

**SB**

**895**

**EDT/CPN**



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Economic Development and Technology  
and  
Senate Committee on Commerce and Consumer Protection  
February 4, 2009 at 1:15 pm  
by  
David Lassner  
Vice President for Information Technology/CIO, University of Hawaii

SB 1680 – RELATING TO TECHNOLOGY  
SB 0895 – RELATING TO THE HAWAII COMMUNICATIONS COMMISSION

Chairs Fukunaga and Baker, Vice Chair Ige and Members of the Committees:

I am pleased to testify today as Chair of the Hawaii Broadband Task Force. The Hawaii Broadband Task Force was established by the 2007 Legislature with a mix of public and private sector members to provide recommendations on how to advance broadband within the State of Hawaii.

As the task force completed its work at the end of last year, we greeted with great enthusiasm the words of then President-Elect Obama on December 6, 2008: "It is unacceptable that the United States ranks 15th in the world in broadband adoption. Here, in the country that invented the Internet, every child should have the chance to get online, and they'll get that chance when I'm President - because that's how we'll strengthen America's competitiveness in the world."

We gratefully acknowledge the support of the State Auditor and her office in facilitating our work. We fulfilled our duties under full Sunshine, through public meetings that were fully noticed and with our minutes published on the web. One interim report was provided to the Legislature before the 2008 Session, and as we neared completion last fall, numerous intermediate drafts of our final report were publicly available on the web.

While there wasn't enough time or money to do everything we had hoped, the Task Force unanimously put forward four key recommendations, summarized as follows.

- 1) **Broadband is Vital to Hawaii**  
Broadband is critical infrastructure for Hawaii's 21st century advancement in education, health, public safety, research & innovation, economic diversification and public services. One national study estimated the positive economic impact of advanced broadband in Hawaii at \$578 million per year. The task force recommends that Hawaii establish an aggressive and forward-looking vision that positions the State for global competitiveness.

2) Driving Broadband Deployment

The task force found that the U.S. as a whole is dramatically lagging the leaders in the developed world in our broadband capabilities and pricing, and is falling farther behind each year. While Hawaii is doing well on some measures relative to some other parts of the U.S., the State also falls to the bottom in many national broadband studies. The task force recommends that the State consolidate all relevant regulatory and permitting responsibilities in a new, one-stop, broadband advancement authority that promotes Hawaii's policy objectives and provides advocacy at all levels of government.

3) Maximize Hawaii's Connectivity to the World

Hawaii's "lifeline" for broadband to the rest of the world is expensive submarine fiber. While Hawaii was once the crossroads for trans-Pacific telecommunications, all of the new fiber systems built across the Pacific since 2001 have bypassed Hawaii. The task force recommends that Hawaii aggressively promote the landing of new trans-Pacific submarine fiber in Hawaii, including a shared access cable station that reduces barriers to fiber landing in Hawaii.

4) Stimulate Broadband Adoption and Use

The task force believes supplying advanced broadband at affordable prices is just one side of the equation. The task force recommends that Government lead by example in demonstrating the value of broadband to our citizenry, deploying broadband services to the public, and ensuring that we do not leave behind the economically disadvantaged members of our communities who may be inhibited from full participation in the 21st century.

There is much more detail in our full report, which was provided to each Legislator and the Governor just before the end of the year.

The Task Force is delighted to see multiple bills introduced to implement our key recommendations this year. With our Report as a base, we now stand ready to listen to your ideas and those of others so that together we can all create the best possible broadband future for Hawaii.



LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR

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LAWRENCE M. REIFURTH  
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**TO THE SENATE COMMITTEES ON  
ECONOMIC DEVELOPMENT AND TECHNOLOGY  
AND  
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009**

Wednesday, February 4, 2009  
1:15 p.m.

**TESTIMONY ON S.B. No. 895,  
RELATING TO THE HAWAII COMMUNICATIONS COMMISSION**

TO THE HONORABLE CAROL FUKUNAGA AND THE HONORABLE ROSALYN  
BAKER, CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Lawrence M. Reifurth, Director of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to provide testimony in strong support of both S.B. No. 895 and S.B. No. 1680.

In her 2006 inaugural address, Governor Lingle said, "The magnitude and speed of change and innovation in the world today is so great, that if we fail to move forward, by definition, we will be going backwards. When it comes to global economic waves, we want to be riding them ... not sitting on the sand and watching others ride."

More recently, in his inaugural address, President Obama said "For everywhere we look, there is work to be done. The state of our economy calls for action, bold and

swift, and we will act -- not only to create new jobs, but to lay a new foundation for growth.

"We will build the roads and bridges, the electric grids and digital lines that feed our commerce and bind us together. We will restore science to its rightful place, and wield technology's wonders to raise health care's quality and lower its cost.

"We will harness the sun and the winds and the soil to fuel our cars and run our factories. And we will transform our schools and colleges and universities to meet the demands of a new age. All this we can do. All this we will do."

The State Legislature also showed much foresight when you established the Hawaii Broadband Task Force in 2007. The Task Force has provided a roadmap that will help guide us into a future where the availability and accessibility of high speed, affordable broadband is the norm in Hawaii.

These bills will go far in fulfilling the vision of both the Governor, the President, and the Legislature in ensuring that Hawaii and the nation are moving into the 21<sup>st</sup> century purposefully and intelligently. I believe that these bills will position Hawaii in the forefront of national efforts to regain America's primacy in the development, implementation, and widespread availability and use of technology, particularly as it relates to broadband and the applications served by broadband.

Many across the nation and around the world have come to the conclusion that an indispensable requirement for a strong and diversified economy is an advanced communications structure. This is the backbone of a true information economy. We need to hook up our hospitals and empower telehealth. We need to interconnect our

schools and make on-line classes a reality. We need to have the infrastructure in place so that Bishop Street and Front Street communicate seamlessly with Wall Street.

This 21<sup>st</sup> Century infrastructure is essential to creating the kind of high-paying jobs we are striving for in the coming years. What we have in place today meets today's needs. What we need to do, though, is to plan for tomorrow's needs. We can't be limited in our thinking by what we have in place today. We need to dream about tomorrow and lay the groundwork for getting there. What we need is a communications structure that will allow us to achieve competitive advancements in education, health care diagnosis and treatment, public safety, research and innovation, civic participation, creative media, e-government, and overall economic development.

In planning for that future, we have worked with the Broadband Task Force to craft a measure that recognizes the convergence of technologies that are used to provide voice, data and video services through wireline, wireless, cable and satellite infrastructure.

These bills consolidate regulation of communications services under one regulator, a new Hawaii Communications Commission ("HCC" or "Commission"), in order to expedite the availability of the latest communications services at the earliest possible time to the residents of Hawaii. The Commission will be funded from existing fees and will be directed to achieve various goals, including creating access on a competitive basis at reduced prices, increasing service penetration and quality, streamlining the permit approval process, and providing access to businesses and

residents by 2012 at prices and speeds that will make us world leaders, attract investment and empower our people.

Although the bills are very similar, there are several important differences that the Department wishes to bring to the Committees' attention.

My testimony will focus on differences related to those issues affecting the overall structure or general operations of the HCC, while Cable Television Administrator Clyde Sonobe's testimony addresses differences relating to cable television regulation and Division of Consumer Advocacy Executive Director Cat Awakuni's testimony addresses differences relating to telecommunications regulation.

First, S.B. No. 895 attaches the HCC to the Department for administrative purposes only (page 11, line 21). In comparison, S.B. No. 1680 establishes a Hawaii Communications Commissioner ("Commissioner") as a division within the Department.<sup>1</sup> This distinction is significant in that under S.B. No. 895, the HCC would be an independent decision-making body separate from the Department and analogous to the Hawaii Public Utilities Commission (PUC), which, although attached to, is independent of, the Department of Budget and Finance. Since the Department's Division of Consumer Advocacy ("Consumer Advocate") represents consumers in telecommunications matters, having both the Commissioner and the Consumer Advocate within the same Department would create a conflict of interest.

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<sup>1</sup> In the introductory section, page 3, subpara (b), it states that the purpose of this Act is to establish the commissioner under the administrative authority of DCCA. But when it comes to the statutory section, there is no equivalent language stating this limitation. See page 9, §-2 on Hawaii Communications Commissioner.

Second, S.B. No. 895 includes provisions for the transfer to the HCC special fund of moneys collected by the PUC from telecommunications carriers and deposited in the PUC special fund and unencumbered balances in the CATV subaccount in the compliance resolution fund and provides for an appropriation for the next 2 years (Section 52, page 153, starting at line 7,). S.B. No. 1680 does not specifically provide for the transfer of moneys from existing funds. Adequate funding is crucial for the work of the HCC.

Third, S.B. No. 1680 calls for both the Department and PUC to each transfer four positions to HCC (p. 155, Section 55), whereas S.B. No. 895 provides that the Department shall transfer four (4) positions to HCC and no positions are transferred from the PUC (page 155, line 20). The Administration does not support transferring any positions from the PUC because of the PUC's increased workload with energy-related matters. S.B. No. 895 provides that up to ten (10) general funded positions shall be transferred to HCC to be funded from the HCC special fund (page 156, line 3). These positions, along with the four (4) positions S.B. No. 895 transfers from the Cable Television Division, will provide the HCC with up to fourteen (14) positions – an amount we believe to be sufficient and necessary for HCC to accomplish its goals of promoting and ensuring the growth of broadband infrastructure as well as continuing the regulation of telecommunications carriers and cable operators in the State.

Fourth, S.B. No. 1680 establishes a work group to develop procedures to streamline regulatory, franchising and permitting functions (page 157, section 56) whereas S.B. No. 895 does not call for the establishment of a work group.



Finally, S.B. No. 1680, Section 58 calls for the Legislative Reference Bureau to review all relevant laws in Hawaii Revised Statutes relating to broadband technology, telecommunications, and related areas, and make recommendations before the 2010 session, on how these laws may be amended to conform to this Act or the implementation of this Act. Although we believe that S.B. No. 895 addresses all relevant laws in the Hawaii Revised Statutes, we have no objection to this provision.

Thank you for the opportunity to testify on S.B. No. 895 and S.B. 1680. I will be happy to answer any questions that the members of the Committee may have.

LINDA LINGLE  
GOVERNOR



LAWRENCE M. REIFURTH  
DIRECTOR

JAMES R. AIONA, JR.  
LT. GOVERNOR

CLYDE S. SONOBE  
CABLE TELEVISION ADMINISTRATOR

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TO THE SENATE COMMITTEES ON  
ECONOMIC DEVELOPMENT AND TECHNOLOGY  
AND  
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Wednesday, February 4, 2009  
1:15 p.m.

**TESTIMONY ON S.B. 895 – RELATING TO THE HAWAII COMMUNICATIONS  
COMMISSION**

TO THE HONORABLE CAROL FUKUNAGA AND THE HONORABLE ROSALYN  
BAKER, CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Clyde S. Sonobe, Administrator of the Cable Television Division (CATV), Department of Commerce and Consumer Affairs (DCCA). This testimony is identical to my testimony on Senate Bill No. 1680.

CATV strongly supports both S.B. No. 895 and S.B. No. 1680. Under both bills, the regulation of cable operators and telecommunication providers will be transferred to the Hawaii Communications Commission (HCC).

DCCA Director Lawrence Reifurth's testimony addresses differences related to those issues affecting the overall structure or general operations of the HCC and DCCA's Division of Consumer Advocacy Executive Director Cat Awakuni's testimony addresses differences relating to telecommunications regulation. My testimony focuses on how the bills differ with respect to functions related to cable television regulation.

In both bills, the provisions in Hawaii Revised Statutes (HRS) chapter 440G, relating to cable services, are incorporated into a new chapter and chapter 440G is repealed.

A major difference in the bills concerning cable television relates to the general authority over public, educational or governmental ("PEG") access organizations. S.B. No. 895 provides the HCC with the authority to designate and select PEG access organizations and to enter into and enforce contracts with them whereas S.B. No. 1680 does not. This authority should be provided to the HCC in order to avoid confusion and litigation in the future.

Under both measures, the cable operator will still be required to designate a minimum of three television channels or video streams for PEG use. At the present time, programming is transmitted by cable operator Oceanic Time Warner via channels to its subscribers. In the future, changes in technology and different cable franchise operators may result in video programming being transmitted to subscribers via protocols that are different than channels as defined today. Irrespective of how programming is delivered to viewers, what is important is the amount of programming authorized by the HCC Commissioner. As is currently the case with the Director of Commerce and Consumer Affairs, the HCC Commissioner will have the authority to require additional channels or streams of programming for PEG use if requested and appropriate justification is provided.

Thank you for the opportunity to testify on S.B. No. 895 and S.B. No. 1680. I will be happy to answer any questions that the members of the Committees may have.

SB 895  
Relating To The Hawaii Communications Commission

Robert T. Tanimura  
Director – Public Affairs, Policy & Communications  
Verizon Communications  
808-595-6521

Wednesday, February 4, 2009

Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair  
Senate Committee On Economic Development And Technology

Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice Chair  
Senate Committee On Commerce And Consumer Protection

Proposed Amendments to SB 895 Relating To The Hawaii Communications Commission.

My name is Robert T. Tanimura and I am testifying on behalf of Verizon on SB 895, "A Bill For An Act Relating To The Hawaii Communications Commission." Verizon offers the following comments on SB 895:

- Verizon supports the establishment of state policy to promote broadband access, however, some of the goals proposed in SB 895 should be modified to better achieve that objective. First, comparing broadband speeds and prices in Hawaii to the top three performing countries in the world is problematic if nothing else because of different national policies, which are well beyond the control of Hawaii government. A more meaningful benchmark would be the top quartile of states within the U.S. or something similar since all states are operating under the same national broadband policy. For this reason, a comparison of results by state would be a more meaningful measurement of the effectiveness of state policy. In addition, the metrics should include a measurement of broadband penetration since the percentage of people that actually subscribe to broadband is as important as speed and price. I would note that in this regard, Hawaii is doing relatively well. Based on the FCC's latest Broadband Report and Census Bureau figures,<sup>1</sup> Hawaii is ranked 5th among the 50 states and the District of Columbia in terms of the number of residential broadband lines per household.
- Second, Verizon recommends that all references to the "sharing" of infrastructure be deleted from the bill. The sharing of telecommunications and broadband infrastructure is a complex and costly proposition, as the FCC found out with its now mostly rescinded

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<sup>1</sup> FCC, *High-Speed Services for Internet Access: Status as of December 31, 2007*, January 2009, Table 13; U.S. Census Bureau, American FactFinder, 2007 American Community Survey, Selected Social Characteristics in the United States.

policies for unbundled network elements (UNEs) and line sharing. While sharing might seem to be a logical way to lower average network costs, this is not necessarily true because sharing comes at a high cost, in terms of creating a disincentive to invest, in the complex management inherent in shared use of a common resource, and potential inefficiencies. These trade-offs must be taken into consideration by state policy. Including sharing as an explicit goal as this bill does would needlessly hamstring state broadband policy. For example, it would preclude innovative solutions such as using competitive bidding rather than infrastructure sharing. Under a bidding scenario, state grants would be provided for projects in unserved areas based on a ranking of various criteria such as cost, price, and number of customers served. In essence, this approach promotes competitive deployment of advanced networks via the bidding process, not through the sharing of the resultant infrastructure. Through this process, more areas can be served on a competitive basis but without a costly or cumbersome sharing requirement. Indeed, a sharing requirement would be a significant deterrent for a carrier to bid for grants. Another example of a potential program that would be precluded by a sharing requirement is a proposal outlined in California's Broadband Task Force Report to encourage the deployment of wireless broadband in unserved areas by providing access to state rights-of-way at cost for wireless infrastructure.<sup>2</sup> A sharing requirement in the statute would preclude this solution and numerous others from even being considered. Hawaii needs to consider the entire panoply of potential broadband solutions and not box itself into only certain types of solutions, especially unproven ones such as infrastructure sharing. For these reasons, infrastructure sharing should not be a state goal.

- Finally, Verizon applauds the intent of the provisions to "promptly examine rate regulation for telecommunications carriers" and "[i]nvestigate the possibility of implementing incentive regulation for telecommunications carriers to increase investment in broadband infrastructure within the state." This acknowledges that the vast majority of new broadband infrastructure will continue to come from private investment. In order to ensure that carriers have an incentive to pursue innovation and invest in broadband, they must have the ability to earn a return on that investment. A good example of this is wireless communications, which is not rate regulated or subject to regulatory infrastructure mandates. Because it operates in an environment that is conducive to private investment, Verizon Wireless is spending \$9.4 billion on new wireless spectrum and billions more to build the next generation broadband network with download speeds of 75 megabits versus less than 5 today. Similarly, wireline carriers like Hawaiian Telcom, which is one of the most tightly regulated local exchange carriers in the nation, must have the financial strength and incentive to spend capital and invest in network upgrades. The examination of telecom rate regulation and incentive regulation will help to address this issue. While I cannot tell the state government how it should organize and structure its operations, I do wonder whether creating a new commission at this time would distract resources from the regulatory reviews that are urgently needed. I am also concerned about the concentration of power in a single individual. A multi-person panel such as the current Public Utilities

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<sup>2</sup> Final Report of the California Broadband Task Force – January 2008, *The State of Connectivity, Building Innovation Through Broadband*, p. 58.

Commission allows for a greater diversity of backgrounds and ideas and provides for an appropriate balance in decision making. For that reason, it is extremely rare in this country that an agency responsible for telecommunications policy is headed by a single person.

Thank you for the opportunity to testify.

**SB 895**

**RELATING TO THE HAWAII COMMUNICATIONS COMMISSION**

**JOHN KOMEIJI  
SR. VICE PRESIDENT & GENERAL COUNSEL**

**HAWAIIAN TELCOM**

**February 4, 2009**

Chair Fukunaga, Chair Baker, and members of the joint Senate Economic Development and Technology and Commerce and Consumer Protection Committees:

I am John Komeiji, testifying on behalf of Hawaiian Telcom on SB 895. Hawaiian Telcom supports the intent of advancing broadband services within the State of Hawaii; however, we wish to provide a few comments.

As previously mentioned in our testimony on SB 1680, the Federal Communications Commission (FCC) has initiated efforts to deregulate a number of broadband services. For example, the FCC has declared telecommunications services that are used to access the Internet as exclusively interstate services, and thus not subject to state regulation. Similar to SB 1680, this bill appears to require state regulation of broadband services by imposing specific and/or additional obligations on telecommunications carriers which, on its face, appear contrary to these FCC efforts. If state regulation of broadband is envisioned, federal preemption may prevent the state from regulating in this area. Moreover, the above FCC actions have served to remove unnecessary broadband regulations and provide Hawaii's consumers with an opportunity to receive a wide array of new broadband products and services at competitive prices more effectively than would be available with additional regulation.

*The Hawaii Broadband Task Force Final Report* recommends the consolidation of state and county permitting and other building requirements under one governmental agency to help expedite the construction of improved broadband infrastructure. The Report also notes the substantial time and expense expended by providers in obtaining multiple state and county permits and approvals required for infrastructure deployment on all islands and the widely varying practices associated with gaining access to various easements and rights-of-way. SB 895 does not provide any language to implement this goal. This issue must be addressed in this bill or a critical benefit of this improved broadband initiative will not be achieved.

Hawaiian Telcom supports the language contained in the bill intended to provide regulatory relief to telecommunications carriers in the form of pricing flexibility for

tariffed services. However, the language is not clear as to whether this pricing flexibility is immediate or whether additional procedures must be followed before pricing changes can be implemented. If the goal of this provision is to provide consumers with the full benefits of competition, including lower prices and new or different service offerings, the bill must be clarified to ensure that this pricing flexibility and the associated relief to level the playing field is intended to be permanent and immediate.

Based on the above, Hawaiian Telcom shares your interest in improving and advancing broadband and telecommunication services in Hawaii and respectfully requests a careful review of the comments raised before enacting regulatory provisions which may lead to unintended and counterproductive consequences. Thank you for the opportunity to testify.



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [EDT Testimony](#)  
**Cc:** [jay@akaku.org](mailto:jay@akaku.org)  
**Subject:** Testimony for SB895 on 2/4/2009 1:15:00 PM  
**Date:** Tuesday, February 03, 2009 12:11:02 PM

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Testimony for EDT-CPN 2/4/2009 1:15:00 PM SB895

Conference room: 016  
Testifier position: oppose  
Testifier will be present: Yes  
Submitted by: Jay April  
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Submitted on: 2/3/2009

**Comments:**

On behalf of Akaku: Maui Community Television and the people of Maui, we strongly OPPOSE Senate Bill No.895 Relating to the Hawaii Communcations Bill without Amendments.



February 3, 2009

Honorable Carol Fukunaga  
Senate Committee Economic on Development and Technology  
Hawaii State Capitol, Room 216  
Honolulu HI 96813

Honorable Rosalyn Baker  
Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol, Room 231  
Honolulu HI 96813

**Re: SB 895, Relating to the Hawaii Communications Commission - Support Intent with Comment**  
**EDN/CPN Hearing, Wednesday, February 4, 2009, 1:15 pm – Room 016**

Aloha Chair Fukunaga, Chair Baker and committee members:

On behalf of tw telecom which has operated in Hawaii since 1994 and manages approximately 25,000 access lines in the State of Hawaii, thank you for the opportunity to submit testimony today. I am Lyndall Nipps, Vice President of Regulatory Affairs for tw telecom.

The purpose of this bill is to establish the Hawaii Communications Commission (HCC) in the Department of Commerce and Consumer Affairs (DCCA), to transfers functions relating to telecommunications from the Public Utilities Commission (PUC) to the HCC, and to transfer functions relating to cable services from DCCA to HCC.

While we do not object to the concept of establishing a Communication Commission, we respectfully request that time be allowed to consider significant regulatory changes proposed in the bill. This would allow impacted stakeholders the opportunity to review and to provide input on proposed changes offered in SB 1680, Relating to Technology, and by SB 895, Relating to the Hawaii Communications Commission. Among other things, we would like to assure that any regulatory changes remain consistent with the interconnection and other policies reflected in sections 251 and 252 of the federal Telecommunications Act.

Attached for your information and consideration is a National Association of Regulatory Utility Commissioners (NARUC) resolution that was passed last summer. NARUC sets national policy for the country's state public utility commissioners and this particular resolution is timely since it reflects the importance of these policies.

For these reasons, we respectfully request that you consider deferring action on this bill.

Sincerely,

/s/

Lyndall Nipps  
Vice President, Regulatory Affairs

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Attachment: 1

## **Executive Summary Interconnection Resolution**

It is indisputable that interconnection between the incumbent local exchange carriers (ILECs) and other telecommunications carriers is necessary to a competitive telecommunications environment. NARUC has long supported the non-discriminatory interconnection of networks for the exchange of voice traffic as fundamental to the emergence of a "network of networks." The purpose of this Resolution is to prevent federal pre-emption of State commissions' authority to mediate, arbitrate, and approve interconnection requests for the exchange of voice traffic, consistent with the federal Telecommunications Act of 1996, as managed packet technology replaces circuit-switched technology for the transmission of voice calls.

Managed packet technology promises to accelerate the deployment of advanced networks and transform the traditional public switched telephone network into an all-packet network. Telecommunications carriers' managed packet networks do *not* use the public Internet, where packets move on a "best efforts" basis. Rather, managed packet networks are designed to identify and route voice packets using specific protocols and routing instructions to meet the real-time needs of voice services. In this way, managed packet networks avoid the quality and security issues that limit the usefulness of the public Internet to provide reliable voice services.

Initially, the deployment of managed packet voice networks occurred in the form of isolated islands which individual carriers had designed to ensure within-network quality-of-service for their voice service products. Managed packet networks are now being deployed by both ILECs and new entrants, with voice traffic volumes transported in managed packet form growing rapidly. Today, these networks must convert voice traffic to a circuit-switched format at the edge of the ILEC's network in order to complete the exchange of such voice traffic, even where both the ILEC and its competitor have deployed managed packet technology in their transport network. The nation is approaching the tipping-point, however, where it will be more efficient to exchange voice traffic in managed packet form between both carriers' networks.

Just as technologically neutral federal and state interconnection policies promoted the transformation from analog to digital transmission, these same policies should govern the transition from circuit-switched transmission to managed packet format. Preserving reliable and high-quality voice services as the nation's networks evolve to a packet-architecture must remain a public policy goal. Quality voice service is uniquely important to our lives, security, social structure and our economy. As such, assuring the efficient interconnection of managed packet networks is no less important to achieving quality voice service in the future than the interconnection of circuit-switched networks has been in the past.

The proposed Resolution makes clear that NARUC supports technologically neutral interconnection policies, under Section 251 of the federal Telecommunications Act, that do not distinguish between the legacy circuit-switched network architecture of the past over the managed packet network architecture being deployed today. Moreover, the Resolution reinforces NARUC's commitment that the important role of State commissions, set forth in Section 252, to act as the arbiter of interconnection disputes must be preserved. This Resolution will remove any uncertainty with the Federal Communications Commission that NARUC stands behind the continued application of Sections 251 and 252 to the interconnection of networks for the exchange of voice traffic irrespective of the transport technology being used.

**From:** jeff garland [digitaleye@hi808.net]  
**Sent:** Monday, February 02, 2009 10:49 AM  
**To:** EDTTestimony  
**Cc:** Sen. Carol Fukunaga; Sen. Roz Baker; Sen. David Ige; Sen. Sam Slom; Sen. Clayton Hee; Sen. Will Espero; Sen. Josh Green; Sen. Les Ihara, Jr.; Sen. Norman Sakamoto; Sen. Fred Hemmings  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Testimony SB 895: from Decision and Order (D&O) 154 & 261 in comparison to SB 895 HAWAII COMMUNICATIONS COMMISSION  
**Attachments:** Hearing: HAWAII COMMUNICATIONS COMMISSION.eml

Aloha EDT/CPN Senators,

I am testifying in opposition to SB 895 in its current form due to the questionable language of -67 (f).

from [Decision and Order \(D&O\) 261](#):

"(4) Paragraph (a) of section 5.2 of Terms and Conditions of [Decision and Order No. 154](#), relating to Access Channels, is amended by amending said paragraph

(a) in its entirety, and shall read as follows:

(a) TWE shall designate and provide for activation to the Director or

the Director's designee **at least five (5) full-time Activated**

**Channels**, **two (2) of which shall be Educational Access Channels**

or as otherwise designated by the Director. Activated Channels made available to the Director or the Director's designee under this paragraph shall be hereinafter sometimes referred to as "Access Channels." All Access Channels shall be made available by TWE at no cost to the State." (emphasis added)

In [SB 895](#), section -67 (f) it says : " (f) The cable operator shall designate **three or more television channels or video streams** for public, educational, or governmental use as directed by the commissioner." (emphasis added)

I only find a definition of "channel" in federal and state law. What is the definition of "video stream(s)"?

D&O 154 required 10% of the channel capacity, which in 1998, prior to D&O 261, was 8 channels, then capped at 5 channels in D&O 261, and now SB 895 only requires 3 channels or the undefined "video streams". If "video streams" are [what I think they are](#), then we have gone from being owed 240 video streams to only 3? What happens to the other (potential) 237 "video streams"?

Please note in the language provided from D&O 261 there are 2 channels designated as "Education Access Channel", but there still have yet to be any channels designated as "Public Access Channel" or "Government Access Channel" per [Hawaii Administrative Rules Chapter 131 Hawaii Cable Communications Systems](#)- sections 32-34 !!

Please see to it that We The People get "at least one specially designated, noncommercial **public access channel** available on a first-come, nondiscriminatory basis." (HAR 16-131-32)

Sincerely,

*Jeff Garland*  
Secretary, Community Media Producers Association