

**DISSENTING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 17-69

This summer I received a letter from Pat of Athens County, Ohio, a rural community located not far from the West Virginia border. To illustrate just how bad the cell phone coverage is in that area, she wrote: “A few years ago, my son was travelling State Route 550 between Amesville and Bartlett on a motorcycle and hit a deer. He had no cell phone signal to call for help. He’s very fortunate to be alive...” When she worked in the Village of Amesville, there was no Internet or cell phone coverage at all.

Not a week passes in Washington, and various parts of our nation, where the buzz about the promise of 5G is not heard. The reality, however, is that far too many in this country do not have reliable and affordable 3G service. In fact, our recent Mobility Fund Phase II proceeding is designed to bring ubiquitous mobile wireless service to millions: yes, I said *millions* of Americans who are still waiting for mobile wireless service with the download speeds others enjoy.

Consider this: if one of our nationwide wireless carriers covers only 64% of the rural population, that means it is probable that 20.5 million people in these areas do not have access to all four of our nationwide wireless providers. So, my question is a simple one: How then can this Commission conclude that the mobile wireless market is effectively competitive? I have been struggling with its conclusion from the very first day this Report was circulated, and weeks later I find myself in the same place: unable to support the ultimate finding that there is effective competition in the provision of mobile wireless services.

I can neither understand nor condone why the majority used a truncated analysis to reach this conclusion. For one, the discussion of investment in the mobile wireless services industry is fundamentally flawed. By highlighting a decrease in investment between 2015 and 2016, this section was clearly written to support the false narrative that the *2015 Open Internet Order* deterred wireless carriers from investing in their networks.

Despite my office’s request, this Report does not include data from the 19th, 18th, and 16th Competition Reports, which showed investment from all commercial wireless companies declined from \$33.1 billion in 2013 to \$30.9 billion in 2015. In case you missed it, those reports predated the 2015 Order. Also, despite my request, this report does not include CTIA’s investment data indicating that investment per consumer measurements declined from 2006 to 2009. Just in case you missed it again, that predates the 2015 and 2010 Open Internet Orders. These statistics demonstrate that there must be other factors, other than the Open Internet Orders, that account for why wireless carriers decreased their investment in their networks.

More broadly, and for the past six years, the Commission has approached this annual review with a focus on assessing competition in the entire mobile wireless ecosystem, including key input markets, such as towers, backhaul, and transport facilities, as well as the output markets for products that rely on mobile wireless services, such as mobile applications and content. By providing detailed analyses on the costs of backhaul, availability of data roaming agreements, and other key factors that determine the barriers to entering the wireless services market, the six previous competition reports were useful in identifying areas where communications policy could promote deployment of competitive options for wireless service in rural areas.

Those prior reports encouraged me, as Acting Chairwoman, to seek a voluntary solution to restore interoperability in the 700 MHz band. They led me to support the 2014 Mobile Spectrum Holdings Order, that showed consistent consolidation in the commercial mobile wireless market between 2003 and 2013, and set spectrum limits in the incentive auction to promote competition. They also supported the Commission's decision, in 2015, to reform our competitive bidding rules, so small companies could gain licenses in the incentive auction and provide services in underserved rural areas.

This Twentieth Report, however, takes a decidedly myopic view of the ecosystem, and instead focuses only on "competition in the provision of mobile wireless services." This is like a doctor looking at one organ and pronouncing a patient fit as a fiddle. I am grateful, at least, that this item is being voted by the full Commission so that I can vociferously declare my dissent and express my profound disappointment in the findings expressed therein.

While unable to support this Report or its conclusions, I do appreciate the hard work of the Wireless Telecommunications Bureau in drafting this Report and researching a number of questions my office had for them.