Good morning. Today’s hearing is about the future of telecommunications competition in the United States. But I also feel a certain sense of déjà vu. In April, the Subcommittee held a hearing on broadband deployment, competition, and consumer adoption in other nations, including Japan, New Zealand, the United Kingdom, and Rwanda. That hearing took place the day after the United States dropped from 12th to 15th out of 30 in the OECD broadband rankings.

In my view, there is no excuse for the fact that America is falling behind. This is because the United States started out on the right path by implementing provisions in the 1996 Telecommunications Act designed to jump-start competition both between and among technology platforms. Gradually, however, we lost our way, as regulators became convinced that competition within a platform actually hindered overall broadband deployment and took market-opening rules off the books.

It’s as if the FCC several years ago picked up a loose football on the field after a collision and started running with the ball full speed toward the wrong end zone. Our international competitors look on at what we’re doing and must be stunned. That’s because we started this Internet game ranked #1 in the world because we invented it and now we’re number 15th. People quibble with the methodology of the OECD rankings, but regardless of how you slice it – price, speed, percentage of subscribers – the U.S. is no longer in the top tier and we continue to drop.

Many other Nations took one look at our broadband situation, learned from our experience, and took the opposite approach. Japan and U.K. implemented the very policies that the FCC had gradually eliminated in recent years, such as local loop unbundling and broadband resale, which facilitate competition using the incumbent’s plant, regardless of technology. These foreign competitors are now enjoying broadband success stories.

The United States, however, continues taking the opposite approach. We’re digging ourselves a hole and we’re now in violation of the First Law of Holes, which is, if you’re in one, stop digging.

Take the issue of forbearance. Some incumbent phone companies have asked the FCC to eliminate their essential network sharing arrangements under Section 10 of the Act. One of today’s witnesses – Cavalier Telephone -- leases copper phone lines for the last mile and provides residential consumers with the “triple play” bundle of voice, 150 channels of cable TV, and high speed broadband for approximately $80 a month. But if the forbearance petitions are granted, Cavalier, Time Warner Telecom, and other broadband competitors will lose access to the critical, bottleneck facilities they need.

A related issue is special access. Special access circuits are the lifeblood connections for...
wireless carriers, such as Sprint. Wireless carriers’ dependence on special access will grow as they deploy broadband networks that deliver greater bandwidth but correspondingly require more capacity.

The GAO found that the FCC’s deregulatory pricing regime for special access has resulted in higher prices and little competitive choice for special access circuits. Because prices today are higher than what a truly competitive market would support, current and future wireless providers will expend funds on special access that would be better spent reducing prices to consumers or deploying more and better broadband facilities. Unless this market failure is corrected, special access could have a negative impact on all wireless broadband deployment, including deployment that facilitates interoperability between public safety organizations.

But the most outrageous issue is copper “retirement.” In this sense, interpret the word “retirement” the way Luca Brasi used to “retire” competitors to the Corleone family.

Some incumbent telephone companies are disabling perfectly functioning copper loops that could be used by competitive broadband providers, such as Cavalier, after the incumbent deploys its own fiber facilities. Like Sherman’s March to the Sea, these incumbents leave scorched earth in their wake, cementing the broadband duopoly between the incumbent phone company and the cable company.

In the final analysis, today’s hearing goes to the core of our nation’s broadband policy. How many apertures will consumers have to reach the broadband Internet – one? Two? Or many more? At what speed? At what price? Will municipalities be permitted to serve their citizens and provide the best broadband service they can? I have certainly battled for such rights.

These choices are vital. For example, we recently saw Verizon’s initial – and quick reversal – of a decision to block certain text messages on its service – as well as the fine print in AT&T’s contract terms which seems to indicate it might censor messages it finds unpleasant. Network neutrality rules could safeguard consumer rights in such instances. But more and better broadband choices would help too. And we’re simply not going to reach that goal if regulators keep knee-capping those who would provide consumers such much-needed broadband choice.

I look forward to hearing from our witnesses.