"California Perspectives on Broadband and VoIP"
Keynote by Commissioner Rachelle Chong
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Thank you very much for inviting me to speak and to provide "California Perspectives on Broadband and VoIP." I appreciate Jonathan Askin's introduction of me as "Rachelle Chong, version 2.0". The FCC experience was great, and the California one even better.

I am darned glad to be at the VON conference because it is exciting from both technology and policy standpoints. The industry players featured here are fearless agents of change to the voice and video market. They are developing Internet Protocol services for voice and video, often using Linux open architecture, that frankly blow up traditional paradigms of telephony and video services. In the room next door, I just heard Bram Cohen, the founder of BitTorrent, brashly predict the demise of broadcasters and cable companies because they don't deliver what viewers want when they want it.

Instead of requiring thousands of millions of dollars to set up a telephone company, this industry's software and hardware provides voice communication services for modest investments. Internet broadband applications bring video to the home on demand.

Instead of a communications industry comprised of mass-market enterprises, the VON conference offers a vision of nimble firms serving niche customers. In sum, the industry is transforming the economics and policies of communications.

As a Commissioner at the California Public Utilities Commission and as a member of Governor Schwarzenegger's California Broadband Task Force, my role has been to acknowledge the sea changes washing over the telecom industry due to technological advances -- and to chart new government policies accordingly. This can be said to be "MISSION IMPOSSIBLE."

When you have an impossible mission, you bring in superheros. And California did just that. We elected Governor Arnold Schwarzenegger. It just so happens that our governor is a big infrastructure guy. Our superhero believes that broadband and VoIP networks are critical to the economic development of our state and to ensuring good jobs stay here.

Government, however, is inherently conservative and it's no secret that change moves slowly. Like King Kong and his obsession with the lovely Fay Wray, sometimes government expresses its good intentions in a policy embrace that can crush these new objects of governmental affection.

Today, I am going to describe four obstacles to the deployment of broadband and VoIP networks, and how the California government is working to address these obstacles.

Removing Legal Obstacles and Administrative Barriers to Broadband Deployment

Over the last several years, communications companies have been frustrated in their efforts to build high-speed broadband networks, because they lack the authority to offer a full range of voice, data and video services – three services that all can rely on Internet Protocol. The economics of financing an ubiquitous high-speed broadband network often requires bundling of revenues of all three services into a single revenue stream supporting the high-speed network.

On the government side, the Federal Communications Commission regulates data communications. The California Public Utilities Commission and the Federal Communications Commission share authority in regulating voice communications networks. The California Public Utilities Commission, Federal Communications Commission and local communities share authority over companies providing video services using wires in this state. Finally, the Federal Communications Commission retains primary authority over all broadband communications using satellite or wireless broadband technologies.

Before last year, both Verizon and AT&T announced their intentions to expand broadband networks in California. But obtaining video franchises from local communities was a lengthy process that frustrated network expansion.

Last year, the California Legislature passed the Digital Infrastructure and Video Competition Act ("DIVCA," the very newest of California acronyms). This law created a state video franchise process with key features targeted at removing legal and administrative barriers to broadband deployment.

The Act creates a simple, one-stop application process. It placed responsibility for state video franchise applications with a single state agency, the California Public Utilities Commission. The Act strictly defined factors for the PUC to determine whether to grant a franchise. Its approach eliminated many notice and comment provisions that lengthen PUC review where the agency is given significant discretion.

Throughout the Video Act, there are tight implementation deadlines. The Act set April 1st as a deadline for implementing the regulatory program. The PUC beat it by a month. In addition, the Act set a 30-day limit for the review of an application in order to determine whether it is complete, and thus, grantable.

The Act also affords local government sole responsibility for CEQA reviews of construction plans. This measure avoids the duplicate CEQA reviews that have bedeviled telecommunications carriers seeking to deploy new wireless and fiber optic networks.

The Commission adopted our order granting franchises on March 1, 2007, and we got the first statewide video application the next day. Within a week, the PUC issued the first state video franchise to Verizon. Verizon plans to deploy a full fiber optic network throughout its telecommunications service territories. FiOS commonly offers speed of 5 Mbps, speeds unheard of in Northern California residential and small business markets.

The PUC is now working on a second video application, this time from the new AT&T. This application covers a much larger service area than Verizon, so it will take more than a week, however, the PUC certainly will meet our 30 day deadline for review.

Ending "Standard Operating Procedures" that Frustrate the Public Interest with Red Tape

Now, let me turn to another issue that can frustrate the construction and deployment of broadband networks – access to government controlled rights-of-way.

For some time, California saw its state rights-of-way as a revenue source of user fees. Some California agencies imposed rights-of-way access charges that exceeded related costs incurred by the state.

In addition, when constructing roads, it is easier and cheaper to install fiber optic conduit at the time of construction, than to rip up the roadway to install conduit after the road is complete. Joint government planning for both traffic and data infrastructure could potentially save money, reduce traffic delays for fiber builds, and speed the construction of data networks.

On October 27, 2006, Governor Schwarzenegger signed a broadband executive order addressing these and other issues. The Executive Order requires that state agencies charge wired broadband providers only the costs incurred by the state for providing access to its rights-of-way. In addition, the Executive Order requires installation of conduit in California road projects if there is sufficient demand justifying placement of the conduit into public rights-of-way. California state agencies are now working to implement the order.

It is too early to tell if this initiative will make a difference for broadband deployment, but I expect it should. California government is announcing to broadband players that it does not wish to be an obstacle to those attempting to build broadband infrastructure.

Providing a State Agency Home for Broadband Infrastructure Issues

Let me now turn to this question: If the new California perspective is that broadband and VoIP are good things for California, why do governmental policies unfriendly to both arise?

The answer is simple: The duty to develop policies to encourage broadband infrastructure had no real home in state government. No single government agency had designated responsibility for cross-cutting issues related to broadband access and usage in California.

Once again, the Schwarzenegger administration has acted to address this problem. The Governor's Executive Order assigns the implementation of broadband initiatives to the state's Business, Transportation and Housing Agency.

Further, the Governor's order created a special California Broadband Task Force, of which I am a member. This task force includes high level members of state and local government, and stakeholders from industry. The Task Force is charged "to remove barriers to broadband access, identify opportunities for increased broadband adoption, and enable the creation and deployment of new advanced communication technologies."

Although the major product of the Broadband Task Force is a comprehensive report due this fall, the high-level membership of the task force and assignment of staffing responsibility to the Business, Transportation and Housing Agency should help ensure that ideas flow not only to high levels of government, but also to those who have the mission to solve problems identified by task force members.

Bureaucratic Overreaching and Mission Creep

Finally, let me turn my attention to Voice over Internet Protocol service. When VoIP first appeared on the California scene, I am told California PUC staff sent letters to the start-ups that found they were "telephone companies" under the California Public Utilities Code. This meant full state licensing and being subject to a panoply of traditional phone regulations conceived in a monopoly era.

When PUC Commissioner Susan Kennedy, now Governor Schwarzenegger's chief of staff, learned of these letters, she opened a Commission investigation to determine whether such regulation was required. This action pre-empted the staff initiatives that may have discouraged this emerging technology in our state.

While the PUC studied what to do, the FCC asserted federal jurisdiction over VoIP. This FCC action created a national regulatory framework and prevented a patchwork of regulations from emerging in 50 states.

Regulatory "mission creep" may plague this industry. Some view VoIP as a threat to many traditional social and safety programs, for example, to universal service, to 911 emergency programs, and to wiretap laws.

So as an industry, it is your job to prove these skeptics wrong. VoIP companies should support important social programs and seek to overhaul them in sensible ways to reflect new technologies. State regulators like me care about whether you respond to consumers with complaints in a prompt and responsible manner. If you don't, get ready to see more regulation and laws. You should participate in government proceedings actively to shape changes in ways that are technologically neutral and fair, or you will spend much too much time in the tight embrace of federal and state utility agencies.

California sees VoIP service as part of the package of communications services that travels on an advanced broadband network. You, however, will need to travel the halls of legislatures and regulatory Commissions to ensure that government provides your service with fair treatment vis-a-vis your competitors. This is not easy work.

Conclusion: A Call to Action

In summary, California government supports both broadband and VoIP, but acting on this perspective is a task for superheros.

I am here today to learn about the latest technologies and services that you are developing. I want to be part of the solution. I run an open office so come see me. I am interested in hearing your specific ideas on how to approach issues at the PUC and as to the Governor's Task Force.

In the end, however, your industry is rapidly growing, maybe even maturing. I recommend you organize to take proactive steps, like those taken by Jeffrey Pulver and Vonage before the FCC, to ensure that the government considers the legitimate interests of your industry and technology.

Thank you for inviting me.