Statement of Walter B. McCormick, Jr.
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To the Senate Committee on Commerce, Science and Transportation
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Mr. Chairman, I am Walter McCormick, President and CEO of the United States Telecom Association (USTelecom). On behalf of our more than 1,200 member companies, I would like to thank you for this opportunity to appear before the committee regarding S. 2686, the "Communications, Consumers' Choice, and Broadband Deployment Act of 2006."

This bill has been developed through an extraordinary process, and the result is equally exceptional. After more than a dozen hearings, you have proposed a comprehensive bill with significant positive implications for the U.S. economy and for all Americans. The vision set forth in this legislation would provide a solid foundation for our country's continued leadership and innovation in the information age. We admire your boldness; we respect your vision; and we thank you for your hard work.

To understand the importance of this bill, you must step back in time 18 months. As you know, USTelecom's membership ranges from the smallest rural telecom companies to some of the largest corporations in America. In November 2004, our diverse membership united around a bold vision of the future:

- Ensuring a strong and sustainable universal service system to provide affordable, reliable telecommunications for all Americans in the 21st century;

- Establishing consumer-controlled, market-based competition by eliminating government-managed competition.

We believe S. 2686 achieves these vital goals, which will unlock needed investment, innovation, job creation and economic growth. And, we appreciate this committee's leadership in working to update our laws to reflect the dramatic changes we have <u>all</u> witnessed as technology fundamentally reshapes the communications sector and delivers unprecedented voice, video and Internet choices to consumers.

Today, allow me to focus on three critical areas of your proposed legislation:

§ Video franchising;
§ Network Neutrality; and
§ Universal service.

Title III – Streamlining the Franchising Process

On the first matter, USTelecom strongly supports this bill's efforts to streamline the video franchising process. The net result would be accelerated broadband deployment, more competition for voice, video and data services, and lower prices for consumers.

For our members, the opportunity to enter the video market is the driving force for broadband investment. These enhanced networks will carry the commercial and cultural traffic of 21st Century America. Faster and cheaper information flows will enhance productivity and improve our ability to secure the homeland. These are important and welcome gains. But to be financed through private capital, there must be a return on equity. And that return comes from the sale of video services.

Unfortunately, our entry into video is delayed, and in some cases denied, by an archaic franchising regime. The streamlining proposed by S. 2686 would be a welcome remedy. We believe it would expedite our entry into the video market, speeding the arrival of competitive choices for consumers, while protecting local government revenues and right-of-way control.

The quicker Congress acts on this, the better it is for consumers. Time is money. According to a study by the Phoenix Center, if franchise reform were to be postponed until the next session of Congress, that one-year delay would cost consumers an estimated $8 billion. On a state-by-state basis, the numbers are equally substantial. Putting off franchise reform for one year would cost:

- Alaska consumers $12 million;
- Hawaii consumers $31 million;
- Florida consumers $626 million; and
- Montana consumers $22 million.

Mr. Chairman, we realize you are results-oriented. Your legislation provides the opportunity to improve the household economics for 66 million cable television subscribers. With the rate relief that comes from competition so near at hand, Congress should not make consumers endure additional years of high rates.

The franchising process was used in the past to protect consumers from cable monopolies. It should not be used today to protect cable from competition. Competition benefits consumers. Cable did not go through a new franchising process to enter the voice market. Phone companies similarly should not be impeded from entering the video market. The clear public interest lies with head-to-head competition. For example, when Verizon entered the video market in Keller, Texas, Charter Communications dropped its rates by a whopping 50%. So, as you can see, the sooner we streamline the franchising process—the better for consumers.

On the issue of net neutrality, USTelecom strongly supports the measured approach taken in S. 2686. As I have repeatedly testified, our companies will not block, impair, or degrade content, applications, or services. We stand by that pledge. We stand by it because it's the right thing to do and because consumers simply would not tolerate any other approach. Under S. 2686, our commitment to Internet freedom—to consumer control of their Internet experience—would be subject to ongoing monitoring and enforcement – without risking innovation and investment. We think this strikes the right balance. And, it takes an appropriate "first, do no harm" approach to government oversight of the Internet.

Under S. 2686, Internet users would have three layers of protection. The first two layers already exist. First, the discipline of a competitive marketplace. We have today wireless, cable and telecom companies offering high-speed Internet. We have satellite providers investing in upgraded systems to better deliver high-speed Internet. We have significant investments from municipalities and from massive Internet companies like Google in broadband over power line and WiFi. Consumers have choices. If any company sought to control their Internet experience, consumers no doubt would exercise their ability to make these choices.

Second, the FCC has adopted four guiding principles of Internet freedom and has made clear its intention to enforce them. S. 2686 would further mandate annual reports by the FCC to Congress to identify any actual problems that occur and to recommend solutions. This will offer a constant reminder to Internet providers that the specter of government regulation is out there, which is a powerful deterrent to inappropriate action. This approach also will ensure that questionable practices will be subject to prompt scrutiny by the FCC, Congress, and the wider online community.

This is the right approach given the fact that we are today dealing with a <u>hypothetical</u> problem. The one documented case of blocked traffic resulted in swift corrective action by the FCC. So the debate today focuses largely on "what if" scenarios. Those members of Congress who are calling today for a regulatory solution have sent a shudder through the investment community. As this committee has heard, Wall Street is bearish on network investment. If our next-generation broadband networks are subject to last-generation regulatory schemes, it is difficult to envision a future in which investment continues at a rate adequate to advance U.S. competitiveness, consumer choice and economic growth in a broadband world.

S. 2686 is a balanced alternative. It ensures both unqualified support and vigilance on behalf of continued Internet freedom. And, it reflects a sound, responsible awareness that market incentives <u>must</u> exist to encourage or at least <u>justify</u> the significant investment necessary to maintain and enhance U.S. broadband infrastructure.

Title II – Universal service reform; Interconnection

USTelecom members also strongly support your efforts to reform universal service. We have grown increasingly concerned with the precarious revenue base and rising expenditures. We appreciate your efforts to broaden the base, to include interstate, intrastate, and international calls, as well as other voice communications using alternative technologies. We support your efforts to expand the rural exemption, to wall off universal service revenues from the Anti-Deficiency Act, to prevent a primary-line mandate by the FCC, and to address the growing problem of phantom traffic.

In addition, S. 2686 takes important steps with regard to broadband to ensure that rural America is connected at high speeds and at a reasonable cost. With so many communications services migrating to broadband, rural areas need broadband like never before. Franchise reform will help, as will the dedicated broadband fund envisioned in S. 2686.

Our foremost concern in Title II is the extensive interconnection rights granted to voice-over-IP providers – providers with no facilities of their own. Although we respect the committee's desire to promote competition, we believe this provision goes too far. As written, the bill gives these carriers an abundance of rights and privileges, but few of the duties and obligations that fall to facilities-based providers who are making the infrastructure investments – such as law enforcement obligations and payment of appropriate intercarrier compensation when connecting to the public network. Moreover, the interconnection language must be clarified to ensure the rural exemption is not adversely affected.

Broadly Updating Our Nation's Telecom Laws

Mr. Chairman, it hardly takes an industry expert to see plainly that the world of communications has changed. It is time to move beyond government-managed competition and embrace market-based competition. Consumers should have the ability to obtain the services they want from the companies they choose. They, rather than outdated government policies, should determine the future course of innovation…something this legislation would accomplish.

USTelecom applauds you for your work lifting the barriers to real competition in video services, for eschewing heavy-handed, premature regulation of the Internet, and for reforming and thus safeguarding the future of universal service. We hope the Senate will see fit to enact your vision into law before the end of the 109th Congress.