

**STATEMENT OF
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**BEFORE THE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES**

JULY 24, 2007

Mr. Chairman, Congressman Upton, and members of the Subcommittee, thank you for inviting me to testify about the challenges confronting our Commission. In the interest of time, I would like to focus today on three among the many urgent priorities we face. First, I will discuss the need for a national broadband strategy to ensure the ubiquitous deployment of affordable, high speed broadband infrastructure to every corner of this country. Second, I will touch upon the role of spectrum-based services, and the importance of the upcoming 700 MHz auction, as a critical aspect of that national strategy. And third, I would like to highlight the pressing media agenda, involving media ownership, including women and minority ownership, public interest and localism obligations, and the need for strong leadership by the Commission to ensure a successful and smooth transition to digital television.

The Need For a National Broadband Strategy

We need to maximize the potential of every citizen to contribute to our social, cultural and economic life through communications, whether they live in major cities or in rural, insular or other high-cost areas, whether they are Native Americans living on tribal lands or residents of economically challenged sections of our inner cities, whether they live with disabilities, whether or not they speak English, and regardless of their income level. I would like to talk to you today about this guiding principle for communications policy and a few of the ways we at the FCC and

you in Congress can and must work to achieve this ambitious goal. We need to make broadband the dial-tone of the 21st Century.

Keeping our communities connected and ensuring that the latest technologies reach all Americans, including those in remote and underserved areas, are principles that are enshrined in the Communications Act. Meeting these goals is more important than ever as we enter a new age of global competitiveness.

We've made progress, and there are many positive lessons to draw on, but I am increasingly concerned that we have failed to keep pace with our global competitors over the past few years. Each year, we slip further down the regular rankings of broadband penetration. For Americans in rural areas, low income consumers, and small businesses, the problem can be even more acute. According to the ITU, the digital opportunity afforded to U.S. citizens is 21st in the world.

While some have protested the international broadband penetration rankings, the fact is the U.S. has dropped year-after-year. This downward trend and the lack of broadband value illustrate the sobering point that when it comes to giving our citizens affordable access to state-of-the-art communications, the U.S. has fallen behind its global competitors. There is no doubt about the evidence that citizens of other countries are getting a much greater broadband value in the form of more megabits for less money. This is more than a public relations problem. It is a major productivity problem, and our citizens deserve better. Indeed, if we do not do better for everyone in America, then we will all suffer economic injury as a result. In this broadband world, more than ever, we are truly *all* in this together and we need to tap all of our resources.

Some have argued that the reason we have fallen so far in the international broadband rankings is that we are a more rural country than many of those ahead of us. Even if that is the

case, and since geography is destiny and we cannot change ours, rather than merely curse the difficulty of addressing rural communications challenges, we should redouble our efforts and get down to the business of addressing and overcoming them.

I am concerned that the lack of a comprehensive broadband communications deployment plan is one of the reasons that the U.S. is increasingly falling further behind our global competitors. Virtually every other developed country has implemented a national broadband strategy. This must become a greater national priority for America than it is now. We need a strategy to prevent outsourcing of jobs overseas by promoting the ability of U.S. companies to “in-source” within our own borders. Rural America and underserved urban areas have surplus labor forces waiting to be tapped. No one will work harder, or work more efficiently, than Americans, but many are currently without opportunities simply because the current communications infrastructure is inadequate to connect them with a good job. That situation must improve.

A National Broadband Strategy for All Americans

We must engage in a concerted and coordinated effort to restore our place as the world leader in telecommunications by making available to all our citizens affordable, true broadband, capable of carrying voice, data, and video signals. An issue of this importance to our future warrants a comprehensive national broadband strategy that targets the needs of all Americans. A true broadband strategy should incorporate benchmarks, deployment timetables, and measurable thresholds to gauge our progress.

We need to set ambitious goals and shoot for real high-bandwidth broadband deployment. We should start by updating our current anemic definition of high-speed of just 200

kbps in one direction to something more akin to what consumers receive in countries with which we compete, speeds that are magnitudes higher than our current definitions.

We must take a hard look at our successes and failures. We need much more reliable, more specific data than the FCC currently compiles so that we can better ascertain our current problems and develop responsive solutions. The FCC should be able to give Congress and consumers a clear sense of the price per megabit, just as we all look to the price per gallon as a key indicator of consumer welfare. Giving consumers reliable information by requiring public reporting of actual broadband speeds by providers would spur better service and enable the free market to function more effectively. Another important tool is better mapping of broadband availability, which would enable the public and private sectors to work together to target underserved areas. Legislation under consideration by leaders in both the House and the Senate would enable us and other agencies like the Census Bureau to make enormous progress on this front.

We must redouble our efforts to encourage broadband development by increasing incentives for investment because we will rely on the private sector as the primary driver of growth. These efforts must take place across technologies, so that we not only build on the traditional telephone and cable platforms, but also create opportunities for deployment of fiber-to-the-home, fixed and mobile wireless, broadband over power line, and satellite technologies. We must work to promote meaningful competition, as competition is the most effective driver of innovation, as well as lower prices. Only rational competition policies can ensure that the U.S. broadband market does not devolve into a stagnant duopoly, which is a serious concern given that cable and DSL providers now control 96 percent of the residential broadband market. If communities need to tap their own resources to build broadband systems, they should be able to

do so to make it truly affordable and accessible to all of their citizens. We must also work to preserve the open and neutral character that has been the hallmark of the Internet, in order to maximize its potential as a tool for economic opportunity, innovation, and so many forms of public participation.

There also is more Congress can do, outside of the purview of the FCC, such as providing adequate funding for Rural Utilities Service (RUS) broadband loans and grants and establishing new grant programs supporting public-private partnerships that can identify strategies to spur deployment; ensuring RUS properly targets those funds; providing tax incentives for companies that invest in broadband to underserved areas; devising better depreciation rules for capital investments in targeted telecommunications services; investing in basic science research and development to spur further innovation in telecommunications technology; and improving math and science education so that we have the human resources to fuel continued growth, innovation and usage of advanced telecommunications services.

Another critical component of a national broadband strategy is properly channeling universal service support toward broadband deployment. Congress and the Commission recognized early on that the economic, social, and public health benefits of the telecommunications network increase exponentially for all subscribers with the addition of each new subscriber. Federal universal service continues to play a vital role in meeting our commitment to connectivity, helping to maintain high levels of telephone penetration and increasing access for our nation's schools and libraries. With almost a decade behind us since the 1996 Act, the FCC is re-examining almost every aspect of our federal universal service policies, from the way that we conduct contributions and distributions, to our administration and

oversight of the fund. As we move forward with this review, I will continue to work to preserve and advance the universal service programs as Congress intended.

Ensuring the vitality of universal service will be particularly important as technology continues to evolve. Increasingly, voice, video, and data will flow to homes and businesses over broadband platforms. In this new world, as voice becomes just one application over broadband networks, we've got to have ubiquitous broadband pipes to carry the most valuable IP services everywhere. Without such broadband networks, IP services can't reach their full audience or capability. The economic, public health, and social externalities associated with access to broadband networks will be far more important than the significant effects associated with the plain-old-telephone-service network, because broadband services will touch so many different aspects of our lives. So, it is important that the Commission conduct its stewardship of the program with the highest of standards and that we ensure that universal service evolves to promote advanced services, which is a priority that Congress has made explicitly clear.

Wireless: A Critical Source of Broadband Services

One of the best opportunities for promoting broadband and providing competition across the country, and a key component of a national broadband strategy, is in maximizing the potential of spectrum-based services. Spectrum is the lifeblood for much of this new communications landscape. The Commission must do more to stay on top of the latest developments in spectrum technology and policy, working with both licensed and unlicensed spectrum.

We are now considering final service and auction rules for the 700 MHz band, a critical opportunity for our country and the next generation of wireless broadband service providers.

The Commission has a historic opportunity in the upcoming 700 MHz auction to facilitate the emergence of a “third” broadband channel that will provide consumers everywhere the benefits of a high-quality wireless broadband network.

My goal is to provide an auction structure that promotes opportunities for all bidders, including new entrants as well as existing providers. I am also interested in identifying spectrum on which to establish a meaningful open-access environment. Such an approach could open these key airwaves to badly needed competition in the broadband space.

As we look to the auction structure, some have argued that a more flexible band plan which includes a mix of licenses could better support a variety of business plans. On the other hand, a larger spectrum block could best address the needs of potential new entrants, who express interest in providing a nationwide wireless broadband service.

This spectrum also gives us a new opportunity to come to grips with our country’s public safety dilemma. Many of our nation’s public safety agencies already suffer from antiquated systems and struggle to keep pace with new technological opportunities. So as we look to finalize our 700 MHz rules, we need to explore all aspects of proposals intended to help public safety keep apace through this auction.

The past several years have seen an explosion of new opportunities for consumers, like Wi-Fi, satellite-based technologies, and more advanced mobile services. We now have to be more creative with what I have described as “spectrum facilitation.” That means looking at all types of approaches – technical, economic, or regulatory – to get spectrum into the hands of operators ready to serve consumers at the most local levels possible.

Of course, licensed spectrum has and will continue to be the backbone for much of our wireless communications network. We are already seeing broadband provided over satellite,

new wireless broadband systems in the 2.5 GHz band and the increasing deployment of higher speed mobile wireless connections from existing cellular and PCS providers.

I have also worked closely with the Wireless Internet Service Provider (WISP) community, which has been particularly focused on providing wireless broadband connectivity in rural and underserved areas. Unlicensed spectrum is free and, in most rural areas, lightly used. It can be accessed immediately, and the equipment is relatively cheap because it is so widely available. We can do even more for rural WISPs and other unlicensed users. I have heard from operators who want access to additional spectrum and at higher power levels. And the Commission has been doing just that. We have opened up 255 MHz of spectrum in the 5 GHz band – more spectrum for the latest Wi-Fi technologies – and are looking at ways to increase unlicensed power levels in rural areas.

I also have pushed for flexible licensing approaches that make it easier for community-based providers to get access to wireless broadband opportunities. We adopted rules to make spectrum in the 3650 MHz band available for wireless broadband services. To promote interest in the band, we adopted an innovative, hybrid approach for spectrum access. It makes the spectrum available on a licensed, but non-exclusive, basis. I have spoken with representatives of the Community Wireless Network movement, and they are thrilled with this decision and the positive impact it will have on their efforts to deploy broadband networks in underserved communities around the country.

We have also made spectrum available in the 70/80/90 GHz band for enterprise use. This spectrum block can be used to connect buildings with gigabit-speed wireless point-to-point links for a mile or more. Instead of digging up streets to bring fiber to buildings, licensees can set up a wireless link for a fraction of the cost -- and the spectrum is available to anyone holding a

license. While others supported an auction, I successfully argued against them in this unique case, because I was concerned that auctions would raise the price of access and shut out smaller licensees.

We are now even looking to allow unlicensed operations in unused television spectrum bands – the so-called “white spaces.” It is a challenging proposal, but one that could allow for unlicensed use of spectrum that has exceptional propagation qualities. We have an obligation to look at the interference implications of such a proposal, and it will be a major proceeding at the Commission this upcoming year.

Media Ownership, Localism, and Implementing a Successful DTV Transition

The Commission is now engaged in a top-to-bottom review of all of our media ownership and localism rules. We have held hearings across the nation, both as a full Commission and as individual members, to assess how the public views the “public interest.” I can report that concern remains high among many of our citizens about the negative impact of consolidation on competition, localism and diversity. As we conduct the Congressionally-mandated review of our rules, we need to keep Congress’ public interest mandate foremost in our mind. Any changes we contemplate must address the dismal state of women and minority ownership. Also, all studies that the FCC has commissioned must undergo peer review by other objective, unassociated academics and be subject to public comment.

The charge to promote the public interest also deserves fuller consideration as we promote the digital TV transition. The Commission has had before it an open Notice of Inquiry on the public interest obligations of broadcasters in the digital age since 1999, yet it has not taken the critical step of issuing a Notice of Proposed Rulemaking which would afford an opportunity

to actually consider specific public interest obligations. It is high time we consider what additional obligations should accompany the additional opportunities afforded to broadcasters through digital broadcasting.

With eighteen months before the end of analog broadcasting, I believe there is a critical need for greater national attention on the impending DTV transition. While we have made some progress, more focused leadership is needed. Currently, the DTV preparedness effort lacks a clear national message and a coordinated set of industry activities. To begin to address the general lack of public awareness, the Commission needs to develop a unified, coherent message among federal, state, local, and tribal governmental entities, and to coordinate the message and its delivery with the efforts of the broadcast, cable, satellite, and consumer electronics industries.

Failure to administer a comprehensive and well-coordinated national DTV transition plan will almost certainly result in a tsunami of consumer complaints to Congress, the FCC and the affected industries from disenfranchised viewers across the country. To better manage this potential national disruption, I have recommended establishing a clear chain of command by creating a Federal DTV Transition Task Force. While the NTIA is principally charged with administering the converter box program, the FCC's technical and consumer outreach expertise makes us especially well-suited to spearhead a national consumer education initiative. In a taskforce, the two agencies could work collaboratively and dedicate staff resources to develop a unified federal message about the DTV transition, and to inform consumers about options they have to continue receiving broadcast programming after February 17, 2009.

Conclusion

Congress has charged the Commission with ensuring that the American public stay well-connected and well-protected, directing us in the very first section of the Communications Act

with making available to “all the people of the United States” rapid, efficient Nation-wide communications services. I take this charge seriously in doing all that I can to implement the laws you have enacted.

Thank you for your leadership and for the opportunity to testify before you today.