

Text As Prepared

**Remarks by Chairman Kevin J. Martin
Federal Communications Commission
To the NARUC Summer Meeting
Austin, TX
July 26, 2005**

Thank you very much, Diane. It is a pleasure to be here this morning.

It has been just over 4 months since I assumed the Chairmanship. I can't tell you how many times during that time people have asked me about my "vision" of where the industry is headed. Each time, I am hesitant to respond.

At almost every turn, even the most forward-looking individuals have failed to accurately predict the development of technology. For example, Ken Olson, founder of Digital Equipment Corporation, once concluded that "there is no reason for any individual to have a computer in their home."

And it is not just technologists themselves who have wrongly predicted the development of communications. When Alexander Graham Bell patented his telephone in 1876 and subsequently tried to sell it, Western Union politely declined. Their reason? They said that "this 'telephone' has too many shortcomings to be seriously considered as a means of communication."

So with some trepidation -- I looked up the word "vision" -- and discovered that it really means "an imaginary or supernatural sight beheld in sleep."

Seriously though, what people appear to mean when they talk about "vision" is some forward-thinking ideal of what the industry and regulatory landscape ought to look like in the future.

Though I cannot predict the future, I can tell you about what I would like to see in the future.

Advances in technology are leading to a convergence of multiple platforms. This development of intermodal competition is fundamentally changing the way that both carriers and their customers use telecommunications and technologies. Given these market changes, we can move towards a more deregulated, competitive environment. One undistorted by regulatory arbitrage and artificial distinctions. And one with competition leading to higher quality, more innovative services, and cheaper rates. Such an environment should be governed by a flexible policy framework that promotes broadband infrastructure investment and is technologically neutral.

And what does this future tell us about how we should face our problems today?

The Commission right now is facing its share of difficult challenges:

- The universal service mechanism is breaking. The method for carriers to contribute into the fund is outdated. It doesn't adequately account for the increase in bundled service offerings, the migration to wireless and VoIP services, and the shrinking long distance market. Similarly, the way that the funds are distributed is fraught with complexity. These problems that exist with the universal service fund are far reaching, affecting several industries – wireline, wireless, and cable.
- The intercarrier compensation scheme is breaking. The existing scheme is simply unsustainable in a competitive environment characterized by bundles and mobility. Like universal service, the problems in this area do not affect just wireline carriers, but all different types of providers including wireless, cable, and even VoIP.
- We also suffer from a market-distorting lack of regulatory certainty in the broadband market. Most prominently, for some time there has been a lack of regulatory parity between telcos and cable in their provision of broadband. This lack of a level-playing field in the market complicates investment decisions and has undoubtedly inhibited broadband deployment in the United States.

I don't think that any of these statements surprise you. At least they shouldn't. These regimes have been under strain for a long time. It won't be easy to fix them. But I believe that, together, we can develop a plan to address the regulatory barriers that stand in the way.

We need to devise creative solutions to the seemingly intractable problems that plague the industry today. Will we be successful? I hope so. All I can promise you is that I am willing to embrace the challenges that currently confront us.

So how are we going to solve these seemingly intractable problems? First, we need to establish our priorities:

- With respect to fixing universal service, it is critical that there be a sufficient and sustainable mechanism to collect funds in an efficient manner. This mechanism, above all, must ensure that people who live in rural and high-cost areas continue to receive service at affordable rates.
- With respect to intercarrier compensation, the Commission must adopt a rational and unified approach that replaces the current patchwork of rules. Any new framework must remove the opportunities for regulatory arbitrage and provide incentives for efficient investment decisions.

- With respect to broadband, we should place all broadband providers on equal footing so that they can fairly compete in the marketplace – not in front of regulators. They will then have the incentives to invest the capital necessary to make 21st century broadband capabilities available to all American consumers.

There is one other guiding principle that I believe should govern any attempt to accomplish these objectives: technological and competitive neutrality. What does this mean? All providers of the same service should be treated in the same manner regardless of the technology that they employ. We should be striving for regulatory parity between services as well as between service providers.

Let me apply these priorities to the various areas I mentioned above.

With respect to universal service, for quite some time, I have urged the Commission to begin assessing contributions primarily based on working telephone numbers rather than interstate revenue. There are several advantages to this approach:

- First, from a legal standpoint, the Commission has clear statutory authority over all telephone numbers.
- Second, a methodology based on telephone numbers is easy to administer – we already know the base of existing telephone numbers.
- Third, this method is competitively and technology neutral – any phone service that uses a telephone number must contribute to universal service. This would be a far cry from the existing regime that assesses each provider differently, or, in some cases, not at all.
- Fourth, this approach would be readily understandable by consumers who would pay the same rate regardless of whether they received their phone service from a cable provider, VoIP provider, or a wireless or wireline provider.
- Finally, a telephone number-based methodology promotes and enhances telephone number conservation. As many state Commissioners can attest, number exhaust is an increasing problem that this might help resolve.

While I recognize that this solution is not perfect, it is a significant step in the right direction and would not require legislation like other proposed solutions such as assessing inter- and intrastate revenue.

With respect to intercarrier compensation, we must move to a single unitary rate for all the different types of traffic – wireless, wireline, VoIP, local, long distance, interstate, intrastate. In today's converging IP world, these distinctions are unsustainable and create opportunities for people to game the system.

Some advocate a unitary rate of zero – or “bill and keep.” I am not sure that such a proposal, which also necessitates large increases in end-user charges and/or the creation of a new universal service high cost fund, is as politically viable – especially in the short run. Indeed, the ultimate goal is to get to the size of the universal fund under control, not to inflate it. But moving quickly to a unitary rate would be a step in the right direction – eliminating many arbitrage opportunities.

Fortunately, the Commission is not tackling these thorny intercarrier compensation issues alone. In addition to the widespread industry input, I am particularly grateful for the input of the state commissions through the NARUC Task Force on Intercarrier Compensation.

Under the leadership of Elliott Smith, you have been on the front lines dealing with these issues and your active participation in this proceeding has been of tremendous value to us. Many thanks to Elliott and the other members of the Task Force for their dogged pursuit of a workable resolution that can be supported by a large segment of the industry.

The last regulatory challenge that I listed at the outset was broadband. As I have said on several occasions, promoting the deployment of broadband is the Commission’s highest priority. I intend to do whatever I can to help meet the President’s goal of “universal and affordable access for broadband technology by the year 2007.”

Right now, however, the broadband story is mixed. On one hand, I am proud to say that the most recent Commission data reveals that the United States leads the world in the total number of broadband connections – nearly 38 million. This amount of broadband subscribership represents a 34 percent increase over last year and reflects a 45 percent increase in DSL penetration and 30 percent increase in cable modem subscribers. This is all good news.

Moreover, we have begun to see how the removal of legacy regulation on new investment helps spur deployment of new broadband networks. For example, Verizon has already spent 1 billion dollars to deploy fiber to 1 million homes and intends to reach another 2 million this year. Similarly, SBC expects to spend 5 billion dollars to deploy fiber covering 18 million homes over the next 3 years. And, BellSouth has recently announced that it has 1.1 million customers served by fiber and anticipates adding fiber to 60% more locations this year than it did in 2004. And we are seeing significant deployment of WiFi and other wireless broadband networks, along with new technologies such as broadband over powerlines.

On the other hand, our work is far from over. Perhaps the most important action we need to take in furtherance of broadband deployment is to place wireline and cable providers of broadband Internet access services on a level-playing field.

Right now, cable modem providers operate free of most regulation. As you know, this is not the case for the telcos who must provide their services subject to legacy

regulations. This disparity continues to distort the marketplace. Again, we need to make the broadband regime, as well as the universal service and intercarrier regimes, technology and competitive neutral.

The Supreme Court's Brand X decision last month provides us the opportunity to make this happen. By affirming the Commission's determination that cable modem services should be treated as a less regulated information service, this decision provides a clear regulatory roadmap.

Now that the Supreme Court has spoken and provided us much needed clarity, we can move forward. To this end, I have already shared with my colleagues a proposal that would give telcos the same deregulatory treatment as cable. It is my strong hope that this order will be adopted as soon as possible so that consumers can reap the benefits of continued infrastructure investment and the increased deployment of broadband services.

I believe that we must treat all broadband providers in the same manner. And while I believe the government should play a lesser role in this competitive market, this does not mean that government has no role to play in the broadband market. To the contrary – for example, together with our state colleagues, the Commission must vigilantly ensure that public safety, law enforcement, and consumer protection needs continue to be met.

For example, it is critical to our nation's security that broadband Internet access providers and VoIP providers cannot escape the ability of law enforcement to conduct legitimate surveillance. Although I believe that new technologies and services should operate free of economic regulation, I also believe that law enforcement agencies must have the ability to conduct electronic surveillance over these new technologies. We must strike a balance between fostering competitive broadband deployment with meeting the needs of the law enforcement community.

Similarly, states and the Commission must continue to work together to ensure that public safety and consumer protection goals are met. An excellent example of the type cooperation that I hope will continue is the new federal-state Task Force that we have just formed with respect to enforcement of our VoIP 911 requirements.

This Task Force will work in conjunction with the public safety community to ensure timely compliance with our 911 rules so that no lives are lost due to lack of access to emergency services. This VoIP 911 federal-state Task Force is just one of many ways in which the FCC and the state commissions can work together in a dynamic marketplace that operates free of undue economic regulation.

So, with all of the innovations that are happening today, what observations can we make about where the industry is heading?

First, if the broadband penetration rates that I described earlier continue at the same rate, we are going to see all Americans – including those in rural and underserved areas – with access to a broadband connection. Everyone is going to want to be connected all of the time and from anywhere.

Second, we are going to see an explosion in how this broadband access enriches peoples' everyday lives – the way they work, are entertained, are educated, and even access healthcare. The variety of new applications and services that can be used over a broadband connection is limitless. Using broadband, customers will increasingly be able to access highly customized, individualized service offerings that are tailored to their own needs and preferences.

Third, we are seeing the impact that broadband mobility has on the ability of customers to access voice, video and data applications. The customers are in control and they can choose when and where to receive their individualized service offerings. Wireless networks have experienced, and are continuing to experience, exploding growth that can barely keep up with consumer demand.

The government cannot create these new and innovative services and applications. But, we do have a role in ensuring that the regulatory environment promotes, rather than stifles, such offerings. This means that, more often than not, the government must get out of the way and trust in the ability of market forces to deliver these benefits to consumers.

I can't predict the future. Nor can I predict with any certainty what the technological innovations of tomorrow will be. I can, however, employ a blueprint for a change in the existing regulatory framework that will allow the technologies of tomorrow to flourish.

Thank you for your time and I would be happy to take your questions.

#