

Written Statement of

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Committee on Energy and Commerce
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Summary of Written Testimony of Commissioner Deborah Taylor Tate

The communications marketplace continues to evolve, with new ideas and technologies developing at an incredible pace- challenging us to adapt our regulations to these market changes.

Today, I would like to focus on three major areas. First, is the important work the Commission has been doing on behalf of children, families and consumers- including the areas of media and childhood obesity, as well as educational programming for children and the effects of violent programming. Other areas include our outreach initiatives to solicit public input on broadcast ownership and localism; and our efforts to ensure that the public is fully educated about the DTV transition, to improve access to communications services for persons with disabilities, and to strengthen our privacy rules to prevent pre-texting.

Second, I want to discuss the Commission's efforts at increasing broadband deployment. The Commission launched two initiatives that will allow the Commission to gain an even better picture of broadband deployment in this country- and is also looking at how to structure the upcoming 700 MHz auction to further deployment of wireless broadband services. The Commission also started a review of broadband industry practices.

Lastly, I would like to touch on perhaps the most important issue of public safety and homeland security. The upcoming 700 MHz auction could enhance 911 access and location system performance. The Commission also implemented various recommendations of the Commission's Independent Panel reviewing the impact of Hurricane Katrina on communications networks.

Written Statement of Commissioner Deborah Taylor Tate

Good morning Chairman Markey, Ranking Member Upton, and distinguished members of this Subcommittee. I appreciate the opportunity to appear before you today. As I have stated in public and in private to many members of this Subcommittee, I firmly believe that it is important for us to maintain a dialogue about various issues currently or soon to be before us at the Federal Communications Commission.

At the outset, I want to commend Chairman Dingell, Subcommittee Chairman Markey, Ranking Member Barton, and Ranking Subcommittee Member Upton for their continued leadership in striving to meet the challenge of shaping our communications policy to keep up with an ever-changing world in the best interests of the American public.

Although it has only been a few months since the last hearing, the communications marketplace continues to evolve, with new ideas and technologies developing at an incredible pace. This constantly challenges us to adapt our regulations to these market changes. As I have stated before, in doing so, whenever possible, my goal is to promote balanced, technology-agnostic regulation, which provide incentives to investment and encourage innovation.

Today, I would like to focus on three major areas. First, I will focus on the work the Commission is doing on behalf of children, families, and consumers. Second, I want to discuss the Commission's efforts at increasing broadband deployment. Lastly, and most importantly, I want to address the issue of public safety and homeland security.

I have dedicated much of my professional life to addressing issues important to children and families, and I proudly continue that effort at the Commission through, among other things, my work on the Task Force on Media and Childhood Obesity. In addition, the Commission recently initiated a review of the status of children's television programming, and compliance with the Children's Television Act (CTA) to ensure that broadcasters are airing programming serving the educational and informational needs of children. The Commission also entered into a \$24 Million Consent Decree with one broadcaster concerning its violation of the children's programming requirements requiring the implementation of a new, company-wide compliance plan. CTA requires the Commission to ensure that television broadcast station licensees provide programming specifically designed to serve the educational and informational needs of children and to limit the amount of advertising to which our children will be exposed during this programming. I take this congressional charge very seriously, especially given the prominent role that television plays in our children's lives. These actions underscore my – and, indeed, the entire Commission's – commitment to families all across America, who demand and deserve quality children's programming.

The Commission also recently submitted a report to Congress regarding the negative effects of violent programming on children. Like many of the parents, experts and health professionals we heard from, I am deeply concerned about the negative effects violent programming appears to have on our children. These are important issues, and I look forward to working with Congress and industry to tackle this problem.

A continuing challenge in this new digital age involves our review of the Commission's media ownership rules. We continue our important outreach initiatives all

across the country to solicit public input on ownership and localism. We have held four of our planned six ownership field hearings in various locations across the country, in Los Angeles, California; my hometown of Nashville, Tennessee; Harrisburg, Pennsylvania; and Tampa, Florida. We have scheduled the fifth hearing for Chicago, Illinois on September 20, 2007.

We have also conducted five of the scheduled six field hearings on the subject of localism. Hearings were conducted in Charlotte, North Carolina; San Antonio, Texas; Rapid City, South Dakota; Monterey, California; and most recently, last month in Portland, Maine.

I have been struck by the thoughtful testimony that we have received at these proceedings from members of the public, as well as representatives of industry, educators, public interest organizations and others, concerning the impact of our ownership rules on the important service that radio and television stations provide to their communities. I recognize the vital role that the broadcast media play in our democratic society and look forward to working with my Commission colleagues and members of this Subcommittee to ensure that, after full consideration of the sizable record that we have compiled, our actions further the touchstone goals of competition, localism, and diversity.

Another issue important to consumers relates to the ever-approaching deadline of February 17, 2009, by which all television licensees must relinquish their analog authorizations and convert to digital operation. We continue to work with licensees and broadcast industry groups such as the National Association of Broadcasters to make this transition as smooth as possible by finalizing digital channel assignments, and disposing of the various requests by licensees associated with the construction of each station's

digital facilities. We have also worked with the National Telecommunications and Information Administration and with industry leaders to ensure that members of the public are fully and timely educated about the DTV transition and the converter box coupon program that NTIA is administering. In May of this year, our new rules went into effect requiring all retailers of televisions that do not contain a digital tuner to display a consumer alert at the point of sale disclosing that such sets will require a converter box to receive over-the-air broadcast television signals after the February 2009 transition. Our Enforcement Bureau has vigorously enforced this requirement, issuing hundreds of citations where retailers were not complying with this requirement. We will continue to proceed with these and other efforts to ensure that all members of the public are fully educated about the DTV transition.

The Commission also continues to improve access to communications services for persons with disabilities by requiring interoperability among competing video relay service providers and approving innovative new services. Most recently, on June 15, 2007, the Commission extended the disability access requirements to providers of interconnected Voice over Internet Protocol (VoIP) services and to manufacturers of specially designed equipment used to provide these services. The Commission also extended the Telecommunications Relay Services (TRS) requirements to providers of interconnected VoIP services, including requiring interconnected VoIP providers to offer 711 abbreviated dialing for access to relay services. Of course, more work lies ahead to ensure that we responsibly manage our obligations to achieve functional equivalence for all Americans. Congress intended for *all* Americans to benefit from those advances in telecommunications services and equipment, and our action does just that, both by

stabilizing the funding base for TRS services and by extending accessibility requirements to the interconnected VoIP services which millions of Americans are now substituting for traditional voice service.

Along with Congress, the Commission has been active in helping protect the privacy of confidential and delicate consumer information. We took the important step of strengthening our privacy rules to prevent the abhorrent practice of pre-texting to obtain consumer's private phone records to ensure the privacy of consumer information maintained by telecommunications carriers. I am pleased that the rules we adopted will go a long way toward closing off the avenues that information snatchers have repeatedly used to violate the privacy of consumer phone records.

Coming to the Commission, as I do, from Nashville, Tennessee, home to more than 80 record labels, 180 recording studios, and some 5,000 working union musicians, I have been particularly concerned by allegations that payola, or "pay-for-play," practices are prevalent in the commercial radio industry. The Commission entered into consent decrees with four broadcasters to pay an aggregate \$12.5 million to resolve these types of violations. We have ongoing payola investigations involving other broadcasters, and will endeavor to ensure that, should we conclude that violations have occurred, any action we take will similarly be designed to further eliminate these illegal industry practices.

In addition to these important issues, I have been busy working with my Commission colleagues and members of this Subcommittee to encourage the further deployment of new and innovative services and to foster competition. Participation in the digital age requires broadband, and it is essential that we create an environment that maximizes its deployment.

I am not alone in this opinion. Every member of this Commission has voiced the need for ubiquitous, affordable broadband; and Members of Congress have clearly indicated their belief that the Commission must do more to get broadband services deployed to all Americans.

The availability of ubiquitous, reliable, high-speed broadband access already is changing the way Americans work and live, but we must act to ensure that the unprecedented business, educational, and healthcare opportunities that broadband makes possible are available to all Americans, regardless of where they chose to live.

The Commission has recently taken some very important steps. The Commission launched the broadband data NPRM that will allow the Commission to gain an even better picture of broadband deployment in this country. We are asking questions about how we can obtain more specific information about broadband deployment and consumer acceptance in specific geographic areas and how we can combine our data with that collected at the state level or by other public sources. By improving our data collection, we will be able to identify more precisely those areas of the country where additional broadband deployment is needed.

In addition, the Commission also commenced our fifth inquiry into whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. In this inquiry, we seek information on all aspects of broadband availability, including price and bandwidth speeds. In particular, we are studying whether, given the evolution of technology and the marketplace, we should redefine the term “advanced services” to require higher minimum speeds.

Between these two proceedings, it is my hope that the Commission will solicit the information necessary to better assess the competitive progress in the broadband market and provide additional important progress towards our goal of universal affordable broadband access for all Americans.

In addition, the Commission is considering how to structure the upcoming 700 MHz auction to best enable the further deployment of wireless broadband services and mobile video, especially to rural communities. The inherent propagation characteristics of the 700 MHz band could make it less expensive to construct new networks covering larger geographic areas, making the spectrum ideal for expanding the availability of broadband in rural areas. At the same time, the band potentially provides better in-building coverage than higher frequencies, which not only would facilitate the provision of advanced services in urban areas but also could help improve 911 access and location system performance. The sooner the auction begins, the closer we will be to reaping the benefits of services provided via this prime spectrum. I look forward to working with my colleagues to move this forward expeditiously.

Meeting the goal of providing broadband throughout this vast and geographically challenging country will not be easy. It cannot and should not be up to government alone. But with American ingenuity, corporate commitment, the promise of new jobs to economically depressed areas, and reduced healthcare costs, we all can be part of the solution.

On April 16, 2007, the Commission released a Notice of Inquiry of broadband industry practices. The proceeding is designed to enhance our understanding of the behavior of broadband market participants- including network platform providers,

broadband Internet access service providers, Internet backbone providers, and content and application providers. Noting the Internet Policy Statement, we sought specific information about the behavior of market participants. Thus, we inquired as to nature of the market for broadband services, whether network platform providers and others favor or disfavor particular content, how consumers are affected by such policies and whether consumer choice of broadband providers is sufficient to ensure that all such policies ultimately benefit consumers. We also sought specific examples of beneficial or harmful behavior and inquired whether any regulatory intervention is necessary. The record in that proceeding closed on July 16, 2007.

Finally, I would like to touch on what is perhaps the Commission's most important area of authority, the crucial issue of public safety and homeland security. As mentioned earlier, the Commission is considering how to structure the upcoming 700 MHz auction. Not only is this spectrum important to potentially further deployment of wireless broadband services, the band potentially provides better in-building coverage than higher frequencies, which could help improve 911 access and location system performance.

The Commission's Public Safety and Homeland Security Bureau has also been active and has hosted a First Responders Summit focusing on public safety communications. The summit included expert panels composed of representatives from the public safety community, government, and the communications industry and a roundtable discussion on key issues related to emergency preparedness and response.

In addition, on May 31, 2007, the Commission implemented various recommendations of the Commission's Independent Panel Reviewing the Impact of

Hurricane Katrina on Communications Networks. The Commission intends for the programs and policies stemming from the Panel's work to improve emergency response capabilities and assist first responders, the communications industry and all levels of government to communicate effectively with one another during emergencies. The order mandates certain proactive steps for telephone service providers and commercial mobile service radio providers to ensure preparedness for future emergencies. The requirements include installation of emergency power generators and for service providers to establish basic interoperability methods. The Commission also directed its Public Safety and Homeland Security Bureau to develop and implement an awareness program to educate public safety agencies about alternative communications technologies, establish a method to ascertain communication systems status during an emergency, and to ensure that first responders have the proper credentials to accomplish their jobs during an emergency.

This is a significant step towards ensuring that the Commission and the industries that it regulates are better prepared to respond in the face of natural disasters and other types of incidents, such as a pandemic, industrial accident, environmental incident, or terrorist attack.

I applaud the collaborative efforts and contributions of the communications industry and public safety entities such as the National Emergency Number Association and the Association of Public Safety Communications Officials, which have worked hard to address the policy goals and technical issues that make these necessary improvements possible. My colleagues and I are keenly aware of how critical reliable communications technologies are when public safety or homeland security concerns become paramount. I am confident that the Commission will continue to do all that it can

to strengthen and protect our Nation's communications infrastructure, and I am eager to work with Congress as we continue to address policies that will help improve our public safety and homeland security.

Again, I appreciate your invitation to be here with you today. I look forward to hearing from you, and I will be pleased to answer any questions.