

Statement of

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**To The
Subcommittee on Telecommunications and the Internet
Committee on Energy and Commerce
U.S. House of Representatives**

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Chairman Markey, Ranking Member Stearns, Members of the Subcommittee: Thank you for the opportunity to appear before you today.

The United States Telecom Association represents broadband service providers, manufacturers, and suppliers. Our member companies provide broadband on a fixed and mobile basis, and offer a wide array of voice, data and video services. You might say that “we are broadband” in that we design, build and manage the advanced networks that make broadband communications possible.

As such, we are committed to broadband investment and deployment, to increased broadband penetration, and to bringing the full promise of broadband to all Americans.

And what extraordinary promise that is.

- Broadband is bringing consumers new competition and choice in entertainment;
- It is advancing the economy;
- It is creating new jobs, especially in rural areas;
- It is improving the environment, through telecommuting;
- Broadband is bringing new innovations to healthcare, like those in your state of Massachusetts, through the Connected Health Initiative; and in Virginia, where through broadband, ICU nurses who could only watch three patients at a time can now monitor the health of up to 50;
- It is improving education, by allowing students who are ill to continue to participate in classes through broadband connections so that they do not fall behind;
- And broadband is improving personal security and emergency response, with innovations like the “Be Safe” program – again in Massachusetts – which is now operating at schools throughout the state, and provides first responders with on-site access to detailed, individualized information about local school schematics when lives are at stake and every second counts.

So broadband deployment is important ... *vitaly* important. Speaker Pelosi recognized this at the beginning of the 110th Congress by announcing an “Innovation Agenda” calling for increased broadband deployment. The 170-member Congressional Internet

Caucus recognized this in making its number one objective “promoting the growth and advancement of the Internet.” The House Republican High-Tech working group recognized this in its call “to remove regulatory barriers, and to promote new technologies to help make broadband more affordable for all Americans.” It is clear that bringing broadband to every American is a bipartisan objective. And we know, Mr. Chairman, that broadband deployment is an objective of yours. Indeed, your initiative early in this Congress to map where broadband is and is not available, in an effort to help target investment to where it is most needed, is in direct furtherance of this goal.

But H.R. 5353, in amending the Communications Act to establish a national “Broadband Policy,” does not establish a national policy that calls for broadband deployment. Nowhere does it call for increased investment, or expanded penetration. And, in fact, the language in this bill raises uncertainties that could chill investment, and bring to a grinding halt the development of creative and innovative uses of broadband that today are showing extraordinary promise.

What does the bill language mean when it calls for the adoption and enforcement of protections against unreasonable discriminatory favoritism for content based upon its source, ownership or destination? Would it be “unreasonably discriminatory” for a network operator to construct and manage its networks to assure the reliability of a healthcare application? A personal security application? What is and is not allowed? No one will, or *can*, know until the FCC defines these terms. And, how is this to take place? Prospectively, through rulemaking? Retroactively, through adjudication?

Mr. Chairman, we have three concerns with this bill:

Our first concern is that it has been the longstanding practice of this Subcommittee to study first, and legislate second. This bill takes the opposite approach. It establishes a national broadband policy first, and then directs a circumscribed study aimed at determining whether this new policy is being met and how best to enforce it. We believe the study should come first. And, in that regard, there has been much work by expert federal agencies and departments that is worth the Subcommittee’s review and analysis before legislating:

- The FCC currently has underway three separate proceedings on network practices, and in the past few weeks the Commission has held public hearings in Boston and Palo Alto. The Chairman of the FCC recently told a Senate Committee that the Commission has the authority to address any network management practices that violate the broadband principles that the Commission has already adopted to “preserve the open and interconnected nature of the public internet.”
- The Federal Trade Commission has conducted an extensive investigation into the state of broadband competition and determined that the marketplace is moving toward more, not less, competition in broadband services, and it warned against “the unintended side effects” of legislation.

- The U.S. Department of Justice recently echoed the findings of this Federal Trade Commission report in its own filing of comments with the FCC.

As a result, we respectfully suggest that this legislation is premature. The FCC should be allowed to continue its examinations, conduct its work, and conclude its proceedings before the Congress considers legislation.

Our second concern is that the terms used in the bill are ambiguous. For example, the new national policy would prohibit “unreasonable interference from and discrimination by network operators.” Unreasonable and discriminatory in the eyes of whom? As previously stated, until the FCC defines what is and is not “unreasonable” and “discriminatory” with a high degree of precision, an exercise that may well lead to protracted litigation, those who are designing, constructing and managing networks, and those who are developing applications, do so at some risk.

Our third concern is that this ambiguity, this uncertainty, this risk will chill innovation, investment, broadband deployment, and job growth.

This is something that our nation can ill afford. The weak state of the economy is front page news. Yet, one of the bright spots is broadband. There is growth in this sector, with an estimated \$70 billion invested in advanced communications infrastructure this past year. This is an extraordinary sum. By way of comparison, when President Kennedy committed the United States to landing a man on the moon in ten years, the government spent approximately \$10 billion per year – in today’s dollars – on the Apollo program. When President Eisenhower committed the nation to building an Interstate Highway System, the government spent approximately \$25 billion per year – in today’s dollars. This past year, broadband service providers invested approximately \$70 billion. And, this is private sector investment, not taxpayer funds.

This investment has broad benefits. A new report by Connected Nation suggests that just a modest 7% increase in U.S. broadband adoption could create 2.4 million new American jobs and generate \$134 billion in annual economic stimulus.

There is much that we can do together. Congress can enact the Rural Utilities Service reforms that are part of the Farm Bill that would accelerate the deployment of broadband in unserved areas; it can advance public-private partnerships like those in the Connected Nation program which, in Kentucky, led to an increase in broadband penetration from 60% to 94% in just three years; and it can provide for broadband mapping along the lines of your legislation, Mr. Chairman. Indeed, the Committee’s leadership on this issue has already resulted in the FCC voting to improve its approach to data collection by putting in place a system to gather more and better targeted information on broadband adoption.

Mr. Chairman, very creative people are taking the *potential* of broadband and turning it into incredible, life-enhancing tools – remote medical monitoring, online education, and new applications for first-responders. Congress should be careful to do no harm – to avoid taking the creativity ... and experimentation ... and innovation ... and investment that is occurring and putting it all into limbo while the government argues over the meaning of words. Let's not say to these innovative and creative thinkers: "Hold on a minute ... let's just slow down until the government has the chance to get a handle on all this and can develop a national policy to govern the management of the internet." Instead, let's keep the investment and ingenuity flowing.

Mr. Chairman, I thank you for the invitation to join you and to share our perspective. We look forward to working with you and the members of the Committee on policies aimed at bringing the full promise of broadband to all Americans.