

**TESTIMONY
OF
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BEFORE THE
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COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES
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Good morning, Chairman Pallone, Ranking Member Walden, Chairman Doyle, Ranking Member Latta, and Members of the Subcommittee. Thank you for the opportunity to appear before you today.

I believe the future belongs to the connected. No matter who you are or where you live in this country you need access to modern communications to have a fair shot at 21st century success. Clearing the way for this connected future should be at the heart of everything we do at the Federal Communications Commission. If we do our job right, we can help expand access to digital age opportunity and create a more safe, prosperous, and connected future for all.

It has been nearly seven months since my colleagues and I last sat before you. I wish I could tell you that during that time we put consumers first, made competition a priority, came up with clear policies to extend the reach of broadband and wireless service to all, and made our networks more safe and our digital world more secure. But that has not always been the case.

We have yet to auction a single megahertz of mid-band spectrum to support 5G service, despite overwhelming consensus that our early focus on holding high-band auction after high-band auction will cede leadership to our global peers, create communities of 5G haves and have-nots, and leave rural America behind.

We have yet to take any meaningful steps to improve the resiliency of our wireless networks, despite hurricanes, wildfires, and other disasters in which phones were rendered useless because the power went out or towers failed.

We have yet to provide the public with a single piece of information about how their sensitive, real-time location data was sold by their wireless carriers to shady middlemen who then made it available to bounty hunters and anyone else who could cough up \$300, despite press story after press story detailing how this practice has put lives at risk and undermined the personal security and privacy of everyone with a mobile phone.

We have yet to truly secure our 5G networks and coordinate our efforts across the government, despite pleas from the bipartisan leadership of the United States Senate

Committees on Intelligence, Homeland Security and Government Affairs, Foreign Affairs, and Armed Services to do so.

We have yet to put the only program that helps millions of Americans with affordable communications—Lifeline—on firm footing by ending the proposal to gut it by as much as 70 percent.

We have yet to collect actual data that will fix our broadband maps in a meaningful way and reform our policies to reflect that more granular data.

So what have we done in all this time? Over the past seven months, the FCC has approved the largest wireless merger in history, putting us on a path to less competition. Less competition is not good for consumers. It means higher prices, lower quality, and slower innovation. We've focused on planning yet another high-band spectrum auction that will support 5G service in only our most dense urban communities. We've focused our energies on preempting states and localities who want to ensure deployment takes place in their communities and want to protect the consumers this agency has left behind. We've engaged in public disputes with our federal peers that have hampered our ability to advance wireless and security policies both at home and abroad. We've refused to work with our state partners to fix well-known problems with our Lifeline National Verifier. We've set out on a path that would distribute billions of dollars in universal service support for broadband based on data we all know is faulty because our maps have so many inaccuracies that they are not meaningful.

One thing is clear. Our priorities are mixed up. I wish I could report that this agency was promoting competition and protecting consumers. I wish I could report that this agency was abiding by its mission to promote public safety. I wish I could report that this agency has a long-term spectrum plan to set this country up for 5G leadership globally with a guarantee that all communities are connected here at home. I wish I could report that those most at risk of falling behind in the digital age were seeing new opportunities as a result of our efforts to extend the reach of communications to all. I think these should be our priorities. These are the challenges we face and we need policies that meet this moment. So here are some ideas to do just that.

Consumers and Competition Policy

Our economy thrives on competition. Over history, it has inspired innovation, increased choice, and improved our resourcefulness and efficiency. Competition benefits consumers. It is also the reason why the United States has birthed some of the most dynamic companies in the world.

But last month the FCC ended a decade-long history of careful wireless merger review that protected this kind of competition in the wireless market. The FCC approved the largest wireless merger in history, allowing three companies to control 99 percent of the wireless market. By any metric, this decision will raise prices, lower quality, and slow innovation, just as we start to deploy the next generation of wireless technology.

That's unfortunate because the United States has more wireless connections than people and over half of the country now lives in a household that relies only on wireless telephones. Moreover, the remedies the FCC and Department of Justice designed to help fix the competitive problems with this transaction fall short.

To add insult to injury, the FCC made this decision behind closed doors with an unacceptable lack of transparency. Three of my colleagues agreed to the transaction months ago without having any legal, engineering, or economic analysis from the agency before us. Then, once the agency finally had analysis produced by expert staff, key parts of the decision were rewritten by the FCC's political leadership behind closed doors. This took place after a slew of meetings between FCC leadership and the merging companies and after the Department of Justice expert that had been tapped to lead our review had left the building. All of this happened after the FCC chose not to seek public comment after the transaction had substantially changed nor after the agency learned that Sprint may have falsely claimed federal subsidies from the Lifeline program.

Sunlight is the best disinfectant. That is why I think the FCC should make public the initial draft of the decision that was prepared by our expert staff and circulated for review in the agency in addition to the decision released just a few weeks ago. Congress, the courts, and the public should know what was changed and why.

Across our economy and across our geography, we are struggling with the consequences of so many mergers and so much lax enforcement. So many of our most pressing economic problems can be traced back to this kind of market concentration. You see it in decreased opportunity in rural communities. You see it in the declining rates of entrepreneurship as fewer and fewer small businesses get started. You see it in falling wages as mergers reduce the need to compete to keep their workers. And you see it in study after study demonstrating how income and wealth inequality are higher than they have been in decades.

The FCC should know what is fundamental: with less competition consumers see rates rise and innovation fall. This decision denies our 5G world the powerful fire of competitive pressure to help ensure deployment reaches everyone, everywhere.

Public Safety

A critical part of our mandate is public safety. Communications technologies are essential when the unthinkable occurs. They ensure we can reach out for assistance, seek help, and remedy damage and destruction. But on too many recent occasions when disaster has struck, our communications have failed. The evidence is all around us, in season after season of hurricanes in the south and more recently in wildfires out west. And the names stay with us—Maria, Irma, Harvey, Michael, Camp, Woolsey, Kincade—long after the water has receded, the flames have done their damage, and the communities affected begin the hard slog of repairing and replacing so much essential infrastructure.

Mother nature's wrath is sure to visit us again. So are 911 failures and electrical outages and other events that threaten network infrastructure. I think the FCC should use every one of these disasters to assess the viability of communications in disaster in order to ensure our networks are stronger and more resilient in the future.

But it has been nearly two years since the Government Accountability Office released a report criticizing the agency for its failure to promote network resiliency and urging it do more. On the heels of this report, Members of this Committee asked the agency to do the same and improve the wireless resiliency framework. In response, we have issued four public notices seeking comment on changes. It's time to stop kicking this can down the road. We need enforceable rules on network resiliency before the next disaster strikes.

Our inaction on this issue is troubling. Unfortunately, it is part of a larger trend at the FCC. It has been over a year since the agency began its investigation into the sale of consumer geolocation data from their wireless phones. Members of this Committee have written the agency asking for a status report. Other Members of this body have required the agency to update Congress through the appropriations process. I myself have sent letters to major carriers demanding answers about the sale of consumer geolocation information and the chain of custody associated with that data. This is important because all of us rely on our mobile devices and a system of selling information about where we are and when without our knowledge is an affront to our personal and national security. Still the FCC has been silent. For months the agency has said it is investigating. But it has not provided the public with any details. This is unacceptable and it looks like the agency is more concerned with the privacy of its investigation than the privacy of consumers.

5G Security

You'll find agreement among my colleagues that 5G—the next generation of wireless technology—has the power to change civic and commercial life. With much higher speeds and much lower latency, 5G networks will kickstart the next big digital transformation. With connectivity in so many more things and so many more places, we will have new ways to foster economic activity and improve health, education, the environment—and more.

Last month the FCC adopted rules ensuring that our universal service funds—which provide billions annually to support broadband deployment in rural communities—are not used to purchase insecure network equipment. We also kicked off a rulemaking to identify where this equipment is in networks today and how to help carriers serving rural America replace it. This effort is especially critical as we transition to 5G service.

If I have one complaint with this effort, it's that it took us way too long—eighteen months, to be exact—to get here.

The fact is that the FCC has a lot more to do and needs to move a lot faster when it comes to network security. Because our present efforts to remove and replace insecure equipment are not bold enough. We need a coordinated, national plan for managing the future of 5G security—and the evidence all around us makes crystal clear we do not have one.

A few weeks ago, The Wall Street Journal documented all the ways the federal government is tripping over itself in its efforts to support the roll out of 5G. Then, the bipartisan leadership of the United States Senate Committees on Intelligence, Homeland Security and Government Affairs, Foreign Affairs, and Armed Services wrote the White House expressing concern that we do not have a coordinated, national strategy in place for 5G—and we need one. I agree.

Here's what I think a national strategy should include.

First, we need an approach to supply chain security that considers how we can build secure networks that can withstand insecure equipment abroad—because no network stands by itself. So I suggested the FCC explore opportunities to unlock and diversify communications by supporting efforts with open radio access networks, or open RAN. This idea has garnered support from staff of the Department of Homeland Security, the Department of Commerce, and the Department of State.

Second, we need to transform the Internet of Things into the Internet of Secure Things. With the advent of 5G, we are going to see billions and billions of new connected devices. To ensure that they are secure, the FCC should use its equipment authorization process creatively and encourage all device manufacturers to build security into new products.

Third, we need smarter spectrum policy. To date, the FCC has focused its early efforts to support 5G wireless services by bringing only high-band spectrum to market. This is a mistake. The sheer volume of antenna facilities needed to make this service viable will limit deployment to the most populated areas. And continuing to simply auction millimeter wave spectrum while the rest of the world is already working with mid-band airwaves has security consequences because so much of this equipment is available from only one Chinese vendor. So we need to pivot away from auctioning high-band spectrum and prioritize mid-band spectrum. Our next auction should feature the 3.5 GHz band and we should focus on a C-band auction thereafter.

Closing the Homework Gap

Today seven in ten teachers assign homework that requires Internet access. But FCC data repeatedly show that one in three households do not have broadband. Where those numbers overlap is the Homework Gap. And according to the Senate Joint Economic Committee, it affects twelve million students across the country. You can see it in communities everywhere—kids lingering in the library parking lot after it has closed, pecking out papers at fast food restaurants, and urging parents to shuffle them to the

homes of friends and relatives just to cobble together the connectivity they need to do nightly schoolwork.

The Homework Gap is the cruelest part of the digital divide. But there are things we can do to solve it.

The FCC could start a Homework Gap proceeding to identify solutions and ways our existing programs, like Lifeline can help.

The FCC could explore how its universal service programs could support creative solutions like equipping school buses with Wi-Fi to turn ride time into connected time for homework, just as legislation before this Committee recommends.

And we could go bigger and establish a national fund to solve the Homework Gap from a portion of the funds raised from the future sale of airwaves. The Homework Gap is a public problem, so let's use public airwave resources to fix it. This fund could be used to make sure that there are wireless hotspots for loan in every library—including school libraries—across the country. That could make a meaningful difference in the lives of millions of kids and their families. A few libraries are doing this today and it gives every student a fair shot to do their schoolwork and keep up in class. But these programs are few and far between and even where they do exist, demand outstrips supply.

One way we can fix this right now is by setting up such a fund with the auction of the C-band or any other spectrum bands Congress sees fit to require us to auction down the road. To this end, I am glad the Chairman has announced how we will proceed with the C-band and I think the next step should be exploring how we can solve the Homework Gap through the licensing of these airwaves.

If we did this, we could ensure that no child is left offline. We can better prepare students in every community across the country for a successful digital age future. That's not just a good deal for some kids struggling with schoolwork, it's a better deal for all of us because our national competitiveness depends on extending the reach of access, education, and opportunity everywhere.

Thank you for the opportunity to testify. Thank you for the opportunity to provide my ideas. I think there is good we can do if we connect all and I look forward to answering your questions about how we can do just that.