

**STATEMENT OF COMMISSIONER DEBORAH TAYLOR TATE  
WHARTON SCHOOL OF BUSINESS MEDIA AND ENTERTAINMENT CLUB  
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Good evening. Thank you for inviting me to be here. As the mother of a college student, I always appreciate being invited to universities -- particularly to learn about the new ways you as students are utilizing technology and communications in your everyday lives. According to your website, this group has recently held meetings with some of the very same companies I work with every day -- from NBC Universal, to Time, Inc., and even MTV. I'm thrilled to see that you are engaging a diverse group of broadcasters, cable operators, and programmers to better understand how various segments of the media industry operate. These hands-on experiences are truly priceless, and will serve you well as you enter the job market.

**I. FCC Overview**

By way of background, let me offer a brief overview of the composition of the FCC which includes 5 Commissioners, each appointed by the President and confirmed by the Senate for a term of five years. No more than three of the Commissioners may be of the President's own political party. Thus, today there are three Republicans and two Democrats, but after January 20, the ratio will change, and there will be two Republicans and three Democrats. You will probably see some changes both in the personalities as well as in philosophy, so this is a terrific time to be an observer of the Commission and these sectors -- and also a truly critical time for our overall economy.

## **II. Influence of FCC**

How does the FCC affect you? Most citizens are surprised to learn that the FCC literally touches your lives everyday. From licensing the radio stations you listened to this morning, to regulating the ownership of the television networks you will watch tonight, to allocating the frequencies your garage door remote operates on, to ensuring there is no interference with wireless mics used at sporting events and concerts, to auctioning off spectrum for even more innovative new wireless devices we've all become addicted to. The FCC plays a role in almost every aspect of American's lives.

## **III. International**

I came to the FCC after serving for several years as Chair of the Tennessee Regulatory Authority, a state regulator that also included the energy sector as well. My greatest surprise in terms of the job differences has been the level of international involvement the Commission has. Whether cross-border interference with Mexico and Canada and spectrum licensing issues, or even broader social policy forums, we work closely with our counterparts around the world. Just two weeks ago, I was in Geneva, Switzerland for the High-Level Session of the International Telecommunications Union's Forum on Internet Safety. Hand in hand with our individual national goal to bring affordable broadband to all our citizens, is the desire to protect children in this new digital age. Certainly this is an issue that affects children and families in every corner of the world, and the ITU Council gave government leaders from around the

world the opportunity to share research and best practices, and to launch a "Child Online Protection Initiative" to assist developing countries as they bring their citizens online. Similarly, I attended APEC TEL, the Asian-Pacific Telecom meetings, Ghana for the West Africa Roadmap to Opportunities Conference, and represented the United States at the World Radio Conference, held every 4 years in Geneva. I believe it is critically important to work with our international colleagues in this age of instantaneous worldwide communications as certainly the internet knows no geographical boundaries and we will need to harmonize and cooperate as much as possible in the coming decade.

A few of the FCC issues that you may have seen in the news:

At the Commission, we focus on three broad categories of communications technology --wireline, wireless, and media -- increasingly these sectors are becoming relics of the past given the true convergence of technologies. Cable provides telephony to growing numbers, our mobile phones are banking institutions and how the majority of you communicate and receive entertainment, and telecom is the newest video and broadband provider on the block. Because this is the Media and Entertainment Club, I will take a few minutes to cover some of the media issues that have been in the news over the past year.

## **VI. DTV Transition**

First, and most importantly, is the DTV Transition--- which is certainly at the top of the FCC's agenda right now. The Transition will occur on February 17, 2009.

While most of you probably have a digital TV already or cable or satellite and won't need to do anything, I do hope you will help us educate your-especially older--family members that still own an analog TV-a TV with a rabbit ear antenna. Over 19 million Americans still watch OTA-over the air television and they need to act now. They can (1) buy a digital TV, (2) subscribe to cable or satellite, or (3) purchase a digital converter box. For those wishing to 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](http://www.dtv2009.gov). Please help the FCC prepare for the transition by volunteering to help your friends and neighbors purchase and install their converter boxes. It's important to do this now-so that no one is left in the dark on February 17!

## **V. 700 MHz Auction**

The reason for the DTV transition leads us to another crucial issue that has been in the news: spectrum auctions. After the DTV Transition, broadcasters will abandon their old analog spectrum and, in so doing, will make available over 100 megahertz of spectrum for consumer wireless products, and most importantly public safety providers. This spring, the FCC completed an auction of a portion of the spectrum and raised more money for the U.S. Treasury than any auction in the Commission's history,

about \$19 billion. We are currently in the process of determining how to divest the rest of the spectrum which we hope will be used for interoperable communications between public safety officials in times of crisis-such as natural disaster or terrorist attack.

## **VI. White Spaces**

Another issue the Commission has been grappling with is the use of broadcast "white spaces" for new and innovative wireless devices we may never have even dreamed of. Between the channels broadcasters occupy are "buffer" channels that prevent interference. Some of the leading technology companies-from Google to Dell to Microsoft-- hope to use this spectrum to provide advanced services, such as broadband throughout your home or even across mesh networks that would link everyone in your neighborhood. The FCC has done extensive testing of prototype devices, and last month we adopted an order that will allow unlicensed operations, under certain technical limitations, in the "white spaces" of the TV broadcast spectrum. While I disagreed with how much spectrum we were making available for "free" - arguing for a more measured approach with such a valuable national resource - I share in the excitement regarding the exciting innovative technologies and uses are coming our way.

## **VII. Media Ownership**

In December of 2007, we finalized our review of the rules that proscribe limits on the number of media outlets a single company can own in a given market. The

Commission held a series of nationwide hearings which provided an opportunity for thousands of American citizens to have unprecedented access to a governmental body about the role media plays in their lives and their opinion regarding media ownership. Over my 20-plus years of public service -- at all levels of government -- I cannot remember a single time that an agency expended this much institutional energy and investment on an issue, or was this open and thorough regarding a matter of public interest. We invited comment not only from the general public, but also from expert panels of economists; TV, radio, and film producers; musicians; directors; professors; students; small and large TV and radio broadcasters, and community organizations and literally thousands of American citizens came to testify and filed written comments. After much consideration and deliberation, the Commission retained all of our previous media ownership rules except one-the newspaper-broadcast cross-ownership ban. That ban was in place to prevent a single entity from owning both a newspaper and a broadcast station in the same DMA. We relaxed -- but did not completely lift -- that rule in the top 20 markets. Those are the most media rich markets, with the greatest diversity of voices. For instance, smaller markets will be able to request waivers of the ownership ban on a case by case basis and the Commission will look at criteria such as whether the station may bring the first news or a specific non-English speaking voice and viewpoint to that community. However, with the change in the composition of the Commission, it will probably be much more difficult in the future to receive a waiver.

And, we will probably continue to see the number of major newspapers dwindle as they cannot afford to continue to provide expensive local news reporting without the economies of scale of another news gathering entity.

### **VIII. XM-Sirius Merger**

Another issue that made headlines in recent months was the merger of XM and Sirius Satellite Radio companies. Because these two companies were the only providers of satellite radio service, a condition of their license was that neither company could ever hold both licenses-in other words, they had to remain separate entities to preserve competition. In approaching this analysis, I insisted that the Commission first address the multiple-and I mean hundreds---of blatant violations of FCC rules and regulations committed by the companies over the past five years. The forfeitures (approximately \$20 million dollars) the FCC imposed against these companies, in combination with the strict compliance plan they submitted to, convinced me that it was reasonable to approve the merger. With the sluggish economic outlook, I feared that compounding the environment with a negative regulatory decision could greatly harm both companies and, more importantly, their subscribers and this new still-nascent technology.

In order to fulfill my statutory obligations, and appropriate due diligence, I met repeatedly with both companies, their top management, consumer groups, members of Congress, minority broadcasters, terrestrial broadcasters from all across the country,

religious, noncommercial, and public interest broadcasters, automobile manufacturers, previous SDARS bidders, investors, public citizens, mayors, local community leaders, state attorneys general -- and then there were the nearly 15,000 formal and informal comments the Commission received. In the end, I voted to approve the merger because I believe that free, terrestrial radio is a part of the fabric of this country, and will survive and even flourish in the years ahead. And, that we also have a statutory responsibility to encourage new and innovative technologies-in this case satellite radio- which can provide more choice and competition for the wider marketplace of entertainment for the public.

## **XI. Universal Service**

A current hot topic at the FCC is the reform of the universal service program and intercarrier compensation regime. Universal Service is a charge consumers pay on their phone bill every month (about 11% based on their long distance calls). The Fund is used to ensure that rural citizens have access to the same communications services as those in urban areas and at affordable prices. On November 5, 2008, the Commission issued a Further Notice of Proposed Rulemaking on these complicated topics. I have tried to encourage industry- and market-based solutions. The Commission must keep in mind that the overarching goal of reform should be deploying broadband across America, especially to the rural and poor areas that need broadband the most. I am



committed to that goal, and will work closely with my fellow commissioners and state colleagues to attain an outcome that will achieve it.

Other key issues:

## **X. Broadcast Decency**

The first thought that most people have regarding the FCC is probably Janet Jackson, who, in 2004 introduced us to a new phrase: "wardrobe malfunction". The FCC fined CBS a record \$550,000 for that broadcast. CBS challenged the fine in court and the 3rd Circuit ruled in their favor. The FCC is appealing that decision to the U.S. Supreme Court.

Another case which was heard by the United States Supreme Court on Election Day-November 4, regards the use of "fleeting expletives". This case considers whether the FCC should be able to fine a broadcaster for a single instance of profanity, or only for repeated uses. What do you think? Should the FCC fine broadcasters when a character or performer uses a single instance of profanity? Should they get a break if it's a live performance? And, when the broadcasters know that children are in the audience? Even though they can do ten-second time delay and can absolutely prevent the occurrence of a single expletive? Even if they have two employees to operate the time delay equipment? What if they had reason to believe and had asked for a full-costume dress rehearsal because they "knew" or "had reason to think" there might be a problem during the broadcast?

The FCC's authority to regulate indecency comes directly from Congress. Section 1464 says, "Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined under this title or imprisoned not more than two years, or both." In order to make this rule as narrowly tailored as possible, we have established a "safe harbor" from 10 pm - 6 am-when children are least likely to be in the audience. Certainly, if Congress felt that this law should be changed, they could do so. However, Congress reiterated the FCC's authority by raising the maximum fines from \$32,500 to \$325,000 in 2006, a ten-fold increase. President Bush signed the bill into law on June 15, 2006. Thus, it doesn't seem as though there is congressional intent to curb our indecency regime at this time. Again, this could change with the Court's decision next spring or with the new Congress. Do we "monitor" television everyday or act as censors? Absolutely not. In fact, we are forbidden from censorship by law. We do, however, respond to complaints by citizens. How do we get complaints? From viewers like you! Has anyone here ever filed a complaint with the FCC? Citizens can file complaints online at [www.fcc.gov](http://www.fcc.gov).

## **XI. Piracy**

In the midst of the incredible consumer benefits of the digital age, many of you know all too well that piracy is a very real and present danger to our already unstable economy. Piracy steals the fruits of some of our nations' most creative minds. I am

from Nashville - Music City- and I know first-hand the cost of piracy to our musicians, song writers, video producers, and other creators of content.

The numbers are simply staggering. Pirated CD sales outnumbered legitimate sales in 30 worldwide markets. 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, medical research, 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.

A number of companies are developing solutions such as digital watermarking. With digital watermarking, data is inserted directly into the content, and as it appears on the internet, or passes through a university network, the content can be scanned for the digital watermark. For example, in South Korea, Warner Brothers is combating piracy of its DVDs by releasing a watermarked version online, instead of a DRM-protected DVD. The particular watermark in these videos is called a "forensic watermark" and will allow Warner Brothers to track its content through networks as it is illegally shared. NBC is another company that realized the importance of the internet for their business, but understood that they needed to protect their valuable

content online, and did so through digital watermarks. For example, less than 1% of the Olympic coverage viewed this past summer was pirated. This wasn't due to a lack of viewing either, viewers watched 10 million hours of coverage on NBC's own website. However, NBC's use of watermarks identified pirated material, and allowed them to remove it from p2p and video sites. This aggressive strategy helped eliminate pirated material while enlarging NBC's legitimate viewer base.

While internet service providers have done much to help filter out copyright-infringed content on their networks, it is also important to note that strides have been taken in the global marketplace to provide creative content to consumers who value it and that, at the same time, provide compensation to those who develop this content. Apple and Amazon both provide music and movies through downloads, and Apple has been tremendously successful with this approach. This June, the Apple iTunes store sold its 5 billionth song, in addition to selling or renting 50,000 movies a day. Today, the iTunes store is the largest retailer of music, online or traditional brick-and-mortar, in America. I call on all of you to join me in this War Against Piracy so that our music and movies and other digital assets can continue to flourish.

## **XII. Intellectual Property**

I wish I could tell you that music piracy is the only form of piracy we need to be concerned about. Our modern information economy produces numerous forms of intellectual property, all of which are subject to theft. Modern medicines that help to

cure diseases once thought incurable do not appear out of thin air, but take time and effort to produce. This intellectual capital is not free; someone must pay for it. And when a third party steals the results that so many worked tirelessly to produce, it is a tragedy. And this is only one narrow example. All forms of intellectual property are subject to this piracy; from medicine, to content providers, to applications providers, to my next example, the piracy of software.

We must address the theft of copyrighted software now. The Business Software Alliance found that IP theft cost the software industry \$48 Billion dollars last year and this piracy of software comes from the four corners of the world. Innovation and hard work should be rewarded, and we must act to discourage monumental losses such as these.

### **XIII. Childhood Obesity**

Throughout my professional career, I have tried to be a voice for children and families. One of the critical issues I have championed is the fight to end childhood obesity. How does that issue fall within the jurisdiction of the FCC? The answer, as many of you may have guessed, has to do with the pervasive role of the media in our lives-and what messages the media is sending and the fact that the FCC has clear authority regarding the amount of commercial time that broadcasters air during children's television. The average American child sees 40,000 television commercials each year -- the vast majority of which are for sugary cereals, soda, and

candy. With this in mind, I, along with two of my FCC colleagues and two U.S. Senators launched the Joint Task Force on Media and Childhood Obesity. The Task Force brought together a cross-section of leaders in the media, advertising, food and beverage sectors, as well as child advocacy organizations to develop real-world, voluntary solutions. Along with the Council of Better Business Bureau's (CBBB) Children's Food and Beverage Advertising Initiative, we encouraged all sectors to reduce the number and type of ads for unhealthy foods that target our children. Let me applaud the fifteen largest food and beverage companies, which have pledged that at least 50% of their advertisements directed to children under 12 will be for "better-for-you" foods. In fact, thirteen of those companies pledged to advertise only "better-for-you" foods to children. They also adopted a truly historic pledge to reduce the use of licensed characters. Several companies such as Kellogg, Proctor & Gamble, and Kraft are working to reformulate some of their products, raising the percentage of whole grains and lowering the sugar and salt content.

Media companies including Sesame Street, Disney, Discovery Kids, Nickelodeon, and The Cartoon Network, have agreed to ban the use of all of their loveable characters in ads for unhealthy foods. As a mom, I know how hard it is to compete with Elmo or Sponge Bob. I also want to commend Ion Media and Veggie Tales, produced in my hometown of Nashville, Tennessee, for pledging to totally ban all ads for unhealthy foods on their network.

Given the recent trend towards regulation-- from European countries like the U.K. and Sweden, which ban all ads targeting children under 12, to many city and state laws, such as the law recently signed by Governor Schwarzenegger requiring calorie information on restaurant menus in California-advertisers would be wise to consider pro-active, voluntary steps. Likewise, the National Governors' Association and many individual governors are becoming more and more active in attacking obesity as the impact on state healthcare budgets is making this a necessity. Arkansas, once the fattest state in the Union, has in just three years, seen obesity rates level off and even decline slightly. In twenty-three states, obesity-related healthcare costs top \$1 billion per year-- up to 10% of which are direct expenditures by Medicare and Medicaid. Just last week I spoke to a group of advertising lawyers in Chicago and I urged them to consider voluntary efforts to curb ads for unhealthy foods-so that they can avoid the heavy-hand of government regulation that may otherwise intervene and reminded them to review the history of the tobacco settlement as it was directly related to the amount of funds state governments were spending to combat tobacco-related illnesses.

#### **XIV. Internet Safety**

Another issue I continue to work on at the both the national and international level is that of child internet safety. Whether its predators, cyber bullying, or child pornography, the dangers lurking online are growing everyday. Two weeks ago I was in Geneva, Switzerland for the International Telecommunication Union's forum on

Online Safety. (The ITU is the telecom arm of the United Nations.) I met with leaders from all over the world who-as our individual nations seek to provide broadband to all our citizens --- also realize that our children must be protected from the risks and dangers that they encounter in this new digital world. Last week, in Rio de Janeiro, the World Congress III was held to focus on ending the Sexual Exploitation of Children. A key segment of this Congress was dedicated to online safety, as so many children are being trafficked online.

The dangers do not just affect children and teens-they also affect you as college students. Today's college students grew up with the internet-- 20% began using the internet between the ages of 5 and 8. Seventy-three percent of college students say they use the Internet more than the library. And the internet has gone mobile. In this age of convergence, you get telephone calls, stock quotes, news headlines, photos from Skybar, video games, and internet service--all from the same provider, on the same device- in the palm of your hand, 24/7. I have personally surveyed a number of college groups and consistently see over 90% of students post messages, photos, and personal-very personal-- information online-particularly through social networking sites. 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 now searching Facebook and MySpace profiles of potential new hires.



The other important area where I would urge students to exercise caution is email scams. 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.

While the FCC does not exercise specific authority over the internet, we do have authority over many of the specific activities of ISPs that provide service. As one who believes in a "light regulatory touch," I continue to encourage ISPs to develop voluntary tools and industry-driven solutions to protect children online. Many

Verizon announced earlier this corporate leaders are already doing this: it will provide free Internet safety tools for parents. This includes a content blocker, application filters, and the ability to set time restrictions during which the Internet cannot be accessed. For cell phones, they have four categories of protection-broken down based on child's age and each allowing a varying amount and degree of objectionable content- to be set at the parent's discretion.

Sprint has 4NetSafety, which provides children, teachers, parents, guardians and other adults tools and information about online safety. This is a partnership with the U.S. National Center for Missing & Exploited Children and the National Education Association Health Information Network (NEA HIN).

AT&T developed the AT&T Hometown Tour, which visited more than 100 communities nationwide and worked with more than 20,000 students from Connecticut to California on Internet safety lessons, programs, and workshops geared toward elementary- and middle-school-aged students. Students participated in fun hands-on activities that focus on key Internet safety skills, such as protecting computers against viruses, hackers and spam, as well as reviewing age-appropriate, good-computing habits, such as proper downloading of legal (non-pirated) material and research-referencing. The program also emphasized keyboard skills, potential dangers associated with social networking, and lessons on stranger-danger.

Microsoft X-box. How many of you have an X-Box? When first introduced, I, like many parents, thought that the X-Box was nothing more than a game console; yet it actually functions as a highway to the Internet. I am pleased that Microsoft created tools that allow children to play only games with certain ratings, as set by their parents. Microsoft's Family Settings also enable parents to prevent children from linking to other players over the Internet for multi-player gaming and let parents limit game play on a daily or weekly basis. Beyond the Xbox 360 Family Settings, parents can use Microsoft's family safety tools to monitor their child's computer use -- from filtering Web content and managing email contacts to receiving reports that show which sites their child has visited on the Web.

Cox Communications held their third annual National Summit on Internet Safety-to launch a national dialogue and hear what teens are experiencing first-hand. This year the Summit, co-hosted by Miss America Lauren Nelson, focused on tweens, children between the ages of eight and twelve, and included parents and caregivers. Through the Summit it was learned that tweens' online presence doubles or even triples between the ages of eight to ten and eleven to twelve, and one in five tweens have posted personal information online. Communications between parent and child are just as important in the online world as they are in the offline one.

Comcast, the leading residential internet service provide in the U.S., provided - free of charge - a PBS documentary called "Growing Up Online" throughout the month of June, Internet Safety Month. This documentary gives parents a very real glimpse into what teens are doing online. Comcast also has a "For Kids" and "For Parents" resource page online that provide internet safety advice and information.

Charter, another major American ISP and cable operator, provides all of its Internet customers with the Charter Security Suite free of charge, including two levels of parental controls - one for younger children and one for teens. Charter has an ongoing Internet safety education program through the resources available at [www.charter.com/security](http://www.charter.com/security). This includes an Online Safety Guide for Parents, an Online Safety Guide for Kids, and links to Amber alerts and the National Center for

Missing and Exploited Children as well as an online form that Internet users can use to report possible child pornography or exploitation on the Internet.

## **XV. Hot Topics**

These are just a few of the issues the FCC is considering. Over the next year, the Commission may also consider rules regarding embedded advertising, product placements, net neutrality, localism, media ownership, and processes for resolving programming disputes.

## **XVI. Conclusion**

As the leaders of tomorrow, I encourage those of you who will soon enter the media industry to consider how your work will impact our society. What messages are you sending to the next generation? Will they be positive or negative?

I also encourage you at some point in your career to become involved in public service. Whether it's through local volunteer work at a nonprofit, leading a civic initiative, or even running for political office, please consider opportunities from local to national to even global platforms and issues in which you can truly make a difference.

Good luck to each of you and thank you.