

**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  
COMMUNICATIONS & TECHNOLOGY SUBCOMMITTEE  
“OVERSIGHT OF PRESIDENT BIDEN’S BROADBAND TAKEOVER”  
NOVEMBER 30, 2023**

**SUMMARY OF TESTIMONY**

- It is only through commonsense, bipartisan policymaking that we can ensure that the needs of *all* consumers of broadband are served.
  
- The FCC has shifted focus to partisan, unnecessary and burdensome policy frameworks. It should instead focus its efforts on more urgent priorities that benefit American consumers instead of furthering partisan goals.
  
- It is crucial that the FCC’s spectrum auction authority be restored expeditiously to preserve U.S. leadership.
  
- Hundreds of millions of devices in active use in this country are susceptible to known security vulnerabilities, exposing Americans to theft of private data and to attacks on the integrity of our public and private networks. The FCC can and should prioritize addressing this and other more pressing issues.

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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.

This is my first hearing before this Subcommittee where the Commission has had a full complement of Commissioners. It remains my hope that the bipartisan camaraderie that existed when the Commission was in a 2-2 balance will endure. It is only through commonsense, bipartisan policymaking that we can ensure that the needs of *all* consumers of broadband, and the larger public interest, are served.

Unfortunately in the short time that we have had a full Commission, there has been an expected—though no less disappointing—shift in focus to implementation of partisan, unnecessary and burdensome policy frameworks, like the 2015 Title II broadband and digital discrimination regulatory regimes. I implore Congress to pass legislation to create an updated legislative framework for the modern internet ecosystem that would end the continued

whipsawing of industry over the Title II fight and create clear rules of the road for *all* companies in the internet ecosystem—from e-commerce and social media platforms to network operators alike.

The FCC has also recently engaged in the wasteful extension of the FCC’s currently overstrained USF programs to provide redundant service subsidies like Wi-Fi on school buses, *and* hot spots for every student. And it has again done so without taking any steps to ensure that USF funding mechanisms are reformed in a way to support these extensions. I applaud Senators Mullin, Kelly and Crapo for introducing the bipartisan Lowering Broadband Costs for Consumers Act, which requires contributions to the Universal Service Fund (USF) from edge providers *and* broadband providers. I sincerely hope it this legislation is passed expeditiously. In the meantime, however, while the FCC remains distracted by wrongheaded priorities, it neglects necessary reforms that will better serve and protect consumers of broadband services.

I will address today what I view as the two most urgent priorities: renewal of the FCC’s spectrum auction authority and ensuring that consumers are fully informed about the security of their wireless devices.

As I stated in my testimony in June of this year, it is vital that the FCC’s spectrum auction authority is renewed. Nearly five months later, this request is even more urgent to prevent the U.S. from falling behind as the world’s technology leader. The U.S. system for commercializing spectrum has ensured that valuable airwaves get put to the highest and best use, and it has made the United States the global leader in wireless communications. Industry

continually needs a steady stream of commercial spectrum in the pipeline to stay ahead, and any amount of greenfield spectrum made available for commercial auction can represent many millions of dollars' worth of innovation and productivity gains for the American economy. The FCC's authority to put new spectrum to use must be restored without further delay.

Lastly, I would like to address what I view as serious problem that is putting our wireless networks—not to mention consumer's precious personal and financial information—at risk. It is a problem which I believe the FCC can and should do more to address. Hundreds of millions of devices in active use in this country—more every day, and in more applications—are susceptible to known security vulnerabilities, exposing Americans to theft of private data and to attacks on the integrity of our public and private networks. Moreover, these vulnerabilities leave American entrepreneurs in a precarious position: if they modernize their equipment, they risk creating vast attack surfaces that may be impractical to protect. I believe that device manufacturers should have the obligation to put out security updates that patch these vulnerabilities, or at a minimum, to clearly disclose these vulnerabilities to consumers and enterprise users so that all Americans can make informed decisions about which devices to invest in.

Attacks on unpatched devices are becoming more frequent and more dangerous. A recent FBI advisory warned of increasing cyberattacks against unpatched medical devices.<sup>1</sup> Unpatched industrial control systems threaten the availability of critical infrastructure.<sup>2</sup> And we have not

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<sup>1</sup> <https://www.ic3.gov/Media/News/2022/220912.pdf>.

<sup>2</sup> <https://www.darkreading.com/vulnerabilities-threats/cisa-warns-unpatched-vulnerabilities-ics-critical-infrastructure>; <https://www.cisa.gov/news-events/alerts/2023/03/21/cisa-releases-seven-industrial-control-systems-advisories>; <https://www.darkreading.com/ics-ot/unpatched-iot-ot-devices-pile-up-ics-cyberattacks>.

yet seen the worst. An attacker could use unpatched vulnerabilities to take control of large numbers of mobile phones, turn their radios into signal jammers, and take down mobile networks.<sup>3</sup> Botnets of commandeered high wattage devices like air conditioners, water heaters, and ovens could be used to disrupt the power grid and even cause large-scale blackouts.<sup>4</sup> And attacks on automated cars, or on medical devices, can directly cause widespread property destruction, human injury, and death.

The early days of the connected device industry are behind us, and the laissez-faire attitude that came with rapid innovation now threatens to thwart the industry's progress into more serious domains where the stakes are higher. As we entrust technology with greater responsibility for our money, privacy, personal safety, and public order, we need to have greater confidence in its security.

This is why I have advocated that the FCC, through its proceeding on cybersecurity labels, adopt rules requiring disclosure of the time period during which a device's manufacturer commits to diligently issue security updates. A stamp of approval for the security of a device should reflect the genuine confidence of the American people. A device manufacturer should not qualify for such an endorsement if it refuses to provide even this bare minimum of transparency. I would take this a step further and require manufacturers to take responsibility for the security of their products from initial development to the end of device lifespan, but I would

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<sup>3</sup> <https://www.cise.ufl.edu/~traynor/papers/ccs09a.pdf>.

<sup>4</sup> <https://www.usenix.org/system/files/conference/usenixsecurity18/sec18-soltan.pdf>.

be happy to start with a disclosure regime and I plead with my colleagues to ensure we take final action and see this through.

Device security is just one of many other policy priorities that the FCC should instead focus on in lieu of partisan goals that do not further the public interest. I am hopeful that my colleagues will embrace more bipartisan, commonsense policies going forward.

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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.