June 21, 2004

The Honorable John Sununu
United States Senate
Washington, DC  20510

Dear Senator Sununu:

We write to commend you for your leadership in introducing legislation to address the regulatory framework for Voice over Internet Protocol (VOIP) services. In particular, we write to support your premise that Congress has the crucial role to play in deciding how law enforcement interests in access to VOIP communications should be satisfied.

Broadband access providers and VOIP service providers are very willing to cooperate with law enforcement to satisfy interception orders quickly and fully. Providers have already committed substantial resources and worked with law enforcement agencies to facilitate surveillance of advanced technologies. However, differences between the Internet and the PSTN require different approaches. The Communications Assistance for Law Enforcement Act (CALEA), adopted in 1994, was intended for the public switched telephone network, not for the Internet. The FCC cannot on its own decide to apply CALEA to the Internet in the same way that it was applied to the telephone network.

The issues posed by law enforcement access to VOIP communications can be solved only on the basis of a complete factual record and dialogue among the full range of affected interests – law enforcement, industry and civil liberties. The record before the FCC provides an insufficient basis for addressing and balancing these interests. Accordingly, we believe that, in order to address these interests reasonably, efficiently and promptly, there is a need for serious inquiry into: (1) the problems that law enforcement has encountered in intercepting communications over the Internet given current law and the availability of existing technologies; (2) potential solutions to those problems -- including regulatory and technological solutions; (3) how those problems and potential solutions relate to the different configurations of broadband access and broadband telephony services; and (4) how various approaches would affect innovation, security and privacy. Congress has the crucial role in answering these questions and framing an appropriate solution.

We commend you for your leadership on these important issues. We look forward to working with you further.

Sincerely,

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cc: Member of the Senate Commerce Committee