Dear Committee Members:

On behalf of the coalition partners of the Affordable Textbooks Campaign, thank you for the opportunity to offer our comments to the proposed study plan, and for the chance to come before the committee in person.

Per your request, I will limit my oral comments to the proposed study design, and include a slightly longer response to Dr. James V. Koch's overall proposal in the written comments below. I have divided my written comments into two parts: the framing of the problem, and the various policy solutions available (including the proposed study design).

PROBLEM

We generally agree with the study report's discussion of the problems and dynamics in the textbooks market. We agree that high textbook costs place a burden on college students, especially those who are already having difficulty paying for education. We also strongly concur with the analysis that the textbook market contains a set of dynamics unique amongst most organized markets in the U.S. The fact that a third party (faculty) orders, but does not have to pay for students' textbooks – coupled with the intense consolidation of the industry over the last decade - has rendered the textbooks market anything but "free." The textbook industry, keenly aware of the disproportionate amount of market power that the situation has granted it, has engaged in and largely gotten away with a set of practices that would be unlikely to flourish in a truly free market.

There are two important points lacking in the study's analysis. First, we have anecdotal evidence that, in addition to their efforts to undermine the used book market and drive up prices through bundles, publishers have a longstanding practice of not revealing textbook prices (or any lower cost options, such as unbundled or low frills books) to faculty members unless asked. Of course, this practice – coupled with the built-in price insensitivity of the purchaser in this market – only makes it more likely that the most expensive products end up on bookstore shelves.[1] An indicator of this practice was found in a recent Student PIRG study of the most commonly used textbooks, which found that most of the lower cost offerings of major publishers were housed on a completely separate website from the primary catalogue, making them difficult to find.[2]

Second, the report appears to misunderstand the respective roles that faculty and bookstores play in the market. For example, the report mistakenly gives the impression that bookstores can make choices about whether or not textbooks can come bundled. In most cases, however, the faculty retains almost complete control over every aspect of textbook purchasing – including the decision to order a bundled or a la carte version of a textbook. Bookstores do not typically have any power to change those decisions unless specifically authorized to do so by professors. In many cases, in fact, bookstores will not buy back a bundled book if one of the ancillary items is damaged or missing unless they already know that the professor didn't require that item's use in the class. Many bookstores – aware of the ways in which publishers take advantage of the market dynamics - have programs to follow up with professors in order to modify or clarify textbook orders so that more consumer-friendly books reach the shelves. However, most of those modifications can come only after the professor has given permission to do so.

We would like to offer a few pieces of additional research and evidence that we have uncovered over the past three years that we recommend go into the official record:

- Some additional evidence that publishing's unique market dynamics cause outcomes that are out of the control of faculty: A CALPIRG survey of faculty in California and Oregon

conducted in the fall of 2003 found that 76% of the professors surveyed thought that new editions were justified "half the time or less"; 65% of the professors surveyed said that they used the bundled items "rarely or never".[3] The publishers' own research of ALL professors (including those in fields that change constantly) found that just barely half (56%) thought new editions were issued either "about right" or "not frequently enough" with a full 35% saying they were issued too frequently.[4] In addition, when over 700 math and physics professors from 150 universities signed a letter asking Thomson Learning to stop issuing unnecessary new editions of introductory math and physics books, Thomson Learning simply ignored their requests.[5]

- Some additional statistics on bundling: A 2005 Student PIRG report found that when a bundled book is available for purchase unbundled (without the add-on materials), the bundled book is, on average, 10 percent more expensive than its unbundled counterpart. Some bundled textbooks are substantially more expensive. For example, a Thomson Learning chemistry textbook surveyed was found to be 47 percent more expensive when sold bundled ($223.75) than when sold as a separate textbook ($152.00). Finally, more than half of the bundled textbooks surveyed (55 percent) were not available for students to purchase a la carte.[6]
- On custom publishing: Although this has not been studied as far as we know, there is anecdotal evidence that the textbooks industry further undermines the used book market through custom publishing. With custom publishing, faculty can create their own personalized textbooks using a variety of content from different sources. A potential problem with this alternative is that, though each custom book can potentially cost less than its traditional counterpart, custom books are rarely used for more than one course, by more than one professor, at more than one school – thus the used market value is diminished and students, unable to recoup the initial expense through selling back the book, have a higher net expenditure. We have received reports that custom books are increasing in prevalence, and have the potential to rival bundling as a major trend.[7]
- Additional findings regarding low frills offerings by Thomson Learning and other publishers: The Student PIRGs recently conducted a random survey of frequently assigned textbooks and found that only 45% of those books had a comparable lower-cost book, averaging $65.32 in price. Of those lower-cost books, only 18% of the books surveyed were available in a low frills paper version and 73%were available only in an online format – which the study proposal correctly notes is a problematic format.[8]

SOLUTION

Dr. Koch's list of potential policy solutions to the problem is quite thorough, and we have little to add to the overall list. Instead, we have some specific comments and recommendations about the particular policy solutions that – based on our research and experience – would likely prove to be the most fruitful to pursue.

First, we agree that solutions should be primarily market-based and agree that price controls are not an ideal option. We'd further add that great pains should be taken to ensure that solutions do not run afoul of either the freedom of faculty to choose textbooks and other course materials, or the freedom of publishers under the First Amendment to produce the kinds of products and content they see fit. In particular, faculty should be closely consulted when developing any university-based solutions that involve the ordering of textbooks.

Second, we are pleased with the solutions-orientation of this study report, and of the committee. That said, the committee would be remiss to shift its focus completely away from discussion of

the problem. There is good reason to believe that the intense public scrutiny about the problem has helped encourage many publishers to offer their new (albeit flawed) lower-cost options[9] and played a role in the plateau in the rate of price increases as reported recently by the Wall Street Journal.[10] Put differently, public exposure of the problem can be counted as a "market-based solution" to the extent it has an influence on the behavior of industry players.

Third, we concur with the report's recommendation that the committee focus primarily on the university-based solutions it suggests, with our aforementioned caveat about inclusion of faculty in the process. We support the concept of prioritizing three to four pilot programs with a rigorous testing component overseen by independent academics, and would be eager to assist with the design of the programs, including the recruitment of participating universities. Of the recommendations included in the study report, we suggest that the committee prioritize examining the following solutions:

- Rental programs. In particular, we suggest conducting two experiments involving the short and long term financial feasibility of both "pilot rental programs" and "full-scale rental programs." The former – already being conducted by schools such as the University of Wisconsin-Madison – involves the creation of a rental program for a limited number of frequently assigned textbooks, with the idea that starting a small scale program involves less initial capitol and a smaller number of willing faculty in order to get off the ground, and can potentially lead to expansion down the road. That said, it would be also be helpful to experiment with a larger scale program to test our assumptions about the length of time it would take for such a program to pay for itself.
- Creative Commons textbooks. There are already a number of Creative Commons licensed textbooks in circulation, and a number of ideas floating around about how to increase the visibility of such textbooks. The recently re-launched Rice University Press is working with the non-profit organization Connexions to assemble a stable of peer-reviewed CC licensed textbooks that will be available for free via the Internet (and available to print on demand for a nominal fee). A similar project called Global Text Project is launching a similar program which, though intended for the developing world, could also provide a model for the U.S. A University of California planner has also floated a unique idea whereby universities would form a non-profit buying cooperative that would fund the creation, editing and circulation of Creative Commons licensed textbooks.[11]
- Promotion of other used book forums. There are a number of simple ways the university can promote other forums to increase the circulation of used books. For example, the study report notes that it is a relatively simple venture for a bookstore to add a link to its site advertising other sites to buy used books. (It should be noted, however, that this may result in students purchasing incorrect editions, so steps would need to be taken to ensure that the bookstore is not liable for incorrect purchases). In addition, the university could more aggressively sponsor online book exchange programs[12] in which students informally exchange with each other the books that they cannot sell back or find at the bookstore. Currently such programs are the province of student activists and, subsequently, have a wide variation in visibility; this shortcoming could be remedied if such programs were integrated into formal university operations.
- Guidelines for faculty. A number of academic senates have adopted purchasing guidelines for faculty that include many of the recommendations made in the study report. Most notably, the California State University faculty senate recently adopted a resolution that included many of these suggestions.[13] Resolutions, however, have less gravitas than full-scale policy and accountability plans. At the University of Maryland, for example, a simple, faculty-sanctioned accountability plan boosted the rate that

professors submitted early book orders, resulting in a doubling of the money students received for their used books in one semester. Clearly, such guidelines would have to be developed with the close consultation and approval of faculty and studied to determine their effectiveness. However, there would be great usefulness in studying a variety of ways in which this kind of program could be implemented.

- Finally, we suggest prioritizing the adoption of campus policies similar to the new Connecticut law that require publishing sales representatives to proactively disclose all of their company's products and prices both in writing and in oral discussion with faculty members as a condition of doing business with the university. Such a policy would help to correct one of the core imbalances in the market by automatically injecting price into the sales conversation, making current price insensitivity amongst faculty less stark. It would be worth testing the impact such a policy could have.

Fourth, we agree that the federal role can be best served via the pilot program concept discussed above. However, we strongly suggest that we not completely write off the value of state and federal legislation. There are a number of policies that we think have merit. The State of Connecticut's disclosure law is one of the few solid mandates that will help correct the market without running afoul of the First Amendment. In addition, states and Congress can help provide start-up funding via a revolving loan fund and other mechanisms for the establishment of rental programs and Creative Commons programs. Finally, states and Congress can require ongoing study of the issue to help ensure that we track the progress of the various initiatives underway.

Fifth, we concur with the proposal for the Federal Trade Commission and the Department of Justice to investigate the legality of publisher practices, including their attempts to stop the re-importation of foreign textbooks. Additionally, we suggest looking into whether or not the industry has engaged in price fixing. Anecdotally, the variation in the price of similar textbooks among the major publishers is often suspiciously small. This may not be widespread enough to be an actual trend, and even if it were, it may be the result of normal market mechanisms. However, there is good reason to believe that there should be more downward price pressure than there is, even with all the built-in market imbalances; therefore, price fixing is certainly worth investigating.

Finally, we concur with the proposal to conduct more hearings, and would stress the importance of bringing both students and faculty members to the table, in addition to the very worthy constituencies mentioned in the report.

Thank you again for the opportunity to present our ideas to this committee. I can be reached via phone at 503-231-4181 x311 or via email at daver@pirg.org.

Sincerely,

David Rosenfeld
National Program Director
The Student Public Interest Research Groups (Student PIRGs)

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[1] This has not been extensively studied. However, the State of Connecticut recently adopted legislation to require publishers to disclose price to faculty, we have received numerous accounts from faculty about this practice and publishing industry representatives have admitted to this practice in private.

[2] The Student PIRGs, *Textbooks for the 21st Century: A Guide to Free and Low Cost Textbooks*, August 2006, available at www.maketextbooksaffordable.com.

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[3] The Student PIRGs, *Ripoff 101*, January 2004, available at www.maketextbooksaffordable.com.

[4] Zogby International, *The Attitudes Of College Faculty On The Textbooks Used In Their Courses* , December 2004.
[5] The faculty letters and correspondence can be found at www.maketextbooksaffordable.com.
[6] Student PIRGs, *Ripoff 101 Second Edition*, February 2005, available at www.maketextbooksaffordable.com.
[7] See note 2.
[8] Ibid.
[9] Los Angeles Times editorial, *Students Find Ways to Fight High Cost of Textbooks*, March 31, 2004.
[10] Wall Street Journal, *Costly Textbooks Draw Scrutiny of Lawmakers*, April 26, 2006.
[11] See note 2. Information about the Global Text Project can be found at http://globaltext.com.
[12] For example, see www.campusbookswap.com.
[13] Academic Senate of California State University, AS-2747-06/FA, *Faculty Role in Mitigating the Costs of Textbooks*, May 4-5, 2006. Can be found at http://www.maketextbooksaffordable.com/newsroom.asp?id2=24713.