

**Remarks of FCC Chairman Kevin J. Martin
TELECOM 05 Conference
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(As Prepared for Delivery)

Thank you very much, Walter. First, let me apologize for not being able to join you in person in Las Vegas. I do, however, appreciate the opportunity to participate virtually - and perhaps this is an even more appropriate way to appear before a conference that is “exploring the full potential of the integrated communications industry.”

Let me start out by saying a few words about the industry’s response to the recent hurricane, as you all just saw in a video. Restoration of communications after hurricane Katrina was as challenging a communication mission as we have ever confronted. We commend the rapid response we have witnessed from all segments of the communications industry. And, our deepest gratitude goes out to the thousands of communications company employees who, at great sacrifice, worked nonstop to repair the communications infrastructure that is relied upon by the entire country.

As you have no doubt been discussing the past couple of days, the communications marketplace is becoming increasingly competitive. We are seeing different technologies compete against each other to an unprecedented degree. Telephone companies and cable companies have been competing for broadband customers for several years.

But we are also seeing cable companies providing voice service, telephone companies beginning to provide video services, and wireless companies providing Internet access services. In fact, just yesterday I read that a consortium of cable operators are close to an agreement with a wireless provider to add cellular services to their bundle of consumer offerings. It seems that nearly every day customers are being offered new innovative services from their wireless, telephone, cable, and Internet providers.

What is the key to ensuring a bright future for these integrated service offerings? From a regulatory perspective, I believe that it is technological and competitive neutrality. As I have said on several occasions, all providers of the same service must be treated in a similar manner regardless of the technology that they employ.

Let me provide some concrete examples of what I am talking about. In the Triennial Review proceeding, the Commission voted to ensure that incumbent LECs that deploy new fiber infrastructure are treated in the same manner as cable companies and competitive carriers that deploy new network facilities.

More recently, in August, the Commission adopted an order ending the regulatory disparities between DSL and cable modem services. By these actions the Commission leveled the competitive playing field between different types of providers. We thereby encouraged all providers to invest in their networks to make them capable of delivering new 21st Century services. And, we did so in a way that recognized the unique challenges faced in rural areas.

There is still, however, work that needs to be done. For example, many of you have been trying to roll out video services to your customers. And, we are beginning to hear complaints from incumbent LECs that some local authorities may be making the process of getting franchises unreasonably difficult.

I believe that new video entrants, regardless of the technology employed, should be encouraged -- not impeded from entry. Indeed, in passing the 1992 Cable Act, Congress recognized that competition between multiple cable systems would be beneficial. So Congress specifically encouraged local franchising authorities to award competitive franchises. Thus, Congress recognized that it is important to have multiple competitors in the video market.

Now, Congress also recognized that local franchising authorities have played, and would continue to play, an important role in the cable franchising process. But Congress restricted their authority in this area in order to promote cable competition. Specifically, Section 621 of the statute prohibits local authorities from granting exclusive franchises and from unreasonably refusing to award a second franchise.

So what should the Commission do? I recently presented my colleagues with a Notice of Proposed Rulemaking that asks how the local franchising process is working and what actions, if any, the Commission should take to fulfill Congress's directive that franchising authorities not grant exclusive franchises or unreasonably refuse to award additional competitive franchises.

I plan on the Commission considering this item at our November meeting which is just a few days away.

I believe that it is the Commission's responsibility to help ensure technological and competitive neutrality in communications markets. And, I believe that we should always be looking to remove unreasonable roadblocks to competition.

So far, I have been discussing the importance of doing everything we can to foster innovation and infrastructure investment. But Congress has also instructed the Commission to make sure that rural America does not get left behind by this technological revolution.

Specifically, the Commission is charged under the Communications Act with ensuring that rural areas have access to "reasonably comparable" services as those in urban areas and at "reasonably comparable" rates. To do this, the Commission must establish a "specific, predictable, and sufficient" mechanism to preserve and advance universal service.

I believe the Commission needs to revise the way in which it collects universal service monies. The current interstate revenue-based method is outdated. It simply does not reflect the competitive and dynamic communications market that exists today.

For example, it doesn't account for the increase in bundled service offerings, the increasing migration to wireless and VoIP services or the shrinking long distance market. Whatever we do to ensure the sufficiency and sustainability of the universal fund, it is critical that people who live in rural and high cost areas continue to receive service at affordable rates.

How can we accomplish this? As I have said on numerous occasions, the means of assessing universal service contributions must change. For some time now, I have advocated a mechanism based on telephone numbers. This methodology has many advantages - it is easy to administer, it would be readily understandable by consumers, and it promotes telephone number conservation.

Equally important, this method would be competitively and technology neutral. Any phone service that uses a telephone number would be required to contribute to universal service.

Critics of this approach argue that a telephone number-based approach would disproportionately increase the costs of telecommunications services to low volume users. Some argue instead for a hybrid approach that retains a revenue-based collection system in certain circumstances but uses a numbers-based collection approach in others.

Other ideas have been to raise the wireless safe harbor percentage to reflect the fact that wireless phones are increasingly being used for long distance calling. Still others have advocated expanding the contribution base by assessing additional providers, such as VoIP and IP-enabled service providers.

These questions have been debated by various segments of the industry for a long time now and I haven't heard of any recent breakthroughs. I am not sure, at this point, that there will ever be consensus.

Although I am open to other approaches that would serve to increase the contributions into the fund, we cannot wait much longer before taking action. The industry needs certainty and the fund needs fixing. I look forward to working with my colleagues to figure out a solution in the near future.

Though I cannot promise you a perfect fix, I will do my best to ensure that whatever solution is adopted, it will be technology neutral. That is, whatever rules the Commission ultimately adopts, these rules must impact all technologies – both new and old – equally. Regulation must not have the effect, unintended or otherwise, of favoring the adoption of certain technologies over others. In addition, it is also imperative that the solution be faithful to Congress's directive to "preserve and advance" universal service.

I have spent some time talking about the problems facing the contribution side of the universal service fund. I should also point out that the manner in which the funds are distributed is also facing increasing challenges.

The current fund totals nearly \$7 billion dollars and a lot the fund's growth in recent years is attributable to new competitive eligible telecommunications carriers (or CETCs), particularly wireless CETCs, that have begun to receive funding.

The number of CETCs is increasing dramatically and is one of the primary drivers of fund growth. Since 2000, CETC high cost payments have grown from about \$1.5 million annually to about \$333 million annually.

Over the past few years, I have repeatedly expressed my concerns with the Commission's policies of using universal service support as a means of creating competition in high cost areas.

I do not believe it is viable in the long term to continue subsidizing multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. I have also expressed concern about how CETC support is calculated. For example, even if their costs are lower, they receive support based on your higher costs.

I have also expressed my concerns with the fact that CETCs are not required to meet all of the same obligations as the incumbents. For example, I believe that CETCs seeking universal service support should have the same "carrier of last resort" obligations as incumbent providers for the same geographic area. Placing this same obligation on all ETCs would be fully consistent with a policy of competitive and technological neutrality among all service providers.

I note that some of these issues, such as how support for CETCs is calculated, are currently before the Commission as well as before the federal-state Joint Board on Universal Service. I hope that we will be able to address these issues soon.

There are still a lot of other challenges facing the Commission – for example, I haven't even mentioned intercarrier compensation. Though sorting through these very complex issues makes my job challenging, I can't say that there are any easy answers.

I look forward to continue hearing from the membership of the U.S. Telecom Association as the Commission tackles these thorny issues and I welcome your input.

Thank you for inviting me to participate today.

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