



Viaero Testimony – HB 2326

1. Why should VoIP receive special regulatory treatment?
 - a. VoIP is not a new technology; it has been commercially available for nearly 15 years.
 - b. VoIP and other digital technologies are better, faster and cheaper. Companies don't need any incentive to deploy them (i.e., special regulatory treatment).
 - c. Special treatment for VoIP is arbitrary. Why incentivize VoIP deployment and not better wireless coverage, for instance? What is the purpose of selective deregulation?
 - d. If deregulation is good for one technology.

2. Policy problems with technology-centric regulation
 - a. Technology will always change faster than legislation or regulation.
 - b. Technology can be used in ways policymakers didn't consider, creating unintended consequences.
 - c. Focus should remain on *service*, not technology. That creates a more stable and predictable environment for carriers and consumers.
 - i. Consumers buy a service (local telephone service, wireless service, long distance).
 - ii. Consumers consider the price of these services and service quality, not what technology is used to provide service.
 - iii. Regulation, deregulation and non-regulation decisions based on technology, rather than the service provided, could create incentives to use technology as a form of regulatory arbitrage.

**CLASSIC EXAMPLE OF TECHNOLOGY-BASED REGULATION LEADING TO ARBITRAGE:
DIAL-UP INTERNET ACCESS**

- Regulators set access rates based on call termination minutes of use on the public switched telephone network. The intention was to set the rates for completing subscriber telephone calls between carriers and apportion the cost of the last-mile of the telephone network.

- Regulators set the rates *assuming* that use, but carriers quickly identified an arbitrage opportunity – dial-up internet access. The cost of providing dial-up was far below the access rates, which allowed a class of carriers (most notably ICG, based in Englewood, Colorado at the time) to take advantage of local telephone companies.

- These carriers only accepted internet service providers as customers, and customers signed on to the internet through a dial-up connection created massive imbalances in access traffic.

- Under the regulations, as written, this allowed carriers like ICG to bill unreasonable amounts to local carriers, totaling hundreds of millions of dollars.

- The FCC had to convert access regulation to a service-focused approach (creating a special, lower rate for dial-up internet traffic), but not before spawning years of high-stakes litigation between carriers, dozens of regulatory proceedings, and enormous uncertainty.

We are where you are.

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