

**STATEMENT
of
COMMISSIONER ROBERT M. McDOWELL
FEDERAL COMMUNICATIONS COMMISSION**

**Before the
COMMITTEE ON COMMERCE, SCIENCE & TRANSPORTATION
UNITED STATES SENATE**

February 1, 2007

Good morning, Mr. Chairman, Senator Stevens, and distinguished members of the Committee. Thank you for providing us with this opportunity to appear before you this morning. Eight months ago today, I was sworn in as an FCC Commissioner. My short tenure here has exceeded all of my expectations. It has been a great honor to serve the American people in this way. I am also immensely fortunate to work under Chairman Martin's leadership and with such a talented team of Commissioners.

This is an exciting time to be at the FCC. Revolutionary technological developments are yielding new opportunities for consumers to improve the quality of their lives and for businesses to improve their competitiveness and efficiency. This dynamic disruption transcends traditional regulatory boundaries. I cannot imagine a more interesting time to be here.

Regulatory Philosophy

The issues addressed by the FCC touch the lives of every American: from broadband availability, to the incredible proliferation of wireless technologies; from universal service, to localism and diversity in broadcasting; from wireless medical devices that improve thousands of lives each day, to the greatest entrepreneurial explosion in history known as the Internet. This diverse array of issues, and many more, are within the FCC's purview. While advances in technology and competitiveness defy

labeling under the regulatory stove pipes of old, I endeavor to approach each issue with a consistent regulatory philosophy; one that has served our nation well since its inception; one that trusts competitive free enterprise to serve consumers the best.

This year, in Virginia, we are celebrating the 400th Anniversary of the founding of the Jamestown Settlement. That event sparked a chain of events that led to the creation of the freest nation in the history of the world. Free markets and free ideas are the twin cornerstones upon which we built America. My approach to each issue that comes before the Commission is to focus on my belief that the fundamental mission of the FCC is to promote freedom. I want consumers to have the freedom to have their demands satisfied. And I want entrepreneurs to have the freedom to innovate and bring their products and services to market so they can satisfy those consumers' demands. I trust free people acting within free markets to make better decisions for themselves than those of us in government. Government should not adversely interfere with the relationships between consumers and entrepreneurs. Rather, government should try to remove barriers to entry and allow competition to flourish. There are circumstances, however, when the government should address market failure so new entrepreneurial ideas have a chance to compete in the marketplace, and succeed or fail on their own merits -- and their own merits alone. Any remedies applied to market failure should be narrowly-tailored, and sunsetted, to maximize freedom for all market players.

Today, disruptive new technologies pose challenges to existing providers of products and services -- and to regulators and legislators. One of the most exciting aspects of the job of an FCC Commissioner is to help open windows to provide entrepreneurs new opportunities for these technologies to compete in the marketplace.

Given this disruption, the FCC has to adapt and make a transition from legacy regulations that govern individual industries, to more nimble rules that ensure fair opportunities for all competitors. As regulators, we must be careful to avoid inhibiting innovation and technological advances. The FCC must continue to tear down barriers to entry and clear out unnecessary regulatory underbrush. The marketplace, rather than the Commission, should pick the winners.

As the Commission analyzes these regulatory questions, we of course are mindful that we operate within the parameters that you, Congress, have established for us. On *every* issue, I first look to the relevant statute to determine whether the Commission has the authority to take the action proposed or implement a new policy.

A Record of Accomplishments

The Commission is adopting policies to encourage increased broadband deployment for all of America's businesses and citizens. While America's rate of broadband deployment has doubled during the Martin chairmanship (from 20 percent growth in penetration per year to over 40 percent), no one at the Commission is resting on those laurels. Accordingly, we are making it easier for entrepreneurs to construct new delivery platforms more quickly. Additionally, our policies are paving the way for the owners of existing platforms to upgrade their facilities. The resulting new surge in capital investment will stimulate our economy and will give American consumers new tools to strengthen their freedom by enhancing their ability to choose. All of us benefit as a result.

In my eight month tenure, the Commission has taken important steps to promote competition in a number of areas. I believe that our actions will foster the ability of

American consumers and businesses – whether located in urban or rural areas -- to have access to new, advanced delivery platforms.

Last summer, the Commission completed an auction for spectrum for Advanced Wireless Services in the 1710-1755 and 2110-2155 MHz bands, which are ideal for the delivery of bandwidth-intensive wireless applications. One hundred four entities placed winning bids, and over one-half of those were small businesses. In fact, forty winning bidders identified themselves as rural telephone companies. Wireless growth is rising rapidly due to robust competition and technological innovation. What was unimaginable just ten years ago is now part of the daily routine of tens of millions of Americans. Innovative broadband services using advanced technologies allow customers to use new multimedia phones to watch TV, download songs, receive information and access content, such as sports, news and weather, at broadband speeds. In recognition of the importance of the wireless industry to America's continued economic competitiveness across the globe, the Commission is quickly granting applications, and releasing this spectrum to the winning bidders. In fact, in November, we granted 550 licenses won in the AWS auctions. In December, we granted another 357 licenses. This means that we have already granted 907 of the 1,087 licenses, and have brought in \$13.1 of the \$13.7 billion in total net high bids. All of this activity should be put in the context of an already competitive wireless marketplace.

Over the last 13 years, since the Commission issued its first Wireless Competition Report, wireless subscriber growth has grown exponentially and competition among numerous providers has flourished. The overall wireless penetration rate in our country is now at 71 percent – and our most recent report, released in September, notes that an

overwhelming majority of consumers between the ages of 20 and 49 has a wireless phone. At the same time, prices are decreasing. Our report estimates that revenue per minute (RPM) declined 22 percent last year alone. RPM currently stands at \$0.07, as compared with \$0.47 in December 1994 – a decline of 86 percent. (That \$0.47 in 1994 equates to \$0.60 today.) This is great news for American consumers.

The Video Franchising Order the Commission adopted in December advances the pro-consumer goals of enhancing video competition and accelerating broadband deployment. The Order strikes a careful balance between establishing a deregulatory national framework to hasten deployment of advanced services while preserving local control over local issues. It guards against localities making unreasonable demands of new entrants, while still allowing those same localities to protect important local interests through meaningful negotiations with aspiring video service providers.

While I would have liked to have provided the deregulatory benefits granted to new entrants to all video providers, be they incumbent cable providers, over-builders or others, the record in this proceeding did not allow us to create a regulatory parity framework just yet. I am pleased that the Commission has committed to release an order addressing parity for all cable competitors no later than six months from the release date of the Video Franchising Order. Resolving these important questions soon will give much-needed regulatory certainty to all market players, spark investment, speed competition on its way, and make America a stronger player in the global economy.

While we have worked hard to help foster the rollout of new delivery platforms, we have also endeavored to continue to make available to all Americans affordable telecommunications services. The Universal Service system has been instrumental in

keeping Americans connected and improving their quality of life. This system is in dire need of comprehensive reform, however. In June 2006, we adopted interim changes to the Universal Service contribution methodology that were designed to help bridge the gap between the deteriorating status quo and a more sustainable Universal Service system of the future. The changes raised the interim wireless safe harbor and required VoIP providers to contribute to the Fund. By setting appropriate safe harbors and allowing wireless carriers and VoIP providers, in determining their USF contribution, the option of either using the safe harbor, utilizing traffic studies, or reporting actual interstate revenues, we provide the right balance of administrative ease and incentive to contribute based on actual interstate and international revenues. These interim measures also ensure that the Fund remains solvent for the near term and serve as an important first step toward broadening the Fund's contribution base to ensure equitable and nondiscriminatory support of the Fund in an increasingly digital world. In October, we also instituted a two year rural health care pilot program to determine the extent of the need for advanced services to meet the rural health care objective, pursuant to Section 254(h)(2)(A) of the Communications Act, and how we can tailor the rural health care support mechanism toward that end.

Universal Service is intertwined with intercarrier compensation. We have to reform the current access regime; otherwise, it won't survive. I believe that all carriers should be compensated for the costs of carrying others' traffic on their networks. Today is the deadline for submitting reply comments to the Commission on the Missoula Plan that was submitted by a NARUC Task Force last June. I look forward to reviewing those comments. There are a lot of stakeholders and no one plan is going to make everyone

happy. We need to step back and see how competition and technology are changing the marketplace and examine where the current regime is in need of reform. We also need to promote efficiency, competition and technological innovation. It will be a long, cooperative process, but I look forward to working with everyone on this challenge.

Future Challenges

Looking ahead, this year in particular we have our work cut out for us. We are currently in the process of analyzing the record and finalizing the rules for the commercial portion of the 700 MHz spectrum band. Our work is especially time-sensitive given Congress's recent mandate that we commence auctioning this spectrum no later than January 28, 2008, less than one year away. I am hopeful that we will complete our work and release these rules early this spring.

We are also moving forward to create the opportunity for additional unlicensed operation in the white spaces of the TV broadcast bands. I am hopeful that our actions will foster a chain of events that will lead to an explosion of entrepreneurial brilliance toward creative uses for these bands. Mindful of our obligation to protect all users from harmful interference, our Office of Engineering & Technology is already working hard to analyze and test new devices and associated standards. I am pleased that our timetable aims to ensure that new consumer equipment for these bands will be market-ready as soon as possible.

This year, we are also advancing our comprehensive review of the Commission's broadcast ownership rules and are busy building a record. As you know, these rules must strike a difficult balance. They must take into account the dramatic changes that have occurred in the media landscape in recent years and at the same time, continue to promote

our long-standing values of diversity, localism and competition. We must also carefully address the issues presented to us by the Third Circuit in the *Prometheus* decision. I hope we can develop a reasoned approach that resolves the regulatory uncertainty that followed the appeal of the order the Commission issued in June 2003.

I look forward to continuing our review of competition and the effects of consolidation among traditional media companies, as well as the emergence of new competing services. I also am eager to attend more field hearings around the country to learn more about competition, diversity and localism from the perspective of people with first-hand knowledge of the realities of their local market – be they consumers, broadcasters, programmers, artists, economists or academics. With respect to diversity, I am particularly concerned about the decline in female and minority owners of broadcast properties. I anticipate learning about the causes of this situation, especially as compared with other industries requiring similar amounts of capital investment.

Conclusion

In sum, from my new perspective at the FCC, America's future has never looked more promising. Consumers have never been more empowered or savvy. The marketplace is teeming with more brilliant entrepreneurial ideas than ever before. And the FCC is working hard to create an environment where private enterprise can meet ever-more-sophisticated consumer demand as quickly as possible, thus promoting more freedom.

I look forward to meeting these challenges in partnership with Chairman Martin and my colleagues on the Commission and I look forward to your continued direction. Thank you.