

**Summary:** *The goal of this statement of principles is to provide policymakers with general guidance consistent with ALEC principles. The statement affirms ALEC's mission to advance the principles of free markets in policy regarding communications and technology in the 21<sup>st</sup> century. This statement also recognizes the tremendous, rapid change underway in communications and technology, and underscores the importance of competition in retail services to protect consumers.*

## Six Principles for Communications and Technology

1 WHEREAS, it is the mission of the American Legislative Exchange Council (ALEC) to advance the  
2 principles of free markets, limited government, and federalism, and;

3 WHEREAS, it is the mission of ALEC's Communications and Technology Task Force to advance these  
4 principles in order to promote economic growth, freedom of technology, and innovation;

5 THEREFORE, LET IT BE RESOLVED, that ALEC supports the following principles in formulating  
6 government policy regarding communications and technology:

7 1. THE FREE MARKET SHOULD DRIVE COMMUNICATIONS AND TECHNOLOGY  
8 POLICY

9 Public policy relating to communications and technology should be driven by free market principles. The  
10 free market has enabled today's Internet Protocol-based, broadband-centric digital economy, which is  
11 increasingly characterized by disruptive change, vibrant competition, and consumer choice. Convergence  
12 is an ongoing feature of today's communications and technology markets; the providers of products and  
13 services once considered separate now compete for the same end users.

14 2. GOVERNMENT SHOULD STRIVE FOR COMPETITIVE AND TECHNOLOGICAL  
15 NEUTRALITY IN ITS POLICIES

16 Public policy should remain neutral with respect to existing and emerging business models, and  
17 technologies. Additionally, government procurement policies should be transparent, non-discriminatory,  
18 openly pro-competitive, and performance-based. Rules should be based on desired results rather than  
19 preferred designs; in other words, designs of devices, software, or networks must not be dictated through  
20 governmental mandates. Government must not seek to create new technologies through regulation.

21 3. CONSTITUTIONAL LIMITS AND PROTECTIONS SHOULD GUIDE GOVERNMENT  
22 POLICY AT ALL LEVELS.

23 All limits on government power and all protections for individual rights contained in the federal and state  
24 constitutions must inform and apply to all government policies regarding communications and  
25 technology. Constitutional limits and rights do not cease applying where practices or conduct involves  
26 digital technology or takes place online.

27 4. SELF-GOVERNANCE, CODES OF CONDUCT, AND OTHER VOLUNTARY INITIATIVES  
28 ARE PREFERRED METHODS FOR PURSUING SOLUTIONS TO NEW CHALLENGES;  
29 REGULATION SHOULD ONLY BE CONSIDERED WHERE MARKET COMPETITION FAILS  
30 AND REAL HARM EXISTS.

31 Voluntary codes of conduct, industry-driven standards and individual empowerment should be preferred  
32 over government regulation. If there must be government regulation of communications and technology,

33 it should only be in instances where actual harm results to consumers, and only then with the lightest  
34 touch necessary. Prophylactic regulation based on fears about future harms is unwarranted and  
35 inappropriate. Instead, empirical evidence of actual harms to consumer welfare should inform any  
36 analysis and rulemaking. Local government entry into the provision of wholesale or retail Internet or  
37 broadband services in an attempt to create competition should be permissible only in unserved areas and  
38 only where no business case for private service exists, upon a vote by local citizens, and subject to  
39 protections against cross-subsidies through taxes or other local government service revenues.

40 5. ANY NECESSARY REGULATIONS SHOULD BE SIMPLE, CERTAIN, AND  
41 ACCOMPANIED BY SAFEGUARDS.

42 Primary policy decision-making should rest with the legislative branch. Necessary delegations of  
43 authority should contain intelligible principles, and not confer unfettered discretion in either process or  
44 policy, or employ vague standards on regulatory agencies. Regulations should target actual harms to  
45 consumers or to public health or safety, and should not stifle innovation, competition, or access to  
46 technologies. Safeguards against regulatory excess may include: public records and other transparency  
47 measures; requirement that executive branch officials sign rules before they take effect; mandating cost-  
48 benefit analysis for economically significant rules; and attaching forbearance and sunsets in a certain  
49 timeframe to all new rules.

50 6. DEREGULATION SHOULD BE CONTINUOUSLY PURSUED TO REDUCE BURDENS AND  
51 PROMOTE GROWTH AND INNOVATION

52 Government policy should encourage innovation, investment and competition by ongoing removal of  
53 outdated regulations and other barriers to entry to the marketplace, and no new regulations should be  
54 adopted unless there is a showing of market failure or actual consumer harm. Implicit subsidies built into  
55 regulated rates are not sustainable and should be phased out. Any remaining subsidies should be explicit  
56 and preferably targeted to end-users as necessary.

Obtained and released by:  
Common Cause and  
The Center for Media and Democracy

## MOTION

Rep. Thoreson moves for the Communications and Technology Task Force to endorse the Digital Due Process Coalition.

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