

STATEMENT OF  
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Committee on Energy and Commerce

Hearing on Issues in Telecommunications Competition

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Good afternoon Chairman Markey, Chairman Dingell, Ranking Members Stearns and Barton, and other distinguished members of the subcommittee. My name is Matt Salmon, and I am the President of COMPTEL. As many of you know, COMPTEL is the face of the Competitive Telecommunications Industry. Our members are telecommunication service providers and their supplier partners and they offer a wide range of wireline, wireless and VoIP services. Our industry expanded exponentially when passage of the 1996 Telecommunications Act made competitive entry into the local telecommunications market possible. I am proud to say that our members have competed and continue to compete vigorously and with innovative technology. Although DSL technology was sitting on the shelf, collecting dust in the ILEC world, the new entrants were the first to deploy that technology. Only after competitors took action to respond to what consumers wanted and needed did the Bell Companies finally deploy DSL. This is the hallmark of the competitive industry; our companies push for and deploy innovative technologies that bring consumers the services and choices that they are demanding before the big phone companies deem those consumers worthy of such services. Other examples are: VoIP, triple play and Ethernet over copper, fixed wireless, nationwide high-speed services over advanced fiber networks, and the list can go on and on.

I cannot over-emphasize that the competitive industry has spent billions investing in broadband technologies and infrastructure – it is not just the phone and cable companies as some would like Congress to believe. And the investment is not solely in

deploying new infrastructure – our companies also maximize existing infrastructure including the legacy copper facilities that we lease from the ILECs. For the telecommunications future of the U.S., it is all about broadband. And without the competitive industry, this nation will continue to drop in the world’s broadband ratings. The policy goal of giving all American consumers and businesses access to broadband options and services depends on numerous platforms competing – not just two.

Mr. Chairman, I believe I have a unique perspective. Before running for Congress, I spent 13 years as a telecommunications executive for one of the RBOCs. I began my career with Mountain Bell which after the breakup of the Bell System became US West. As many of you know, they were the predecessor to QWEST Communications. During the creation and passage of the 1996 Telecommunications Act, they and the other ILECs were all about competition. They wanted to compete in the then, very lucrative long distance markets. As such, the deal for Qwest and the other ILECs to open their networks to competitive companies seeking to enter into the local markets was struck.

I’m familiar with this “deal” as I was a member of Congress from the First Congressional District in Arizona when we were lobbied intensely by Qwest and the other ILEC’s on the Act. During my six year tenure in Congress, I remember few issues that were lobbied more intensely or where more promises were made by the Bell Companies. In fact it reminded me of an old poem my father used to recite to me when I was a little boy; “Just Before Christmas, I’m As Good As I Can Be.” The ink was not even dry on the President’s Signature before the ILECs challenged the constitutionality of

the Act. Furthermore, a full decade of costly litigation ensued at the FCC on the rules the Commission crafted to implement the Act. These rules are the reason competition exists in a market where the majority of the lines to consumers and businesses are owned by a handful of large phone companies.

While many aspects of the act enabled and propelled competition, Section 10 of that Act has been really troubling. This small section actually has the ability to undue all of the good that the rest of the Act seeks to accomplish. I commend Chairman Dingell for his introduction of HR 3914, which addresses one of the troubling parts of that section – the allowance of a petition to be “deemed granted” simply by a tie vote at the FCC , or no action at all by the Commission. Imagine a committee or subcommittee vote here in Congress in which a tie vote is enough for a bill to pass, or in which there are three bills on the schedule, but only two are heard and yet all three pass regardless. We would find that absurd, but that, essentially, is the state of the process at the FCC because of the deemed granted provision in section 10. Combined with the 12 month (plus an allowance for a 90 day extension) shot clock, Section 10 has opened the door for companies to leap-frog over the FCC’s normal rulemaking procedures and actually dictate the Commissions time and resources to fulfill one particular company’s anti-competitive goals.

Passage of HR 3914 will go a long way toward correcting these problems. In addition to correcting the “Deemed Granted” provision, we would also hope that action could be taken to stop this revolving door of multiple filings of forbearance petitions on the exact same issues. For example, less than 100 days after the FCC soundly rejected

Verizon's forbearance requests in Virginia Beach and Rhode Island, they re-filed again in both locations. In the legal realm, have you ever heard of a jury giving a verdict for the defense, and the plaintiff again files the very same suit within a few days. Again, we would find that absurd, but that is exactly what is occurring on these forbearance filings. Not only do these frivolous petitions diminish the Commission's time and capacity to focus on critical issues like USF reform, media ownership, digital transition, and other issues of high importance to this Committee and Congress, they force the competitive industry to use valuable capital to fighting every petition at the FCC and the courts. We would rather use the millions of dollars we expend in these legal and regulatory battles investing in our infrastructure and research and development, as well as delivering better services and lower prices to our customers.

I have one final note I would like to address on section 10 of the 1996 Telecommunications Act. I do not believe we envisioned a provision that could unilaterally undo the very Act itself. Essentially, that is what is happening. The arguments postured by the other side in support of these frivolous forbearance requests are a nothing more than red herrings. The Bell Companies argue that the 1996 Act deal should be undone because of penetration in the residential markets by cable and cut the cord wireless, but they ignore the fact that these service options all have to use the Bell network at some point to get to their customers. What we really need to focus on is this fact: There is virtually only one wholesale provider that gives us access to the final mile – the Bell Company. Once reasonable access to the final mile is taken away, the marketplace is left with a full monopoly on access to business customers' services and a

duopoly between cable and the ILECs on residential services. How does that protect consumers and the “public good,” as section 10’s language purports to address?

Mr. Chairman, our membership is diverse, but our needs are very uniform. Whether it’s dealing with special access, unbundled network elements, interconnection or pole attachments, all that we are asking for is to continue to have access to the monopoly “last mile” at the cost-based rates. The very rights provided for our companies under the 1996 Act. Our members did not build our networks in the monopoly world and under the old telecommunications welfare program where state commissions provided a guaranteed rate of return. Every penny invested in infrastructure by the ILECs before the 1996 Telecommunications Act was met with a guaranteed rate of return. Unlike the Bell Companies, we did not inherit a government sponsored network; our investors bore all the risk with starting our companies and building out our networks. We are not asking for any handouts or give-aways. We do not come before Congress and ask for the rules to change before we invest in broadband. We come before Congress to say we are investing now and will continue to invest – please do not change the competitive provisions and rules of the 1996 Act. The regulatory environment, after decades of Bell Company sponsored litigation, is now relatively stable and we want it to remain that way so that competition can continue to thrive, technological innovations can continue and more Americans can have access to advanced broadband technologies. As I said before, it’s all about broadband and whether all consumers and businesses have the access and range of choices that meet their needs – and that will happen with the competitive industry.

Thank you very much Mr. Chairman, I will be happy to answer any questions.