Keynote Address by Commissioner Deborah Taylor Tate

Telecommunications Policy and Research Conference

George Mason University School of Law

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(As Prepared)

Good evening and – to those of you from around the country and around the world – welcome to the Washington, DC area. I want to thank Bob Quinn for those kind introductory remarks. I also want to thank Harold Furchtgott-Roth for all of the wonderful advice he gave me when I first arrived at the FCC, and Professor Christopher Yoo, who has been my personal "brain trust" in Tennessee since my appointment.

I thought I'd start tonight by telling you a story. Maybe some of you have heard it before. Someone once asked Albert Einstein to explain how a radio works.

> "Well," he said, "first I need to explain the telegraph. The telegraph is like a very long cat. You pull on the tail in New York, and the cat meows in Los Angeles. That's the telegraph. The radio is just like that. Only there's no cat."

Even if Einstein never spoke these words, I think we can recognize the wisdom within the humor. Our communications platforms, from radio and television to 3G cell phones and broadband wi-fi "mesh" networks, are not so different after all, and converging technologies continue to blur the differences: we make telephone calls through cable, watch television on our cell phones, and get Internet access from our electric company.

Unfortunately, as I'm reminded almost every day, it's not easy to revise the legacy regulatory structure at the FCC to keep up with the pace of change in the rapidly evolving and converging communications marketplace, a marketplace that now includes the entire world. If we're to be successful and break out of our "silos," we will need your help. Economic theory and quantitative analysis provide a crucial part of the foundation for our regulations, especially as we seek to encourage competition that will spur innovation and drive down costs for consumers – we hope! That's why I'm so pleased to be here and why I hope that we can make this evening part of an ongoing dialogue.

Given this overlap in our interests, it's no surprise that many of the discussions you are having at this conference – on policies of the past, such as legacy USF mechanisms, and policies of the future, such as Internet governance and international digital rights management – concern issues that we are and will be addressing at the FCC, some of which we've been addressing since the '96 Act. I'd like to mention three critical issues, in particular: universal service reform, spectrum management, and media ownership.

1. Universal Service

This year, in addition to my role as a commissioner, I've had the privilege of serving as the Chair of the Federal-State Joint Board on Universal Service. In fact, we just spent the past two days hosting state commissioners and their staff in a training session at the FCC.

Many of you are much more familiar than I am with this world of acronyms – USAC, NECA, ICLS – but I *have* had the experience of seeing the practical effect that our universal service programs have on real people in real communities, from Appalachia to Alaska. Programs like Lifeline and Linkup help low-income households obtain and maintain telephone connections. The e-rate Fund subsidizes the cost of telecommunications and Internet access for schools and libraries around the country. I'm proud to say that, under the leadership of then-governor Don Sundquist, Tennessee was the very first state to connect all of its schools to the Internet. And, this week at our September meeting, the Commission adopted an Order that establishes a rural healthcare pilot program (to help public and non-profit healthcare institutions build state and region-wide broadband networks and connect those networks to Internet2).

However, the program that seems to generate the most passionate discussion – and one many of you have called on us to reform – is the so-called "high-cost" program that subsidizes rural telephone systems to ensure that rural customers are charged rates reasonably comparable to those for urban customers. It's a complex program that I'm sure only a few people truly understand, even at the FCC, and one that *is* ripe for significant reform, with problems on the contribution and distribution sides of the equation; or, for that matter, the equation itself.

For example, to fund the "high-cost" program we have traditionally assessed interstate long-distance bills. At a time when the very notion of a long-distance call is becoming anachronistic, however, it's increasingly difficult to rationalize this practice.

In addition, as critics of the program have observed, there are few, if any, incentives for those companies that benefit from the fund to operate efficiently. I had an opportunity to see George Mason's own Professor Thomas Hazlett at the VON conference in Boston a few weeks ago where he discussed his paper critiquing the fund. Professor Hazlett noted examples of USF support in the amount of $13,000 per line, per year, despite the availability of far cheaper telephone alternatives in the area. He also observed the lack of measures in the system to punish inefficiency, which can result in overhead costs as high as $500 per line.

There's also the important question of what – or even if companies *should* benefit from the fund. In addition to small, rural telephone companies, FCC policies allow ETCs ("eligible telecommunications carriers") to receive funding for the same rural areas. According to the Congressional Budget Office, support to these "competitive ETCs" – usually wireless companies – has spiked in the last 5 years and now accounts for nearly 17 percent of total universal service spending. Many of you have been asking, if it is so costly to provide service to an area that we must offer subsidies, why are we subsidizing two, three, or even more providers in that area?

Block Grants

Debate concerning how best to distribute universal service funds is not, of course, a new development. During his time at the FCC, Commissioner Furchtgott-Roth articulated a number of ideas on this subject following passage of the '96 Act, some of which we are revisiting now.

As a former state regulator, you will not be surprised to hear me say that block grants can be an effective way to implement national programs. I've personally been involved with them with labor, welfare reform, and Medicaid waivers, to name a few. They provide more local control and, depending on the issue, take account of such disparities as family income, population size and density, and even the topography of our respective states.

As you know, the Joint Board has sought and received comment on the use of something analogous to block grants: state allocation mechanisms, or SAMs. In conversations yesterday, the state commissioners said that SAMs need not require giving state legislators or governors total control; rather, the FCC could provide parameters, and an independent administrator like USAC could provide fiscal oversight and control. The funds would then be distributed to companies according to a plan issued by a state regulatory commission or similar entity.

Reverse Auctions

In August, the Joint Board also issued a broad notice seeking comment on the merits of using reverse auctions in the distribution of universal service funds. I'm certain that we will receive comments from those companies that have an entrenched interest in maintaining the status quo. After all, no one likes change, especially to their business plan. We need to hear more from *you* – the economists, law professors, and policy experts who have carefully studied auction purpose, design, and participant behavior.

I don't think we need to expand the scope of the notice, but, if any of you have previously filed comments regarding the use of block grants, I hope you will review and consider refreshing or expanding them. In addition, the Joint Board has discussed holding a public, *en banc* meeting later this year or early in 2007. I welcome your participation in that process.

2. Spectrum Management

Of course, the FCC already has quite a bit of experience with the use of auctions in other contexts, particularly spectrum allocation. As I'm sure you're all aware, the FCC recently completed a highly successful auction, allocating a large swath of spectrum, issuing 1,087 licenses to 104 bidders, and raising $13.9 billion. I think we all hope for innovative new products and services, especially fixed wireless and new broadband technologies, to reach even our most remote citizens.

I also want to thank you for the indispensable role that economists played in introducing marketplace dynamics to the policy arena of spectrum allocation. Your important contributions in designing and implementing the first auctions has revolutionized the way vast portions of commercial spectrum are now held and utilized.

Such allocation of spectrum by auction falls into what many might call a "property rights" model, in which the spectrum holder is given exclusive rights to its use. Not all allocations follow this model, however, as the FCC makes certain bands of spectrum freely available to all users (within certain parameters). This "commons" approach has proven to be a useful way to deliver valuable services to consumers and allow innovation to occur, since free access to the spectrum promotes participation in the market by those with good ideas who might lack the capital to compete in our auctions. We see such innovation, for instance, in rapidly proliferating broadband wi-fi "mesh" networks and new interoperability devices. Certainly,

there are limitations associated with the sharing of spectrum that may make such a model less suitable for particular applications. But who knows what students in dorm rooms are dreaming up tonight?

The real question for economists and policy makers alike is how to *most* efficiently allocate spectrum to maximize a given set of social goals. Do we continue with a mix of licensed and unlicensed spectrum? What have we learned about innovative behavior under each model? What have we learned about how to maximize the value to consumers (i.e., speed, cost, availability), which seems to me to be one of our highest goals. How do we factor in other social goals, like providing priority and reliability for certain services or users, especially public safety?

3. Media Ownership

Finally, let me briefly address media ownership. As you know, all five commissioners will be in Los Angeles on Tuesday, where we will hold the first of six planned public hearings in conjunction with the pending proceeding to review our broadcast ownership rules. I hope you will help us evaluate the transformation of the media marketplace that has occurred since we adopted our current regulations. We need your knowledge and expertise to help us answer a number of critically important questions. How and to what extent do newspapers, terrestrial radio, satellite radio, television, DBS, cable, and the Internet compete with each other for advertising? Is industry consolidation necessary in light of this competition, and, if so, have the effects of consolidation been positive or negative for consumers? How does the rise of the Internet change the dynamics of content creation, delivery, and consumption? (How does generation-i, the first generation to grow up with the Internet get their news?) There are many more.

There are also many other issues on which I know we could use your help. For example, intercarrier compensation has probably been discussed by some in this crowd since the break-up of Ma Bell – the latest incarnation being the so-called Missoula Plan.

In closing, I want to remind you that your contributions to the literature on communications and media policy make an enormous difference. They help to shape the debate by providing a framework for and analytical understanding of this very fluid market. I am simply amazed by their value. So, I welcome your advice, input, and insights on these complex issues, having one ultimate objective in mind: keeping America safe, connected, and competitive in the 21st century.