

**Written Testimony of Meredith Garwood**

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**Before the Subcommittee on Commercial and Administrative Law**

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Chairwoman Sanchez and Members of the Subcommittee, thank you for this opportunity to testify on an issue of real and growing importance to millions of consumers and businesses across the United States. I also want to thank Representatives Eshoo and Campbell for their earlier testimony and for their leadership.

My name is Meredith Garwood, and I am Vice President of Tax Policy for Time Warner Cable. I am responsible for pursuing federal and state legislative tax initiatives that ensure fair and non-discriminatory taxation for consumers of our services. I appear today on behalf of a broader coalition of Internet service providers, Internet “backbone” providers, and Internet application and content providers. Our Coalition is known as the “Don’t Tax Our Web” Coalition. On behalf of that Coalition, let me extend our appreciation to you Madame Chair and to you Ranking Member Cannon for today’s hearing.

Unless Congress acts, the Internet Tax Freedom Act will expire on November 1, 2007. This morning, I would like to focus on three points:

- First, I urge Congress to make the moratorium permanent.
- Second, the moratorium should be clarified once and for all to prevent taxation of the transport component of Internet access, including the Internet “backbone”.

- Finally, the moratorium should be extended without any further extensions of existing taxes on Internet access that were grandfathered in 1998 and 2004.

H.R. 743 and H.R. 1077 both encompass these three objectives, and therefore our coalition strongly supports both bills.

### **Make the Moratorium Permanent**

At a time when economic development experts are calling for increased deployment of broadband, new taxes on Internet access, including taxes on transport used to provide that access, will greatly increase the cost of that deployment.

It is hard to imagine that at some point in the future it will make sense to allow access to the Internet to be taxed by thousands of taxing jurisdictions. Indeed, even with the moratorium in place, companies in our coalition have had to deal with the consequences of contrived loopholes in the Internet Tax Freedom Act—litigation, audit risk, and class action lawsuits. But it is our strong position that access to the Internet should be as available and as affordable as possible, and therefore we continue to seek a permanent ban. That should be our permanent, national policy.

### **Make Unmistakably Clear that the Moratorium Applies to All Internet Transport, Including the Internet “Backbone”**

The amendments to the Internet Tax Freedom Act in 2004 had two main objectives: (1) to treat all technologies similarly, and (2) to ensure that the Internet “backbone” remains free from tax. Many States like Massachusetts and North Carolina acted appropriately in issuing rulings consistent with the Federal law and Congress’s clear intent that the Internet not be burdened by hidden taxes.

Unfortunately, a few States, none of which were original grandfathered States, chose to ignore the changes made by Congress in 2004. The actions of these errant States must be addressed because they undermine the moratorium, circumvent the will of Congress, and put pressure on other states to similarly sidestep the moratorium. From an economic standpoint, taxes on the transport components of Internet access are indistinguishable from taxes on Internet access. Both put the same upward pressure on end users' cost of service, deterring growth of Internet access subscribers.

Additionally, new language to clarify this issue is important because we currently have companies facing class action lawsuits filed by their customers because the companies followed the rulings issued by these states.

Our coalition has been working collaboratively with both FTA and NGA in an effort to make unmistakably clear that the Internet "backbone" and the other components of Internet transport are covered by the moratorium. We have also worked with the States to address their concerns that the definition of Internet access could unintentionally include products other than Internet access. Our discussions with the States have led to an agreement between our coalition and both FTA and NGA on the definition of "Internet access" that includes transport and excludes services that are unrelated to Internet access. We believe our joint proposal will ensure that consumers do not bear the burden of taxes whether directly as part of the price of Internet access or indirectly through unwarranted tax-driven increases in the price Internet access providers must pay for transport. I want to express my appreciation to David Quam and to Harley Duncan of FTA for their constructive approach to this very challenging issue.

## **End the Grandfathering of Taxes on Internet Access**

In 1998 and again in 2004, Congress grandfathered the taxation of Internet access in several States. Consumers in those States were deprived of the benefits of lower priced access to the information superhighway. Nearly a decade after a handful of States were first granted these grandfather protections, it is time to bring these limited and temporary exceptions to a close and to fulfill the original objective of a national policy against taxing Internet access. There is abundant evidence that competition between different types of Internet access providers is lowering prices for consumers and making high-speed Internet access more accessible and affordable to consumers and small businesses. Now is not the time to allow regressive new taxes to reverse the progress we are making in this nation. The oft-mentioned “digital divide” is as much a concern for the economic growth of small business as it is for millions of consumers still beyond the reach of the broadband economy. Congress can take an important step in eliminating this gulf by ensuring that consumers in all States benefit from the moratorium.

Madame Chair and members of the Subcommittee, thank you again for the opportunity to testify and I look forward to your questions.