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**Re: HB 1779, as before the Missouri Senate Commerce Committee. Testimony submitted by Tom Giovanetti and Bartlett Cleland**

Thank you for the opportunity to provide written testimony for this noteworthy effort in Missouri.

***About the Institute for Policy Innovation***

The Institute for Policy Innovation (IPI) is a twenty year old free-market public policy research organization. IPI researches and promotes sound policy solutions that feature lower taxes, fewer regulations, and a smaller, less-intrusive government. IPI specializes in issues of economic and technology policy.

IPI does not lobby. We do not represent companies or industries, and we do not advocate the passage of any particular piece of legislation. We do, however, advocate policies that stimulate economic growth, and we are convinced that correct communications policy will spur increased economic growth and competitiveness in the United States, and provide consumers with increased availability of valuable products and services.

We appreciate the opportunity to submit comments regarding voice over IP (VoIP) technology and regulation.

***The Importance of VoIP***

VoIP technology is a classic disruptive technology in that it is a "better, cheaper, faster" way to accomplish voice communications.

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These sorts of technology innovations are the prime drivers of economic growth, because they increase productivity. Economic growth doesn't come from shifting money from one industry or another, or from breaking windows to create jobs for window glaziers. That's just moving money around, and economic growth isn't just moving money around.

Economic growth comes primarily from increased productivity, and VoIP has the potential to increase the productivity of businesses and enterprises large and small.

Ten years ago, IPI purchased a "state of the art" ISDN phone system, at a cost of \$9,000, and only really performed basic voice functions. What was novel in this system was the ability to move data as well as voice.

A couple months ago, we acquired a new phone system. VoIP systems for a small enterprise such as ours are not only half the price that we paid ten years ago, but have incredible productivity enhancements.

But VoIP not only enhances the productivity of those who use it-it also enhances the productivity of the networks themselves. Moving voice traffic off of the switched network and onto IP networks allows networks to better handle traffic flow for both voice and data, which they MUST do to handle all of the new traffic that is moving onto IP networks.

So VoIP is a compelling development for those who understand the importance of economic growth to job creation and income growth.

### ***The Lessons of Internet Commerce Taxation and the Wireless Industry***

Within the last two decades, there has been a bipartisan understanding that new technologies should be allowed to grow and develop without bearing the burden of unnecessary government taxation and regulation. The wisdom of this "hands-off" approach has been demonstrated in at least two obvious instances: the passage of the Internet tax moratorium, and a general forbearance against regulating the wireless industry at the state and federal level.

The Internet tax moratorium was a bipartisan agreement to disallow discriminatory taxation of Internet transactions, in order to encourage the development of e-commerce. The Internet tax moratorium was aggressively opposed by state and local government entities, and lawmakers were told that economic disaster would befall states and municipalities if they could not "level the playing field" with Internet taxation.

But the results speak for themselves. E-commerce is thriving, and so are state and local revenues, although states have been on a tear when it comes to spending. It is now clear that there never was, and probably never will be, a need for discriminatory taxation of e-commerce transactions.

Similarly, the wireless industry has grown from a toy of the wealthy to a consumer necessity, largely because the government has refrained from heavy regulation of the wireless industry. Does anyone doubt the social benefit and enhanced productivity of the wireless industry, and thus the benefit of taking a "hands off" approach to the regulation of the wireless industry?

The tax and regulation approach to VoIP should be similar, and most observers agree, since VoIP is at this juncture almost entirely free of specific regulation and tax treatment.

### ***Resist the Urge to Regulate***

Unfortunately, the Missouri PUC is showing a strong inclination toward regulation of the incipient VoIP market and distrust in markets and competition.

This was obvious from the VoIP Task Force report from the Missouri PUC. Throughout the report, but especially on page 45, the Commission expresses distrust in markets and competition, and a reflexive compulsion to proactively regulate, rather than waiting to see if there is actually any need for regulation.

Missouri must show bold leadership, not by being the first state to attempt to tax and regulate an exciting new technology, but rather by reining in the regulators. If anyone is to deregulate, it must be the legislature that does it. Regulators don't deregulate, and regulators have a distinct tendency to think that the solution to any and every issue is more regulation. It's not that regulators are bad people; it's just their nature.

In Missouri, it is clear that the regulators have their eyes on VoIP as a new source of taxes, fees, and expansion of their mission. But it's the job of the legislator to tell appointed bureaucrats what they may and may not do. It's your job to set the limits and parameters of their jobs. Too often, however, legislators have tended to defer to the supposed expertise of regulators. Remember, the people elect the legislative branch to make policy, not appointed regulators. Regulators are to implement the will of the legislature. Missouri should rein in your regulators, and tell them that they must keep their hands off of this critical new communications technology.

### ***Prevent Discrimination***

It's also important to ensure that no discriminatory taxes or fees can be placed on VoIP that put it at a competitive disadvantage to other communications technologies. Public policy should not choose winners and losers. It should not favor one technology over another. Like should be treated alike, and technologies that can be substituted one for another should be treated alike. The marketplace is the place for winners and losers to be determined, not the public service commission.

Further, you should prevent discrimination against facilities-based VoIP providers, and this is very important. When you tax something, you get less of it. And, in particular, it makes no sense to tax companies who are creating jobs, investing in the state and building out infrastructure, but to not tax providers who are literally adding no value to your state – those who provide VoIP as a service that “rides on top” of the facilities built in Missouri. The best policy is a neutral policy, but if for some reason you had to favor one group or another, wouldn't it make more sense to favor facilities-based providers rather than free-riders?

In fact, our experience with CLECs and ILECs taught us this very point. FCC policy disadvantaged the facilities-based providers and rewarded the free-riders, and the result was a depression in the telecom sector and a failure to build out broadband. The FCC finally reversed this destructive policy, and today we recognize that we ought to be praising and rewarding the facilities-based providers who are doing us the favor of building out a critical broadband infrastructure using their own risk capital, and asking of government nothing more than the right to profit from the networks they build.

### ***Speaking of Free Riders...***

We understand that some of the smaller and rural telecom providers are advocating regulation and taxation of VoIP. This takes some real chutzpah for these companies to take this position.

Let's remember that many of these companies entire business models are dependent on their being net recipients of public subsidies in the form of universal service fees. In other words, these companies are already at the public trough in a big way, and are

trying to slow down their competitors' adoption of exciting new technology by saddling it with new taxation and regulation.

What is in the best interest of the public would be for companies that are dependent on public subsidy to encounter new competition as soon as possible. We might even find that there is not as much need for subsidies in voice communication as we thought.

### ***The Unbearable Tax Burden***

Finally, did you know that the only industries that bear a heavier tax burden than communications are cigarettes and alcohol?

We know why those industries have had such heavy taxes applied to them, but why is communications so heavily taxed?

The reason is that, during the monopoly era, governments got into the bad habit of using communications as a collections office, loading up communications with all sorts of taxes and fees.

These are dishonest, hidden taxes. Consumers' final bills are often 40-50% taxes and fees, yet they hold the communications providers responsible. When you ask consumers what their number one complaint is about communications, they almost always complain about their complicated bills, because they don't understand all those taxes and fees. But those fees have been levied by greedy governments.

Today, we're no longer in the monopoly era of communications. Today, these companies are aggressively competing with each other, and consumers are benefiting from this aggressive competition. We should be encouraging this competition, and we should be encouraging consumers to subscribe to these new communications technologies.

It makes no sense for one of our most critical industries to be bearing such an inordinate tax burden, and it's time for governments to start reducing and removing these taxes and fees, not creating even more of them. By shielding VoIP from discriminatory taxes and fees, Missouri is taking a commendable step in the right direction.

If Missouri wants to be competitive in the communications market and to entice new and technologically advanced infrastructure, the state should relax regulation rather than increase it. A good place to start heading in the right direction would be on Internet voice products. Missouri now has the opportunity to add marketplace power alongside historic mule power in state leadership history, but will it?