

**TESTIMONY OF NATHAN SIMINGTON
COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION
BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
“CHECKS AND BALANCES: OVERSIGHT OF THE FEDERAL COMMUNICATIONS
COMMISSION”
JUNE 21, 2022**

SUMMARY OF TESTIMONY

- The FCC has been immensely productive, laser focused on the public interest and on faithfully implementing Congressional mandates.
- The FCC made significant progress on efforts to promote the efficient use of spectrum, to secure our nation’s networks against cyberattacks, and on making sure that Earth orbit remains as valuable a resource for future generations as it is for ours.
- Renewal of the FCC’s spectrum auction authority is crucial for the United States to remain a leader in wireless communications. The private sector has an unquenchable thirst for spectrum, and we generate billions upon billions of dollars of value for the US economy every time we make new spectrum available for commercial use. Moreover, the model of allocating spectrum by auction forces proposed uses to tie to business cases capable of attracting financing and works against special interest block grants.
- The FCC should be required to increase transparency, certainty, and legitimacy by providing a mechanism for timely Commission review of all exercises of delegated authority.
- Affordable Connectivity Program funds will likely be depleted during this Congress. There are many waste, fraud, and abuse concerns with this program. If you choose to renew it, there are changes that you could make to help address these issues, like better identity verification and more precise targeting of the program to those who it was designed to serve.

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Chairman Latta, Vice Chair Carter, Ranking Member Matsui, and distinguished Members of the Subcommittee, it is a privilege to appear before you today.

In my opening remarks at last year’s oversight hearing, I discussed my three policymaking priorities within the Commission: (1) securing wireless devices against cyberattacks, (2) putting in place orbital debris rules that will ensure that Earth orbit is a natural resource that is as available to future generations as it is to us, and (3) improving receiver performance to make it faster and cheaper to newly commercialize or repurpose spectrum.

Many have attempted to characterize the Commission as deadlocked, at least until another confirmation can jolt us back to life. But the facts reveal the opposite: a Commission laser focused on serving the public interest and faithfully implementing Congressional mandates. I am pleased to say, for example, that we have made great progress in all three areas I just listed. On the security front, we have banned untrustworthy Chinese Communist Party-controlled equipment from our networks and continue to explore how to further incorporate cybersecurity standards in our equipment authorization rules. Regarding orbital debris management, we instituted a requirement that Low Earth Orbit satellite operators safely deorbit their satellites within five years of the end of their mission. I’d like to thank Committee Chair McMorris-Rodgers and Ranking Member Matsui for their work on the proposed Satellite

Streamlining and Spectrum Coexistence Acts, respectively, both of which I very much support.

Concerning receivers, the Commission issued a Policy Statement detailing how receiver performance is essential for making the best use of scarce and valuable spectrum and how it can be integrated into future spectrum policymaking. I look forward to modifying FCC processes to allow the Commission to put these principles into action in future rulemakings.

In my remarks today, I want to focus on three other important issues facing the FCC. First, I can't emphasize enough how vital it is that the FCC's spectrum auction authority is renewed. The auction system for commercializing spectrum has been a resounding success, and in fact earned its architect a Nobel Prize in Economics. It has ensured that valuable spectrum gets put to the highest and best use, and it has kept the United States as the global leader in wireless communications. It has been copied by countries around the world. The private sector's thirst for spectrum is unquenchable, and any amount of greenfield spectrum made available for new commercial use can represent many millions of dollars' worth of innovation and productivity gains for the American economy, not to mention revenues for the US Treasury. The FCC should also proceed with its work on improving reception and co-existence to retain Congress's confidence that our work on spectrum commercialization is driving efficiency and modernization. I know there are some contentious issues surrounding the renewal of the FCC's authority, and I just want to thank Congress for its diligent work on resolving them while committing to get more out of spectrum that's already commercialized.

Second, the Commission should adopt rules allowing all exercises of delegated authority to be timely reviewed by the full Commission. The FCC Chair has broad discretion in delegating matters to career officials and political appointees, which restricts those matters from the review, comment, and voting of the full Commission. This weakens Congressional oversight by removing accountability from Senate-confirmed officials. In light of the questions raised in recent litigation about the scope of administrative discretion, I believe that it is in Congress' interest for administrative agencies to retain discretion on issues that are too granular for Congress to effectively address. However, this is likely to be challenged in the courts or by Congress if we abuse this discretion by taking issues away from the

Commission and giving them, without timely recourse, to the staff. Moreover, if the FCC proves unwilling to self-govern on this issue, I would encourage legislation that secures Congressional oversight and accountability.

Third, funds for the Affordable Connectivity Program (ACP) are due to expire next year, and the question of whether and in what form to reauthorize it is before you. Commission staff did a diligent and praiseworthy job implementing the provisions of the Infrastructure Investment and Jobs Act, and I want to thank them for that. Unfortunately, given our experience with the Universal Service Fund Lifeline program, I expect that waste, fraud, and abuse will be a continuing issue with this program, and much has already been discovered. It is crucial to implement foolproof procedures for verifying eligible individuals who actually need the service at the receiving end of the benefit. I welcome ACP uptake to get Americans online and able to access resources; however, if Congress wants the program to endure, the FCC should look into the factors going into adoption and ensure that ACP dollars are driving adoption and uptake, not merely acting as a subsidy for broadband service that consumers would have purchased without such a subsidy. I look forward to engaging with you and your colleagues in the Senate as you consider whether and in what form to renew this program.

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Chairman Latta, Vice Chair Carter, Ranking Member Matsui, and Members of the Subcommittee, I want to thank you again for holding this hearing and for the opportunity to testify. I look forward to answering your questions.