

**Remarks of  
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Commissioner, Federal Communications Commission  
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**“Securing Rural Telecommunications in a Changing World”  
(as prepared for delivery)**

**I. Introduction**

Thank you for that kind introduction and for inviting me to join you today. I've been in this job just over a year now – but it seems like a dog year.

Seriously, there is no greater opportunity for a South Dakota boy to make a difference in the big city – without forgetting from where I came.

Looking back over the past year, I've been guided by one key principle – our job is to secure access to communications for everyone, including those the market may leave behind. And, we all know, that the market would have left behind rural consumers if it weren't for your commitment to and for some important federal policy. It is for that reason right now I'm fighting to protect the policy of universal service.

We cannot just assume that all customers will have access to the communications infrastructure without some type of help. Universal service provides that help.

We urgently need a new framework to shore up universal service. It must continue to fulfill its function of connecting everyone in this country to the latest telecommunications systems, no matter where they live. And no matter what means of communications the future may provide -- circuit-switched, VOIP, or something we've yet to discover-- everyone in America, urban and rural, should have access to it. If we don't, provide that access the “edges” or the “fringes” of the network will fray and the whole country will suffer.

Rural America cannot be relegated to “a nice place to visit” to remind us of our past - it must thrive and grow with the rest of the country.

**II. Universal Service Funding**

One area of concern with universal service is the growth of new entrants that are receiving funding. Although the amount of funding they receive isn't yet that large, it's growing quickly. The process of eligible telecommunications carrier (or ETC) has recently raised a lot of questions. There is concern that many States and the FCC began using universal service to “create” competition in areas that could barely support even one provider, let alone multiple providers. I doubt this is what Congress intended.

Reading the Act, it is clear Congress did intend that multiple carriers would have access to universal service. Otherwise, it wouldn't have given us the authority to designate additional carriers for eligibility.

But it's not clear that Congress fully contemplated the impact of this growing competition on the ability of the universal service fund to keep up with demand, and eventually to support advanced services. It may come down to a choice Congress never envisioned - between financing competition or financing network development that will give people in Rural America access to advanced services like broadband.

But Congress gave some very clear direction that we can't ignore. The law requires that the designation of an additional ETC in a service area must be consistent with the public interest. Further, it established an even higher level of review for those areas served by rural carriers. In those rural areas, the law requires that the authorizing agency shall find that the designation is in the public interest.

#### **A. ETC Designation Template**

That's why I'm working with my colleagues to find a better way to properly embrace this public interest mandate.

Under our approach, competition alone cannot satisfy the public interest analysis. We must weigh other factors to determine whether the benefits exceed the costs. We should assess the value of the provider's service offering. We must consider whether the applicant has made a commitment to service quality or will provide essential services in its community. This is particularly important, because new ETCs may some day serve as their customers' only telecommunications connection. If that is the case, they must work, and work well.

When we do commit these valuable public resources, we must ensure they are used properly. To do this we should, for example, carefully audit whether recipients are investing universal service funds in the network for which the support is received.

I believe that the FCC should use a more stringent analysis whenever it reviews an ETC request. Our analysis can help guide states in their decisions. In fact, we have several ETC requests pending before the Commission now, and we expect that in the very near future you will see some rulings that provide the states with a very good sense of what we deem important in our ETC determination process.

You should also soon expect to see a Recommended Decision from the Universal Service Joint Board. We've been working hard to address the issues that the FCC referred to us last year. We're addressing the question of portability. And, as you know, the threshold question of portability is which entities are eligible for funding.

In the Joint Board process, I have encouraged my colleagues to look at the public interest closely, as demanded by Congress, and to take great care in determining how the public interest is served by the grant of ETC status to a competitive carrier. Our recommendation should give the states the tools that they need and want to tighten up their ETC deliberations. It is appropriate for such a recommendation to come from the Joint Board since the states participate

as equals with us in this effort. That cooperation will encourage more states to embrace the guidelines.

## **B. The Benchmark Proposal**

In response to concerns about sustainability, some of us on the Joint Board have suggested that there are certain areas of the country where financing a competitor is simply not a proper use of universal service funds. It's been proposed that in areas where the high cost carrier receives more than \$30 per line, we should limit funding to only one ETC. In areas where the funding per line is between \$20-\$30, we should permit no more than two ETCs. And in areas with less than \$20 in funding per line there would be no limit on the number of ETCs. These benchmarks could be challenged and overridden on a case-by-case basis with specific evidence.

Although this proposal needs further discussion, it has a lot of merit. The High Cost Fund ensures that end users in high cost, mostly rural areas will have access to quality services at reasonable rates. Universal service funding became necessary in these areas because the costs of service were prohibitively high and, without it, many individuals would not have had access to telecommunications service at all. Currently, however, we fund more than one carrier in several of these same high cost areas.

Such a proposal could allow us to move back toward the initial concept of the High-Cost Fund. The public interest maybe better served by ensuring that we use that fund to build out and advance the network in the highest cost areas rather than funding competitive ventures there.

This proposal would help limit and better control the growth of the High-Cost Fund, and I'm interested to hear your input on how it might be accomplished.

## **C. Primary Lines**

Some are suggesting that a way to control costs is to fund only the primary lines. I believe that this would deny consumers the full support that Congress intended. Universal service is not only about providing one connection per household – it encompasses that concept, but it is not limited by it. The Low-Income fund ensures at least one connection per household. But the High-Cost Fund embraces the concept of network development and support so that all Americans have access to comparable services at comparable rates, eventually evolving to advanced services. This is what the law requires.

Limiting support to primary lines would simply put rural consumers and businesses at a disadvantage. Consumers in non-rural areas have access to a variety of telecommunications services-voice, data, fixed, and mobile. If universal service provides rural customers with access to just one of these services, it may render their access to other forms of communications unaffordable.

Basing support solely on primary lines is likely to reduce network investment. It also will have high consequences for consumers who use second lines for fax machines or dial-up access to the Internet. This could cause disastrous results for small businesses that operate in rural areas and, more significantly, undercut economic development in Rural America.

#### **D. Basis of Support**

A better way to control the size of the fund and be true to our Congressional mandate is to make sure to provide the right level of support. Currently, competitive ETCs receive the same per line amount of funding as the incumbent local exchange carrier or ILEC. If the ILEC is rural, then its universal service funding is based on its own costs. That means the funds received by the competitive carriers are based on the rural ILECs' costs, not their own.

A large number of CETCs are wireless carriers. Wireline and wireless carriers provide different types of services and operate under different rules and regulations. Their cost structures are not the same. To allow a wireless CETC to receive the same amount of funding as the wireline carrier, without any reference to their cost structures, is artificial. It is also clearly inconsistent with the law, which under Section 254(e) requires all funds go to supported services. I believe the law compels us to change the basis on which we provide support to competitors.

Last year, I voted to delay our determination of whether we should include equal access as a supported service. I did this pending the Joint Board's review of the basis of support. I believe that, at the very least, those carriers that are competing in your areas as ETCs should not receive funding for costs that they clearly are not incurring. This is the case with ICLS. And pending resolution of the basis of support, we should, at the very least, ensure that the funding received by competitive carriers does not include the costs of equal access that are included in the portable ICLS.

#### **III. VoIP**

Just last month, the Commission held an important forum on a development that could revolutionize not only the telephone system as we know it today, but the entire regulatory structure that has grown around it over the last century: Voice over Internet Protocol, or VoIP. As voice traffic is increasingly conveyed in packets, it becomes difficult to distinguish a voice call from e-mail, photos, or video clips sailing over the Internet.

This is one of the most exciting developments in telephony in decades, and it promises a new era of competition, new efficiencies, lower prices, and innovative services. But we have to make sure that all consumers can benefit from the promises that VoIP may hold.

VoIP technology offers huge promise for revolutionizing our nation's telecommunications infrastructure. I agree with Chairman Powell's belief that we need to move quickly to understand this new phenomenon and its policy implications. The Wall Street Journal calls VoIP the "new gold rush" in telecom. You might say we're in a transformation – Ma Bell will soon become Ma Virtual Ringtone.

We face a number of issues in dealing with this phenomenon. We need to encourage new, more efficient technologies like VoIP because of all the benefits it can offer consumers. At the same time, however, I'm concerned about approaches that allow regulatory arbitrage that artificially promote one technology over another. We don't want to choke off new technology, but neither do we want to abandon haphazardly policies that protect the public interest and foster fair competition.

It's absolutely crucial to understand how VoIP affects the Universal Service Fund, if we are to protect the underpinnings of universal service. If VoIP providers are not required to contribute, to the fund it creates an opportunity for regulatory arbitrage and further undermines the already troubled funding mechanism.

If VoIP is the future, then the steps we take now must ensure universal access to the best services available. On its face, VoIP presents a long-term challenge to the current structure of the Universal Service program. I disagree, however, with those who say that the advent of Voice over Internet Protocol obviates the need for universal service funding. VoIP rides over the same connections rural communities have worked so hard to establish.

We also need to determine how underlying carriers are compensated for carrying third party traffic. Some VoIP providers pay no access fees even though in many instances they are using local phone lines to route their traffic. We cannot afford to let the rise of VoIP undercut the very networks that facilitate it.

We must also understand the concerns raised by DOJ and FBI that classifying VoIP as an information service severely undercuts critical law enforcement tools, such as CALEA. They say that call content and caller identification could evade lawful electronic surveillance and that VoIP jeopardizes the ability of federal, state, and local governments to protect public safety and national security against domestic and foreign threats. For me, public safety is not negotiable.

Similarly, emergency services are not negotiable. We must understand how VoIP affects the provision of E-911 and other emergency services. It may open up new emergency response and medical monitoring services that don't exist today, but we must be sure it doesn't undermine the important work the industry and the Commission are doing to enhance emergency services for the benefit of consumers and our national security.

In addition, there are many more issues that must be addressed including the traditional protection against discrimination in telephony services, as well as full access by persons with disabilities.

As these issues demonstrate, fundamental public interest considerations are at stake. Navigating these issues is especially challenging because we encounter conflicting opinions about how to move. I hear the arguments that allowing this technology to move forward free of any regulatory constraints would encourage its development, availability and use. On the other hand, such "hands off" treatment could mean we are undercutting the safety of consumers, law enforcement and national security, and the integrity of the underlying network and the universal service funding mechanism.

We must draw a careful balance in assessing the public interest. Given how far this technology has developed already, and recognizing that it's aimed at the core voice telecommunications service, we can't afford to just sit back and watch.

As an eternal optimist, I believe we can – and, indeed must – work through the tough questions here. I look forward to working with each of you to find the path that best serves the public interest. I'm confident that we're all up to that challenge.

#### **IV. Managing Spectrum in the Public Interest**

I'd like to switch over to touch on spectrum policy, as I know many of you here are involved in wireless businesses. Spectrum is the lifeblood of so many of the new services and innovations that people are demanding today.

I've set out an approach for spectrum policy that I call a "Framework for Innovation." In dealing with the spectrum, I believe the Commission should establish ground rules for issues such as interference and availability. To the greatest extent possible, however, we should let the marketplace and innovation drive the development of services. My goal is to maximize the amount of communications and information that flows over the Nation's airwaves.

Spectrum is a finite public resource. In order to improve our country's use of it, we need to improve access to spectrum-based services. We cannot afford to let spectrum lie fallow. It is not a property right, but a contingent right to use a public resource – it should be put to use for the benefit of as many people as possible.

I remain concerned that we need to do more to get spectrum in the hands of people who are ready and willing to use it. That is why I am taking a fresh look at our service and construction rules to ensure that our policies do not undercut the ability of carriers to get access to unused spectrum – whether they are in underserved areas or have developed new technologies. For example, we need to adopt tough but fair construction requirements to ensure that spectrum is truly being put to use.

I've repeatedly said the FCC needs to improve access to spectrum for those providers who want to serve rural areas, particularly community-based providers like yourselves. That is why I pushed for the inclusion of both Economic Areas as well as RSA licenses in our recent Advanced Wireless Services or "3G" Order.

As many of you know, large license areas can raise auction prices so high that many companies that want to serve smaller areas cannot even afford to make a first bid. I certainly recognize that there is value in offering larger service areas for economies of scale and to facilitate wider area deployments. But the public interest demands that we find a balance in developing a band plan, and I am very pleased we did so in that item.

But I am not sure we are doing enough in this area. We heard last month at our rural wireless ISP forum that operators across the country need access to more spectrum. More spectrum can drive broadband deployment deeper and farther into rural America. We have to be more creative with a term I will coin "spectrum facilitation." That means stripping away barriers, regulatory or economic, to get spectrum into the hands of operators serving consumers at the most local levels.

For example, I was very pleased to support new guidelines to facilitate a more robust secondary market. We removed significant obstacles and provided a framework for allowing licensees to lease spectrum more easily, while ensuring that the Commission does not lose ultimate control over the spectrum.

We also just adopted an NPRM on cognitive radios – smart radios that can literally leapfrog the technical and legal problems that currently hamper many of today's spectrum access opportunities. I was particularly pleased with our proposal to allow higher power operation for

unlicensed devices operating in rural and other areas of low spectrum use. I encourage all of you to take a look at these exciting developments.

## **V. Local Number Portability**

The biggest recent development that you've all heard about is local number portability, or LNP. I can assure you that LNP is one of the more difficult issues that we faced over the past several months. It truly seemed that everyone in the telecommunications industry hated some part of it. Yet, LNP is one of those issues where the consumer clearly is the winner.

There are a number of lingering issues with LNP and its implementation. For example, I recognize that there may be certain limitations on the technical ability of your companies to provide local number portability at this time.

I was very pleased to support the decision to waive until May 24, 2004 the requirement of LECs operating in areas outside of the largest 100 MSAs to port numbers to wireless carriers outside of rate centers.

I also am supporting an extension of that waiver to smaller LECs whose service territories extend into the top 100 MSAs.

I remain concerned, however, that our LNP rules and obligations will exacerbate the so-called "rating and routing" problem for wireless calls that are rated local, but are in fact carried outside of wireline rate centers. While we have clarified that ported numbers must remain rated to the original rate center, the rating and routing issue continues to remain unresolved for many of your companies as well as for neighboring LECs and the wireless carriers whose calls are being carried. I believe that we must redouble our efforts to resolve this critical intercarrier compensation issue as quickly and comprehensively as possible.

Finally, I take very seriously the concerns of those wireline carriers that have argued wireline-to-wireless number portability should be limited pending the resolution of issues associated with full wireless-to-wireline porting. I plan to work both with industry and my colleagues at the FCC on solutions to address this inequity. The Commission should constantly strive to level the playing field, and the situation presented by our LNP rules and policies should not be any different.

## **VI. Conclusion**

Before I take your comments or questions, I just wanted to say how pleased I am to be here today with you – and not just because we're in Florida in January! We come from the same rural roots. We may not always agree on everything, but we share common values and common goals. We all want a strong rural America, with a telecommunications system second to none.

Even with all the obstacles facing rural areas, many of the smallest communities you serve have great networks, including broadband service. That accomplishment is a tribute to many of you in this room.

I'm committed to making sure that you can maintain this level of service. You understand first-hand that as technology advances, so must our efforts to keep up. That means continued network investment – which requires continued support from universal service.

Nobody one has a better track record of doing so than community-based telecom providers like you. It's my job to help you get the support you need – and are entitled to by law – to accomplish your mission.

So thank you for what you do – and thank you for all the support that you have provided me to help you get the job done.