

**BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
ENERGY AND COMMERCE COMMITTEE  
SUBCOMMITTEE ON  
TELECOMMUNICATIONS AND THE INTERNET**

**Testimony of  
JOHN R. PERKINS  
CONSUMER ADVOCATE OF IOWA  
PRESIDENT OF THE NATIONAL ASSOCIATION OF STATE  
UTILITY CONSUMER ADVOCATES**

**Regarding  
“How Internet Protocol-Enabled Services Are Changing the Face of  
Communications: A View from Government Officials”**

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**Office of Consumer Advocate  
310 Maple Street  
Des Moines, IA 50319-0063  
(515) 281-5984  
(515) 242-6564 (facsimile)  
Email: [jperkins@mail.oca.state.ia.us](mailto:jperkins@mail.oca.state.ia.us)**

**National Association of State  
Utility Consumer Advocates  
8380 Colesville Road, Suite 101  
Silver Spring, MD 20910  
(301) 589-6313  
(301) 589-6380 (facsimile)  
Email: [nasuca@nasuca.org](mailto:nasuca@nasuca.org)**

**Testimony of John R. Perkins, Consumer Advocate of Iowa, President of the  
National Association of State Utility Consumer Advocates  
Before the House of Representatives Energy and Commerce Committee,  
Subcommittee on Telecommunications and the Internet**

**“How Internet Protocol-Enabled Services Are Changing the Face of  
Communications: A View from Government Officials.”**

**Summary of Testimony**

Communication has evolved from being limited to face-to-face thousands of years ago, to the sending of letters centuries ago, to the invention of “plain old telephone service” (POTS) over one-hundred years ago, to numerous new methods, many of which were unheard of just a decade or so ago. Wireless and Internet communication have spawned new methods of communication so rapidly that seemingly only persons under the age of eighteen have the ability to become proficient in all of them. The Internet has given us the ability to bypass the postal service with email and parts of the public switched telephone network with some forms of Internet telephony.

As Congress considers new laws to govern Internet communication, there are a plethora of issues which it must consider in order to assure the most important result – the public interest in affordable and widely accessible telecommunications – is continued as it has been for so many years.

Principles we feel should be considered are:

- States are not preempted from regulating safety and consumer protection issues;
- Internet Protocol (IP) is not so broadly defined that as local exchange providers switch more of their basic service to Internet protocols, what is still essentially POTS becomes prematurely deregulated;
- Incumbent local exchange providers must make their broadband available to their customers without requiring that their customers also purchase their local telephone service or their Internet telephony service;
- Provision of E911 service must be available;
- Broadband should be universally available to everyone;
- The Universal Service Fund must be protected.

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**CHAIRMAN UPTON AND MEMBERS OF THE HOUSE  
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET**

Thank you for the opportunity to speak to you today on the important issues surrounding how IP-enabled services are changing how we communicate.

My name is John R. Perkins. I am the Consumer Advocate for the state of Iowa and am currently serving as the president of the National Association of State Utility Consumer Advocates. NASUCA is an association whose members are, for the most part, the statutorily authorized state officials who are responsible for representing their citizens in utility matters before their state public utility commissions, as well as before state and federal courts, federal agencies and Congress. They operate independently from their state PUCs. NASUCA currently has members from 42 states and the District of Columbia.

The rapidly changing face of telecommunications has made it necessary to reexamine some of the precepts behind the Telecommunications Act of 1996, passed less than a decade ago by Congress. Wireless and the Internet have provided diverse new ways to communicate with one another, making instantaneous contact over great distances no longer the exclusive province of the public switched telephone network it was just several decades ago. The

technology is mind-boggling to the average consumer over the age of eighteen. While pre-teens to college students want the most advanced abilities to communicate with each other from their telephones, including sending pictures and text messages, many of the rest of us just want to be able to pick up a telephone, hear a dial tone, have a call completed to the number we dial and be able to hear the voice on the other end – all at a reasonable price. We don't care through what magic that is accomplished. The challenge for Congress is to devise legislation that balances that need, with the need to make sure those magicians who continue to dazzle us with their seemingly daily new methods of communications, have the proper incentives to continue that progress. As always, there is a natural tension between the two – and some of that can and should be handled by the market place between competitors.

However, there are some issues that are too important to be left to the competitors and entrepreneurs to work out and should continue to be regulated by government, both state and federal.

For example, while most people now agree the Internet is truly an interstate phenomenon and individual states should not be in the business of regulating the rates charged for Internet service, there are important consumer protection and safety issues in which states have a legitimate interest. States should be allowed to apply their individual state consumer protection laws to insure their residents are not the victims of those providers who, in their competitive zeal, may take unfair advantage of those consumers who are unfamiliar with this new technology.

Another broad consideration we feel Congress should keep in mind is that many local exchange carriers, such as the four regional Bell operating companies, will soon be using IP to carry calls by replacing their state of the art circuit switches from 10 years ago with new IP soft switches. The reason is simple: the new IP soft switches are more efficient. But the customers may never realize as they use their old telephones and old services that the digital magicians have a more efficient way to provide the same old POTS. These customers should also not be subjected to lesser consumer protections just because their local exchange carrier – who they have dealt with for years –is changing its technologies in ways the customer will likely never notice.

When defining what is an IP for telephony, Congress should take care not to define it in such a way that ILECs can claim their use of IP on their old networks now would avoid all state regulation. If it walks like a duck . . . .

Another consideration we feel it would be appropriate for this subcommittee to examine overlaps with those Congressional subcommittees reviewing competition in the telecommunications industry as well as those examining the recently announced mergers between SBC and AT&T and between Verizon or Qwest and MCI. Fully one-third of the broadband connections (in the form of DSL) are supplied by incumbent local exchange providers, such as the four RBOCs. Of the four, only Qwest has announced it will voluntarily allow its subscribers to purchase its broadband without the necessity of also purchasing its local exchange service. The other three RBOCs require their customers to

purchase their local exchange service in order to obtain their broadband connection.<sup>1</sup> Such a tying arrangement stifles competition for Internet telephony. Customers should be free to use their own equipment, and access software and services freely on their broadband, the so called “net freedoms” concept espoused by former FCC Chairman Michael Powell.

E911 capability is essential for Internet telephone providers. As vividly brought home by the recent tragic event in Houston, Texas, many people who purchase an Internet telephone product don’t realize their local law enforcement agencies no longer have the ability to determine their address when they call 911 on an Internet based telephone, such as voice over IP (VoIP). The providers must be forced to rapidly develop the capability for VoIP to allow E911 service. The technology is available, but not all companies are using it.<sup>2</sup> In fact, earlier this month Canada required Internet telephone carriers to immediately provide basic E911 service. Two large providers – Primus Telecommunications Canada, Inc. and Vonage Canada – said they supported the government’s position. CALEA and TTY face the same access issues as E911.

Finally, despite news articles that would lead one to believe everyone in the United States has a computer with a broadband connection, the simple fact is only 30 million Americans have broadband. Compared to the 170 million access

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<sup>1</sup> Verizon’s recent announcement it will provide stand-alone DSL in some limited circumstances is so constricted as to be an essentially worthless concession.

<sup>2</sup> Another problem is that VoIP providers are having problems gaining access to incumbent carriers’ E911 trunk lines. Vonage recently struck a deal with Qwest for access, but has complained that BellSouth, Verizon and SBC – who allow their own VoIP service to access their E911 trunks – are balking at providing access.

lines of the traditional telephone companies, the number of people who have the ability to use Internet telephony is still quite small. As you and other Congressional committees examine the entire gamut of issues related to telecommunications, it is essential not to forget the vast majority of Americans, especially those in rural areas, who still rely on POTS to communicate. In our rush to embrace these new technologies, we should keep them in mind.

Companion issues relate to the Universal Service Fund and access charge payments. Currently, Congress is studying the USF funding base and how to best handle the continued availability of telephone access in high-cost areas. As calls are routed over the Internet to one degree or another, providers are refusing to pay into the fund, even though their customer may use part of the PSTN to complete a call. The same issues arise with access charges. Congress should look carefully at these issues when considering any legislation on Internet telephony.

NASUCA passed a resolution on November 16, 2003 at its Annual Meeting dealing with VoIP service, a copy of which is attached to my testimony.

Again, thank you for the opportunity to appear before you to give our perspective on this sea-change in telecommunications. I would be happy to address any questions of the committee members.