

Written Statement

Of

**The Honorable Kevin J. Martin
Chairman
Federal Communications Commission**

**Before the
Committee on Small Business
U.S. House of Representatives**

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Good morning Chairwoman Velazquez, Ranking Member Chabot, and Members of the Committee. Thank you for inviting me to be here with you this morning. I have a brief opening statement and then look forward to answering any questions you may have.

I have had the privilege of serving at the Federal Communications Commission for over six years, including two years as the agency's Chairman. During this period, my colleagues and I have overseen a telecommunications industry undergoing rapid and unprecedented change. These changes have seen the telecommunications industry transition from a period of sharp decline to a time of significant growth. Ushered in by the broadband revolution, companies and consumers alike are finally finding the promised land of convergence. Telephone calls are now being made over the Internet and cable systems. Cell phones are now mini-computers. They send e-mail, take pictures, surf the web, play songs and videos, and hopefully soon will send and receive emergency messages in times of disaster. Business men and women are no longer tied to their desks from 9 to 5. They use handheld devices to access messages, files, and key information on the go. They can reach co-workers and clients from any location. Their customers are no longer just local, but global. These technological advances, converging business models, and the digitalization of services are creating unparalleled opportunities and considerable challenges for both small businesses and the Commission.

Almost all of this innovation is enabled by broadband deployment. Broadband technology is a key driver of economic growth.

The ability to share increasing amounts of information, at greater and greater speeds, increases productivity, facilitates interstate commerce, and helps drive innovation.

Perhaps the most important factor spurring both increased broadband availability and reduced prices for individual consumers and for businesses is competition among broadband platforms. The upcoming 700 MHz auction presents the single most important opportunity for us to increase competition by adding a third broadband platform to a market place currently served predominantly by two broadband services - - cable and DSL.

700 MHz Auction

The Commission recently adopted rules that will allow the auction of more than 60 megahertz of spectrum in the 700 MHz band early next year. This is part of the spectrum that broadcasters have used for analog television channels and that will be returned as a part of the upcoming DTV transition. This spectrum is well-suited for the provision of wireless broadband and represents a critical opportunity to continue deploying broadband services, especially to rural communities. The rules the Commission has adopted for this spectrum include several important provisions that will benefit small businesses, including:

- Promoting improved access to wireless broadband;
- Facilitating the ability of small businesses to compete in the provision of wireless devices and software; and

- Providing meaningful opportunities for small businesses to gain access to the spectrum.

Significantly, because this spectrum is well-suited for the provision of wireless broadband, the auction represents a critical opportunity to continue deploying wireless broadband services, especially to rural communities. The Commission has tried to ensure, these areas have the same access to broadband enjoyed elsewhere in the country. We adopted the strictest build-out rules ever implemented for wireless services. For example, at the urging of smaller service providers, the rules require licensees in some blocks to serve at least 70 percent of the geographic area covered by their licenses (35 percent within 4 years). And in the largest block, licensees must serve 75 percent of the population covered by their licenses (40 percent within 4 years). Companies that do not meet their initial four-year benchmark will have their license terms reduced from 10 years to 8 years. Companies that fail to meet their final benchmark will lose the unserved portions of their license areas, which will be made available to other potential users.

This combination of geographic and population-based benchmarks will help ensure that even the most rural communities have broadband access. As a result, wireless broadband connections will be available to businesses of all sizes and in nearly every location, not just corporate headquarters in major metropolitan areas. Entrepreneurs and “mom-and-pop” shops located in small towns and rural areas will be able to communicate rapidly and efficiently with suppliers, investors, and customers located around the world. And they will be able to make those connections wherever they are – at home, at work, or on the road.

Second, the auction rules will strengthen the ability of small businesses to compete in the provision of wireless devices and software. The license winners for about one-third of the spectrum will be required to provide a platform that is more open to devices and applications. The companies that operate on this spectrum will not be allowed to prevent consumers from using the wireless device or software of their choice on the licensees' networks. It is our goal that this open platform requirement will allow smaller businesses – namely, nascent wireless device manufacturers and smaller application software developers – to put their products directly into the hands of consumers without having to seek prior permission from the wireless providers, as they do today. I had the opportunity to hear from some of these technology entrepreneurs about their struggles to bring new products to market during a trip to Silicon Valley. By providing for this open platform, the Commission removed some of the barriers imposed by the wireless carriers to foster greater opportunity and innovation for entrepreneurs and their customers alike.

This open platform requirement is designed to foster innovation on the edge of the network. When the same requirement was applied decades ago to the wireline network, we saw an explosion of innovation and choice. AT&T subscribers went from renting expensive black rotary phones to purchasing inexpensive cordless phones with voice mail and caller ID. Investment in the market increased, new phones and calling features were developed, and consumers benefited.

Many of these innovations were driven by entrepreneurs, who for the first time were able to make their latest innovations available directly to consumers and compete in the equipment market to which they had previously been denied access. Ultimately, these rules facilitated the development of the Internet, as consumers were able to attach modems to the network and go anywhere the Internet could take them without interference from the network owners. I expect this model to provide similar benefits for wireless entrepreneurs by allowing them to introduce an array of niche applications and devices for the open wireless platform, including those tailored to meet the unique needs of small businesses and individual consumers.

Finally, the rules adopted by the Commission provide meaningful opportunities for small businesses to gain access to the spectrum itself in the upcoming auction. The band plan makes nearly half of the spectrum available over smaller and medium-sized geographic areas [Cellular Market Areas (CMAs) and Economic Areas (EAs)], about one-third of the spectrum available over larger regional areas [Regional Economic Area Groupings (REAGs)], and about one sixth of the spectrum available on a nationwide basis that will be used exclusively as part of a public/partnership with a national public safety licensee. This distribution is very similar to the geographic distribution in the AWS-1 Auction from 2006. With these changes, the total amount of spectrum in the 700 MHz band assigned to the smallest geographic area will be more than one-third of the spectrum available.

Licensing over smaller geographic areas benefits small businesses by reducing the cost of acquiring a license. The cost of acquiring spectrum licenses with small geographic service areas is, on average, significantly lower than the cost of acquiring licenses with larger geographic areas. The availability of licenses divided into CMAs and EAs enables smaller wireless providers to fulfill business plans focused on serving smaller, discrete areas of the country, including remote and rural areas. The availability of smaller licenses at auction also allows smaller providers to avoid transaction costs associated with obtaining portions of larger spectrum licenses in the secondary market through partitioning, disaggregation, or leasing.

To further promote the participation of small businesses in the upcoming 700 MHz auction, the Commission has provided for bidding credits for eligible small businesses, also known as designated entities. The Commission applied these same bidding credits in last year's AWS-1 auction, in which a significant number of licenses were won by designated entities. Fifty-five percent of the winning bidders in the AWS-1 auction were designated entities (57 of 104), and those designated entities won 20 percent of all the licenses sold (215 of 1087). In all, designated entity bidders won licenses valued at over half a billion dollars. Bidding credits made a significant difference, with designated entity bidders winning over half (120 of 215) of their licenses by outbidding a non-designated entity that placed the second highest bid without a bidding credit.

Additional Opportunities

In addition to its efforts to promote opportunities for small businesses through the upcoming 700 MHz auction, the Commission has undertaken a number of other initiatives to encourage small businesses to enter and compete in the telecommunications, and media industries.

In the area of spectrum access, the Commission recently allocated 50 megahertz of spectrum in the 3650 MHz band for wireless broadband services. This spectrum will be available on a nationwide, non-exclusive basis and will be shared by multiple providers. This approach will allow an unlimited number of small operators to enter the wireless broadband market quickly, easily, and with minimal cost, and is especially well suited for use by small businesses. The Commission has also made available 255 MHz of unlicensed spectrum in the 5 GHz band, an 80 percent increase in the spectrum available in this region of spectrum, which will allow small companies to develop cutting-edge wireless networking gadgets and bring their products to market with minimal regulatory delay.

On the wireline side, the Commission has taken steps to minimize filing requirements and develop streamlined processes for smaller telephone companies. Telephone companies whose operating revenues are below \$129 million do not file Automated Reporting Management Information System reports, do not submit cost allocation manuals for review, and may account for their operations using a streamlined version of the Commission's Part 32 accounting rules.

In addition, small local telephone companies can take advantage of the Commission's streamlined tariff process. For small carriers seeking to transfer control of their domestic assets or operating authority, the Commission's streamlined section 214 rules ease the burden associated with obtaining FCC authorization for these transfers.

In order to enhance the participation of small businesses, women, and minorities in the television industry, I have proposed allowing these entities to lease spectrum from existing broadcasters to distribute their own programming. Each broadcaster has 6 MHz of digital spectrum. Thanks to digital technology, broadcasters are able to fit more than one channel of programming into that 6 MHz block. Broadcasters who continue to broadcast only one channel of programming (like they have done in the analog world) therefore have additional spectrum left over that can be used to air other channels of programming. The Commission is currently considering a Notice of Proposed Rulemaking that would allow small and independently-owned entities to lease the extra capacity of digital television station licensees in order to operate their own broadcast channel. This new programming station would then obtain all the accompanying rights and obligations of other broadcast stations, such as public interest obligations and carriage rights. An example of this type of arrangement is the deal reached by Latino Alternative TV (LATV) and Post-Newsweek that provides for carriage of LATV programming on the multicast channels of Post-Newsweek stations in Miami, Orlando, Houston, and San Antonio.

In this same rulemaking, the Commission is also seeking comment on several other proposals to allow “qualified designated entities” to more easily get into broadcasting by allowing them to purchase expired construction permits and be allotted additional time to construct broadcast facilities.

In looking at the MVPD market, I believe there are some steps we can take to make it easier for independent programmers and niche networks to get carriage on cable and satellite systems. Recently, the Commission asked whether we should limit the ability of large media companies to tie or bundle their programming. Eliminating tying and giving consumers more choice would be an important step toward leveling the playing field between independent programming voices – those not affiliated with the large broadcast, cable and satellite distributors – and competing channels that are owned by cable and satellite. Under the current system, many cable and satellite-owned networks are bundled into the offerings not necessarily because viewers are demanding them, but because the distributor has a financial interest in maximizing their distribution. Under a system in which viewers do the choosing, those channels that do not benefit from a corporate parent will be able to attract viewers on a more equal footing.

The Commission has taken some important steps to provide more opportunity for small businesses in radio with the advent of the Low Power FM service. Low Power FM provides a lower-cost opportunity for more new voices to get into the local radio market. The Commission currently is considering an Order that would ensure that LPFM stations have reasonable access to limited radio spectrum.

In addition, the Commission will open a filing window this month for the submission of applications to establish new noncommercial educational (NCE) radio stations. The procedures established by the Commission to select among competing NCE applicants awards points to new entrants that do not have attributable interests in other media properties.

Through its Office of Communications Business Opportunities, the Commission also provides a range of outreach services to assist small businesses and new entrants. Senior Commission staff also attends various seminars and conferences to listen to and address the needs of small businesses.

Conclusion

Thank you for your time and your attention today. I appreciate the opportunity to share with you the FCC's efforts to support the growth of small businesses and to foster their participation in FCC auctions and in the telecommunications and media industries generally. With that, I would be happy to answer any questions you may have.