

FCC Commissioner Kathleen Q. Abernathy
Speech to WCA
June 25, 2001

Thank you Andrew for that very kind and generous introduction and for the opportunity to be here in Boston for the 14th Annual WCA Convention. It is truly an honor.

I arrived at the FCC only about three weeks ago – so I feel particularly fortunate that my first industry conference as a Commissioner is WCA – because of the exciting and cutting edge work that WCA members are doing to bring the benefits of wireless broadband technology to consumers.

It is also appropriate that this should be my debut event because I have spent much of my career working for companies and competitors like yours.

Before I move on to my formal remarks let me ask a question: How many of you looked at today's USA Today? On the front page are not one, but two, stories dealing with the telecommunications revolution. The first was about telecommuting and how it was not evolving as predicted. The second discussed a New York proposal that would mandate hands free devices if you want to use your cell phone while driving. The telecommuting story concludes that one of the main hurdles to the continued growth of telecommuting is the lack of broadband communication and high-speed access. The lack of broadband access is something, as you know, that can be fixed. Just think, 5 years ago such front-page coverage of your industry and the world in which you work would have been unheard of.

And that leads me back to my core remarks for today. Given the tremendous impact regulation will have on consumer choices over the next decade, I thought I would outline my view of the role of regulators in this rapidly changing marketplace.

My background in the industry has certainly shaped these perspectives. In addition to my work in government and at law firms, I spent the eighties working through the regulatory issues that developed in the nascent satellite industry. In the early and mid 1990s, I joined the mobile wireless industry and worked with government to convince them that the removal of regulation would lead to greater innovation, more choices, and better prices for consumers. Most recently, I worked for a competitive wireline local exchange carrier, and we faced the difficult issues posed by competing against incumbents and the challenges presented by obtaining financing for our significant start up costs. I share these experiences with you to give you a better idea of how I have arrived at my approach to regulation.

In addition to my work experiences, it is important as a Commissioner to keep one's consumer hat on as well – in this regard, my husband, my five-and-a-half-year-old daughter and I are regular consumers of telecom services, and my three brothers, their wives, my sister, her husband, my mother and various aunts and uncles have wasted no

time telling me, in sometimes excruciating detail, exactly what the FCC has done right and wrong.

At any rate, this morning I would like to outline my general regulatory philosophy. At its core, it consists of five guiding principles:

Congress sets the FCC's agenda through the Telecom Act. The FCC should look to the statute first and foremost as the guide for our actions. We are implementers, not legislators. We are appointed, not elected.

Within the discretion afforded by the Act, I will always prefer a private market-based solution to a government mandate. I have learned through experience that functioning markets will always make better decisions than government. It will reward winners and punish losers more effectively and efficiently than regulators and provides consumers with greater benefits.

In areas where it is necessary for government to intervene and to enact rules, they must be clear, obtainable, and enforced vigorously.

Government must be humble, especially in regulating technology. Government can never duplicate the knowledge base of industry so we must affirmatively reach out and gather information from consumer groups, industry, state regulators, and trade associations.

Fundamentally, government is a service industry, and we should act like it. You are our customers – you deserve responsiveness, timeliness, and well-reasoned results. We may not always agree, but you should know where we stand. And you deserve the certainty that comes with final decisions.

Let me make a few observations about how some of these principles play out in assessing the regulatory outlook for WCA members.

First, the good news is that when you look at the Communications Act and the Code of Federal Regulations you see vast sections devoted to regulating your broadband competitors – cable and wireline telephony have been around a long time – and their regulatory regimes are very complex. Both platforms are shackled with the heavy weight of legacy regulation and some pretty difficult customer perception issues – shackles that you don't have. The wireless industry is by far the most deregulated of the platforms – and although as a Commissioner I am hopeful that we can reduce legacy regulation – it will not be a quick or painless process. In contrast, the remaining barriers you all face are largely technology driven – and in handicapping the race between technology and FCC deregulation of the other platforms, technology may well be a good bet. This is particularly true for *most* fixed wireless services – and I am committed to getting spectrum into the marketplace as promptly and flexibly as possible so that competitors can get underway and the market will be allowed to work.

The picture is obviously more complicated for MMDS/ITFS services, where the FCC faces many competing demands for a limited supply of spectrum. Although I was not

involved in the decision to designate the MMDS/ITFS bands (2500 - 2690 MHz) for 3G study, I understand that decision and I believe it was prudent of the government to explore all available options.

However, as I stated before, markets and the property-like rights associated with FCC licenses are an essential component of my regulatory approach. Therefore, because the FCC made the decision to auction MMDS spectrum, and encouraged the close cooperative relationship with the ITFS licensees, it now becomes difficult for me to contemplate a major disruption of those services, particularly for a service band that is not the prime target of 3G proponents.

It is also important to factor into the debate the public interest benefits that result from the successful long-term rollout of your services. If these efforts to open a new broadband "pipe" succeed, the debate about "open access" for cable companies looks a lot different, and the difficulties associated with wireline line sharing, collocation, and UNE pricing are transformed. In fact, the entire debate about the competitive environment changes, consumers gain more choices, and the nature of any digital divide is altered. The legacy regulations that I previously mentioned are a lot easier to gradually strip away when multiple competitive broadband platforms are available to consumers who then can decide the winners and losers.

Therefore, as I balance all of the competing interests in the 3G debate, I am committed to finding more spectrum for advanced mobile applications, but I am reluctant to jeopardize the rollout of wireless broadband services offerings to consumers.

So where else do we look for 3G spectrum? Other options are available, and I am eager to listen in the months ahead to the wealth of information that industry can bring to bear on these difficult decisions.

But in assessing the MMDS/ITFS bands, I believe that regulatory certainty is extremely important. This is true for all industry groups, but particularly for those that are still growing and dependent on start-up capital. Having recently worked for a company that was unable to survive the downward market trend, I know the market pressures today are extremely high. We owe you a prompt decision to eliminate the cloud that hangs over this spectrum.

I mentioned earlier that the Commission must be more customer-driven and must provide prompt well-reasoned answers. And when the stakes are as high as they are here, we must move as swiftly as possible to ensure that the market, rather than indecision in the regulatory arena, determines your fate.

As a new Commissioner, I can promise you that I will do all I can to make a decision as soon as is practical, so that you can get on with your business, realize your fullest market potential, and deliver brand new competitive options to consumers across the United States.

Thank you and I wish you all the best.