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June 30, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

On June 21, 2010, the Subcommittee on Communications, Technology, and the Internet held a hearing on a bipartisan staff discussion draft that would provide funding for constructing and maintaining a nationwide, interoperable public safety broadband network. The discussion draft would require the Federal Communications Commission (FCC) to implement technical requirements to achieve nationwide interoperability as well as auction spectrum for the purpose of raising the billions of dollars necessary to construct and maintain such a network over the next ten years.

The discussion draft relies on many of the recommendations put forth by the FCC in its National Broadband Plan (NBP). For example, the draft contemplates that public safety would operate its broadband network utilizing the same air interface as commercial licensees in the 700 MHz band. In addition to helping ensure interoperability, the NBP suggests that this approach would allow public safety to take advantage of economies of scale associated with a market in which there are a variety of commercial providers purchasing equipment and devices from a range of vendors. Such economies of scale could reduce significantly equipment costs for public safety users.

It is our understanding that this proposal represents a significant change from today's public safety communications equipment market for voice or "narrowband" services. As the NBP states, "[p]ast efforts to create a public safety narrowband interoperable voice network have failed."¹ Public safety has typically had to rely on an exclusive or limited vendor pool for

¹ Federal Communications Commission, *National Broadband Plan at 315* (2010).

equipment and devices,² and the cost of the equipment is often more expensive than comparable commercial equipment.³ Some have suggested that these factors limit public safety's options and may even undermine attempts to achieve interoperability.⁴

To improve the Committee's understanding of the existing public safety equipment and device market, and to help with its ongoing evaluation of the NBP recommendations, we would appreciate your assistance in obtaining answers to the following questions:

1. Please provide a list of the top four vendors of public safety narrowband equipment and their respective market shares. If the FCC does not track this information independently, please use public references to provide these details.
2. Have proprietary solutions affected interoperability, innovation, cost, or competition in the market for public safety communications equipment?
 - a. How would the greater use of open standards affect these factors?
 - b. What steps should the FCC take, if any, to encourage the use of open standards in public safety communications?
3. Please provide information on whether the public safety interoperable voice network, governed by Project 25, has achieved true interoperability.
 - a. Has interoperability been hindered by a lack of competition in equipment and device availability?

² House Committee on Science and Technology, Testimony of Dereck Orr, Program Manager of Public Safety Communications Systems, National Institute of Standards and Technology, *Interoperability in Public Safety Communications Equipment* at 7 (May 27, 2010) (online at http://democrats.science.house.gov/Media/file/Commdocs/hearings/2010/Tech/27may/Orr_Testimony.pdf); FCC, *Public Safety Groups at Odds Over Control of Nationwide Wireless Network*, The Washington Post, (online at <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/08/AR2010060805253.html>) (June 9, 2010).

³ See The Center for Public Integrity, *Homeland Security's Billion-Dollar Bet on Better Communications: Interoperability Money Aids Motorola and Other Contractors, but Are First Responders Better Off?* (Feb. 16, 2010) (online at http://www.publicintegrity.org/investigations/homeland_security/articles/entry/1925) (“Whereas P25 systems can run into the hundreds of millions, gateways cost much less — nowadays, around \$10,000.”).

⁴ *Id.*

- b. To the extent that interoperability has been hindered, please provide specific examples.
4. Does the current structure of the public safety equipment market hinder efforts to achieve interoperability for a broadband public safety network? If so, please provide a description of possible steps the Commission might take to remedy this situation.
 5. Section 101(b) of the staff discussion draft sets forth criteria for the Commission to consider in establishing rules for interoperability. How should this list be revised to ensure that interoperability is achieved in the broadband network, unlike the "failure" that occurred in the narrowband network? What technical and operational framework might be more appropriate to ensure interoperability on a future nationwide wireless public safety broadband network?
 6. Can interoperability requirements applied to the wireless public safety broadband network be utilized to promote interoperability between the narrowband and broadband networks?

Please provide the requested information by July 15, 2010. If you have any questions about this request, please have a member of your staff contact Roger Sherman on the Committee staff at (202) 225-2927. The Republican staff contact, Neil Fried, may be reached at (202) 225-3641.

Sincerely,



Henry A. Waxman
Chairman



Joe Barton
Ranking Member



Rick Boucher
Chairman
Subcommittee on Communications,
Technology, and the Internet



Cliff Stearns
Ranking Member
Subcommittee on Communications,
Technology, and the Internet

Enclosure

Congress of the United States

House of Representatives

Washington, D.C. 20515

Responding to Document Requests from the Committee on Energy and Commerce

In responding to the document request from the Committee on Energy and Commerce, please apply the instructions and definitions set forth below.

Instructions

1. In complying with the request, you should produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. When you produce documents, you should identify the paragraph or clause in the Committee's request to which the documents respond.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.
9. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

Documents produced in an electronic format should also be produced in a searchable format.

10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 316 of the Ford House Office Building, and the minority set should be delivered to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee staff regarding the method of delivery prior to sending any materials.
16. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "documents in your possession, custody, or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
4. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures,

proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.