

**Remarks of Commissioner Deborah Taylor Tate
At the University of Tennessee School of Law
October 13, 2008**

Thank you for the opportunity to speak with you today. It is a special honor to return to my alma mater and rekindle old friendships from law school and to speak with law students not only about substantive issues of national and even international importance, but also about professional career opportunities.

I have been asked to provide a brief overview of the Federal Communications Commission and then spend a few moments discussing some specific issues since my arrival at the Commission almost three (3) years ago.

Let me start by saying that your law degree will provide opportunities you have not even dreamed of at this point in your career. Who would have ever thought that being on the SGA here and being assigned to escort a young attorney named Lamar Alexander around the law school would lead to working on two Governor's staffs, a Presidential campaign and now two Presidential appointments to the FCC? There were also opportunities that I did not take as well so I don't know where those may have led. But I am firmly convinced that being open to a wide range of opportunities and options has enriched my life, allowed me to share a 30-year marriage with my life partner and sometimes law partner, Bill Tate, and raise three happy, healthy,

successful children. So my words of wisdom to you tonight – no matter what your age – are to find a balance in life. No one ever dies saying they wish they had worked another day; enjoy and invest in your family and friends just as you do in your career; and be open to opportunities, embrace change and always, always continue your education.

I. Background on the FCC

The FCC is an independent Federal agency, created by Congress in 1934, with responsibility for regulating interstate and international communications, whether by radio, television, cable, wireline, wireless or satellite. There are five commissioners appointed by the President of the United States and confirmed by the Senate. The agency has seven bureaus that cover the major technologies and industry sectors from wireline and wireless services, to media, to international issues such as the operations of satellites, to public safety communications for our nation's first responders. We also have teams of experts who provide strategic support in areas such as technology analysis. Many of you may think of the FCC only when you think of Janet Jackson and wardrobe malfunctions – an issue that is soon to be heard by the U.S. Supreme Court – or Howard Stern and the Sirius/XM merger – a key transaction in which I was the deciding vote. The fact is we oversee a much broader swath of the economy than most people realize, services that touch your lives every day.

II. Philosophy of Regulation

Before we discuss the many issues before the FCC, I'd like to describe my personal philosophy of regulation. My philosophy is essentially pro-market. This requires, first and foremost, regulatory humility – something I have tried to practice, both as a state regulator and now a federal one. And this means recognizing that Washington, DC does not have all the answers. Thus, I look to and especially encourage the industry to put forward market-based solutions whenever possible. I recognize that most of the consumer benefits we see in the communications markets are directly related to the significant levels of competition those markets enjoy, and to our deregulatory policies that have encouraged investment and thus fostered that competition. I also recognize the role of government intervention when appropriate, such as the provision of E911 service.

III. DTV Transition

Regarding the key issues currently before the FCC, nothing gets more attention these days than the DTV transition and in fact, that is why I am in Knoxville today. This transition from analog to digital broadcast TV is going to occur on a single day, February 17, 2009. While most of you all probably subscribe to cable or satellite TV and should not experience any problems, I hope you will help us get the message across to your parents and grandparents who may have an old analog television or

bunny ears antenna. They will need to act. You can buy a digital TV, subscribe to cable or satellite, or purchase a converter box. The government is offering every household two \$40 coupons that can be used toward the purchase of these boxes – information is available at www.dtv2009.gov.

IV. Auctions

The DTV transition actually is part of a much larger national public policy issue, and that is the efficient use of our spectrum. Spectrum is a national, natural resource like land and waterways, only you can't see it. Spectrum is made up of different radio waves in particular blocks, or frequencies. Because it is a limited resource, we often license the spectrum through auctions, making it available to industries to build devices which will operate at specific frequencies. Our auctions team is known across the world for taking complicated theories by Nobel-prize-winning economists and converting these ideas into a process that efficiently assigns a large number of spectrum licenses to those who can best use them.

The DTV transition will move TV channels off certain frequencies and, in so doing, will make available over 100 megahertz of spectrum for consumer wireless products, as well as public safety providers. This spring, the FCC completed an auction of a portion of the spectrum to be reclaimed by the DTV transition and raised

more money for the U.S. Treasury than any auction in the Commission's history, about \$19 billion.

V. Broadband

Speaking of TV, most of you probably watch a great deal of popular television on the Internet or even hand-held mobile devices. Which brings me to another top priority for the FCC – the deployment of broadband to all Americans, regardless of their race, gender, income, or zip code. And, in order to provide the revenue for companies to continue to deploy and build out broadband, we have enabled other providers such as telephone and telecommunications companies to get into the video /TV business. We apply this goal of promoting broadband to all services we oversee, whether considering rules for phone service, cable service, terrestrial wireless service, or satellite service.

While the U.S. leads the world in broadband connections – over 100 million as of the beginning of this year – there is still much to do. Why is the availability of broadband so important? Further broadband deployment will have significant economic effects. A recent study by Connected Nation estimated that increased availability of broadband across the U.S. would have a positive economic impact of \$134 billion.

Just as important as the economic effects, increased broadband deployment will likely have significant effects on every industry sector from e-health to remote/distance learning to even how families and friends communicate. For example, with better connectivity, citizens can participate in local civic affairs or even get involved in politics at the national level, as many are doing these days. Switzerland had a recent pilot to allow citizens to vote online. In the U.S., in just one presidential cycle, Internet advertising has gone from essentially zero to estimates that it will exceed \$100 million in 2008. For healthcare, broadband enables teledentistry, telepsychiatry and even telesurgery. Telecommuting for doctors makes the physical distance between provider and patient immaterial, which is why broadband is critical in rural areas. Here in my home state of Tennessee, I am very involved with issues such as telemedicine and electronic medical records. When I first arrived at the Commission, I had the opportunity to see first hand how broadband communications in Alaska – 30 miles above the Arctic Circle – empower those who are most physically isolated.

VI. Internet Safety

Most of my professional career has been spent working on issues to improve the lives of children and families, from working for two Tennessee Governors, to heading up the state healthcare commission as well as Director of The State and

Local Policy Institute at Vanderbilt, to my role now at the FCC. I have been a voice for parents and children at the FCC, both in Washington and across this country. Given the pervasiveness of media in our lives and the fact that 10 million children are obese or at risk of becoming obese, I have been working with media companies to encourage real solutions. Whether we are talking about a toddler or a teen, in kindergarten or in college, to reach your potential, you need access to age-appropriate educational information in an environment that protects your personal information, physical safety and healthy mental development.

Like many parents, I never really thought past the benefits the Internet offers – from my kids doing research for homework, to distance learning opportunities, to creating and producing your own content online. However, we must also realize that this technological explosion of access also presents challenges and very real dangers.

But before we talk about the very real benefits – as well as a few of the risks – of online access, I'd like to take a little survey. [DISTRIBUTE SURVEY HERE]

When I spoke at Auburn University two weeks ago, almost everyone was online every day, and almost everyone was on Facebook, while other sites were popular, too. A somewhat smaller percentage of students used Facebook to stay in

touch with their parents. Even with advances in technology, we parents still have trouble getting our kids to write!

For your generation, the I-Generation, the Internet is a ubiquitous aspect of daily life. Consider this: While 57% of adults have watched online videos, 93% of college students have. 57% of adults have shared video links with others; 83% of college students have.

With the explosion of new educational materials available online, one might think the Internet was entirely a force for good in the lives of young people. But this is not always the case. I was at a conference recently where one researcher said that the number one reason for college drop-outs today is the online game World of Warcraft. A family friend had to leave college due to a gaming compulsion – now a diagnosable addiction. Online gaming, typically through a University's local access network, has become a popular way to make friends around campus, and is a very real part of the college experience, but not always a good one.

I want to urge all students here today to please think carefully about the information you post online. It may seem harmless today, but will it still be harmless five years from now? Ask yourself: is this something I'd want a potential employer

to see? Many HR departments are searching Facebook and MySpace profiles of potential new hires. The same is true for college admissions offices – 10% of admissions offices check social networking sites, and 38% say that they have seen information that negatively impacted their view of the applicant.

The other important area where I would urge students to exercise caution is email. What used to be mail and phone scams have now moved to email. If the subject line says “You won!,” trust me, you didn’t. Internet criminals are going after new technologies to prey on unsuspecting citizens. Don’t ever give anyone your identifying information over email.

VII. Piracy

In addition to protecting children and families online, I also have been very concerned about piracy. We all know that Nashville, TN is Music City, and we all should know that Music City, Hollywood, and every other home to our nation’s most creative talent is at risk of the devastation caused by piracy.

The numbers are simply staggering. Pirated CD sales outnumbered legitimate sales in 30 worldwide markets. As for illegally downloaded songs, two-thirds of the 20 billion illegal downloads worldwide each year are of U.S. recorded music. That’s

billions of thefts from U.S. artists, songwriters, publicists, and secondary markets that are being “robbed.” The U.S. Chamber of Commerce estimates that counterfeiting and piracy cost the U.S. economy up to \$250 billion per year. These losses affect the auto industry, software, fashion, and of course, music and movies. Moreover, I want to stress that counterfeiting and piracy are illegal. If you are downloading illegally you may face severe fines. Fortunately, entrepreneurs are developing creative market responses to compensate our artists and provide the services consumers want, such as i-Tunes and the latest development, music tagging.

VIII. International Issues

I am often asked what was most surprising or different from serving on the state regulatory commission. And, I can honestly say that I had no idea how much the FCC’s work both impacts and involves our international colleagues and international issues. Whether the discussion is with the 15 Ministers of the West Africa Telecommunications Regulatory Association, CITELE in Latin America, the European Regulatory Group, or the International Telecommunications Union, a creature of the UN located in Geneva, I have been a consistent advocate of increasing dialogue across nations to advance our common goals. Wires and radio waves really are not political, yet they enhance the lives of the world’s citizens – from deepest

Africa to the Amazon jungle to our own Alaska. We share the goal of universal broadband for all our citizens.

I have also been pleased to learn that Internet safety isn't just a concern for American families; it's becoming an international concern as well. In just a few weeks, I am honored to have been invited by the Secretary General Hamadoun Touré of the ITU to speak before the Council in Geneva regarding online safety as part a major global cyber-security initiative. In addition, most of our nations are rewriting our telecommunications laws – or in some cases of developing countries – writing them for the first time. We are encouraging countries to open trade relations and relax ownership rules so that our U.S. companies can compete worldwide. We are negotiating interference issues, spectrum policy and now increasingly Internet protocols as more services move to IP-based technologies. In addition, I can never resist mentioning the millions of illegal downloads of our best storytellers and songwriters and musicians and motion picture productions that are being pirated in their countries and to ask for their help in cracking down on piracy and enforcing the law. Most of all, I find that we share the desire to harness technology and the human entrepreneurship to enable all our citizens to reap the benefits of this dynamic, digital age.

IX. Upcoming Issues

Over the next 60 days the FCC will consider some of the most important and complex policy issues it has seen in years. Let me list a few of the most prominent of these.

- Universal Service

The Commission is seriously considering how to revise its rules for promoting universal service, so as to efficiently direct support to those areas of our nation that most need it.

- Intercarrier Compensation

This refers to the rates telephone companies pay one another to carry each other's traffic. The rules are complex, but the amount of money at stake is tremendous.

- Interoperable Public Safety Communications

While I've already mentioned the auction of the 700 MHz spectrum affiliated with the DTV transition, the FCC still must address one block of spectrum that we wish to use to promote interoperable broadband communications for public safety. In short, we need our police and fire and rescue personnel to be able to communicate with each other, and with their peers in other jurisdictions.

- White Spaces

This refers to spectrum between the TV broadcast channels that is in some sense unused. The broadcasters rely on these white spaces to provide protection from

interference by other broadcasters, and they are worried about lower-power users that would like to employ this spectrum to provide new services. On the other side of the debate, high-tech firms such as Google and Microsoft and Dell want to allow devices that can operate in these white spaces.

X. Conclusion

Let me conclude by saying that in this particularly difficult economic downturn, the ICT sector can play a part in reinvigorating our economy. In fact, ICT can help firms save money, energy, and the environment – a triple play! The industries we oversee at the FCC are remarkable, vibrant industries with some of the greatest, most creative minds in America. They will pave the way to the next great invention or service or device in addition to rebuilding the infrastructure and economic backbone of this country.

At the same time, the regulatory framework we applied only a few years ago may not be appropriate today. As technologies converge, you can watch TV on your phone and make phone calls using the Internet service provided by your cable TV company. The latest phones – such as the Android – can use WiFi networks as well as traditional wireless networks, and allow you to download the applications of your choice. The next network may be WiFi on steroids. We simply cannot view these

new technologies in traditional silos, and we cannot apply the old-world mentality to understanding this exciting new, dynamic, technologically rich world of today.

From issues such as property rights in the use of spectrum to the Supremacy clause; from the 1st Amendment to the APA; to 18 USC 1464 regarding indecent, obscene or profane broadcasting – I use the skills honed here at this law school to navigate and interpret the law, mindful of weighing the record in each matter while balancing the often-times competing public policy goals; and in the end, trying to do my duty to uphold the Constitution and make decisions that are in the public interest.

Thank you again for inviting me to share some of this extraordinary experience of serving on the FCC and serving all of you at this revolutionary time in history.