

***Resolution on NARUC Telecommunications Legislative Task Force***

**WHEREAS**, Modern, efficient telecommunications capabilities are essential to the preservation of the public health, safety, and welfare, and the vitality of the nation's economy; *and*

**WHEREAS**, States and the federal government have significant responsibilities to ensure that all citizens continue to have access to modern, affordable, high quality, and reliable telecommunications capabilities; *and*

**WHEREAS**, States have particular interests and responsibilities in preserving public safety through the provisioning of E911, in maintaining consumer protections, in ensuring service quality and reliability, and in maintaining conditions for fair competition; *and*

**WHEREAS**, States have established structures and expertise necessary to fulfill those public interest responsibilities; *and*

**WHEREAS**, Evolving telecommunications capabilities and markets continuously challenge governments to adapt their regulatory mechanisms and activities; *and*

**WHEREAS**, The States historically have risen to that challenge by creating opportunities for competition in all telecommunications markets, and by relaxing or adapting their regulatory requirements, while maintaining core public interest protections; *and*

**WHEREAS**, In anticipation of efforts to amend existing national telecommunications law in response to the evolving telecommunications marketplace, the National Association of Regulatory Utility Commissioners (NARUC) has established a Legislative Task Force to develop a legislative proposal for NARUC's consideration; *now therefore be it*

**RESOLVED**, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its February 2005 Winter Meetings in Washington, D.C., believes any effort to reform national telecommunications law should:

- Promote innovative platforms, applications and services in a technology neutral manner;
- Consider the relative interests and abilities of the State and federal governments when assigning regulatory functions;
- Preserve the States particular abilities to ensure their core public interests;
- Preserve customer access to the content of their choice without interference by the service provider;
- Ensure timely resolution of policy issues important to consumers and the market;
- Protect the interests of low income, high cost areas, and customers with special needs;
- Provide responsive and effective consumer protection;
- Focus regulation only on those markets where there is an identified market failure; *and be it further*

**RESOLVED**, That the Task Force be commended for its effort to date and expeditiously consider the attached issues to develop further policy specificity and a consensus document for consideration by the Consumer Affairs and Telecommunications Committees.

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*Sponsored by the Telecommunications Committee and Consumer Affairs Committee  
Adopted by the NARUC Board of Directors February 16, 2005*

## LIST OF POTENTIAL ISSUES FOR TASK FORCE'S FURTHER CONSIDERATION

- States and the federal government each have significant responsibilities to ensure that all citizens continue to have access to modern, affordable, high quality, and reliable telecommunications capabilities.
- A meaningful State role must exist, notwithstanding the jurisdictional nature of any technology, when there are substantial State interests in the policies that substantially affect consumers within their jurisdictions and that implicate State public health, safety, welfare and fiscal issues within the State.
- At least some communications transmission should continue to be subject to some regulatory oversight.
- Allocation of numbering resources should be jointly determined by State and federal officials.
- All FCC commissioners serving on a joint board or joint conference should be allowed to participate simultaneously in discussions with their State counterparts.
- Any Federal statutory reform should consider the relative interests, knowledge, expertise and resources of the State and Federal governments when assigning regulatory functions.
- Any Federal statutory reform should recognize and preserve the States' unique abilities to ensure their core public interests while also respecting the need for nationally applicable rules where necessary or appropriate.
- Any Federal statutory reform should respect and reflect that in many areas States have more relevant knowledge of local conditions and effective mechanisms and processes in place to address the issue at hand.
- Because of their knowledge of customer interests, States should have continued control over the boundaries of local calling areas.
- Through diversity and experimentation, States add value in finding the most appropriate kinds and levels of regulation for many communications services.
- Because Plain Old Telephone Service (POTS) classically was provided by vertically integrated carriers who provided facilities, transport and functionality, but many emerging technologies are competing at less than all network layers, some elements of traditional regulation are inappropriate for some providers.
- Communications networks, including emerging voice technologies, continue to present many traditional regulatory issues including interconnection use of market power in wholesale and retail transactions, emergency services, consumer protection and service quality.
- When communications services, including emerging voice technologies such as voice over Internet protocol, are provided in a competitive environment, they should not be subject to traditional economic regulation.
- Should a provider of a voice communications service seek to avail itself of a public good (i.e., numbering resources) or of certain rights (i.e., a right of interconnection with the public switched telephone network (PSTN)), the imposition of certain regulatory obligations is reasonable.
- Non-economic regulation of emerging voice technologies is warranted where the service at issue (i) makes use of the North American Numbering Plan or (ii) is capable of terminating calls to the PSTN or (iii) for the consumer, represents a voice replacement to POTS.
- Customers should be able to control the content of their communications, without interference by a service provider.

- Customers and competing providers should have freedom to select their own “applications” and their own qualifying network attachment devices.
- Where competitive alternatives are limited, State and federal regulators have a role in service quality reporting and monitoring.
- Continued reliability of the national public communications network is of great importance, regardless of the format of the communications it transports.
- Customers who purchase a POTS-like service should be able to reach all assigned and working NANP numbers.
- The nation needs a regime of technology-neutral rules that, to the maximum extent possible, would apply equally to all providers of voice communications.
- As the communications market becomes characterized by inter-modal competition, providers of voice communications should be subject to equivalent public policy obligations.
- Customers using a 911 or E-911 system in connection with their service should support it whether or not they are subject to other regulatory obligations.
- Service providers not currently subject to 911 or E-911 obligations should be afforded a reasonable opportunity to develop standards/solutions for complying with 911 and E-911 obligations prior to the imposition of such obligations.
- Service providers should have a duty to inform customers as to how 911 and E-911 service may differ from that associated with traditional POTS-based service.
- Quality services should be available at just, reasonable, and affordable rates.
- Access to advanced telecommunications and information services should be provided in all regions of the nation.
- Consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.
- Decisions about the federal universal service assessment base should not affect decisions regarding the amount of support distributed.
- All providers of communications who rely on a ubiquitous network should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.
- There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.
- Providers of voice communications may be required to contribute to universal service programs without being subjected to the full range of common carrier/telecom regulation.
- Enforcement of consumer rights claims should, to the extent practicable, occur at the State level, as States likely have existing enforcement mechanisms in place, and burdening a State consumer with a requirement to enforce his or her claim in a federal arena appears unduly burdensome on the consumer.