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Before

U.S. Senate Committee on Commerce, Science and Transportation
“Wall Street's Perspective on Telecommunications”

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Good afternoon. Chairman Stevens, Co-Chairman Inouye and members of the committee, thank you for another opportunity to discuss Wall Street’s perspective on telecommunications with members of the Senate. In 1999, I testified to the Senate Judiciary Committee hearing on “Broadband: Competition and Consumer Choice in High-Speed Internet Service and Technologies” a subject that seven years later continues to be very important. As it was then, my role on Wall Street is to advise institutional investors on the investment prospects of the overall telecommunications industry and of specific companies including RBOCs, Rural local exchange carriers (RLECs) and competitive service providers (CSPs/CLECs).

My investment research and conclusions are published and I can make copies of it available to committee members. My general view on the industry is that both telecommunications and media applications are going to become increasingly more mobile/portable and more separated from underlying physical networks over the next five years. However, in my prepared comments today, I would like to focus on Wall Street’s views on telecommunications regulation. These views represent my own observations and not those of any specific investor.

I will start with some specific regulatory concerns we've heard over the last year, then move on to what we believe Wall Street wants in general from the regulation, and finish with two areas that we think regulation can promote investment.

Some Recent Investor Concerns

Three specific concerns seem to have weighed on investors minds over the last year. First, RLEC investors are concerned about the continued commitment of regulators to universal service funding (USF). Second, competitive service provider investors are most concerned that these companies will have continued access to unbundled network elements (UNEs) at reasonable prices. Finally, while RBOC investors remain divided on the benefits of RBOC investments in video, the investors in the related equipment companies are concerned that uncertainties around the franchising process could potentially dissuade the RBOCs from aggressively entering the video market.

Wall Street's General Perspective on Regulation

It is important to note that Wall Street's role is not to have a prescriptive view on regulatory policy but only to determine which companies have the best outlook for investment. In this context, telecommunications companies have to compete with thousands of other public companies for debt and equity investment. In the competition for capital, the relative regulatory environment is important in determining which industries and companies will get capital.

Relative to telecommunications, we believe that Wall Street's biggest desire is to minimize the need to constantly re-evaluate the role of regulation in its telecommunication investment decisions. We have enough to worry about in considering the rapidly changing competitive and the technological environment. In other words we want regulatory stability and certainty. I believe that regulation that has three characteristics would aid in the perception of regulatory stability.

First is minimal regulation. I want to make sure that this is statement is not interpreted as a request to eliminate regulation but for it to take a minimalist form. In the past 10 years, I believe we have seen a direct correlation between regulatory instability and complexity in regulation. This has been evident in the many legal battles including the most recent battle over the FCC's Triennial Review Order. We believe that all of these battles have hurt investment in the sector.

Second is flexibility. We would all agree that the 1996 Telecommunications Act did not contemplate the impact of the growth of broadband and Internet applications. However, I think that it more important that we agree now that we can't imagine what will happen technologically over the next ten years. It is then critical that any new regulatory framework takes this into account and is sufficiently flexible. This flexibility would ensure that future investment can keep pace with industry changes undeterred by constant regulatory uncertainty.

Third is technological consistency. I believe this means that regulation must not be application specific (i.e., it overly differentiates between voice, video or data). A 2006 telecom act that is built on application specific regulation which doesn't taken into account the increasing separation between physical networks and applications and the accelerating movement of those applications to the Internet and wireless technology could become unstable within a few years. This destabilization would again negatively impact investment in the sector.

Application specific regulation could hurt investment in existing services like third-party VoIP (i.e., not provided by a facilities-based carriers) but more importantly in the rapidly emerging area of third party provision of video directly over the <u>public</u> Internet.

Specific Regulatory Issues that Can Impact Future Investment

Finally I want to focus on two specific areas of regulation that I believe are critical to capital being available to support innovation and competition in the future. These areas are interconnection and last mile access.

Relatively low cost and non-discriminatory interconnection (known as peering in the Internet world) have contributed to the success of the two most investable areas in telecommunications, wireless and the Internet. We believe that interconnection will continue to be important in the future.

The second key area is non-discriminatory last mile access. This not only includes UNEs but also includes the non-discriminatory ability for carriers to carry digital signals over their own last mile without regard whether those signals contain voice data or video.

Thank you Mr. Chairman. I look forward to answering the committee's questions.

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