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ON BEHALF OF THE U.S. CHAMBER OF COMMERCE
BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE
ON THE SUBJECT OF
S. 2686, THE COMMUNICATIONS, CONSUMER'S CHOICE, AND BROADBAND DEPLOYMENT ACT OF 2006
JUNE 13, 2006

Mr. Chairman and members of the committee, thank you for inviting me to testify today. My name is John Rutledge and I am the President of Rutledge Capital and President at the Mundell International University Business School in Beijing, China. I have spent a significant amount of time over the past few years researching issues related to the impact of technology on the economy, and I was one of the authors of the U.S. Chamber's telecommunications study, *Sending the Right Signals: Promoting Competition through Telecommunications Reform*. In this regard, I developed a macroeconomic model of the impact of the regulatory climate on jobs, the economy, and international competitiveness. The U.S. Chamber of Commerce has asked me to testify today on their behalf. The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region.

Moreover, the U.S. Chamber, in partnership with the National Association of Manufacturers, the National Black Chamber of Commerce, and the United States Hispanic Chamber of Commerce, leads TeleCONSENSUS, a coalition of more than 190 trade associations, chambers of commerce, telecommunications providers and equipment manufacturers, businesses, and consumers, formed to educate policymakers, the business community, and the public about the need for modernized federal telecommunications laws and the importance of advanced telecommunications services to the U.S. economy, and our ability to effectively compete with other nations for jobs and capital.

IMPACT OF TELECOMMUNICATIONS ON THE ECONOMY

This year, Congress will have a unique opportunity to set aside partisan politics and choose growth and prosperity for our citizens by voting to reform our archaic telecommunications laws. A legislator who votes to continue second guessing innovation and regulate competitive communications technology services is voting to send U.S. businesses and jobs overseas. It is time for the United States to take a stand for growth.

Telecommunications is the central nervous system of today's global economy; it is the way all businesses communicate and do business with our workforce, our suppliers, and our customers. Fast, accurate communications networks have become a crucial competitive tool. It is absolutely critical that our businesses have the tools to compete for customers and to keep jobs and paychecks growing here at home.

Inadequate investment in high-speed telecommunications networks has the potential to severely undermine our competitiveness. For the past decade, policies in Washington have discouraged investment by undermining the return on capital invested in U.S. telecommunications assets and adding a great deal of regulatory uncertainty to the investment process. During that time, the United States has gone from 5th place to 16th place among global economies in access to high-speed telecommunications networks. America's eroding telecommunications position is quietly reducing our workers' standard of living.

There is an intense global competition for capital underway. Workers in the United States are not competing with other states for jobs. Our workers and businesses are competing with China, India, Korea, and other Asian economies for the capital to build businesses. Jobs go where the businesses go. With fiber-optic connections, service jobs from customer service in a call center to radiologists reading x-rays can be done over fiber-optic cable from anywhere in the world at the speed of light. China, India, and Korea are taking steps every day to make themselves a destination resort for capital. They have made high-speed telecommunications a national priority because they understand the role telecom plays in driving productivity and economic growth. Ironically, it is easier today to outsource work to companies in Beijing or Bangalore than to many small towns in America simply because foreign telecommunications infrastructure is better than it is here.

In the old game, the capital and the workers were less mobile and our stable, well-developed markets and well-trained workers attracted the capital that made U.S. workers more productive and earn bigger paychecks than any place in the world. But the game has changed.

Radical advances in technology have changed the way we all communicate and do business. Markets around the world are now connected. Capital can move easily and invisibly in search of higher returns and service jobs can move across country lines independent of immigration policy. But policymakers have continued to regulate communications as if we were still in the 1950s.

It's time for policymakers in Washington to allow consumer choice and innovation to drive the deployment of new technology, not government regulation. In a June 12, 2006, article in *The New York Sun*, former FCC Commisioner Harold Furchtgott-Roth illustrated the impact of the Internet on the U.S. economy when he stated that:

> *Fees for Internet access services pale in comparison to the commercial transactions conducted on the Internet. The most recent government report calculates that in 2004 nearly $1 trillion in manufacturing shipments, or 23.6% of the total manufacturing, were attributable to electronic commerce. For the wholesale sector, more than $825 billion in sales were electronic commerce, or more than 17% of the total. Selected services, including airline ticket sales, had revenue of nearly $60 billion in sales.*[1]

Congress has the opportunity this year to abandon the misguided ideas that they have the ability to predict new technologies and that regulation encourages competition. Reforming telecommunications regulations will encourage new investment, innovation, and jobs and will free wireline and wireless service providers to engage in the capital spending they need to grow and to ensure that the capabilities of their networks are in sync and responsive to user needs. This will do more to solve the problem of outsourcing than any form of protectionism, or for that matter, practically any other step the federal government may take to preserve jobs in this country.

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[1] Harold Furchtgott-Roth, “The ‘Network Neutrality’ Battle,” *The New York Sun*, June 12, 2006, page 10.

"Net neutrality" suggests that the Internet should be operated in a neutral manner—meaning that users should be free to visit their choice of legal Web sites, to connect video game systems and other such devices to the Internet, and to access online applications, without interference from service providers, content providers, or the federal government. The Federal Communications Commission (FCC) has adopted a policy statement that outlines four "net neutrality" principles designed to encourage broadband deployment, and preserve and promote the unrestricted nature of the Internet.

The FCC principles are straightforward and clear:

1) Consumers are entitled to access the lawful Internet content of their choice;
2) Consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement;
3) Consumers are entitled to connect their choice of legal devices that do not harm the network; and
4) Consumers are entitled to competition among network providers, application and service providers, and content providers.

While the FCC's "Four Freedoms" statement does not formally establish rules, *they do reflect the core beliefs that each member of this Commission holds regarding how broadband Internet access should function*, according to FCC Chairman Kevin Martin.[2] The press statement that accompanies the Policy Statement notes that…*although the [FCC] did not adopt*

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[2] "Appropriate Framework for Broadband Access to the Internet over Wireline Facilities", News Release, 2005 FCC LEXIS 4494 (rel. Aug. 5, 2005) (Chairman Kevin J. Martin Comments on Commission Policy Statement).

rules in this regard, it will incorporate these principles into its ongoing policymaking activities.[3] FCC Commissioner Michael Copps has stated that while he would have…*preferred a rule that we could use to bring an enforcement action*, the Policy Statement…*lays out a path forward under which the Commission will protect network neutrality so that the Internet remains a vibrant, open place where new technologies, business innovation and competition can flourish*.[4]

In granting the Verizon/MCI and SBC/AT&T mergers, the FCC went further and declared as enforceable certain voluntary "net neutrality" commitments by the parties. These obligations state that:

- *The applicants committed, for a period of three years, to maintain settlement-free peering arrangements with at least as many providers of Internet backbone services as they did in combination on the Merger Closing Dates.*
- *The applicants committed for a period of two years to post their peering policies on publicly accessible websites. During this two-year period, the applicants will post any revisions to their peering policies on a timely basis as they occur.*
- *The applicants committed for a period of two years to conduct business in a way that comports with the Commission's [Policy Statement].*[5]

Moreover, there has only been one instance in the United States of a company trying to block users from accessing a Web site or application. In that case, a small telephone carrier tried to prevent its customers from accessing a Voice over Internet Protocol (VoIP) service provider.

[3] "Appropriate Framework for Broadband Access to the Internet over Wireline Facilities," (FCC Adopts Policy Statement).

[4] In the Matter of: Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Report and Order and Notice of Proposed Rulemaking, (Statement of Michael J. Copps, Concurring), Docket No. FCC-05-150, 20 FCC Rcd 14853, 14979. (rel. Sept. 23, 2005).

[5] In the Matter of SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control, WC Docket No. 05-65, 20 FCC Rcd 18290 (Rel. Oct. 31, 2005). In the Matter of Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control, WC Docket No. 05-75, 20 FCC Rcd 18433 (rel. Oct. 31, 2005).

Public outrage and FCC action quickly caused the company to halt this behavior. Simply put, the market reacted much more quickly to foolish practices than any federal agency ever could.

Therefore, based on the FCC's principles, the commitment of the companies, and the fact that the market quickly resolved foolish conduct, there is no reason this country should assume the unintended risks (loss of investment, innovation, jobs, and competitiveness) by imposing a "net neutrality" law.

The Internet is like a highway. Without enough lanes to accommodate the volume of cars, traffic jams occur. Widening the highway reduces congestion. The same principle applies to the Internet. Unless we invest in the infrastructure of the Internet, businesses and consumers will face massive traffic jams on the information superhighway as increasing amounts of high-volume traffic, like video, which has the potential to clog the existing transmission lines. Traffic flowing through our nation's information superhighway will increase 500-fold by 2020 as demand for multimedia applications increases. Internet content providers and dozens, if not hundreds, of startups will find themselves without the network capacity necessary to offer new services and applications. Therefore, this nation has a choice. It either adopts a policy that fosters the buildout of the infrastructure or it must be content to exist with today's limited system and force all traffic over lines not built for the convergence of Internet, television, video, and massive amount of data. This latter outcome will deny U.S. businesses and workers the information tools they need to compete globally.

As part of the larger "net neutrality" discussion, some members of Congress have announced their intent to introduce legislative language that would deter the investment necessary to avoid these traffic jams and realize wide-scale broadband deployment. "Net neutrality" legislation would, for the first time, impose government regulation on the Internet, inviting other countries to do the same—something that the Bush and Clinton Administrations have steadfastly opposed.

The U.S. Chamber opposes the enactment of "net neutrality" legislation and believes that telecommunications markets should be driven by advances in technology, competition between telecommunications companies, and consumer choice, not by government regulation. The United States cannot afford for its economy to be stuck at an Internet red light. The Internet has succeeded precisely because it has not been burdened with government regulation.

In the final analysis, the Internet is still evolving rapidly in both infrastructure and applications. Regulation would freeze current infrastructure in place, new applications would crowd the existing structure, and eventually those applications would run on more advanced systems in other parts of the world, thus harming our competitiveness. Simply put, as stated by Charles H. Giancarlo of Linksys in a June 8, 2006, *Wall Street Journal* article:

> *Regulation would lock in rules and practices that might seem correct today, but could create havoc tomorrow. Instead, we should allow massive convergence to Internet technology to continue unabated, and regulators should address specific problems on a case-by-case basis.*

Therefore, if this nation truly seeks to compete in a world economy in which there will be continuing battles over jobs and money, we must ensure that our industries have an incentive to create the best telecommunications system in the world. That innovation and investment can only be achieved by allowing the market-driven convergence of telephone, TV, computers, Internet services, and software applications without government regulation.