

**UNITED STATES SENATE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

**“Telecommunications Policy Review – Lessons Learned from the  
Telecommunications Act of 1996”**

**Testimony of James Geiger  
Chairman, Association For Local Telecommunications Services  
and CEO, Cbeyond Communications, LLC**

**April 27, 2004**

Introduction

Good Morning, Mr. Chairman and Members of the Committee. I am Jim Geiger, Chairman of the Association for Local Telecommunications Services, usually referred to as “ALTS,” and CEO, of Cbeyond Communications, LLC. I thank the Committee for its continuing oversight of the Telecommunications Act of 1996 (“96 Act”).

ALTS, now halfway into its second decade, is the leading trade association for facilities-based competitive local exchange carriers (“CLECs”). ALTS’ mission is to open local telecommunications markets so that business and residential customers can obtain the benefits of competition including more service options and lower prices. As found by the Small Business Administration, ALTS’ companies save its customers on average 30% per telephone line compared to the rates charged by the incumbent local exchange carriers (“ILECs”).<sup>1</sup> Although ALTS members also serve residential and large business customers, we are the leaders in bringing local telecommunications value to the small and medium sized business market. Our members do not include major long distance companies or the BOCs. We are focused exclusively on promoting competitive local services. ALTS’ thirty-three CLEC members provide service in nearly every state in both metropolitan and outlying areas. Our companies are

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<sup>1</sup> *A Survey of Small Businesses’ Telecommunications Use and Spending*, Stephen P. Pociask, SBA, March 2004, Tables 12, 13.

facilities-based, meaning the company owns and is investing in switches, fiber optic cables, wireless antennas, and other broadband telecommunications networks. ALTS members are not focused on the unbundled network element platform, commonly known as UNE-P, because most ALTS companies install and use their own switching capability. Instead, ALTS companies purchase loops and transport from the ILECs, the transmission facilities that connect our customers to switching facilities. Because our companies deploy our own networks as much as possible, we are the leaders in deploying new communications technology, including IP and softswitching. ALTS supports the goal of universal affordable broadband access for all Americans. Our members are working zealously to meet that goal.

Although I am testifying this morning on behalf of ALTS, I would also like to briefly introduce Cbeyond. Cbeyond, headquartered in Atlanta, uses a state-of-the-art IP network to provide affordable voice telecommunications and Internet access service to small and medium-sized business customers in Atlanta, Denver, Dallas, and Houston. Cbeyond is a showcase for Cisco's innovative IP products. At Cisco's invitation, we are frequently visited by other companies because we are viewed as a model provider of IP communications. Because of the efficiencies involved in IP technology, Cbeyond is able to provide to small business customers affordable packages of services that BOCs traditionally offered to big business at higher prices. Well over ninety percent of Cbeyond's customers did not previously have DS-1 level access, which we use exclusively to deliver our services. Our company is fully funded and financially healthy. We fully comply with all regulatory requirements; we pay access charges on our voice traffic; we make all requisite universal service contributions; and reciprocal compensation is not part of our business plan. Cbeyond operates as a full peer to the BOCs offering E911 access, local number portability, and CALEA compliance.

## Competition Is Working

As I will discuss below, the 96 Act is not perfect. Nonetheless it is a success story in very significant respects. The 96 Act was never intended to assure success for every competitor or every business plan. Nor was it intended to protect incumbents from the disciplinary impact of competition. But at this point, eight years after passage of the 96 Act, a number of facilities-based CLECs are emerging as strong, healthy businesses that are bringing value to both investors and consumers.

Congress got it right in choosing competition in local telecommunications markets as the best way to innovate and bring new services to consumers. The market-opening provisions of the 96 Act initiated, and made possible, substantial investment in new facilities and new technology that, in turn, has created a large competitive industry that is benefiting consumers.

- Facilities-based CLECs invested nearly \$75 Billion from 1996 through 2003..
- The CLEC sector of the telecommunications industry represents \$46 Billion in annual revenue, which is close to that of the cable industry.<sup>2</sup>
- CLECs employ nearly 60,000 persons in the U.S., mostly in high-tech, skilled positions.
- According to the FCC's 2003 Local Competition Report, facilities-based CLECs serve over 10 million access lines. (This is in addition to the 19 million lines served by the UNE-P carriers.)<sup>3</sup>

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<sup>2</sup> New Paradigm Research Group.

<sup>3</sup> We estimate that 10 million access lines serve approximately 25 million end users because some reported access lines are trunks serving on average about 5 customers per trunk.

- Facilities-based CLECs comprise nine of the top 25 largest telephone companies in the U.S. measured by access lines.

Because of this enormous investment, CLECs have increased their market share every year since 1996. Of course, CLECs winning voice customers from incumbents through better service options and prices is not a public policy problem, but evidence of the success of the 1996 Act and the benefits it is intended to bring consumers. CLECs have experienced this growth because they compete and offer innovative new services and features typically to underserved markets. CLECs have created new markets and pioneered new ways of offering service, such as bundled offerings, and online customer care including online billing and online self-provisioning. Nevertheless, local telecom competition has grown more slowly than most of us thought when the 96 Act was passed. After eight years, the CLEC industry has won about 15% of the local market nationwide. Obtaining the cooperation of the Regional Bell Operating Companies (RBOCs), enforcing the 96 Act, convincing municipalities and building owners to allow competitors into their markets, have all been extremely difficult.

The slower-than-expected pace of competition can also be seen in the evidence of the RBOCs enormous profitability. Even as they complain to regulators about the local competition rules, the RBOCs' latest reports demonstrate that they are experiencing huge margins and profits. SBC, for example, recently reported for the 1<sup>st</sup> quarter of 2004 an EBITDA margin of 31%, and pretax income of \$1.35 Billion.<sup>4</sup> SBC's DSL lines and long distance lines have increased 60% and 12%, respectively, in the last year.<sup>5</sup> BellSouth reported that its 1<sup>st</sup> quarter 2004 profit

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<sup>4</sup> Schwab Soundview Capital Markets, April 22, 2004. EBITDA is Earnings Before Interest, Taxes, Depreciation and Amortization.

<sup>5</sup> Communications Daily, April 22, 2004, p. 9.

increased 30% to \$1.6 Billion. BellSouth reports that growth in long distance and DSL offset access line declines.<sup>6</sup> For 2003, Verizon reported net income of \$3.077 Billion.<sup>7</sup>

### Intramodal, Facilities-Based Competitors Are the Innovators

Innovation and broadband deployment are the key success stories of the 96 Act. By requiring the RBOCs to open their networks to competitors, the 96 Act embraced intramodal competition. The Act's unbundling provisions and the explicit trade-off between BOC long distance entry and opening markets to local competition were designed to encourage CLECs to develop innovative and, in many cases, "intelligent" devices that can bring consumers more sophisticated broadband services using the relatively passive transmission pipes leased from the RBOCs. Intramodal competition is thus not simply reselling and re-branding the RBOC service; intra-modal competition has encouraged extensive deployment of new hardware and software that can turn the RBOCs' plain old copper loops into high-speed broadband transmission facilities.

Congress chose wisely because intramodal competitors have been the source of key telecommunications sector innovations over the last few decades. DSL, IP-based communications, even the Internet itself were initially developed by competitors.

To use an analogy, RBOC telecommunications facilities can be likened to train tracks, or the roads leading to every customer premises. If competitors are permitted to put their own trains and engines on these tracks, those same tracks formerly used to carry freight trains can be used to carry high-speed maglev trains, carrying infinitely more capacity, than when they were

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<sup>6</sup> Communications Daily, September 23, 2004, p. 5.

<sup>7</sup> Verizon Communications, Inc.10-K 2003.

solely under the control of the monopolist. If, however, competitors must build tracks and roads to every customer, they will never be able to acquire the enormous amount of capital necessary to duplicate the existing telephone network.

We believe that Congress should be quite disturbed, to put it mildly, to see how the RBOCs are seeking to dismantle the unbundling regime and eliminate the competitors' ability to obtain access to their networks, the train tracks. The RBOCs' principal argument is that they face competition from the cable companies, but this argument simply does not hold up under scrutiny. To give one reason, many ALTS members focus on the small and medium-sized business market, a market that is not served by the cable companies. Eliminating the ability of CLECs to serve the small and medium-sized business market would essentially leave these small and medium-sized business customers with a monopoly – their local RBOC. Even in those areas served by the cable companies, insufficient intramodal competition would leave a duopoly between cable and incumbent telephone companies. As a business person with over 20 years experience in a variety of companies, it is my opinion that a marketplace dominated by two providers would not stimulate innovation and competition. It is more likely that a cozy duopoly would develop, characterized by a division of the market perhaps along service lines. As a result, a return to the slower pace of innovation characteristic of the 70s and 80s would be likely.

#### Incumbents Are not the Best Innovators

VOIP is the latest example of the fact that BOCs are not the most efficient or innovative users of their own networks. Not because BOCs may not have some of the smartest business persons and technical experts and highly skilled craft persons. Rather, they delay innovation for very rational reasons. In part, BOCs are reluctant rapidly to embrace new technologies because

they must move cautiously given the size and scope of their monopoly networks. Perhaps more importantly, however, they are reluctant to introduce new services that cannibalize their own higher-priced legacy services. VOIP providers, for example, offer voice service to consumers at considerable savings in comparison to traditional incumbent services and with more features, such as management of long distance calls from a website. BOCs are announcing plans to offer consumers these benefits that undercut their traditional voice offerings only because of competitive pressure. They would have no incentive to do so otherwise, and without competitors in the market, would only do so at much higher prices than those charged by new entrants.

Integrated IP-based services such as those offered by Cbeyond are another example. BOCs did not deploy this technology that undercuts their own more expensive DS-1 data services until competitive pressure from CLECs required them to do so. Similarly, CLECs were the first to offer DSL services. BOCs did not want to undercut their own inferior second line services used for dial-up Internet access. As stated in its 1999 Economic Report of the President's Council of Economic Advisors:

“([t]he incumbents’ decision finally to offer DSL service followed closely the emergence of competitive pressure from cable television networks delivering similar high-speed services, and the entry of new direct competitors attempting to use the local competition provisions of the Telecommunications Act of 1996 to provide DSL over the incumbents’ facilities.”

Similarly, in the 80s and before, incumbents were slow to introduce Telex, PBXs, and key systems, and only after the FCC took steps to assure a competitive market by competitive providers.

These examples show that BOCs will not innovate to rapidly bring consumers new services if this undercuts a legacy higher priced service. Instead, BOCs carefully evaluate

competitive inroads and only when they have more to lose to competition by standing still will they move to introduce new services.

### Unbundling Promotes Broadband Investment

A key initial success of the 96 Act is promotion of broadband investment by both CLECs and incumbents. The unbundling provisions of the 96 Act have provided a framework for robust investment in broadband. As noted, competitors have made very large investments in new telecommunications facilities, and this investment fueled the growth of the Internet. As recently as 2001, over half the Internet traffic in the country flowed over networks built by CLECs. The network investment by CLECs incited the RBOCs to increase their capital expenditures as well. For instance, the RBOCs have been engaged over the last decade or so in a gradual build-out of fiber networks. It began using fiber for all new feeder placements beginning in 1996. In 2000, when the unbundling rules applied to fiber as well as copper plant, BellSouth described itself as the “market leader” in deploying fiber to multi-premise developments.<sup>8</sup> Already 50% of its loops can support 5 Mbps service.<sup>9</sup> BellSouth already has 1 million homes passed with fiber, and an additional 14 million with fiber to a nearby distribution point.<sup>10</sup> Similarly, in 1999, SBC announced its \$6 Billion fiber-in-the-loop “Project Pronto.” All the BOCs have invested heavily in DSL capability. These broadband investments by BOCs refute their argument that unbundling obligations inhibit investment.

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<sup>8</sup> *BellSouth Now Wiring New Homes for the Future*, BellSouth Press Release (June 15, 2000).

<sup>9</sup> *Id.*

<sup>10</sup> Vince Vittore, *Bill Smith, BellSouth*, Telephony (June 2, 2003).

In fact, incumbents are modernizing the loop because costs savings and efficiencies alone justify the investment. They do not need relief from unbundling to incent them to install fiber. As recently reported in an article in the Los Angeles Times concerning SBC's fiber project in Mission Bay, CA, quoting an SBC official:

Fiber is expensive to deploy in existing communities because of the costs to install it. But after that, it's a cakewalk. Once I've got it in, my operational costs are much lower. There's less failure, fewer trucks rolling out and fewer workers needed to test and fix the system.<sup>11</sup>

#### ALTS Shares the Goal of Advanced Affordable Broadband Networks

ALTS believes that broadband access should be universal and affordable. ALTS members have helped expand the deployment of broadband services to almost all Americans. In 1996, fewer than 5% of Americans had access to broadband; today, almost 90% of American homes can purchase broadband services today from at least one provider of broadband services. This is an enormous accomplishment, and one for which Congress deserves a substantial amount of credit. However, that is not the end of the broadband story. Approximately 10% of American households can not yet purchase broadband services, and many of these households are in rural areas. ALTS supports efforts by Congress and the FCC to take steps to ensure that 100% of Americans have broadband available to them, and our companies are willing to pay our fair share to achieve this goal of universal broadband. Furthermore, it is also a concern that only 20% of American households actually subscribe to broadband services, even when it is available to them. Some Americans simply do not see the value of purchasing a broadband connection; other Americans would like to purchase broadband but simply cannot afford it. For many Americans,

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<sup>11</sup> James S. Granelli, *Dialing in Competition*, L.A. Times, April 19, 2004.

the price is simply still too high. Greater competition for broadband services would put downward pressure on rates and help to make broadband services more affordable. ALTS members are very willing to work with Congress to achieve the goal of universal and affordable broadband.

Let me give you an example of how the unbundling regime and intramodal competition has helped to promote broadband deployment. Without unbundling, the intramodal competition that served as the test bed and originator of broadband IP applications would not have been possible. Cbeyond jointly developed with Cisco advanced local IP telecommunications network technology and applications because the 96 Act gave Cbeyond the right to purchase high-capacity loops from the ILECs. These are the same technology and applications that are currently being deployed in China. These advanced IP applications in China are virtually leapfrogging legacy networks in that country. It would be a grim irony if regulation fails to preserve in the United States the roll-out by intramodal competitors of advanced IP applications that were developed here while China uses that technology to leapfrog ahead of this country.

We strongly disagree with the current views of the FCC as to how to achieve broadband goals. The FCC recently decided to exempt fiber-fed loops from the unbundling provisions of the 1996 Telecom Act. In other words, the FCC decided to grant the RBOCs a monopoly over customers served by fiber. Further, the FCC is considering whether to redefine incumbent bottlenecks as "Title I" networks so that incumbents would not even be required to provide nondiscriminatory access to competitive providers.

ALTS could not disagree more strongly with the FCC's cramped vision of closed, non-common carrier incumbent broadband networks. American consumers will be best served by an advanced broadband network that is open to competitive access on reasonable terms and

conditions. As with DSL and VOIP, CLECs will rapidly introduce new broadband services at better prices than would ILECs. Insulating BOCs from the competition CLECs can provide will simply limit incentives for them to innovate. This will guarantee a slow roll-out of new and affordable broadband services.

The Committee should discourage requests by BOCs for further broadband unbundling relief. In particular, extending the FCC's fiber-to-the-home ("FTTH") policy to multiunit buildings and new housing development would permit BOCs to thwart provision of competitive services in these environments. Many building owners, shopping centers, real estate management companies, and apartment developers support the pro-competitive unbundling provisions of the Act because this promotes the availability of innovative services and lower prices.

As a businessman with considerable telecom experience, I believe that there is essentially no empirical evidence that eliminating unbundling would incent BOCs to deploy fiber. Quite the contrary, BOCs have been gradually installing fiber in the "last mile" notwithstanding unbundling obligations. The FCC in its *Triennial Review Order* took it on faith that BOCs would deploy more fiber if they are given a monopoly over these customers. I am concerned that BOCs have made similar promises and broken them before. For years, BOCs promised that they would build advanced "video dial tone" networks – essentially the same networks that they are now again promising to build – if they were permitted to provide video programming. Congress granted that permission in the open video provisions of the 96 Act, but BOCs never built those networks. Cbeyond and other ALTS members have been the first to offer new broadband services over the current network and if granted access to new fiber investment will do the same there. Of course, to the extent that BOCs are claiming that they have an insufficient return on

fiber investment, this is better addressed through pricing of unbundled broadband access rather than denying such access altogether as the FCC has apparently chosen to do.

In this connection, however, it is noteworthy that the Supreme Court affirmed the FCC's TELRIC pricing methodology for UNEs and noted the substantial basis in past policy for rejecting BOCs' request that they be permitted to recover their historic costs. TELRIC pricing duplicates the prices that incumbents would be able to charge in a competitive market. TELRIC pricing includes a reasonable profit. BOC efforts to derail TELRIC are no more than an attempt to impose the costs of outmoded technology on customers. Regulators will best promote the introduction of new technology if they continue to require incumbents to base prices on competitive, not legacy, costs.

#### Regulatory Uncertainty

Unfortunately, however, I would have to count as a major deficiency of the 96 Act that it was not sufficiently clear in expressing Congress's view that broadband goals should be achieved by competition, not protecting incumbents from competition. Incumbents have been able to persuade regulators and the courts that they should be protected from competition that could be enabled by unbundled access to their bottleneck loops. If this approach stands, consumers will have at best a broadband duopoly of BOCs and cable companies with limited choices and ultimately rising prices. I would also count as a major deficiency of the 96 Act that it has invited such extensive litigation over the last eight years.

If CLECs can no Longer Interconnect with the ILEC Network at Cost-based Rates,  
a New Section 271 Rebalancing Would Be Necessary

If the RBOCs are successful in eliminating the unbundling rules and intramodal competition, Congress should establish a new trade-off between BOC long distance entry and opening markets to competition. Leading up to the 96 Act, BOCs strongly opposed a market share test for long distance entry, arguing that competitors could slow their entry into the market to delay the RBOC entry into long distance. In response to that concern, Congress chose instead to permit the RBOCs to provide long distance service after they opened and unbundled their networks to competitors, and the RBOCs agreed to this balance. The Department of Justice established the standard that the RBOCs should only be permitted to enter the long distance market after it was proved that the local market was “irreversibly opened” to competition. If unbundling is undermined, it will be clear that the market is not, in fact, irreversibly open. Indeed, since gaining long distance entry BOCs have worked diligently to eliminate the provision of unbundled network elements (UNEs) that formed the basis for long distance approval. If CLECs’ access to the BOC networks is eliminated, either Congress or the FCC should revoke long distance authority and the FCC should immediately prohibit BOCs from taking on new customers.

The Adverse Impact of *USTA II*

The substantial facilities-based CLEC industry built its business on the foundation of access to bottleneck loop and transport facilities. It is unfortunate, just as many of those CLECs have surmounted the difficult financial environment of the last few years, that the D.C. Circuit issued its recent decision which at least temporarily casts doubt on the legal basis for CLEC unbundled access to bottleneck facilities on reasonable terms and conditions. The D.C. Circuit

decision appears to be inconsistent in many respects with prior Supreme Court rulings on the 1996 Act. Furthermore, the Court erred in speculating that the availability of special access could eliminate the need for UNE transport. Special access has been available for many years, predating the 96 Act. If Congress believed that special access could substitute for UNEs, it would not have provided for unbundled access to transport and other network elements.

Nonetheless, the BOCs have already indicated that they intend to take advantage of this court case to impose huge rate increases on the CLECs. In particular, BOCs are already seeking to impose unacceptable price increases for high-cap loops and transport by transitioning them to their special access rates. For example, BellSouth's special access price for a Zone 1 DS-1 loop in Georgia is triple the UNE price. For Verizon in Pennsylvania the price would be double. SBC's price in Texas for Zone 1 DS-1 transport would increase by more than 50%. For Qwest in Colorado the price for such transport would more than double. DS-1 loop and transport prices are particularly important to CLECs because they are components of the loop-transport combinations that they use to serve customers. Any BOC assumption, such as BellSouth's view, that CLECs should simply pay higher special access prices is completely unacceptable from a business perspective and from a policy perspective as well since this fails to recognize the bottleneck character of loops and most transport. In this connection, most BOC special access services have been deregulated on the theory that they are competitive. But BOCs have not been reducing special access prices as would be expected in a competitive environment. BellSouth has been raising some special access prices.<sup>12</sup> Consequently, I am very concerned that BOCs' conduct in the wake of *USTA II* could lead to substantial service disruptions for tens of millions

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<sup>12</sup> In addition to appealing the D.C. Circuit decision, the FCC should initiate a comprehensive review and investigation of special access pricing. BOCs are also not subject to any performance metrics for provision of interstate special access. The FCC has failed to act in special access metrics rulemaking.

of telephone users. For these reasons, it will be important to obtain a stay and a new decision from the Supreme Court.

Industry UNE Negotiations- What Happens on June 16, 2004?

ALTS supports the FCC's recent call for negotiations between CLECs and incumbent telephone companies concerning access to unbundled network elements. While we strongly disagree with some aspects of the opinion of the D.C. Circuit in *USTA II*, ALTS supports good faith efforts to resolve key issues through negotiation rather than litigation. To that end, ALTS, on behalf of its members, on April 9, 2004 sent letters to each of the BOCs proposing negotiations on loop and transport issues. Individual ALTS members are pursuing separate company-to-company or group negotiations with BOCs, and one, Covad, has reached an agreement with Qwest concerning line sharing.

We hope that these negotiations result in long term agreements for access to incumbent bottleneck facilities that will permit facilities-based CLECs to provide competitive local services. We are disappointed that BOC negotiating efforts so far have apparently been almost exclusively focused on the so called UNE-Platform ("UNE-P"). We are also very disappointed that BellSouth has recently posted a notice on its website that unilaterally directs CLECs to transition from UNEs to special access and much higher prices.

BellSouth has informed Cbeyond that after June 15 it will only provision new loops and transport as special access and that negotiations will be limited to the status of facilities that CLECs currently obtain as UNEs. Qwest has also proposed special access pricing for apparently both existing and newly ordered facilities. As noted, price increases of the magnitude suggested by BOCs are completely unacceptable for DS-1 and other UNEs that are the lifeblood of

facilities-based CLECs. CLECs would not be able provide value propositions to their small and medium-sized business and other customers and competition would be stalled. Consequently, we do not view these BOC approaches to the post-*USTA II* environment as constructive or reflective of an intent to engage in good faith negotiations as requested by the FCC.

ALTS urges Members of the Committee to direct incumbents to negotiate in good faith with facilities based CLECs. We would be pleased to provide to the Committee any progress reports concerning negotiations that it would find useful.

Negotiations may not be successful. If that proves to be the case, ALTS and facilities-based CLECs will have no alternative but to appeal *USTA II* to the Supreme Court. We will encourage the government to do so as well. If we are unsuccessful in obtaining permission for appeal from the Supreme Court or a stay pending appeal, facilities-based CLECs and the customers they serve could be harmed unless the FCC promptly clarifies among other things that *USTA II* did not vacate the FCC's loop rules.

#### Need for Enforcement

Since the 1996 Act, BOCs engaged in unprecedented violations of the Act. They have paid more than \$2.1 Billion in fines including for failure to comply with UNE rules, Section 271 obligations, and merger conditions. While I am pleased that the FCC took the enforcement actions that it did, I question whether fines, and the delays in imposing them, are sufficient to deter incumbent incentives to deny access to bottleneck facilities. For example, Verizon is essentially declining to comply with the FCC's new rules concerning denial of access to loops based on "no facilities" and yet the FCC has done nothing. The FCC should be given additional resources and new tools, such as the ability to impose forfeitures as part of self enforcing

performance measures, so that it may take a more pro-active and effective approach to enforcement. Furthermore, any penalties on the BOCs for failing to provision UNEs should be awarded directly to the CLEC in the form of liquidated damages, rather than as fines paid to the U.S. Government. Paying the penalty directly to its competitor should give the BOC even more incentive to comply with the law.

### Universal Service

ALTS recognizes the potential challenge to universal service programs that could be occasioned by increasing demands on outflow to eligible telecommunications carriers and changes in underlying network technology that may make current contribution requirements insufficient to support current programs. ALTS looks forward to working with Congress and the FCC to assure adequate funding mechanisms as VOIP and broadband technologies become more widely deployed in carrier networks.

### Conclusion

My experience under the 96 Act has shown that competitors such as my own company and other ALTS members are the first to innovate and introduce new technology. The 1996 Act as initially implemented has successfully provided a framework for the development of substantial facilities-based competition that is providing significant benefits to consumers. A shortcoming of the 96 Act is that it did not sufficiently make clear that broadband goals should be achieved through implementation of the unbundling obligations of the Act. ALTS and its member companies will endeavor to reach a negotiated solution to access to UNEs rather than litigation while preserving a right to further appeal of *USTA II* if necessary

I want to thank the Committee for recognizing the importance of facilities-based competition and for consistently reiterating that support.