

farming. The daunting obstacles for young farmers, from the price of land, equipment and inputs to the low margins from farming, must be addressed in a sound manner so that we can help secure this profession and America's food security for future generations. Doing so is important for the rural communities that would otherwise lose these talented young people and the economic activity associated with farming. But this is also important for the future of our Nation's food security. I often tell people that if they like importing about 60 percent of their fuel now, they are really going to love importing 60 percent of their food in the future. Helping a new generation of young farmers get started in farming and helping them work toward successful careers as farmers is vital to securing a safe, healthy, and affordable food supply. We should make this a priority in the Food and Fuel Security Act.

There is another important component of the next bill that has gained much welcomed attention lately: biofuels. In order to improve our energy and fuel security situation we must make it a priority to invest more into research, market development, and infrastructure development, as well as feedstock development, for biofuels. I have long believed the only way to break the cycle of our dependency on foreign oil is to invest in alternative and renewable fuel technology.

As a Nebraskan, my focus has been on the role agriculture can play in the development of alternative sources of energy. Agriculture is positioned to supply the Nation with an abundant source of clean, high-quality energy that will reduce our destructive reliance on foreign oil.

Biofuels production can be the catalyst for a new wave of American innovation in a continuing search for better energy solutions. The virtue in producing cleaner, more sustainable fuels derived from our own fields rather than extracted from distant lands could help spur new technologies, new jobs, and new growth in our national and rural economies.

We in Nebraska know the value of ethanol. We know the benefits it holds for the environment and our farmers and we know that it is critical in lessening our dependence on foreign oil. We currently have 11 ethanol facilities in Nebraska that have the capability to produce 534 million gallons of ethanol annually. These facilities represent more than \$700 million of capital investment and have a net value of production that tops \$1 billion annually. Plus, more than six thousand Nebraskans are now employed directly or indirectly in Nebraska ethanol production, and we have more facilities and jobs on the way.

I believe a national emphasis on biofuels production represents an important investment in the proud tradition of the American farmer, American ingenuity, and American productivity. There is not an area of the country

that does not have some agricultural product that can be used as an alternative energy source, whether it is corn in Nebraska; forestry wastes in the Northeast and Northwest, sugar cane in Hawaii, Louisiana, and Florida; or the potential of dedicated energy crops like switchgrass that can be grown throughout the country. So in honor of National Agriculture Day today, I want to emphasize the importance of biofuels for agriculture and for our Nation. We must make increased production and usage of biofuels a national priority.

Today we honor those who work so hard to feed not only the people of our Nation but also people around the world. One day is not enough. I am thankful for our farmers and agricultural producers every day, but I am pleased to pay them a special tribute today.

#### PROPOSED MERGER BETWEEN AT&T AND BELL SOUTH

Mr. DORGAN. The proposed merger between AT&T and BellSouth is controversial. The proposal should trigger a serious evaluation by both the Justice Department and the Federal Communications Commission.

A recent column in the March 20 issue of *Business Week* by Leo Hindery caught my eye, and I want to share it with my colleagues. I don't necessarily share all of his conclusions, but I think his perspective is an interesting one. I hope that others will weigh in as we try to make a judgment about whether this proposed merger is in the interest of the American people.

For me, it remains an open question whether this merger should be allowed. In the meantime, it is useful to hear many different perspectives about it and I wanted to share Leo Hindery's column with my colleagues.

I ask unanimous consent to print the column in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From *Business Week*, Mar. 20, 2006]

IDEAS OUTSIDE SHOT  
(By Leo Hindery Jr.)

Watch This Hookup Closely. Who says you can't put Humpty Dumpty together again? With AT&T's acquisition of BellSouth, Ma Bell will (almost) be back. The stated justifications for this huge new merger are to save \$2 billion a year in expenses on a \$120 billion combined revenue base and, says Chief Executive Edward E. Whitacre Jr., to enable the combined company to "have more products, better services, and better prices."

Unfortunately, neither justification is likely to pan out, and there is not one product or service that AT&T will have with BellSouth that it could not have had without it. Not one. So the only real advantages from this merger for AT&T shareholders are a clarified management structure at the two companies' Cingular cellular joint venture and probably slightly faster rollout of wireless Internet calling. Those two changes are certainly important, but they're not nearly desirable enough to allow this merger to proceed without regulators imposing some very tough conditions.

I'm so skeptical because every time a major cable-systems merger was proposed in the past, the justifications were essentially the same: modest cost savings that would fuel more services and better prices for consumers. But those never materialized. Why not? Once a telco or major cable company has achieved scale, and they all have by now, these purported justifications become ludicrous, especially when (as with AT&T and BellSouth) there is little or no preexisting overlap of their service areas.

As a businessman and former cable operator, I can appreciate Mr. Whitacre's desire to bulk up to better compete in both traditional telephony and newer growth areas like broadband video distribution. Not only is he battling stiff competition in voice-over-Internet telephony from the likes of Vonage, Google, and Skype, but he also faces an array of newer delivery technologies such as Wi-Fi, WiMAX, and broadband over power lines. Then there are the major cable companies, which are deeply entrenched in video distribution and have the huge advantage of vertically owning much (in fact, way too much) of the nation's programming.

But the telcos and cable already have virtual strangleholds over wire-line access. (A combined AT&T and BellSouth would control 71 million local phone customers in 22 states.) So this proposed megamerger will be devastating for consumers unless some strong limitations are put on the merged company in two areas: bundling and pricing practices and "Internet neutrality."

Indeed, with broadband soon to be AT&T's (and all other significant distributors') major offering, the Bush Administration and the Federal Communications Commission must stand up for consumers and insist that AT&T, Verizon, Qwest, and cable operators not layer on to their broadband services unreasonable user surcharges and "speed controls" that favor one service provider over another. Such acts would crimp consumers' access to the Net and give distributors unwarranted monopoly-like profits and controls. Likewise, regulators must restrict discriminatory bundling and predatory pricing, which limit consumer choice, in both services and content.

That's not to say that regulators should crack down only on telcos. Washington should give AT&T, Verizon, and Qwest nationwide video-transmission rights so they can compete sooner and better with cable in video distribution. And it must end the vice grip of vertical integration that allows programming owned by a distributor (especially cable operators) to be treated more favorably than independent programming. Such vertical integration, when abused; is a fraud on consumers and an impediment to competition. It needs to be restrained, and Mr. Whitacre should demand that as a quid pro quo for the limits that are sure to be imposed on his proposed deal.

So let Mr. Whitacre have his merger—heck, the Administration and the FCC let Comcast acquire AT&T Broadband in 2002 without blinking an eye. But let's hold him to his promise of "more products, better services, and better prices." Given the grave potential for abuse to consumers by those with quasi-monopoly power, the Administration, the FCC, and Congress must impose appropriate restrictions on the AT&T-BellSouth merger.

#### NATIONAL SUNSHINE WEEK

Mr. CORNYN. Mr. President, this week our country is celebrating the second annual National Sunshine Week, established last year by an extraordinary coalition of print, radio,

television, and online media associations and outlets. And yesterday was national Freedom of Information Day—celebrated every year at a national conference held at the Freedom Forum's World Center in Arlington, VA, on James Madison's birthday.

As we celebrate National Sunshine Week, it is an appropriate time to evaluate the significant progress of the past year toward reforming the Freedom of Information Act. But we must also recognize that we can—and should—certainly do more to preserve the open-government principles on which our great country was founded.

At a time when Americans reportedly know more about the television show "The Simpsons" than they do about the five provisions of the first amendment—freedom of press, speech, religion, assembly, and petition for redress of grievances—or can name the three "American Idol" judges more readily than three first amendment provisions, Congress must do its utmost to preserve these protections while also educating the public about reform efforts.

The Declaration of Independence makes clear that our inalienable rights to life, liberty, and the pursuit of happiness may be secured only where "Governments are instituted among Men, deriving their just powers from the consent of the governed." And James Madison, the father of our Constitution, wrote that consent of the governed means informed consent—that "a people who mean to be their own Governors, must arm themselves with the power which knowledge gives."

As attorney general of Texas, I was responsible for enforcing Texas's open government laws. I have always been proud that Texas is known for having one of the strongest, most robust freedom of information laws in the country, and I have enjoyed working with my colleagues here in Washington to spread a little of that "Texas Sunshine".

I would specifically like to express my gratitude to Senator LEAHY and to his staff for all their hard work on these issues of mutual interest and national interest. And I would like to thank and to commend Senator LEAHY for his decades-long commitment to freedom of information. He has been a strong ally and valuable advocate in this process, and he and I have both noted that openness in government is not a Republican or a Democratic issue. Any party in power is always reluctant to share information, out of an understandable—albeit ultimately unpersuasive—fear of arming its enemies and critics. But regardless of our differences on various policy controversies of the day, we should all agree that those policy differences deserve a full debate before the American people.

While much of the FOIA reform efforts, to date, have focused on providing access generally, more can be done to improve the process specifically. Access to information is cer-

tainly essential, but so is accelerating the rate at which these requests are fulfilled. Access is of little value when requests for information are subjected to lengthy delay.

Open government is one of the most basic requirements of a healthy democracy. The default position of our Government must be one of openness. If records can be open, they should be open. If good reason exists to keep something closed, it is the Government that should bear the burden to prove that need—not the other way around.

Back in December, President Bush signed an Executive order that enhances current FOIA policies. That move was just one important step toward more sunshine in government.

But the President's directive moves the country forward toward strengthening open government laws and reinforcing a national commitment to freedom of information in several important ways that I will discuss here just briefly:

It affirms that FOIA has provided citizens with important information about the functioning of government;

It directs FOIA officials to reduce agency backlogs, create a process for everyday citizens to track the status of their request, and establishes a protocol for requestors to resolve FOIA disputes short of filing litigation;

It creates a FOIA service center where people seeking information can track the status of their requests;

And one very good step is that it creates a FOIA public liaison who acts as a supervisor of FOIA personnel. This person will be available to resolve any disagreements that might arise between people seeking information and the Government. It also requires each chief FOIA officer to review his or her agency's practices, including ways that technology is used, in order to set concrete milestones and timetables to reduce backlogs and carry out its FOIA responsibilities.

Other important progress was made throughout 2005. In June, the Senate passed the legislation Senator PAT LEAHY and I authored, and hopefully the House of Representatives will quickly pass this important legislation. This particular reform creates additional legislative transparency by requiring that any future legislation containing exemptions to requirements be "stated explicitly within the text of the bill."

In addition, we introduced the Openness Promotes Effectiveness in our National Government Act of 2005—OPEN Government Act, S. 394—in February and a separate bill in March to establish an advisory Commission on Freedom of Information Act Processing Delays. A hearing held in March examined the OPEN Government Act. And I urge Congress to pass this law as quickly as is possible.

But, as I said, more remains to be done to ensure that American citizens have access to the information they need. One way we could do that, and

something I believe would be a positive and welcome step in this area, would be to provide additional, dedicated funding for FOIA resources, to address request backlogs. I believe this could be accomplished much in the same way Congress offered assistance to local law enforcement through providing additional funds so they could address their DNA backlogs or the assistance it provided to the FBI to address its backlog of untranslated intercepts of terrorists' telephone calls. Additional funding dedicated to this problem will speed the rate information is given to the requestors. Working toward these goals means that we continue to ensure the public's access to information.

Our Founders understood that a free society could not exist without informed citizens and open, accessible government. And as our country celebrates National Sunshine Week, Congress must continue its work to restore and strengthen its commitment to open government and freedom of information.

#### RAIL CAPACITY PROBLEMS

Mr. THUNE. Mr. President, I rise today to highlight an Issue that has great importance, not just to my home state of South Dakota, but to our entire Nation. On the front page of yesterday's Wall Street Journal, a copy of which I will ask to have printed in the CONGRESSIONAL RECORD, there was an extensive article that highlighted the significant rail capacity problems that exist in the Powder River Basin coal fields of Wyoming.

These rail capacity problems are starting to have a negative impact on electric utilities and rate payers around the country. The Wall Street Journal article highlighted an Arkansas power plant that "can't get enough coal to run its power plants because the trains that serve as its supply line aren't running on time" and went on to note: "Snags in railroad service are fueling fears that railroads won't be able to meet the growing demand for coal, casting a cloud over a goal set by President Bush and key members of Congress to make America energy independent."

I bring this article to the attention of my colleagues as a reminder that we need to be doing more to address the significant rail capacity problems that exist, not just in the Powder River Basin of Wyoming, but across the country. My colleagues will be interested to know that the U.S. Department of Transportation projects that there will be a 55-percent increase in freight rail transportation demand by 2020.

While major railroads such as Union Pacific, Burlington Northern and Santa Fe, and Norfolk Southern are making significant improvements to their rail systems, these investments can't keep up with the demand they face—even though U.S. railroads are slated to invest a record \$8 billion in capital expenditures this year. Just to