

Statement of FCC Chairman Tom Wheeler

**Before the
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives**

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Introduction

Chairman Walden, Ranking Member Eshoo, Members of the Subcommittee, I appreciate this opportunity to join with my colleague Commissioner Pai to discuss the most recent developments at the FCC. Since we last met in April, I am pleased to report that the Commission has not taken its foot off the gas pedal in our work to spur innovation, investment, and economic growth, while protecting consumers. I look forward to discussing the Commission’s most recent accomplishments and previewing our agenda for the coming months.

Recent Accomplishments

The Commission continues to work hard on issues that will help American consumers, enhance U.S. competitiveness, and improve our innovation economy. Over the past three months, we’ve seen progress on a number of key initiatives.

Open Internet Order

In June, the D.C. Circuit denied the request of broadband providers to stay the FCC’s Open Internet Order, allowing the rules to go into effect. This is the right outcome to keep the Internet fast, fair and open. Americans now have a referee on the field to deter blocking, throttling, pay-for-priority fast lanes and other behaviors that could harm consumers and innovators.

The Court also granted the request for expedited review of the Order. We welcome the accelerated litigation briefing and argument schedule, and we are confident we are on sound legal footing as we move forward.

The Court’s decision on the requested stay also gives broadband providers the certainty and economic incentive to build fast and competitive broadband networks. The CEOs of Sprint, T-Mobile, Cablevision, Charter, and Frontier have all publically said Title II regulation does not discourage their investment. Recent transactions, both announced and rumored, point to the same conclusion. And, of course, the post-Open Internet Order announcements by AT&T, Bright House, CenturyLink, Cincinnati Bell, Comcast, Cox Cable, TDS Telecom, and Time Warner Cable about their plans to expand their broadband service certainly suggest that healthy network investment will continue under the new rules.

Spectrum

Unleashing spectrum for broadband remains one of the Commission's most effective strategies for spurring economic growth and job creation. At the top of our spectrum agenda is the unprecedented Incentive Auction, and we are advancing a number of actions to put us on track for a successful auction in the first quarter of 2016.

The Incentive Auction will be the most complex in Commission history. It is challenging enough trying to design an unprecedented two-sided auction with more moving parts than a Swiss watch. But the Commission must also balance a range of goals that Congress established, goals that are sometimes competing. These objectives include helping wireless carriers acquire licensed spectrum to meet growing consumer demand; making sure broadcasters are fairly compensated for the spectrum they relinquish; recovering a portion of the value of this spectrum for the public; preserving test beds for mobile innovation by maintaining spectrum for unlicensed use; and promoting competition by providing competitive wireless carriers and new entrants a realistic opportunity to acquire valuable low-band spectrum. Adding to the complexity is that almost all of these goals and design elements are interrelated and interdependent.

For nearly two years, all the interested parties have been jockeying for auction rules that benefit their position. Now is the time to end the back-and-forth, make some hard decisions, and finalize our auction rules. Next month, the Commission will consider a Public Notice establishing the bidding procedures for the Incentive Auction. Thank you to Chairman Walden, Ranking Member Pallone and others on this Committee for their invaluable input on this issue.

Next month, we will also be considering a Reconsideration of our Mobile Spectrum Holdings Order, which established a "market-based reserve" of up to 30 megahertz of spectrum per market in the Incentive Auction for bidders that do not currently hold significant amounts of low-band spectrum, provided that eligible bidders pay their fair share of auction costs. With more than 70 percent of low-band spectrum in the hands of just two providers, we want to make sure that multiple providers have a meaningful opportunity to acquire these valuable airwaves. The Reconsideration Order also assures there will be significant spectrum made available in all markets of the country to all bidders.

In advance of the Incentive Auction, the Commission recently adopted an Order to revamp our outdated spectrum auction bidding policies to help small businesses better compete for a position in today's wireless marketplace. Congress instructed the FCC to reduce the barriers faced by small businesses, including women- and minority-owned businesses and rural service providers seeking meaningful participation in the provision of spectrum-based services. With four national carriers serving 98 percent of mobile customers, it is virtually impossible for individual entrepreneurs to start their own company and compete in this market. This Order revamps our bidding policies to provide small businesses a better on-ramp into the wireless industry. At the same time, our reforms will enhance the integrity of the FCC's auctions and ensure large corporations can't game the system.

Promoting Competition

As I have made plain on innumerable occasions, competition is paramount. It is the best assurance of industry dynamism, that opportunities for improvements in quality and reductions in cost will be pursued assiduously, and that the benefits will be shared with consumers.

As part our rigorous review of multiple proposed mergers, our test is to determine whether or not the transaction is in the public interest, and whether or not a transaction protects and encourages a competitive marketplace is key to making that determination.

Last week we granted – with conditions – approval of the acquisition of DIRECTV by AT&T Inc. (AT&T). The Commission’s decision was based on a careful, thorough review of the record, which included extensive economic analysis and documentary data from the applicants, as well as comments from interested parties. Based on this review, we determined that granting the application, subject to specified conditions, was in the public interest.

As part of the merger, AT&T-DIRECTV will be required to expand its deployment of high-speed, fiber optic broadband Internet access service to 12.5 million customer locations and make that service available to E-rate eligible schools and libraries, as well as create a low-income broadband service. In order to bring greater transparency to interconnection practices, the company will be required to submit all completed interconnection agreements to the Commission, along with regular reports on network performance. We also will require an independent officer to help ensure compliance with these and other proposed conditions. These strong measures will protect consumers, expand high-speed broadband availability, and increase competition.

Lifeline

One of this Commission’s most fundamental responsibilities is to ensure that all Americans have access to vital communications services. We also have a duty to manage public resources in an effective, efficient manner that advances the public interest. Last month, the Commission approved an NPRM to reform Lifeline, which advances both objectives: exploring new ways to expand access to broadband, while strengthening protections against waste, fraud, and abuse.

In 2008, the Commission expanded the program to allow participation by low-cost wireless providers. Unfortunately, they took those steps without instituting the kinds of controls necessary to protect against abuse. As a result of these decisions, the program almost tripled in size from 2008 (about \$784 million) to 2012 (almost \$2.2 billion). Under Chairman Genachowski, the Commission made significant reforms, including a database that has drastically reduced program abuse caused by multiple Lifeline subscriptions in a household. These reforms helped annual Lifeline spending drop from almost \$2.2 billion to \$1.7 billion, a 23 percent decrease.

Building on the 2012 reforms, our Lifeline reform item proposes streamlining and tightening the process of verifying consumer eligibility by taking it out of the hands of providers. Ideas include establishing a third-party “national verifier,” coordination with other federal needs-based programs, and considering the use of direct subsidies to consumers through vouchers. The item also seeks comment on a budget for the program.

But it’s not just fixing the program’s management that is necessary. We need to modernize Lifeline’s focus for the Internet age like our other Universal Service programs. The

NPRM explores proposals such as adopting minimum service standards for both voice and broadband service; whether broadband should be a required offering of Lifeline providers; and how to encourage more competition to improve prices and services.

Robocalls

Over the past several years, hundreds of thousands of consumers have made their voices heard by complaining to the Commission about unwanted telephone calls – calls they didn't ask for, that they don't want, and that they can't stop. In fact, complaints under the Telephone Consumer Protection Act (TCPA), the law that makes unwanted robocalls and texts illegal, are together the largest complaint category we have at the Commission.

Last month, the Commission moved to modernize our regulations to catch up with today's technology and to protect consumers against unwanted robocalls and spam texts. In a package of declaratory rulings, the Commission affirmed consumers' rights to control the calls they receive. As part of this package, the Commission also made clear that telephone companies face no legal barriers to allowing consumers to choose to use robocall-blocking technology.

Tech Transitions

The transition to efficient, modern communications networks is bringing new and innovative services to consumers and businesses. The Commission's approach to these technology transitions is simple: the shift to next-generation networks – using Internet-based and fiber instead of circuit- and switch-oriented and copper – is good and should be encouraged. But advances in technology will never justify abandonment of the core values that define the relationship between Americans and the networks they use to communicate. After an open, rigorous process, I recently circulated two items that would update the FCC's rules to help deliver the promise of dynamic new networks, provide clear rules of the road for network operators, and preserve our core values, including protecting consumers and promoting competition and public safety.

To ensure consumers have information and tools necessary to maintain available communications during emergencies, our new proposed rules would require providers of new, substitute phone services to offer consumers the option to buy backup power. We propose requiring that consumers be notified before the copper networks that serve their homes are retired. This increased transparency will help ensure that new types of services meet the needs of consumers before legacy services are removed. These proposals would also promote competition, notably by ensuring wholesale inputs remain available to competitors that serve businesses, schools, health-care facilities, and other small- and medium-sized institutions. If adopted at the Commission Open Meeting on August 6, these clear rules of the road will give providers the certainty they need to invest, while protecting consumers, competition and public safety.

Empowering People with Disabilities

Twenty-five years ago, our nation took an historic step toward fulfilling the fundamental American promise of opportunity for all when we adopted the Americans with Disabilities Act. The ADA also set the stage for other critical disability laws. In fact, this year, we also celebrate

the 5th anniversary of the Twenty-First Century Communications and Video Accessibility Act of 2010.

The FCC has played a key role in implementing these critical civil rights laws and in harnessing the power of communications technology to improve the lives of Americans with disabilities. The efforts we have already undertaken have had valuable impacts, including improvements to closed captioning and enabling text-to-911 calls. This May, we adopted rules to ensure individuals who are blind or visually impaired can quickly access critical information shown on television in the event of an emergency, and we expanded the iCanConnect Program to provide communications for Americans who are deaf and blind.

The FCC was the first federal agency to use broadband video to allow consumers to communicate with their government using American Sign Language. We are currently working with other federal agencies—and with private sector companies—to embrace this capability.

We are also harnessing the power of the Web to create an open IP-based platform for innovative applications to attack the challenges of individuals with disabilities. Think of it as the FCC building the basic components common to any Web-based application and inviting anyone with an innovative idea to hook on and in the process reduce costs and speed delivery of their application. Already, there are innovative new applications being developed for use by individuals who are deaf and blind. And there is no reason the platform can't also enable applications designed for individuals with physical disabilities.

Positive Train Control

Like the rest of the nation, I was deeply saddened by the fatal Amtrak derailment in Philadelphia. This tragedy was heightened by the fact that Amtrak was only months away from the deployment of Positive Train Control (PTC), a technology that could have prevented it.

Since Congress passed the law in 2008 requiring PTC, the FCC has been working with railroads and Amtrak to ensure availability of spectrum on the secondary market and to approve transactions quickly. During my Chairmanship, the Commission has been involved in helping freight and commuter trains such as Amtrak acquire spectrum, and implemented a historic preservation and environmental review system to fast-track the review of PTC infrastructure. In fact, the FCC approved Amtrak's application for spectrum for the Northeast Corridor two days after Amtrak submitted its finalized application to the agency in March 2015. Be assured that we will continue to do everything in our power to enable the rapid deployment of life-saving Positive Train Control systems.

Consumer Protection

Over the past two years, the Commission has left no doubt that we are willing to stand up for consumers when they have been wronged. We have developed new internal guidelines for identifying and pursuing enforcement cases, resulting in a significant increase in civil penalties and restitutions levied against companies that improperly take advantage of consumers. Most recently, our Enforcement Bureau reached a \$17.5 million settlement with T-Mobile, resolving an investigation into two 911 service outages that occurred on the company's national network last year. The separate but related outages, which together lasted approximately three hours,

prevented T-Mobile customers from reaching first responders when making wireless 911 calls. This enforcement action sends a clear message that communications providers that do not take necessary steps to ensure that Americans can call 911 will be held to account.

Process Reform

Since I arrived at the Commission, improving the way this agency does business has been a high priority. We immediately conducted a top-to-bottom review to identify areas in need of reform, and we have subsequently taken a series of efforts to create a leaner, more efficient, more productive, and more transparent organization. Currently, there are ten active working groups, as well as teams tackling backlogs, streamlining, IT upgrades and many other process reform objectives within the individual Bureaus and Offices.

Thanks to these efforts, we're making decisions faster, increasing speed of disposal on routine matters, expanding electronic filing and distribution, decreasing backlogs, and improving responsiveness to consumers. Others are taking notice. A recent article in Forbes entitled "How the FCC Saved Me \$1,800" proclaimed that "something has been different lately" about the FCC. The author detailed how her ISP improperly billed her business \$1,800 for changing her service and turned her account over to third-party collection. She reached out to the Commission, using our new Consumer Help Center. Two days after filing her complaint with the FCC, her ISP notified her that there we working on the problem, and within a week the charge had been dropped and the issue resolved. You don't want to overreact to one anecdote, but when Forbes is publishing a piece praising your agency for its efficiency, accessibility, and effectiveness, you know you're doing something right.

Field Modernization

One area that presented real challenges and opportunities for improvement was our field activities. It's been more than 20 years since we last examined EB's field structure. Many forms of technology commonly used today didn't exist or weren't widely available back then. Another significant change is a reduction in Commission resources, which necessitated a review of field staffing and priorities.

After a rigorous management analysis combined with extensive stakeholder and Congressional input, including Members of this Committee, the Commission adopted a field modernization plan that will allow our field operations to do more with less.

The resulting plan reflects the review team's thorough, data-driven analysis and concentrates field resources where they are needed most -- areas with the greatest spectrum density. It refocuses field staff on the resolution of public safety and other interference issues. The reorganization streamlines field management, and ensures that all field agents are capable of resolving the complex interference issues posed by new, expanded, and shared uses of spectrum.

Once implemented, this plan will save millions of dollars annually. We'll apply these savings to modernize the equipment used by the field so they can handle the interference issues in the new shared spectrum environment.

This plan isn't a reflection on our field employees. We appreciate their hard work and public service. But this plan is a badly needed reorganization that will focus our limited resources where they are most needed and create a field model for the next 10 years.

Looking Ahead

Before highlighting some items that will top the Commission's agenda as we move into the fall, I want to reiterate my concern with the lack of coordination among 911 call centers, an issue I raised last time I was before this panel.

There are well over 6,000 public safety answering points (PSAPs) in the United States. They do yeoman's work to protect Americans and should be applauded. But the fact remains that absent Federal guidance they remain independent and autonomous without any need to either keep up with technology or coordinate on a state-wide basis.

Over 450 times a minute, Americans dial 911. The vast majority of those calls are placed from mobile phones. The problem is that the physics of mobile signals don't obey the boundaries of the PSAPs. A woman in Georgia trapped in her car drowned while on the phone with the 911 operator just because the call was picked up by the nearest cell tower and routed to a PSAP in a neighboring jurisdiction. We cannot allow that to happen.

In the 1999 law that established 911 as the national emergency number, Congress asked PSAPs to work together on a state-wide basis to coordinate activities. To the best of our information, not one single state has accepted that invitation. Almost 20 years have passed since the 911 Act was passed, during which time wireless has become the predominant vehicle for calling 911. We at the Commission have taken this as far as the authority granted us. Only the Congress can take the next steps to save lives. As we approach hurricane season, I hope Congress will treat this issue with the urgency that it deserves.

FCC Agenda

Looking ahead, we remain committed to harnessing the power of broadband communications to grow our economy and improve the lives of the American people. We will continue to be guided by what I call the Network Compact – a set of values Americans have a right to expect from their network providers – such as universal access, consumer protection, and public safety. Overarching these values is the belief that competition is superior to regulation, and competition is the Commission's most effective tool for driving innovation, investment, and consumer and economic benefits.

Converting universal service programs from their narrowband origins to broadband is among our most important initiatives. That's why the Commission modernized USF to focus on broadband, establishing the Connect America Fund – a process that this Subcommittee has recognized as an essential activity. Just last month, Frontier accepted \$283 million from the Connect America Fund to expand and support broadband to over 1.3 million of its rural customers in 28 states.

It is my goal to reform the broadband support program for small rate-of-return carriers. Working with my colleagues, and particularly Commissioners Clyburn and O'Rielly, we are working with the affected carriers in search of an approach that has the support of the rate of return carriers and is consistent with the policy objectives the Commission unanimously adopted in April 2014. Unfortunately, while I appreciate the carriers' willingness to engage, time is not our friend. I look forward to continued engagement with an eye towards a solution that allows us

to implement meaningful, long-term reforms that have the support of the rate-of-return community.

We continue to implement reforms to the E-rate program. Last year, we improved the program's cost-effectiveness, set specific, ambitious goals for the broadband capacity delivered to schools and libraries – a short term target of 100 Mbps per 1000 students, and a longer term target of 1 Gbps per 1,000 students – and re-purposed funding for Wi-Fi and robust broadband connections capable of supporting cutting-edge, one-to-one digital learning.

These reforms will only have their intended impact if schools and libraries step up to take advantage of new opportunities. Early indications are that they are up to the challenge. Applications are in for E-rate funding for the coming school year, and schools and libraries have responded to the FCC's E-rate reforms by seeking a total of \$3.9 billion in support, including more than \$1.6 billion for internal Wi-Fi networks. Through their ambitious requests, schools and libraries have told us E-rate reform was needed and appreciated. Work is already underway preparing for next year's introduction of other changes we made to the E-rate program to support the expansion of high-speed fiber connections.

To increase opportunities for additional competition in upstream markets, we have proposed a rule to give over-the-top video providers the ability to choose the same business model as cable and satellite providers, with the same program access rights. We expect to move that to a Report and Order this fall. This action should expand video choice – and increase consumer demand – for broadband.

Demand for broadband also is affected by consumers' perceptions about the potential non-monetary costs of using it. We committed in the Open Internet order to address issues of privacy implicated by consumers' use of the Internet. We will begin that process with a Notice of Proposed Rulemaking in the autumn.

Conclusion

Thank you for this opportunity to testify on the FCC's recent activities and upcoming agenda. I look forward to working with you to find common ground and answer any questions that you have about our efforts, successes, and future endeavors.