

STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL

Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks, *Declaratory Ruling*, FCC 07-30.

Since coming to the Commission, I have advocated for the creation of regulatory parity when possible. With respect to video franchising, for instance, I pressed for a follow up, fast-track rulemaking to quickly build a record on the possibility of extending the de-regulatory benefits set forth in our recently released order to all video providers, be they incumbent cable providers or over-builders. And, I am pleased that we will release that order no later than September. All market players deserve the certainty and regulatory even-handedness necessary to spark investment, speed competition, empower consumers, and make America a stronger player in the global economy.

Today's action to classify wireless broadband Internet access service as an information service creates regulatory parity. Our determination, which the Commission has previously taken for Internet access over cable modem, wireline and power line facilities, will maximize innovation and consumer benefits by ensuring that the market-driven framework established by Congress is fully realized as wireless services continue to flourish and evolve. This year in particular the Commission is in an excellent position to promote the dissemination of wireless licenses among a wide variety of applicants, whether licensed or unlicensed, and therefore I believe our action is timely. I am excited about our work to prepare for the forthcoming 700 MHz auction, as well as future deployment in the TV "white spaces," because I am hopeful that the competitive opportunities presented by these proceedings, along with the certainty we create with today's ruling, will broaden the ability for entities seeking to enter the global wireless marketplace.

With respect to the substance of our action today, we first remind providers of wireless broadband Internet access services that any consumer protection obligations adopted in other related proceedings are extended to them. We also emphasize that today's declaratory ruling does not affect application of the spectrum allocation and licensing provisions of Title III, the associated Commission rules, and corresponding protections. In this regard, we clarify the following:

- First, where a wireless service provider uses the same pole attachments to provide both telecommunications and wireless broadband Internet access services, Section 224 of the Act applies;
- Second, local authority over zoning continues to apply where a wireless service provider uses the same infrastructure to provide "personal wireless services" and wireless broadband Internet access service, as set forth in Section 332(c)(7) of the Act; and

- Third, a carrier providing both CMRS and wireless broadband Internet access service has the same rights and obligations regarding interconnection under Section 251 of the Act (or section 20.11 of the Commission's rules) that it would have if it were only providing CMRS.

Finally, we reiterate the Commission's commitment to enforce the accessibility policy embodied in Section 255 of the Act (regarding persons with disabilities). All Americans, regardless of physical ability, should be able to benefit from competitive broadband Internet service offerings.

In sum, effective personal telecommunications should deliver reliable, ever-increasing bandwidth to individuals at ever-decreasing cost. Each step the Commission takes to foster choice for all kinds of consumers -- residential, businesses, governments and public safety agencies -- moves us closer to ubiquitous, multi-media broadband availability. With today's action to eliminate potential barriers and reduce the uncertainty that may hinder competitors from constructing new delivery platforms -- and owners of existing platforms to upgrade their facilities -- the Commission is enhancing the opportunity for greater competition among, and within, various broadband platforms.

I thank the Chairman for his leadership on this endeavor, and I extend my thanks and congratulations to the Bureau for their hard work.