: We'll reconvene in about 5 minutes.

(WHEREUPON, a short break was taken)

\* \* \* \* \*

## PANEL 2 ELECTRONIC FILING OF DISCLOSURE REPORTS

CHAIRMAN WALTHER: We'll reconvene the open session. A lot of you were here this morning for the first panel. I thank you very much for being here, and you kind of know the procedure. We're going to start with whatever comments you want to make, and take as much time as you wish. I will make it an informal discussion. Some of the comments may be technical, so we may need some translation. Therefore, please forgive us if we have to ask you some fairly basic questions, but we're sure looking forward to your information. In alphabetical order, we have with us Matt DeBergalis, who is the Chairman and Founder of ActBlue. Paul Houghtaling, Political CFOs, who is the founder. And Nathaniel Pearlman who is the founder of NGP Software, Inc. Thank you all for being here. And we'll start with a Mr. DeBergalis.

MR. DEBERGALIS: Well, thank you to the Chairman and the Commission as a whole. I think this is a wonderful approach to asking these questions and I certainly appreciate the open setting to begin this process. I think it's appropriate for the kinds of questions that are before us.

My name is Matt DeBergalis, I am the founder and chairman of ActBlue. We are a federal political action

committee as well as a similar committee in 20 some odd states. And we are now the nation's largest source of earmarked federal funds for candidates and federal committees.

And I speak here with two perspectives. One is as a filer. We have, of course, our own filing obligations as a result of our activities. I think we've filed several million individual compliance events over the course of the last cycle. And we certainly have some experience and some opinions based on that activity.

But the other perspective is as an advocate. Our mission as a political committee is to improve transparency in political fundraising. To document more of what's happening in the why, behind what's happening; so we go far beyond what the federal regulations require in terms of disclosure. We share information about the fundraisers that have brought in funds, what they're saying, who they're communicating with, what the communities are that are giving money.

We feel that that offers a deeper understanding of the political fundraising process. And so we applaud any effort to increase transparency or accessibility to the kind of political fundraising data that the Commission works with. We do all of this in real time and we found in many cases that we are the only real way to have insight into the fundraising activity of a campaign between the quarterly filing deadlines that the candidates have to file against. And so again, I applaud the effort and I think that there's an opportunity here in front of the Commission to improve both the forum in which data is collected and also the ability for third parties to take advantage of that data and teach us more about political fund raising and the environment that it's taking place in.

My testimony carries three recommendations and I just want to walk through them quickly and then, of course, leave as much time for questions as possible and forgive me if some of the testimony wasn't as clear as it could be. I'll try to elaborate on that in a moment.

But the centerpiece of it is to think of the Commission's responsibility in terms of data as the custodian of the data itself. What I mean by that is that the currency of this is all of the individual

events that have taken place, the contributions to committees, the expenditures from committees and the goal is to document those and to publish them in a form that anyone can view but also analyze. And to the degree that that's done in a way that the data is well documented and well structured and has clear meaning is, I think, what's required for independent groups to be able to make the best use of that data. And so, one example of that is around identifying donors as individuals and aggregating amounts that they've given. Of course, this is a classic question but it turns out to be a hard problem to solve. And the Commission is in a unique position to, address that not simply because it's, a hard challenge but because it's the sort of question that demands a single answer. There needs to be a clear canonical answer as to when two donors are the same person, when two employers are the same, and when two vendors are the same. And that's the sort of task that I think is well suited for any effort the Commission makes to change its own model of the data. If that's done correctly the door is opened for any number of third parties as well as the Commission itself to publish information and to aggregate and analyze that information.

So the existing maps on the front page of the website I think are a great example but, needless to say, there are many groups that will leap at any opportunity to reanalyze and reform the raw facts, if you will, the individual amounts that a donor is given over the course of a cycle or the individual vendors to whom a campaign has sent money. And there are many that do that today but the Commission has a chance to improve the quality of data that they're working with and then rely on them and leverage them for their own energies and their own kind of approach to how to demonstrate political activity to the public.

The second recommendation is to do this using industry best practices for data formats and for protocols, which is to say, how you move data to the Commission as a filer and how you retrieve the information as an interested party who wants to analyze it or asks questions of it. And there's a great depth

of industry standards here that would make sense. I think these recommendations are ones that you'll hear from many different groups and people. You know, essentially the more accessible data is, the more that it's provided in a form that modern software already has tool kits that they can work with that data, the more that people do with it. And unfortunately the current state of affairs is such that essentially any work with the data, again, both as a filer to send data to the Commission or as an analyst to pull data out requires completely custom software, doesn't typically allow you to leverage existing tool kits. Certainly, nothing that we work with at the federal level helps us with state compliance. And again, just limits the scope of what individuals and organizations outside the Commission might potentially do with that data. I recommended formats like XML as a classic industry standard. It's not the only choice but it's certainly one that would give you a set of tools to work with. And on the protocol side the goal is to not have to rely on a particular software package such as FECFile to input data into the system. And the story there is that when the software works for someone that's great, but when it doesn't, the options today are very limited. And I speak as someone for whom FECFile is not an option. So we've had to do a great deal of customer work to work around that problem, and I think that's a place the Commission can improve upon.

Third, I recommend that the whole process be open. I've never seen a successful industry standard for data format or for protocols that wasn't done as an open process. Those that are done behind closed doors published by a single company tend to fail. They don't meet the needs of the community and they haven't baked in the feedback from the community. I recommend that the output be open sourced. I don't see any reason why they Commission shouldn't provide its system and these tools as a starting point for others to work with. I think there's nothing but good that comes of that sort of sharing. And done right I think this serves as a template not just for federal compliance and for working with compliance date but also in other settings

where, you know, in states for example the resources just simply aren't available to build a model of data and a set of tool kits and best practices, and frankly, a public rationale for why these decisions were made and how they were made. And so those are the three recommendations and I look forward to your questions.

CHAIRMAN WALTHER:

Thank you, very much. Mr. Houghtaling.

MR. HOUGHTALING: Paul Houghtaling, founder of Political CFOs. I actually prepared a statement just to make sure that I cover everything and I get through it and everybody understands what I'm talking about because I tend to ramble a bit. I want to thank the Commission for inviting me here and to speak at this forum. But I also want to take a minute just to give a brief overview of my history as a compliance consultant; because that's what I do. And a short explanation of what Political CFOs does because I believe that's something a little bit different than what people are used to hearing -- or who people are used to hearing from. I think it's important as part of the discussion to have good understanding of why the Commission thought it might be helpful for me to participate in this panel.

I personally have spent the last 18 plus years working in the political campaign compliance field at various levels. I've worked for congressional campaigns for the U.S. House and Senate as well as state party committees throughout the country. I have spent four and a half years heading up the Democratic National Committee's Compliance Division from its inception in December of 1996 through April of 2001. I've served as Compliance Director, Comptroller, Committee Treasurer and CFO for a presidential campaign. I've also probably had some unofficial titles that I've been given that I wasn't aware of. Often times I explain to clients my job is not to tell you how to spend your money but to tell you how to spend it legally and report it correctly. In terms of your spending quota; I won't tell you no, I'll tell you how.

In April of 2004 I launched Political CFOs. Political CFOs is a small firm in the city of Alexandria and we

employ four to 12 people depending upon the cycle. We provide compliance and financial oversight services for committees to a whole range of clients. We provide services to candidate committees, many of which are register with, submit reports to the Federal Election Commission. We also provide services for federal PACs and to several state party committees. The majority of these clients are outside the Washington D.C. metropolitan area. For all of them the work we do is heavily reliant on the Internet, not only for the accounting services we provide, but for the reporting purposes and general communication. Without the Internet, Political CFOs could not exist in its current format. Why is all of this important? I believe through the work that we do at Political CFOs, like others in our profession, we offer a very unique perspective because we have many clients from many states across the country; clients that interact with the FEC for many different reasons. We are often seeking information from the FEC on their behalf. We interact on a regular basis with the Reports Analysis Division, occasionally with the Office of General Counsel, every now and then with the Audit Division and hopefully only rarely with the Alternative Dispute Resolution. My employees often attend the FEC trainings that are held, and of course, the FEC's website for information almost daily. As case in point, I have one of my employees check the FEC's website for RFAIs (requests for additional information) that have been issued at least once a week to see if they have been issued for any of our clients. We get them online before our clients get them in the mail and tell us about them. Our perspective gives us a unique insight that most individuals frankly don't get. For example, we interact with many different analysts in the Reports Analysis Division. We get to know the standard kinds of questions that they are being asked on RFAIs and we know how a committee needs to answer them. We also can see the subtle nuances in the way different analysts will review a particular client's report. Additionally we experience many different ways our various clients seek to define the way in which we want -- they want us -- to

address their compliance and financial oversight issues. Campaigns and political organizations come in many different sizes and organizing in many different ways and every client has a different and unique way of operating. There are many campaign varieties as there are people in this room. Despite difference in organization setups and operations, however, we are all here for the same reason; to provide as best we can full disclosure for the public record an accurate record in accounting the receipts and expenditures of committees registered with the FEC.

When I first got started in this business there was no Internet to speak of. The Internet was in its infancy. There were no websites. Email was barely more than a concept and the idea of electronic filing was not on anyone's radar screen. I began working in this field at a time when as I'm sure many of you can still remember all reports were filed on paper format. That was less than a decade ago. I can recall riding up to the FEC on filing days, unloading 6 to 7 copier boxes filled with paper out of the trunk of someone's car as we were parked out in front of the FEC. These were quarterly reports for the DNC that were 5,000 pages long or longer. We'd bring them into the building with a hand truck. I also remember the days where almost all the information from the FEC -- be it copies of the regulations, campaign guides, or a committee's previous reports -- were obtained by either calling the FEC's Information Desk through the 800 number or in many cases making a personal appearance in this building.

I've taken this trip down memory lane to make a simple point. It has been less than 15 years since the Internet has really begun to impact all of our lives; it's probably even less than that when you consider that the first version of the FEC's website didn't occur until 1996 only 13 years ago. Not a very long time at all when you consider the life span of the FEC which has been around for a little over 34 years now.

The bottom line, the FEC and the people who work here should be commended for the job they have done with regards to the information that is available at our fingertips these days all

from the confines of our desktops or from any other computer terminal, anywhere in the world, anytime of the day or night, 365 days a year. No more hand trucks. Far fewer calls to the 800 number; and when was the last time any of us waited for the printed information we requested from the FEC to arrive through the U.S. mail?

However, we are here at the request of the Commission to recommend, as regular users of the system, how you can improve on what you have built so far and make it better. Not only for us, the people who make our living in the business of compliance, but for the general public. After all, the FEC exists primarily for the purposes of facilitating the dissemination of committee activity information relating to the laws governing the raising and spending of money by federal campaigns and other FEC matters.

So in an effort to live up to the request of the Commission for my input, I'd like to begin by stating there are far too many things that I would like to suggest here today than any of us have time for. I too have gotten spoiled by what I'm able to get at the click of a mouse and I too am always wanting more.

First, there seems to be a common desire among many who have written comments that we ought to be able to search the database with disbursements as well as contributions. At Political CFOs we often find ourselves seeking information regarding a perspective client's level of disbursement activity, particularly levels of personnel and payroll.

Second, it would be nice if there was a greater degree of flexibility in the way the user is able to search the data. Let's face it. Each visitor to the FEC's website is seeking different information and wants it presented in different manner than the next person. Any increase in the flexibility which a visitor can dissect the data would be helpful.

Third, I think some consolidation of the various sections of the site could be undertaken if for no other reason than to streamline the process getting to where we want to go. Case in point is the portion of the site that we use quite often to access reports and amendments that have been filed, RFAI's, and statements of

organization. If you want to download report data it is much more difficult and confusing sometimes to locate the report or the amendment you are looking for. If you want to view a particular report it may be easier to find it, but you won't be able to download the data from that portion of the site.

Fourth and final point; the FEC's training department has been conducting trainings for campaigns, PACs, state parties for as long as I can remember. They've gotten pretty darn good at it. However, those trainings only traditionally only held during the spring and summer months of even numbered years. Most colleges and universities today providing online courses. It would be useful if the FEC would begin providing a lot of the training content online as well, and I know that was brought up in the previous segment of this. As I mentioned the list could continue; such, as notifications of RFAI's for a committee by email when they are raised; that way my folks wouldn't have to dredge through the website to get them. Improvements to the FECFile program, some of these issues I presented in the written comments and submitted to the forum.

One final note, in preparation for my appearance here today I took the opportunity over the weekend to read many of the written comments that have been submitted by others. There were a lot of them covering a wide range of interests from an equally wide range users. Many of them I agree with, others I may not. However, I suspect many of them would likely be implemented by the Commission as a result of the dialogue you've initiated. I think it's worth pointing out that I obtained copies of the documents that have been filed through the FEC's website and I did this from my home, on Saturday morning at approximately 7:00 a.m. while sitting at my home computer while drinking my first cup of coffee in the morning. I also was able to download many of them as Adobe documents to my local drive for further review on Sunday, Monday and Tuesday.

Once again, I commend the Commission for the progress that has been made so far in their efforts. If you

compare where we began just 13 years ago to where we are today, one could only imagine where we will be in a few years or 13 more years from now. Thanks.

CHAIRMAN WALTHER:

Thank you. We very much appreciate your comments. Mr. Pearlman.

MR. PEARLMAN: I'm

Nathaniel Pearlman. Thanks for the opportunity to be here today.

CHAIRMAN WALTHER:

Thanks for being here.

MR. PEARLMAN: My experience with FEC reporting and political finance, like Paul's, goes back more than two decades. As a programmer starting in 1988, I've written 3 different software packages. I was also a doctoral candidate in political science at MIT where I used FEC data and academic models. I was chief technology officer for a presidential campaign in the last cycle where we managed complex data and a large compliance operation.

I started NGP Software in 1997. NGP Software filed thousands of reports with the FEC but manages information about campaign supporters far beyond what is reported. NGP now has more than a thousand clients including about 80% of federal Democrats, many PACs and state parties -- the DNC, the DSCC and the DCCC. We have clients in every state and are intimately aware of how compliance is handled in those states. By handling as many filers as we do, I'm confident we buffer the FEC from numerous inquiries and problems. I've also been a donor to federal campaigns, so I have a decent background to think about the FEC and its use of the Internet.

I'm not a big critic of the FEC on technology matters. FEC electronic filing office has worked closely with us for a long time as it has with all software vendors. We've seen the electronic filing program grow and mature through two presidential cycles. There have been difficulties and issues that we've had to work through, but we've always been able to ultimately get the filings done. FEC has also been a reliable source data and my academic friends are generally fans.

I do have some recommendations which I submitted in written form already and which I'll go over quickly in a minute.

But I'd like to take a quick moment to explain where I see the FEC fitting into the political technology ecosphere, because that informs my recommendations. From a campaign perspective it's important to realize that the filing of FEC reports that are legally required is just a by-product of campaign activity. It's not the center. It's the periphery of a campaigns operation. Sizeable campaigns and other filing entities face the challenge of managing multiple data types and streams for their missions which far exceed what is needed for disclosure. That includes traditional fund raising which is: list management and call sheets, and call time tracking, tracking pledges, noting donors, and nowadays online fundraising and blast email and processing of contributions, distributed campaigning in connection to all kinds of online tools and voter and supporter and event tracking. Our continuing challenge is to provide a platform where we can represent all these types of data as well as embody the complex rules of FEC or state filing. The earmark contributions, the in kinds, the partnerships, etc. (phone ringing) Wow, someone must know I am here; oh, my brother. (Laughter)

So we are tracking many, many pieces of data which have no relevance to the FEC, but the integration with disclosure data is a very important component to the effective operation of a campaign. So the FEC is part of the data universe that far exceeds compliance with all the varied data that the campaign or PAC software now manages while working on improving disclosure. The FEC should not be at all in the business of building campaigning tools.

And the other part of the ecosphere includes the compliance consultants, the law firms, the other political software companies, campaigns, PACs, party committees. Most of the entities now have people who have learned a complex system for disclosure with numerous rules and interfaces. They've been to your trainings. Any of the changes that you make to the disclosure system will impact all of them. And for the sake of time, I'm not going to restate what's in my written statement.

I want to go over quickly over a couple recommendations. We echo the comments of the Sunlight Foundation with a respect to making the FEC's website more user friendly, employing plain language and updating the search technologies. The FEC has a lot of data that can be exposed more cleanly and this should be a priority. For instance, you should be able to subscribe as a committee to the FEC website and get a feed of what relevant things happened to you. You shouldn't have to wait for something to come in the mail or go searching for it; that could be automated just like you can subscribe to a blog nowadays. In the context of making contribution data easier to use the FEC could balance the exposure that donors now get to unwanted solicitation from appearing on these lists.

Most donors to campaigns are not buying influence. They are participating in the democracy and supporting candidates of their choice. The FEC currently allows "salting" of a report with fake donors so that other campaigns or organizations who download FEC information and then use it for fundraising purposes can be caught. Hardly anyone, however, salts their data because it's a pain.

Our suggestion is the FEC could implement salting system-wide -- thereby better protecting all donors. We also think that the FEC can improve the quality of its data by enforcing higher data standards. And this could be done very quickly and inexpensively in a current context by tightening up the validation on the FECCheck module. You could just not accept reports that don't hit certain standards. There's been some talk about -- from Matt, about putting -- publishing the code for vendor tools making that available. I think that makes some sense. This would allow current and new vendors to more easily and completely integrate their software for filing. We've been through an arduous process in doing that; it could be vastly improved by input from the outside.

I don't agree, however, that the same should be done with FECFile. I think FECFile currently serves its purpose pretty well. It serves as a standard for disclosure that commercial applications

need to mimic. Users of FECFile are pretty well served. It's free. It's the program of choice for small operations many which don't have reliable web connections and are accustomed to the quick entry and an easy navigation of a desktop product. The FEC should remember that changing an application interface will result in substantial headaches for a user community that's accustomed to the current way of doing things. And I think that the FECFile software should be managed by the FEC which has a mission responsibility for filing standards. One other suggestion I made was that you could diminish the last minute rush to file -- not every deadline -- by embargoing the display of reports until after the filing deadline. That way you would not have a rush on your servers necessarily at the last minute, we would not have on our technical support. If someone is done with a report 3 days early let him submit it. Right now a lot of them are holding it because they don't want the press exposure early. You shouldn't penalize them for doing their homework.

So I'm really supportive of improvements to the FEC website which would make data more accessible. I'm more cautious about wholesale revamping of your working disclosure systems. Remember that what moves you make, make changes for the whole complex ecosystem that's spun up around your work. It's been quite a process over many years to get things working as well as they are today. You may hear from technologists who suggest that rewriting things from scratch, but remember that many big technology projects always seem to run way over budget and take way longer expected and in many cases end in failure, and you've got to end up rewinding to previous systems that work. So I lean to an incremental approach to improvement.

There's a lot that can be done and a lot that's been recommended in the comments that you've received that can be done in this way. The first step should be to ascertain what questions people are asking about FEC information that cannot be easily answered by what you have right now. I hope that today's meeting is a useful part of that process. Thank you.

CHAIRMAN WALTHER:

Thank you very much. That's all very helpful to all of us. I read through these comments I had a lot of questions, mostly because I wasn't sure of the impact or the implications of some of the things you said. But are there any other questions that anyone on the Commission would like to begin with? I did have a couple of questions if I might. And that was when you said we should improve our data architecture; what did you mean by that?

MR. DEBERGALIS: That's a good question. The issue is defining with some clarity what the information that's being provided is.

And let me come back to the example of the vendor search because it's come up in a couple different settings, right? There's certainly an interest among the community to be able to ask which committees are spending money with a given vendor -- you know, where is that income stream coming from, and so forth. And it's true that you can solve that by building a vendor search forum much like you can currently use the site to search for donors.

What I was getting at was the deeper solution to that problem is to clarify in the data set that the FEC holds, the list of all the donations that have come in and the expenses that have gone out. To clarify what the relevant information is and to define a way of identifying a given vendor and a standard by which vendors are considered the same. I mean addresses vary a little bit here and there, business names can vary a little bit here and there. It's the same challenge that we face when we try to ask whether a donor has reached an aggregate limit because again, the name spellings and so forth may change. And so typically committees and groups will use some sort of heuristic to decide whether two names are in fact the same person. You can imagine doing the same with vendors. And the thing that the FEC can do that's difficult to do outside this building is to publish a standard heuristic if you will, right? In other words a test that the FEC considers correct to identify a particular vendor and that the rest of the community can then leverage and use to answer whichever questions they're trying to ask. And if you do that and what you

end up with is a data mart, some will say, or a database of expenses that committees have had and you make the database itself available and again, they're standard industry techniques for doing this sort of thing. Then people can ask whatever questions they like and it's no longer the Commission's responsibility to implement a specific type of search forum which may address certain questions but may not reach a solution for another committee that has a different kind of question they want to ask. And I think by focusing on the data itself rather than the tools that sit on top that let you ask questions of the data. You do the part that's most difficult to do outside the building and leave the door open for independent groups -- you know, the website Opens Secrets, for example does a great amount of work to build tools on top of the Commission's data that allow for different types of queries. And I think you'll see a larger number of those things take place if the starting point is more consistent.

CHAIRMAN WALTHER: The question I have is what some people -- I'm thinking in terms of what former Chairman Toner said about leveling the playing field, not everybody who looks at our website is then going to go to Open Secrets or going to go to somewhere else and know that there's the analysis done somewhere else. And so I am wondering -- should we at least, from a basic, more intuitive way let people do some sorting of data on our website? It could be by disbursement, for example; some basic pie charts some things like that that would be something that any student could get onto and be able to fool with our data and basic ways we'd get some interesting information. --And then be able to email it to your fellow students --

MR. DEBERGALIS: I think that's a clear interest. There are going to be standard questions, common questions that there is no reason not to provide simple answers to. But the design principle, when in the commercial space around large data sets, is that it's important to expose the data itself, because that provides any number of other avenues for analyzing it and for asking questions. That's not to say that you can't provide your own analysis tools. I think FECFile is another example. It's a useful tool.

There is no reason it needs to go away. It's just to say that there is a different level to work with the data that I think would be very valuable to the community on top of that.

MR. PEARLMAN: Just the same way you can right now look up yourself on the FEC website and see where you've contributed; you could expose that through an application programmer interface so that someone -- so that a program could look someone up and look at this data. And therefore, other people could build things live against the information that you already have online.

CHAIRMAN WALTHER: Could you explain quite how that might work?

MR. PEARLMAN: Just imagine that a computer program can talk to a database. And it can send a query to that database and say, I would like everybody in this zip code, and you'll have to regulate that from the standpoint of the FEC and not to overwhelm your servers with particular requests. But the same things that can be returned as a query and shown on a web page can also be consumed by a program or a piece of software on the web or not.

MR. CHAIRMAN: I see.

MR. HOUGHTALING: It's interesting that I sit between these two guys because, you know, they're programmers and they both -- we work with ActBlue, we work with NGP. They're very good at what they do from a -- if I understand what he's saying and I'm understanding your question -- it would be wonderful if a user like myself and what we do could get onto the FEC's website and manipulate the raw data so that I could essentially go to a committee and see what did they spend in the last 30 days of the campaign and parse that out from the website before I download the raw data. If I understand what Nathaniel is saying is that you could have programs that would go out and reach a core data set and then manipulate the data after they have it, but not everybody's going to have that at their disposal and I think if there's a way that I could go onto a particular committee and analyze their data from your website to determine specific parameters before I

then took that data and then did more with it if I wanted to I think that would be great.

An example that I just wrote down when I was listening to their comments; I would love nothing more than to know or be able to search and find out how much the Democratic National Committee paid as a vendor to other committees. You can't really do that. I could go and I could search Maryland's data and see who gave to -- how much did the Democratic National Committee give to Maryland -- but then I'd have to go to California and do the same thing and I'd have to go -- I'd have to take numerous steps as opposed to being able to say, "What did the DNC distribute as a vendor?" because they're going to be listed as a vendor on a particular line item -- line number. It would be nice if I could do that.

CHAIRMAN WALTHER: What prevents you from doing that now? Just is it because we don't have an open system?

MR. HOUGHTALING: I don't think it's that you can't do it. I just think it's extremely cumbersome should I want to take on that particular task.

CHAIRMAN WALTHER: And how would we make it quickly available to a non-expert to figure that out?

MR. HOUGHTALING: Well, I think if there were user functions on the disbursement side, and that seems to be a common request in a lot of these submitted comments. A lot of people want to be able to do it. An example would be if I went onto the website and I searched for disbursements from a particular vendor. Like Matt was saying it would be nice to see how much was spent last cycle by campaigns to GMMB, which is a major vendor the democrats use for mail and media. It's pretty hard to do that. It's pretty hard to do that system wide. I could do it for a particular client or for a particular committee but I can't really do it for GMMB.

MR. PEARLMAN: What Paul's talking about is basically reporting. You have an underlying database with a lot of information on it. You have some queries that you can make on it already and return a brief report. I can look up a donor. There are lots of other reports, listings as you mentioned, pie charts, other outputs

that could be concocted fairly easily off that same data.

What Matt was talking about as far as some -- standardizing some of that data it's a little bit tricky if you have 17 different spellings of AT&T or something to get a list of where AT&T's been involved in something. You know where they've been paid as a vendor or whatever. So you know, I don't think you can force every campaign to work off a list of vendors that you have maintained completely, because there's new entities' showing up constantly. You have to give them some ability to add to that list and it has to be growing list over time. But the FEC could work to help standardize some of the fields that are reported on and that could happen incrementally. It doesn't have to be, you know a huge project where you try to do it all at once, which, I think, it will be challenging and time consuming and expensive.

MR. DEBERGALIS: Another way to answer your question I think is to take an example of searching for a vendor. The Commission could certainly implement a feature on the website that allows you to search for a vendor. There are two problems though.

The first is that the Open Secrets website has better data than you do. They've done a lot of work to clean that data up.

So now I have a difficult choice. Do I use your tool against worse data? Or do I ignore your tool because I need the better data to start from? And that's what I mean by focusing on the data right to the degree that you don't do that the tools sit against a lower quality starting point.

The other problem is that if Open Secrets or anyone else wanted to provide a vendor search they could just go do it tomorrow. They don't have to have a hearing. They're just going to send two people to sit down and write it and it's going to take a disturbingly short amount of time, right? So there's an opportunity for that sort of work to flourish and it's not to say that it can't also be done in this setting but I think we're kidding ourselves if this is the most efficient setting for all of that kind of data analysis, pie charts, and so on and so forth. There are examples that I think do fit under here and I think it

would be silly not to have any of them but there will always be more that sit outside. And that's what I'm looking to foster.

CHAIRMAN WALTHER: I see. What is a CSV format? It is referred to here that a simple upgrade to a CSV format would make the data file less cumbersome to work with and more accessible.

MR. PEARLMAN: Those are comma separated values so it just commas in between each of the fields. But it's just a standard way of transmitting data although recently you guys moved to a ASCII-28 character, somewhat inexplicably, and that caused everybody working on the other end to have to change the separator. This is pretty arcane stuff but at the end of the day you want to make data available in the way that programs commonly read it, you know.

CHAIRMAN WALTHER: There seems to be a difference of opinion in the XML format issue among two of you. And I wondered if we might just explore this issue.

MR. DEBERGALIS: I don't want to get into an argument about data formats. What I'll say is --

CHAIRMAN WALTHER: It's alright, say it.

MR. DEBERGALIS: No. We'll just be here all day.

CHAIRMAN WALTHER: Three minutes and three minutes. Something like that.

MR. DEBERGALIS: There are different standard ways to represent data and Nathaniel made the excellent point. What you're looking for is a standard way that allows a program to read the data. That allows you to leverage existing tool kits, right? If you write a new piece of software you're not going to start from scratch. You're going to start with a tool that understands different, XML for example, formats. And so you're immediately working with the higher level concepts and donors and their names and their employer and occupation and so forth.

What's important is that we pick formats that are used by the industry that are modern standards. Formats that bring with them those tool kits that are extendable to that other groups can add

their own data to that information. And there are many different answers. I propose XML as kind of the obvious format that lots of things are done in today. There are others. But that's what we, I think, what we need to strive for. The comparison is to the current data that the Commission has which is in a very specific custom form; very typical of the era when it was developed. And there's really no other tool kit you can leverage, right? It's -- you start from scratch and when you're done you have nothing but something that can use FEC data. And that's the downside; that you're just not fitting into the current modern practices and the current tool kits that are available for developers.

CHAIRMAN WALTHER: Mr. Pearlman.

MR. PEARLMAN: I have nothing personally against XML. I use it a lot. I think I was just trying --

CHAIRMAN WALTHER: I just noticed some of the differences.

MR. PEARLMAN: I was just trying to make practical point that when you're transmitting very large files at a deadline, that when you -- if you pick a format that's verbose, then you end up with potentially a problem with throughput. So what I would suggest is that you have a working disclosure system where people are transmitting this information; afterwards for analysis there's no reason that that information can't be supplied in something with more Meta data, with more information about it that it could be managed. I think ultimately you'll end up with more a sophisticated and more modern practice but I would take this piece by piece because you have working systems that you don't want to disrupt. So you concentrate on the output end, figuring out what are the questions people are asking that they want answered they can't answer right now and then you let your technologists figure out what tools to use. You never want to start with a technology and say what can this technology do for me, really, you want to start with, what do I want to be able to do and then figure out what the tools are that will supply that.

CHAIRMAN WALTHER: I see. There's one question I had too about

embargoing? That's an interesting idea. As I understand it, a reporter would file it but it would be held by us and it wouldn't all be entered at the same time on our computer system and possibly jam it up based on our capacity. But it would sit there and at the appropriate time or maybe right at the end of the reporting period it would automatically go online. Is that how it works?

MR. PEARLMAN: Yes. My guess would be it would be a trivial change to just add some flag. Don't release any of the reports until after the deadline is filed. That way there's no advantage to someone to holding things until the last minute. It just seems like a trivial change.

MR. HOUGHTALING: Just from a practical point of view, what Nathaniel's touching on we experience all the time because we have clients we could be done with the report for them and we try to get them done three, four days ahead of time so the client can review what they're going to file. Since we're the ones doing it for them and they'll insist on waiting until 11:59 to file the report. We don't like it. We want to go home; fortunately we can do it from home. But the server does get jammed, and we often experience issues where, you know, it's saying that it's being accepted but we don't really know because we haven't gotten the transmittal back from the FEC saying, "Yes, it's okay." I think it's a great idea and even if it was you wait until 12:15 because what happens is as we're trying to file the reports all the reporters are there trying to get onto the FEC to get at them and download them and there's this convergence of, you know, questions being asked and people wanting to do things and it makes it really difficult for us to do what legally we're obligated to do. Whereas those folks who are just trying to get at it afterwards they have no legal obligation to do anything other than --

MR. PEARLMAN: I can't tell you how many times we've had staff up until 2:00 a.m. past the filing deadline negotiating with someone in electronic filing because John Kerry's presidential report wasn't accepted by the server and we've got to make sure that it was. We sent it but something's wrong. We want to

make sure that it's taken as if it was submitted by the deadline. There's a lot of stuff at the end of the road which is sort of unnecessary. Now, some of it is you work for a big campaign or the DNC or something -- their compliance operation is working potentially up to the very end, and that's inevitable, and they're just slogging away and trying to add employers and occupations until the very last minute. That we can't solve with this. But it might make the servers less busy and support staff in what I call the ecosphere a little happier.

CHAIRMAN WALTHER: It seems like an interesting idea and it wouldn't cost us anything if I understand it correctly.

MR. HOUGHTALING: A quick fix I think.

CHAIRMAN WALTHER: What about the approach where we would actually reject a report coming to us under certain circumstances?

MR. PEARLMAN: We already reject reports right now that don't pass validation, so --

CHAIRMAN WALTHER: And validation is it okay the way it is? You said maybe have a higher standard?

MR. PEARLMAN: I think so. There's a lot of anecdotal evidence that some things are being allowed to file -- be filed by -- with incomplete data. That could be tightened up a lot. And you could start promulgating standards through that process right away and just say, "Alright, everybody needs to do this a little differently and your report is going to be rejected by the validator until it complies."

CHAIRMAN WALTHER: Thank you. Commissioner McGahn.

COMMISSIONER MCGAHN: Thanks, Mr. Chairman. I just have a couple questions. Picking up kind of where the discussion was leaving off. So it is true that when the reporting deadline comes and goes people are still frantically reporting and trying to get their reports in. And I bring that up because Congress has given us the administrative fine program which is on the one hand good because it allows for consistency and, you know, if you're late you're going to get a fine. The downside is, you know, sometimes we

don't have a lot discretion on that so I think the embargo idea to the extent it works makes some sense and we'd probably have to think through that some more.

But, Paul, I could ask you -- you raised FECFile which is the software the FEC provides to the rest of the folks who don't necessarily hire or have the money to hire the pros. And you raised some issues with FECFile particularly with the inability to sort of cross check for accuracy. Because campaigns have their own databases, right? Fundraisers have their database. You may have a compliance database and you have to put it in the FECFile. And FECFile doesn't -- as I read your comments -- doesn't really let you make sure that what you're filing is what you really wanted to file. I mean, it's just kind of garbage in garbage out, but there's not an easy way to sort of cross reference what you're doing as I understand. Could you flush that out a little bit and maybe educate people on how FECFile really works?

MR. HOUGHTALING: Sure. And we do have clients that don't use NGP or Aristotle or any other software that could be purchased and they use FECFile, and they'll hire us to do what we do for any other client.

I hate to say the problem with FECFile -- particularly when you compare it to another vendor software like NGP -- is there is no function within FECFile to help with the human factor, or what I call it. Whereas I'm going to take my accounting data and I'm going to compare that against what I potentially am going to report. In a systematic way I can't really check if off to make sure that all the disbursements that are supposed to be in there are in fact every disbursement that's in my accounting system. And for those of us who do this, we live in a world where, from an accountants perspective, we're dealing with accrual based accounting in the FEC software and all the other software is cash based accounting; and you want to see exactly what happened when it happened -- did it happen, did it not happen -- what's reality. And I think if there was anybody here from one of the audit teams, they would tell you if it didn't happen on your bank

statement, it didn't happen. If it happened on your bank statement, you better report it. And that's the point where we jump off at Political CFOs is we take what happened with the bank and we translate that to an accounting system and then we go the final step which is make sure that what happened that's been reconciled on your accounting system to the bank is then accounted for in the report. FECFile is very difficult to do that with particularly from the disbursement side because you don't have the kind of reports from inside the program to produce just a simple list of disbursements. If you were, for instance, going to print out a report for H4 details for a state party, you're not going to get a report that says on this date you wrote a check for \$1,000. You're going to get a report that says that there was an expenditure that was made and this is how the federal and the non-federal portions of that expenditure came -- you know, got reported. It doesn't really show you -- just show me the expenditures; I'll figure out whether the allocation ratio was right afterwards. I just want to make sure is everything in there. You can't do that.

COMMISSIONER MCGAHN: Programming wise, how much of a fix is it or is it worth trying to fix FECFile to allow for more ability to cross check work?

MR. HOUGHTALING: Well, I think it's critical, because unless you are willing to expend the inordinate amount of time necessary to do that which I can't speak to all the campaigns that we don't do work for. I would suggest that they are not doing every bit of that detail to make sure that every disbursement gets accounted for and put into the report exactly the way it's supposed to be, you know, accounted for. I think it would make a huge step to ensuring or helping to ensure that these smaller campaigns that don't have the resources to pay for additional software and are relying on FECFile to file more accurate reports.

This is kind of a side topic -- I think I mentioned it to Brad in our telephone conversations -- there is nothing in the regulations, there is nothing in the reporting structure, there is nothing that the FEC does, that requires any political committee that files with the FEC to

ensure and confirm that their numbers are accurate. I could file a report for the next two years and be \$50,000 off on my cash on hand. And there's no way you would know. There's no way you could know because there's nothing in the system that the committee is forced to confirm that the data that they are sending to you is accurate. The only way that you're going to find out is if somebody shows up and does an audit. And we all know you don't have the resources to audit all the committees; frankly, I don't want you to have all the resources to audit these committees. But I'll tell you from Political CFOs point of view, in our reports we make every attempt to ensure that if you were to take the cash on hand that shows up on that report and compare that to the reconciled bank balances of every federal account that that committee has, they're most likely going to match to the penny. There's nothing in the reporting system that does that. So when you talk about FECFile and helping to ensure as best you can, that is one step that gets you closer to that. But there is that overriding issue.

If the committee had a form that - if the Commission had a form where an individual committee, just like I go home at the end of the month and I reconcile my personal bank account I'm going to analyze. Here's what the bank says I have, here's the outstanding deposits; here's the outstanding disbursements; what am I left with? I think the FEC reports should do the same thing. This is only a guess, but I would suggest 65, 70% of the FEC reports that are filed today, the cash on hand is not accurate. But you would never know that. There's no way you can know. But any steps that would get you closer to getting to that point I think are useful, particularly with FECFile.

COMMISSIONER MCGAHN: In addition to having campaigns saving -- saving campaigns from themselves because if they do get audited that's going to come up or if they discover it --

MR. HOUGHTALING: And from a practical stand point -- after the fact they're going to have to file an amendment and that could trigger an audit or worse. It helps public disclosure, right?

MR. HOUGHTALING: That's right.

COMMISSIONER MCGAHN: I mean the public doesn't know, and if you're telling us a lot of these reports are not necessarily accurate because the software we provide is tough to cross check it's really easy if somebody has a bad day and forgets to type things in and that -- this is fairly far afield as far as a website hearing but it's stuff on the website here that's public disclosure. It seems like it's an issue that --

MR. PERALMAN: But also I think it's something that could be solved by a simple report addition to FECFile. FECFile currently, you know, there are so many things that are complicated that are required for disclosure that FECFile embodies so I don't think there's a reason to throw that out. What there is -- is go -- like any enterprise that is releasing some kind of software, you want to listen to people like Paul, people in the user community and say, "Okay, what would be a nice useful edition?" In my statement I talked though about all the types of data that a more full fledged commercial campaign software program manages, you know, we have integration with an accounting -- with multiple accounting software. You don't want to reinvent the wheel, you're not going to build Quick Books or a campaign version of that. You're not going to -- you don't want to infinitely extend to every possible need of a campaign. But there are -- so you have to look at -- are the audience for FECFile -- those are the people who need free filing software and what are the modest changes that you can make to that to serve them well and I think you could, you know, practically make those changes over time, inexpensively, and serve that audience very well.

MR. HOUGHTALING: Yeah. And it's important that -- by no means am I even going close to suggesting that FECFile should go away. It is a very useful tool like I said, we use it I think it's an essential option for those campaigns that either for whatever reasons for financial reasons, they just can't avail themselves of Nathaniel's or anybody else's product. I mean I would hate to see

it go away and I'm not suggesting that by any means.

CHAIRMAN WALTHER: Mr. Vice Chairman.

VICE CHAIRMAN PETERSEN: Just two very quick questions. My understanding is that FECFile only works on a Windows system that it doesn't work on other platforms. As a Mac user myself, has that been a problem or should it be made available on other platforms, or is on a Windows platform sufficient?

MR. HOUGHTALING: Just an observation. FECFile is a single user system. It's not a network system. You could put it on a network but I don't think you could get simultaneous users. But I think from that perspective it probably would be helpful if it was usable on a Mac because you're not really -- generally the people who are using that system are not looking to put it on a network; they would put it on their desktop or on a single workstation on a server or on a network. And that should be relatively easy to do, I guess. Again, I'm not a programmer, but I think it would probably be worthwhile if you could do it at a minimal, you know, cost.

MR. DEBERGALIS: I think that's a great question and something that the Commission should prioritize.

Speaking for ActBlue we consider Windows to be a security risk. We don't use it. We have a great deal of sensitive data and we just don't think it's an appropriate starting point for our own data.

There are other reasons we also can't use FECFile. We are a fairly unique committee and there are some corner cases that it doesn't handle and I don't think it should. I think FECFile is targeted at something different. But I think *requiring* that particular platform is inappropriate and there ought to be a solution; probably a web based solution, frankly, that allows any committee to use whatever computing infrastructure they have.

VICE CHAIRMAN PETERSEN: If I could just ask one final question. Something that you mentioned in your opening comments and also that you talk about in your written comment, Mr. DeBergalis, is this putting in contributors, employers, locations and so forth which I

think would be very valuable. It would ensure that someone, you know, that Matthew S. Petersen and Matthew Petersen and Matt Petersen -- which happens all the time on FEC reports -- where often times it's from the contributor who maybe changes the way in which they identify themselves when making different contributions. How complicated of a process would that be in order to be able to code those? I mean, are we talking about just a complete overhaul or is this something that with a little bit of time and a little bit of resource it wouldn't necessarily be reinventing the wheel?

MR. DEBERGALIS: It's an open question and I think it could easily become a big project and I'm not recommending that. I tend to think the easy solution is a published standard. It would say, "The Commission considers the following heuristics when it tries to identify similar vendors or similar names." It could take the form of an actual list, right? These things are supposed to be considered the same. I think it is the case that you're not going to create a master list of all vendors because anybody could be a vendor, right? That doesn't make sense. But there are ways to say, "This is how we compare names. These are the techniques we use." At the very least we up case all the strings so that we don't have upper case and lower case considered different. We make spacing standard. We take out punctuation marks or we allow these certain -- if that's all written down and explained in a clear way and that's the standard that's used internally for comparing different names or determining aggregate totals then everybody else can use the same and build on it. The problem to me is when you have competing standards. So Open Secrets considers one technique, the Commission considers another technique and an independent group is forced to come up with their own answer, you know, based on their own opinions. And I don't think that benefits anyone. That's a place where some consistency is valuable.

MR. PEARLMAN: I speculated on whether or not address is required. For disclosure it's obviously required for disclosure but does it need to be up there on the website? We've seen cases where

people have been targeted by one political group for their contributions to another group. So you want to be a little cautious. I mean, I think you do want to err on the side of providing good and complete information, but what I don't like to see is if the FEC says it's against the law to use this data for fundraising or commercial activities, then it ought to provide some recourse and some way of tracking down when it's happening. And I think if you have a big pot of data and you add in some people that apparently contributed to a campaign and then that list is downloaded then you could obtain information about who's sending direct mail to that list or who's soliciting those people.

CHAIRMAN WALTHER: I think there was one instance in which they searched all the people that made a donation from a certain address. It was found to be an interesting piece of information. And I don't think we can do that, but would that be helpful to have that to be able to drill down to that degree from our data?

MR. PEARLMAN: Well, you have address data. One of the queries or the reports that you don't have on your website right now is a legal way to look up addresses, I don't believe, so making that available, that data available exposing that information would allow people to start to aggregate people by that. Right now you can download the entire data set and many people do and work with it in that way. But to do it directly -- it might be helpful.

MR. DEBERGALIS: One of the consequences of the Internet is that the practical ability to work with data very much changes the value of the data. When you ship reams of paper to the Commission they may as well not exist because no one's going to look through those and, the information isn't really available, and we see this effect in many settings. I mean, voter registration files are also public record. They list every voter, party affiliation, address so on and so forth. And 10 years ago that was sort of irrelevant because unless you were looking for a specific piece of information and had someone in an election office -- you weren't going to find it -- but now it's simply available and you could make use of that for any number of things. I tend to

think that that's a question for the legislative side and maybe the philosophy department. It's just simply the case that, as we publish this information, privacy implications change dramatically once it's in this format. And I think it's something that has to be asked.

MR. HOUGHTALING: I think also -- if you dovetail between what they are saying on that particular issue -- you open up a potential can of worms with -- as you make more data available to everyone -- there's going to be a greater need for salting your names because more people are going to be able to from the FEC target a solicitation list, or pull a solicitation list, in order to target particular donors from this massive database just from their congressional district if they wanted to do that. I only say that because by doing one thing you kind of compound another problem and potentially make it worse. It's just important to kind of think about it as you're doing it.

MR. DEBERGALIS: One example of maybe of how not to solve this problem though is -- the current regulations say that small donations don't have to be reported, right? There's just a big number at the end of the report. And I mean talk about an opaque number that no one can tell whether it's right or not. But the trade off is that perhaps it doesn't make sense to publish the name of someone who only gave \$20.00. There is no public disclosure value. I'm not sure I agree with that statement but that's the current lay of the land. And it may be that there are opportunities for the Commission to accomplish its regulatory job by demanding more accuracy or more information but not necessarily publish the same level of detail. And I don't know whether the answer is to scrub mailing addresses completely, whether there are different thresholds that may make sense, but you know, certainly as modern campaigning takes us to a place where more and more contributions come from larger numbers of people in smaller amounts, I think we may want to rethink the various thresholds and the different ways that we treat different donor sizes and the kinds of information we collect from those donors.

MR. PEARLMAN: And it's worth noting that the \$200 threshold for being reported is a very different number now than it was when it was established. And if that were something that was changed according to inflation and you really only are reporting on large donors -- what I don't want to see is people not contributing to campaigns because they're afraid that that information's public especially people who are just making reasonable size donations, and I've taken that into account myself where I've given exactly \$200 to someone but not \$200 and one cent. I just don't want to be hassled as much.

CHAIRMAN WALTHER: That's a hard balancing act. Now it's possible with credit cards and everything that information is so readily available. The volume of contributions under \$200 was so great this last cycle that people want to know where it all came from. But that's the balancing act as you mentioned. When you say publish the disclosure system itself, we should do that. Would that take money?

MR. DEBERGALIS: You could just send it out now. There are lots of reasons to open source software and there are reasons not to. The typical motivation not to do so is for proprietary reasons, trade secrets, profit motivations and so on. I don't think they apply here. What I think is valuable is as a reference or as a template a starting point for people to do their own work. And I think one of the places that the Commission could vastly improve the state of affairs is by taking advantage of the existing body of knowledge and the existing infrastructure and simply making it available as a starting point or as a description of how the system works.

CHAIRMAN WALTHER: So there's no downside from a governmental entity's perspective as I understand your comment.

MR. DEBERGALIS: That may not be a question for me to answer. There are always consequences to these sorts of things. I'm sure someone will raise the security concern. I don't think it's a valid one in this setting but it's a discussion worth having. But there are advantages to doing this and typically what we've found

is that disclosure is good, right? The same arguments that apply to disclosing data about contributors applied to disclosing techniques and implementations and so forth. And I think there is valuable perspective there that people could leverage.

CHAIRMAN WALTHER: Mr. Houghtaling.

MR. HOUGHTALING: In the last session -- I think it was Commissioner Weintraub -- you asked the other folks that were sitting here -- I think it was you that said, "What do we tackle first? How do you prioritize what it is that you're going to do?" One of the things that I noticed is that there seems to be some commonality in some of the recommendations and I would suggest that if you took, you know, the greatest common denominator approach in some of these recommendations and then parse it out in terms of what can you do very quickly, low impact or high impact low cost. You could probably come to terms with some of the things that you could tackle quickly. Some of the things that's going to make an awful lot of people very happy very soon which I think is to the benefit of the FEC. That's what came to mind when you asked that question -- that you know the greatest common denominator in terms of the things that are being suggested by all the people that are suggesting them. And I think you probably could find some of them.

COMMISSIONER

WEINTRAUB: Did you have anything particular in mind when you say, "Things that we could do that would make an awful lot of people happy fast?"

MR. HOUGHTALING: It seems like everybody really, really wants to be able to search disbursements. I think you all would agree that's what we're hearing from a lot of people. That probably would be at the top of my list, quite frankly.

MR. PEARLMAN: And at the top of my list would be a revamping of the website.

COMMISSIONER

WEINTRAUB: Oh, is that all?

MR. PEARLMAN: No, I mean so how it looks, how it navigates the information underneath it to have the website work better I don't believe is

necessarily a hugely costly thing. There are a lot of suggestions out there already -- even designs of how websites work better. You have the information, but maybe the information is not perfect. You don't have to wait for perfect employer information to display and to let people search an employer. You can show you can add more reports that people can look up things that they want without affecting your data first. There's a lot that can be done by just adding better searching.

COMMISSIONER

WEINTRAUB: But I think it was you who said earlier that it's not worth searching it -- the data -- if it's no good in the first place.

MR. PEARLMAN: That's Matt's point of view.

COMMISSIONER

WEINTRAUB: Oh, I'm sorry. That's Matt.

MR. PEARLMAN: But I think, there's a reasonable point there -- that you're going to get -- the more people can search the more there's going to be a demand for improved information and you're going to end up walking down both of those roads eventually I think, but I think you can make a lot of progress on the data display with what you have.

MR. DEBERGALIS: Well, maybe I can close just by going far afield of my written testimony. When we founded ActBlue in 2004 I have to say that the regulatory issues and the federal election law was not a welcoming place. And we dove into it mostly out of ignorance, and I think if we'd known what we were getting into, we may have thought twice about what we wanted to do with ourselves, and in fact we often tell people you don't want to mess with this stuff. One of the advantages of working with ActBlue is that we make sure things are okay and we kind of clean up the financial side of what you're doing as a fundraiser so that you don't have to be as concerned about those things. And I can't help but wonder if one quick win for the Commission would be a more inviting and a more welcoming entry for someone who wants to innovate in the political fundraising space. It's a very difficult regime. I think a lot of that can't change and there are real consequences to doing it

wrong and that should be the case but perhaps some combination of better presentation of information on the site or a set of documents written with an eye toward. So you want to get into political fundraising 101 sort of stuff. I think it maybe be very helpful and you may well find that there are new innovators and sort of new classes of activity along these lines that would be more likely to take place if that were the case.

CHAIRMAN WALTHER: Well I think that we have all the questions asked. I want to thank you again. This is as valuable for us as it was from the first panel to take a look a fresh look by all of us as Commissioners who've not had the opportunity really to sit here collectively and take in information on how to improve our website, probably ever. And this has been very edifying for all of us. So, again, thank you. And we'll reconvene at 2:00.

(WHEREUPON, a lunch break was taken.)

\* \* \* \* \*

PANEL 3  
WEBSITE ORGANIZATION, DATA  
AVAILABILITY AND  
TRANSPARENCY

CHAIRMAN WALTHER: We'll now reconvene the open session that we began this morning on how to improve our website and I just want to thank you all for being here. We have Mr. Clay Johnson from the Sunlight Foundation, Director of Sunlight Labs. And Lisa Rosenberg, who we've worked with, also from Sunlight. Michael Malbin, Executive Director of the Campaign Finance Institute and Darrell West from the Brookings Institute, Vice President and Director of Government Studies.

We look forward very much to your comments. As we mentioned we'll ask each of you to give us some preliminary comments at the length that you desire and then we'll start with the informal questions and answers. So, Mr. Johnson if you would begin? Thanks again and welcome back.

MR. JOHNSON: Thank you very much again for giving me your time to hear my testimony. I think all of us at

the Sunlight Foundation really appreciate the opportunity and are excited that you all are beginning the process of opening up on the web.

The Sunlight Foundations was founded in 2006 to help use the Internet to create a more accountable and responsible government. The organization inside of Sunlight that I head is called Sunlight Labs and what we are is a community of developers. There's over a thousand of us now that work to take data that comes out of government and do interesting things with it.

We've gotten a sense from the FEC through talking with lots of people at the FEC that you guys are in fact deeply committed to revamping this web operation, and we think that's really exciting. Before coming to Sunlight I was one of the forefathers of a company call Blue State Digital. We did Barack Obama's website in 2008. We powered the website of the Democratic National Committee. And I've helped a lot of party committees, non-profits and other organizations make the transition to strong professional web presence and I thought it was important for me to come in and give you all some advice on how to do this right.

What I'm going to say here today I think will probably be a little bit more practical than what is in our testimony -- our written testimony. See, I'm here not with just a list of what you should do but actually a -- there the order that you should do this stuff in that's actually quite important.

The first thing that you need is a structural change in the leadership in the organization, and no, I'm not talking about you guys. (Laughter) But what I am talking about is the hiring of --

CHAIRMAN WALTHER: Leave that to others.

MR. JOHNSON: Right. Right. What I am talking about is a New Media Director. The other executive agencies have created the position of New Media Director inside, including the White House, the EPA and other agencies; I think that that needs to happen here as well. There needs to be someone here that's operationally in charge of this process that's not all six of you. See a

website just isn't a project inside of the organization; the website isn't a slice of the pie it's the pan. It is going to be the thing that will augment and strengthen everything that this agency does. And the first thing that you need is day-to-day leadership in this effort. Your New Media Director should not be a part of your IT department nor should it be a part of your communications department. And this is something that's really hard for organizations to figure out. If it's a part of your IT department then you end up with a lot of technology for the sake of technology. You end up with a power struggle between information technology and communications. And if it's part of your communications organization then you end up with a website that's full of press releases but no real engagement with people and no one really looking out for the end users of your organization. The position personally requires a level of technical skill that communications directors often don't have and the level of communication skills that very few of us technical folks, myself very much included, don't have. Let's see. So step one is hire a New Media Director that can manage all media communications, manage the agency's agenda and message online, measure and track performance of the agency's websites and work closely with the technology team to build and maintain the FEC's web practices. The New Media Director should be a customer of your IT shop. They will coordinate and develop the content, manage the web, email and various social platform outreach efforts of the FEC and develop an overall strategy for your online program and liaison with the other functional areas of your agency to integrate online programming. Have them report -- I'm not sure how the FEC is structured internally besides the organizational chart that's posted online -- but my recommendation is that you have them report to the Staff Director in the same way that your CIO or your Communications Director does. And I actually brought job descriptions with me of new media directors that the other executive agencies are using. If you'd like to have a copy, I'm happy -- I don't know what the process is.

CHAIRMAN WALTHER:

Thanks very much. We'd like that.

MR. JOHNSON: The second step is to get your house in order in terms of data. And I think you'll hear me echoing what the previous panel was about to a certain extent. If you can't do this then everything else sort of doesn't matter. If you can't make sure that the data that the FEC has is clean, sanitary and accurate then building tools on top of it is generally useless. Because you are then just taking the same dirty data and showing it to people that could not be accurate. So it seems to me like the top priority is not visualizations. It's not making your user interface or navigation fixing those problems, but instead focusing on acquiring data from your suppliers; campaigns and committees and delivering it to people in the best way possible. See, the FEC is trying to be a retailer and a wholesaler at the same time. And there's only one organization on the planet that -- you have a monopoly on federal campaign expenditure and contribution data. Organizations like the *New York Times* and the Huffington Post, and Open Secrets and Sunlight Labs and a plethora of other organizations are retailers of this data. They create maps, they create visualizations and they get more web traffic than the FEC and Sunlight will ever hope to get. The FEC is the single source supplier of this data and we believe at the Sunlight Foundation that it should be your primary focus to make this data as complete, as clean, as accurate as humanly possible. That first includes changing the way that campaigns and committees file with you -- to make that an open standardized process. And this is where I think a lot of you are going to go, "Oh, Clay's going to slip into technology mode" and with the exception of one of the Commissioners I know that you're not all programmers. But you should, I think, work too over the next four years creating what's called an open standard. One of the last panelist said XML but it can be any open standard format that isn't a proprietary or a customized format that the FEC puts out to both receive and deliver data. So let me explain to you a little bit about what's important here. So right now the FEC has about a dozen formats that it

publishes data in and .FEC files. And these aren't just CSVs. They're not proprietary but they are a custom format that only the FEC uses. So when I as a developer want to go use a tool to open up this information, actually you can't go use a tool. I'd have to write my own. I'd have to go in and say, I'm going to go in and write a Python or Ruby Script or some form of use, you know, programming language to parse this information and make sense of it to put it into a database. And if you went to an open standard, say XML, I could then go and get an XML library that then made it a lot easier for me to then take the data and manipulate it. There's sort of a built in short cut for me that makes that -- that barrier achievable. But learning the different formats -- even at the Sunlight Foundation we've struggled with keeping up with and learning all the different formats that you all are putting out.

I would aim to have a standard format by 2010; that you've adopted and aimed to phase out the collection of data through your proprietary formats through 2012.

I think there's a lot of discussion last panel about FECFile. I think it's a great tool that's free, freely available for people to have, but you should work to change it to work with an open standard so that other people can also make tools that maybe even compete with FECFile and could be better. The focus should be to, again, take the FEC out of the retail process and into the wholesale process of making it so that developers are supported, citizens are supported and campaigns are supported with a cohesive technical architecture. Once you have your house in order in terms of data and data is coming into the system in a reliable standard and flexible format then you can start building tools on top of the data. But until then I don't think is a valuable use of time.

While your IT team is working on that, hopefully your New Media Director can engage in a redesign process for the FEC website.

Now at Sunlight we actually took the liberty of redesigning you website and we just thought it would be an interesting design exercise. I brought copies of that with me as well with some suggestions as

to how it could look. And since a picture is worth a thousand words I don't have enough time in this testimony to sort of explain everything here but there is on the sunlightlabs.com blog a long explanation of the changes that we made, and I know a lot of the people from the FEC looked at it and I'm happy to give those to you while we're here today.

The next thing that you're going to need after your design process is complete is then to start thinking about what is called a "content management system." What a content management system does is it makes it so that you can post stuff on the Internet. It makes it so that, instead of having to go to a developer to post stuff on the Internet, you can edit a web form and click a "submit" button and the article you wrote goes on the website.

There's a big tendency amongst federal agencies to buy what are called enterprise content management systems. We found I believe at Blue State Digital the most amount of money that we've spent on a content management system license was about \$100 for a content management system called Expression Engine. That's what powered a lot of the barackobama.com stuff. The other content management system that barackobama.com used is a content management system called Moveable Type. I realize that probably none of you are going to be actually strongly involved or have strong opinions on which content management system to choose but I just wanted to point out that there are some lightweight options out there that are very cheap and save the taxpayers and the FEC a lot of money. The content management system will lay the foundation at the outset for your online strategy but what's important here is that your New Media Director drives that decision rather than your IT shop as it is she or he that will be the primary user of this system. So too should it be that your New Media Director leads your design process. Also at that time the New Media Director should be looking at language issues on your website so you can start saying things like, "24 hour notice of disbursement/obligations for electioneering purposes" into something that non-campaign workers and non-legal professionals can understand.

The final thing I want to add here is that we did something interesting. We actually -- when we heard of this testimony -- we launched our own open brainstorming process and solicited ideas for the FEC that then I promised our community that I would come in here and report to you of how this works. So we set up basically a simple web page and we said, submit your ideas and then we allowed people to vote on all the different ideas. Now this is kind of a -- the FEC is sort of an arcane thing. It's sort of hard to engage the masses on, you know, FEC website and, you know, and regulations, but we did this and we found that, while we weren't audited by some giant corporation, we did find that the ideas people came up with aligned very much with our own -- with our own testimony and much of these ideas and formed the testimony I am giving here.

The first one was replace FECFile, which I spoke about earlier, with an open standard and then make FECFile adhere to that open standard.

The second idea with the second most votes was hire a New Media Director.

The third was make RSS feeds available for new content. What that means is -- allow people to subscribe to get updates when a particular committee files or when new contributions have come in. Provide a REST. I know this is a stretch. It's REST. That's a type of technical architecture, API; I know you've heard that I think twice today. That's a way to -- for you to share data with other websites. To the candidate summary information to allow for the creation of widgets. Now what widgets are things that people can imbed, you know, on their web pages like a photo album or something like that, on summary information so, you know, imagine someone can -- like they put in a YouTube video they could put in something from the FEC that says this is how much money that this particular candidate raised this quarter and just easily imbed that information.

Sixth was, allow -- this was an interesting idea -- allow for campaigns to opt into real-time disclosure with the FEC. So if a candidate wanted to send you

contribution information as they received them and they wanted to opt into that without any form of embargo, allow them to do that. We saw that I think in 2004 with Ron Paul. He didn't do it with the FEC, but he did put his contributions online for everyone to see during his campaign process.

And then seven -- actually with the least amount of votes but it is perhaps a fairly specific change though it only got three votes, I think it's more in a budding form than it is an idea; is ensure that the total contribution amounts on summary pages equals the total sum amount of the individual contributions. Which apparently it does not. I haven't checked that out, again, this has all been submitted by community, voted on by community and again they all seem in line with the recommendations we're making. But, again, all this stuff relies on finding a New Media Director for your organization who can drive this process from the start. Ideally we want to get you to a point where you can have your own brainstorms with people and take this feedback in and it may become natural for the FEC to have a dialogue with its end users. The software, by the way, we used to build this online brainstorm application was all Open Source, free software and was up and running in a matter of hours. Note here that this is a public online solicitation process and no ideas were submitted asking for additional visualizations of campaign finance information or expenditures. I think this comes down to a single reason; while anybody *New York Times*, Huffington Post, Open Secrets, and Sunlight Labs can make maps and visualizations of the data that you produce, only the FEC can produce the data that powers these maps. Thus I think the consensus from our community is for the FEC to really think about how it can improve being a wholesale provider of the data that it publishes online as well as a retail provider through the website. But I think wholesale comes first.

Again, I want to thank you for your time and commitment to improving the FEC's new media operation. I'm really excited to see you all again and hope that you're as excited as I am about the kinds of changes that you can make.

And I just want to say again, Sunlight is here to help in any way that we can. So thank you very much.

CHAIRMAN WALTHER:

Thank you very much and thanks for all the initiative you've taken to help us out. We really appreciate that. Professor Malbin.

PROFESSOR MALBIN: I am pleased to offer these comments on the Federal Election Commission's "Website and Internet Communication Improvement Initiative." For the record, The Campaign Finance Institute is a strictly nonpartisan ten year old organization affiliated with The George Washington University. I am a professor of political science at the University at Albany, SUNY who has written professionally about campaign finance for thirty-five years, as well as CFI's executive director.

Transparency policy and implementation have been high priorities for CFI from the beginning. Our first blue ribbon task force was a Task Force on Disclosure, which issued two major reports. We have also produced numerous reports on the need for Senate electronic disclosure, and we submitted comments to the FEC in 2006 on disbursement reporting.

I address the specific questions the FEC placed in the Federal Register in my written comments, but in my oral comments today I want to focus on the fundamental issues raised in the first half of my statement.

The FEC has two principal functions. One is to administer laws that regulate the behavior of those who raise or spend money in connection with federal elections. The second is to serve as the government's prime vehicle for campaign finance disclosure. The FEC's website should serve these two central purposes: to explain and implement the law and to disclose campaign finance activity.

I want to focus on the second of these two purposes, disclosure. Before launching into a website redesign, I urge members of the FEC to step back and ask, "What is the purpose of disclosure?" The key purpose, expressed *Buckley v. Valeo*, is to bring campaign finance information to the public so individuals may decide whether to use that information when they

vote. For disclosure to serve this purpose, therefore, the public needs useful information presented in an intelligible format, in a timely way. To accomplish this, the public's needs must be at the forefront of all portions of a website design aimed at disclosure.

But until the FEC put its current interactive map on the home page during the 2008 election cycle, it did almost nothing at all to educate or speak to the general public directly. To reach the public, the FEC seemed in the past to rely almost entirely on the media and on nonprofit organizations such as CFI. The Internet makes a more direct route possible. I urge you to grasp the opportunity. With the current economics of journalism, it is foolhardy to rely on reporters to cover politics well. It is equally important not to rely on the nonprofit sector. I would guess that the total number of people working on campaign finance in the entire nonprofit sector combined may be smaller than the staff of the FEC. We put out some of the information we do because the FEC does not. If you do the job, we would be happy to step back: there will be more than enough for us to do by focusing on analysis and other value-added work.

At this point I will add a comment not in the written statement. The nonprofit sector as well as research scholars are crucial, so I do not want to seem to be downplaying our role. We never want to find ourselves in a situation in which the only sources of information are filtered through government prisms. Since any structured database query system is a prism, the public's ability to exercise its right to know in a meaningful way will depend, in part, on your continuing to make raw data available in a timely way and transparent format to others who will mash that data up with other material to produce alternative, value-added information for public use. But even though outside research organizations are crucial, I do reiterate the previous point that the general public should not have to rely on us as its basic first source of information.

If you agree with me and define the task of bringing campaign finance information to the public as a core

function for you, this will simplify the process of setting priorities. The rock bottom function is to serve voters. It is not, for example, to provide interactive blogs on policy. Anything that draws away from the central purpose should be resisted until all steps useful for serving the central purpose have been implemented. The core function tells you to put the voter first.

I am therefore delighted to see the FEC undertake this initiative. Shortly, I'll go through your specific questions in page order. Before I do so, however, I would like to make a few general observations based on experiences CFI had a few years ago.

Seven years ago, in October 2002, CFI's Task Force on Disclosure issued a report entitled *Website Woes: the Federal Non-System for Campaign Finance Disclosure*. The report was critical not just of the FEC's website but of the lack of interface across government sites. In the weeks after publication we briefed the FEC's staff and some commissioners about the findings and recommendations. This week, I took out the report as I worked through the current website. I had forgotten some of the details about how many problems the website had back then. Over the past seven years, the FEC has implemented most of CFI's recommendations. It has also made some changes we never thought of. The website is much better now than it was.

The most important improvement has been in the overall sense of organization given to website, as well as the addition of a general search function. Also improved is the home page's method for finding information about individual candidates. The map is intuitive. Once you click on a candidate and election year, you are taken to a useful summary page, with hotlinks to a database that will list the candidate's contributions from individuals and political committees. These are listed alphabetically by donor. This a major advance over the old method. Under the old system, a heavy user, such as my organization, could download the whole database and do its own sorting. If you were a journalist or private citizen who could not handle downloads, you were

stuck with the PDF files, which are nearly useless. Or else you could go to the website of the Center for Responsive Politics, which gives the user information that ought to be available through the FEC, along with CRP's value-added material. So the map is a step forward.

But I was also struck when I went through the exercise by some things other users might miss. Some months after our briefings, we were shown a prototype for a system that would let FEC users sort records on the website on a large number of fields. Four years later, during the 2007-2008 cycle, the FEC finally implemented a part of this prototype. Three or four layers down from the map on the home page, the user is finally able to sort on two or three of the fields. This is an improvement, but a long way from the prototype. I mention this not to criticize but to draw out two lessons.

First, the willingness to go forward with something less than the full prototype suggests a shift in operational attitude. The attitude at the FEC used to be like an old-style computer programming company that would not release a new version of anything until it had worked out all of the kinks. In this approach, the search for the perfect is the enemy of the good. The partial implementation of the prototype suggests a willingness at the FEC to go with newer practices in which you release a Beta version of a product and wait for comments. This is the better way to go. You are trying to serve users you do not know and there is no obvious way to reach them. You already know how to reach the regulated community and the specialists, but how are you going to reach the general public to find out its needs? Not through the Federal Register. The best way is to roll out new modules, and then to be open for comments. This has been a key to the success this year of the White House's efforts on data.gov. You need to bring the public in on the effort -- not just in a formal comment period before hand, but in an ongoing way after a launch. This is crucial if you care about public use.

The second lesson is this: it will probably take longer than you expect to implement a redesign, just as it did the last time around. Because I expect you will

receive many more good ideas in these comments than you can possibly implement, I urge you to make sure you can improve the core material first. I am heartened by the fact that you have asked a senior staff person to take on this job as a central responsibility. In the past, the website was a stepchild to other needs that were always more pressing. Designating a leader who can make this his or her primary job is an important first step. The next is to develop technically informed time assessments and narrow in on the top priorities.

Before I address your questions in The Federal Register, I wish to put forward a vision that goes beyond their scope. I argued earlier that the core function of disclosure is to serve voters. Wouldn't it be good if the government as a whole could heighten this perspective with a central election website for voters? A single place where a voter could enter an address and find out about polling places and hours along with campaign finance and other information about federal, state and local districts and candidates. The site could include links to the candidates' own websites as well as to voter registration. District information could include past elections as well as links to the Census Bureau's Congressional District data. It should obviously link directly to district level FEC data. Such a government-wide project goes beyond the scope of your current effort but the goal is worth keeping in front of you to remind you that informing the voter is central. Everything else is about means.

The rest of my written statement covers specific questions in your Federal Register notice. I'll let this sit until the question period.

**CHAIRMAN WALTHER:**

That's probably correct.

**MICHAEL MALBIN:** I just want to reiterate the point. The simple point by using an example is that if you put something up on your website, for example, the candidate summary pages or any query that is on your website, there is an underlying program that let's you ask the question that is producing the result. You can make that underlying query program available to somebody else. It's easy, it's cheap, it doesn't take great

programming to do it, and it means that the newspaper in your hometown can easily -- just with a link and without having to do any work -- can be getting the material from your web page. It's your material, and it's automatically available to anybody, to the local weekly. And that's one of the many ways in which you can use it. API's are definitely something you ought to be looking at. You've had words thrown at you like API or RSS. The letters are intimidating, but for people who do the computer work the implementation is easy, and you ought to be looking at them.

**CHAIRMAN WALTHER:**

Thank you very much. Mr. West.

**MR. WEST:** Thank you very much. It is a pleasure to be here and I appreciate the opportunity to talk with you about the FEC website. For 10 years I have been studying federal government websites, first at Brown University where we issued an annual report and then most recently at the Brookings Institution when I moved here last year. The good news is when you look over the course of the last decade there's been tremendous progress on federal government websites. There's a lot more material there, more services, more functionality. They're easier to navigate. But despite that progress -- and obviously you realize this otherwise you wouldn't be holding this hearing -- there is still considerable work to do. Each year in our annual studies we rate the 61 federal agencies ranging from cabinet departments to independent agencies. In our last study the Federal Election Commission site rated 48<sup>th</sup> out of 61 federal sites. The FEC had a total score of 40 out of the total possible 100 points, and the scoring is based on the number of features on a particular site as well as the number of online services.

When you look at the FEC website it has a number of very valuable features, publications which are of great use to lawyers, citizens, journalists and otherwise. Databases, and as Clay pointed out, that's your bread and butter. That's where you have your unique added value. There are audio clips. I was pleased this morning -- I was not able to make the earlier panels but I went to your website and listened to the live audio cast so that was a great feature. There were privacy

policies, electronic updates, various online services. Those are all good and valuable features.

There are other features that we think are very valuable that we did not find on the website. No video clips, no language translation, no comments for the public to weigh in, you know personalization, no PDA accessibility, and no accessibility for the visually impaired.

So based on that we have specific recommendations and then I will close with 3 more general comments about the website. These specific recommendations are first of all to improve the interactive capacity for public feedback through a comments forum. I mean the whole virtue of the Internet is two-way communications. And what a lot of federal agencies are starting to do is discover that they need: valuable public feedback, and it is a way to really help them.

A public comments forum is not just an altruistic gesture on your part. It is a way to really get information. Because when you're sitting on top of an organization you don't really know what it's like in the depths and the experiences that users are having and various problems that someone might have in accessing information. A comments forum is a simple way to get feedback that can be very helpful.

As Michael pointed out the second recommendation is adding personalization. You have multiple audiences at the Federal Election Commission. You have heard from lawyers this morning. There are voters, candidates, journalists, researchers and students who draw on your information. Personalization is a way to allow people to customize the website to their particular interests. What a lot of state governments are doing and now federal agencies are starting to do this, is basically -- people can register under a particular categories and say, "Look I'm a student. I'm doing a term paper on campaigns and I need information." Or, "I'm a journalist, so public disclosure is very important." Or, "I'm a real candidate or a potential candidate, so I need to know about filing requirements." You can basically allow people to put themselves into one of those

categories and then the website will configure to pull up the information of special importance to that particular audience. So it's a way to add to the functionality of the website.

Now I noted on the website that you do have audio cast of the Commission hearings, but there's no video equivalent. There's no web casting. I think that would be a great feature. There are people in the D.C. area who follow the Federal Election Commission with a great interest but if you're not physically here you don't get that information. Now the audio broadcasts are helpful but it doesn't convey the same level of information that a video web cast would have, so we would recommend adding that.

Any public outreach features through blogs -- both Clay and Michael have pointed to some of the virtues in this area. It's a great way to engage the community in a deeper sort of conversation than would be possible through a public comments forum.

Clay mentioned the RSS feeds, we strongly support that and for those of you who are not very familiar with them. What an RSS feed does is allow any user to basically to come to the site. Let's say that you are especially interested in Senator Charles Schumer and so you can basically register Senator Schumer and what that means is anytime information comes to that site relating to him in a sense that it's his filing or an opponent's filing or you know any declaration involving him that user automatically gets the information sent to them. And they are basically told the FEC has new information related to this particular candidate. Users love this because it really transforms the relationship between people and government. You know the old fashioned way was, you wait until, if you're a government agency, you wait for the people to come to you. They ask a question and you answer the question. In the new digital world it is possible for government agencies to become much more proactive, that you can actually put out information. Now you're not spamming people. People have registered that they are interested in receiving this information and so it's a great way to basically give them information on the

specific topic they want at the time that they want it. So I would say if I were recommending any one thing, that's a relatively low cost enhancement that I think would really add a lot of value.

Non-English access. We have a large Spanish population here so some of the documents particularly as it relates to running for office and campaign finance features associated with that I think would be of great value there.

Improving access for the visually impaired. Here the issue is there's basically a federal requirement on disability access. Courts have basically ruled that in the same way that the physical government structures need to be accessible to all Americans that digital websites basically have to do the same thing. Now where this issue comes up in regard to websites is, there's actually a software available for a visually impaired person that will essentially take the contents of that website -- the text or other sorts of information -- and convert it to an audio file -- and will read it to the person. So they obviously can't see the website but their software will essentially provide the audio translation of the content of that site. What it means from the standpoint in website development is you have to have tags on images so that the software works properly in regard to data and tables they have to be configured in such a way that this software is able to access particular types of information. There's actually a great research center at Utah State University -- the Center for Persons with Disabilities -- that has done a lot of work in this area so I would recommend you work with them or consult with their experts in how to do that.

And the last recommendation is mobile access through either smart phones or PDA's. This is really a growth industry in terms of the consumer market. The iPhone and various other smart phones increasingly people are starting to bypass the desktop revolution and accessing digital information through their cell phones so the FEC should be aware of this and understand that is a future or should be a future goal.

Let me close with three quick comments that are a little more general in terms of government websites.

First is a comment on the overall web architecture. There's been research that suggests that only 4% of visitors actually enter government websites through the front page. Like we all envisioned that somebody who's interested in campaign finance data is actually going to go to the Internet and enter fec.gov, go to the front page and then kind of search for information from there. Research suggests that's not how people access information through the Internet. What they do is they go to Google or Yahoo or Microsoft and they type in a term. Like "Nancy Pelosi campaign finance report 2008" and then that will then take them -- if the site is properly configured -- to the information that links to that search term. And so what that means is when you are thinking about the website don't just put a really nice architecture upfront on the home page because a lot of people aren't even going to see the home page. They are going to go down to the second level, the third level or the fourth level of information on that website; they're going to go in the side door or that back door. Not just the front door.

Second point is after you devise this really new and improved fec.gov website, don't think your job is over. You know you can have the best new gadget in the country, and if people don't know about it they don't make use of it, and you don't get the credit for having done it. And so we're recommending to all federal agencies that they really think about the public service announcements promoting their website. The average citizen is not aware of all of the great information that is available on the web for a variety of agencies, not just the Federal Election Commission but a bunch of other sites, and so we suggest that the promotional aspect should not be overlooked in the sense that you really need to kind of get the word out so that people understand the high quality information that you have available.

The last point that I will make is don't overestimate the readability of the American public. There have been detailed studies on this issue that have found half of Americans read at the 8<sup>th</sup> grade or less. In our e-government studies

we look at the readability levels of various government agencies. We did that with the FEC site. It tested at the college graduate level in terms of readability, which is probably because of all the legal documents on your website; but just be aware that the need to communicate clearly with the general public requires shorter sentences and fewer syllables in the language. Thank you very much.

CHAIRMAN WALTHER:

Thank you very much. That was great. Now do you think if we do that we can be number one?

MR. WEST: You bet. Set your goal.

CHAIRMAN WALTHER:

Okay. Don't change your criteria on us. Any comments from any of the Commissioners? Commissioner Weintraub.

COMMISSIONER

WEINTRAUB: Thank you Mr. Chairman. And it is more of a comment than a question. I want to thank the panel for some very good concrete suggestions, and it's good to hear from other people because it turns your head around in terms about how you think about things. That statistic that only 4% of visitors enter government websites through the front page. I should know that because that's the way I find information on the Internet, except that's never the way I find information on the FEC's website where I always go in on the front page. So it's good to hear that from you because that's not the way I use it. And it's also good to hear from you because if I can't find something I just ask somebody to find it for me; which probably doesn't work for most members of the public. I just want to make two comments.

One is a couple of folks have mentioned RSS feeds. We actually do have some of that. Not a lot of it. There are some things that are available through RSS feeds. You can't do the candidate specific. That's a good suggestion. We do have -- again it's more focused for the regulated community, Tips for Treasurers, sort of a pushing out of information for people who are in the business might be interested in knowing about information about our commission meetings and obviously our press releases. The public

heard audio files are available as an RSS feed. So we have about seven different categories of things that are available right now. Obviously that's just a little thing but I did want people to know we do know what RSS feeds are and have begun to use that technology.

And I just wanted to thank Michael Malbin for his long standing interest and for his efforts and for working with us. I was not actually here in October of 2002 when you issued the report but I was here for some of the follow up meetings and I'm sure you recall sitting in the conference room across the hall with me and a number of other folks and it was very helpful then and I appreciate your ongoing efforts and interest in working with us.

CHAIRMAN WALTHER: Any other comments? I was going to ask about the question of whether there are standards and should we have one standard format?

MR. JOHNSON: What I'm advocating for is for you to create a standard format for data intake and a standard format for data output. Right now you have -- you have a standard format. It's a custom format. You've heard people say CSV here. It's kind of like CSV. It's not particularly -- it doesn't particularly even adhere to that but you're actually publishing .FEC files. They're like the raw of electronic campaign contribution information is coming into the FEC before being embedded by FEC staff and the format that the developers submit them to you in which has resulted in about a little more than a dozen different formats, I think five major versions and several minor versions, being published by you.

So what we think you should do is: one, be more stringent on the rules and say, if you're not publishing campaign contribution to us in today's format and it doesn't adhere to the format that you sent it to us, then you're not in compliance; and two, to create a format that is standardized, in other words that uses industry standards, not standardizing in terms the FEC has made the standard, but use industry standards like .XML that you can then extend as legislation and other regulations require changes in the reporting format but so that that baseline.

Imagine, for instance, if Microsoft made it so that every new version of Microsoft Word could not read last year's version of Microsoft Word and so on your computer you have every version of Microsoft Word -- on your computer to read what people email you because you wouldn't know what format they had and so you'd have to have every standard -- every version of Microsoft Word installed so you could do that and that's sort of what the FEC is doing right now. It's saying, "You've got to have or write a particular piece of code in order to parse each particular format," and we want you to stop that.

CHAIRMAN WALTHER: How do we begin to do that?

MR. JOHNSON: Well, step one is hire a New Media Director, but the second thing is I think you can write a -- your IT department can start one, developing stuff, code to translate all the old stuff into a standard format I think fairly easily depending on what data is there and then -- but most importantly, mandate that as information comes into the FEC that it is not in compliance if it is not using the current day format.

CHAIRMAN WALTHER: So they would file and it would get kicked back and say this is the format, try again?

MR. JOHNSON: That's correct.

CHAIRMAN WALTHER: Now, what would be the implications? Would not, maybe be well met by the regulated community or the people who filed without some work with them on how to do that?

MR. JOHNSON: I think that's true. That's why I said in my testimony; you give yourself a matter of two election cycles to work through that process. The reason -- you know, sort of like the DTV switch over except less of a -- I think far less expensive and far less of a hassle because you've got -- I think there are probably less campaign software vendors than there are people who have televisions but you know --

CHAIRMAN WALTHER: They're vocal?

MR. JOHNSON: -- but they're a vocal community. You will have to work with them over the next four years to do it but that will, I think, do two things. One is it will make it easier for other vendors to

participate in this process to lower the barrier entry so that lots of companies can actually handle sending filings to the FEC. Second, it will make it so that watchdog or organizations like the Sunlight Foundation can actually get to that data more efficiently and effectively and volunteers. You know, part of the reason I came to the Sunlight Foundation is, I wanted to do some information, just a neat little match up with FEC data and couldn't do it, and started ranting about it and then when my boss snatched me up. That's how I got there, so.

MR. MALBIN: I just want to supplement that point by giving you another reason for thinking about the timetable and this is in my written comment. A pretty fair amount of your material is in COBOL.

CHAIRMAN WALTHER: That was interesting; you say FEC eventually will have to move away from this antiquated program.

MR. MALBIN: Yes, and people who know how to do COBOL are retiring. You really need to get them while they are around and start this process. It's not a top priority, urgency this election process but you do want your material to be backwards compatible so you can hire people as consultants to do this, but you know eventually we all face the mortality tables and this stuff was programmed in 1975 is when you began it. That's forty some odd years ago and --

MR. JOHNSON: Actually yesterday was COBOL's 50<sup>th</sup> anniversary.

MR. MALBIN: Okay, but the FEC started its stuff then and you know you need -- just do the math. You need to get into a more compatible mode.

CHAIRMAN WALTHER: From a layman's point of view, what programming language is one to move to?

MR. MALBIN: I don't have an opinion on that. But by the way, I do think that this is a programming issue, not a new media issue.

MR. JOHNSON: I would go with Python or Ruby but it's a personal preference. I mean, these are -- depending on the team that you want to build inside -- a lot of federal agencies use Java. A lot of them use Microsoft .NET platform, although we're a little skittish

about that at Sunlight. So at the Sunlight Foundation what we're doing -- one interesting thing that we're doing is we're taking -- we recently paid and this should speak to the importance of your wholesale business -- we recently paid Open Secrets over a million dollars to release their data to the public so that people could get access to it. We gave them a million dollar grant to release all of their data to the public. Now they take FEC data and clean it up and use it and then we've also done the same thing with the National Institute on Money and State Politics which does what Open Secrets does for all 50 states and it's our intention to take all that information and put it into one database so that you can basically type into a computer, Exxon, and see how much money Exxon is giving to -- in campaign contributions period on no matter what level. Because they were starting to standardize the names and I want to speak to the last panel just a second, starting to standardize the names and -- of entities inside these things whether they be corporations or people and that isn't something that the FEC wants to wander down. That's a really hard problem to solve. It's computationally extremely significant and it's not something that we're going to get exactly right either. But we're going to do our best and we'll be happy to share with you the results. And hopefully the whole community can take part in that, but you know in dealing with your data and the way that we manage our team of about -- we have about 15 developers, 13 developers, at Sunlight Foundation. They are -- they program in Python, Ruby and Java. Those are their big three languages.

CHAIRMAN WALTHER: What about the ones other than the agencies like ours or bigger who are going to be around forever and that language won't change, we know we won't have to --

MR. JOHNSON: Well, nothing is around forever.

CHAIRMAN WALTHER: I grant you that.

MR. JOHNSON: But you know I think other government agencies are using a lot of Java and although they are getting turned on to I think some of these newer more dynamic languages like

Python and Ruby. None of them are going anywhere, so to speak. Neither is COBOL. You know COBOL is older than this agency and there around 7.2 billion lines of COBOL code in the federal government and it's far more than U.S. Code, and it's not going to go anywhere, although it's not a particularly great language and it's correct to say that in ten years you're not going to have -- ten to twenty years there's not going to be -- a lot of COBOL programmers out there. But there might not be a lot of Java programmers out there either.

CHAIRMAN WALTHER: Professor?

MR. MALBIN: But with the other programmers, they export quite easily than the other programs and COBOL, there were quirks so that -- so you have less of a danger once you switch but the process through those, I didn't have anything to say about a particular program, but I would say that you have other people in the government who are doing this now, so in whitehouse.gov and the OMB, even though you're not legally in the executive branch, you just should meet with these people, and have a kind of economies scale, and share the information.

CHAIRMAN WALTHER: Is there a government agency that helps with the websites? I got the impression when we were working this up, that there is one that kind of gives guidance to government agencies. Should we go --

MR. JOHNSON: Yes, GSA does.

CHAIRMAN WALTHER: Just GSA, okay. I thought there were some kind of organization or something.

MR. MALBIN: I think the technology of government, a technology in the Office of Science.

MR. JOHNSON: Yes, there's Beth Noveck and that team at OSTP. They're particularly good at this stuff.

CHAIRMAN WALTHER: Vice Chairman.

VICE CHAIRMAN HUNTER: I've got a question and maybe this would be best directed at least at the outset to Mr. Johnson. I don't know if you were here for the first panel when there was a lot of discussion about the search capacities in

the website especially with respect to the EQS, basically the enforcement matters database, I don't know if you've had a chance to look at that in particular or if you've looked at the search engines on the site in general. I just wanted to get your thoughts about if you have taken a look at those. What could we do to improve those so that those could be -- at least the EQS search engine was described to be in crisis and so are there -- again, if you've had a chance to look at that and have any ideas and the others if they've had a chance to look at that as well -- what we might be able to do in order to improve that system to make it much more easily accessible by those who want to search through those databases.

MR. JOHNSON: So I'll be honest in saying that I actually disagree with my cohorts to a certain extent that 50 percent of the FEC's job should be enforcement of regulation. I actually think most of the FEC's efforts should be on disclosure. That's what's listed first, I think, in your charter and legislation. But I do know a bit about search. Just off the record, I haven't looked at enforcement, the EQS search technique. You know, I'm just going to sort of wing it here to a certain extent and provide general advice. When the FEC provides a lot of documents in file formats that aren't particularly great for the web. So for instance, even the call for participation for this hearing was in a scanned 46 page PDF file and it could have been a web page rather than just something that you have to sort of download and open up with something other than a web browser and that creates a barrier to entry for some people. Some people don't have the Adobe reader and that kind of thing of --

CHAIRMAN WALTHER: In layman's terms, what are you saying?

MR. JOHNSON: What I'm saying is sometimes I can effect searches as well and you want to be able to make it so that not only your search engine works on your stuff but also says Google can index your search pages because quite honestly, people may in fact use and prefer to use Google rather than the FEC's search or Yahoo. I don't want to advertise for a particular vendor here but they are responsible for I think 80 percent of

searches now. You want to make it so that people can find it through there as well. That's my only real advice because again I haven't really looked at that piece of what you are asking for as folks may know as nondisclosure.

I do want to say something, though, about this concept of coming through the front door and how that's -- you know, the example was used of people type into Google Nancy Pelosi campaign finance information. If you go in and type in Nancy Pelosi -- I did it while they were testifying. If you type in Nancy Pelosi campaign finance information, right now the first thing that comes up is not fec.gov. It is opensecrets.org. I did it for Chuck Schumer too, and I did it for Saxby Chambliss, and they all come up with opensecrets.org. first.

Open Secrets gets around ten times the amount of traffic that fec.gov gets in part of some of this, and this should speak to why the wholesale business is so important because as that data gets pushed out if they are getting that information -- and that's why it should be the number one priority -- as that data gets pushed out to these other organizations and people are finding the information that way, those I think you have to look at as your customers too, inasmuch as the manufactures of Timex watches view the people who pick up the Timex watch at K-Mart as their customers as well. You are in fact suppliers of raw materials that these people use and an excellent strategy should be, or would be, for you to really focus on your wholesale efforts of data and then when you're ready to do the retail stuff after that stuff is sorted out, make your retail operation work, you know, and pull from the same wholesale supplier as everyone else, so to speak, to the extent of that metaphor.

MR. WEST: If I could come back to the search question, Mr. Peterson. I would agree with the characterization that for all government agencies, not just the FEC, the search function is in crisis. They're terrible. I mean, I go to any government agency to do a search and you just get kind of a ream of unrelated and nuisance types of searches.

If you look at private site, commercial sites, you will see the

difference. Like at a good private company site that has a search engine, you generally have an advanced feature that allows you to add nuances to the search. Like for the FEC, you might want both candidate and time period as searchable elements within that search engine. In terms of the way the search gets produced, a lot of high quality search engines now will produce results and then give you control over chronology versus relevance as the ranking tool. You know, maybe you want the most recent reference to Nancy Pelosi, or maybe you want a term that is most relevant appearing at the top of that search, so I think, given consumer behavior that really seeks information through search engines, it should really be a high priority for the FEC to upgrade that, because I think that is very important. To reinforce one thing Clay was mentioning: Most search engines do not operate very effectively with PDF files. Just the way the PDF files are configured, they're generally not very searchable because they are in aggregate and so when you're developing your website, just be careful that you present information that is accessible to the search engines.

MR. MALBIN: To add to that, the question generated out of this morning's panel, as I understood the recommendation, it was to put everything from all the MURs from the years 1974 up in one searchable form?

CHAIRMAN WALTHER: That's correct.

MR. MALBIN: And I would wonder whether that's even for the attorneys involved has higher priority as they expressed it. I think it's probably important to put the FEC's disposition memorandum or whatever that's called up and deal with that as opposed to all the underlying material. You're talking about a lot of material here that really needs to be in visual form, but do you really need to make the entire file digital and then make the search engines search through the entire file? I do think you're going to end up with what people talked about, a rather random looking assortment of ten thousand or ten million hits. Given the state of the microfilm and the state of all of these documents, you may just want to start with the one page summary of each

issue or the FEC decision and not all of the background material. The background material -- if you are led to the particular case as being relevant to your point -- then I believe it's okay to open up a PDF. I don't think it's such a -- you know, to have that as the print document. That's not what needs to be searched. Second, consider when you were going through this process having something more than a full text consumer generated word search. Virtually all of these things relate to specific revisions in the Code of Federal Regulations or a piece of the statute so if that's part of your tag in the underlying -- what's called the "mandate" it's there -- then the person who is doing the looking, often an attorney, will know that I need to be looking on such and such a subject and the searches can be made much more compact. And again, if you do it with what Darrell just said, you give people these radio buttons, windows to narrow the search, what are you looking for, matters under review. When you go to that it says, "Oh, is there a particular section of the law of regulation you want to look at?" It'll make the whole search process much more user friendly.

VICE CHAIRMAN HUNTER: I certainly appreciate all these comments. How complicated of a project would it be for the government to transition from -- I guess what we have now is a little bit clunky in terms of our search capacities -- to something that has much more of a nuance and sophisticated method for obtaining the results that you're looking for? I mean, is this a resource intensive, time intensive, process to make that transition or is it something that can be done relatively quickly? I mean, what are we looking at in order to try to upgrade our search capabilities?

MR. WEST: I know the chief technology officer for the federal government is looking at the possibility of some government wide contracts on generic things to cut across individual agencies so, on search in particular, since this is something in crisis across all agencies and is a generic function, it seems to me that's a perfect thing for government wide contracts so that you can get the economy scale, so you can save money, you can be efficient, and then also

it helps the user because then they have a consistent search experience across all agencies.

MR. JOHNSON: Search is a really hard problem to solve. Before I was at Blue State, I was a programmer at a company call Ask Jeeves, which is a butler that some of you may remember from a long time ago. Search was our business there, and it was hard. There are ways for you to do this that are cheap that maybe a federal agency shouldn't do, but you could, sort of basically give the problem to Google. Make all of your documents Google indexable and searchable. Convert them into HTML files from PDF files and then make sure -- and you can do this very cheaply, make sure -- that Google can index those documents from the Google search engine itself, and then Google actually allows you to run a custom search of just a particular piece of the web -- which you could say is your website, where people could search, although that might not solve the problem. You wouldn't be able to do things like search particular date ranges, but you could have better contextual search that way and, you know, that's free. It doesn't cost any money. It would cost you money to do the document conversion, but even then, you know, the *New York Times* recently converted, I think, around 20 years of their daily newspaper into searchable format. They used technology called Hadoop and it cost them around \$240 and 12 days of time. This technology stuff is really easy to get. I don't know how to say this any kinder or gentler -- it's really easy to get scammed. The more advanced we get -- it's really important to realize that the more advanced we get -- at this stuff, actually, the cheaper all of this stuff becomes. It doesn't become more expensive, it gets cheaper. And I really wish that -- this is for all government agencies -- I really wish that government agencies would get that. As I think government-wide people are thinking about how to use the web and new technologies to further their missions. I think there are a lot of government contractors out there going, "This is an exciting way for us to double our prices." I just want to put it out there that you should be aware of that. There are often

times a much cheaper solution for problems that could save the taxpayers millions of dollars.

CHAIRMAN WALTHER: Thank you. Commissioner Bauerly.

COMMISSIONER BAUERLY: Thank you. The panel just preceding this one, one of the comments was privacy -- information privacy and the potential identity theft and obviously we have an obligation to disclose. And the current disclosure regime includes addresses which could be useful to general solicitors or subject people to potential identity theft. And obviously those are all bad outcomes that we have to balance against this need and requirement for disclosure. So I wondered, Mr. West, in your review of other agencies or -- we have unique data I think compared to other agencies. But obviously there's other publicly available information and you looked at state governments as well where obviously there's a lot of property information which includes all of us as well. Are there ways other government agencies have figured out how to try to protect people while still disclosing the information they're required to?

MR. WEST: The nice thing about the FEC data is, you do have name and address but there's no or little other personal information beyond that, so I would be less worried about identity theft there; because what thieves want is really not your address but other information that will allow them to access much more valuable materials. So, in general, even though it's an issue, and I know the FEC has rules on using that information and people just can't take the information, so that becomes an enforcement issue. I would not see this as a high priority for the Commission as a problem to worry about.

MR. JOHNSON: If publishing a name and address was a privacy risk in terms of identity theft we'd probably all be out in the streets burning our phonebooks, as they all have our names and addresses in them. The last panel was speaking to was how it could discourage -- it could either discourage campaign contributions or (inaudible). And, you know -- transparency and privacy -- I know that Sunlight will be doing its job right when privacy advocates start complaining about

what we do. So far we actually work on the same team with them to a certain extent to make sure we're doing our jobs right.

COMMISSIONER BAUERLY: I get emails from people asking why their name is suddenly on a government website. And it's very different than a phonebook. The Internet has changed the world; we no longer -- I don't have a phonebook, for example. So it really has changed the access level, you know. I don't have to go to Topeka, Kansas to get their phonebook, to get people's information. And maybe it is an education process but there are a number of people -- I don't know who -- I have no idea who they are; they just send an email and say I can't believe you're invading my privacy in this way. So maybe it's a few that's not well founded, given that identity thieves are looking for much more detailed -- you know, social security numbers and birthdates and lots of other information. But there is, I think, and perhaps it is an education opportunity that we need to make better use of. But there are people who are surprised and I think concerned and may -- and this may either result in them not wanting to give again or you know, in certain instances people are concerned about people knowing where they live and that sort of thing. So I think it is -- it's out there, but I don't know. Like I said, I was just curious if other government agencies have ways of doing this, and maybe it is an education thing that we just need to let people know this is what's going to happen when you make a contribution. It's going to be -- I think campaigns telling people that it's going to be filed. Maybe they don't realize the next step is it goes up on the web.

MR. MALBIN: You don't need to look at other government agencies. Fact is that your electronic files have two different practices. You have one set of files that does with the address and the other that doesn't; the other has just the zip code. So the question is for what public disclosure do you need? What if you were to leave out the street address field? Would there be any important public disclosure function that would not be served? Now that's policy and not quite a question. If you want me to speak

to the policy issue, I'd say I'm not sure what you'd lose if you didn't have the street address. Maybe you would; there -- it's slightly more difficult to match the names and decide if Jim Jones is the same as James Jones. But not a lot. There're a large number of policy areas in this arena, as we all know from having watched California, which has a low disclosure threshold. And there was intimidation against owners in a recent case -- in a recent ballot initiative. But there's also policy arguments driving the disclosure threshold lower because there're questions -- there're fraud questions that people have raised. So, this is a not easy policy question, but in terms of what you put on the web, that's not necessarily have to include everything that a candidate has to file with you.

COMMISSIONER BAUERLY: Just one last follow up. Mr. Johnson, your organization uses our data and does things with it. Would you have a perspective on whether the data you pull should be as complete as it can be or whether things like if there were a policy decision to delete a street address that would be a problem?

MR. JOHNSON: It would be a huge problem for us. The reason why is because of the name standardization issue. If you wanted to make our job easier and solve the problem -- although this would be difficult, I think, even for the FEC to do is, instead of publishing names and addresses of everyone, make it so that, before someone gives some form of campaign contribution, they have to register and get some form of ID number from the FEC. And that way we can sort of uniquely identify every person that's giving contributions. Really it doesn't matter what their location is or what their street address is. It matters to us that they're that person. So we can tell that the campaign contributor X has given -- who's the CEO of corporation Y has given money to candidate Z which resulted in legislation being passed or some other thing. And what we need to know: If that person is in fact that person and verify their identity. That's what we're after. With our current stuff with the way that it works, to an extent, is we look at data from all 50 states; we look at data the FEC

is putting out and we make some judgments. We say, "Okay well this person's occupation and employer is the same here and here and their zip codes are the same and their names are roughly similar." It is a safe assumption that they are the same person. If everybody had some form of public security -- social security number then obviously our job would get a lot easier. But I'd imagine at that time that I was referring to earlier, where the privacy advocates and the transparency organizations start to be at odds with each other happens then.

MR. MALBIN: We go through the same iteration and I suspect you have a little bit better percentage of identification than we do, but we use the exact fields that you mentioned, which is an employer and zip code; not necessarily the street address. And the street address is the one that actually bothers people.

MR. JOHNSON: Right. That's true. There are many -- there are few Clay Johnsons in Washington, D.C, but only one that works for the Sunlight Foundation.

CHAIRMAN WALTHER: The four digits after the usual zip code; there's a recommendation that we include that, and the reason being what? Other than just more refinement when it comes to identifying someone.

MR. JOHNSON: Yes. The other side of that is most people don't know what their plus four is.

CHAIRMAN WALTHER: Our time is up. I want to thank you all very much for being here. It's been great. We had two terrific panels this morning. Within the first part of next week you'll be able to see the transcript of the entire hearing online. And if you have any follow up questions or comments please give them to us. We're going to keep the comment period open because we're going to have a closeout session later on. Thanks again for everything.

MR. JOHNSON: Thank you.

MR. MALBIN: Thank you.

MR. WEST: Thank you.

CHAIRMAN WALTHER: And I hope to see us in the top ten --shortly.