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Telecommunication Industry Association Comments regarding House Energy & Commerce Committee's Interconnection White Paper

1. In light of the changes in technology and the voice traffic market, what role should Congress and the FCC play in the oversight of interconnection? Is there a role for states?

As a matter of basic technology, the once-useful distinction between circuit / message switching and data processing is no longer relevant in a broadband world where all communications traffic is delivered via Internet Protocol. These technology changes undermine many of the assumptions underpinning interconnection practices. As a result, services going forward will likely look more like “information services” than “telecommunications services,” at least as those terms were envisioned in 1996. Regulation should be consistent with this change.

A modern Communications Act should be re-built to address unifying purpose of achieving universal, reliable, and affordable access to broadband without undue subsidization. In doing so, Congress should recognize the success that a light-touch regulatory model has had in enabling advanced value-added services.

As the whitepaper notes, modern IP-based networks interconnect at a small number of peering locations in the United States, compared to the hundreds or thousands of points of interconnection of the public switched telephone network. The policy issues related to this transition are best addressed at a national level.

Whether through explicit communications policy or as a result of anti-trust law, the exchange of traffic among providers will continue to be the subject of legal oversight. Consequently, reliance on the FCC for policy guidance and oversight certainly has the advantage of continuing to marketplace guidance compared to the judicial nature of anti-trust enforcement.

2. Voice is rapidly becoming an application that transits a variety of network data platforms. How should intermodal competition factor into interconnection mandates? Does voice still require a separate interconnection regime?

The definitions of markets should reflect the increasing competitiveness of telecommunications markets across services and technologies. Such a holistic market analysis will also permit a reevaluation of the extent to which legacy regulation is still required, particularly when such regulation is imposed on only some of the competitors.

Beyond voice communications, the FCC has an important public interest role to play in ensuring that all Americans have access to broadband. Indeed, Congress should articulate and consolidate – perhaps in one title or section of the Act – all of the *specific* public interest objectives it seeks to achieve. These could include, for example:

- Universal high speed broadband service to homes, libraries, and schools;
- Availability of broadband services in public spaces such as roadways or parks, and for public purposes;

- Reliable emergency communications for services such as 9-1-1, and for public safety responders, the realization of the full potential of a nationwide public safety broadband network; and,
- Accessibility for those with disabilities.

3. How does the evolution of emergency communications beyond the use of traditional voice service impact interconnection mandates?

Reliable public safety remains a critical policy objective for the FCC. The Commission's public safety policy changes to services, such as text-to-9-1-1 and location accuracy, reflect the increased use of mobile communications by consumers. However, the incorporation of data information into emergency communications is limited more by the resources of public safety answering points available to use the information effectively than by interconnection challenges.

4. Ensuring rural call completion has always been a challenge because of the traditionally high access charges for terminating calls to high-cost networks. Does IP interconnection alleviate or exacerbate existing rural call completion challenges?

To the extent that broadband networks are "less distance sensitive" than legacy networks, IP interconnection should reduce rural call completion challenges. This underscores the need for continuing investment in rural broadband.

5. Should we analyze interconnection policy differently for best-efforts services and managed services where quality-of-service is a desired feature? If so, what should be the differences in policy between these regimes, and how should communications services be categorized?

The FCC's regulatory authority should be connected directly to achieving the specific end-user objectives set forth by Congress. Intermediary regulations – whether imposed by the agency or by statute – should be closely scrutinized. For example, the current Act's mandates regarding provider-to-provider issues, such as interconnection, need to be re-evaluated in the context of the IP transition, since the nature of technology means that such regulations lag behind business models and changes in consumer demand.

The FCC's role should be to regulate with a light touch, much as it presently does in the information services space. The Commission should intervene only in cases where there is demonstrable evidence to show a disruption to the ecosystem, in which industry can continue to innovate, consumers are protected, and Congress' specific user-facing objectives are achieved. Indeed, the initial response to the D.C. Circuit's recent decision from Internet service providers was to express their continued commitment to maintaining an open Internet. Market forces should be allowed to operate more smoothly in responding to changes in content delivery models, including the establishment of more transparent and efficient secondary markets.

Regulation should be limited to advancing specific Communication policy objectives, such as universality and connectivity. Rules should be technology neutral, and not change with the protocol being used or based on service level agreements.

6. *Much of the committee's focus in the #CommActUpdate process has been on technology-neutral solutions. Is a technology-neutral solution to interconnection appropriate and effective to ensure the delivery and exchange of traffic?*

- *See answer to question 8*

7. *Wireless and Internet providers have long been voluntarily interconnected without regulatory intervention. Is this regime adequate to ensure consumer benefit in an all- IP world?*

Multiple technologies and their associated business platforms directly challenge each other in the marketplace in a manner not fully contemplated at the time of the 1996 Act. In addition, over-the-top services compete against stand-alone services, and service providers offer “triple-play” and “quad-play” packages. Policies should be updated to reflect this reality.

Multi-technology, multi-layer, multi-architecture “Heterogeneous Networks” (HetNets) are a significant development providing for more competitive alternatives and efficiencies. These technologies are also breaking down barriers between networks.

8. *Is contract law sufficient to manage interconnection agreements between networks? Is there a less onerous regulatory backstop or regime that could achieve the goals of section 251?*

Again, as the whitepaper appropriately notes, modern IP-based networks interconnect at a small number of peering locations in the United States, compared to the thousands of points of interconnection of the public switched telephone network. These legacy interconnection points are subject to legal traffic exchange requirements under Section 251 of the Communications Act.

The transition to an all-IP network will require a reexamination of the extent of these requirements. A key challenge will be determining how the number of exchange points can be reduced, while still preserving competition.

Preserving telecommunications competition, while also allowing for a natural reduction in the number of point for traffic exchange as a result with central office closures is a critical policy challenge for telecommunication policymakers.