WRITTEN STATEMENT

of

MICHAEL K. POWELL

Chairman

Federal Communications Commission

on

Competition Issues in the Telecommunications Industry

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SUMMARY OF WRITTEN STATEMENT OF
FCC CHAIRMAN MICHAEL K. POWELL

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Soon after I began my tenure as Chairman, I laid out the Commission's agenda under my leadership. The theme that binds the agenda is "Digital Migration." That is, we are at a critical crossroads in communications in which technology is driving us to cross over from the predominately analog realm—with its matured infrastructure, classic services, and long practiced regulatory regime—to the digital world of the modern era, one that demands more advanced architecture, dynamic and innovative applications, and a more enlightened and flexible regulatory environment.

In the next six months, the Commission will complete many of the specific proceedings intended to advance the digital migration. Specifically, we will tackle a bevy of proceedings dedicated to telephone competition, broadband deployment, media ownership reform and 21st Century spectrum policy. In so doing, we will be guided exclusively by the public interest, and resist the pressure to view our exercise as awarding benefits and burdens to corporate interest. Guided by consumer interest, our course will endeavor mightily to:

- Bring consumers the benefits of investment and innovation in new communications technologies and services.
- Expand the diversity, variety and dynamism of communication, information, and entertainment.
- Empower consumers, by moving toward greater personalization of communications—when, where, what and how they want it.
- Promote universal deployment of new services to all Americans.
- Contribute to economic growth, by encouraging investment that will create jobs, increase productivity and allow the United States to compete in tomorrow's global market.

The preamble of the 1996 Telecommunications Act states succinctly its purpose: "An Act to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new communications technologies." Clearly, as evidenced from this preamble, promoting competition is a central objective of the Act.

Seven years into the Act there is notable success—though perhaps significantly less in some markets than originally expected, and perhaps in different form than was first envisioned. In the local telephone market, as of June 2002, CLECs reported 21.6 million of the approximately 189 million nationwide switched access lines in service. New entrants have pursued a variety of strategies for entering the local market to serve consumers. For instance, CLECs providing full facilities-based competition account for 6.24 million of the CLEC access lines. Of that number cable telephony providers using coaxial cable to provide telephony service serve almost 2.6 million access lines, while other full facilities-based CLECs serve over 3.6 million access lines. In addition, nearly 6.5 million consumers report that their wireless phone is their only phone. Partial facilities-based CLECs, using a combination of self-owned facilities and unbundled network elements leased from ILECs, serve over 4 million access lines. In total, nearly 16.7 million consumers are served by full facilities-based competitors. Another 11.9 million access lines are served by CLECs using no facilities (resale and UNE-P).

Deserving special notice is that much of the most significant competition in voice (both local and long distance) has come from wireless phone service. As of June 2002, 129 million consumers subscribed to wireless telephone services. In the wireless space, there are currently six national carriers (two that are BOC-owned, one that is IXC-owned and three that are independent) and a host of smaller regional or local carriers and price competition and innovation has been significant. In addition, 2002 saw the introduction of reliable Internet telephony services as companies such as Vonage are providing an alternative to analog wired telephony over a broadband connection.

Finally, competition in the broadband space continues to increase. As of June 2002, 16.2 million high-speed lines connected consumers to the Internet. The two primary means of residential broadband Internet access are cable modem service (over cable facilities), which as of June 2002, served 9.2 million lines, and ADSL (over telephone facilities), which as of June 2002, served 5.1 million lines. In addition, 2002 saw the proliferation of wireless broadband services, most notably Wi-Fi, demonstrating the promise of a third significant broadband platform into the home.

The Commission has before it a number of major proceedings that will attempt to improve and advance the goals of the 1996 Act. With the benefit of hindsight, we will be able to assess the last seven years and consider how we might improve the regulatory environment to more aggressively promote facilities-based competition, to promote major investment in advanced communications infrastructure, and to reduce regulation—all hallmarks of the Act.

In local competition policy, the Commission will consider two sets of proceedings. First, in the *Triennial Review* of UNE rules the Commission will address what has been a trying time in its effort to establish the unbundled network element rules. The Commission on its previous two attempts to establish such a regime has failed to pass judicial scrutiny—first in the Supreme Court and more recently in the DC Circuit—for failure to give fair weight to Congress's directive that the Commission unbundle only those elements that would impair the viability of entry. Therefore, it is important to

understand the legal exercise that is before the Commission, for under the DC Circuit mandate, there will be no unbundling rules at all in a few weeks if the Commission does not act consistently with the court's ruling. The Commission must establish, from the ground up, the clear impairment of each and every element that it orders unbundled. We must remember that UNE-P is a consequence of previous regulatory decisions that required all network elements be unbundled, and is not in and of itself a network element—it is an aggregation of all of the individual elements. If even one of those elements cannot be sustained under the more rigorous impairment analysis, the UNE-P will not be government mandated as an alternative. The Wireline Competition Bureau will have an item for the full Commission's considerations on the floor imminently.

Second, after bringing the *Triennial Review* to the floor the Commission will consider whether it should establish and enforce national performance measurements and standards for ILEC provision of UNEs, which many states have urged. We initiated this proceeding as a recognition that effective and efficient enforcement of our regulation is just as, if not more, important than the underlying regulations.

As I have stated on many occasions, broadband deployment is the central communications policy objective in America today. If the United States is to: (1) empower consumers to enjoy the full panoply of benefits of the information age; (2) provide a source for long-term, sustainable economic growth for our country; and (3) continue to be the global leader in information and network technologies—then, as Congress recognized in the '96 Act, the development and deployment of broadband infrastructure will play a vital role. To my mind, the primary challenge in front of policymakers today in promoting broadband is determining how we can help drive the enormous investment required to turn the promises of broadband into reality. At the Commission, we have initiated a number of proceedings to address this broadband challenge, guided by the following principles:

First, get it built—everywhere. Encourage investment in new advanced architecture. Second, promote the vibrancy of this new internet medium through a minimally regulated environment. Third, promote multiple platforms for the delivery of broadband internet. The biggest obstacle to so many policy goals in the phone context is the last mile problem. Our goal is to encourage multiple pipes to the home in the future broadband world. Fourth, unleash the innovation that has been characteristic of the computer and software industries.

The Commission will address broadband deployment in four inter-related proceedings. As part of our *Triennial Review* proceeding, the Commission will consider several broadband related questions. Specifically, the Commission will address the unbundling obligations, under the Act, where an ILEC deploys next generation fiber facilities into its network or invests in fiber all the way the home. In addition, the Commission will address the unbundling obligations for the high-frequency portion of the loop, commonly referred to as "line sharing." Upon completion of the *Triennial Review*, the Commission will turn its attention to the remaining pieces of its broadband deployment agenda.

In an effort to limit regulatory uncertainty, the Commission, in February, 2002, initiated a rulemaking to address the appropriate statutory classification of broadband Internet access services provided over the traditional or future wireline telephone network and the appropriate regulatory regime to govern these services. In addition to the *Wireline Broadband Item*, the Commission issued a Declaratory Ruling and Notice of Proposed Rulemaking in March, 2003. That *Declaratory Ruling* classified cable modem service, a broadband Internet access service provided over cable facilities, as an "information service" under the Act. The Commission, in the *NPRM* portion of the Order asked interested parties to comment on the appropriate regulatory framework for the provision of that information service. Many of these questions are similar to those that arise in the telephone broadband context and should responsibly be considered together.

Finally, in December, 2001, the Commission initiated a review of the current regulatory requirement for ILECs broadband telecommunications services, commonly referred to as the *Dom/Non-Dom* proceeding. The Commission sought comment in this proceeding on whether the Commission should make changes, based on marketplace developments, in its traditional regulatory requirements of ILECs' broadband transmission services.

As you can see, these next six months will be in incredibly busy and significant time for the Commission in the areas of local competition and broadband deployment policies. These decisions will be vital to our efforts to advance the digital migration in this country, faithfully implementing the will of Congress so that consumers can continue to reap the Act's intended benefits.

Good morning, Mr. Chairman and distinguished members of the Committee. It is my pleasure to come before you today to discuss the state of competition in the telecommunications industry and, to the extent permissible, the various competition and broadband proceedings that are nearing completion at the Commission.

INTRODUCTION

Soon after I began my tenure as Chairman, I laid out the Commission's agenda under my leadership. The theme that binds the agenda is "Digital Migration." That is, we are at a critical crossroad in communications in which technology is driving us to cross over from the predominately analog realm—with its matured infrastructure, traditional services, and long-practiced regulatory regime—to the digital world of the modern era, one that demands more advanced architecture, dynamic and innovative applications, and a more enlightened and flexible regulatory environment. In short, our challenge is to move from the old to the new, while remaining faithful to our governing statutes and the venerable principles of communications policy—universal service, competition, and diversity, just to name a few.

In the next six months, the Commission will complete many of the specific proceedings intended to advance the digital migration. Specifically, we will tackle a bevy of proceedings dedicated to telephone competition, broadband deployment, media ownership reform and 21st Century spectrum policy. These proceedings will shape the communications landscape for years to come. My colleagues and I understand the enormity of our responsibility, as much as the absolute necessity of going through with it.

In doing so, we will be guided exclusively by the public interest, and resist the pressure to view our exercise as awarding benefits and burdens to corporate interest.

Guided by consumer interest, our course will endeavor mightily to:

- Bring consumers the benefits of investment and innovation in new communications technologies and services.
- Expand the diversity, variety and dynamism of communication, information, and entertainment.
- Empower consumers, by moving toward greater personalization of communications—when, where, what and how they want it.
- Promote universal deployment of new services to all Americans.
- Contribute to economic growth, by encouraging investment that will create jobs, increase productivity and allow the United States to compete in tomorrow's global market.

THE STATUS OF TELECOMMUNCIATIONS COMPETITION

The preamble of the Telecommunications Act of 1996 (1996 Act or Act) states succinctly its purpose: "An Act to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." Clearly, as evidenced from the preamble, promoting competition is a central objective of the Act. In its detail, the statute provides a regulatory blueprint that conveys extensive authority to the Commission to advance that objective.

Seven years into the Act, there is notable success—though perhaps significantly less in some markets than originally expected, and perhaps in different forms than were

first envisioned. A brief review of the reported results offers a snapshot of our progress. In the local telephone market, wireline-based competition, as of June 2002 (the most recent data reported by the Commission), competitive local exchange carriers (CLECs) reported 21.6 million (or 11.4%) of the approximately 189 million nationwide switched access lines in service. Slightly more than one-half of these reported CLEC switched access lines serve small business and residential customers.

New entrants have pursued a variety of strategies for entering the local market to serve consumers. For instance, CLECs providing full facilities-based competition account for 6.24 million of the CLEC access lines. Of that number, cable telephony providers served almost 2.6 million lines (mostly residential), and other full facilities-based competitors (fiber-providers, for example) served over 3.6 million lines. Of particular note, nearly 6 and a half million consumers report that their wireless phone is their only phone. Partial facilities-based CLECs, using a combination of self-owned facilities and unbundled network elements leased from incumbent local exchange carriers (ILECs), serve over 4 million lines. In total, nearly 16.7 million customers are served by facilities-based competitors.

CLECs providing service to consumers using no facilities of their own (*i.e.*, relying exclusively on those of an ILEC) account for over 11.9 million of the total CLEC access lines. Of that, approximately 4.48 million consumers are served by CLECs using resale (as provided by the 1996 Act and unaffected by current rulemakings) and another

7.48 million consumers are served by CLECs using UNE-P (pursuant to FCC regulations).

Deserving special notice, the most significant competition in voice (local and long distance) has come from wireless phone service. As of June 2002, 129 million consumers subscribed to wireless telephone services, providing a direct alternative to wireline infrastructure for local telephone services. There are currently six national carriers (two that are BOC-owned, and four that are independent) and a host of smaller carriers and price competition and innovation have been very strong. It is estimated that anywhere from 3-5% of these wireless consumers use their wireless phones as their primary local phone service.

In addition, broadband connections have also put pressure on wireline networks as many consumers that migrate to broadband for their Internet services have dropped their second telephone lines (which were used for dial-up Internet services). Moreover, 2002 saw the introduction of reliable Internet telephony services through a broadband connection. Companies such as Vonage are providing consumers with a direct substitute to their traditional wireline phones.

These various sources of competition have contributed to the first declines in total access lines for the four major ILECs since 1933 (the only previous year where access lines declined).

Competition also has increased exponentially in the long distance market. The corollary of opening up the local phone market was allowing incumbent local carriers to enter the long distance market (previously barred by law from doing so) after satisfying the requirements of section 271 of the Act. At present, Bell Operating Companies (BOCs) have obtained regulatory approval to offer long distance in 35 states, bringing new competitive alternatives to that market. Prices have declined substantially over the period since the Act, due principally to wireless substitution and extensive expansion of long distance capacity.

Competition is moving forward in the broadband market. Broadband, or high-speed lines connecting homes and businesses to the Internet, increased by 27% during the first half of 2002, from 12.8 million to 16.2 million lines. DSL lines in service increased by 29% during the first half of 2002, from 3.9 million to 5.1 million lines. On the cable platform, broadband service increased by 30% during the first six months of 2002, from 7.1 million to 9.2 million lines. At the end of June 2002, the presence of broadband service subscribers was reported in all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands, and in 84% of the nation's zip codes, compared to 79% six months earlier.

Clearly, a significant amount of competition has emerged since the Act. For residential customers in particular, facilities-based providers have contributed the lion's share of that competition.

CURRENT FCC PROCEEDINGS

The Commission has before it a number of major proceedings that will attempt to improve and advance the goals of the 1996 Act. With the benefit of hindsight, we will be able to assess the last seven years and consider how we might improve the regulatory environment to more aggressively promote facilities-based competition, to promote major investment in advanced communication infrastructure, and to reduce regulation—all hallmarks of the Act.

Local Wireline Competition Policy

Local competition is one of the principal objectives of the Act—meaningful, long-term, sustainable competition. Over the next six months, the Commission will consider and decide two sets of proceedings that will address certain aspects of the Commission's implementation and enforcement of Congress' unbundled network element (UNE) regime. These proceedings will determine which of the ILECs' network elements must be unbundled and offered to competitive entrants at regulated wholesale rates. And, will establish an effective and efficient enforcement regime to evaluate the incumbent's provisioning of these facilities and services to competitors.

1. Triennial Review of UNE Rules

The First Swing—Strike One

The FCC has had a difficult, trying time in its effort to establish the unbundled network element rules. Shortly after the Act was passed the Commission promulgated a set of local competition rules that included a mandate requiring that all network elements

be unbundled for competitors. And, despite arguments that such a regime undercut the separate wholesale requirement that the complete network could be purchased at the deeply discounted prices available for each unbundled element. This became known as the UNE platform, or UNE-P. The sentiment at the time was to "jump start" competition by biasing the rules significantly in favor of easy entry. This understandably aggressive competitive stance, coupled with a capital market awash with cash for new ventures, enticed nearly 300 new competitors to rush into the market.

These rules were struck down by the Supreme Court in 1998. The Court held that the Commission was not giving fair weight to Congress' directive that the Commission unbundle only those elements that would impair the viability of entry. The Court found the Commission's stance too generous to new entrants and not faithful to the statute, concluding "if Congress had wanted to give blanket access to incumbents' networks on a basis as unrestricted as the scheme the Commission has come up with, it would not have included § 251(d)(2) [the impairment standard] in the statute at all." Instead, "[i]t would simply have said. . . that whatever requested element can be provided must be provided." The UNE rules were thus vacated.

The Second Swing—Strike Two

In 1999, the Commission attempted to respond to the Supreme Court's decision and craft new UNE rules. It modified its interpretation of the impairment standard slightly and crafted a set of rules that substantially mirrored the old, still allowing access to all network elements (rendering UNE-P still available) in nearly all markets. In that

Order (known commonly as the *UNE Remand Order*), the Commission announced that it would reexamine its list of network elements every three years (it is from this commitment that the present Triennial Review takes its name). In response to this pronouncement, the Commission under my leadership initiated its first triennial review of its unbundled network element regime in December 2001, to ensure that our regulatory framework reflects current marketplace conditions and stays faithful to the goals and provisions of the Act.

During the course of compiling our record in this proceeding, the United States Court of Appeals for the District of Columbia Circuit struck down the Commission's *Order* and subsequently vacated the Commission's second set of UNE rules.

The court again found that the Commission had not given sufficient significance to the impairment standard. It pointedly held that the Commission had to consider much more rigorously whether there were competitive alternative sources of supply in different markets. It also criticized the Commission's "open-ended notion of what kinds of cost disparity are relevant" for purposes of identifying impairment. In particular, "to rely on cost disparities that are universal as between new entrants and incumbents in *any* industry is to invoke a concept too broad, even in support of an *initial* mandate, to be reasonably linked to the purpose of the Act's unbundling provisions." (Emphases added.) The court emphasized that unbundling is not an unqualified good under the statute, for it imposes others costs that can undermine the Act's goals. The Commission had to strike a balance

between competing concerns, rather than merely embrace unimpeded unbundling. The court consequently vacated all the unbundling rules, effective February 20th of this year.

It is very important to understand the legal exercise that is before the Commission. Under the court mandate, there will be no unbundling rules at all in a few weeks if the Commission does not act consistent with the court's ruling. The Commission must establish, from the ground up, the clear impairment of each and every element that it orders unbundled. This is important to grasp, for it is often misunderstood, or misrepresented in the heated debate about UNE-P. "To UNE-P or not to UNE-P" is not the question before the Commission. UNE-P is not a network element, nor does the statute provide for it as a complete entry vehicle. UNE-P is a consequence of previous regulatory decisions that required all network elements be unbundled, thereby making a full platform possible (that is, the platform is an aggregation of all the individual elements). If even one of those elements cannot be sustained under a more rigorous impairment analysis, the UNE-P will not be government mandated as an alternative, though it may be privately negotiated in the marketplace.

It bears repeating that seven years into the Act, there have yet to be a set of unbundled network element rules that have survived judicial review, despite two major Commission attempts. Hopefully, the third time is the charm. It is vital the Commission craft a judicially sound set of rules in the Triennial Review in order to finally settle this critical chapter of implementing the Act, and stabilize the foundation of the wireline local competition industry.

The legal mandate to rework the UNE rules is reason enough to recommend the Triennial Review, but not the sole reason. I believe, as prior Commissions and the courts have held, that Congress rightly sought to promote facilities-based competition. Facilities-based competition offers a number of compelling benefits:

- Greater product differentiation, offering consumers more robust choice than available through resale.
- Less reliance on an incumbent, whose self-interest will rarely be aligned with assisting a new competitor in having access to its own network at steeply discounted prices.
- Greater infrastructure investment, stimulating the downstream market for equipment suppliers, like Lucent and Nortel, as well as promoting more jobs.
- Greater network redundancy, providing more alternatives should homeland security risks threaten our network.

While the statute provides a number of vehicles for competitive entry, including resale and unbundled elements, it is widely recognized that in the long-term there should be a transition to facilities in order to reap the greater benefits of competition. In determining which elements should be unbundled for competitors, the Commission will take into account stronger incentives for facilities-based entry or transition thereto.

The Commission's third attempt to implement Congress' unbundling requirements through the Triennial Review proceeding will address several core components of our unbundling framework. First, it will involve the application of the statutory "necessary" and "impair" standards and a determination of whether, and if so, how, the Commission should take into account other goals of the Act, such as the development and deployment of new communications infrastructure and services. Second, it will consider, consistent

with the recent D.C. Circuit ruling, the appropriate level of granularity in defining the specific network elements and markets at issue. Third, it will address the proper role of state commissions in the implementation of our unbundling rules.

The Wireline Competition Bureau will have an item for the full Commission's considerations on the floor by the end of the month.

2. Performance Standards

In addition to the Triennial Review, the Commission began in 2001 a rulemaking proceeding to consider, for the first time, whether the Commission should establish and enforce national performance measurements and standards for ILEC provisioning of unbundled network elements, which many states and CLECs have urged. While the Triennial Review examines network elements and determines whether competitors should have access to them, the performance measures proceeding examines whether competitors have efficient and effective access to them. After much discussion with all segments of the industry, the consensus is that competition policy would be enhanced by a small number of specific, enforceable performance-based rules.

In response to our notice of proposed rulemaking, we received a variety of proposals—everything from completely occupying the field, to establishing a list of independently enforceable federal measures, to enhancing existing state penalties by adding federal penalties. We are working through the pros and cons of each of these proposals, and will move forward with a plan that ensures that the market-opening provisions of the Act are backed by a strong, effective and efficient enforcement regime

that creates greater consistency, certainty and clarity in the marketplace. Indeed, it is for this reason that I have made my repeated requests to Congress for greater enforcement authority for the Commission.

In examining possible performance requirements, however, we must be mindful of the important work that state commissions around the country have done in this area, and make sure that any federal standards we adopt advance our common goal of fully and faithfully implementing the Act. Enforcement should be something carriers take seriously, and not merely a cost of doing business, and one way to do this is to make sure that we are working together, and not at cross-purposes, with the states.

The Wireline Competition Bureau will present its recommendations to the full Commission in the second quarter, 2003.

Broadband Deployment

As I have stated on many occasions, broadband deployment is the central communications policy objective in America today. If the United States is to: (1) empower consumers to enjoy the full panoply of benefits of the information age; (2) provide a source for long-term, sustainable economic growth for our country; and (3) continue to be the global leader in information and network technologies—then, as Congress recognized in the Act, the development and deployment of broadband infrastructure will play a vital role.

To my mind, the primary challenge in front of policymakers today in promoting broadband is determining how we can help drive the enormous investment required to turn the promises of broadband into reality. While figures are a bit facile in this area, by many estimates DSL cannot reach 50% of households, because of technical limitations that can be overcome only by building out the network. Cable has substantially deployed its data network (controlling 70% of the residential market), but still is unavailable to a significant number of households. Other technologies are deploying, such as wireless, powerline and satellite, but significant capital investment and technical research is needed to push those platforms to a wider addressable market. At the Commission, we have initiated a number of proceedings to address this broadband challenge, guided by the following principles:

- First, get it built—everywhere. Encourage investment in new advanced architecture.

- Second, promote the vibrancy of these new internet platforms through a minimally regulated environment.

- Third, promote multiple platforms for the delivery of broadband internet. The biggest obstacle to so many policy goals in the wireline voice context is the last mile problem. Our goal is to encourage multiple pipes to the home in the future broadband world.

- Fourth, unleash the innovation that has been characteristic of the computer and software industries.

1. Triennial Review

As part of our Triennial Review proceeding, the Commission will consider several broadband related questions. Specifically, the Commission will address the unbundling obligations, under the Act, where an ILEC deploys next generation fiber facilities into its network or invests in fiber all the way to the home. In addition, the Commission will address the unbundling obligations for the high-frequency portion of the loop, commonly referred to as "line sharing." Again, we anticipate that the Wireline Competition Bureau will make its formal recommendations to the full Commission on these issues by the end of this month.

2. Wireline Broadband Item

In an effort to limit regulatory uncertainty, the Commission, in February 2002, initiated a rulemaking to address the appropriate statutory classification of broadband Internet access services provided over the traditional or future wireline telephone network. In the Notice of Proposed Rulemaking (NPRM) in this proceeding, the Commission tentatively concluded that this service is an "information service" as defined in the Act. In addition, the proceeding asks both the regulatory implications, if any, of that proposed classification on existing regulations and on what the appropriate regulatory framework for the provision of wireline broadband Internet access services should entail. Finally, the item also sought comment on whether facilities-based broadband Internet access service providers should be required under the Commission's statutory authority to contribute to support universal service.

The Wireline Competition Bureau will provide its recommendations in this proceeding to the full Commission in the second quarter of 2003.

3. Second Cable Modem Service Order

In addition to the *Wireline Broadband Item*, the Commission issued a Declaratory Ruling and Notice of Proposed Rulemaking in March, 2002. That *Declaratory Ruling* classified cable modem service, a broadband Internet access service provided over cable facilities, as an "information service" under the Act. The Commission, in the *NPRM* portion of the Order asked interested parties to comment on the appropriate regulatory framework for the provision of that information service. Specifically, the Commission sought comment on the scope of the Commission's jurisdiction to regulate cable modem service; whether we should require cable operators to offer ISPs access to their facilities; and the proper role of state and local franchising authorities in regulating cable modem service. Many of these questions are similar to those that arise in the telephone broadband context and should responsibly be considered together.

The Media Bureau will have its recommendations on the questions raised in the *Cable Modem NPRM* to the full Commission in the second quarter of this year.

4. *Dom/Non-Dom Proceeding*

Finally, in December, 2001, the Commission initiated a review of the current regulatory requirement for ILECs broadband telecommunications services. The Commission sought comment in this proceeding on whether the Commission should

make changes, based on marketplace developments, in its traditional regulatory requirements of ILECs' broadband transmission services. These transmission services are not broadband Internet access services offered to residential consumers, but high-capacity transmission services offered to business consumers and competitive carriers. The Commission sought comment on the relevant product and geographic market for these broadband transmission services; whether the ILECs possess market power in the market and whether dominant carrier safeguards or other regulatory requirements should govern ILECs' provision of these services.

The Wireline Competition Bureau will have their recommendations to the full Commission by the close of the second quarter.

CONCLUSION

As you can see, these next six months will be in incredibly busy and significant time for the Commission in the areas of local competition and broadband deployment policies. These decisions will be vital to our efforts to advance the digital migration in this country, and faithfully implement the will of Congress so that consumers can continue to reap the Act's intended benefits. In addition, these decisions will help brings some much needed regulatory certainty and clarity, especially in the face of the numerous adverse court decisions over the last five years, so that the marketplace can adapt and stabilize and industry participants can vigorously compete, invest and innovate—all to the benefit of the American telecommunications consumer.