

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

CONSUMER/DISABILITY TELECOMMUNICATIONS )  
ADVISORY COMMITTEE (CDTAC) MEETING )

Room TW-C305  
Federal Communications  
Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Friday,  
November 30, 2001

BEFORE: Andrea Williams, Committee Chair Pro  
Tem

PARTICIPANTS:

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AARP

MATT BENNETT  
Alliance for Public Technology

DAVID POEHLMAN  
American Council of the Blind

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JOSEPH C. GASKINS  
ConnectBid LLC

CLAUDE STOUT (By Interpreter)  
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KEN McELDOWNEY  
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JUDITH HARKINS  
Gallaudet University

DENISE GANT  
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JIM TOBIAS  
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RAYNA AYLWARD  
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KAREN FULLUM KIRSCH  
National Association of Broadcasters

GIL BECKER  
National Association of State Relay  
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LORETTA POLK  
National Cable and Telecommunications

SUSAN GRANT  
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LEO FITZSIMON  
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MELISSA NEWMAN  
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## PARTICIPANTS CONT.:

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VERNON JAMES  
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BOB SEGALMAN, PH.D. (By Interpreter)  
Speech to Speech

BRENDA BATTAT  
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STEVE COSTON

STEVE JACOBS

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P R O C E E D I N G S

(9:12 a.m.)

MS. WILLIAMS: Good morning and welcome to the Advisory Committee. I want to thank all of you for coming this morning and welcome all of you.

My name is Andrea Williams, and I'm going to be chairing today for Shirley Rooker, who unfortunately -- our leader has been taken down with the flu. I hope that Shirley is going to be better and back on her feet soon. And I'm sure all of you would join me in sharing out heartfelt sympathies with her right now as she tries to battle the flu.

At this point, I would like to do introductions around the table, and then I'm going to turn it over to Dane Snowden. We have a distinguished speaker with us this morning, Commissioner Copps. Thank you so much for joining us.

I'm Andrea Williams. I'm also the Assistant General Counsel with Cellular Telecommunications and Internet Association.

MS. HARKINS: Judy Harkins, Gallaudet University.

MS. O'REILLY: Kathleen O'Reilly. I'm an attorney, and I represent various consumer groups on telco issues at the federal and state level.

MR. POEHLMAN: David Poehlman, the American

1 Council of the Blind. Private consultant in disability  
2 access technology.

3 MR. BENNETT: I'm Matt Bennett from the Alliance  
4 for Public Technology.

5 MS. WALLS: I'm Karen Walls from TRAC,  
6 Telecommunications Research and Action Center.

7 MR. KRAMER: I'm Jeff Kramer with AARP.

8 MR. GOLDBERG: Larry Goldberg from the WGBH Media  
9 Access Group and the National Center for Accessible Media.

10 MS. NIXON: Shelley Nixon, Cabrini College  
11 student, majoring in human services.

12 MR. GASKINS: Joe Gaskins with ConnectBid.

13 MR. LUDWICK: Good morning. I'm Paul Ludwick with  
14 Sprint.

15 MR. McELDOWNEY: Ken McELDOWNEY with Consumer  
16 Action.

17 MS. AYLWARD: Rayna Aylward with the Mitsubishi  
18 Electric American Foundation.

19 MR. FITZSIMON: Leo Fitzsimon with Nokia

20 MS. GRANT: Susan Grant, National Consumers  
21 League.

22 MS. BRADEN: Roberta Braden, TIA.

23 MR. ELLIS: Rich Ellis from Verizon.

24 COMMISSIONER COPPS: Mike Copps, FCC.

25 MS. PALMER: Susan Palmer, Cingular Wireless.

1           MR. JAMES: Good morning. Vernon James, San  
2 Carlos Apache Telecommunications.

3           MR. DelCASINO: Mike DelCASINO, AT&T.

4           MS. KIRSCH: Good morning. I'm Karen Kirsch from  
5 the National Association of Broadcasters.

6           MR. TOBIAS: Jim Tobias, Inclusive Technologies.

7           DR. SEGALMAN: Bob Segalman, Speech to Speech.

8           MS. BATTAT: Brenda Battat, Self Help for Hard of  
9 Hearing People.

10          MR. BECKER: Gil Becker, National Association for  
11 State Relay Administration and the Maryland Relay.

12          MS. POLK: Loretta Polk, National Cable and  
13 Telecommunications.

14          MR. MARSHALL: I'm Scott Marshall, FCC staff.

15          MS. WILLIAMS: Thank you. Before we have Bureau  
16 Chief Dane Snowden, Scott has a few housekeeping matters he  
17 wants to share with us.

18          MR. MARSHALL: Just briefly, welcome. And I wanted  
19 you to know that the rest rooms are right behind me out this  
20 door to my left, across the hall and around the corner. And  
21 we also have telephones including TTY-equipped phones in the  
22 corridor available for your use. Thanks for coming.

23          MS. WILLIAMS: Dane, we turn it over to you right  
24 now.

25          MR. SNOWDEN: Good morning everyone. Thank you

1 very much for coming and joining us today. We are excited  
2 about, obviously, having you with us today. You've picked a  
3 good day to come to Washington D.C. in November. It's not  
4 too cold; it's not too hot. It's muggy just like we like  
5 it.

6 (Laughter.)

7 I want to just give -- more or less  
8 , my remarks today are more housekeeping things  
9 than anything else. First, this committee recommended to  
10 Chairman Powell that we not -- or you not -- excuse me --  
11 accept -- that he not accept the recommendation to three  
12 people who -- three organizations who wanted to join the  
13 Commission -- excuse me -- the Committee. He has agreed  
14 with that, and so you're committee will stay as it is now.

15 In addition, you all have received or are in the  
16 process of receiving the Chairman's priorities. That is one  
17 of the things you asked from the meeting last week -- last  
18 time from Marsha MacBride. And you all have received that.

19 And we're excited about the direction that this advisory  
20 committee is going.

21 Chairman Powell is not available to be here. He  
22 is actually giving a speech at the same time right now and  
23 could not be here. Commissioner Martin is out of the  
24 country right now. Commissioner Copps will be speaking and  
25 addressing you in a moment. And Commissioner Abernathy will

1 be down around lunchtime.

2 I wanted to also share with you some of the  
3 exciting things -- and I say exciting -- it's been very  
4 tiring as well -- that are going on in the Commission right  
5 now in terms of the Chairman's priorities of reorganizing  
6 the agency. Many of you, I'm sure, have read and heard a  
7 lot about it from the September meeting that we had where  
8 Mary Beth Richards announced the reorganization of the  
9 agency. And one of the key parts of that is how it's going  
10 to affect the bureau that I happen to be Chief of.

11 We have proposed -- and I say proposed because the  
12 process that we're going through right now needs union  
13 approval, Commission approval and Congressional approval.  
14 But I can share you where we're going. We have proposed  
15 that our bureau be renamed, for one, to the Consumer and  
16 Governmental Affairs Bureau to more -- to better reflect  
17 that direction that the bureau is going in. Of course, some  
18 of the questions that I typically get, well, what will  
19 happen to the Disability Rights Office.

20 One of the things that we have done -- and we  
21 recognize the great work that the staff is doing in the  
22 Disabilities Rights Office -- we will continue. As a matter  
23 of fact, I've elevated it to a different -- to a higher  
24 level, and we do plan to increase the staff as we move  
25 forward. In addition, this bureau, the new bureau going



1 forward, will have a policy arm within the bureau, which is  
2 new for this bureau. And so it's moving in a positive  
3 direction.

4 We will continue to focus and be aggressive in  
5 outreach on all issues for consumers. And my goal is to be  
6 beyond the Beltway working with consumers. One of the  
7 challenges that I see is that we often bring people and meet  
8 in this room, and there are certain limitations to that. In  
9 addition to the limitations, I think we're only hitting a  
10 small cross-section of consumers that we need to hear from.

11 So, as we move forward, hopefully, as they joke with me in  
12 the Chairman's office, I'll take my show on the road.

13 Recently, we released information on complaints  
14 and inquiries that we have received in the Commission. And  
15 we released the top five complaints categories across the  
16 Commission in the various bureau's from the Wireless Bureau  
17 to the Common Carrier Bureau, et cetera. And if you need  
18 information or would like information on that, we can  
19 provide it to you. One of our goals is to make sure we can  
20 educate as many consumers as possible and also make policy  
21 changes as we need.

22 I would like to also add and encourage your  
23 support in a broadband forum that we're going to have on  
24 January 24th? I'm looking at Martha Contee. January 24th.  
25 What we want to do is take the idea of broadband and hear

1 different voices, and we're calling it Broadband 101. And  
2 the goal behind it is to engage consumers in this process of  
3 what is working with broadband, what is not working with  
4 broadband. And so we encourage you all to participate with  
5 us. This is joint project with the FCC and the Local/State  
6 Government Advisory Committee as well. So it is my  
7 intention to have representation and support from this  
8 advisory committee as well.

9 I would like to end just by thanking the DRO staff  
10 for putting this meeting on. It is a tremendous  
11 undertaking, as you might imagine, to have the technological  
12 systems all working together at one time. And I want to  
13 specifically call out Arlene Alexander, who has been doing a  
14 great job. I'm not sure where Arlene is, but she's probably  
15 back in the back. She went upstairs to do more work who did  
16 a good job. Of course, your fearless leader, Scott  
17 Marshall, represents you very, very well here within the  
18 Commission.

19 So, if there are any questions for me, I'll be  
20 happy to take any before I introduce Commissioner Copps.

21 (No response.)

22 You guys are letting me off easy today.

23 (Laughter.)

24 I'm not going to be an idiot. I'm going to take  
25 advantage of it. Yes? Oh!

1 (Laughter.)

2 MS. WILLIAMS: You knew it was too good to be  
3 true.

4 MR. SNOWDEN: Jim.

5 MR. TOBIAS: Thank you. I guess the question that  
6 I have is do we need to go about some formal process to get  
7 a presentation by the Disability Rights Office either to the  
8 committee as a whole or to the Disability Subcommittee?

9 MR. SNOWDEN: What I would recommend -- actually,  
10 let me back up for a second. We take a hands-off -- we the  
11 Commission take a hands-off approach to setting your agenda.

12 And so, if you would like that, I encourage you to speak to  
13 Shirley or Andrea right now or at a break about doing that.

14 We are definitely -- I would support that idea  
15 wholeheartedly for that to happen, but we do not meddle  
16 in --

17 MR. TOBIAS: Okay.

18 MR. SNOWDEN: -- setting your agenda.

19 MR. TOBIAS: Thank you.

20 MR. SNOWDEN: Just one? Thanks, Jim, for letting  
21 me off the hook.

22 (Laughter.)

23 I would like to introduce Commissioner Michael  
24 Copps. Commissioner Michael Copps joined the Commission  
25 this past spring. He has been an avid supporter of many of

1 the issues that are before this advisory committee, and he  
2 plans to stay with us for a good portion of the morning.  
3 And, without any further adieu, Commissioner Copps.

4 (Applause.)

5 COMMISSIONER COPPS: Thank you and good morning to  
6 everybody. On behalf of Chairman Powell and my fellow  
7 Commissioner colleagues and all of us here at the FCC, I  
8 want to welcome you all to Washington. I am not here today  
9 to give a speech. I'm here to listen, so I am not going to  
10 delay the proceedings unduly. But I did want to come and  
11 thank you all for coming. And I know it's always a  
12 challenge to get here. And, in these times, it's even a bit  
13 more of a challenge, but.

14 We had a chance last time I was here to get into  
15 some of the specific issues that your committee is  
16 addressing. And I want to tell you again how much we  
17 appreciate the work that you do. Your commitment of time  
18 and resources to provide us your expertise is an effort for  
19 all of you. It's a real sacrifice for some of you to come  
20 here; I realize that. But you should know that your work on  
21 behalf of American consumers helps us to make better  
22 decisions in the public interest.

23 And with your further help, we can advance the  
24 goal of bringing the best and most accessible communications  
25 system to all of our citizens. And whenever I say that, I

1 always underline the word "all" in all of our citizens and  
2 particularly pertaining to those with disabilities.

3 Today's meeting gives us a little different  
4 opportunity to discuss your work in a broader context, and  
5 that context is the 1996 Act. And I think going into this  
6 discussion today, we all ought to realize -- and I think  
7 most of here do -- that at its heart the Telecom Act of 1996  
8 is a pro-consumer act.

9 Now, right to the point, Congress declared that  
10 the preeminent goal of the Telecommunications Act was -- and  
11 this is a quote right from the legislation -- to secure  
12 lower prices and higher quality services for American  
13 consumers, end quote. So, as public servants, our job --  
14 and it's more than a job, it's our mandate -- our mandate,  
15 if you will, is to put the interest of American consumers  
16 front and center in everything that we do.

17 In writing the Telecom Act, Congress didn't seek  
18 to establish competition merely for the sake of competition.

19 It recognized the power of competition to help consumers,  
20 to bring services and options and choices to consumers,  
21 choices of services, choices of providers, choices of  
22 technology and choices in sources of content. And that  
23 sprang from the Congressional realization that where you  
24 have these choices, consumers get better services, greater  
25 innovation, higher technology, and they also get a more

1 robust public discourse.

2           So I look forward to today's meeting, to hearing  
3 your views. I hope these discussions will not be just a  
4 one-day event because I think you ought to look at what you  
5 do against the broad context of that act regularly as we go  
6 along and keep the dialogue going.

7           Finally, I just want to say I welcome Dane's  
8 comments with regard to the future of the Disability Rights  
9 Office in the reorganization that is taking place here at  
10 the FCC. And I am pleased to learn of his commitment and  
11 the Chairman's commitment to maintain that office and even  
12 to enhance that office by increasing the staff, by giving  
13 it, as Dane said, a further and a wider involvement in the  
14 policy dialogue.

15           And I like the idea of going beyond the Beltway  
16 and making sure we do that outreach, although I also like  
17 the idea of you guys coming inside the Beltway and doing  
18 whatever you can up on Capitol Hill and elsewhere to advance  
19 the causes that you believe in. But, anyhow, that I think  
20 can be a good development, and I'm looking forward to  
21 working with the Office and with its enhanced resources to  
22 make our work more effective.

23           And with that, I'm going to sit down and listen.  
24 But thank you again all for being here today.

25           (Applause.)

1 MS. WILLIAMS: Thank you Commissioner Copps.

2 First of all, I want to check the phone line. Do you we  
3 have any members on the phone?

4 (No response.)

5 I believe Steve Jacobs is supposed to be joining  
6 us?

7 (No response.)

8 MS. PALMER: Andrea.

9 MS. WILLIAMS: Okay.

10 MS. PALMER: Laura Ruby -- I'm not on the mic, am  
11 I?

12 MS. WILLIAMS: I'm sorry, I can't hear you.

13 MS. PALMER: Laura Ruby.

14 MS. WILLIAMS: Okay. Laura?

15 MS. PALMER: Laura Ruby, unfortunately, can't make  
16 it today from Microsoft. She sends her regards. She has an  
17 illness in her family. So this is kind of off the record,  
18 but if you want to send her note and cheer her up that would  
19 be great for anyone here.

20 MS. WILLIAMS: Thank you, Susan.

21 Also I wanted to acknowledge some new  
22 representatives to the CDTAC. We have Melissa Newman from  
23 Qwest and Marie Long from Rainbow/PUSH, Denise Gant from  
24 Hewlett-Packard Corporation, and I also I understand that  
25 Claude Stout, my dear friend Claude, is joining us as

1 representing Consumer Action Network.

2 I'd also like to acknowledge and thank Verizon for  
3 breakfast and lunch today. Rich, we appreciate your baking  
4 all last night.

5 (Laughter.)

6 MR. ELLIS: I personally checked to make sure  
7 everything is fresh over there, so it --

8 (Laughter.)

9 MR. ELLIS: -- possibility if I'm up to it. Thank  
10 you.

11 MS. WILLIAMS: Also to Paul Ludwick -- I don't if  
12 Paul is here, I haven't seen him this morning -- from Sprint  
13 -- oh, there you are, Paul -- I'm sorry -- for  
14 teleconferencing services. And also for Ideal at NCR for  
15 funding travel expenses for some of our CDTAC members.

16 Steve? Steve, are you on the phone?

17 (No response.)

18 Well, let the record note that we appreciate  
19 Ideal's at NCR, their efforts on this.

20 As we move along in terms of the agenda for today  
21 first of all, I would like to thank Shirley and my other  
22 colleagues of the subcommittee's chairs, Micaela Tucker and  
23 Leo Fitzsimon, who has been sitting in for Micaela who did  
24 have her baby in October, a little girl. And also Ken  
25 McEldowney and myself in terms of putting together,



1 developing today's agenda.

2           One of the things we came back from the last  
3 advisory committee meeting in terms of where we talked --  
4 had a day-long discussion really about universal service  
5 issues. One of the things that became very clear at that  
6 meeting was that we had different representatives at  
7 different levels of understanding of what universal service  
8 and it made, as we found out, the discussion very difficult  
9 and challenging.

10           So one of the things that Shirley and the  
11 subcommittee chairs discussed that perhaps it would be best  
12 that before we try to tackle these issues that we educate  
13 ourselves. And that is the purpose of today's meeting.  
14 What we are going to be looking at is competition in the  
15 local exchange and long-distance markets, and has it really  
16 benefited consumers. We have an illustrious panel today  
17 that's going to be moderated by Edie Herman this morning.

18           What we anticipate on a going forward -- that the  
19 future -- at some of the future CDTAC meetings, we will look  
20 at various issues within the Telecom Act and various  
21 services -- telecommunication services, whether it's  
22 wireless, broadcasting, cable, also looking at Section 255  
23 so we can better educate ourselves so that we can have a  
24 dialogue, a constructive dialogue, where everyone is talking  
25 with one another rather than at each other and on different

1 levels of understanding.

2 With that said, I am going to ask Edie Herman to  
3 come forward and our panelists. And while they're coming  
4 forward, because I know these are very, very busy people,  
5 and I'm -- one thing Shirley has taught me is to stay on-  
6 task and on-time.

7 We have with us today Edie Herman, who -- Edie?  
8 She's associate managing editor for Warren Publishing,  
9 which, as many of you know, the publisher of Communications  
10 Daily, which, for those of us in the industry and even for  
11 some of the -- and for many of the consumers is the must-  
12 read. She has been at Warren Publishing since November of  
13 1993. She is associate managing editor at Communications  
14 Daily and also reports on telecommunications regulation.  
15 This is her second tour of duty at Warren Publishing. She  
16 worked there for three years in the early 1980's covering  
17 Capitol Hill and was on the founding staff of Communications  
18 Daily.

19 And, Edie, at this point, I'm going to turn it  
20 over to you to introduce our panelists. Again, I want to  
21 welcome our panelists and thank you very much for taking  
22 time out of your busy schedules.

23 I want many of you to know that these folks that  
24 we see on this panel, we are very, very fortunate. Many of  
25 them were involved in helping to write the

1 Telecommunications Act of 1996. They were there on the  
2 ground level as we would say. They were on the battlefield,  
3 the front fields. And, hopefully, with their insight, they  
4 can give us and tell us a little bit about what Congress had  
5 intended for industry, consumers. And, Edie, take it away.

6 MS. HERMAN: Thank you very much for hoping that  
7 we can be helpful as you make your recommendations to the  
8 Commission on various telecom issues. We've been asked to  
9 discuss the consumer benefits that were promised in the  
10 Telecom Act and whether those benefits have actually  
11 occurred.

12 Panelists will talk about things like whether  
13 there is actually choice, whether the business, especially  
14 the local telephone business for residential users, is as  
15 competitive, whether prices have come down. Some of these  
16 panelists will probably tell you that it's too early to  
17 decide whether the Telecom Act was successful. Some may say  
18 that it would more successful if there was more enforcement  
19 of some of the competitive requirements. Some may say it  
20 was too ambitious. And, of course, the recent economic  
21 downturn also has to be taken into consideration when  
22 judging how many competitors there are.

23 I will introduce everyone in the -- I guess in the  
24 order they're sitting, or maybe I'll introduce them in the  
25 order they're going to speak because that's how my papers

1 are organized.

2           The first person who will speak is Debra Berlyn.  
3 She co-founded the Competition Policy Institute in 1996, and  
4 she serves as the executive director of this non-profit  
5 organization. Before creating CPI, she served as executive  
6 director of the National Association of State Utility  
7 Consumer Advocates, NASUCA, for six years. And before that,  
8 she worked for several public interest organizations.

9           I'll go ahead and introduce them all, and then I  
10 won't be interrupting them as they speak. They'll each  
11 speak for a few minutes, and then we can have questions. I  
12 can ask some. I'm hoping you all will have questions.

13           Howard Symons, right here, has nearly 25 years'  
14 experience in telecommunications law. A partner in Mintz,  
15 Levin, Cohn, Ferns, he represents cable, wireless and  
16 telecommunications companies and their trade associations.  
17 Before joining the firm, he served as senior counsel to the  
18 Subcommittee on Telecommunications in the U.S. House of  
19 Representatives.

20           Lauren Belvin, who we all know as Pete and many of  
21 you may also know her by that name, is Vice President of  
22 Federal Relations for Qwest Communications. She is  
23 responsible for Qwest's business here in Washington with the  
24 FCC and Congress. She worked for three years as Senior  
25 Majority Counsel in the Senate Commerce Committee's

1 Subcommittee on Communications and was the principal advisor  
2 on telecommunications to the Commerce Committee's Chairman,  
3 Senator John McCain. And, before, that she worked in many  
4 senior executive positions at the FCC for 20 years.

5 Brad Ramsay, who is next to Howard there, is  
6 general counsel of the National Association of Regulatory  
7 Utility Commissioners, which represents the interests of  
8 state utility commissions. And he brings to us today the  
9 state perspective. He's been there for 11 years. Before  
10 that, he was, for three years, at the Federal Energy  
11 Regulatory Commission and also was an associate with a  
12 Washington law firm before that.

13 And finally, Gene Kimmelman. He is co-director of  
14 the Washington office of Consumer's Union which publishes  
15 Consumer Reports magazine. He's an expert on deregulation,  
16 consumer protection issues, especially for  
17 telecommunications. Before joining Consumer's Union he  
18 served for two years as the chief counsel and staff director  
19 for the Antitrust Subcommittee of the Senate Judiciary  
20 Committee. And, before that, he was legislative director  
21 for the Consumer Federation of America.

22 As I said, each one will give a short talk. And  
23 the first person will be Debbie Berlyn from CPI who will  
24 give us a historic perspective and make other comments she  
25 thinks is appropriate.

1           MS. BERLYN: Well, thank you, Edie, and thank you  
2 all for inviting me to come and speak before you today. As  
3 I look around the room, I realize that in addition to the  
4 five of us sitting up here, many of you around the room also  
5 worked on the Telecommunications Act of 1996. So I will try  
6 and keep my remarks brief so we can engage in a discussion.

7           The Telecommunications Act of 1996 was the result  
8 of probably more than decade of debate and haggling. And it  
9 came out of drafts and discussions and legislation that went  
10 through chambers for votes. But we didn't get to the point  
11 until 1995 when we actually had legislation where all  
12 parties were ready to sign on the line.

13           One of the fun things about thinking about the  
14 Telecommunications Act and its development and its passage  
15 was looking through some of the articles that came out in  
16 January and February of 1996. And in reading through that,  
17 there was a tremendous feel of optimism, lots of promises,  
18 lot of predictions. And I pulled a couple of those out to  
19 share today.

20           First, AT&T's, CEO Bob Allen, predicted that AT&T  
21 would capture at least a third of the 90-billion dollar  
22 local telephone market within five to 10 years beginning as  
23 early as the summer of 1996.

24           Vice Chairman of Bell Atlantic Corp., James  
25 Cullen, said he hoped to win such approval, and here is was

1 referring to section 271, which would allow the regional  
2 Bell operating companies into long distance. He said he  
3 hoped to receive such approval so Washington area telephone  
4 customers could choose Bell Atlantic long distance service  
5 as soon as a year. We want to get started immediately he  
6 said.

7 Deloitte & Touche consulting group predicted that  
8 we're going to see major industry groups with enormous  
9 resources begin to penetrate each other's markets.

10 And, finally, on February 16th, right after the  
11 Act was passed, a Washington Post article stated that the  
12 ink wasn't dry on the bill deregulating it before free-for-  
13 all competition broke out in the telecommunications  
14 industry. Bell Atlantic Corp. said it would test the waters  
15 by offering local service in five states outside its home  
16 territory.

17 Well, for most of you around the room, you know  
18 that many of these optimistic promises and predictions  
19 didn't come true and have not come true yet. So what's  
20 happened?

21 Well, in the five-and-a-half years following the -  
22 - almost six now -- passage of the Act we have a slightly  
23 different landscape. And several thorns have happened in  
24 the side of competition over the past five years. What are  
25 some of those barriers?

1           Well, first, you remember the predictions about  
2 competitors, strong competitors entering each other's  
3 markets? Well, one of the great hopes was that strongest  
4 competitors of all in the local market, the regional Bell  
5 operating companies, would compete in each other's markets.

6       Well, what happened? And if you could show my overhead  
7 please.

8           This is a cartoon. For those of you who may not  
9 be able to see it, I'll tell you what it is. There are four  
10 babies in a playpen each holding a knife and fork, and on  
11 the diaper it says Baby Bell. And there's a gentlemen  
12 looking kind of like Uncle Sam there saying, honey, didn't  
13 we used to have seven.

14           (Laughter.)

15           Well, that refers to the fact that there were  
16 seven regional Bell operating companies in 1996, and lo and  
17 behold, they were quickly reduced to four through mergers  
18 and acquisitions. So rather than compete with one another,  
19 the Bell companies consolidating into stronger, larger  
20 monopoly companies.

21           Second thing that happened is that every decision  
22 that was made to implement the telecommunication, just about  
23 every decision, was taken to the courts. So, the mantra of  
24 the day became appeal, appeal, appeal, creating uncertainty  
25 and slowing down the advent of competition.



1           The third thing that has happened, and this is  
2 something that has happened more recently, is that the  
3 number of competitors out there to the local Bell operating  
4 companies has started to lessen. Whether it's shrinking  
5 capital or faulty business plans or perhaps rules in the  
6 marketplace that have been more advantageous to incumbents,  
7 there are fewer competitors out there. And some of these  
8 competitors have had to scale back very ambitious plans to  
9 enter greater number of local markets.

10           With all that said, in spite of these obstacles,  
11 competition is developing. And the Competition Policy  
12 Institute believes that consumers are starting to see the  
13 benefits of competition. The FCC local competition report,  
14 which was released in May 2001 based on figures from the  
15 year 2000, provides some show of how competition has  
16 developed. At the end of the year 2000, 8.5 percent of  
17 local access lines were served by competitors. And that 8.5  
18 percent at the end of year 2000 has obviously grown since  
19 that point. But one thing to note is that the number of  
20 lines served by CLECs actually doubled from 1999 to 2000.

21           Sixty percent of these lines, according to the FCC  
22 report, are large and medium-sized businesses. So the  
23 balance of 40 percent is residential and small business.  
24 And the other thing to note is that the mode of entry  
25 utilized by competition local exchange companies, by CLECs

1 is spread fairly equally between use of owned facilities  
2 which is 35 percent, resale, which was about 40 percent and  
3 25 utilizing unbundled network elements.

4 Finally, I want to conclude by just saying that we  
5 believe that if the Act is adhered to, if we continue to  
6 enforce section 271 and keep the markets that have already  
7 been opened open, we do believe that consumers will start to  
8 reap the benefits of competition which should be prices,  
9 innovative services and higher quality of services. So,  
10 thank you.

11 MS. HERMAN: Thank you, Debbie.

12 (Applause.)

13 I have to tell you it's really neat for us to be  
14 sitting up here. We're sitting where the Commissioners  
15 usually sit. That's a very interesting view. I notice like  
16 there's little TV screens, so that's how come they don't  
17 have to turn around and look at the big screen behind us.  
18 But, anyway, it's just cool to be sitting here.

19 (Laughter.)

20 Next is Howard Symons.

21 MR. SYMONS: Thank you, Edie, and thanks for the  
22 opportunity to address this task force and also for the  
23 opportunity to sit up here.

24 (Laughter.)

25 Commissioner Copps, it is a nice view. There's no

1 doubt about that.

2 (Laughter.)

3 COMMISSIONER COPPS: It's fine if it's not all that  
4 close.

5 (Laughter.)

6 MR. SYMONS: Well, Edie didn't tell you, we're not  
7 actually watching the meeting on these little TVs.

8 (Laughter.)

9 There's some entertainment for us up here.

10 I think in trying to evaluate whether the 1996 Act  
11 succeeded for consumers you've got to look at the question  
12 through a couple of different prisms. I think let's get  
13 something out of the way right away, and that is all the  
14 rosy predictions from February of 1996 suffer just the sort  
15 of fate rosy predictions always suffer. Debbie pulled out a  
16 couple of quotes that look a little bit silly in hindsight.

17 Many of us could pull out many more quotes. Some of  
18 probably are guilty of having uttered some of them at the  
19 time and even thereafter.

20 (Laughter.)

21 So I think it's indisputable that the extent of  
22 competition that was predicted at the cutting edge in 1996  
23 has not come to pass. Most of us don't have a choice of  
24 local phone company. The telephone companies did not get  
25 into the video business. In fact, they pulled back from

1 that.

2           The overall market downturn of the past year and  
3 certainly the past couple of months has taken a  
4 disproportionate toll on the telecommunications industry and  
5 its economic prospects. Each day there's another dismal  
6 story about a once vibrant competitor now limping along.  
7 There's no doubt that that trend is not going to be reversed  
8 in the next couple of months.

9           But I think that you also have to step back and  
10 look at what has happened and what continues to happen  
11 despite the economic downturn. Five-and-a-half or six years  
12 ago, there really was not a CLEC industry at all. To the  
13 extent that there was local competition, it was available  
14 only to the largest businesses who use dedicated lines to  
15 avoid or, as we say, bypass the local phone company for  
16 their long distance service. Now there are competitive  
17 local exchange carriers, and they do in fact offer service  
18 to residential customers.

19           Cable companies alone, for instance, offer local  
20 telephone service to over a million residential customers.  
21 Wireless companies offer multiple choices and face vibrant  
22 competition in the marketplace. Broadband capable plant  
23 passes upwards of 70 percent of all homes. The take rate is  
24 very low for a variety of reasons, but the plant is there.

25           So there are some successes in the marketplace.

1 There is growth and development along the lines contemplated  
2 in 1996.

3 I think one way to think about whether the Act  
4 succeeded or failed, and my own view is it's too early to  
5 tell. I think Edie jumped -- you know, stole all my thunder  
6 of my modest point. One way to look at it is to ask four  
7 questions about the Act. One, did it embody sound policy?  
8 Two, has it been effectively implemented? Third, has it  
9 been obeyed? And, finally, has it been enforced? Let me  
10 take each of those one at a time briefly.

11 Is it sound policy? The underlying theory of the  
12 1996 Act was that competition would serve consumers better  
13 than regulated monopoly. My own view, speaking only for  
14 myself and not for my clients of course, is that competition  
15 is the soundest policy, the best way to encourage people to  
16 provide the widest variety of services at the best price.  
17 It doesn't always work, and it's a lumpy process, so at any  
18 given point in time it may not be delivering optimally the  
19 range of services and the price of services that we want.  
20 But it is better and much more efficient than intensive  
21 government regulation and supervision.

22 Competition was the hallmark of the policy in the  
23 1996 Act applied to the local exchange marketplace, to the  
24 video marketplace and to the wireless marketplace. It  
25 remains, I think, the best policy. It has a ways to go

1 before it reaches full fruition, but I think the underlying  
2 framework of the 1996 Act, the choices Congress make remain  
3 sound.

4           Second, has it been effectively implemented?  
5 There's continuing controversy over this question. It  
6 manifests itself in various bills pending before Congress  
7 now over whether the unbundling requirements and the  
8 interconnection obligations imposed on incumbent local  
9 exchange carriers are appropriate. The FCC was handed a  
10 very difficult task in 1996. It was required to implement  
11 the market-opening obligations in the '96 Act within six  
12 months. The FCC responded with a 1,000 page order, which  
13 has been the subject of much litigation, many  
14 reconsiderations in the years since.

15           But by and large again, I think the implementation  
16 decisions that the FCC made were sound. They recognized  
17 that to get to the kind of competitive marketplace Congress  
18 envisioned, the incumbent local exchange carriers had to be  
19 required to open up their markets and share their networks.

20 The controversy surrounding those decisions and the ongoing  
21 implementation of those decisions has generated endless  
22 controversy. And I think any decision the FCC would have  
23 made with respect to the extent of unbundling, the degree of  
24 regulation or the degree of forbearance from regulation will  
25 generate that controversy. But by and large I think the

1 implementation was true to the spirit of the '96 Act and  
2 pushed the industry in the direction of openness.

3 Has there been compliance with the 1996 Act? Here  
4 again controversy is probably the only thing that everybody  
5 would agree on. There has been controversy over whether  
6 there has been compliance with the Act. Pete probably has a  
7 different view of this than Debbie does, for instance. Brad  
8 probably has a different view of it from a jurisdictional  
9 standpoint at least than some of the rest of us up here.

10 I think, from my own perspective, compliance,  
11 there has been compliance, but it has been grudging  
12 compliance. And I suppose we shouldn't be surprised by that  
13 because so many of the requirements of the '96 Act were not  
14 consonant with the economic interests of the people who were  
15 required to comply with it. It's awfully hard to get  
16 excited when the primary requirement you face in a statute  
17 is to open up your network to your competitor, and yet that  
18 was the requirement of the Act. And, surprisingly perhaps,  
19 there has been as much compliance as there's been.

20 There's been a lot of fines. There's been a lot  
21 of foot-dragging. There's been a lot of litigation, and  
22 there will continue to be such. But there has been at least  
23 enough compliance to produce the kind of market entry in the  
24 competitive local exchange carrier business that Debbie  
25 outlined in her remarks, and I think that's progress.

1           Has there been enforcement? There's been as much  
2 enforcement as there can be under the 1996 Act and the 1934  
3 Communications Act. Could there be more? I think in view  
4 of the foot-dragging, yes. I think that requires some  
5 statutory changes. And the Chairman of the FCC has noted  
6 that and requested that of Congress. We'll see if Congress  
7 can turn around that request. But I think there's at least  
8 been an awareness here of the people who really sit here,  
9 not us make-believers, that there needs to be an ongoing  
10 vigorous enforcement of the Act if it's to really take root  
11 and flourish.

12           Overall, I think the Act will be a success. I  
13 think that's an appropriate sentiment. I think it is too  
14 early to say whether it has been a success or failure. And  
15 I think it's possible in hindsight in a few years we make  
16 look back and say it was overly ambitious or that it ignored  
17 market realities and economic realities. But I think -- I'm  
18 an optimist. I think it will be a success. I think that it  
19 will begin to accomplish -- it has begun to accomplish some  
20 of its goals. It will accomplish more of them going  
21 forward.

22           I would close just with this. Just when you think  
23 you're working in an obscure corner of the world like  
24 telecommunications policy, along comes someone like Oliver  
25 Stone, noted director and paranoid.



1 (Laughter.)

2 I don't know how many of how you read, or, as my  
3 aunt used to say, take the New Yorker, but there was a  
4 little clip a couple of weeks ago where Oliver Stone was  
5 appearing at a conference and he whispered conspiratorially  
6 you know, he said, the 1996 Telecommunications Act was  
7 written and passed in the dead of night, in the dead of  
8 night he emphasized.

9 (Laughter.)

10 Well, you can say a lot of things about the 1996  
11 Act, but I'm here to say, and Pete can vouch for me, I think  
12 everybody else can, that there wasn't a single person with  
13 the most tendentious claim to being a telecommunications  
14 policy person who wasn't involved at some or many points of  
15 the ten or twelve-year process it took to produce the 1996  
16 Act.

17 In fact, if there's a criticism of the Act, it's  
18 that it is the product of compromise and, therefore, largely  
19 unenforceable. I think, you know, we're all the better for  
20 the large participation in the Act. I think, you know,  
21 producing statutes of this complexity always takes  
22 compromise. But I would take issue with the fact that the  
23 problem with the statute was that it was passed under the  
24 cover of darkness.

25 (Laughter.)

1 MS. HERMAN: Thank you, Howard.

2 (Applause.)

3 The Act did -- the effort to write the Act did go  
4 on and on and on. Next is Pete Belvin from Qwest.

5 MS. BELVIN: Thank you, Edie. And still goes on  
6 and on and on and on in other contexts. I find myself in  
7 the uncomfortable and unfamiliar position of agreeing with a  
8 lot of what's been said already, but let me try and just put  
9 a slightly different tilt on it.

10 Perhaps we shouldn't spend so much time in  
11 retrospect and foresight looking at what's happened already.

12 I would agree with both Debbie and Howard in their  
13 characterization of how successful the Act has been, you  
14 know, to borrow a phrase that I've found very useful from  
15 the Carter administration used in describing the disastrous  
16 and totally failed attempt to rescue our hostages in Iran  
17 from the Ayatollah Khomeini. I will never forget the day a  
18 State Department representative came before the cameras and  
19 declared that disaster an incomplete success.

20 (Laughter.)

21 And I think what we're dealing with here, and certainly not  
22 a disaster, but very definitely an incomplete success.

23 Let's take a look at the format that Howard gave us for  
24 a minute because I find that a useful form of analysis. Is  
25 the policy on which the Telecom Act was based sound? You

1 bet. Competition is a good thing. Anybody needs any  
2 evidence, let's take a look at where competition has  
3 actually broken out. Let's take a look at New York and  
4 Texas.

5 In New York and Texas, long distance rates have  
6 dropped between 10 and 20 percent to the average consumer.  
7 And even local telephone rates have come down four percent.

8 What's wrong with that? Absolutely nothing except for the  
9 fact that competition hasn't broken out in more places than  
10 it already has. Now again, looking back for just a minute,  
11 why can we say that even though the policy is great it has  
12 been, as I said, an incomplete success.

13 That's because, you know, Howard and Gene, you  
14 know, who have worked on the Hill will agree with me that,  
15 you know, one of the principles of statutory drafting and  
16 enactment is where the facts are inconvenient, ignore them.

17 And one of the uncomfortable facts about local telephone  
18 service -- and, after all, bringing competition into the  
19 local telephone market was the warp and woof of this act  
20 when you come right down to it -- local telephone service is  
21 not a profit center. It is subsidized very heavily as you  
22 all know by a very intricate system of subsidies, internal  
23 and external. So let's see what framework this statute sets  
24 up to bring about competition.

25 On the one hand, the incumbent phone companies

1 who run that local market are supposed to, as Howard said,  
2 open their markets, which is not, you know, a natural thing  
3 for them to do. Shareholders tend to not like competition.

4 But they do have a quid pro quo, and that is that they have  
5 a chance to get into the long distance market. Now I can  
6 tell you from the perspective of Qwest that's something we  
7 very much want to do. And, obviously, our cousins in the  
8 RBOC industry would like to do that too. The hang-up you  
9 have is the folks in the long-distance industry, okay.

10 In 1996, when this Act was passed, they actually  
11 had a profitable market. Yeah, it had a margin of about,  
12 you know, 10, 12 percent or more profit unlike the local  
13 market. Now, ask yourself, what incentive did those folks  
14 in the long distance market have to let us come in and  
15 compete with them just so that they can get into our market  
16 where the profit margin was about two percent. The answer  
17 is they had less than no incentive.

18 And we can sit here and we can talk about whether  
19 there's been enough compliance and whether we need enough  
20 enforcement. But unless and until we recognize the fact  
21 that long distance companies were given a big incentive of  
22 getting into a two percent profit local market in return for  
23 opening up their 12 percent profit long distance market to  
24 competition, until we recognize that didn't make any sense  
25 we're not going to understand why there's been a lot of

1 litigation and not a lot of competition.

2 I can tell you though that there have been -- and  
3 I'm sure Brad is going to echo this, at least I hope he will  
4 -- there have been very earnest efforts at least on the part  
5 of our company to come into compliance with the terms of the  
6 Act and get into long distance competition. We know that  
7 that's the key, not just for voice because the one thing  
8 about telecommunications is it never sits still long enough  
9 for you to take a photograph of it. We're now way beyond  
10 worrying about the voice market. We're obviously worrying  
11 about the advanced data market, the benefits that can  
12 provide to consumers.

13 And the uncomfortable fact that Howard avoided  
14 alluding to is that the cable monopolies control 70 percent  
15 of that market. Thanks to 271 of the Act and other  
16 requirements, local telephone companies, which are ready,  
17 willing and able, at least I can speak for my own company,  
18 to roll out DSL service pretty widely tomorrow are largely  
19 restricted from doing that because of the requirements in  
20 the Act adopted to take care of the local voice telephone  
21 monopoly. This doesn't make a lot of sense.

22 But we are working hard to comply. We have 3300  
23 collocation agreements in-place in our region. This gives  
24 CLEC access to about 90 percent of all the residential and  
25 business telephone lines in our region. Now that having

1 been said, residential and small business subscribership by  
2 CLECs is something under two percent.

3           So the issue, I would submit to you, when we're  
4 judging the failure or success of the Act is not whether, at  
5 least judging from Qwest's experience, our market is open,  
6 whether competitors can come in and compete, the issue is  
7 whether they have the economic ability to come in and  
8 compete. And that, in turn, as Debbie has said, is a  
9 function of a lot of things. Some of them are themselves  
10 built on the fact that they don't have economic business  
11 plans. Some of them who have marginal business plans have  
12 been disastrously affected by the economic downturn. All of  
13 these things affect competition currently.

14           But we can talk about this endlessly, and that's  
15 not nearly as productive as the last point I want to leave  
16 you with, which is whatever our experience in the past, in  
17 our judgment of all points, we have to avoid porting that  
18 over to this new market for advanced telecommunications  
19 services. Our companies can begin rolling out a mixture of  
20 multi-channel video, voice and data services tomorrow. Keep  
21 in mind, Qwest is already a CLEC outside our region, unlike  
22 the other regional Bell operating companies. We serve 25  
23 cities outside our in-home region. We're ready to build on  
24 that but for the fact that legacy of the '96 Act raises huge  
25 practical business questions to whether we can in fact

1 provide those facilities and provide them on an economic  
2 bases. Unless and until the regulation that impedes that  
3 roll-out is modified, you're going to have a perpetuation of  
4 the situation where incumbent cable monopolies build on  
5 their existing 70 percent of the market for advanced data  
6 services.

7 So I would urge us at some point in this program  
8 and beyond to really focus not so much on the local market.

9 I would say from the perspective of Qwest these  
10 requirements are not easy but we understand them. We're not  
11 as interested in trying to change the law for the local  
12 voice market, in fact not at all since we're almost there in  
13 compliance with it, as we are in terms of looking at the  
14 lessons we can learn, plus and minus, from our experience in  
15 local voice monopoly and breaking it down, repeating the  
16 successes and avoiding the failures when it comes to  
17 advanced network deployment.

18 Thanks alot.

19 (Applause.)

20 MS. HERMAN: Gene Kimmelman will be our last  
21 speaker. And oh my gosh, I'm sorry, but Brad even has some  
22 Power Point things to show you. I'm sorry. Brad is next  
23 from the state regulatory association, NARUC. Sorry.

24 MR. RAMSAY: You know, I was going to say I was  
25 really excited because I wasn't last on the panel. They

1 usually put the state regulators last, but she's forgetting  
2 me.

3 (Laughter.)

4 MR. HERMAN: It's not easy.

5 (Laughter.)

6 MR. RAMSAY: Anyway, are my -- can you -- yeah,  
7 there we go. I did this real fast. I know realize I'm  
8 never going to do a PowerPoint presentation again. When you  
9 come fourth or last or not at all on a panel --

10 (Laughter.)

11 -- frequently everybody's said pretty much what you wanted  
12 to say. We got a list of questions from Ms. Rooker that we  
13 were supposed to try to answer, and I did try to do that.  
14 And I thought a little bit of graphics would help. The  
15 other concern I had when I walked in here though was I  
16 actually did not know who was on this panel. And I assume  
17 from the questions that it would be a much less  
18 knowledgeable group of people. I recognize all the people  
19 around this table so forgive me for bouncing through these  
20 slides extremely quickly, most of them covering information  
21 that previously people have probably already said or  
22 addressed. And I want to get back to the tail end of my --  
23 my last two slides are the things that I'm the most  
24 interested.

25 Anyway, the first question we were asked were what



1 was Congress' guiding principle. I've got three there:  
2 eliminate entry regulations, substitute market forces for  
3 regulation, protect and expand universal service. A lot of  
4 the problems come in with the tension between two and three,  
5 the tension between allowing full market forces and continue  
6 to protect universal service.

7           There was a missed opportunity in the Act to fix  
8 the universal service system, I think. And this again is  
9 not NARUC's but my view that there should have been a more  
10 targeted effort toward life-line linkup, individually  
11 targeted type programs and less emphasis on the traditional  
12 modes of high-cost funding of companies. But that  
13 opportunity was missed, and we're stuck with the Act like it  
14 is. And I'm one of the many in the room that don't want to  
15 see Congress meddle in this again any time in the near  
16 future.

17           What were the mechanisms that Congress was relying  
18 on to get this jumpstarted? As mentioned by two of the  
19 other speakers, earlier speakers, ILECs are supposed to be  
20 charging into video. They had a slightly abortive attempts  
21 with some satellite ownership. It didn't really happen.  
22 Cable's supposed to be getting into voice. And about every  
23 two years they tell me we're going to have voiceover IP two  
24 years from now. And I asked Rick Zimmerman I think at the  
25 least meeting, when are you going to have voiceover IP, when

1 am I going to see, you know, substantial roll-out here so  
2 I've got another facilities-based carrier for voice and  
3 maybe a potential for some little competitive pressure  
4 there. And he said two years. So I suppose when we ask him  
5 a year from now, it will be two years. If and when that  
6 does happen, that's a good potential for entry.

7 Voice, obviously, also mentioned ILEC into ILEC.  
8 We ended up with mergers, and Debbie's cartoon is much  
9 better than my little printout here.

10 How fast? As is usual, Congress -- one of the  
11 questions that she asked was, you know, how fast did  
12 Congress expect all this to take place. As is very typical  
13 with our men on the Hill -- men and women on the hill, they  
14 had a completely unrealistic expectation of how fast this  
15 would roll-out.

16 If you compare this to the roll-out of competition  
17 in long distance telephony, you can say that that started in  
18 1978 with Execunet or a little bit earlier, or you can say  
19 that it started in 1982/83 with the breakup of the Bell  
20 system. But if you use either one of those dates, it took  
21 twenty years almost before AT&T got to where they had right  
22 about 50 percent of the market and got non-dominant status.

23 Now the long distance market doesn't have the  
24 infrastructure barriers that the local market does. Putting  
25 up two microwave towers to connect two cities gets me into

1 the long distance market at least for those two cities, and  
2 I've got scope because I can link into the distribution  
3 network and pick up a lot of customers and make some money.

4 To get into the local market, you've got to rebuild a line  
5 to everybody's house or find an alternate way in. That's a  
6 much bigger barrier.

7 So to think that we're going -- the quotes that  
8 Debbie mentioned earlier, I am happy to say that I was not  
9 one of the ones that thought it was going to happen quickly.

10 I am happy to say I can pull out speeches that were using  
11 this very analogy the year after the Act because on every  
12 anniversary people say why is it not here yet. And if you  
13 look at the market penetration, it's actually a little ahead  
14 of where I'd expect it to be.

15 Did the consumers -- the next question we were  
16 asked: did the consumers have unrealistic expectations?  
17 Well, yeah, but you were keying off of Congress. And  
18 anybody that listened to the press and the hype anticipated  
19 that things would happen a lot more quickly than they have.

20 What is the state of local competition? Debbie  
21 mentioned this. The only thing that I add is my guesstimate  
22 for what the FCC will be saying in December. These are the  
23 4.4 from 1999 which increased 93 percent to 8.5 penetration  
24 in year-end December 2000. We're not anticipating because  
25 of the economic downturn that started in October of 2000, or

1 at least I'm not anticipating it's going to be much over  
2 10.2 percent penetration now. My guesstimate, and it's  
3 always dangerous to guess, but if things stay stable, which  
4 means my guesstimate is worthless because we know that's not  
5 going to happen, I'm figuring within a five-year timeframe  
6 we could be anywhere between 25 to 40 percent of market  
7 penetration. I don't see more rapid. I did see another  
8 very optimistic group put out a suggestion that they think  
9 there will be 65 percent market penetration last month, and  
10 they were saying more like a three or four-year timeframe.

11 This is a typical split. This is kind of a  
12 average of what you'd see in terms of the different methods  
13 of entry. There's resale, the leasing of the network and  
14 facilities-based entry, and this is the general split that I  
15 would expect you'd see.

16 I'm going to bounce through these. Consumer  
17 benefits. As Pete alluded to, there have been some toll and  
18 some local benefits in the first states to get 271 approval.

19 I do believe that the '96 Act and the tech boom generally  
20 that the '96 Act contributed to the economic expansion and  
21 kind of prolonged it a bit, so there was a benefit there.  
22 Wireless prices obviously have come down significantly.  
23 That probably would have happened without the '96 Act. Most  
24 of these benefits though have focused -- you know, if you  
25 were doing a balancing act the business users have gotten

1 significant benefits out of this. I don't think there's a  
2 whole lot of doubt about that. The local residential  
3 service, it's premature to see if it's going to work, and  
4 it's premature to say that there are tremendous benefits for  
5 the residential market.

6           These were a couple just for comparison purposes.

7 I want to put them up here so you can see the people that  
8 litigate one side of the issue versus the people that  
9 litigate the other. On one side I have all of the Bell  
10 operating companies and their relative market  
11 capitalizations, and on the other side I have, as of year-  
12 end 1995 just before the 1996 Act, the market  
13 capitalizations for AT&T, MCI-Worldcom and Sprint who are  
14 the -- had a lot of the money and spent a lot of money on  
15 the litigation here on implementation and at stateside.

16           AT&T's market capitalization was, what, 100 --  
17 that's million or billion. I can't even -- billion, yeah.  
18 And then, here we are -- in fact, I actually think this  
19 one's a little high. AT&T's too high. This one we've got  
20 AT&T up at 39 or 38-billion. And, of course, the Bell  
21 company market caps if anything have gone up.

22           The last question that was asked in the letter I  
23 received was do we really need more federal legislation.  
24 And those of you that can see this, I have no with three  
25 exclamation points, and that's probably not enough. The

1 only possible exception for that -- I advocate at the state  
2 and at the federal level. I do believe that the FCC needs  
3 higher fining authority. Right now, their fining authority  
4 is -- is it at 1.2 million, something like that? It's  
5 fairly low. I know Chairman Powell's asked for more. When  
6 you consider that for most of the Bell operating companies  
7 their quarterly revenues are somewhere between 10 to 15  
8 billion, a million dollar fine is next to nothing. And most  
9 state fines, which are -- and those that have them are in  
10 the 10 to 30,000 dollar range are next to nothing either.

11 One state that's done something fairly good  
12 recently, Illinois a couple of months ago gave their state  
13 the ability to fine a carrier a quarter of a million dollars  
14 basically every day for a potential violation, which I think  
15 would make the local/state guy in charge of operations wake  
16 up and notice if he's losing a million dollars every four  
17 days.

18 The focus has to be on enforcement. I think that  
19 what is most important and what can be done without new  
20 legislation is stabilizing the regulatory environment so  
21 that the market entrants have some reasonable idea of the  
22 rules they're going to be playing by instead of bouncing  
23 back and forth because they keep having to change their  
24 market entry strategy. And it should come as no surprise to  
25 you that the way that that can be done in my view is even

1 closer cooperation between the state regulators who are on  
2 the front lines in terms of implementation and the FCC who  
3 provides an extraordinary amount of sometimes welcome and  
4 sometimes unwelcome guidance to the state commissions in  
5 getting their job done.

6           Examples. Perfect examples of where this is  
7 possible. We spent and other people have alluded to the  
8 fact that there was enormous amount of litigation. A lot of  
9 that litigation was over whether or not the FCC had  
10 authority to impose a particular standard. TELRIC. I've  
11 got two missed opportunities here where we've already had --  
12 there was an opportunity for the FCC to do what I consider  
13 to be the right and the proper policy thing, and they  
14 didn't.

15           One was imposing -- they mandated a pricing  
16 methodology on us right after the Act was passed, and we're  
17 still litigating whether that should be -- you know, this is  
18 I think the second time we've been to the Supreme Court.  
19 And after this decision, no matter what the Supreme Court  
20 does, there's going to be a host of additional action at the  
21 state level as a result of that litigation and more fallout,  
22 and, from my view, more waste of taxpayer dollars. Your  
23 state commission has to spend a lot of money to do it. The  
24 FCC's got to spend a lot of money to do it. And the  
25 companies that are involved have to spend a lot of money to

1 do it. And guess who pays for it? You and I do.

2 Now, what could they have done? They could have  
3 given a non-binding guideline. They could have come out  
4 with TELRIC and said this is the guideline, we think that  
5 this is a good idea. A lot of the states would have  
6 followed that guideline or come close to it. A lot of  
7 states would have appreciated that and come close to it. In  
8 fact, the FCC has now said in several public statements most  
9 of the states did pretty much what we wanted to do. And my  
10 question is so why have we been litigating this all this  
11 time.

12 Immediately after the Act, the first arbitration  
13 items that went to court where the states had done pricing  
14 methodologies, almost all of the pricing methodologies were  
15 more or less in large part upheld. That part of the  
16 argument would be over. Reciprocal compensation is another  
17 place; we're in court now. There are a few states that have  
18 already gone to a bill and keep regime. We have the  
19 opportunity to see if that's working.

20 The FCC has imposed effectively kind of a binding,  
21 overlying guideline when they could have simply given non-  
22 binding guidelines, and we would not be in court now  
23 litigating this. And whatever happens from this litigation,  
24 all of the state commissions wouldn't be in another  
25 rulemaking or litigation cycle as a result of it. My view



1 is if the bill and keep approach works or if the approach  
2 that the FCC has suggested here works, which some states  
3 will follow, the ultimately, even without it being binding,  
4 the other states, for their own economic benefit, will fall  
5 in-line.

6 Future opportunities. And this is critical and a  
7 place that should be of interest to all of you sitting at  
8 the table. The FCC is anticipated at the upcoming meeting  
9 to be looking at the UNE-P platform list, the list of items  
10 that are required to be unbundled.

11 Now, they can do two things here. They can come  
12 up with a minimum list and they can say it's binding on the  
13 states and the states can't put anything more to it and the  
14 states really can't take anything away. In my view, that  
15 would be a mistake. Already, in a previous enactment in a  
16 previous FCC order, they said, guys, we're going to give you  
17 a minimum list but you can add to it. And I think that was  
18 the one right thing to do. I would hate to see them now  
19 take something away from the list without giving the state  
20 the first shot at it.

21 In this circumstance, if they're going to make a  
22 decision that the federal minimum list goes down, there  
23 should be something in that order that says if -- you know,  
24 you've got to go to the state commission first and make sure  
25 that in the market conditions that exist in that state and

1 the roll-out of competition in that state that it's  
2 appropriate for that to be removed from the minimum list in  
3 that state. It's a very, I think, factually-sensitive  
4 inquiry and important that the state have a shot at that.

5 Performance measures is the same thing. And I  
6 actually am optimistic that this is the way the FCC is  
7 intending to go on both of these. But the Chairman had  
8 approached NARUC and the NARUC leadership quite some time  
9 ago to discuss the performance measures NPRM. And, again,  
10 there, guidelines for the states rather than instigating any  
11 litigation over any performance measures that the state  
12 commissions have already put in-place.

13 Final comments. So far -- we've got a brand-new  
14 FCC. I've been extremely fortunate so far working with two  
15 offices in particular, Commissioner Copps' and Jordan  
16 Goldstein on numbering issues a number of times have been  
17 extraordinarily helpful. And Commissioner Martin and Sam  
18 Feder have been extraordinarily helpful on numbering issues.

19 And the joint board procedures that the federal and the  
20 states are involved in on universal service and separations  
21 issues, the new commissioners that have joined those boards  
22 have made extreme and welcome advances in bringing the state  
23 commissioners more into the process, and that looks very  
24 good too.

25 The only area that I have a little bit of concern

1 is accounting reform, and because I know I've talked longer  
2 than I'm supposed to already, I'll save that for another  
3 day.

4 (Applause.)

5 MS. HERMAN: Well, I'm the first to admit that we  
6 would have missed out on a good presentation if I really had  
7 skipped Brad.

8 (Laughter.)

9 And, in a minute, we'll hear from Gene Kimmelman.  
10 This is Gene Kimmelman.

11 DR. KIMMELMAN: One of the benefits of going last  
12 is I can try to borrow Brad's PowerPoint. If we could put  
13 back -- he's got the relative market cap in 2001 that he had  
14 before. That's great. Now, see, if I really could do  
15 split-screen, I'd take Debbie's cartoon --

16 (Laughter.)

17 -- and put it next to that.

18 Wow, I really don't know where to begin at this  
19 point.

20 (Laughter.)

21 Just look at that market cap. Please look at it and think  
22 about the consolidation.

23 Howard, how is it too soon for -- the only thing  
24 it's too soon for is a burial when the reg guys go  
25 underneath.

1 (Laughter.)

2 I mean, I guess they still pay their lawyer's bill, but my  
3 goodness.

4 Howard, talked about 10 or 12 years of  
5 deliberation, and it was very public in a lot of ways. A  
6 lot of the media couldn't seem to figure out how to cover it  
7 because it involved a lot of deregulation of media  
8 companies. It's funny how all that open debate didn't get  
9 on nightly news a lot. And Pete mentioned the ease at which  
10 we disregard convenient facts in the legislative process.  
11 Promises, predictions.

12 You know, I think we really ought to get away from  
13 expecting our policymakers to be treating major laws like 11  
14 year olds on the playground fighting over who is winning  
15 the ballgame. It seems to me that the predictions -- I  
16 mean, just imagine if we'd had every witness come in and  
17 basically sign a bond for the amount of benefits, savings,  
18 earnings that they were promising. Imagine that. I mean,  
19 it sounds silly, but you know what? This is what the  
20 American people deserve from people who are the experts in  
21 the fields, who understand markets.

22 Did the courts get created on February 14th, 1996?

23 I believe they were there before. Was someone going to  
24 litigate? Everyone knew it. Was this an infrastructure  
25 shared by all these services where there were always ongoing

1 fights about costing proceedings whether you call them UNE's  
2 or reciprocal comp? Certainly, ever since I started doing  
3 this work there were fights. It's never changed. All of  
4 this was known.

5           When you deregulate, opening the door to  
6 consolidation, did anyone predict consolidation? I believe  
7 they did, maybe not exactly in the form that the little  
8 cartoon shows it but it was all there. These are not just  
9 unfortunate results. Very seriously, this is a fraud on the  
10 American people. This is intentional misrepresentation of  
11 known facts about the markets, about their structures, about  
12 what was going on.

13           All I can say is if someone as stupid as me could  
14 put out a press release in February 1996 predicting  
15 consolidation, higher cable rates, higher phone rates, less  
16 long distance competition and no meaningful local phone  
17 competition in a foreseeable future. And God knows, no one  
18 should be thinking about 20 years when you pass legislation.

19       Our antitrust officials won't even block a merger if they  
20 can't delineate within three to five years what it will and  
21 the courts won't uphold anything beyond that.

22           Surely we can't be passing laws saying the manana  
23 20 years hence, so no one's accountable. There has to be  
24 some accountability. I won't repeat all the facts. You've  
25 seen it, consolidation, and just look at the market cap.

1 But here are the facts that come home for consumers.

2 Local phone rates are up, not because of what  
3 state regulators have done but all because of what federal  
4 regulators have done in deregulating and passing through  
5 costs to consumers. Long distance rates are up, up in every  
6 measurement you can imagine. Compared to the 10 years  
7 before deregulation, compared to the five years before. Any  
8 way you want to do it, those long distance rate reductions  
9 people had hoped for aren't there, and these are the  
10 companies. Look at the market caps.

11 In the mid-80's -- well, we can go through it.  
12 Are cable rates up? Yes. DSL, cable modem service,  
13 anything new? Is it getting cheaper? No, no, no. Anyone  
14 noticed inflation in our society lately? It's down below  
15 these lines. It is deflation. Costs are not going up for  
16 many services. Your gasoline prices gone up lately?

17 I agree with Howard's principle of competition.  
18 And in the mid-1980's there was a Senator who introduced a  
19 bill basically just handing over markets to the Bell  
20 companies, and I was vigorously against it following the  
21 principles that Howard articulated about competition and  
22 choice. Pete probably thinks I'm thinking of Senator Dole.

23 I'm not. Senator Gore introduced a bill that basically  
24 just said the Bells have to turn that subscriber line  
25 charge, then called access charge, into a big goose egg,

1 zero, and they'll be allowed into all these other markets.

2 Now, let's just take that as a counterfactual of  
3 what the world would like today. Instead of five or six  
4 dollar subscriber line charge on your first line and even  
5 higher one on your second one, it would be zero. The Bells  
6 would be a local phone monopoly. They might be almost a  
7 long distance monopoly because it's hard to say whether long  
8 distance companies could have survived in that. Go back and  
9 look at the market cap, how are they doing today.

10 Would we be better off or worse off? I can even  
11 show you where for a majority of consumers -- long distance  
12 companies would say but our costs wouldn't have come down,  
13 your long distance rates wouldn't be as low. I can show you  
14 for a majority of consumers, the consumers who do less than  
15 a hour worth of long distance calling today, those rates  
16 probably would be almost the same as if they hadn't gotten  
17 any of the old pass-throughs when the subscriber line charge  
18 went up. These are people still on-average if they use any  
19 rate plan out there from basic on up with its three, four,  
20 five, six dollars a month fee who are paying 15 to 30 cents  
21 a minute for long distance calling. Great competition, huh?

22 I think I can show you how, despite my principles  
23 of believing in competition and choice, that almost every  
24 consumer and disability benefit I have seen in the last 20  
25 years comes from regulation or a specific mandate on a

1 company not from deregulation. Those long distance rate  
2 reductions that we saw from the mid-80's on all were pass-  
3 throughs from the rising subscriber line charge. A little  
4 bit on the margin from competition, very little.

5 The local competition we're seeing in New York and  
6 Texas is from all government-mandated network sharing. As  
7 the slides before indicate, fewer than one percent of people  
8 have a facilities-based competitor for local phone service.

9 When you don't have that, it means everyone's sharing the  
10 Bell's monopoly network. It is at a regulated price.

11 The internet explosion that all of us have  
12 experienced, that great consumer benefit comes from the fact  
13 that anyone can pick any Internet provider on our public  
14 switched telephone network. Those providers have just  
15 exploded. The choices have exploded for consumers, and that  
16 great market benefit is called common carriage, non-  
17 discrimination requirements, everyone gets on, everyone can  
18 use what he or she wants. That's regulation.

19 I forgot one thing. There have been enormous  
20 benefits to cable customers. Cable modem service didn't  
21 exist before a lot of new programming. Unfortunately, the  
22 comes from a deregulation with enormous price-gouging for  
23 basic and expanded basic cable services, prices that are up  
24 35 percent from where they were when we passed the Act in  
25 '96. I'm not sure that's the kind of trade-off we want from



1 deregulation.

2           So the Gore bill may not have been so bad,  
3 everybody saving six to twelve bucks a month on their local  
4 phone bill, the Bells would have dominated local phone  
5 services, they would have dominated long distance. Would  
6 long distance prices be down? As far as I can tell, the  
7 driving force in pushing long distance prices down any more  
8 in our market come from wireless plans, big buckets of  
9 minutes. Now, again, this isn't that bottom half of the  
10 consumer market I was worried about. But the high end would  
11 still be getting enormous market pressures to bring down  
12 long distance rates. So anybody here who's worried about  
13 being on the phone for more than an hour or two for long  
14 distance, there would still be competition. That Gore bill  
15 may not have been so bad.

16           I think at this point what's clear is whether or  
17 not you want Congress to do anything, there's really only  
18 two ways to get clear consumer benefits and benefits to  
19 disadvantaged groups out there. They're not from the  
20 marketplace. Some would call the first one, to use a more  
21 positive term than I'm going to use -- I just don't like it  
22 -- and I'd call it greenmailing. You can bribe the  
23 companies and say, we'll support this legislation or we'll  
24 support that deregulation, or we'll support whatever you  
25 want if you just give us x or y or z. And it works.

1           Often for a company that could see enormous  
2 benefits of less public oversight in other markets, it's a  
3 good quid pro quo. You give something to consumers or those  
4 with special needs and you make more money elsewhere I don't  
5 think it's very good public policy.

6           The other choice I think we have is simple, old-  
7 fashioned regulation. If you want prices to be lower,  
8 you're going to need regulation. If you want prices to be  
9 about where they are, you're going to need regulation. If  
10 you want greater access to remote areas, to people of lower  
11 income, to people of lesser means, to people to do not have  
12 enormous market demand, you need government intervention,  
13 you need regulation. There's just no way around it. I  
14 think that's the reality we face.

15           While I don't entertain the possibility of new  
16 legislation being any more fun than the last go-round, at a  
17 certain point you do have to bury those companies that just  
18 really are not able to deliver any more for consumers. And  
19 nothing against those companies; they all tried. I'm not  
20 trying to demean them. It was a law that was doomed to  
21 failure because it never got the market economics right, it  
22 never got the understand of the market accurate, it never  
23 was willing to impose the right constraints to deal with the  
24 obvious disputes that were going to arise, and, therefore, I  
25 don't think it is in any way the solution for serving

1 consumers needs or the needs of the disabled community in  
2 the future. Thank you.

3 (Applause.)

4 MS. HERMAN: I was wondering if anyone on the  
5 Committee had any questions. Some of the comments were  
6 somewhat provocative, especially Gene's at the end about  
7 regulation being the -- I don't know where to start. I  
8 think, Kathleen, I saw your hand first.

9 MS. O'REILLY: As we heard from Commissioner  
10 Copps, the preamble promised consumers that we'd get lower  
11 prices and higher service quality. And I know that in the  
12 time that you were allowed there was not time to touch on  
13 everything. But one of the things that strikes me is how  
14 service quality has declined very, very dramatically. And  
15 not only is that a broken promise, I think it's an indicator  
16 of lack of competition and lack of a sort of a perception on  
17 the part of the ILECs that they will have competition. And  
18 I wonder if you could comment on where you see service  
19 quality decline in the whole mix.

20 And also for you, Pete, when you talk about local  
21 rates you seem to assume they're -- a general assumption  
22 that local rates are subsidized. And every state commission  
23 that has looked at this using ILECs own sworn-to as truthful  
24 data has concluded that it's just the opposite whether you  
25 look at Washington, Indiana, Georgia. And it reminds me of

1 the old myth at the time of divestiture when we were told  
2 that local rates were subsidized by long distance, and those  
3 of us who fought that finally won that battle a few years  
4 later. But I think that's a complete myth that local rates  
5 are subsidized. If anything, residential rates are the  
6 biggest, biggest subsidizing rate across the board and that  
7 an awful lot of bad public policy and implementation come  
8 from that, you know, misunderstanding of reality. And it  
9 touches on Gene's point that local rates -- and for most  
10 American families before and after the bill the biggest  
11 check they write out every month is for their local service,  
12 not long distance. And local rates have certainly not gone  
13 down.

14 And there's been such a distraction with the state  
15 and federal proceedings mandated by the various providers,  
16 the 271 proceedings and so forth, that the core issue of  
17 residential ratepayers, lower rates, better quality of  
18 service, has not made it to the priority list. And I just  
19 wonder if the panel might address those two consumer aspects  
20 of the bill.

21 MS. BELVIN: Yeah. Let me start. And perhaps I  
22 should have been more specific when talking about subsidies.

23 I'll, you know, talk with Gene and I'll talk with Brad and  
24 Howard and everybody else, but it does seem to me that it  
25 has been and it continues to be the case, although less so

1 given the advent of competition, that local residential  
2 rates, at least in our company, have typically been below  
3 cost. They have been subsidized by business small and  
4 particularly large.

5           You have a two or three part problem it seems to  
6 me. With the advent of the '96 Act and the coming of the  
7 CLEC industry, for the economic reasons that Gene and I  
8 talked about, it was perfectly rational to expect that  
9 whatever competition occurred would go after the fat margins  
10 in the local market first if not exclusively, and that has  
11 been primarily big business. Small business to my knowledge  
12 is not faring nearly as well as big businesses. Once you  
13 take away some of the profits from some of the customers  
14 that we get from big business, that exerts more pressure on  
15 the residential rates that traditionally we have subsidized  
16 with big business.

17           Our company faces a specific problem out in, you  
18 know, those big, square states where there's lots of space  
19 and not too much people. And that comes from another  
20 problem that's been touched on by Gene, and that is the  
21 failure of the FCC, I would say, to handle the issue of  
22 universal service as the Act directed. As soon as you  
23 introduce competition, whether it expectably hits big  
24 business and not residential consumers first or whatever,  
25 you absolutely attack that subsidy system. And it becomes

1 necessary to get to the subsidy system and rebalance it.

2 I think what Gene would say is precisely the  
3 reason that low-volume, residential consumers, okay, in long  
4 distance are paying higher rates today is sort of the same  
5 reason that residential consumers locally their rates have  
6 not gone down. It's because the competition has bled away  
7 the local profit that was subsidizing them and the universal  
8 service subsidy hasn't basically been rebalanced.

9 We've, you know, created funds for wiring schools.  
10 We've done some other things. But we haven't gotten to the  
11 fact that an extensive subsidy system is incompatible with  
12 the notion of competition. That has to be fixed in some  
13 way. That for all of the things that we're talking about,  
14 all of the problems in the '96 Act this is by far the most  
15 difficult to do because -- and this is my opinion only --  
16 when you come down to it it seems to me the only system of  
17 subsidies that exists in a perfectly competitive market,  
18 which is what we would like to get to I think, is one where  
19 the subsidies are targeted to the user that needs them, not  
20 to companies, not to geographic areas or neighborhoods. And  
21 that, you know, I'll defer to Brad to talk about is how  
22 difficult that would be to achieve.

23 So, let me just be more precise on the subsidies,  
24 at least as how I understand them and how they work out  
25 where we are.

1 MS. O'REILLY: I agree with that last piece. And  
2 there's no time to debate, but I think that consumer  
3 advocates in Qwest states would take issue with your  
4 conclusion on subsidies for those states.

5 MS. BELVIN: They do about many things.

6 (Laughter.)

7 MS. HERMAN: Does anyone up here want to talk on  
8 that issue? Brad or --

9 MR. RAMSAY: Well, the only thing I'll say is I'm  
10 actually shocked that I do agree. God, I can't even say  
11 this.

12 (Laughter.)

13 I agree with a lot of what she just said in terms --

14 MS. O'REILLY: The last piece, yeah.

15 MR. RAMSAY: -- of the disparity between the  
16 business and the --

17 MS. O'REILLY: Targeted subsidies.

18 MR. RAMSAY: -- residential rates because they're  
19 priced differently, and there is kind of a death spiral  
20 inherent with the target competition going after the  
21 business users. And I do agree with the last piece.

22 The other issue that's raised by your question  
23 that you're not -- that I want to briefly speak to that's  
24 here is the reporting requirements and the service quality  
25 reporting requirements that apparently are being considered.

1       There seems to be some concern here at the FCC -- and this  
2       is a proceeding that NARUC cares about -- that the RMS  
3       service quality reporting requirements may or may not be  
4       needed for now. And I've always kind of wondered about  
5       that. Because if you're a company and you're in a truly  
6       competitive environment, you're going to be monitoring your  
7       service quality and you're going to have some troubleshooter  
8       out there to save yourself money by saying, okay, we're  
9       having this type of problem 15 times, there's a problem,  
10      let's see if we can fix it so it doesn't reoccur.

11                So, if you're in a competitive environment, you're  
12      going to be keeping those statistics anyway. And if you're  
13      not in a competitive environment, we need the statistics to  
14      make sure that service quality doesn't fall below an  
15      acceptable level. I agree with your preamble statement that  
16      since 1992, which is the last time we had a big outrage in  
17      Congress about service quality, if you look at the general  
18      trends of the data that the Bell companies have filed,  
19      generically its service quality across the board according  
20      to those measures has been more or less trending downward.

21                MS. HERMAN: I thought I saw a hand.

22                MR. LUDWICK: Paul Ludwick with Sprint for Brad.

23                (Laughter.)

24                Brad, one of your slide showed a percent right  
25      around 8.1 percent I believe today with access lines in



1 competitive hands --

2 MS. HERMAN: Paul, can you speak into the mic.

3 MR. LUDWICK: Sure.

4 MR. RAMSAY: Actually, it's 8.5, and that's the  
5 FCC's figure.

6 MR. LUDWICK: Okay. My question is on your  
7 prediction earlier or forecast for an increase to 25 to 40  
8 percent in the next five years. That's an increase of about  
9 300 to 500 percent over what we're at today. What's going  
10 to change in the landscape in your opinion that's going to  
11 generate that kind of slope.

12 MR. RAMSAY: Well, actually, the -- am I on? Yes,  
13 I'm on. The stuff that I'm reading now suggests that  
14 possibly at the latter end -- we'll be out of the recession  
15 by the end of 2002, and there are people that are predicting  
16 that next year might be a good market for the  
17 telecommunications industry.

18 This is just kind of a -- what I did -- and that's  
19 kind of an old prediction from me. But when I did it I was  
20 just kind of looking at the span how long it took get roll-  
21 out in long distance and kind of looking at how fast we got  
22 a little bit more roll-out. We actually got faster roll-out  
23 it looked like to me -- I did this about five months ago --  
24 faster roll-out in the local market relatively speaking than  
25 we did in the long distance. And so, that's why my

1 guesstimate was what it was. I mean, I'm just guessing  
2 based on what happened in long distance.

3 As with most predictions, usually whenever I'm  
4 asked to do predictions it's always a dangerous thing.  
5 Anything that's more than a year out is probably going to be  
6 wrong. I've been doing this for 12 years and one thing that  
7 I've figured out early on is almost all of our predictions,  
8 if you're doing more than a year or a year or two out,  
9 you're usually wrong.

10 But I do believe that if we keep creeping along at  
11 this pace that we should in five years be up to 25 percent.

12 Yeah, I think that's a reasonable figure, and it's a guess.

13 DR. KIMMELMAN: I'd just like to -- could I raise  
14 two things about that? Number one, the pace at which the  
15 roll-out has occurred was during the dot com boom.

16 MR. RAMSAY: Right.

17 DR. KIMMELMAN: That was certainly not predictable  
18 in the '96 Act. I don't think anyone predicted that. So,  
19 I'd say that was an accelerated pace that you are very  
20 unlikely to see continue in the future. And if you do the  
21 comparison to long distance, you did -- it was fifty years,  
22 right? If you do the comparison --

23 MR. RAMSAY: It was 20 years, but that's okay.

24 DR. KIMMELMAN: Was it 20?

25 MR. RAMSAY: Okay. It doesn't matter because what

1 I'm going to say is the first ten of those were full,  
2 absolute regulation, NFEA rates. And you're not going to  
3 get a full ten years of regulation that way for local access  
4 pricing unless Pete's worst nightmare comes true. And so, I  
5 don't think you can anticipate that kind of public  
6 intervention that brought us that very stable growth pattern  
7 in long distance that we saw.

8 MR. RAMSAY: Let me hedge again. I also recall  
9 now that the reason the -- I was also relying on some  
10 predictions in part by a CLEC in the last couple of months.

11 I'm trying to think who it was who had testified and  
12 suggested --

13 DR. KIMMELMAN: Does it --

14 MR. RAMSAY: Pardon.

15 DR. KIMMELMAN: Does it exist?

16 MR. RAMSAY: Probably not. No. But I mean I was  
17 looking at one -- the other thing that I did at the time  
18 when I was trying to figure out how things would go was I  
19 did a literature search to see what other people had said.  
20 So it was a combination of those two things. But we were  
21 already in the economic downturn. I mean, things were  
22 already sliding down.

23 MS. HERMAN: I should probably look over there, a  
24 gentleman in the gray shirt.

25 MR. TOBIAS: Thanks. We've heard, I think -- I

1 had to step out of the room for a minute, so if this was  
2 touched on I apologize in advance. I was conducting my own  
3 experiment on the decline in customer quality in the  
4 telephone networks --

5 (Laughter.)

6 -- finding it almost impossible to make an international  
7 call no matter who I chose and what form of payment I was  
8 willing to use.

9 (Laughter.)

10 But, at any rate, we've been focusing on sort of side-by-  
11 side competition of equivalent products over equivalent  
12 networks, in other words company A offering POT service and  
13 company B offering POT service. And I think that's less and  
14 less relevant to the real issues that consumers -- and I'm  
15 not only talking about consumers with disabilities, but that  
16 is my principal area -- what consumers are experiencing and  
17 want to experience.

18 You touched on it a little bit with references to  
19 wireless service and it having an effect on usage and prices  
20 and what have you and somewhat of an expansion of the range  
21 that consumers have with some accessibility issues and what  
22 have you as well. You talked about it also with respect to  
23 voice over IP, which maybe I'm reading the wrong kind of  
24 magazines, too many technical journals, but it's my  
25 impression that voice-over IP is tremendously successful in

1 organizational settings in businesses and large  
2 organizations that can afford the investment. They save,  
3 you know, tremendous amounts in international calls and what  
4 have you, but, at any rate, we haven't seen it yet in the  
5 residential market.

6 My main concern is competition between media that  
7 are not at all the same, that we are using -- as end-users  
8 we're substituting one form of communication for another: I  
9 am choosing not to make a phone but sending e-mail; I'm  
10 choosing not to send e-mail but to page someone. And that  
11 takes us perilously close to the issue of what is the  
12 Commission's jurisdiction or what could be Congressional  
13 action. But I think it needs to be in your thoughts when  
14 you're talking about competition not just to focus on  
15 existing traditional view of it but, you know, looking at  
16 consumers.

17 For example, you know, the fax. I don't know what  
18 your fax machine is like, but mine's real dusty. Fax peaked  
19 at some point a couple of years ago, and I think the fax  
20 volume is declining. Will we see the same kind of decline  
21 at some point in POT service as people abandon it for, you  
22 know, whatever else they're using. If we are not  
23 continually focused on users and a statistical and economic  
24 model of what people are doing and want to do when we talk  
25 about competition, our conclusion will be more and more

1 irrelevant to the needs of the consuming public.

2           So, I'd be interested in hearing what the  
3 panelists think about that and especially how we can direct  
4 the activities of the Commission to address that issue.

5           MS. BELVIN: That's an excellent statement. I  
6 couldn't agree with you more. One of the more amusing  
7 events that I had recently was at the recent Aspen Institute  
8 Annual Teleconference event, which Dr. Kimmelman was also  
9 at. We had one breakout session where we were talking about  
10 precisely what you're discussing now. And one very learned  
11 former state commission person and academic who shall remain  
12 nameless for obvious reasons was inveighing about how  
13 consumers really didn't have an alternative for local phone  
14 service, just didn't have it.

15           And my point was, well, you know, ever pick up a  
16 cell phone, you know. And this gentlemen just, you know,  
17 wouldn't acknowledge that the cell phone was competition  
18 until Dr. Robert Pepper's 14 year-old son who was keeping  
19 notes was invited by Dr. Pepper to make a comment, and he  
20 said, sure, none of us kids ever use a landline phone, we  
21 all use cell phones.

22           (Laughter.)

23           And I want to take that one step further and  
24 relate back to Gene's recommendation. First of all, this is  
25 just amazing, and this is why Gene always had a seat at

1 every Senate Commerce Committee hearing that John McCain  
2 chaired. And that's because, I think, we can agree -- we  
3 agree on our diagnosis of the problems. We couldn't agree  
4 less on our solutions. Gene loves more regulation. I think  
5 competition, unless and until it can be shown to fail, is  
6 the way to go.

7           And why is that the case? Because of what you  
8 just said. The former silos of regulation where wireless is  
9 over here and cable's over there and, you know, oh, a  
10 hundred years ago U.S. West was a local phone company. So  
11 now, if it wants to offer cable service, ooh, we've got all  
12 this stuff we've got to borrow from the '96 Act and graft  
13 onto that maybe. It doesn't make any sense any more.

14           In point of fact, all of these companies, thanks  
15 to the blessings of digital, you know, technology and  
16 conversion are capable of offering all of these services.  
17 So not only from the consumer perspective, where you're  
18 using different services provided by different people, but  
19 also from the public policy perspective, you've got to break  
20 down the balkanization of regulation we've had where we're  
21 tasked more than cable is because of our telephone company  
22 heritage even though our networks do precisely the same  
23 things fundamentally. And that, in turn, is going to bring  
24 about a heck of a lot more benefits in terms of service  
25 assortments and pricing for consumers than all of the

1 regulation that good Dr. Kimmelman, with all of his best  
2 intentions, is going to dream up.

3 DR. KIMMELMAN: Can I say, I hate regulation. But  
4 the one thing --

5 MS. BELVIN: You wouldn't have known it from you  
6 said.

7 DR. KIMMELMAN: -- the one thing I hate more is  
8 fraudulent misuse of good concepts like competition.  
9 Competition is wonderful, absolutely fabulous, much better  
10 than regulation where it works. If people keep trying to  
11 pretend it will work places it won't, it will undermine the  
12 viability of that very concept. I would have said the  
13 telecommunications industry was very high up in achieving  
14 that goal, but the electricity industry beat them out. I  
15 mean, there are tremendous opportunities in our marketplace  
16 to use competitive forces. This one is wrought with all  
17 kinds of inherent problems based upon the economics of  
18 telecommunications infrastructure.

19 I totally agree that we should be looking into  
20 what consumers do and don't do, what they want, what they  
21 don't want. That should be a driving force, and the  
22 Commission should focus on it.

23 But I think it's also important that you have to  
24 make clear decisions in policy as to whether cultural  
25 heritage -- not the heritage of the phone company, but



1 cultural heritage like ubiquity of a wire line system is in  
2 the public's interest, in the national interest or not.  
3 Does it matter? Does it matter to the culture? Does it  
4 matter to the society that we live in? If it doesn't, you  
5 can throw it out and experiment with all kinds of  
6 marketplace activities.

7           But if people had been honest when they passed the  
8 '96 Act, they would have probably said in doing so, we are  
9 leading to the process of a doubling or tripling of your  
10 local phone bill, your cable bill, world rates will go up,  
11 we'll need an enormous universal service fund, it is unclear  
12 whether long distance competition will survive, but welcome  
13 to the brave new world, you'll have e-mail. If they had  
14 said that, I would have loved to see the American people  
15 vote. And if that's what they want, that's perfectly fine.

16 I think a lot of people in conjunction with their desire to  
17 have marketplace solutions also care an awful lot about the  
18 heritage of our society, the culture we've built on talking  
19 a lot over the telephone.

20           Just one final point. Cellular I hope -- I hope  
21 wireless will really become a local competitor. Do you know  
22 how many minutes the average American family spends on the  
23 telephone for local phone service each month. I'll let you  
24 buy the biggest bucket of minutes at the lowest possible  
25 price, and given the average 1400 minutes of local airtime

1 on wire you are not going to save money; you're going to  
2 spend three times as much as that lovely local phone bill.  
3 So you've got to take everything into account, and please  
4 look at the numbers.

5 MS. HERMAN: Howard and both Debbie would also  
6 like to comment I think.

7 MR. SYMONS: You know, so much of the dialogue  
8 here suggests, implicitly at least, that the issues here  
9 present an all or nothing proposition, and they don't. I  
10 think Kathleen's point about service quality and Mr. Tobias'  
11 point about intermodal competition that you might not even  
12 think of actually come together if you believe that the  
13 alternatives are not simply, you know, deregulation read-in  
14 tooth and claw or regulation where there is no -- or  
15 deregulation on one hand without any kind of constraints or  
16 regulation on the other hand without any chance for the  
17 development of competition.

18 In fact, in a market like the telecommunications  
19 marketplace you often need regulation to engender  
20 competition. I think you can't just take all the brakes off  
21 -- and here I would disagree with Pete -- I think you just  
22 can't say, well, let's deregulate now and hope that that's  
23 going to promote competition. There's still even now too  
24 much of a legacy of incumbency to permit that to occur  
25 responsibly.

1           On the other hand, I guess I disagree with Gene  
2 that regulation needs to be a persistent state extensively  
3 throughout the telecommunications industry. There will  
4 always be a role for regulation. Sometimes the regulation  
5 will be necessary to promote competition, to break open  
6 monopolies. Sometimes regulation will be necessary because  
7 there is simply market failure or an unwillingness or  
8 inability of market participants to meet the social goals  
9 Gene suggests without a government-imposed requirement.  
10 Sometimes there are going to be issues like service quality  
11 or truth in billing that simply do require persistent  
12 regulation.

13           I think the important thing for the policymakers  
14 is to be able to open up their toolbox and pick the right  
15 tools to achieve these goals and knowing that sometimes the  
16 tools are going to be regulatory tools but sometimes they're  
17 going to be deregulatory tools or just the willingness to  
18 step back and let the market take hold. It is unlikely, in  
19 a fully regulated environment, that you would get the kind  
20 of innovation, for instance, in services and technology that  
21 you get in a market with multiple players who will all have  
22 different ideas or some of whom will have different ideas,  
23 different technologies to marshal, different service  
24 packages to offer. You want to encourage that.

25           And a regulated environment -- and it's sort of an

1 admission of utter failure. And a reliance on regulation, I  
2 don't think produces that outcome as well as a mixed bag.

3 MS. HERMAN: Debbie.

4 MS. BERLYN: Thanks. I knew one of the challenges  
5 of being on this panel would be getting a word in with my  
6 colleagues here.

7 (Laughter.)

8 And I want to just -- I'm glad Howard went first  
9 actually because you said exactly what I was going to say  
10 which is that this is not an absolute regulation or  
11 competition. And one of the questions we had was also kind  
12 of what the pace of deregulation should be. And, most  
13 certainly, it should track the pace of competition, that as  
14 competition develops that's when we should start to roll-  
15 back some regulations and not before that point.

16 But also to comment on Jim's point before about  
17 other technologies, wireless, satellite services, internet  
18 telephony, whatever we look at, I think that there is a  
19 willingness I have heard on this commission to take a look  
20 at what other technologies can offer in terms of services  
21 for consumers. And I know that my organization -- I'll put  
22 a little -- I'm sorry -- a little advertisement in here  
23 right now. Our organization is holding a conference next  
24 week, and one of the panel sessions that we are having is  
25 entitled, Will New Technologies Come to the Rescue of

1 Competition. And I'm inviting everyone here to attend, and  
2 fortunately I can say that without too much guilt because  
3 for consumers it's free. You can see me afterwards. But  
4 that is one of the questions that we're taking a look at  
5 because I do think that that is an important point.

6 MS. HERMAN: Andrea, we're running behind.

7 MS. WILLIAMS: Yeah. We're going to take one more  
8 question down here -- David -- and then we'll let you wrap-  
9 up.

10 MR. POEHLMAN: Good morning. It's David Poehlman  
11 with the American Council of the Blind. And, first, I'd  
12 like to say this has been a stimulating, informative and  
13 instructive time period.

14 One thing that's been touched on slightly -- and I  
15 do have a question, but I want to preface it. One thing  
16 that's been slightly alluded to here in a couple of respects  
17 such as, for example, the dot com taking hold and pushing  
18 things up and the depressed economy and that short of thing  
19 is the attitude or, shall we say, the, you know, reluctance  
20 at this point of lots of people to take up and buy services  
21 in certain areas. You know, we're talking about little  
22 people like me, for example. And I think there's an overall  
23 climate of sort of a little doom in that area right now.  
24 And it's exemplified by the fact that last spring I was  
25 notified that if I wanted to continue paying my old-

1 fashioned telephone bill in the old-fashioned way I've been  
2 paying it for more years than I care to count, I've got to  
3 pay a \$1.50. And I guess my question is, given my lack of  
4 prowess with the high degree of mathematical capability to  
5 figure this out, why is it that if we have an act that is  
6 pro-consumer and is promoting competition that I now have to  
7 pay an extra \$1.50 to pay my phone bill? Thank you very  
8 much.

9 MS. HERMAN: Who would like to --

10 (Laughter.)

11 -- David, everyone's sort of passing this on to someone  
12 else. Gene. Gene.

13 DR. KIMMELMAN: You're lucky it's not higher.

14 (Laughter.)

15 That's a bargain, come on.

16 MR. POEHLMAN: If you have a question about the  
17 question, I'll be happy to ask --

18 (Laughter.)

19 MS. HERMAN: Well, one of you I guess should --  
20 well, how about the regulator in the audience -- that are on  
21 the panel I mean.

22 MR. RAMSAY: In my view that's a question for the  
23 FCC to answer.

24 (Laughter.)

25 MS. HERMAN: I don't think you're going to get too

1 much more out of this panel on that.

2 DR. KIMMELMAN: I'd just like to say one thing.  
3 That's reflection of straight economics. Any economist  
4 would stand up very honestly and say this is market  
5 segmentation where you deregulate markets, you have people  
6 looking for the customers they really want, the high-margin  
7 customers. I guarantee you -- I could almost guarantee you  
8 if your bill were big enough they would waive that \$1.50  
9 like they waive a lot of other things. So, it is a way  
10 without directly charging people differently based on what  
11 they look like, what they seem like. It's a way of  
12 discriminating based on economics.

13 And that -- by the way, I don't mean that  
14 pejoratively. That's what markets do. That is exactly what  
15 markets do.

16 MS. WILLIAMS: Edie, we have one more question. I  
17 understand Bob Seagalman is on the phone. Oh. I'm sorry.  
18 Bob, you're here. Bob had a question.

19 MR. JACOBS: Steve Jacobs is on the phone.

20 MR. MARSHALL: Steve Jacobs is on the phone.

21 MS. WILLIAMS: Steve, are you on the line?

22 MR. JACOBS: Yeah, I have been since 9:00, but  
23 we've been having a few technical difficulties that have  
24 been worked out. And everything is fine, thank you.

25 MS. WILLIAMS: Thank you, Steve. Bob.

1 DR. SEGALMAN: You've all been talking about  
2 competition, and a lot of people around the table are  
3 interested in relay. California has been experimenting with  
4 competition in multi-vendor environments with the relay for  
5 a couple of years. And I was wondering if you could comment  
6 on that kind of competition.

7 MS. HERMAN: I don't know. What you've got here,  
8 I'm afraid, is an inside-the-beltway crowd.

9 MR. RAMSAY: Well, actually, I'll --

10 MS. HERMAN: Maybe Brad, yeah.

11 MR. RAMSAY: -- about it. I have not seen or am  
12 not aware of there maybe other states that are doing  
13 experimentation in that area, but I'm not aware of any  
14 others that are. It's unusual. I don't know what to say  
15 about it other than California's experimenting with it. I  
16 guess California's one of the bellwether states. So, if it  
17 results ultimately, I guess, after a few years in better  
18 service to the disabled community, then it probably will  
19 spread because I -- you know, I believe the way it's  
20 structured, and you can correct me if I'm wrong, is -- and  
21 I'm sorry. I don't know. Did --

22 MS. WILLIAMS: Brad, let me help you out.

23 MR. RAMSAY: Help me out on this one, yes. Thank  
24 you.

25 MS. WILLIAMS: With the multivendoring basically



1 you have more than one telecommunication relay service  
2 provider, and a consumer gets to choose which service  
3 provider rather than having their local telephone company.

4 MR. RAMSAY: But how's it funded? Do you remember  
5 how they split the money up?

6 MS. WILLIAMS: I know that is an area that they're  
7 looking at in terms of the TRS fund here at FCC. I'm not  
8 sure how that is --

9 MR. RAMSAY: Done stateside.

10 MS. WILLIAMS: -- on the stateside how that is  
11 working. I know that there has been some billing issues and  
12 problems with the multi-vendoring, and that's why I think  
13 it's still in a trial period. And that's pretty much where  
14 it is right now. I don't see other states -- I haven't seen  
15 other states yet taking on -- maybe Brenda or --

16 MS. BATTAT: Some of the states are looking at it,  
17 but California's has a lot of problems. It's very  
18 unsatisfactory, and they have just come out with a new  
19 request for proposals and trying to put in an  
20 infrastructure. One of the big problems they're looking at  
21 is the 7-1-1.

22 MR. RAMSAY: All right.

23 MS. BATTAT: You call in with 7-1-1. You know,  
24 how does that all --

25 MR. RAMSAY: How do you split that all -- divide

1 it?

2 MS. BATTAT: -- get sorted into how gets paid.  
3 The other problem was that while they were using it they had  
4 a primary provider which means they had access to the state  
5 800 number, which means what incentive is there for anybody  
6 to compete because they can't publish the number. They have  
7 to really go out to make themselves known that, hey, we're  
8 here also. Multiple problems in California. So, they're  
9 trying to work through those, and other states and kind of  
10 watching on the sideline.

11 You know, a lot of -- there's a split right now in  
12 the community, the same as what's going on here is a lot of  
13 people who are deaf and hard of hearing say competition is  
14 what we want, it has to be better. And there are other  
15 groups saying that has never proven true for any disability  
16 group. We can go back years and years and years and show  
17 you what any access that we ever got in any area of  
18 telecommunications has come about as a result of regulation.

19 So there are definitely two camps in the disability  
20 community regarding multi-vendoring,

21 And right here in Maryland now we're looking at  
22 that and trying to over the next two years to research it.  
23 We just don't want to jump into it because we're not  
24 convinced that it's the answer to get better service. It  
25 certainly has not proved better service in California. The

1 whole service really went down the tubes.

2 MR. RAMSAY: Which is why I'm glad I'm a states  
3 rights advocate --

4 (Laughter.)

5 -- because I believe that the theory the laboratory of the  
6 states is actually one that works. And so, when you have --  
7 you know, the California regulators you can call them a lot  
8 of things, but they're not stupid people. And yet, if you  
9 look at their -- I don't know how many of you are familiar  
10 with the electric dereg plan that they put into place.

11 (Laughter.)

12 Some of us that read it had some questions about the sanity  
13 of the people involved, but that's why you don't want one  
14 regulator establishing a uniform plan for the entire  
15 country.

16 One thing -- if you watched the evolution of  
17 regulation over the years, we almost always get it wrong the  
18 first time and have to go back and adjust it. And it's  
19 better if it happens in one state than in 50 at the same  
20 time.

21 MR. SYMONS: Unless you're living in that state.

22 MR. RAMSAY: Unless you're living in that state.

23 (Laughter.)

24 MS. WILLIAMS: Edie, Howard, Brad, Gene --

25 MR. RAMSAY: But if you have the FCC, you can't

1 get away from it.

2 MS. WILLIAMS: -- Pete and Debra, I just want to  
3 thank you on behalf of the Advisory Committee for sharing  
4 your morning with us, which I think was -- has enlightened  
5 all of us particularly in terms of where the  
6 Telecommunications Act came from, where we're going and  
7 really gave us some basic understanding, as we have our  
8 deliberations here, in terms of advising the FCC with  
9 respect to consumers and disability issues in terms of  
10 telecommunications access. Please join me in thanking them.

11 (Applause.)

12 Before everyone jumps up to use the ladies' room  
13 and the men's room, due to time restrictions we're going to  
14 have a little change in the agenda. Why don't we take first  
15 a ten-minute break, come back here, and we're going to take  
16 care of some committee business that we weren't able to take  
17 care of earlier. That will probably take us to 12:00, so  
18 that means the subcommittee breakout session we will defer  
19 that until the afternoon, and we will have lunch at 12:00.  
20 So if everyone can take a ten-minute break and come back  
21 here, and we will resume and discuss some committee  
22 business.

23 (Whereupon, a recess was taken.)

24 MS. WILLIAMS: Okay. We're going to get started.  
25 I know we ran a little over this morning, but I hope

1 everyone on the Committee found the discussion enlightening  
2 and useful. As I said earlier, our goal is to have these  
3 type of discussions and panelists to provide us with some  
4 understanding of some of the subject areas that we will be  
5 dealing with as a committee so that we can make our  
6 recommendations to the Commission and have a more  
7 constructive dialogue when we're all, as one person said,  
8 singing from the same hymnal with respect to our knowledge  
9 of the subject area.

10 We're going to have a little change in plans.  
11 What we're going to do now is there's some Committee  
12 business that we need to take care of. If we get through  
13 this, I don't think that's going to leave us much time for  
14 the subcommittee breakout session I. So what we're going to  
15 do is move that to this afternoon and sort of combine at  
16 3:30 not only to continue your work on the statements of  
17 your priority issues but also look at those priority issues  
18 in terms of the impact of local competition issues that were  
19 discussed this morning and will be discussed this afternoon.

20 Scott, I think you had --

21 MR. MARSHALL: I did. Two brief items if I may.  
22 I would like to introduce Yanic Hardie who recently joined  
23 CIB and is our lawyer. She is assigned to this committee.  
24 Yanic, are you still here.

25 (No response.)

1 She must have stepped out. At any rate, it's great to have  
2 her on the team. And this is the first time I've ever had a  
3 lawyer on retained and also the first time I never had to  
4 pay for one.

5 (Laughter.)

6 And, secondly, I wanted to mention also that in  
7 your packets today you'll find an article that I just  
8 discovered like a day-and-a-half ago from the Kiplinger  
9 personal finance magazine. In fact, Karen Walls from TRAC  
10 sent me an e-mail about it. It profiles four consumer  
11 advocates. And one of those consumer advocates is our own  
12 Shirley Rooker. And she really was -- protested a lot when  
13 I came up with the idea of distributing a copy of it to you  
14 all, so I said I would take the blame. But it's a really,  
15 really nice article about her organization and her  
16 effectiveness as an advocate. Thanks.

17 MS. WILLIAMS: The first matter of business is the  
18 minutes from the August 6th meeting in terms of approval.  
19 Are there are edits? Judy.

20 MS. HARKINS: A very small one, but I was here.

21 MS. WILLIAMS: Ah.

22 MR. MARSHALL; That's very significant. Sorry  
23 about that, Judy.

24 MR. HARKINS: That's okay.

25 MS. WILLIAMS: Jim.

1 MR. TOBIAS: Just as small, not only was I here  
2 but I'm not even listed as absent.

3 (Laughter.)

4 MR. MARSHALL: Okay.

5 UNIDENTIFIED SPEAKER: I want to say something.

6 (Laughter.)

7 MS. AYLWARD: Actually, I don't have a change to  
8 the minutes, but I just wanted to make sure that there was  
9 something --

10 MS. WILLIAMS: Rayna, talk into the mic, please.

11 MR. AYLWARD: Are mics considered  
12 telecommunications issues?

13 (Laughter.)

14 There we go. One point of the minutes that I hope  
15 we will carry over into our subsequent discussions was  
16 Commissioner Capps' recommendations that we stick to three  
17 or four issues each year in terms of our recommendations  
18 rather than a whole span of different kinds of topics.

19 MS. WILLIAMS: Thank you. Are there any other  
20 changes, comments? Rich?

21 MR. ELLIS: I was here as well.

22 MS. WILLIAMS: Boy. Is there anyone else we  
23 missed?

24 (No response.)

25 Okay. Could I get a motion to accept the minutes

1 with the modifications?

2 MR. TOBIAS: So moved.

3 MS. WILLIAMS: Jim. All those in favor of  
4 approval of the minutes.

5 ALL: Aye.

6 MS. WILLIAMS: Any opposed?

7 (No response.)

8 Abstaining?

9 (No response.)

10 MS. AYLWARD: Second.

11 MR. MARSHALL: That was Rayna seconding.

12 So moved.

13 One of the business matters that Shirley wanted to  
14 take care of today was to solicit volunteers to examine or  
15 recommend changes to the Advisory Committee's structure and  
16 operating guidelines. You may recall this was raised at the  
17 last Advisory Committee meeting. Shirley would like, rather  
18 than taking the time of the entire Advisory Committee to  
19 address this issue, she would like to have a small committee  
20 where they would review the guidelines and bring a proposal  
21 to the Advisory Committee for the next meeting.

22 Do we have any volunteers? Rich. Kathleen.

23 MR. MARSHALL: I'm sorry. Who was --

24 MS. WILLIAMS: Rich Ellis, Kathleen O'Reilly.

25 MR. MARSHALL: Okay. Susan Palmer.



1 MS. WILLIAMS: Susan. Okay. Bob Seagalman.  
2 Okay. So I have Rich Ellis, Kathleen O'Reilly, Susan Palmer  
3 and Bob Seagalman and Jeff Kramer. Great. Okay.

4 Is that David?

5 MR. POEHLMAN: Yes.

6 MS. WILLIAMS: That's David Poehlman. Okay.

7 Thank you very much. I'm sure Shirley will be back in touch  
8 with you in terms of scheduling a meeting time and date.

9 At this point -- I didn't think we were going to  
10 get through the committee business so quickly. If we want  
11 to -- if you want to break out into the subcommittee we at  
12 least have about 20 minutes -- 20 or 40 minutes. Let me ask  
13 Leo -- what happened to Ken? Susan? Excuse me. Susan  
14 Grant, I understand that you're going to be heading up the  
15 subcommittee in David's -- I mean, in Ken's place?

16 MS. GRANT: Actually, I have to leave at 12:30, so  
17 I could do it if we do it now. If we do it later, I can't.

18 MR. MARSHALL: Ken should be back.

19 MS. WILLIAMS: Well, he should be back. Well,  
20 Leo, do you think your subcommittee could get work done in  
21 20 minutes?

22 MR. FITZSIMON: Yeah, I think we could in --

23 MS. WILLIAMS: Okay.

24 MR. FITZSIMON: -- and then --

25 MS. WILLIAMS: Let's break out then in terms of

1 subcommittees.

2 MR. MARSHALL: Wait.

3 MS. AYLWARD: Do we have -- one possible topic,  
4 not right now, but I thought it would be good if it was  
5 brought up at some point today is what happened during an  
6 emergency in terms of communications, specifically on  
7 September 11th. I have some anecdotal reports that some of  
8 the broadcast, the audio and TV broadcasts, were  
9 insufficient for people with disabilities in New York and  
10 that some people were actually totally unaware of the  
11 situation for many hours and that there was some breakdown  
12 in the communications network there. And I know that there  
13 were problems overall with some of the phone companies and  
14 the cell networks and whatever. And I just wonder if we can  
15 not discuss it now if that area will be touched on at any  
16 time today.

17 MS. WILLIAMS: Well, we had that planned as part  
18 of the agenda, if there is time, for discussion at the end  
19 of the day that's something we can discuss. Let me ask you  
20 in terms of framing the issue, are you framing it in terms  
21 of the lack of telecommunications or the breakdown in the  
22 telecommunications infrastructure on September 11th?

23 MS. AYLWARD: I think it's in terms of not so much  
24 analyzing what went wrong that would be part of the  
25 discussion, but in terms of planning forward because many of

1 us in different agencies and in the private sector are now  
2 looking at emergency planning/crisis management. And there  
3 certainly needs to be some special considerations for people  
4 with sensory and mobility impairments, and that's framing it  
5 in terms of regulation versus competition. This is one area  
6 where I think it does need to be on the regulatory side  
7 because there's not a competitive interest or incentive to  
8 do that kind of planning.

9 MR. MARSHALL: Could I make a comment. This is  
10 Scott Marshall. Rayna, I think this is certainly, as you  
11 know from reading the Chairman's Priorities, a concern of  
12 his is the homeland security issues and how the network --  
13 all networks are operating during times of an emergency. I  
14 do believe, and I could be mistaken about this, that we have  
15 another advisory committee or task force established to look  
16 at emergency communication. There's many issues involved  
17 there, things like interoperability between fire and police,  
18 making sure they can talk on the same frequency and so  
19 forth.

20 Maybe one thing we can do, and I can investigate  
21 some of this and get back to you, is make sure that that  
22 group -- and I'm fairly certain that we have it established  
23 -- make sure that that group does get some feedback on the  
24 disability aspects of the problem.

25 MS. WILLIAMS: I do know that the FCC's part of an

1 interagency task force that's been established by the  
2 administration on homeland security, and that they're  
3 looking at a multitude of issues in terms of  
4 telecommunications infrastructure, duplication of that  
5 infrastructure, whether it's, you know, wireless, wire line,  
6 cable, getting that information. And I assume that as part  
7 of that discussion will be the discussion individuals with  
8 disabilities, how do we get that emergency message to them.

9           It's my understanding that all of this is coming  
10 under emergency preparedness. And, as Scott alluded, the  
11 Chairman has already -- if not, I know it's in the works  
12 that I've heard --

13           MR. MARSHALL: It's in the priority statement.

14           MS. WILLIAMS: -- in terms of a task force or  
15 advisory committee that's already addressing those issues.

16           One of the things I think we could perhaps suggest  
17 to the Chairman is making sure that those issues are  
18 addressed at the task force and that advisory committee.

19           MS. KIRSCH: If I could add, the FCC does have a  
20 task force under --

21           MS. WILLIAMS: Karen, raise your hand because the  
22 mic is not going on.

23           MS. KIRSCH: Hello. Testing, testing. Hello.  
24 The FCC does have a task force. As a matter of fact, Marsha  
25 MacBride, who is the FCC's Chief of Staff, is heading up

1 that task force.

2 MS. AYLWARD: That's fine with me as long as it's  
3 on the agenda to be discussed and being taken care of.

4 Thank you.

5 MS. WILLIAMS: Yes, Kathleen?

6 MS. O'REILLY: There's one aspect that I suspect  
7 may not be part of the task force agenda. The Network  
8 Reliability Steering Committee had its quarterly meeting all  
9 day yesterday, and I'm the residential rate pay  
10 representative on that. And it's an industry group that the  
11 FCC have observers and so forth.

12 Interestingly enough, even if you look at what  
13 happened on Howard Street in Baltimore, for those of us  
14 around here back in the summer, where for days and days and  
15 days there was no telephone service. That doesn't even rise  
16 to the level of being considered a quote, unquote outage for  
17 reporting purposes because it affected less than 30,000  
18 customers. And so that doesn't even get on the radar  
19 screen.

20 And the conclusion of the Network Reliability  
21 Steering Committee third quarter report is that there was no  
22 effect on 9-1-1 as a result of the World Trade Center effect  
23 because their explanation was that, you know, both buildings  
24 collapsed so there's nobody in the buildings to be calling  
25 9-1-1 and that the industry volunteer effort they

1 immediately set-up an emergency location so that with the  
2 use of wireless and so forth that this was not a problem.

3 I'm in no position to evaluate whether that's the  
4 case or not, but I think that there's a whole Network  
5 Reliability Steering Committee framework that would be good  
6 to have -- interact with that because I think there's much  
7 that both entities can learn from each other. And to me  
8 it's just illustrative of the ludicrous standard we've had  
9 for years that if it doesn't affect 30,000 customers it  
10 didn't happen.

11 MS. WILLIAMS: Well, it's my understanding that's  
12 being reevaluated under this whole homeland security task  
13 force. They're looking at everything, and one of them is  
14 the whole issue of the network reliability. So I anticipate  
15 that Marsha is going to be --

16 MS. O'REILLY: Right. But if the emphasis remains  
17 on quote, unquote terrorism or national security, we will  
18 have missed the broader issue. And that is if the system  
19 breaks down for whatever purposes if even, you know, fewer  
20 people are affected, or I just downloaded the stuff from the  
21 FCC website just for the last three months because of the  
22 issue on 9-1-1.

23 One outage in Dubuque, Iowa in July had 284,000  
24 people unable to call 9-1-1 for 20 hours, and there are  
25 dozens of these examples every year, and it's for a lack of

1 diversity which is an industry standard. But that isn't  
2 being addressed by any regulatory body in the country. And  
3 so that's an existing problem just on 9-1-1, a dark hole  
4 that existed way before the World Trade Center.

5 And my concern is if the definitional focus and  
6 standard is too closely bound or narrowly bound to national  
7 security, we will have missed a huge source of the problem  
8 that has existed for years.

9 MS. WILLIAMS: But it's my understanding that the  
10 Network Reliability Council will be making those  
11 recommendations to the FCC that that's an issue that is  
12 being resolved or at least addressed at the advisory  
13 committee or task force.

14 MS. O'REILLY: They don't seem to know that. I  
15 was at their meeting all day. I mean, that wasn't even  
16 hinted at.

17 MS. WILLIAMS: Well, --

18 MS. O'REILLY: But I will talk to that Chair and  
19 see.

20 MS. WILLIAMS: Yeah, yeah.

21 MS. O'REILLY; Okay.

22 MS. WILLIAMS: What I would suggest is that we  
23 perhaps write a letter to the Chairman in terms of making  
24 sure that these issues are addressed as Rayna pointed out in  
25 his new task force. Do I have a motion?

1 UNIDENTIFIED SPEAKER: So moved.

2 MS. BATTAT: I propose that a letter come from  
3 this committee to the new task force to ensure that the  
4 issues that we're concerned about be addressed, the  
5 disability and the number of -- I don't know to word this,  
6 Kathy -- and the number of outages or whatever that -- I  
7 mean --

8 MS. O'REILLY: Would you entertain a friendly  
9 amendment? I would suggest that your motion embrace having  
10 the letter addressed to the Chair of the FCC and with copies  
11 to the other Commissioners and to the task force  
12 recommending that the issues with respect to reliability  
13 that include and go beyond national security be included and  
14 use several of the examples cited.

15 MS. WILLIAMS: We have a motion that's been  
16 amended on the table. I need a second.

17 MS. NIXON: I second it -- I second it.

18 MS. WILLIAMS: Shelley, are you seconding?

19 MS. O'REILLY: Yes.

20 MS. NIXON: Yes.

21 MS. WILLIAMS: Okay. Thank you.

22 All those in favor say aye.

23 ALL: Aye.

24 MS. WILLIAMS: Opposed?

25 (No response.)



1 Abstentions?

2 (No response.)

3 Motion so carries.

4 I will get with Shirley, and we will draft a  
5 letter from this committee with these issues in-mind.

6 Now we only have 10 minutes.

7 UNIDENTIFIED SPEAKER: -- more pointed  
8 discussions.

9 MS. WILLIAMS: David? Kathleen?

10 MR. POEHLMAN: This is Dave Poehlman of the  
11 American Council of the Blind again. We may take 10 minutes  
12 to discuss this, but I want to point out a landmark event  
13 occurred. Fox Broadcasting broadcasted the first, prime  
14 time ever commercial television audio-described motion  
15 picture. I won't name the motion picture. It also  
16 broadcast a background piece on the making of R2-D2.  
17 Whoops, I did say something about it, didn't I.

18 (Laughter.)

19 The reason I raise this is not just to  
20 congratulate and applaud Fox and hope we see more of this  
21 but also to point out that several of the local affiliates  
22 did not carry the audio description on the separate audio  
23 channel. Some of it may have had to do with capability,  
24 some of it may have been due to somebody not flipping a  
25 switch. But the point is that it didn't happen.

1           Now, how this falls into the current situation  
2 with regard to descriptive video service on commercial  
3 television, who knows. But I thought I would at least  
4 address the issue here and, you know, perhaps we can discuss  
5 it or move on to something else if you'd rather.

6           MS. WILLIAMS: Let me ask you, David -- I'm a  
7 little perplexed in terms of what -- what are you putting on  
8 the table in terms of discussion with respect to descriptive  
9 audio?

10          MR. POEHLMAN: I guess I could pose a question in  
11 that if audio description is available, what is the  
12 responsibility of the local affiliate with regard to  
13 carrying it? This was a national broadcast. It was  
14 available to any of the local affiliates. Consumers who are  
15 under the coverage area of those affiliates who had no  
16 choice other than those affiliates were denied the access to  
17 the available programming.

18          MS. WILLIAMS: Larry.

19          MR. GOLDBERG: Larry Goldberg. Clearly, we're  
20 very interested in this issue. We are looking at what rules  
21 there are under the must-carry -- cable must-carry rules  
22 because many of the breakdowns in Fox delivering the  
23 descriptions to consumers happen because of cable systems.  
24 We know that there are some circumstances when it was a  
25 broadcast problem as well. The video description mandate

1 that the FCC has pending right now does have regulations  
2 that will require that, but that has not been enacted until  
3 next April.

4 In the interim, I need to go back and study the  
5 must-carry rules for cable in any case in terms of passage,  
6 what's called pro rem-related information for people with  
7 disabilities. It's in the regs, so we're going to take a  
8 look at that. And there will be a lot more description on  
9 commercial broadcast and cable.

10 You may know that Rugrats is presently described  
11 on Nickelodeon, and most consumers can't get it because of  
12 problems with cable. So, it's a big issue. I think we  
13 could take it up in our subcommittee.

14 MS. WILLIAMS: Okay. Rich.

15 MR. ELLIS: I'll eat up 30 seconds of our ten  
16 minutes or five minutes we have left just piggybacking on  
17 Rayna's comments. We at Verizon have got a lot of questions  
18 about the recovery efforts after September 11th, and we did  
19 prepare a CD-ROM of an employee report. So if anybody wants  
20 to get a copy of that, you can just kind of get a first-hand  
21 look at what happened in our central office and how it was  
22 fixed. I'd be happy to get that for you.

23 MS. WILLIAMS: Thank you, Rich. Jim.

24 MR. TOBIAS: Yeah. I wonder if this wouldn't be a  
25 good time -- and I don't mean to put Larry on the spot --

1 but we had identified that there was some interest in Larry  
2 who serves on the FCC's Technology Advisory Committee to  
3 present at least to the Disability Subcommittee but it might  
4 be valuable to the other members of the whole committee.  
5 So, again, I don't, you know, know what the time  
6 requirements are or how ready you are, Larry, but it seems  
7 like a good use of time right now.

8 MS. WILLIAMS: What I --

9 MR. GOLDBERG: It would only take a couple of  
10 minutes if you're interested.

11 MS. WILLIAMS: Sure. Go ahead, Larry.

12 MR. GOLDBERG: The FCC has established this -- let  
13 me get my notes here -- Technological Advisory Council.  
14 It's a different kind of set-up to advise the Commission on  
15 new and emerging technologies and issues that they need to  
16 understand that might be emerging over the horizon. This is  
17 now in its second phase of two years of existence.

18 The membership of that Technological Advisory  
19 Council are very high-technology chief technology officers,  
20 CIO's of many companies. There's very little participation  
21 from consumers or non-profit organizations, but it has had a  
22 mandate to look at disabilities issues since it was  
23 established under Gregg Vanderheiden, who many of you know,  
24 to look at those issues.

25 When the CAC was reestablished, first meeting June

1 13th, 2001, it looked at -- tried to establish a small  
2 collection of issues it wanted to take up in its next term.

3 Those issues emerged as spectrum management, a great deal  
4 of concern to industry on interference in essence and how  
5 all the different kinds of uses of spectrum are being  
6 management.

7           Optical networking, an area that was of interest  
8 due to incompatibility between different kinds of equipment.

9           A great deal of optimism about optical networks being a  
10 wonderful boon to consumers but not being taken advantage of  
11 yet because of incompatibility problems.

12           Access to telecommunications by persons with  
13 disabilities, and I was asked to chair that. And joining  
14 with me is Dr. Paul Leow of Panasonic, Gregg Vanderheiden,  
15 Doug Sicker, an academic and a corporate representative from  
16 Denver, and a couple other names I'm forgetting at the  
17 moment.

18           And two more issues that were put on the agenda.  
19 Consumer and home networks. A very interesting issue for  
20 anyone in this group on how those networks are going to be  
21 built, how they're going to be interoperable, how they're  
22 going to have compatibility for residential systems and  
23 intelligent network gateways and appliances. These are  
24 issues that no one necessarily knows how or if the FCC  
25 should even take them up. But when the discussion is who

1 owns the home network, is it your supplier, is it you and  
2 who can regulate it and who can maintain it.

3 And the final issue was network security. It  
4 hasn't met yet, but it is very interested in the issues of  
5 robustness, integrity and confidentiality of communications.

6 And I think in many ways that's now being taken up by those  
7 other groups that we were just talking about a couple of  
8 minutes ago.

9 Just like our own subcommittee on disability  
10 access, we were asked to come up with some priorities on  
11 things that we wanted to study and recommend to the  
12 Commission. The four issues that in many ways touch on  
13 everything else and in many ways are just one big issue that  
14 came out of our Disability Access Working Group of the TAC  
15 was that we first and foremost wanted a mechanism to make  
16 sure that the disability access group interfaced with all  
17 the groups because disability issues touches every one of  
18 those other ones, so that as they make their recommendation  
19 we would have a chance to look at them and enhance them with  
20 certain caveats about disability access, especially the home  
21 networking one which is of vital interest to people with  
22 disabilities.

23 The second one, since people were surprised that  
24 such things happened like closed captions don't reach the  
25 destination or video descriptions don't, we were asked to

1 delineate how people with disabilities may be affected by  
2 lack of attention to accessible design in the other areas of  
3 study, and can we in some way put together a document red-  
4 flag because in many ways it all comes down to lack of  
5 awareness.

6           A subset of that is could we create a list of  
7 features or functionality that need to be preserved or  
8 adequate replacements found as technology advances; that is  
9 don't leave behind what you've already accomplished and what  
10 can we do to remind people who are developing these new  
11 technologies that there are things they might just be  
12 forgetting and then to disseminate that quite widely.

13           And the final one is determine how awareness can  
14 be raised regarding accessibility issues so that future  
15 technologies can be launched with accessibility built-in  
16 from the start. It seems to be the key issue for anyone  
17 working in this field is that we're always playing catch-up,  
18 things are always failing once they're already introduced  
19 into the marketplace. So we're trying to come up with some  
20 strategies using the bully pulpit of the FCC, if not their  
21 regulatory authority, to make sure the word does get out.

22           We will be starting with a journal article being  
23 authored by a number of volunteers on the committee that  
24 will be taking off on a document that the previous committee  
25 was developing called Don't Regress When You Compress.

1 (Laughter.)

2 The notion that as our analog technology has moved to  
3 digital, you might be leaving things behind. You might be  
4 causing problems with hearing aids or with closed-caption  
5 data. And we're looking to see if the FCC will help us get  
6 this published in a very high-profile manner in the kind of  
7 journal that would have research life to it not just  
8 published one day and forgotten the next.

9 And those are the kind of awareness activities  
10 that this group wants to take up within the TAC.

11 MS. WILLIAMS: Thank you, Larry. Are there any  
12 questions, comments for Larry?

13 (No response.)

14 Why don't we break for lunch at this point. Let  
15 me remind you that Commissioner Abernathy will be joining us  
16 at lunch at about 10 after 12:00 so don't stray too far, and  
17 have good lunch.

18 (Whereupon, at 12:00 p.m., a luncheon recess was  
19 taken.)

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1 AFTERNOON SESSION

2 (12:17 p.m.)

3 MS. WILLIAMS: May I have everyone's attention.  
4 Commissioner Abernathy has just joined us. And I know that  
5 Dane is going to be introducing her. But we are very, very  
6 pleased to have her with us today, and I know she has some  
7 inspiring words for us as we deliberate today through -- in  
8 our meeting.

9 Dane, I'm going to turn it over to you to  
10 introduce Commissioner Abernathy.

11 MR. SNOWDEN: Thank you very much. Hope you all  
12 are enjoying your lunch. Thank you for allowing  
13 Commissioner Abernathy to come in at the lunch hour versus  
14 the beginning moments. She has rearranged her schedule to  
15 come join us today.

16 As most of you know, Commissioner Abernathy was  
17 nominated May 1st, 2001 and confirmed May 25th, 2001, sworn-  
18 in on May 31st, 2001 to be a Commissioner here at the  
19 Commission. Before coming to the FCC, Commissioner  
20 Abernathy was Director for Government Affairs at Broadband  
21 Office. She was a partner in the Washington, D.C. law firm  
22 of Wilkinson, Barker & Norr, Vice President for Regulatory  
23 Affairs at U.S. West, also known as Qwest Communications, of  
24 course, and Vice President for Federal Regulatory at  
25 AirTouch Communications. She is probably not an unfamiliar

1 face to many of you as she has been here at the Commission  
2 before as a legal advisor to FCC Commissioner Sherry  
3 Marshall and, of course, to Chairman James Quello.

4 It is with pleasure that I introduce Commissioner  
5 Abernathy.

6 (Applause.)

7 I forgot one thing. She has actually said that  
8 she would love to take some questions afterwards as well,  
9 and she's going to join us for a little while. So let me  
10 turn it over to Commissioner Abernathy now.

11 COMMISSIONER ABERNATHY: Thanks, Dane. And thanks  
12 to everyone for letting me come by today and particularly  
13 this afternoon because I had hoped to come by this morning.

14 I forgot it was my daughter's sixth birthday, not a good  
15 thing not to be there --

16 (Laughter.)

17 -- in the morning. I know, really bad form on my part.  
18 However, I recovered nicely. Presents were given.

19 But it's just been a whirlwind here, and so I  
20 think my remarks are probably more aspirational than  
21 inspirational. It goes more towards what I think we can be  
22 doing and how important I do believe this group is. So it  
23 is a tremendous pleasure for me to be here. This is my  
24 first one. I was out of town the last time, so I'm sorry I  
25 missed all of you. But I'm glad to be here today.

1           As a public agency, I believe that it's critically  
2 important for the FCC to focus on our primary customer base  
3 and that is consumers. And that includes me and my family  
4 and my mother as she reminds me regularly when she calls to  
5 complain about what we're not doing right. This is not an  
6 easy task, and that is why the public/private partnerships I  
7 believe are an essential piece to ensuring consumers -- and  
8 that's all consumers, people with disabilities, underserved  
9 populations, those located in parts of the community that do  
10 not receive the best and greatest technology -- that we  
11 ensure that they're represented in the Commission's  
12 activity.

13           So today I wanted to talk a little bit about what  
14 both sectors can do to ensure that consumer stay number one  
15 at the FCC. We're very fortunate to have Dane on-board,  
16 just so you know, heading up the Consumer Information  
17 Bureau. He's entirely, completely devoted to his job and  
18 devoting the resources to implementing all of our policies  
19 and projects, so I'm thrilled that we were able to lure him  
20 over to the high government salaries that we have, so.

21           (Laughter.)

22           First, I want to emphasize the point that Congress  
23 has told us time and again that whenever possible the FCC  
24 should ensure that all people have access to  
25 telecommunications. And I think this message is

1 particularly clear in section 255 of the Communications Act  
2 where Congress instructs providers of the actual services to  
3 ensure that their service is accessible to and usable by  
4 individuals with disabilities if readily achievable.

5 I believe that my primary responsibility as an FCC  
6 Commissioner is to faithfully implement Congress' priorities  
7 such as this one. It's in the Act. It's what I should do.  
8 And I should focus on those goals and priorities as opposed  
9 to what I might think is a higher priority because I'm an  
10 appointed official; I'm not an elected official. And I have  
11 to look to Congress for guidance about what they believe is  
12 most important to their constituents, to the consumers.

13 To this effect, this month the FCC released a  
14 notice of proposed rulemaking to explore whether it should  
15 require mobile phones to be compatible with hearing aids.  
16 This is a measure that should have been conducted years ago.

17 And if you look at the Act, Congress directed the FCC to  
18 periodically review our exemptions to cell phone providers.

19 But 12 years passed without such a review. It's timely  
20 now. We've seen tremendous advances and changes in the cell  
21 phone industry. I believe the cell phone industry is  
22 interested in exploring these issues themselves and being  
23 responsive to the community. I'm just disappointed that it  
24 took us such a long time to get here.

25 Over the years, we've seen that wireless

1 communications has continued to grow in importance, and it  
2 provides an essential means for connecting employees,  
3 friends and family members. But for many of the 28-million  
4 Americans with hearing loss, access to these new  
5 communications networks is sometimes denied.

6           We have to remain vigilant, and this is very, very  
7 important that this not get lost in all of the other  
8 activities we have. We have to remain vigilant to ensure  
9 that, whenever possible, all consumers have access to  
10 telecommunications services. Furthermore, our outreach to  
11 the consumer population should extend beyond the simple  
12 rulemaking process. We have to make sure that we educate  
13 and empower consumers. This is what Dane's group does  
14 through fact sheets and information websites. We distribute  
15 information to the public, and, in addition, we're able to  
16 get feedback that helps us better prepare and respond to  
17 consumer needs.

18           However, improving consumer's access to  
19 telecommunications is not a task that we should enter into  
20 by ourselves. We don't have the expertise. We don't have  
21 the capabilities to do it on our own. Organizations outside  
22 the government are critical to us in carrying out this  
23 mandate.

24           I was reminded of this quite clearly early this  
25 month when I visited Pennsylvania's Initiative on Assistive

1 Technology at Temple University. It's an amazing place.  
2 The staff is so dedicated. And it gave me a brand new  
3 appreciation of the importance of wireless communications to  
4 users of assistive technologies. More specifically,  
5 sometimes it's a life and death issue. And the ability to  
6 be able to communicate if the electronics go out in your van  
7 or if your wheelchair fails and you don't have an aide with  
8 you is critical. And so wireless offers -- can offer a new  
9 amount of freedom for many of these people who rely on  
10 assistive technology.

11 As many of you know, it's also about informing  
12 people about the potential benefits of assistive  
13 technologies and in helping individuals choose what  
14 technology is right for them. And the institute that I  
15 visited is clearly dedicated to all of these activities, and  
16 we're going to be talking with them some more about ways to  
17 improve communications between the companies that  
18 manufacture the assistive technology devices and the  
19 companies that manufacture wireless devices because  
20 sometimes there's compatibility issues there that I think if  
21 they're addressed early-on in the process would be much less  
22 difficult than they are the back end.

23 We have a lot to learn from each other. And I  
24 encourage you to reach out to all of us at the Commission.  
25 I applaud your efforts today, that all of you come here and

1 spend time working with us. Shows just how important this  
2 is to you, and we should easily put in as much time probably  
3 more than you do. Please, in the future, feel free not only  
4 to contact the Consumer Information Bureau but my office and  
5 my staff. I have a website, and on the website are phone  
6 numbers for all of my staff members and my phone number as  
7 well as a web address. So let us know.

8           The improvements in access to telecommunication  
9 it's an uphill climb, but we're making some progress. And  
10 we need your help. I do think together we can improve  
11 access for all Americans across the country. And I think  
12 that thanks to technological developments, the freedoms that  
13 can be given through communications technology to all  
14 consumers, both with and without disabilities, is  
15 phenomenal. And I know as a working mother who sometimes  
16 forgets things, I have found that my wireless phone is a  
17 critical part of my life.

18           So thank you again for taking the time to come  
19 here today. Thanks for letting me address you, and I am  
20 happy to take any question if you have any.

21           (No response.)

22           It's a quiet group.

23           MS. WILLIAMS: I can't believe there are no  
24 questions especially from this group. Bob.

25           COMMISSIONER ABERNATHY: Well, they're eating

1 lunch.

2 DR. SEGALMAN: You mentioned the --

3 COMMISSIONER ABERNATHY: I'll repeat the question.

4 DR. SEGALMAN: -- Pennsylvania Initiative. Did  
5 they tell you about Speech to Speech? That's the new  
6 telephone relay for people with speech disabilities. I can  
7 call a toll free number and reach an operator trained to  
8 understand difficult speech. She makes the phone call me  
9 for me and repeats what I say. It makes me independent on  
10 the telephone. I wanted to make sure you knew about Speech  
11 to Speech.

12 COMMISSIONER ABERNATHY: I had just briefly been  
13 made aware of Speech to Speech, and I hadn't really  
14 understood how it worked. So thanks. That's another great  
15 opportunity that's out there. One of the other things that  
16 we talked a little bit about was some of the community  
17 hadn't appreciated that there are wireless phones that are  
18 speakerphones. And when you can't lift up the phone and  
19 hold to your ear, the speakerphones also provide just  
20 another tremendous freedom that you might not otherwise  
21 have.

22 But I hadn't understood how the Speech to Speech  
23 works. So that's great. I'm glad that's out there too.  
24 Thank you.

25 DR. SEGALMAN: Thank you.



1 MS. WILLIAMS: Jim.

2 MR. TOBIAS: Thanks for coming here today. And  
3 I'm sure I'm speaking for all of the members of the  
4 committee when I wish your daughter a happy birthday.

5 (Laughter.)

6 One of the questions that not only has to do with  
7 the disability aspects but also the general aspects is the  
8 status of the internet or internet-based services with  
9 respect to Commission jurisdiction. Those of us in the  
10 Disability Subcommittee are very clear on the importance,  
11 the, you know, almost, life and death importance of  
12 guaranteeing that internet-based services are as accessible  
13 as possible. But we also do recognize that the history of  
14 the Commission's jurisdiction and industry pressure and  
15 other, you know, perfectly understandable reasons are  
16 holding the Commission back.

17 Can you give us some idea of two things. Will the  
18 Commission in a relatively near timeframe come up with a  
19 firm decision about its jurisdiction, or is it possible that  
20 the Commission will establish some partial jurisdiction with  
21 respect to accessibility?

22 COMMISSIONER ABERNATHY: Good question. And  
23 understand that I've -- you know, I haven't really talked to  
24 anyone else at the Commission about this, so this is just  
25 from my perspective and based on what I understand of the

1 statute and our jurisdiction.

2 I believe it's very, very difficult for us to  
3 assert jurisdiction over any piece of the internet. It  
4 doesn't fall within the statutory definitions as I  
5 understand them. So I guess the question is though, is  
6 there something based on the statutory obligations about  
7 disability access to new technology, does that somehow  
8 create some sort of other limited opportunity to deal with  
9 the disability access to the internet. And, frankly, I've  
10 never really thought about it, nor have I talked to anyone  
11 that's really focused on it.

12 So I guess what I'll have to say at this point  
13 I'll have to look into it further. I hadn't really thought  
14 about it. I'd been focusing on the, you know, telcom and  
15 telcom devices. But appreciating that the internet is, you  
16 know -- talk about an ability to free you from the confines  
17 of wherever you are because all of a sudden you're able to  
18 communicate with the entire world. So, I get it. I just  
19 haven't really thought about whether or not there's a little  
20 niche opportunity for us there. But I will look into it  
21 further.

22 MS. WILLIAMS: Brenda.

23 MS. BATTAT: This is along the same lines and that  
24 is the relay service it is now possible to do it through the  
25 internet.

1 COMMISSIONER ABERNATHY: Wow.

2 MS. BATTAT: But it's being held up right now  
3 because of exactly -- it's up and running except the issue  
4 of how to fund it has to be resolved by the FCC. So that's  
5 something that we are sort of waiting on to find out what  
6 the response to that will be.

7 COMMISSIONER ABERNATHY: Is there an ongoing  
8 proceeding based on how to fund this that's already pending  
9 here?

10 MS. BATTAT: Yeah, I don't remember the number of  
11 it, but I --

12 COMMISSIONER ABERNATHY: That's okay. I don't  
13 need the number. I can look.

14 MS. BATTAT: -- okay. Yeah. So this is -- you  
15 know, this is something that we're interested to know what  
16 the outcome will be.

17 COMMISSIONER ABERNATHY: Okay. What I will do is  
18 have someone from my office contact you, okay.

19 MS. BATTAT: Okay.

20 COMMISSIONER ABERNATHY: And then maybe you can  
21 make sure that it -- just to give you, at a minimum, a  
22 status update. And almost all proceedings are on some sort  
23 of timeframe, so I can find out, you know, is it planning on  
24 coming in the first quarter of next year, you know, where is  
25 it. Okay. Anything else?

1 (No response.)

2 Well, thank you very much for -- oh, was there  
3 another one?

4 MS. WILLIAMS: Is there another question?

5 (No response.)

6 Thank you so much Commissioner Abernathy for  
7 joining us today.

8 COMMISSIONER ABERNATHY: Thank you.

9 MS. WILLIAMS: We appreciate your comments.

10 COMMISSIONER ABERNATHY: Okay.

11 MS. WILLIAMS: And we will be in touch.

12 COMMISSIONER ABERNATHY: Thank you. Bye.

13 (Applause.)

14 (Whereupon, a recess was taken.)

15 MS. WILLIAMS: We have a few housekeeping matters

16 --

17 UNIDENTIFIED SPEAKER: We can't hear you.

18 MS. WILLIAMS: Can you hear me?

19 MR. MARSHALL: Can we get the mic on?

20 MS. WILLIAMS: I can talk loud. I have children.

21 (Laughter.)

22 If I can yell over the Backstreet Boys, I can just -- just  
23 about anything.

24 A few housekeeping matters. The transcriber has  
25 asked that when you get ready to speak please, one, use the

1 mic, give them a few minutes -- a few seconds to turn the  
2 mic on.

3 I'm sorry, I don't think this mic is working. Is  
4 it working now? Can you hear me? Can you hear me now? I  
5 was just saying the transcriber can't -- can you hear me on  
6 this -- the system doesn't like us. How about this? Can  
7 you hear me now? Okay, great.

8 I was just saying that the transcriber has asked  
9 us to please when we get ready to speak to use the  
10 microphone, give them a few seconds to turn the mic on and  
11 indicate your name so that they can get the information.  
12 Okay.

13 We are fortunate to have with us this afternoon,  
14 John Stanley, who is the Assistant Division Chief of the  
15 Policy and Program Planning Division of the Common Carrier  
16 Bureau. John, since May of 1999, he has served as Attorney  
17 Advisor in the Policy and Program Planning Division where he  
18 has worked on section 271 proceedings, telecommunication  
19 mergers and advanced service issues.

20 If you look at your agenda, we've asked John if he  
21 could spend some time with us in terms of giving us the  
22 regulatory framework and the basics in terms of looking at  
23 local competition and long distance and local exchange  
24 competition just to give us a regulatory framework in which  
25 telecommunications companies have to deal with.

1           John. There you go. I hope you don't have to --  
2 can he use this mic? I don't want you to have to stand  
3 there the whole time.

4           MR. STANLEY: First of all, before I get started,  
5 I'd like to apologize in advance for not staying to hear the  
6 rest of the panel. Even though I know it's a very  
7 distinguished panel. It should be very interesting. My  
8 excuse is my wife and I just had baby twin boys, and I have  
9 to get home.

10           (Laughter.)

11 And I'm also sleep deprived, that's right.

12           (Laughter.)

13           Some of you might ask, including my wife, what I'm  
14 doing here, why I'm not at home. I told my wife -- and this  
15 is the truth -- I made the commitment to be here. I really  
16 wanted to come and give this regulatory overview sketch for  
17 you all and also an opportunity to be on a panel as  
18 distinguished as this in a program that just looked to be  
19 excellent, today's program, I really wanted to participate.

20 But, between you and me, I'm here for the break, so.

21           (Laughter.)

22           And let me also give one more caveat before I get  
23 into just 15 minutes on the basic regulatory framework of  
24 local and long distance competition. There are a lot of  
25 things that the FCC does that relate to local and long

1 distance service and local and long distance competition  
2 that I won't have a chance to mention. Hopefully, you can  
3 direct your questions to the panel. I know there's been a  
4 lot of other panels today. So please excuse my omissions,  
5 but I hope can give a useful overview in the time that I  
6 have.

7           The regulatory framework when you're looking at  
8 the local telephone market and the long distance telephone  
9 market, it starts with the fundamental regulatory  
10 distinction between local and long distance service. This  
11 has been around since before 1984. Well, not before 1984.  
12 I'm sorry. Before 1984, the Bell system did everything,  
13 one-stop shopping, local and long distance shopping. There  
14 were some independent phone companies, but they also could  
15 do local and long distance service.

16           I believe you heard this morning about the period  
17 between 1984 and 1996. There were protracted legal  
18 proceedings that eventually ended up splitting the Bell  
19 system into a local segment and a long distance segment and  
20 also dividing up the local companies into seven baby Bells.

21 Today, there's four baby Bells left. There is SBC, Qwest,  
22 Verizon, Bell South, and there are still also independent  
23 local phone companies especially in some rural areas.

24           So, where are we today? Well, the 1996 Act is  
25 still the fundamental guiding legal framework. It's the

1 course charted by Congress. The FCC has been very busy  
2 implementing the '96 Act. Many of you might have seen this.  
3 This is a copy that a lot of us may have on our desks.  
4 This is some federal statutes that includes the '96 Act. In  
5 the scheme of things, it's not very big. The '96 Act is  
6 just part of this. The regulations that the FCC has been  
7 doing implementing the '96 Act I could not fit on my desk.  
8 Nobody could. Far more extensive.

9 A lot of this work the FCC has been doing fleshing  
10 out the '96 Act has centered around three subjects. Some  
11 people have called it the competitive trilogy. There is  
12 access charges, reforming the system of access charges.  
13 Those are the system of payments between a local phone  
14 company and a long distance company when traffic is sent  
15 over long distance. There's universal service. That's the  
16 structure -- the financial structure with the goal of making  
17 local service affordable for all Americans, kind of  
18 balancing out the difference between some high cost and low  
19 cost areas.

20 I'm not going to talk about those two legs of the  
21 so-called competitive trilogy. What I will talk about a  
22 little bit is the third leg of the trilogy, which is  
23 basically competition and the local competition orders that  
24 the FCC has done. So let's look at competition in the long  
25 distance market and competition in the local market.



1           Competition in the long distance market is not  
2 something that was really changed by the 1996 Act. The long  
3 distance telephone market is for all intents and purposes a  
4 competitive market. There are no real barriers to entry.  
5 There's plenty of capacity. There's a lot of consumer  
6 choice, many different competitors offering service. And I  
7 haven't been looking at the prices, but my sense as a  
8 consumer is that prices have been stable or falling, and  
9 that's been good for consumers.

10           What the FCC has focused on and what the '96 Act  
11 focuses on is competition in the local market. The local  
12 telephone companies, if it's a baby Bell or if its an  
13 independent local phone company, basically controls the  
14 bottleneck of facilities. Some people call this the last  
15 mile. It's the wires running down the streets and the wires  
16 running to everybody's homes. It's the switching equipment  
17 in their central offices in every -- every city has several  
18 central offices. Every town has a central office. So it's  
19 all of the facilities the last mile to the home. And these  
20 are controlled by the local phone companies.

21           To make the monumental step of opening up this  
22 type of market, it required a shock to the system, and  
23 that's what the 1996 Act did. The two most important  
24 provisions of the '96 Act that shocked the system and  
25 enabled competitors to offer local phone service were

1 section 251 and section 271. Section 251 imposes  
2 obligations on carriers, particularly on incumbent local  
3 exchange carriers. In other words, companies that were in-  
4 place in 1996, not the competitive carriers. It places  
5 obligations on these carriers that enables competitors to  
6 offer local phone service. And section 271 provides a  
7 special incentive for the baby Bells, and it enables the  
8 Bells to apply for permission to offer long distance  
9 service.

10 First of all, section 251. It creates obligations  
11 for all carriers. All phone companies have a couple  
12 obligations in section 251. One of them is to interconnect  
13 directly or indirectly with the facilities of other  
14 telecommunications carriers and the obligation not to  
15 install network features or capabilities that do not comply  
16 with the Act. That's a basic obligation to have  
17 interoperable equipment. No company can go off and create  
18 their own exclusive system that can't connect with other  
19 carriers' systems. It's just a basic underpinning of a  
20 competitive market. That's the obligation on all carriers.

21 There are obligations on all local exchange  
22 carriers including the new competitive carriers and the  
23 incumbent carriers. These obligations are to permit resale  
24 of their services; provide number portability; provide  
25 dialing parity; provide access to rights-of-way, phones,

1 ducts, conduits, the telephone poles; and to establish  
2 reciprocal compensation arrangements. That's the very  
3 complicated system of who pays what to whom when traffic  
4 goes from carrier's system to another. So those are the  
5 obligations on all local exchange carriers.

6           And then section 251 also has specific obligations  
7 on the incumbent local exchange carriers including the baby  
8 Bells. These obligations include the obligation to  
9 negotiate interconnection agreements in good faith, to  
10 provide interconnection to other phone companies, to allow  
11 the physical collocation of equipment in their -- the  
12 central offices in every city and town. The incumbent  
13 carrier has to allow competitors to come with a lot of  
14 conditions on it. They have to allow a competitor to place  
15 equipment in their central offices. And, finally, the  
16 obligation to provide access to so-called unbundled network  
17 elements at cost-based prices.

18           Now, in that string of obligations, there are  
19 three major modes of entry for competitive carriers. Three  
20 main ways that Congress envisioned competitors getting into  
21 the local market. One of them is facilities-based entry.  
22 Any competitor can go lay their own facilities, start  
23 offering service. They still rely on section 251. The  
24 obligation of incumbent carriers to allow interconnection  
25 you can't lay your own facilities without being able to

1 interconnect with some of the incumbent carriers'  
2 facilities. So that's an important obligation for even  
3 facilities-based carriers. There's interconnection.  
4 There's arbitrating interconnection agreement disputes.  
5 There's also collocation.

6           The second mode of entry would be resale. All  
7 local exchange carriers have to allow competitors to resell  
8 services. That's something that a lot of carriers are doing  
9 across the country is reselling the baby Bells' phone  
10 service.

11           And the final mode of entry is unbundled network  
12 elements. And let me just talk really briefly about the  
13 unbundled network elements. These are the piece parts of  
14 the -- you could call this the piece parts of the bottleneck  
15 facilities. Incumbent local exchange carriers have to allow  
16 access to their loops, which are the wires that run to the  
17 home, to the subloops, network interface devices that side  
18 on the side of everybody's house or in the basement of every  
19 apartment building, the switches, the interoffice  
20 transmission facilities, signaling networks, operations  
21 support systems and the high frequency portion of the loop.

22           So these are the unbundled network elements that  
23 the FCC has identified, and incumbent local exchange  
24 carriers have to enable competitors to purchase these piece  
25 parts of their system at cost-based prices. The competitors

1 can cobble together these unbundled network elements perhaps  
2 with some of their own facilities to offer service to  
3 businesses and to residential customers.

4 So that's section 251. And these are obligations  
5 that are in-place today that Congress designed to enable  
6 local phone competition. How are these enforced?

7 Well, these obligations these are enforced by  
8 state commissions, by the courts and mostly by the Federal  
9 Communications Commission through the complaint process.

10 Section 271. Let me just say a couple things  
11 about section 271. Complying with section 251 is --  
12 everybody would acknowledge is costly and difficult for  
13 incumbent carriers. Section 271 provides an added  
14 incentive. Section 271 -- well, remember that the baby  
15 Bells are prohibited from providing long distance services  
16 that originate in their territory. But section 271 allows  
17 them a way out. If they can demonstrate to the Commission -  
18 - to the FCC that they have sufficiently opened their  
19 networks to competition, then they're allowed into the long  
20 distance market. And this is done on a state-by-state basis  
21 by filing applications with the FCC.

22 Congress identified a 14-point checklist.  
23 Fourteen different items that are pretty much based on  
24 section 251. They refer back to section 251. If the Bell  
25 company can prove that they have satisfied each of those 14

1 checklist items, they're allowed to offer long distance  
2 service in that state.

3 To date, long distance authority has been granted  
4 to Verizon in New York, Massachusetts, Connecticut and  
5 Pennsylvania; to SBC in Texas, Kansas, Oklahoma, Missouri  
6 and Arkansas; and there are a couple applications that are  
7 now pending. I believe the only ones are Verizon's  
8 application in Rhode Island and Bell South's application in  
9 Georgia and Louisiana. This is a rolling process. The Bell  
10 companies set the timetable, and they decide when to apply  
11 for section 271 entry in the long distance market. But  
12 we're anticipating a lot more applications in the coming  
13 year. By the end of the year 2002, there very well may be  
14 additional states where a single consumer can purchase local  
15 service and long distance service from the Bell company.

16 Just to sum up, here's just a couple numbers.  
17 Competition in local markets definitely has been increasing  
18 in recent years. As of December of 2000 - and I'm sorry  
19 it's about 11 months behind, but these are still good  
20 numbers. As of December 2000, competitive local companies  
21 provide service on about 16.4-million lines across the  
22 country. That's about 8.5 percent of the nation's lines.  
23 And that figure is just about double from the year before.  
24 In December of '99, competitive carriers provided service on  
25 about 8.3-million lines. I actually have no idea what the

1 numbers are going to be for December of 2001, but I'll be  
2 very interested to find out.

3           This level of competition as of December of last  
4 year, 60 percent of these competitive lines were provided to  
5 medium or large businesses, institution or governments  
6 compared to about 20 percent of the incumbent company's  
7 lines that go to those big customers. So you see there's  
8 definitely a trend of the competitive companies focusing a  
9 little bit more on the medium and large-size businesses.  
10 But the flip-side of that is 40 percent of the competitive  
11 lines are provided to either very small businesses or to  
12 individual consumers.

13           And just another interesting number. One-third of  
14 all competitive carriers' lines are served over that  
15 competitive carriers own loops. Competitive carriers have  
16 been -- if you've driven through Washington, D.C. in the  
17 last couple of years you'll see where the trenches have been  
18 dug in the streets. There's definitely a lot of facilities  
19 deployment going on. So, as of December of last year, one-  
20 third of all CLEC lines were provided over their own loops.

21           Just one more thing. What's next at the FCC?  
22 Well, Chairman Powell has said that we're now moving into  
23 Phase II of implementing the 1996 Act. Phase I was the  
24 initial implementation, getting ahead of the ball, trying to  
25 set the rules for competition. Now in phase II the FCC can

1 take a look at what has worked, what has not and really  
2 focus on actual experience, what's actually going on in the  
3 marketplace.

4 Chairman Powell identified three major proceedings  
5 that will be active in this phase II. One is performance  
6 measurement and enforcement proceeding, looking into the  
7 possibility of setting-up kind of national standard for how  
8 phone companies deal with each other. For example, when a  
9 Bell company provides an unbundled network element to a  
10 competitor, what's the quality of that loop, was it provided  
11 on a timely basis, is it more mistake-prone than the  
12 incumbent's own network So that's a proceeding that has  
13 just kicked off. It was an NPRM. It was notice of proposed  
14 rulemaking. So that's going to be going on in the very near  
15 future.

16 The two other proceedings, the triennial review in  
17 which the FCC will evaluate its policy on unbundled network  
18 elements. And finally, a proceeding to look at how the FCC  
19 distinguishes between dominant and non-dominant carriers.

20 That's the end of my introduction. Again, there's  
21 a lot of ground that I didn't cover, but I hope that's been  
22 a useful framework. And I hope you enjoy the panel coming  
23 up. Thanks very much.

24 (Applause.)

25 MS. WILLIAMS: Thank you, John. I'm going to ask



1 our panelists to come up to the dais. And while they're  
2 doing that, I'm going to introduce the moderator, Mr.  
3 Leithauser. For all of you -- I'm sure many of you know Tom  
4 Leithauser if not by face by name. He's a senior editor at  
5 Telecommunications Report which is another leading provider  
6 of telecom industry news and analysis since 1934. He is  
7 also the 2001 recipient of the Society of Professional  
8 Journalists Washington Newsletter Reporting award. And he  
9 provides occasional commentary to public radio's  
10 marketplace. And he was also previously a staff writer for  
11 the Orlando Sentinel. And, Tom, I'm going to turn it over  
12 to you in terms of introducing the next panel of speakers.

13 MR. LEITHAUSER: Okay. Thank you for that  
14 introduction, and thanks everyone for attending this session  
15 on competition in the local exchange and long distance  
16 markets.

17 I don't think anyone has to be told the  
18 competitors in the telecom sector have -- lots of them have  
19 gone out of business and others are struggling quite a bit.  
20 In fact, I heard a joke the other day that sort of  
21 illustrated that point.

22 It seems a telecom executive was praying in his  
23 office, praying for divine intervention that would save his  
24 company. And God suddenly appeared before him, and the  
25 executive was somewhat taken aback but said, God, you're so

1 powerful, I was wondering, what does a billion years mean to  
2 you. My child, God said, a billion years to me is like a  
3 second. God, the executive said, what does a billion  
4 dollars mean to you. A billion dollars is like a penny God  
5 replied. God, the executive asked, could I have a penny.  
6 Sure, God said, give me a second.

7 (Laughter.)

8 So neither divine intervention nor anything else necessarily  
9 is going to swoop down and rescue the new entrants in the  
10 telecom industry.

11 But with us today to explain how we got here and  
12 what might happen next is a distinguished panel of experts.

13 First, on my right, is John Conroy, Vice President of  
14 Regulatory Matters for Verizon in Massachusetts, the second  
15 Verizon state to be granted long distance authorization by  
16 the FCC. He has a bachelor of arts degree in economics from  
17 Stonehill College and has almost 30 years of experience in  
18 the telecommunications business.

19 Next is Allan Bausback, Director of the Office of  
20 Communications at the New York Public Service Commission.  
21 The Office of Communications has primary responsibilities  
22 for the regulation of telephone and cable TV utilities  
23 operating in New York. Mr. Bausback has a bachelor of  
24 science degree in electrical engineering from the  
25 Polytechnic Institute of Brooklyn and has been with the New

1 York State Department of Public Service since 1965.

2 Next on our panel is Mark Cooper, Director of  
3 Research for the Consumer Federation of America and  
4 President of Citizens Research, an independent consulting  
5 firm. Dr. Cooper holds a Ph.D. from Yale University and is  
6 a former Yale University and Fulbright Fellow. He has  
7 published numerous articles in trade and scholarly journals.

8 As a consultant, Dr. Cooper has provided expert testimony  
9 in over 250 cases on behalf of people's councils, attorneys  
10 general and citizen intervenors before state public utility  
11 commissions in over three dozen jurisdictions.

12 John Nakahata is a partner in the Washington law  
13 firm of Harris, Wiltshire & Grannis. His practice focuses  
14 on the development of competition in telecom markets and the  
15 convergence of communications technologies and services. He  
16 is also a co-chair of the Federal Communications Bar  
17 Association's FCC enforcement practice group. Mr. Nakahata  
18 spearheaded the creation of the CALLS plan, the first ever  
19 joint effort by local exchange and long distance carriers to  
20 reform telecom subsidy mechanisms and interstate access  
21 pricing. I should add, however, that Mr. Nakahata is not  
22 appearing today as a representative of the CALLS group. He  
23 formerly was Chief of Staff here at the FCC.

24 Next is Carol Ann Bischoff, Executive Vice  
25 President and General Counsel for the Competitive

1 Telecommunications Association. Based in Washington,  
2 CompTel is the premier trade association representing the  
3 interests of the competitive communications industry. Ms.  
4 Bischoff also served on the Rural Task Force to which she  
5 was appointed by former FCC Chairman William Kennard and the  
6 North American Numbering Council. Prior to joining CompTel  
7 in 1996, Ms. Bischoff served as Telecommunications Counsel  
8 to Senator Bob Kerry.

9 I'm now going to ask our panelists to make some  
10 opening remarks, and then we'll engage in some questions and  
11 answers with them. Mr. Conroy.

12 MR. CONROY: Sure. Thank you very much, and thank  
13 you for the opportunity to be here this afternoon. I've  
14 always enjoyed coming to Washington except in August. It's  
15 a little too hot for me in August.

16 (Laughter.)

17 I do have a slide presentation. I'm not sure if  
18 it's going to work. But if we could put up the opening  
19 slide. How about that. I noted -- and this also keeps me  
20 off of the TV screen which is beneficial from my  
21 perspective.

22 I noted in the material that I received for the  
23 meeting that the theme for today's Committee meeting is  
24 competition in the local exchange and long distance markets,  
25 has it worked for consumers. Well, let me not keep you in

1 suspense. My view of the answer to that is a resounding  
2 yes.

3 It is a fundamental in economics that competition  
4 in any market benefits consumers from a number of  
5 perspectives: price, quality, innovation, choice, just to  
6 name a few. That fundamental is no less valid in  
7 telecommunications, and you don't have to believe me. Let's  
8 just look at some of the results of some independent  
9 analyses. If we could put up the next slide.

10 The Telecommunications Research Action Center or  
11 TRAC has recently conducted three reviews analyzing the  
12 impact on consumers of increased competition in the  
13 telecommunications market. In New York, TRAC looked at  
14 competition 15 months after Verizon received approval to  
15 enter the long distance market. The study concluded that  
16 residence customers will save up to 284-million dollars a  
17 year after switching long distance companies and another  
18 416-million dollars after switching from Verizon to another  
19 competitor for local service, although why anyone would  
20 switch from Verizon is beyond me.

21 (Laughter.)

22 That equates to each customer saving between \$84 and \$324  
23 per year.

24 The second TRAC study concluded that in Florida,  
25 Illinois, Georgia and Pennsylvania, customers would save

1 between 203-million and 730-million dollars in long distance  
2 charges and 304-million to 1.07-billion, yes that's with a  
3 B, in local service.

4 And finally, TRAC's most recent study analyzing  
5 the benefits for consumers in California predicts long  
6 distance savings of between 89 and 354-million dollars a  
7 year and savings on local service of between 54 and 527-  
8 million dollars a year.

9 It's clear that consumers get the benefits when  
10 telecommunications companies compete for their business.  
11 Now with that national look as a backdrop, I'd like to tell  
12 you a little bit about what's happening back home in  
13 Massachusetts.

14 We received FCC approval to offer long distance in  
15 April of this year after a two years process at the state  
16 level. During that process, our state commission, the  
17 Massachusetts Department of Telecommunications and Energy  
18 took an exhaustive and sometimes, for those of us involved,  
19 an exhausting look at every aspect of our competitors'  
20 ability to serve customers. They found that the local  
21 market was indeed irreversibly open to competition.

22 But let's go one step beyond that. The market is  
23 more than just open. It's hotly contested. And if we could  
24 put up the next slide you'll see that there are literally  
25 hundreds of telecommunications providers that are authorized

1 to offer telecommunications services across the state. They  
2 include providers of long distance, resellers of local  
3 service, voice carriers, data carriers, competitive access  
4 providers and wireless providers. Some offer a full sweep  
5 of voice, data and internet services. Others are focused on  
6 just data. And these carriers are growing their  
7 capabilities and their market presence every day.

8 Now, in all candor, most of our competitors began  
9 with a focus on business customers. Why? For the same  
10 reason that Willie Sutton robbed banks: that's where the  
11 money is. But from a business perspective that makes  
12 perfect sense. If you're going to enter a new business you  
13 go for the highest profit margins first and then you use  
14 your earnings to expand. But our experience in  
15 Massachusetts is that competitors are branching out from  
16 their business base and attracting more residential  
17 customers.

18 The infrastructure that Verizon in Massachusetts  
19 has built to accommodate the growth of competitors is  
20 robust. Between 1998 and 1999 Verizon nearly doubled the  
21 number of facilities used by competitors to interconnect  
22 with our network. That growth continued in 2000 and as well  
23 so far in 2001. In fact, today competitive carriers have  
24 grown so much that their combined network is over half the  
25 size of Verizon's network in Massachusetts. Let me put that

1 in perspective for you. In about a decade, competitors have  
2 created a network over half the size of Verizon's network  
3 that Verizon built in a century.

4 Now let's take a closer look at what the market  
5 looks like with the next slide. When we filed our first  
6 application at the FCC in September of 2000, we estimated  
7 that competitors were serving about 731,000 lines in  
8 Massachusetts. In January of 2001, just four months later,  
9 competitors were serving over 850,000 lines through various  
10 forms of competition. By May of 2001, that had grown to  
11 964,000 lines, an increase of over 30 percent in less than a  
12 year. And you can also see in this slide what's happening  
13 to Verizon's lines. And for those of you that are  
14 straining, in September of 2000 Verizon had 4.4 million  
15 lines, and in May of 2001 we had 4.2 million lines. We  
16 still have a lot of lines, but they're going down.

17 As you know, our competitors have several options  
18 available to them. They can create their own network from  
19 the ground up and then just connect to Verizon. They can  
20 build part of a network and lease the remainder from us. Or  
21 they can simply resell our services with their own brand  
22 name. And competitors are using every way possible to serve  
23 customers in Massachusetts.

24 In January 2001, the 54 resellers offering  
25 services in Massachusetts provided services to almost



1 270,000 lines. And while that's a large number, what is  
2 even more significant is that in every city and town in  
3 Massachusetts, there is a reseller providing service to a  
4 customer. And, in fact, across the state, in all of our  
5 central offices, over 80 percent of those central offices  
6 have ten more resellers actually providing service to  
7 customers in that central office. And the focus is not just  
8 large cities. In several of our smaller towns, resellers  
9 serve over 20 percent of the number of business lines served  
10 by Verizon. In several exchange, that figure exceeds 30  
11 percent. With the capability under the Act to resell  
12 Verizon's services, resellers can reach any customer with  
13 any service offering that Verizon currently offers.

14 Network-based competitors are serving customers as  
15 well. Between January and May of this year, the number of  
16 lines served by network-based competitors grew from 582,000  
17 to 729,000 across the commonwealth. In fact, one competitor  
18 alone, AT&T, has a very broad reach in Massachusetts. AT&T  
19 broadband provides cable television service in  
20 municipalities covering over 86 percent of Verizon's  
21 business lines and 80 percent of our residence lines. So  
22 they have an excellent infrastructure in place. AT&T  
23 broadband is providing its own digital telephone service in  
24 municipalities where we have over 40 percent of our business  
25 lines and 30 percent of Verizon's total lines in the state.

1 So clearly, they're putting that infrastructure to good  
2 use. And because they are packaging telephone service with  
3 cable service, they can focus and are focusing on residence  
4 customers.

5 But competition isn't just coming from traditional  
6 sources. A consortium of business, cultural, academic and  
7 community leaders in the western part of Massachusetts has  
8 succeeded in attracting new players like Global Crossings  
9 which has teamed with a microwave provider to offer  
10 customers in the state's most rural county alternatives to  
11 Verizon's services. In February of 2000, the consortium  
12 known as Berkshire Connect chose a partnership of Global  
13 Crossings and Equal Access to establish a new facilities-  
14 based high-speed network.

15 This partnership of community leaders and  
16 telecommunications providers is the first of its kind in the  
17 nation that we're aware of, one which creates a market by  
18 aggregating demand within a geographic area from many  
19 different customer groups. Berkshire Connect says that its  
20 members from Clarksburg to Sheffield, Massachusetts -- and  
21 there's 10 dollars waiting for someone who can point those  
22 towns on a map of Massachusetts -- can receive prices for  
23 high-speed access at rates that are up to 70 percent less  
24 than they were when Berkshire Connect was founded. With the  
25 success of Berkshire Connect, other consortiums are also

1 being developed across the state.

2           What does this all mean for consumers? It means  
3 lower prices. Since 1996, Verizon has lowered its rates for  
4 in-state long distance service for residence customers by  
5 over 45 percent. And our residence local measured service  
6 rates have decreased by over 30 percent.

7           Competition also means innovation. While I'm not  
8 certainly not aware of every offering that is made by our  
9 competitors or every promotion they make, the competitors  
10 tariffs that are on file with our commission contain a range  
11 of offerings that are available throughout Massachusetts to  
12 both residence and business customers. Although some  
13 competitors focus on particular niche markets, such as high-  
14 speed services to business, many offer a full menu of  
15 telecommunication services.

16           For example, AT&T offers both residence and  
17 business local exchange service. I spoke to Mike DelCASINO  
18 from AT&T earlier, and I'm going to ask him for a referral  
19 fee because I'm spending so much of my time advertising for  
20 AT&T. But AT&T residence offerings include a one line  
21 package for \$26.95. And if we can put up the slide I can  
22 show you that. A two line combination package for \$40.95.  
23 Each package provides the customer with additional features  
24 such as call waiting, speed calling and caller ID and is  
25 discounted even further if the customer subscribes to AT&T's

1 cable service or their internet service.

2 AT&T also offers a number of optional services  
3 such as voice mail and wide-area calling plans. This  
4 compares to relatively new Verizon packages that range in  
5 price from \$23.95 to \$52.95. AT&T business, local service  
6 offerings also package dial tone local and long distance  
7 usage.

8 This is only a small example of competitors'  
9 offerings. If one were to review the tariffs or even pick  
10 up the Boston Globe, you will see the extent of competition  
11 in Massachusetts today. And Verizon is stepping up to the  
12 plate too, giving customers benefits that are a direct  
13 result of competition.

14 For example, in Massachusetts and in New York, we  
15 recently unveiled our One Bill, which is exactly what it  
16 sounds like, one bill covering local telephone service, long  
17 distance service, internet access and wireless. And that  
18 was done for one main reason: that's what customers told us  
19 they wanted.

20 These examples illustrate that the Act and its  
21 implementation by the FCC and the Massachusetts Department  
22 of Telecommunications and Energy have enabled competitors to  
23 enter the Massachusetts market with vigor. And they are  
24 active in both residence and business markets throughout the  
25 state. Our markets have attracted competitors who are

1 giving Massachusetts customers increasing choices for the  
2 telecommunication services. Customers are saving millions  
3 of dollars as companies fight for the telecommunications  
4 business. As Massachusetts markets continue to mature,  
5 consumers will have an ever-increasing number of providers,  
6 technologies and services to meet their needs. Competition  
7 is working, and consumers are benefiting. Thank you.

8 (Applause.)

9 MR. LEITHAUSER: I should -- I'm supposed to limit  
10 the opening statement to eight to ten minutes each, so --

11 MR. CONROY: How'd I do?

12 MR. LEITHAUSER: A little bit over.

13 MR. CONROY: Sorry.

14 MR. LEITHAUSER: I know Ms. Bischoff will want  
15 probably equal time with that.

16 (Laughter.)

17 MR. BAUSBACK: I'd like to, you know, thank you  
18 for the opportunity to come here and share with you the  
19 experience we've had in New York state, you know, on the  
20 road to competition. And you were all nice enough to send a  
21 comprehensive list of interesting and quite lengthy  
22 questions. But I find the most interesting questions are  
23 the ones that lie between the lines of the questions that  
24 are on the papers.

25 Like your first two questions are, you know, where

1 are we down the road to competition and what obstacles are  
2 there. It sort of has a message that there's a perceived  
3 schedule for competition and that somehow obstacles have put  
4 us behind that schedule and that we're perhaps a little  
5 disappointed in it. The last two questions are what's the  
6 prognosis for competition in the future and do we need to  
7 change some legislation. Again, the message is that perhaps  
8 the prognosis isn't so good and that something's broken that  
9 needs to be fixed. And I'd like to address both of those  
10 issues.

11           And before I get into where we are at in local  
12 service competition, I'd like to take just a minute or two  
13 to go back from a 50,000 foot type of view on our past  
14 experience in competition in a couple of other arenas, and  
15 maybe we can draw some parallels to where we are now and  
16 maybe put all of these issues that you might have been  
17 confronted with, might have heard about into some sort of  
18 perspective.

19           One arena is called customer premises equipment;  
20 that's the phone in your house. They used to be under the  
21 complete control of the telephone companies, and now it's  
22 totally deregulated. Probably the opening round, at least  
23 the one I like to point to, happened in about 1950 in  
24 something called the Hush-A-Phone matter. It was some  
25 upstart competitor wanted to put a little plastic cup over a

1 telephone so that you could hear in noisy conditions, and,  
2 of course, that was quite illegal. You know, that was under  
3 the sole purview of the telephone companies. That  
4 eventually went to the U.S. Court of Appeals, and they won  
5 the right to do so.

6 Next decade, there was another landmark decision  
7 called Carter Phone where networks could get interconnected  
8 although through acoustic coupling devices. And then, in  
9 1976 we were allowed to actually buy your own phones and  
10 hook them to the network directly. And by 1984 everything  
11 had been, with the divestiture of the Bell system, it all  
12 had been deregulated. So go back. It's the fifties,  
13 sixties, seventies, half of the eighties, 35 years from  
14 start to finish.

15 Another arena was long distance service and  
16 probably the starting point, at least the one I would refer  
17 to is something called the FCC's above 890 decision in 1959  
18 where private customers could actually build their own  
19 networks without having the telephone companies do it. And  
20 a decade later, MCI came along and was allowed to actually  
21 provide these private networks for unrelated customers.  
22 And, another 10 years later, MCI was allowed to provide  
23 everyday toll service. And, in 1984, there was the  
24 divestiture of the Bell system and competition in the  
25 interexchange market became a little more robust. And by

1 the mid-nineties, the FCC had declared all of the carriers  
2 to be non-dominant. AT&T no longer had a dominant stature.  
3 So, counting back again, we have the sixties, seventies,  
4 eighties and half of the nineties. Again, 35 years from  
5 start to finish.

6 Now we're in local service competition, and I like  
7 to point the beginning date of that as 1985. That's when  
8 cellular telephone was emerging. That's when local service  
9 resale first appeared at least in New York state. And  
10 that's when some outfits, most notably one called Teleport  
11 started constructing facilities in the local arena. Now  
12 we're at about almost 2002. Let's see, that's 17 years  
13 later. Looking in the past, that would put us about halfway  
14 there in local service competition. So let's be a little  
15 realistic. You know, the thoughts that we're supposed to be  
16 all the way there and something's wrong and it's not working  
17 are just not in-line with, you know, realistic expectations.

18 As far as obstacles, we could use those same, you  
19 know -- same examples over the years to point out some  
20 events that actually have some application today in the  
21 arena of local service competition. And looking down from  
22 the 50,000 foot level maybe you can see some similarities --  
23 and if you can't I'll certainly point them out to you --  
24 that you can use to put issues that are, you know, thrown at  
25 you from time to time in some sort of a context.



1           The road to competition wasn't a team effort by  
2 any means. There were proponents for competition and  
3 opponents of it. And, obviously, the opponents would do  
4 everything to delay it, and the proponents would do  
5 everything to accelerate it. And there's nothing wrong with  
6 an opponent opposing it. And, obviously, the incumbent  
7 telephone companies were not too enthralled with  
8 competition, and they still aren't. There's nothing wrong  
9 with, you know, them taking positions that would retard.  
10 But probably what would be wrong is for the opponents not to  
11 see the real, you know, essence of the issues and know what  
12 they are when they come along.

13           Most of the issues thrown out in the early years  
14 in the consumer -- in the customer premises equipment was  
15 it's going to damage universal service, it's going to, you  
16 know, increase local service rates, it's going to degrade  
17 service quality, and actually it was going to threaten  
18 health and safety over -- you know, over that period of  
19 time.

20           In the interexchange arena we saw the same kinds  
21 of things: that it would increase local service rates; it  
22 will result in D-average toll rates -- that was something  
23 that, you know, got regulators all uptight; and it would  
24 maybe even cause the loss of toll services in rural areas as  
25 competitors would just choose the more profitable routes to,

1 you know, provide it.

2 And during that period of time in the seventies  
3 when both terminal equipment or customer-premises equipment  
4 and the interexchange market was rolling along, there was a  
5 push for legislation. It was called the 1976 Consumer  
6 Communications Reform Act and also called the Bell Bill. It  
7 was really the Bell system's last effort to put competition  
8 to rest and have a national policy that there be one  
9 provider and that, of course, the one provider be the  
10 incumbent telephone companies. That bill failed, and after  
11 that everything came unraveled.

12 Now we're in the local service arena, and, you  
13 know, what kind of issues have come up there. In the early  
14 years, in the mid-eighties, again it was universal service,  
15 things called cream-skimming, competitors are just going to  
16 come in and take the profitable customers away and the  
17 unprofitable ones are going to experience rate increases.  
18 There were other contentions of I guess loss of service in  
19 the, you know, rural areas once again.

20 The emphasis shifted into a new type of mode of  
21 battling against the, you know, growth of competition. And  
22 it's one that I would call -- what I call the Music Man  
23 gambit. If you remember the play Music Man, Robert Preston  
24 comes to town and River City needs a boys band and convinces  
25 everyone it does and, of course, sells them the equipment.

1 In around the late eighties, early nineties it was you need  
2 a fiber network, and have I got the provider for you to do  
3 it, and why not form what we can call a social compact  
4 between the regulators and the then incumbents to bring this  
5 about. It was a state-by-state effort. And in New York  
6 state it was a big issue and finally rejected by our state.

7 Pick no winners, pick no losers, let's use the competitive  
8 market to, you know, do that work.

9 So the issues more or less died away. Of course,  
10 having a compact between regulators and the monopolies means  
11 there's really no room for competition. In fact, now the  
12 government would have to ensure that the monopoly would be  
13 fiscally solvent so that they could provide all these  
14 wondrous things they promised. That sort of went away, or I  
15 should say it went into remission because I think it's back.

16 If you look carefully at some of the issues and  
17 they're not all packaged very, you know, clearly, but right  
18 now we have legislation that's knocking around, still hasn't  
19 gotten out on the floor that would more or less accomplish  
20 the same thing. It would alleviate the existing companies  
21 from the requirements of the Act to open their networks. It  
22 would, you know, allow them to construct inter-LATA  
23 facilities without opening the networks to competition. And  
24 it would tend to protect those facilities from any kind of,  
25 you know, competitive inroads.

1                   Getting to where we were in New York so far.  
2    Before the Act, we had determined that resale of the  
3    incumbent companies' facilities, either through resale of  
4    the services directly or for access to what we call network  
5    elements, bits and pieces of the, you know, incumbent  
6    companies' networks so that a competitor could use those to  
7    supplement its own facilities, it was of paramount  
8    importance for the development of competition. And we  
9    pursued and finally it got implemented starting in 1989 and  
10   finishing in 1991 something we call collocation, and that  
11   would be interconnection points of competitors at the  
12   company's local central offices where they could gain access  
13   to these critical network elements.

14                   We also determined that in order to have an  
15   effective use of these elements and resale of facilities  
16   that companies would need to have a commercial, volume-ready  
17   method of actually providing them to competitors. This  
18   later became known as operational support systems. And in  
19   about 1995, the PSC had ordered New York Telephone to  
20   implement such a system that would allow electronic access  
21   and ease of ordering by competitors by the end of '96.

22                   And then along came the Telecom Act of '96. The  
23   Telecom Act of '96 codified everything that was going on at  
24   the state level including New York and other states and  
25   filled-in all the blanks that were missing and made it the

1 law of the land that there shall be competition, provided  
2 some framework of exactly how all these things, you know,  
3 should play out.

4 But that automated ordering system was the -- you  
5 know, still the thing that was probably responsible. In New  
6 York it was responsible for the time it took from 1996 until  
7 the time that New York Telephone Company now called Verizon  
8 New York received approval to get into the long distance  
9 business which was in the beginning of the year 2000. It  
10 took about four years. And it's that -- you know, that  
11 system that was the most critical or is the critical path to  
12 that.

13 Since that period of time, which is just really,  
14 oh, about a year-and-a-half now that -- well, a little more  
15 than that -- that competitors could actually, you know, have  
16 a robust entry means into the market. The penetration grew  
17 to about -- it's between 25 and 30 percent right now  
18 overall, and it's over 20 percent even in the residential  
19 market. The lion's share of that penetration comes through  
20 the use of what we call unbundled network elements, either  
21 in bits and pieces or in combinations. About a third of the  
22 -- or a quarter, maybe just 25 percent of that penetration  
23 comes from what you might call complete facilities-based  
24 competition. In other words, competitors that are providing  
25 those lines through their, you know, own constructed

1 networks.

2 Over the course of this year, the growth has  
3 declined considerably. And it's obvious why. We're in a --  
4 if you hadn't heard there were rumors. But I think the  
5 government made it official we're in a recession, and most  
6 of the competitors are in financial trouble. They're on the  
7 brink. They can't raise capital. Many of them had extended  
8 themselves, you know, deeply to gain the entry that they  
9 have so far. So we're on this balancing mode. We're in  
10 neutral. We're coasting. Let's see if we can get through  
11 it.

12 It also provides a great opportunity to those who  
13 would like to see competition go away to increase the  
14 pressure on the competitors. Maybe now is the time to do  
15 them in now that they're half down and out.

16 So that's the, you know, the issue of the day, and  
17 you'll see that coming in different packages: don't make us  
18 open the market; America would be better off if we were, you  
19 know, allowed to do certain things that were prohibited now  
20 without opening the market; what's all this fuss about  
21 resale anyway, why can't we just do away with that, what we  
22 really want is real full facilities-based competition and  
23 resale is just standing in the way. You'll see those  
24 issues, you know, coming along.

25 And I just, you know, would like to leave you with

1 the -- you know, with the view that when you hear all these  
2 things, take that 50,000 foot step back and see, you know,  
3 how that would fit into the model of is this just another,  
4 you know, ploy of opposition or is this something good.

5 I guess in summary I think we're right on target.

6 Unfortunately, we're in a little bit of a recess because of  
7 the financial condition as far as the growth of local  
8 service competition. And I don't think anything's broke,  
9 and I'd be very hesitant to engage in any kind of fixing  
10 right now. Thank you.

11 (Applause.)

12 DR. COOPER: As someone who has participated in  
13 every federal proceeding on 271 except for one and a number  
14 of the major states beginning, middle and end; I was an  
15 expert witness for the Oklahoma Attorney General in the  
16 first round in Oklahoma -- I think it took three or four in  
17 Oklahoma -- and I participated in the collaboratives in New  
18 York, California and Texas, the interesting question of has  
19 it worked for consumers, the answer seems to me to be it has  
20 worked for consumers where regulators make it work, and  
21 that's the fundamental lesson of opening a monopoly is that  
22 you simply cannot assume the market. You have to make the  
23 market work. And that may sound strange, but I think that's  
24 the lesson.

25 And it's a lesson that -- it's interesting that

1 the Chairman of the Texas Public Utility Commission, Pat  
2 Wood, who is now the chairman of the Federal Energy  
3 Regulatory Commission, when he was nominated for that job he  
4 said on their best day regulators cannot deliver benefits to  
5 consumers as well as a functioning market can. But he  
6 added, but we have to make sure the market works. And so  
7 that's what distinguishes him, as I like to say, as a  
8 Republican regulator, someone who believes in markets but  
9 also recognizes that you have to create the conditions to  
10 make markets work.

11 And if you get a chance, you should look at the  
12 things he's done over at the Federal Energy Regulatory  
13 Commission. He has definitely told a lot of big players who  
14 simply said let us free that, no, we have to make sure the  
15 market works first.

16 And I remember a day in the Texas collaborative.  
17 We sat there for six days in the heat of the end of June and  
18 it was a Saturday afternoon and we finally got to section  
19 272, which is the one that comes after 271, and we were  
20 debating the affiliates of SBC and the head of the long  
21 distance affiliate said, well, our headquarters is in St.  
22 Louis and the general counsel stood up and says, no, no, no,  
23 our headquarters is in San Antonio. And Chairman Wood  
24 couldn't believe that after six days of the Texas heat they  
25 couldn't decide where their headquarters was of their long



1 distance affiliate.

2           Subsequently, the Commission come out with 129  
3 things that they said SBC would have to do before the  
4 Commission would let them get in. And SBC shot back 117 of  
5 those are not on the table. And the Commission came back  
6 and said 129 or you don't get in. And two years later, they  
7 finally got in.

8           A similar process went on in New York, and we  
9 participated there. And as you've heard today, New York is  
10 the success story far and away. Fully a quarter of the  
11 residential customers between a fifth and a quarter have  
12 changed their phone companies in New York. And some people  
13 say, well, it's only a quarter. And my answer is that  
14 compared to the rest of the country where it's at most a  
15 twentieth, maybe a fifteenth, a quarter is an awful lot.  
16 And it turns out in New York, that much switching gets you a  
17 lot of benefits.

18           So how did we get there in New York. We got there  
19 in New York in a simple fashion. Bell Atlantic, at the  
20 time, was told, or maybe it was NYNEX at the time. It was  
21 one of those companies. They change their names every six  
22 months. But one of those companies was told they simply  
23 would not be allowed in until they did it right. And it's a  
24 great personal -- I take great personal pride in the fact  
25 that when the people talking about it in New York finally

1 decided that they thought they got it right, my name was  
2 listed on the bottom of the press release from the Public  
3 Utility Commission in New York saying if you want to ask  
4 people about the pre-filing statement go ahead and call  
5 Cooper because he's been involved in this process. We  
6 thought we got it right in New York, and by God we did.

7           Unfortunately, there are 46 other places where  
8 we're nowhere near what we did in New York. So regulators  
9 have to keep on working hard if we're going to get those  
10 benefits. And how do we get those benefits? There are four  
11 things you have to do.

12           You have to have a fair price for using the piece  
13 parts of the network. Nobody can build a ubiquitous  
14 competing network that took a hundred years to build that  
15 rests on right-of-way and a variety of other things. So  
16 we're going to have to share parts of the network. And if  
17 the prices are not right, you will not get competition.

18           Because this is an interconnected network, of  
19 necessity we have to treat people fairly in handling orders,  
20 in handing people off between one another. We call that  
21 OSS. Congress had the foresight to talk about parity, which  
22 is a pretty strong term. Parity says you have to treat me  
23 similarly, equally, almost the same. And the companies have  
24 had difficult doing that.

25           We need to have fair business practices, and we've

1 developed some very nasty winback programs where 20 minutes  
2 after you tell your phone company you want to switch,  
3 somebody calls you and beats you on the head about it. Most  
4 businesses don't work that way. It's tough to compete when  
5 somebody has the advantage of when to countermarket.

6 And we also have to let people have access to all  
7 of the product. If you cut-off the DSL service and say, you  
8 competitors only get a chance to share the network for the  
9 old, slow stuff, they're not going to be there because  
10 everybody wants to sell everything. And if you can't sell  
11 the package, it won't work.

12 So we believe you have to do those four things.  
13 And, as I say, there are very few places in this country  
14 where regulators are actually holding the feed of the  
15 incumbent to the fire to get those conditions in-place.

16 The interesting thing is is you step back and ask  
17 yourself how did we get into this mess, why it didn't go  
18 faster, well, some would say it was a mistake to think it  
19 could go faster. On the other hand, we think there were key  
20 policy decisions made that created a severe problem.

21 The single most important policy decision was made  
22 by the incumbent telephone companies. And it was clearly a  
23 self-interested decision in which they said we will not  
24 allow any competitors to use our legacy support systems,  
25 that is the existing computerized electronic systems that we

1 use to handle customers, nobody is allowed to have access to  
2 it; that is, they can't come in the front door. And the FCC  
3 accepted that decision for a bunch of bad reasons, but they  
4 accepted it. And the incumbents said, we'll build a back  
5 door for the competitors to come into. The problem was the  
6 back door had to work as well as the front door.

7           That single decision has been the five years of  
8 developing a second set of operating support systems that  
9 will treat competitors fairly. But that's critical. And  
10 the critical aspect of that is performance; are they  
11 treating these people at parity? And when you sit in New  
12 York and you arm wrestle over a performance assurance plan  
13 that will actually make sure your back door work as good as  
14 your front door, it's a long, hard process. But it's worth  
15 it because if you don't go through that process then the  
16 competitors won't be treated fairly and they will not be  
17 able to attract the business.

18           And so we are now at a critical moment where we  
19 have some people coming forward with weak tests and weak  
20 performance plans saying, well, we look just like New York.

21           But they don't. They haven't tested their systems. They  
22 haven't built-in penalties that will elicit behavioral  
23 responses that will keep these markets open.

24           And the Commission is now about to start thinking  
25 about that. And if it makes another mistake, it probably

1 should have required access to legacy systems. If it now  
2 turns around and says, and you know what, we won't even  
3 require the back doors to be as open as the front doors,  
4 these folks will go away. So you really do have to open  
5 this market.

6           The great tragedy of the first six years of  
7 implementation of the Telecom Act is that regulators let the  
8 competitors down. They raised billions of dollars in the  
9 belief that regulators would open this market quickly. And  
10 with a couple of exceptions, the regulators have failed to  
11 insist that the Bells provide fair pricing, parity for  
12 support, decent business practices and access to DSL. And  
13 so they have spent their billions of dollars beating their  
14 heads against regulatory obstacles. And so regulators bear  
15 a significant responsibility for not doing the job that Pat  
16 Wood did in Texas and has described at the Federal Energy  
17 Regulatory Commission. You have to make markets work when  
18 you are opening hundred year old monopolies.

19           If you do -- and I actually generally agree with  
20 the TRAC numbers. Actually, some of those numbers are our  
21 numbers, and I think we developed the original methodology.

22       But I disagree with their analyses on one and only one  
23 point. They take New York and say, it will happen in the  
24 other states. But they forget to say regulators have to  
25 make it happen.

1           And so, the companies in those states pick these  
2 numbers up and say, see, it worked in New York, let us in  
3 and it will work here. If you don't set the conditions  
4 beforehand, the competitors will not come. If you lose  
5 money every time you win a customer, that's not much of a  
6 business model. And so they won't come unless you give them  
7 fair prices and fair treatment. And if you do, we believe  
8 that this is a model that can work, and we take New York as  
9 the example of how it has worked. Unfortunately, there's  
10 not too many other places that have gotten to that level.  
11 Thank you.

12           (Applause.)

13           MR. NAKAHATA: It's always fun to go after Mark.  
14 He's always so lively.

15           Thanks for inviting me to join you here today. I  
16 wanted you to know at the beginning part of the reason why I  
17 asked that I be explicitly identified as not being here  
18 representing the CLLS coalition is because that was a very  
19 narrow coalition in terms of what it addressed. And most  
20 of my practice is involved in representing non-incumbents.  
21 And so, I wouldn't want my remarks to be in any way  
22 attributed to the members of that coalition. And so, that's  
23 why I asked that I just be identified as myself for today.

24           I think it's worth as everybody else does -- I  
25 don't know that I'm actually going to disagree with the

1 fundamental message you've heard at all here which is that  
2 competition works. And I think if you're looking at what  
3 has been the effect of the '96 Act, I mean it's good to take  
4 a step back and let's look at some of the numbers here.

5 We've had new products introduced like high-speed  
6 internet access. You know, as of last year that was seven-  
7 million lines, 5.2-million for residence and small business.

8 That's a new product that didn't exist in 1995. And those  
9 -- the pack of networks that are supplying that are going to  
10 be alternatives ultimately to the circuit-switched networks  
11 that we have deployed out there today.

12 The second -- a second key benefit has got to be  
13 wireless. In 1995, there were 28-million wireless  
14 subscribers. Today that's 130-million. In between then and  
15 now we've seen one rate plans develop. Wireless  
16 substitution is a real marketplace phenomenon. Wireless is  
17 being used for long distance service by a lot of consumers.

18 Third, traditional long distance. Those rates  
19 have continued to fall quite dramatically. The consumer  
20 price index for long distance service has fallen every year  
21 since 1996, and there have been very sharp drops both for  
22 interstate and intrastate long distance.

23 Choices are available. Before I came here today,  
24 I went on the internet on Yahoo and typed in the words "long  
25 distance", got to a rate calculator that showed me I could

1 sign up for a plan that was as low as 2.9 cents a minute for  
2 interstate traffic with no monthly minimums. I just had to  
3 sign-up with my credit card. You know, those are offerings  
4 that didn't exist in 1995 and wouldn't have existed without  
5 what we've gone through since 1995.

6 The other big change that you see in the long  
7 distance market is that the number two -- if you look at the  
8 FCC's statistics, the number two provider of long distance  
9 service in the United States is a company called "other."

10 (Laughter.)

11 What we've seen is tremendous growth in small long distance  
12 carriers that are the ones offering some of these tremendous  
13 deals. That makes it really important for consumers to go  
14 shop around for their service.

15 The downside that is there is that a lot of these  
16 small carriers that have these aggressive price plans don't  
17 serve rural areas in part because that's how they get the  
18 cost advantage that gets them to be able to offer 2.9 cents  
19 or 4.9 cents a minute. The larger carriers have to average  
20 their rates.

21 So, you know, that is -- but that is something  
22 that we've seen develop since 1996.

23 Last and what this panel's obviously focused most  
24 on has been local competition. You know, I don't think  
25 anybody would say that we'd be -- if we were sitting here in



1 2001, almost six years after the Telcom Act, that we'd be,  
2 you know, happy with the level of local competition that we  
3 see today. But there's clearly, you know, as I think you've  
4 heard from everybody here signs of good hope. You know,  
5 local competition does work. It does deliver better value  
6 for consumers.

7           One example I'd use that is probably one of the  
8 most competitive markets in the country is actually not New  
9 York City but Anchorage, Alaska where CLECs have 45 percent  
10 share of the market. In Anchorage, Alaska, the price of the  
11 most commonly purchased local service, which includes the  
12 local service and some of the more common popular vertical  
13 features, has dropped 30 percent as a result of the entry of  
14 competition.

15           So competition does work to deliver value for  
16 consumers in the markets where it happens. And we've seen  
17 competition growing, as everybody else has said, around the  
18 country as markets are opened up, and, as Mark said, in the  
19 areas particularly where regulators have taken the steps to  
20 open up the market.

21           That much being said, it's hard to say that the  
22 future is all bright. The capital drought that we have and  
23 that will probably persist for the foreseeable future means  
24 we aren't going to see the alternative new facilities  
25 networks being built for the mass markets as you think you

1 might have heard people say that were going to be built if  
2 we'd had this conversation 18 months ago. People who are  
3 going to build alternative networks to the cable networks  
4 and to the wire line telephone networks have pretty much  
5 gone by the wayside in the last 18 months.

6           And cable telephony roll-out, while it's certainly  
7 occurring in some areas, it is in a go-slow mode in many  
8 others, particularly if it's a company that's not AT&T  
9 that's trying to roll-out the service. And so that, I  
10 think, is, you know -- it's a caution sign.

11           You know, interestingly, as other panelists have  
12 said, one of the key things that has to be out there is you  
13 have to have the tools to enter the market. And it's  
14 interesting that, well, at the end of last year there were  
15 probably about just under seven-million residential and  
16 small business lines being served by CLECs. That number is  
17 sure to have grown this year. But a huge amount of those  
18 lines are being served by the combination of all network  
19 elements called the UNE platform, probably over five-million  
20 if you take the six states with the most UNE platform lines.

21           So that tells you that while there's competition and choice  
22 of merging, it's still in a fairly nascent and early stage.

23           And that competition and choice is not necessarily  
24 available everywhere.

25           Issues that I think we have to look at as we go

1 ahead looking forward in terms of making the Act continue to  
2 work better for consumers. No doubt competition and  
3 maintaining the conditions for local competition are top of  
4 the list. Provisioning systems did take a long time to  
5 build and obviously have been an important part of having  
6 local competition.

7           There's no question that -- well, let me step  
8 back. The second point I think I'd say is that for rural  
9 long distance customer, until we straighten out our system  
10 of toll averaging for long distance rates and rationalize  
11 the subsidy systems there, we're not going to see rural  
12 areas, rural America having the same types of choice in long  
13 distance plans as you see in urban areas. The economics  
14 won't allow it. That's unfortunate. So it means it's a job  
15 that the FCC has to step up to. Unfortunately, they didn't  
16 earlier this year.

17           Third point I think I'd say is that we have to  
18 expect that the products and offerings that we're going to  
19 get are going to continue to change. I mean, we've seen  
20 some change in the retail products and the packages that  
21 consumers get offered over the last several years. But I  
22 think there's going to have to be more. We started out with  
23 a system of retail pricing that had very little to do with  
24 market economics. And as that system gets -- has to be sort  
25 of realigned, ultimately there's going to be more

1 realignment of the retail pricing system. That's not bad.  
2 I think what we'll see is that it will open the door to  
3 other types of creative packages

4           You know, in the wireless market where these types  
5 of legacies didn't exist, we've seen tremendous growth in  
6 popular one rate package plans where you buy buckets of  
7 minutes, local and long distance, and, you know -- while I  
8 don't think that necessarily you can apply that model fully  
9 to local, the idea that you would buying a combination of  
10 local and some bucket of long distance minutes probably is  
11 something that we will see as the markets continue to  
12 develop. But to do that, we're going to -- I mean, we're  
13 going to have to tolerate the fact that marketplace is going  
14 to be changing. The types of telephone offerings that we  
15 get are going to continue to be evolving.

16           That puts a premium, a real premium on consumer  
17 education. And if you don't go -- know to go on the web and  
18 look for the tremendous long distance deals, you're not  
19 going to find them. We have to do a better job of educating  
20 consumers to be smart shoppers. It shouldn't be hard to do  
21 that, but it's going to take effort. You know, there's  
22 nothing harder in this country than probably buying a car  
23 with all the options and features that go into that, but  
24 everybody learns how to do it and everybody does it. And I  
25 don't think that it's going to be as hard to buy a telephone

1 service as it is to buy a car, but we do have to get out of  
2 the mode that, well, you just go one place and that's it.  
3 You've got to go shop for it like everything else.

4 I guess the last point that I'm going to plug is  
5 that, you know, we do have to do a better job of educating  
6 the world about the Lifeline offerings that are there to  
7 help support service for low income consumers. And if the  
8 members of this committee, and especially for this  
9 committee, if you haven't done so, you should go to the  
10 website, [www.lifelinesupport.org](http://www.lifelinesupport.org), which is a website that  
11 was put together by the U.S. Telephone Association. It is  
12 part of an effort to do consumer education and outreach on  
13 lifeline.

14 It's a tremendous resource because what it does is  
15 you can click on your telephone company in your state and  
16 get the Lifeline offering for that company. Lifeline is so  
17 complicated and so different from state to state and, in  
18 some cases, even from carrier to carrier within a state that  
19 it's almost impossible to do education over. So in terms of  
20 helping improve people's awareness of Lifeline, I urge you  
21 to take advantage of that resource.

22 So I think the overall assessment, I'd say, is,  
23 you know the '96 Act is working, competition clearly works.

24 We need to continue to allow it and to make it work, and  
25 that's going to require effort and time, but it will

1 ultimately deliver us good consumer benefits.

2 (Applause.)

3 MS. BISCHOFF: Good afternoon. I also have a  
4 slide presentation, if it could be put up on the screen now.  
5 I've distributed -- my colleague has distributed copies to  
6 everyone.

7 Good afternoon, and thank you so very much for  
8 inviting me to speak with you today. It truly is a  
9 privilege and an honor. And I just wanted to tell you a  
10 little bit about my personal background with the 1996 Act.  
11 As was stated, I was Telecommunications Counsel to Senator  
12 Bob Kerry of Nebraska. As a result of that, I had firsthand  
13 experience over a three-year period with the debate that  
14 led to ultimate passage of the '96 Act. I was one of the  
15 very first staffers who worked on the e-rate which hooks up  
16 schools and libraries to the internet and which also  
17 provides telemedicine to rural healthcare facilities. I was  
18 part of the original Senate Farm Team staff of six who were  
19 concerned about affordability of rates in rural America,  
20 and, as was stated, I served on the rural task force. I  
21 also met my husband through the process. He was counsel for  
22 the House Commerce Committee, and he likes to say that our  
23 marriage is probably the only part of the '96 Act that is  
24 not in litigation.

25 (Laughter.)

1           A little bit about CompTel if my slides could be  
2 put up, please. For those of you who don't know, CompTel is  
3 a 20 year old trade association. We participate in every  
4 venue where important communications and issues about  
5 competition are considered. Our members, some of which fall  
6 in the other category really are those who battled AT&T 20  
7 years ago in order to break down the barriers for long  
8 distance competition.

9           Next slide. We participate in a number of forums  
10 as you can see just to give you some idea of the breadth of  
11 our representation.

12           Page four, please. Next slide. Basically, our  
13 mission is to advocate for competitive communications  
14 providers on the key policy and regulatory issues of concern  
15 whether local, national or international, and I'd like to  
16 speak just a little bit about that today at one point in my  
17 presentation.

18           Next slide, please. We are focused on ensuring  
19 that competition extends to every corner of the market,  
20 particularly local access which is why we're so happy to be  
21 invited to speak with you and to join the panel today.

22           Next slide. To give you an idea of our members  
23 because some of you may be familiar with CompTel as  
24 representing the smaller long distance carrier. Our  
25 membership today really has evolved to over 300 companies,

1 and we really represent the gamut of competitive providers:  
2 CLECs and ICPs, long-haul broadband, international, internet  
3 and the energy companies, many of whom as you may know are  
4 getting interested in entering the telecom services market  
5 and who could provide a competitive choice to consumers.

6           Next slide, please. Basically our view is that  
7 more competition means more technological innovation. Since  
8 the divestiture of AT&T, as you know, U.S. consumers have  
9 benefited from the most robust competitive, long-haul and  
10 data transport network in the world. And, in addition to  
11 AT&T, WorldCom and Sprint, which are household names,  
12 CompTel members include Broadwing Cable and Wireless, Global  
13 Crossing, Level 3, Williams. These carriers are building  
14 the next generation networks that are providing the  
15 packetized services that Mr. Nakahata referred to in his  
16 presentation.

17           Next slide, please. It's been shown that  
18 competitive long distance and long-haul products benefit  
19 U.S. consumers in a variety of ways. And those are not only  
20 because they provide service and price competition. There  
21 are ramifications as a result of America's competitive  
22 telecom environment for increased business productivity.  
23 For example, since passage of the '96 Act, telecommuting has  
24 increased dramatically. Lower telecommunications prices  
25 enables U.S. businesses to have lower costs for the goods



1 and services that they produce. And finally, at least  
2 historically, the telecom sector really provided for jobs  
3 growth. As was noted, the economic climate is somewhat  
4 different now and so conversely it has been shown that  
5 reductions in the telecom workforce disproportionately hurt  
6 the economy.

7           Next slide, please. In addition to the benefits  
8 on long distance competition and many of the rates and plans  
9 have been discussed by the previous panelists here, American  
10 consumers today are seeing increased competition for  
11 international services. And at least some of the folks on  
12 the council remember when placing an international call was  
13 a big deal. I mean, some on the panel might remember when  
14 making a long distance call domestically was something that  
15 you did on Sunday nights and then only after 5:00 and then  
16 only for three minutes. But since 1996, the FCC's  
17 International Bureau Telecommunications Division has  
18 reported that average international consumer prices have  
19 fallen 31 percent and the call volume and capacity is  
20 increasing as well.

21           Next slide, please. So how did we get to the '96  
22 Act? My former boss, Bob Kerry, used to say, Carol Ann, you  
23 know, when I go home for town meetings, people talk to me  
24 about the Farm Bill, they talk to me about the economy, they  
25 never talk to me about inter-LATA relief. But he was a

1 pioneer in telecom from his days of being the governor in  
2 Nebraska and saw it as a tool for economic growth. And so,  
3 he understood what many in Congress later did, and that is  
4 that while the consumer price index in this country had  
5 risen 73 percent since 1984, which is around the divestiture  
6 of AT&T, and while during the same period long distance  
7 prices had dropped by 34 percent, local service, which was  
8 still a monopoly service, actually had increased 70.2  
9 percent. And so, the '96 Act was intended to address this  
10 very issue, the lack of competition in the local market.  
11 Members of Congress wanted consumers who were familiar with  
12 the benefits of long distance competition to experience them  
13 in the local market as well.

14           Next slide, please. So where are we? As has been  
15 previously discussed, section 251 and section 271 for the  
16 Bell companies governs the opening of local markets. And  
17 the FCC' Local Competition Report which was released earlier  
18 this year indicates that as of year-end 2000 CLECs had  
19 gained 8.5 percent or 16.4-million of 194-million nationwide  
20 local telco lines.

21           Next slide, please. If I could only leave just  
22 one point with you today, it would be the following. And  
23 that is that where the greatest competitive activity exists  
24 is where the Bell company has complied with the open  
25 marketing requirements of section 271. And, again, I think

1 I'm reiterating some of the comments that have previously  
2 been made. The FCC's statistics show that 20 percent of the  
3 lines in New York where Verizon is the Bell have become  
4 competitive; 12 percent of the market has been captured by  
5 CLECs in Texas. And so, for the reporting period the FCC  
6 covered, it showed that New York and Texas, which are large  
7 states, which have urban areas but have a large rural  
8 populations as well, they were showing, 135 percent in the  
9 case of New York and 45 percent in the case of Texas, higher  
10 incidence of local competition than the national average.  
11 We think that these are the states that the other states  
12 should look to.

13           Next slide, please. I'm sure you're concerned  
14 about residential and small business activity because  
15 sometimes people think that those are kind of the lost  
16 beneficiaries of the '96 Act. The CLEC share of residential  
17 and small business customers increased almost 45 percent  
18 over a six-month period from June to December of 2000. One  
19 important reason for that is the third entry vehicle of the  
20 '96 Act which has to do with unbundled network elements,  
21 and, in particular, something called the UNE platform. In  
22 CompTel's view, the UNE platform is critical to serving  
23 consumers and small businesses which are the mass market.  
24 And it's been shown, both in the case of New York and in the  
25 case of Texas, that UNE-P is robust in those states.

1           Next slide, please. More competition means  
2 customer service innovation. Again, not only does  
3 competition allow for pricing competition. We have a  
4 member, a company called Z-Tel. It provides services using  
5 the unbundled network element platform or UNE-P both in New  
6 York and Texas. And it adds its own artificial intelligence  
7 to provide a unique suite of intelligent calling messaging  
8 features that basically allows you to do all sorts of great  
9 things. They serve residential consumers almost  
10 exclusively. You can use your phone to check your e-mail  
11 messages to do all sorts of very fancy things with your  
12 phone that really help you in your life. And that's a  
13 product offering that isn't offered by the Bell company.  
14 So, it's a situation where a service is being created by an  
15 innovative, entrepreneurial company. We think and have  
16 always thought that that's the hallmark of competition and  
17 is one of the benefits of the '96 Act.

18           Next slide, please. Since the Act was passed, out  
19 of the 50 states, section 271 LD entry has been approved in  
20 nine: Verizon in New York, Massachusetts, Connecticut and  
21 Pennsylvania; SBC in Texas, Oklahoma, Kansas, Missouri and  
22 Arkansas. There are two applications pending. These were  
23 mentioned earlier: Georgia, Louisiana. The statutory  
24 deadline for the FCC to act on that application, which would  
25 be the first in Bell South's territory, is December 31st.

1 Moreover, Verizon has an application, which I'm sure Mr.  
2 Conroy is familiar with, for Rhode Island. The FCC is  
3 required to act on that application by February 24th of next  
4 year.

5 Next slide, please. What's needed for local  
6 competition? Quite simply, in CompTel's view, we believe  
7 that all providers must have equal access to the first mile  
8 with access to unbundled network elements at economic cost.

9 And we are battling to secure this, you know, at the FCC  
10 and at the states and on Capitol Hill where there is  
11 legislation being considered in the House that might  
12 threaten that as also was previously mentioned.

13 Next slide, please. Some of the impediments to  
14 local competition that CLECs are fighting with dwindling  
15 resources as has been discussed also previously today are  
16 unbundled network elements including provisioning and  
17 pricing, UNE combinations, collocation, special access  
18 performance metrics and access to new networks. And there  
19 are a variety of proceedings underway at the FCC addressing  
20 all of these matters, and CompTel is participating in them.

21 Next slide, please. You heard earlier about  
22 Chairman Michael Powell's three major initiatives that are  
23 under way right now. One of those is the triennial review,  
24 and the Commission will be meeting in this room at this dais  
25 next Thursday to issue an NPRM initiating this review. The

1 purpose of this is to take a look at the unbundled network  
2 elements that the Bell companies and ILECs are now required  
3 to make available to competitors and to see whether or not  
4 they should stay on the list. We, of course, believe that  
5 they should.

6 But I mention it to you in your role in  
7 representing consumers and individuals with disabilities  
8 because it's CompTel's view that because of the -- and  
9 critical role that states such as New York and Texas have  
10 played in advancing local competition that as part of the  
11 triennial review, the FCC should convene a federal-state  
12 joint board conference on unbundled network elements. We  
13 think that the state regulators are closest to consumers and  
14 to folks with the experience about how competition is  
15 progressing in those areas. Moreover, with everyone's  
16 dwindling resources, we think that it's critical that the  
17 FCC consider the important role that the states have had in  
18 promoting competition in those states where competition is  
19 working.

20 Next and last slide, please. What about the  
21 future? Policymakers are at the crossroads. And there is  
22 some talk in some states and in Washington that maybe  
23 competition is not going to be coming, as historically has  
24 happened in the long distance market or in the international  
25 market, from within services, but instead that the best

1 competition for consumers would be what is called inter-  
2 modal competition, which is to say a wire line provider  
3 competing with a wireless provider competing with a cable  
4 provider competing with a satellite provider.

5 In my view, in CompTel's view those are imperfect  
6 substitutes and in some instances are the same company.  
7 Those are large monopoly companies that are not necessarily  
8 bad but do not offer consumers the innovation and  
9 flexibility and quickness to market that historically has  
10 come from the entrepreneurial small carriers.

11 And so, the choices that regulators are making at  
12 the FCC and at the states today will pretty much determine  
13 the kind of world that we have in the future and whether or  
14 not that world is one of large monopolies or whether it's  
15 one which continues to allow for the entrepreneurial spirits  
16 that will provide U.S. consumers with multi-vendor, multi-  
17 user, multi-protocol networks, products and services.

18 Thank you very much for inviting me here today.

19 (Applause.)

20 MR. LEITHAUSER: We're a little bit over. Is that  
21 okay? All right. I thought I would give the committee  
22 members a chance to ask some questions of the panelists. I  
23 could ask questions too, but it's your meeting. So if  
24 anybody has any questions for the panelists? Do we have  
25 microphones?

1           MR. McELDOWNNEY: Hi. It's not even on. It is on?  
2    Yeah. Yeah.

3           I'm with Consumer Action. Our primary focus has  
4    been on landline, voice-grade phone service being primarily  
5    used by low to moderate income consumers. And I guess we  
6    have not seen the benefits of competition that people have  
7    been talking about so far.

8           Our long distance surveys over the last 15 years  
9    have seen rising basic rates, sharply higher fees and  
10   surcharges. Our latest surveys show that AT&T, MCI, Sprint,  
11   SBC and Verizon are all offering virtually identical seven  
12   cent a minute flagship calling plans, and the average per  
13   minute rates of these flagship plans have in fact increased  
14   since last year. There's a drop in the local access  
15   charges. Many CLECs have gone out of business that were on  
16   the ropes. And the long distance revenue of the big three  
17   is dropping 10 to 20 percent a year which has led to great  
18   media speculation as to which RBOC will buy which long  
19   distance company first.

20          And I guess the question I have is sort of despite  
21   all of what's happening at the regulatory level both in  
22   Washington and at the states, exactly who's going to be left  
23   to compete with the remaining RBOC's in a year or two?

24          MR. CONROY: I'll start since I'm the RBOC here.  
25   And I can speak for Massachusetts and address a couple of



1 your points.

2 First of all, in Massachusetts, our local basic  
3 exchange rates have been frozen since 1995. So those rates  
4 have not gone up. And, as I mentioned earlier, our in-state  
5 long distance rates have actually gone down. In terms of  
6 Verizon's long distance rates, we do have a plan that's  
7 seven cents a minute or eight cents a minute or nine cents a  
8 minute. It hasn't been in Massachusetts for that long, so I  
9 don't believe that those rates have changed.

10 In terms of who's going to be around to compete, I  
11 see competitors virtually every day in Massachusetts. And I  
12 know that we talked earlier about some -- the country being  
13 in a recession. Our growth in competitive lines is huge.  
14 We are looking at 30 to 35,000 lines a month since we were  
15 allowed into long distance earlier this year going to  
16 competitors. So there are a number of competitors out there  
17 offering both local and long distance service.

18 So I think that they are going to be around.  
19 There are a number of them that are very strong. And while  
20 there may be some consolidations as we move forward, I think  
21 that's a natural function of the economic principles of  
22 supply and demand.

23 DR. COOPER: Let me both agree and disagree. And  
24 since Ken's on my board, you have to be careful when you do  
25 this.

1 (Laughter.)

2 MR. CONROY: Does that mean you're going to agree  
3 with me and disagree with him?

4 (Laughter.)

5 DR. COOPER: No. I'm going to agree and disagree  
6 with him. And the answer is that if you live in California  
7 it's pretty bleak. But if you think about what California  
8 would look like if it looked like New York, if regulators in  
9 California did what they did in New York, it might be a  
10 little bit brighter. I mean, and that's my answer is that  
11 California got UNE's that are awful, rates are too high so  
12 people can't compete, OSS doesn't work and the DSL folks are  
13 getting killed by a variety of back room bad business  
14 practices. So, there is not a lot of competition in  
15 California.

16 And I sat in editorial board meetings with  
17 independent ISP's who had wonderful business models for the  
18 narrow band world, had built a tremendous business and now  
19 they can't get high-speed. They are blocked legally on the  
20 cable system and illegally on the telephone system, and  
21 they're going out of business. And that's the reality that  
22 Ken sees.

23 On the other hand, if you look at a place like New  
24 York, Ken asked the question basic rates have been going up.  
25 The irony is that's where the competition in long distance

1 took place in New York when you had entry; that is, people  
2 competed down the basic rates significantly. But it was not  
3 only basic rates for long distance, but we had product and  
4 tit for tat competition in New York.

5           When the competitors introduced a radical concept  
6 in New York City known as flat rate service, which the  
7 incumbent had never bothered to offer for a couple of  
8 decades, lo and behold out rolled a flat rate package which  
9 we consumers loves in New York for local service.  
10 Competition got you that.

11           So Ken's view of the world is and mine are in a  
12 certain sense exactly compatible except I live in New York,  
13 that is I work in New York, and he lives in California, and  
14 he lives in one of the forty-plus states where regulators  
15 have let consumers down.

16           MR. McELDOWNEY: Mark, I guess one question back  
17 to you is just in terms of --

18           UNIDENTIFIED SPEAKER: Mic.

19           MR. McELDOWNEY: -- I'm sorry. It's just in terms  
20 of with the long distance revenue dropping 10 to 20 percent  
21 a year, how are they going to have the strength to compete  
22 with the RBOC's?

23           DR. COOPER: Ken's doomsday scenario -- and I  
24 think you heard it from Kimmelman this morning as well  
25 although I hadn't thought -- I didn't hear what Gene said,

1 but he did say he attacked the Act. Ken's doomsday scenario  
2 is serious. What happens if we get the remonopolization,  
3 AT&T gets bought by one competitor, MCI gets bought by  
4 another and we have not a national monopoly but a  
5 essentially a balkanization in which each regional company  
6 has bought the most compatible long distance company after  
7 they get into long distance and we essentially have three  
8 super megacarriers around the country.

9           That is a very scary prospect. To me, one of the  
10 cornerstones to that is if we get real market opening as the  
11 basis for that, I think other competitors will come into  
12 existence. Who's going to compete? AT&T is not driving  
13 competition in most states. It turns out it was other folks  
14 who are getting lots and lots of local customers. That is  
15 if you look at the market share of non-AT&T customers in a  
16 place like and New York and compare it to their market share  
17 in long distance, the competitors have done a very good job.  
18 Other folks have a done very good job.

19           So, in my -- and, again, -- so my view is that if  
20 we could work hard for a New York-style entry -- and I will  
21 agree, Ken, they haven't done you right in California -- we  
22 could have a competitive market. And if we don't, your  
23 horror story will in fact come to pass. And then, we will  
24 be back here.

25           And this is maybe the best lesson of what Pat Wood

1 is doing at the Federal Energy Regulatory Commission. He is  
2 now having to try and reconstruct the conditions for relying  
3 on markets in electricity. The public has lost faith in  
4 that market.

5 And if regulators let Ken's worst nightmare come  
6 to pass, we will go back to an old system in which we are  
7 not relying on markets. Some consumer advocates like that  
8 idea. CFA has been pro-competitive throughout its history,  
9 so. But make no mistake, 40-plus states are living in Ken's  
10 nightmare. And if regulators don't do a good job,  
11 policymakers are going to have to go back and redo the whole  
12 thing.

13 MR. LEITHAUSER: Anybody else want to take a crack  
14 at that question?

15 MS. WILLIAMS: We have a question over here from  
16 Bob Segalman.

17 DR. SEGALMAN: I want to ask Allan. You've said  
18 that competition works when the regulators allow it. But,  
19 as far as I know, the state of New York has refused to --  
20 the state of New York has refused to spend money to educate  
21 people with speech difficulties to use the telephone with  
22 Speech to Speech, and almost nobody is using it. If you  
23 talk to -- if you don't talk -- if you don't do some  
24 regulation to educate people with speech disabilities to use  
25 Speech to Speech you are wasting the hundreds and thousands

1 of dollars that you are spending to provide it. Can you  
2 comment on that?

3 MR. BAUSBACK: I'd like to try it. Am I on?

4 UNIDENTIFIED SPEAKER: Yeah.

5 MS. BAUSBACK: I'd like to, you know, try to  
6 comment on that if I understood your concern. Obviously,  
7 we'd like to educate everybody about everything, you know,  
8 Speech impaired consumers, hearing impaired consumers, non-  
9 impaired consumers on, you know, how to use the network and  
10 how to get the best deal out of it.

11 But we don't have a, you know, an education  
12 budget. And I certainly don't see one coming forth. We do  
13 have some outreach and education programs going on, but they  
14 are really highly targeted. We have a group of people that  
15 go out and meet with, you know, all kinds of groups. And  
16 I'll certainly, you know, bring your issue to them to see  
17 what we can do. But we don't have a, you know, mass  
18 campaign budget to take out TV ads or, you know, radio ads  
19 to, you know, to do that.

20 MS. WILLIAMS: Judy Harkins.

21 MS. HARKINS: I had a question about innovation  
22 because one of the byproducts of competition is supposed to  
23 be innovation, and so I was curious . I heard a couple  
24 very small examples, a flat rate plan, you know, if that's  
25 an innovation, you know, for that area it was. But any

1 technological innovation that's significant as a result of  
2 the places where there is competition?

3 MR. CONROY: I'll give it a shot to at least start  
4 off with. I think what we're seeing in Massachusetts anyway  
5 is technological innovations that are not necessarily  
6 specific for customers or customer groups but instead  
7 innovations by the competitors to make the service that they  
8 are providing better and less expensive. So, it's not  
9 necessarily a product that is coming to the customer, but  
10 instead innovation by the competitors to do a better job,  
11 provide better service, provide a cheaper service to  
12 customers. At least that's what we're seeing at the  
13 beginning part.

14 MS. BISCHOFF: And you can look at this  
15 historically, if I could add to that. I mean, MCI, the "M"  
16 stood for microwave because that was what MCI invented.  
17 Sprint. As a result of Sprint, we now have fiber networks.  
18 Net-To-Phone was responsible for IP telephony. Octel for  
19 voicemail. You know, those are the types of technological  
20 innovations that have come from the competitive side.

21 DR. COOPER: Let me -- I want to underscore a  
22 point that Carol made, and it's very important because we  
23 are at a very critical moment here. And you hear a great  
24 deal about the preference for dominant facility owners, the  
25 cable companies, the telephone companies, these large

1 substantially monopolists to say, well, they need the  
2 additional resources to do the innovation. And making them,  
3 quote, share their networks blunts their incentive to do so.

4 I want to offer two observations. If you go back  
5 and think about the internet, clearly the most dramatic  
6 innovation of our time, that was accomplished by a  
7 combination of making the monopolists share their lines.  
8 The phone companies were held down screaming and kept out of  
9 that business and hundreds and thousands of entrepreneurs,  
10 to use Carol's words, atomistically little guys thinking up  
11 the ideas. If you ask yourself why don't we have a killer  
12 application for the high-speed internet, I will give you an  
13 answer. Because you have let monopolists who have strategic  
14 interests to control those networks to kill innovation. Why  
15 do you want to invent when you can't get on one wire and the  
16 other guy'll steal your ideas. These are strategic actors.

17 So that if you look -- and that is the choice you  
18 have, you can choose to go with the big monopolists and say  
19 give them more rents and see what they'll do. And we know  
20 what monopolists do. They don't innovate. They extract the  
21 most that they can, and they exploit their market power. Or  
22 you can keep these networks open so that thousands of  
23 people, little guys are thinking about applications and  
24 don't have to go through the gateway and pay the toll of the  
25 strategic monopolists.



1           And so, my answer to you is that if you close  
2 these networks, which a lot of people are talking about, you  
3 will be back into the old days of AT&T saying you can't plug  
4 this in.

5           MS. HARKINS: Yeah. My reason for asking was  
6 precisely that.

7           DR. COOPER: Yeah.

8           MS. HARKINS: You know, there are services in  
9 these large networks that, for example, are inaccessible to  
10 people with disabilities and a little company could come in  
11 and provide an alternative. And I just don't see a lot of  
12 innovation even when you're starting to get competition that  
13 looks like it's all price point types of innovation to drive  
14 down the cost, not new services and so on. So that's why I  
15 was asking about it. It's like the public doesn't expect it  
16 anymore of the companies. They expect it on the internet.

17           MR. NAKAHATA: But I think that, you know, Carol  
18 Ann gave a good example in terms of the Z-Tel product where  
19 you have a company coming in and adding features together,  
20 voice and information service products. At least, in terms  
21 of the circuits which network it's not sure -- I mean, it's  
22 not clear that you have a platform that's going to be able  
23 to do a lot more than that.

24           MS. HARKINS: No.

25           MR. NAKAHATA: But as you start merging the power

1 of the internet and packet technology, I think you're going  
2 to see products that are wildly innovative, allow you to do  
3 many more things, sort of like the difference between having  
4 a word processor and a desktop computer that can do  
5 spreadsheets and all sorts of other things.

6 MS. WILLIAMS: David.

7 MR. POEHLMAN: Sorry. David Poehلمان, American  
8 Council of the Blind. I like that one bill plan. As I  
9 mentioned this morning to the other panel, I have one bill.  
10 And, prior to this Spring, I was quite happy with my one  
11 bill. But this Spring I was told that in order to keep my  
12 one bill I had to pay \$1.50, or, if I wanted avoid paying  
13 the \$1.50, I had to get two bills. Well, you know, so I'm  
14 in old-fashioned guy, I like to pay things with one bill if  
15 I can.

16 But the point I want to address is I want to be  
17 New York. I want Maryland to be New York. What can I do to  
18 monitor and assist in directing and help other people to do  
19 the same thing for this process to move forward in Maryland  
20 so that we don't face the 46-plus doom that we will surely  
21 face if this continues.

22 DR. COOPER: Well, I have visited with the members  
23 of the Maryland commission. I am a resident of Maryland, so  
24 I get a double hit on them. Again, this is a political  
25 process, make no mistake about it. We like to call it

1 economics or something else, but regulators have to feel the  
2 political pressure of requiring genuine market opening in  
3 your state. So the answer is get the local group that you  
4 represent and start complaining.

5           There is no reason -- and we've done a document  
6 that looks at Maryland. And we have filed a document --  
7 that document at the Maryland PUC. Now, we do as many  
8 states as we can. We tend to focus on the big ones, so  
9 we're there in Florida and California right now. But the  
10 answer is that you have to complain and exercise your rights  
11 as a citizen of the state and insist that the Public Service  
12 Commission make it clear there is not going to be entry into  
13 long distance until there is legitimate market opening in  
14 local

15           MR. CONROY: I would disagree with Dr. Cooper on  
16 only one word that he used, and that is complain. I would  
17 certainly agree that you should be involved, but I don't  
18 necessarily think that that means you have to complain.

19           (Laughter.)

20           MS. WILLIAMS: Brenda.

21           MS. BATTAT: I just have a question about -- we've  
22 talked a lot about the relative success in Texas and New  
23 York, and we've related it to choice and cost. But has  
24 there been any study in terms of like satisfaction with  
25 quality? And, I mean, how satisfied are the consumers and

1 what is the quality level of the service?

2 MR. BAUSBACK: If I could comment on New York. I  
3 can't comment, you know, beyond that.

4 Depending upon the mode of entry, you know, a  
5 large of that part of the competitive offerings usually use  
6 the incumbent's facilities as a primary platform of  
7 delivering those facilities. And we sure have measures in-  
8 place that the quality of service is on parity between the  
9 incumbent and all the competitors using that. But usually  
10 the service quality there is going to be no better or no  
11 worse than the, you know, incumbent's to the degree that the  
12 facilities are used.

13 We do -- we monitor the, you know, service results  
14 of all of our competitors. And by and large, I can report  
15 that it's good. I mean, we don't really have any service  
16 quality problems that are specifically oriented to, you know  
17 -- at competitors.

18 One problem we do have as of late unfortunately,  
19 is, you know, is a lot of companies are going belly-up. And  
20 we have a lot -- a lot of small competitors or a number  
21 competing carriers actually number close to a thousand in  
22 New York state. Not all of them are even actively in  
23 business or are very large, but many of them are. And it's  
24 a transfer of customers to a -- you know, a surviving  
25 carrier that's a challenge as of late.

1           But service quality-wise we're -- we don't have  
2 any, you know, problems to report on.

3           MS. BISCHOFF: There have been some problems  
4 related to mergers and predominantly in the SBC territory  
5 where they have acquired Ameritech Operating Companies.  
6 There have been some consumer complaints there about waiting  
7 times to get installed new service, and that had a lot to do  
8 with the way that merger went through.

9           MR. CONROY: And I think in Massachusetts you've  
10 heard from other folks about New York and Texas. Let me  
11 kind of put a plug in for Massachusetts and say that most of  
12 the numbers that you've seen from New York and Texas were  
13 kind of early-on in 2001 end of 2000 numbers. The numbers  
14 that I showed you -- and we were not in long distance in  
15 Massachusetts at that timeframe. The numbers that I showed  
16 you earlier showed that we're getting towards the New York  
17 and Texas numbers.

18           And certainly on the quality of service side, we  
19 have the same quality of service plan in Massachusetts that  
20 is in New York. Absolutely the same. And we are monitoring  
21 that. Every month we file reports with our commission, the  
22 Department of Telecommunications and Energy, and, knock on  
23 wood, there haven't been any major complaints.

24           DR. COOPER: An observation, and this goes back to  
25 a point. I believe the New York plan has 1100 performance

1 measures, little itty bitty discrete measures. And when I  
2 say that, people say, my God, is that any way to run this  
3 business. But the answer is that is the necessary result of  
4 the mistake that was made about legacy systems. Once you  
5 say separate and equal, you've got to make sure it's equal.

6 And in order to produce equality, you have to monitor this  
7 incredibly complex network.

8 And so, having made a policy decision to say  
9 separate and equal, then you have to deliver the equal part.

10 The separate part we know they stuck us with. Delivering  
11 the equal part takes a thousand measures, or else you will  
12 discover that, well, you know, this guy doesn't get as good  
13 a service, he gets dropped for a day and they lose their  
14 business. And they say, well, it was his fault. No, it  
15 wasn't his fault.

16 So, in point of fact, if you're -- people are  
17 relying on the network and they have had a rigorous test and  
18 now there's a question of what happens when they flunk the  
19 test. Well, the answer is the test was too hard.

20 In New York there was a good military test, and  
21 they passed it. And so, the answer is you're likely to be  
22 getting approximately the same service, which is what the  
23 word parity means.

24 MS. WILLIAMS: Vernon.

25 MR. JAMES: Thank you, Andrea. Good afternoon.

1 MR. CONROY: Good afternoon.

2 MR. JAMES: My name is Vernon James, and I  
3 represent the San Carlos Apache Tribe. My question this  
4 afternoon is directed to John Nakahata.

5 John, you made a comment about long distance, some  
6 carriers providing these cost plans in metro areas but not  
7 in rural areas. Now, I come from a reservation which is  
8 probably rural America, and sometimes I get frustrated when  
9 I see these ads. Because I watch television that gets its  
10 signal from a satellite. And I watch this beautiful picture  
11 and this beautiful person that comes on and tells me I can  
12 save a lot of money if I join their particular service.

13 And I know that many other people in rural  
14 American are also frustrated because when they call-up  
15 they're told they can't. So how can rural America get  
16 policymakers or lawmakers to force these cost plans to rural  
17 America? Why is rural American kept from participating in  
18 these plans? Thank you.

19 MR. NAKAHATA: I'm glad you asked me that  
20 question. And let me be clear about what I said earlier  
21 too. It's not that I don't think that companies like AT&T  
22 are complying with the requirement that they offer their  
23 plans everywhere. I think they probably are.

24 But the problem is that the way that the market is  
25 set-up right now you have a four cent a minute access rate

1 in a rural area. If you're offering a nationwide plan  
2 that's seven cents a minute or you're only offering a  
3 service in -- let me take a different example. A small  
4 company, one of the others that's offering a 4.9 cent a  
5 minute service if you happen to live in an RBOC territory  
6 but never ventures outside of the RBOC territory. You know,  
7 nobody's going to offer a 4.9 cent a minute long distance  
8 service in any area where they're going to be paying four-  
9 and-a-half cents a minute in access charges. You're not  
10 going to do it. So the long distance carrier that's  
11 offering the 4.9 cent a minute plan is not going to go out  
12 to the rural areas to offer that service. Okay. How do you  
13 solve that problem?

14 One would be to say, well, we're going to try and  
15 force -- we're going to force somebody, you know, the  
16 nationwide carriers to try and do that, and we do that. The  
17 problem is the nationwide carrier is not going to offer 4.9  
18 cents a minute. Their flagship rate's going to be seven  
19 cents a minute, and they might have some promotions or  
20 meeting competition offers that they can offer in areas  
21 where they're facing the guy who's got 4.9 cents a minute  
22 out there.

23 So, how do you solve that problem? The way you  
24 have to solve that problem is attack it at its root, to say,  
25 okay, if we have a nationwide -- a policy that we want to



1 have lower toll rates for rural areas than would otherwise  
2 happen if we just left the market to its own devices, and if  
3 we want these rates to basically be the same offerings and  
4 plans that are going to get offered in urban areas, we've  
5 got to step up to the plate and create some universal  
6 service support for it. We can't expect this money in this  
7 highly competitive marketplace to be just generated by AT&T,  
8 Sprint and WorldCom. They don't have a license to print  
9 money.

10           So, we have to create a subsidy that will do that.

11       It has to target providing the high cost parts. It has to  
12 support the local companies providing the access in those  
13 areas, which is what costs four cents a minute. And if you  
14 do that and bring the charge -- the access charge to the  
15 long distance companies down by subsidizing it, then you  
16 will create an environment where both the AT&T, Sprint,  
17 WorldCom's of the world and my little other carrier that's  
18 offering a 4.9 cent a minute plan all have incentive to go  
19 out and offer service in that rural community.

20           Notably, the FCC had the opportunity to do this  
21 when it considered the MAG order just a month ago and didn't  
22 step up to the plate. It decided, well, maybe we can just  
23 pretend that this system of implicit subsidies will continue  
24 to work. It won't work. You cannot get people to offer  
25 below cost service in a high cost area. You've got to

1 address it the only way that everything else is addressed  
2 where we want to create a below cost price, create a  
3 universal service support. If you do that, you'll get the  
4 economics right, and you'll address the problem that you  
5 talked about.

6 MS. WILLIAMS: Paul.

7 MR. LUDWICK: Paul Ludwick. I noticed that on the  
8 two panels we've had today, we've had representation from  
9 local exchange carriers, regulatory folks and consumer  
10 organizations, but we've had no representation from  
11 competitive local or long distance carriers. Would anybody  
12 care to speculate --

13 (Laughter.)

14 -- oh, I'm sorry.

15 MS. BISCHOFF: That would be me.

16 (Laughter.)

17 MR. LUDWICK: I didn't get that out of your  
18 presentation. But that being said, would anyone care to  
19 speculate on how their perspectives might be different might  
20 from those that have been expressed in this panel?

21 MR. CONROY: I can't believe they'd disagree with  
22 me.

23 (Laughter.)

24 MS. BISCHOFF: And I think they would agree  
25 wholeheartedly with me.

1           MR. CONROY: But we didn't disagree.

2           MS. BISCHOFF: No. To be clear, the trade  
3 association of which I serve represents competitive local  
4 carriers, CLECs, long distance carriers, internet providers,  
5 global carriers, I mean, basically, everybody who competes  
6 against the Bell companies.

7           MR. LUDWICK: Well, let me I guess be a little bit  
8 more direct. We've had really a very good local exchange  
9 story on both panels. And I'm just wondering if we had  
10 brought in a representative from one of the companies for  
11 the long distance carriers or the CLECs, how would their  
12 response be to those stories? Would they have a dissenting  
13 opinion so to speak?

14          MR. BAUSBACK: I could probably take a guess  
15 because we hear from lots of them back home. No. They'd be  
16 largely in agreement except maybe stress different areas  
17 that, you know -- than individual panelists have stressed  
18 here. I was attempting at least, probably inartfully, you  
19 know, to point out that, you know, use of the incumbent's  
20 local network to provide, you know, local service presence  
21 is, you know, extremely important. It's important not only  
22 for being a local, you know, competitor but being a full --  
23 what I would call a full service provider, which would  
24 include the long distance companies.

25          Well, it's no secret that the largest, you know,

1 local competitors in New York state are AT&T and MCI. And  
2 the reason they're, you know, desperately in that mode of  
3 operation is that's a vehicle for them to preserve their  
4 long distance service by having a customer presence. So, I  
5 think really it's an emphasis from those two carriers on,  
6 you know -- on affordable provision of incumbent telephone  
7 companies' what we call network elements to them as a  
8 vehicle to, you know -- to have that full presence.

9 DR. COOPER: I can offer a couple of observations.  
10 For instance, they would definitely say in New York and  
11 Massachusetts that unbundled network element prices have to  
12 come down. That's a pending decision in New York, and  
13 Massachusetts and New York tied them together. So they'd  
14 definitely say those prices are too high. And actually the  
15 Commission has been working on that for far too long, but  
16 they've been working on it.

17 (Laughter.)

18 The interesting one is AT&T because AT&T will --  
19 it depends on which company you're talking to. In  
20 Massachusetts they've got lots of cable wires, and so they  
21 tend to be quiet since they do cable. And in New York, they  
22 don't have cable wires so that they scream about UNE's in  
23 New York and they will pursue their interest.

24 The irony is in a place like Texas where -- or  
25 other places. Their problem is that they want the telephone

1 wire open where they don't have a cable wire, but they  
2 certainly don't want the cable wire open where they do. And  
3 so, that tends to undercut their message a little bit.

4           They certainly -- so the answer is that in most  
5 places they are completely dependent upon UNE's, especially  
6 on the platform. And they will tell you that if that  
7 platform goes away, their local competition goes away as  
8 well. And that is the simple fact of the matter, especially  
9 for residential customers.

10           People are not building a ubiquitous competing  
11 telephone network. It remains to be seen whether the cable  
12 network can really work for local telephony. The rest of  
13 the industry other than AT&T is not aggressively doing  
14 circuit switch telephony. They're hoping that the internet  
15 telephony will come along or packet telephony. And so, they  
16 are dependent upon that traditional circuit switch access to  
17 that network. And so, they would be more strident if  
18 anything about UNE-P.

19           MS. BISCHOFF: And that goes to the first question  
20 that was asked about what will these carriers do with  
21 declining revenues. The importance of UNE-P increases. So  
22 that one possible result would be that you would see a  
23 dichotomy among the states. I mean, you will see states  
24 where the regulatory policies are auspicious for competition  
25 and the competitors will go there. But with the capital

1 markets being what they are, they won't go to the other  
2 states. And at some point possibly, you know -- down the  
3 road, you basically have the states looking at other states  
4 and, at that point, competing as it were for a more  
5 hospitable telecommunications climate. That happened in the  
6 eighties when we were building out fiber.

7 MR. LUDWICK: As Mr. --

8 MR. CONROY: I --

9 MR. LUDWICK: -- I'm sorry. As Mr. Cooper said,  
10 would the local or competitive locals and the long distance  
11 carriers agree that in a great majority of the country, 46-  
12 some states, conditions aren't correct for competition in  
13 the local loop.

14 MR. COOPER: Someone will say it's more than 46,  
15 but the answer is yeah.

16 (Laughter.)

17 I mean, look, if you want to come to California  
18 and look at what's going on in the proceeding or Florida,  
19 you know, this is a battle that has been going on for six  
20 years, and it has not stopped. And the point we make when  
21 we go into these places is that if you look at the  
22 telecommunications market in California there is -- it is at  
23 least as attractive as New York. Why are there five times  
24 as many people switching in New York as California? It's a  
25 high income state; it's an intensive telecommunications

1 state; it's a low cost state. There is one and only one  
2 difference: regulatory policy. And so, in those kinds of  
3 places that is the message: we will compete here if you  
4 give us a chance.

5 Rural states may be a little different. The lower  
6 density states may look a little different. But there are a  
7 dozen states, and that's what we've looked at, that it makes  
8 the difference between having 10 or 15-million residential  
9 customers served by competitors, which makes the base for an  
10 industry that you can support, or three or four-million, in  
11 which case it's not going to be much of a place for people  
12 to have to build a business model.

13 MR. CONROY: Let me give you a perspective from  
14 Massachusetts anyway and from an incumbent carrier. And I  
15 don't necessarily disagree with anything anyone has said.

16 But from Massachusetts and looking at what's going  
17 on in Massachusetts in the regulatory arena, we're in front  
18 of the Massachusetts Commission a lot. And I mentioned  
19 earlier that there were over 54 resellers -- or 54 resellers  
20 in the state providing service to customers. None of them,  
21 at least in the last six months, have come before the  
22 Commission complaining about anything.

23 There are a dozen or more network-based  
24 competitors in the state, and there are a handful of those  
25 that come to the regulatory commission to participate in our

1 proceedings. My view of that may be different than others,  
2 but my view of that is they're out in the marketplace  
3 fighting us. And that's where we belong fighting, not in  
4 the regulatory arena.

5 MS. WILLIAMS: Shelley.

6 MS. NIXON: Yeah.

7 MS. WILLIAMS: Do you have a question?

8 MS. NIXON: I'd like to add a comment. I'd speak  
9 to one of your -- the words of support promised from this --  
10 I recognize that there is a motive for profit, but I also  
11 recognize that there is an awful lot of underdeveloped  
12 talent being offered for non-profit. Thanks.

13 MS. WILLIAMS: Shelley, are you asking -- are you  
14 making a comment, or you would like the panel to comment --

15 MS. NIXON: No.

16 MS. WILLIAMS: -- on your statement?

17 MS. NIXON: I'm supporting him. I'm just making a  
18 comment. I don't expect an answer.

19 MS. WILLIAMS: I'm sorry. I couldn't hear you  
20 because the mic was not on yet.

21 MS. NIXON: Okay. I'm just making a comment. I  
22 don't expect an answer.

23 MS. WILLIAMS: Thank you.

24 Well, I have a question that I wanted to ask the  
25 panel. I guess -- can I change hats?



1 MR. MARSHALL: Sure.

2 MS. WILLIAMS: Yeah, okay. This is great.

3 I've heard everyone up here talking about how  
4 great New York, Texas and Massachusetts -- is really the way  
5 that we should be going. So how do we get the other states  
6 to fall in line? Mark gave us some suggestions in terms of  
7 the whole political process and making sure regulators  
8 provide the, I guess you would say, the environment to allow  
9 competition to work.

10 But one of the things that I'm also hearing from  
11 Carol, John, everyone on the panel is that we have an issue  
12 of economic viability of some of the competitive companies,  
13 and, at the same time, we have a process in these states  
14 that are taking two years if not longer. As Allan said, you  
15 know, we're looking at a 35 year process. How do you bridge  
16 that gap? How do you help the FCC and state regulators to  
17 bridge that gap because I don't know any competitive -- any  
18 CLEC that can wait 35 years or two years before they're  
19 allowed entry into the local market?

20 MR. BAUSBACK: When I was pointing out the, you  
21 know, the 35 years to give some context to, you know, what a  
22 reasonable expectation is. I didn't mean to imply that the  
23 35 years was all caused by regulatory delay by any means.

24 (Laughter.)

25 We have a general philosophy, and I think we're pretty true

1 to it. Mark would probably disagree here and there that we  
2 don't want to be on the critical path as far as the  
3 regulator goes. We don't want our decisionmaking process to  
4 be the thing that governs the length of time that something  
5 happens. We have our processes, but we like to complete  
6 them, you know, in time for, you know, the natural course  
7 of, you know, action to flow.

8           So I think from a, you know, regulatory  
9 perspective that they key is don't be on the critical path,  
10 be the, you know -- complete your processes in a timely  
11 fashion and let, you know -- let some other natural thing,  
12 you know, govern what -- how much time it might take.

13           What I was implying is that, you know, the real  
14 impetus or what you hear, read in the paper or hear in  
15 little bits and pieces is that what we really need is, you  
16 know, a full facilities-based competition that -- using the  
17 incumbent's network to any degree isn't really going to, you  
18 know, to do the trick. And I would like to achieve that  
19 myself. And I think you'd find that New York commission is  
20 pursuing that.

21           It's that piece of the pie that's going to take  
22 some time. Remember, it took a hundred years to build the  
23 network we have, and it's not going to be, you know -- a  
24 competitive substitute is not going to be there, you know,  
25 overnight. But the process of getting there is going to be

1 stepwise, and we're on a very important, I think, probably  
2 multiple steps but a very important first step.

3 DR. COOPER: I have two answers. One, remember,  
4 and it's a truism people like to say in antitrust, this is  
5 about competition, not competitors. It's competition that  
6 matters in any particular company. And I'm sure CompTel's  
7 members don't, you know, want to hear this, but, you know,  
8 it's not -- they can disappear and all change their, you  
9 know -- and be a different set of companies. It's about  
10 competition. That's the first answer.

11 And so, will capital markets come back and start  
12 devoting capital to competition. People who say they want  
13 to compete, yes, as long as you think you have a chance of  
14 competing. And that's where I think the harm has been done  
15 in terms of letting these folks.

16 But the answer, I think -- and if you look back at  
17 the history of how 271 has unfolded, you may recall, or I  
18 certainly recall Ameritech, which had negotiated a deal with  
19 the Department of Justice to waive through the ban on long  
20 distance before the '96 Act was passed, and, in a certain  
21 sense, the '96 Act screwed up a good deal from our point of  
22 view because we actually talked to people about it. But  
23 they filed their first application nine months and one day  
24 after the Act was passed because they thought there was  
25 legislative history that was going to automatically get them

1 in. And they filed an application in which the  
2 interconnection agreement was actually the wrong one because  
3 it hadn't been agreed to. And so, they thought they were  
4 going to get in nine months after, and the FCC said no.

5 And then, for the next 14 months, we had a variety  
6 of applications come forward, all of them in a distressing  
7 state of disrepair in which commissions had done almost  
8 nothing. We had Oklahoma. We had Louisiana. And they kept  
9 sending this junk up here. Let's be blunt. And the  
10 Commission kept saying no.

11 And then came the New York pre-filing statement.  
12 And the pre-filing statement came out in April of '98. And  
13 you know what, the next month Bell Atlantic issued a press  
14 release, we're getting in the next month. And the New York  
15 Commission said no. And it took another 18 months before  
16 they finally got in.

17 So, the answer is just say no --

18 (Laughter.)

19 -- until they get it right. But that's the point is that  
20 we're now with another series of applications in which they  
21 have not met the standards set by New York and Texas and  
22 they think, well, maybe we can get it through this  
23 commission this time. And if you don't say no to some of  
24 these inferior, inadequate applications then they'll come  
25 back with lots of junk and then we won't have the

1 competition.

2 So the commissions, both the state and the federal  
3 commission, have to know what the conditions for competition  
4 look like. And we think we showed them in New York. And if  
5 they establish those conditions for competition, the  
6 competitors will come. And so, the answer is we have to say  
7 no to some of these applications that don't meet the  
8 standards of New York and Texas.

9 MR. CONROY: Why does he always point to me when  
10 he says don't meet them.

11 (Laughter.)

12 DR. COOPER: Well, we -- no. Because  
13 Massachusetts was -- the pricing was bad in Massachusetts.  
14 We did not complain about the other stuff.

15 MR. CONROY: I have a comment on your question,  
16 but I can't let that one go. Our prices are the same in  
17 Massachusetts and New York, so if they were good enough for  
18 New York they must be good enough for Massachusetts

19 I'm not going to totally disagree with Dr. Cooper  
20 to answer your question. But I have a little different view  
21 of it, and it's a little bit of what Allan said as well.

22 After the Act there was confusion. People weren't  
23 exactly sure what it was going to take to get into long  
24 distance. The FCC was clear in New York. They were clear  
25 in Texas and Oklahoma. They were clear in Massachusetts.

1 They now seem to have set-up a model, a template if you  
2 will. And I think what you're going to see now -- because  
3 in Massachusetts we struggled with that. We weren't sure  
4 what we had to hit. Now, I think the FCC has set that, and  
5 I think other states will see it.

6 The key is to not keep moving the ball.

7 MS. WILLIAMS: I was going to ask you that  
8 question --

9 MR. CONROY: Once you set it and if people meet  
10 it, then you can't say, yeah, but I want a little more.  
11 I've got five kids, and they always do that to me.

12 (Laughter.)

13 I want a little more. And you can't do that. You've got to  
14 set it and have that work that way.

15 And I think with that you will see more  
16 applications coming in. And, hopefully -- and this is where  
17 Dr. Cooper and I probably agree, they will meet that mark.  
18 And if they don't, then they should be sent back.

19 MR. NAKAHATA: But also I think if we have a basic  
20 toolkit that's taken six years to develop, you have to do  
21 two things. You have to keep the tools sharp. That means  
22 you have to enforce the rules and the commitments that get  
23 made. The other thing you have to do is be really careful  
24 about when you decide to take tools out of the toolbox, you  
25 know. And one of the things the FCC is going to be

1 considering is, is it time to take tools out of the toolbox.  
2 And that's obviously going to be something that is going to  
3 generate a lot of controversy and could have a real effect  
4 on whether consumers are getting choices or not.

5 MS. BISCHOFF: I mentioned earlier that triennial  
6 review petition that CompTel has filed. And we basically  
7 make an argument that John suggests, and that is that this  
8 NPRM which is coming out next week should not be a message  
9 to any of the companies who haven't gone through the process  
10 that they can now foot-drag because they will not be  
11 required to unbundle to the extent that Verizon has in the  
12 states where it has achieved 271 entry. And so, we're  
13 concerned about the procedures.

14 You know, we think, particularly because of the  
15 lack of capital that we have and the lack of resources that  
16 we have to litigate even compared with what we had three  
17 years ago, that we need some certainty with regard to the  
18 process. They shouldn't be allowed to ex parte the process,  
19 they meaning, you know, the Bell companies to death because  
20 that kind of protracted prosecution at the FCC thwarts entry  
21 by the CLEC industry.

22 MS. WILLIAMS: Are there any other questions? Al?  
23 We'll take -- yes, we'll take -- could we have an  
24 interpreter? Raise your hands.

25 THE INTERPERTER: Okay. Can you hear me alright?

1           MR. SONNENSTRAHL (BY INTERPRETER): My name is Al  
2 Sonnenstrahl, and I'm with Deaf Seniors of America. I have  
3 enjoyed hearing all of you speak so far. And I have  
4 question for Tom about the 14 points, that checklist.

5           My question is does that list, the 14 point  
6 checklist, does that include disability-related issues? My  
7 rationale is that the relay service has an agreement  
8 actually with all the carriers, all the providers with the  
9 consumer of choice. And there are 300 or so service  
10 providers or carriers, and 25 of them have made these  
11 agreements with the relay services. So the relay service  
12 user does not actually have access to all of those carriers.

13           So what I'm wondering is, is it possible that we  
14 bring up this issue of the carriers with the relay services  
15 and that we -- that all of the carriers have had the  
16 agreements with the relay services? And if not, maybe that  
17 should be added as a 15th point.

18           MR. LEITHAUSER: I may defer to Mr. Conroy on that  
19 as he's been through the process, and I'm just a lowly  
20 journalist here. The relay service, I don't think, is part  
21 of 271. Is that correct?

22           MS. WILLIAMS: No. No, it's not.

23           MR. CONROY: It is non-specific, no.

24           MS. WILLIAMS: The 14 point that you referred to,  
25 Al, that is part of section 271 where Congress has actually



1 laid out what the 14 points -- what I call the 14 marks that  
2 RBOC's who want to in terms of -- what RBOC's must attain in  
3 order to get into long distance markets. So that is  
4 something that is set by Congress which the FCC would have  
5 to -- well, what it would require to get a 15th point is to  
6 go back to Congress to seek legislation which the FCC does  
7 not have the authority to include -- to add-on to a 15th  
8 point. There's been some discussion about some of the other  
9 things they have added on and whether those may end up in  
10 court.

11 MS. BISCHOFF: On the other hand, and not to  
12 interrupt, there is a public interest prong of the long  
13 distance entry test which the FCC has required to comply  
14 with. That was a provision that was fought very hard for in  
15 the United States Senate. But prior to that, an application  
16 goes before a state public utility commission. And as Mr.  
17 Conroy can tell you, in a number of the state proceedings  
18 there have been negotiations and concessions obtained from  
19 the Bell companies in order to obtain long distance entry.

20 I'm not suggesting that this is one that would be  
21 included, but, you know, that is the method by which  
22 something like that could be proposed.

23 MS. WILLIAMS: John.

24 MR. CONROY: Yeah. In Massachusetts specifically  
25 that -- it was not raised. And I think perhaps part of the

1 reason it was not raised is that we have a relay service in  
2 Massachusetts that is state-of-the-art. And I also know  
3 that anyone using that relay service can use any carrier  
4 that they wish, so it really wasn't an issue in  
5 Massachusetts. It certainly is --

6 (Some audience members nodded negatively.)

7 Well, I'll agree to disagree.

8 What I do know about the other state -- or about  
9 Massachusetts in terms of negotiations, nothing like that  
10 occurred. And I agree with you, Andrea, that it would take  
11 an act of Congress to include a 15th point.

12 MS. WILLIAMS: I'm going to take a -- I think it's  
13 time for us to take a break. I would like to first thank  
14 our panelists and our moderator, Tom. If you don't mind, I  
15 know there's maybe a few more questions, if our panelists --  
16 I know you have a very tight schedules. So if you have any  
17 questions that you would like to ask them directly, we can  
18 get their e-mail address, and I'm sure they would be happy  
19 to respond to us.

20 But I -- again, I would like very much to thank  
21 the panelists and the moderator. You did an excellent job.

22 And we really appreciate you coming and sharing the  
23 information with us as an advisory committee so that this  
24 will help us in terms of making our recommendations to the  
25 FCC in terms of where the consumers' priorities are with

1 respect to accessibility and also consumer issues to the  
2 Commission.

3 Thank you very much.

4 (Applause.)

5 After the break -- before everyone leaves, after  
6 the break we're going into breakout session into our  
7 subcommittees. Scott, can you tell us where we will be  
8 meeting.

9 MR. MARSHALL: Yes, I can. This is Scott  
10 Marshall. Am I on here? Okay. There I am. This is Scott.

11 We have three breakout groups paralleling our  
12 three subcommittees. The Disability Subcommittee will stay  
13 in here in the Commission Meeting Room. The Affordability  
14 Subcommittee -- I believe all of you are in the purple --  
15 will go across the hall to 402-442, literally just out this  
16 door and across the hall on your left. And the Consumer  
17 Committee in the pink will go to 438-468 which again is out  
18 this door, up the stairs, take a right and it will be on  
19 your right.

20 And we'll be back here at 4:30 with report-backs  
21 from the groups. Thanks.

22 (Whereupon, a recess was taken.)

23 MS. WILLIAMS: Okay. We're just going to run  
24 about maybe five or ten minutes over if we can start the  
25 subcommittee reports.

1           The charge to the subcommittees is to assess the  
2 impact of local competition, the discussion we had this  
3 morning and this afternoon in terms of our priority issues.

4     Ken, how's that for startling?

5           MR. McELDOWNEY: Well, especially since we didn't  
6 do that.

7           (Laughter.)

8           But then again, we've always been -- our committee  
9 has always been a little weird.

10          (Laughter.)

11          I guess one of the things that we sort of talked  
12 about was sort of the presentation and sort of how we  
13 thought that discussion sort of fit into the role of the  
14 committee has a whole and just in terms of -- and sort of  
15 talked some just about the -- what we saw maybe the  
16 committee should be doing as it moves ahead.

17          So, there was general agreement that the dialogue  
18 was good, that the issues were laid out well and fairly, and  
19 it was a very balanced presentation. But I guess that there  
20 was a concern that while the information was useful to  
21 folks, at the same time it was sort of -- in some ways, for  
22 folks who have been around for awhile, it was sort of  
23 rehashing what people have been saying before. And so, it  
24 was almost as if the different sides were sort of -- you  
25 know, had been hammered into place over the years. So that

1 was part of that.

2           So I think the big question that people had was  
3 just in terms of what was talked about today about local  
4 competition and the larger than local competition issues  
5 what as a committee can we really do about it. And I think  
6 that what folks thought was that it was such a big issue,  
7 and there's real questions in terms of whether or not this  
8 committee can deal with such complex issues when the folks  
9 around the table have already in a sense -- they're  
10 representing both, you know, disability and consumer groups  
11 but also company positions that are all pretty set.

12           And so, I guess what we sort of -- came out of it,  
13 I guess, was sort of a recommendation in terms of looking  
14 forward. And I think we sort of reflected on sort of the  
15 advisory committees that, one, the companies that were on  
16 the subcommittee have and also that the, you know, consumer  
17 representatives sit on. And I think what we were coming up  
18 with was thinking that what might be more productive in the  
19 future would be maybe a combination of things.

20           One would be presentations by FCC staff that were  
21 relatively short that sort of spelled out something that was  
22 before -- that the Commission was dealing with at that point  
23 in time with some specific questions where they wanted some  
24 input or specific areas where they wanted input, where they  
25 thought that would be valuable. And then, at the same time,

1 that ideally there would be other issues that were  
2 percolating up through the subcommittees where the  
3 subcommittees would then be making specific recommendations  
4 to the full committee.

5           And I think there we were thinking about -- that  
6 ideally what would happen is that a subcommittee would, you  
7 know, fully discuss a particular issue and the presentations  
8 to the full committee would be basically saying the  
9 arguments were this on this side, that on the other side,  
10 and we recommend this. The full committee would not sort of  
11 rediscuss the issue but would pretty much just, if they felt  
12 that the presentation, the arguments and the recommendations  
13 from the subcommittee were basically solid, that the full  
14 committee would in essence endorse that position without  
15 thinking they had to reinvent everything all over again.

16           So I guess it's -- so I guess that's sort of what  
17 we came up with, sort of, I guess, asking a little more  
18 direction from the Commission, which I realize is a problem  
19 but that ideally the agendas for the meetings would be sort  
20 of a combination of specific things that were coming from  
21 the Commission where they wanted some feedback and, two, the  
22 issue areas that would be coming out of the subcommittees  
23 with specific recommendations that then the full committee  
24 would act on.

25           MS. WILLIAMS: Thank you, Ken.

1           MR. McELDOWNNEY: And I'm sorry we didn't follow  
2 the rules.

3           MS. WILLIAMS: Well, that's all right. But I  
4 think that what your committee did provide would be very,  
5 very useful in the task force that Shirley wants to discuss  
6 in terms of the CDTAC's structure and also the operating  
7 guidelines. So that is very, very helpful.

8           As a matter of fact, you're not on that committee,  
9 Ken.

10          MR. McELDOWNNEY: I wasn't here, but I would be  
11 more than happy to be on it --

12          MS. WILLIAMS: Okay.

13          MR. McELDOWNNEY: -- to make amends for not  
14 following the directions.

15          (Laughter.)

16          MS. WILLIAMS: Judy. I know you're reporting on  
17 behalf of Leo and Micaela.

18          MS. HARKINS: I'm the tenth choice. I'm the tenth  
19 choice person to chair the committee. And everybody else,  
20 that shows how far down the totem pole you are.

21          But I think I would like to follow on Ken's  
22 remarks because we have some in that -- in the area of the  
23 program too and then go onto -- because we also did talk  
24 about what we were supposed to.

25          But we had a lot of discussion about the program

1 not really touching on disability issues that could have  
2 been incorporated into these presentations pretty  
3 seamlessly. And we would like to ask that at the next  
4 meeting we can get into some areas that we have growing  
5 concern about because we have not had -- at our last  
6 meeting, we said that we would like to have a report on  
7 section 255 enforcement and complaints, for example.

8           There's a reorganization under way, and we would  
9 like to know how it's affecting DRO. Mr. Snowden mentioned  
10 that it was going to be elevated and expanded, but we would  
11 like to know how that's going to play out.

12           And we had a recommendation related to that issue  
13 kind of that we would like to make today, and that is the  
14 FCC has taken off of the DRO website the address "access at  
15 fcc.gov" that many of us have been disseminating to  
16 consumers very actively. And I don't recall receiving any  
17 request for input to take that down or to merge complaint  
18 processes with other complaints or even a notification of  
19 it. So that's a strong recommendation we want to make that  
20 that be reinstated right away and that the next program  
21 include some disability access issues.

22           On a more positive note, we did want to applaud  
23 the FCC for its proceeding on hearing aid compatibility with  
24 digital wireless phones and its reviewing of that exemption  
25 which has been a long time in coming. And we're very happy



1 to see that.

2           Okay. We have a lot, so I'm not going to go  
3 through all of the points. Those are the main ones under  
4 "other." On the items where we were asked to look at  
5 competition's effects, one point that came across is that  
6 competition alone will not provide accessibility for people  
7 with disabilities unfortunately. We need to enforce the  
8 regulations that are in-place. And when you have situations  
9 like state-by-state decisions about how competition will be  
10 realized, the markets in those states then become kind of  
11 segmented. They are small markets within markets for people  
12 with disabilities. So it even decreases the likelihood that  
13 competition would provide new accessible services.

14           And what we would like the FCC to do is to remind  
15 new entrants and others about section 255 and that plans for  
16 entry into the marketplace should include on all these many  
17 points in the different plans that are put forward  
18 checklists that are put forward that disability access  
19 should be in there. Claude Stout reminded us that there's  
20 no private right of action under section 255, and so the  
21 FCC's action is vitally important to making sure that it is  
22 realized.

23           Another area where competition affects people with  
24 disabilities is in the area of telecommunication relay  
25 services. And there are basically two pieces to this. One

1 is that allowing consumers to choose the relay provider that  
2 best meets their needs is advantageous because not all relay  
3 providers excel equally in all of the services that are  
4 available. For example, one relay provider, and I will  
5 mention it, Sprint, has a good Speech to Speech service, but  
6 a person may not be able to choose that service because the  
7 person's state has chosen another relay provider for  
8 intrastate service.

9           There is also the issue, an important one that was  
10 raised, by Al Sonnenstrahl that carrier of choice is being  
11 denied to TRS users because not all of the competitors in  
12 the marketplace are following ICCF connection  
13 recommendations. According to Paul Ludwick, that's the key  
14 piece that would allow them to connect to the relay service  
15 and to participate in the billing activities of that.

16           There was a public notice about this that did not  
17 have any effect. And going state-by-state with each PUC  
18 going to all of these carriers and trying to make them aware  
19 is too laborious. This brings in several pieces of policy,  
20 but all of them are within the FCC's jurisdiction.

21           And so, we would like for the FCC to tell us, to  
22 report back to us what their authority is to make sure that  
23 these carriers are participating in relay so that people who  
24 use TRS can have a carrier of choice.

25           The other item related to competition had to do

1 with awareness within the companies; that local and long  
2 distance companies should have disability experts in their  
3 customer care operations and that public utility commissions  
4 should take on some responsibility for educating these  
5 companies about what their requirements are. I know the FCC  
6 probably can't do much about that, but that was one of the  
7 points that came up.

8 So those were our main points with regard to the  
9 effect of competition on people with disabilities.

10 MS. WILLIAMS: Thank you. The last subcommittee  
11 is affordability. A little awkward here.

12 What we did is we went back through the list of --  
13 our initial list of priorities and sort of revamped and  
14 reprioritized. I must say that we did not have a full  
15 subcommittee, so this is a very initial report of -- an  
16 interim report. It is -- what I plan to do is put this on  
17 our listserv to get more input from other subcommittee  
18 members who could not participate today or who were not able  
19 to attend.

20 But in light of today's discussion it was very  
21 apparent to us that two of the major issues that we would  
22 like to see the FCC tackle is, first, broadband in terms of  
23 affordability and availability to rural tribal lands --  
24 availability and deployment to rural tribal lands, high cost  
25 areas and previously unserved markets.

1           The second was local and long distance competition  
2 to rural areas and tribal lands, again looking at  
3 affordability, availability of equitable services in terms  
4 of what urban areas are receiving including enhanced  
5 services and 9-1-1 services. As part of that, we see --  
6 we'd like the Commission to look at universal service fund  
7 as a mechanism to providing these enhanced services. And,  
8 again, there still continues to be this ongoing need for  
9 public education about the Lifeline and Linkup program.  
10 From what I understand from some of my members on the  
11 subcommittee, the word is just not getting out there.

12           We also looked at this whole issue of balancing  
13 FCC regulation with competition and had a discussion about  
14 this whole aspect of inter-modal competition; that the FCC  
15 needs to seriously look at this in terms of regulatory  
16 parity and coming up or finding a regulatory scheme that  
17 will get service to rural areas. One of the things we point  
18 out that where a land line company may not feel that it  
19 makes good business sense to go to rural areas, there needs  
20 to be an incentive for maybe a wireless or CLEC or satellite  
21 service to serve that area. And one of the ways to look at  
22 that regulatory scheme is looking at universal service.

23           And there was also an issue in terms of full  
24 disclosure to tribal lands and rural areas in terms of the  
25 business decisions that those communities would have to make

1 in terms of -- you know, if it's a land line service how  
2 much that service is going to cost in comparison to a  
3 competitor. Sometimes, from what I understand, there's not  
4 full disclosure, so a business decision is made that perhaps  
5 in the long run it may be beneficial for that community to  
6 decide on using another type of service.

7           There was also the other issue we think is a  
8 priority is revisiting the MAG order which is the order that  
9 recently the multi-association group put before the  
10 Commission dealing with -- was it universal service, the MAG  
11 order? Yes. And also, the FCC revisiting spectrum  
12 allocation and licensing with respect to the treatment of  
13 tribal lands as sovereign nations.

14           Two areas where we did -- I briefly covered in  
15 terms of the FCC information on complex issues and bilingual  
16 services in terms of educational outreach especially in  
17 Spanish, we wanted to note that the FCC has made some  
18 strides in this area and they should continue them. Just  
19 because they're not high on the priority list, does not mean  
20 that they're not important. The FCC should continue and  
21 improve upon those services.

22           And that was pretty much what we had. And, again,  
23 as I said, it's an interim report until all the subcommittee  
24 members can have an opportunity to comment. And I'm sure by  
25 the next meeting, we will have some other changes for you.

1                   Are there any questions regarding the  
2 subcommittee reports?

3                   (No response.)

4                   Okay. At this time, I would like to open the  
5 floor to comments from the public.

6                   MS. FREY: Good afternoon. Microphone?

7                   MS. WILLIAMS: Could we have the microphone for  
8 the public turned on, please.

9                   MS. FREY: Hello? Okay. Hi. My name is Brenda  
10 Kelly Frey, and I work with the Maryland Relay Service. And  
11 I also am a board member of TEDPA which is  
12 Telecommunications Equipment Distribution Program  
13 Association. And I would like to express our interest in  
14 becoming a member of your group. I understand that you had  
15 a discussion at your prior meetings and that you've closed  
16 membership. However, if a vacancy should become available,  
17 we would be definitely interested.

18                   It's a national organization that represents  
19 administrators of programs that distribute assistive  
20 technology to individuals who are disabled throughout the  
21 United States. Okay?

22                   MS. WILLIAMS: Thank you, Kelly. I will pass that  
23 along to Shirley.

24                   Are there any other comments from the public?

25                   (No response.)

1                   In terms of our next meeting, I'm sure Scott will  
2   send out an e-mail trying to find a convenient date for  
3   everyone. I just want to thank all of you for bearing with  
4   me today and also to wish all of you a safe and wonderful  
5   holiday season. And we'll see each other in the new year.

6                   This meeting's adjourned.

7                   (Applause.)

8                   (Whereupon, at 5:07 p.m. the committee was  
9   adjourned.)