

**Statement of Commissioner Deborah Taylor Tate
At *En Banc* Hearing on
Broadband Network Management Practices
Dinkelspiel Auditorium
471 Lagunita Drive
Stanford University
Palo Alto, CA
April 17, 2008
(As prepared for delivery)**

Thank you, Chairman Martin, for your leadership in holding this hearing on this very important issue, and thank you to Stanford Law School for hosting this event.

Today we gather in Silicon Valley, a place whose name evokes an entire geographical locale of technological innovation, newly discovered chemical compounds and uses for magnetic-radio waves, reminiscent of the Industrial Revolution, the dawn of the automobile, and airplane flight. Brilliant scientists, bold entrepreneurs and college students with unrivaled curiosity flocked here to create not merely a valley, but an entirely new, vibrant technological ecosystem -- a place that continues to maintain its status as one of the top research and development centers in the world, and that includes 10 of the 20 most inventive towns in America.¹ Stanford University, professors and graduates have played a pivotal role not only in the scientific, but also in the business, investment, and financial underpinnings of our society as well. None more revered than Vint Cerf, the Father of the Internet.

¹ <http://online.wsj.com/article/SB115352188346314087.html>.

It is appropriate that here in this area so steeped in technology and innovation we hold a national hearing to examine the intersection of the extraordinarily connected, digital world in which we live and the role and appropriate level of governmental intervention, oversight and public policy.

As I have said many times, broadband is revolutionizing how we communicate, how, where and when we work, how we educate our children, the delivery of healthcare and public safety, as well as how we entertain ourselves. So this discussion is not about companies and not about regulators. This discussion is about patients, students, public safety officials and ultimately all Americans.

We must remain vigilant against intrusive governmental action that could disrupt the progress of broadband deployment. We must choose a path that is carefully balanced, providing the appropriate regulatory relief which resolves a specific “harm,” allowing networks and carriers to respond to marketplace demands efficiently and effectively, ensuring that consumers are informed and protected and competition is encouraged through the least intrusive and least costly regulatory action.

Our decisions should fuel-inject the broadband turbines of the information economy. Freedom to innovate, not the shackles of regulation, drives productive solutions.

I have consistently favored competition and market forces rather than government regulation across all platforms-- especially in this dynamic, highly technical marketplace. I am pleased that since we last gathered in

Boston, BitTorrent and Comcast have announced several industry-based solutions for acceptable network capacity management and lawful content distribution. Comcast and P2P company Pando just announced an industry-wide effort to create a “P2P Bill of Rights and Responsibilities” for peer-to-peer users and Internet service providers. Both Comcast and Time Warner announced speed upgrades and tiered pricing for consumers in certain areas. Again, technology and the competitive marketplace seem to be responding to the appropriate oversight mechanism

As both a state regulator and now at the federal level, I have worked to remove legacy regulations to increase incentives for investment in new infrastructure, allowing services, applications and business plans to develop and proliferate in a less regulatory environment. And they have.

Notably, Internet providers continue to invest billions of dollars to upgrade and expand their networks. Spending on broadband networks was \$15 billion in 2007 and is expected to dramatically rise to \$23 billion by 2010. The Commission’s most recent report on broadband deployment shows that the U.S. remains the largest broadband market in the world, and finds continued dramatic growth in broadband deployment to over 100 million lines as of June 2007, an increase of 55%.

These network upgrades allow Internet service providers to offer broadband service at ever-increasing speeds. We have come a long way since the 56 kilobytes-a-second dial-up speeds- with companies offering consumers download speeds of 50 megabits per second, and plans to offer speeds as much as hundreds of megabits per second. This multi-billion dollar

investment by private enterprise in complex networks is critical to ensure that consumers continue to reap the benefits of innovation. Some call for government regulation that, rather than continue, would actually greatly diminish future and essential investment.

Another byproduct of government regulation, especially in such nascent arenas, while both technology and business plans are still under development, is the “unintended” and often negative consequences of government intervention. As we review our own policies and learn more about especially P2P applications, I am particularly concerned about the growing problems of illegal content distribution, from pirated movies and music, to online child pornography, as well as the issue of child online safety and privacy in general. I look forward to even more collaborative, industry-based solutions, which are often the most effective and efficient means of resolving complex, technical network disputes.

To that end, I am glad that we are hearing from my friend and fellow Nashvillian Rick Carnes, President, Songwriters Guild of America, and also Jim Steyer and Common Sense Media today. Jim and Common Sense Media have been engaged in advocacy for children and families in the offline world and are now engaged in efforts to keep children safe in the online world. I also would like to recognize and mention that the National Center for Missing and Exploited Children very much wanted to participate but literally cannot be here with us today due to two other hearings in which they were already involved – one in Ireland signifying the growing global nature of this issue. However, I wanted to share some of what Mr. Allen would probably have described as one of the most successful public-private

partnerships that this digital age has fostered and why we should tread very lightly into any type of government regulatory action.

Many of us probably do not realize that the child pornography industry is a multi-billion dollar industry with most of the financial benefit accruing to organized crime in other countries while most of the demand is right here in the U.S. Through incredible technology, and unique public-private partnerships between sometimes unlikely partners, great strides are being made to crackdown on illegal content and money laundering problems. Internet service providers are able to differentiate these illegal images and through voluntary agreements with financial institutions—95% of them to date—are able to shut down the financial enterprise that allows payments over the Internet. While this has not stopped the criminal behavior, it certainly makes it more and more difficult to utilize the Internet for these illegal purposes. Mr. Allen cannot be here today as he is actually in Ireland, meeting with officials from law enforcement and financial institutions and technology companies with international presence to expand these voluntary efforts internationally. Countries around the world are interested in duplicating what we have done here in just two short years. The statistics are staggering and the technology such as peer-to-peer has unfortunately provided even more ease of access by people across the globe. Just to give you an example and this is a graphic one so I apologize to those of you who find this discomforting: through British law enforcement, a child pornographer was located and shut down; the Internet site allows viewers to watch the abuse of a child under 1 year of age. This is shocking. This is illegal. This is harmful to our children and their families and our society. Thus, I want to make sure that we weigh the unintended consequences of

any regulatory action we may take regarding more openness with these successful voluntary steps to use not just reasonable but extraordinary network management and technologies to fight crime rather than harbor and encourage it. We must be vigilant regarding our children so I think it is important not only to encourage and utilize the Internet in new, innovative and exciting ways; but also fully appreciate all the illegal, unlawful and predatory uses technology allows or exacerbates as well -- whether our financial information, our privacy, our most personal information, and most of all our young children.

Thank you, esteemed panelists for joining us here at Stanford. We look forward to hearing from you and learning from you regarding these important policy issues as we attempt to find the right balance in order to provide all our citizens the vast opportunities of the broadband world of today to compete in the global economy of tomorrow.