

Statement prepared for Federal Trade Commission workshop on “Possible Anticompetitive Efforts to Restrict Competition on the Internet”, October 8, 2002

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Mr. Chairman and Members of the Commission, thank you for providing me with an opportunity to share some thoughts on this important and rapidly emerging issue.

I applaud the FTC for making the effort to explore the issues involving possible anticompetitive efforts to restrict competition on the Internet, in this case cyber-charter schools. This is also a topic of great interest and concern for Secretary Paige who believes that e-learning is just one of many educational options that should be available for students. This belief was born out of his tenure as Superintendent of the Houston Independent School District where he created the nation’s first virtual middle school, but it has followed him here to Washington DC where he is committed to providing more alternatives for students.

In January 2002, President Bush signed into law the No Child Left Behind Act. More than simply the name of a piece of legislation, No Child Left Behind sets before the nation a challenge to ensure that every child receives a quality education that prepares them for a 21st Century America. The bill provides a portfolio of bi-partisan reforms to close the achievement gap and provide unprecedented accountability to measure progress against an academic bottom line of student performance. At the heart of this effort is a commitment to focus on students, equip teachers, empower parents and inform decision makers to ensure every child receives a quality education.

This bill comes at a time when the American education system is undergoing a fundamental transformation. Traditionally, educational resources, expertise, and courses have been limited to the geographic area in which a student resides. Today, modern technologies are expanding these opportunities to provide, as the motto of the Florida Virtual School describes, an education that is “any time, any place, any path, any pace.” These new “e-learning” technologies expand the options available to students by allowing the best instruction to be brought to them regardless of their location or economic status. In order for our nation to accomplish the ambitious goals set forth by No Child Left Behind, we must embrace a strong e-learning agenda which should include cyber charter schools.

This movement is manifesting itself in the form of cyber charter schools, virtual schools, and distance learning programs that provide instruction to students throughout the country from teachers throughout the world. Already 12 states have online high school programs, 25 states allow for cyber charter schools, and 32 states have e-learning initiatives under way.ⁱ

Much of the recent national discourse has focused only on cyber charter schools and online instruction over the Internet. Cyber charter schools combine the flexibility and

accountability of charter schools with the power and opportunity of technology to bring quality instruction to students wherever they are located. However it is important to realize that this is only part of the e-learning landscape. Many traditional public, private and home schools are supplementing instruction utilizing e-learning courses. In fact the Florida Virtual School serves public, private, and home school students. And the technologies enabling this form of instruction can range from the Internet to computer-based instruction to video conferencing. Regardless of the institutional structure or instructional delivery system, the common benefits offered by this approach include:

- Expanded access of courses for students in rural and urban areas who might not otherwise have access to teachers in a given subject.
- Expanded course offerings including Advancement Placement, college preparatory and advanced math and science classes.
- Flexibility for students to access course materials when it is most convenient for them, not the provider.
- Individualized instruction that is tailored to a student's unique academic strengths and weaknesses.
- Effectiveness with diverse personalities such as students who are shy, students who are disruptive in the regular classroom, high achievers, and slow learners.ⁱⁱ

This growing movement is experiencing obstacles as it encounters laws, regulations and policies that assumed an education would only be provided in a geographic area in a dedicated building. Policies that may have served well for managing traditional schools are now becoming obstacles and barriers for e-learning programs. One of the reasons why e-learning is emerging within the charter school community can be attributed to flexibility charter schools have with designing their instructional models free from many of the regulations that plague traditional schools. As the bi-partisan Web-based Education Commission noted:

The regulations that govern much of education today, from pre-kindergarten to higher education, are focused on supporting the welfare of the educational institution, not the individual learner. They were written for an earlier model, the factory model of education in which the teacher is the center of all instruction and all learners must advance at the same rate, despite their varying needs or abilities.ⁱⁱⁱ

The Commission received testimony citing numerous areas in which traditional policies clashed with newer delivery methods. Witnesses cited:

- **Credit policies** including the difficulty of transferring and accepting credit across district and state lines and the problem of aligning curriculum standards from one state to another.
- **Financing policies** involving inflexible state budgeting processes and the inability to redirect resources to support distance learning on a per student basis.
- **Quality assurance issues** that address a need to reform state licensing and approval processes to better assess the educational value of content and courses available online.

- **Attendance policies** that set the number of hours and days in the classroom as defining measures of achievement alongside other indicators of academic progress.
- **Teacher certification policies** that prohibit the transfer of credentials from state to state, thereby inhibiting the growth of online delivery of instruction beyond state lines and creating disincentives to develop new online learning models.
- **Teacher-student ratio requirements** that may not take into account the ability of web based learning to individualize instruction.
- **Staff compensation requirements** that are formulated around 10-month agrarian model contracts.
- **Accounting procedures** that restrict the use of funding to support web-based instruction based on structural rigidity, rather than academic integrity.^{iv}

Cyber-charter schools and virtual schools are also confronting state policy makers with new questions such as:

- Should school districts only grant credit and pay for online courses if the student is enrolled in a local public school?
- Who makes the final decision as to which online courses a school will pay for – the states, the principal, school guidance counselor, or the parent?
- Who pays the tuition for online courses? Parents? The school? The school district? The state? Some combination of them – who decides? If parents, should family income or other characteristics be taken into account?
- How will states ensure the quality of online courses, especially when students are taking them from teachers in other states or countries?^v

Many state policy makers are reacting to the immediate issues raised by cyber-charter schools without considering how some of the same issues are found within virtual public schools and other e-learning programs. Policies are being constructed – such as limiting enrollment or the area in which a virtual school can serve – that restrict options available to students.

Rather than developing policies that impose 19th century regulations on a 21st century innovation, states should consider policies that embrace the newfound flexibility e-learning offers. States should hold e-learning courses to the highest standards, but once the standards have been met, there should be few restrictions for students who wish to benefit from those courses. The guiding principle must be doing what is best for the student, not the institution.

E-learning is not an incremental change for education as much as it is a fundamental catalyst for systemic reform. The National Association of States Boards of Education's (NASBE) encouraged policy makers to:

Consider the extent to which the public education system should offer and provide choices to families among different ways of organizing and delivering learning services. Modern technologies make it possible to empower families to choose among numerous learning options. Some envision a future system in which families would be provided with a wide range of educational choices, within

traditional schools and without. Custom-tailored instruction would be delivered by a number of providers who guarantee results. Parents would direct with whom and how education dollars are spent. Governments would fund learners, not schools.

Government at all levels has traditionally done a good job at propping up old and outdated structures and institutions. Today, however, lawmakers must seize the moment to develop policies and incentives that embrace the diversity of educational options now available to students and thereby help to usher in a new era of education in an increasingly borderless marketplace.

One quickly finds that those indicators of any truly effective traditional education program – qualified teachers, quality curriculum, and student-centered instruction - are the same factors one looks for in e-learning.

Thank you for this opportunity to share my views on cyber charter schools and the broader issues of e-learning. I look forward to working with the FTC, the rest of the panelists, and the virtual school community in addressing the barriers facing e-learning, virtual schools and cyber charter schools so that more options and opportunities can be made available for students.

ⁱ “E-Defining Education,” *Technology Counts 2002: E-Defining Education*, Education Week, May 9, 2002. Available Online at <http://www.edweek.org/sreports/tc02/article.cfm?slug=35execsum.h21>

ⁱⁱ National Association of State Boards of Education, *Any Time, Any Place, Any Path, Any Pace: Taking the Lead on e-Learning Policy* (Washington, DC: NASBE, 2001), 41

ⁱⁱⁱ Web-based Education Commission, *The Power of the Internet for Learning: Moving from Promise to Practice* (Washington, DC: Web-based Education Commission, 2000), Available online at <http://www.hpcnet.org/webcommission>, 87

^{iv} Ibid, 88-89

^v National Association of State Boards of Education, *Any Time, Any Place, Any Path, Any Pace: Taking the Lead on e-Learning Policy* (Washington, DC: NASBE, 2001), 25