

**STATEMENT OF
JESSICA ROSENWORCEL
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION
BEFORE THE
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES
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Good morning, Chairman Quigley, Ranking Member Graves, 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, you need access to communications technologies to have a fair shot at 21st century success. That's why it's never been more important to have a strong Federal Communications Commission acting in the public interest.

But right now, the FCC is falling behind in its core responsibilities under the Communications Act. We still have a giant data problem—we don't know with accuracy where broadband is and is not in this country. We have yet to truly secure our 5G networks or coordinate efforts across government, despite pleas from the bipartisan leadership of the United States Senate Committees on Intelligence, Homeland Security and Governmental Affairs, Foreign Relations, and Armed Services to do so. We have yet to take meaningful steps to improve the resiliency of our wireless networks, despite hurricanes, wildfires, and other disasters in which wireless phones were rendered useless because the power went out or towers failed. We have not updated our orbital debris rules to secure our skies even as the number of satellites we are authorizing are shooting to historic heights. We have not fixed our electronic comment filing systems to make our work more accessible to the public even after more than nine million people had their identities stolen and used to file fake comments at the agency. Proposals to free up more unlicensed spectrum for Wi-Fi have been kicking around this agency for seven years. Meanwhile, court remands, petitions for reconsideration, and unanswered consumer complaints—especially those involving robocalls—are piling up at our doorstep.

On top of all this, the FCC is on the cusp of significant new work. That includes implementing the many requirements in the RAY BAUM's Act of 2018, the TRACED Act, and the PIRATE Act. It also includes overseeing the distribution of \$16 billion dollars in the nation's largest-ever broadband funding program; finding and replacing \$1 billion worth of insecure equipment in our communications networks; transitioning satellites and thousands of earth stations from the C-Band; completing auctions in the 2.5, 3.5, and 3.7 GHz bands as well as wrapping up post-auction work for the 37, 39, and 47 GHz bands; and overseeing the merger of two of the four largest carriers as well as the entry of a new nationwide competitor.

According to the budget request before you, all this work must be accomplished with a budget of \$343,070,000, an amount that when inflation is taken into consideration leaves the FCC with less, not more. On top of this, all this work must be done with one of the lowest

staffing levels in the agency's history. The agency's request supports 1,448 full-time employees, or FTEs. This is nearly a thousand fewer FTEs than the FCC had at its peak in 1995. Since then, the population in the United States has grown by 24 percent. Our national GDP has nearly doubled. Congress passed the landmark 1996 Telecommunications Act and other laws that have expanded the FCC's jurisdiction to cover one-sixth of the nation's economy. Plus, our use of communications technology has exploded. But the size of the FCC has not kept pace with all this activity.

Lost in all the math that makes up this budget request is the fact that our staff is overworked and under-resourced. According to the most recent Federal Viewpoint Survey, more than one-third of the agency's staff believe they do not have the resources they need to do their jobs effectively.

Moreover, it's a problem that's about to get worse. Anecdotally, I can tell you there are retirements every week at the agency. We have an extraordinary loss of institutional knowledge as so many of our skilled staff are heading for the exits at a time when public service is being criticized at the highest levels of our government.

We have to reverse this trend, and we have to do it now.

The FCC has extraordinary ongoing responsibilities under the Communications Act and really significant new tasks assigned to us by Congress. So when the FCC does not have the resources it needs, 5G does not get deployed, broadband does not get built, public safety does not get upgraded, consumers are not protected, and our security is undermined.

That means before we do anything else, we need to restore staffing levels to those the FCC maintained prior to this Administration. Next, you should require the agency to deliver a workforce plan to ensure adequate staffing levels are achieved for the agency to meet its growing obligations under the law. Our dedicated staff deserve thoughtful consideration of this issue, and so do consumers.

Of course, getting the right numbers is only half the battle. How we spend the resources at our disposal is the other half. So let me highlight issues where the agency owes more to Americans than it has been able to deliver: universal service, consumer protection, public safety, and competition.

Universal Service

Our high-cost universal service program is how we ensure that all Americans have access to broadband. But these resources are finite. We need to be responsible stewards to stretch these dollars as far as possible and deliver on the promise of broadband opportunity for all. This should be our north star.

Yet it's no secret that the FCC's broadband maps, which help us decide where to spend universal service funds, are inaccurate. Right now, if a single subscriber in a census block is identified as having broadband, we conclude broadband is available throughout. That's not right.

It masks so many people who are unserved and erroneously suggests our broadband mission has been accomplished where we still have work to do. According to the FCC's flawed data, roughly 21 million Americans do not have access to high-speed internet service. But one independent study has found that as many as 162 million people across the country do not use internet service at broadband speeds.

Nonetheless, last month the agency decided to move ahead with a plan to spend the vast majority of our universal service funds for the next ten years—\$16 billion!—without first doing anything to improve our maps, survey service accurately, or fix the data disaster we have about the state of service today. That means if your home is marked as served by the FCC's maps today and it is not, then for the next decade you are on your own. Good luck. It means millions of Americans will slip deeper into the digital divide.

This is a mistake. The agency tasked with ensuring that every American is connected should know with precision where connectivity is and where it is not. We should finish the important work of fixing our maps *before* we blindly spend money based on what we all can agree is faulty data. We need maps before money and data before deployment. Anything else just does not add up.

Consumer Protection

Robocalls are the number one complaint this agency receives. At the start of this Administration, Americans were receiving roughly 2 billion robocalls a month. The number now routinely reaches between 5 and 6 billion each month. But in a recent response to Congress, the FCC stated it has just twelve staff dedicated primarily to robocall enforcement. Cobbling together time from other staff bumps that number up by four or five. That's it.

That's not enough to keep pace with this growing problem. While the FCC has made news over a few big fines, our enforcement actions don't seem to be stemming the tide of these unwanted and intrusive calls. On average, it takes this agency 649 days to complete one robocall enforcement action from start to finish. In that time over 100 billion new robocalls might be placed. Our efforts are like trying to empty the ocean with a teaspoon.

Thanks to your efforts, Congress approved the TRACED Act late last year, giving the FCC new tools and expanded enforcement authority to combat robocalls. This was welcome. Consistent with the requirements of the TRACED Act, the FCC announced last week that it will move ahead to require call authentication—after first proposing to do so more than three years ago. But there's a lot more work to do. The many proceedings that are required under the new law will demand resources and effective oversight. I hope that we are up to the task.

Finally, in report language last year, you asked the FCC to consider a plan to develop a division to consolidate the agency's efforts to tackle robocalls. I hope we do so, because we need it more than ever.

Public Safety

Communications technologies are essential when the unthinkable occurs. 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 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.

But it has been over two years since the Government Accountability Office released a report criticizing the agency for its failure to promote network resiliency and urging it to do more. 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.

Relatedly, the FCC has a lot more to do and needs to move a lot faster when it comes to cybersecurity and specifically securing 5G networks and supply chains. If you spin through this budget request, we don't commit any resources to tackling this growing problem. Moreover, our present efforts to remove and replace insecure equipment are not bold enough. Here's what we can do to fix that.

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 believe the FCC should 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, the Department of State, and now my colleagues at the FCC. In fact, the FCC has proposed a workshop next month to discuss open RAN. That's good. Now we need to take it a step further and incorporate open RAN testbeds in our ongoing efforts to authorize city-wide 5G innovation zones, which exist today in New York and Salt Lake City. Doing this now will help ensure that this technology develops here, on our shores.

Second, with the advent of 5G we are going to see billions and billions of new connected devices. To ensure that this growing Internet of Things is secure, the FCC should use its equipment authorization process creatively and encourage all device manufacturers to build security into new products. But less than one percent of our budget is set aside for new technology for our Office of Engineering and Technology that could help with this effort.

Competition

Competition benefits consumers. It is the reason why the United States has birthed some of the most dynamic companies in the world. But last year the FCC gave short shrift to competition by giving its blessing to the largest wireless merger in our nation's history. Now, despite this agency's assurances to the contrary, we are already seeing press reports about layoffs and I fear consumers could see price increases next.

The evidence suggests our broadband markets lack competition, too. Too many households in this country have no real choice of broadband provider. I know I don't. That's one of the reasons that led the agency to adopt network neutrality rules that prevent broadband providers from blocking websites, throttling online services, or censoring content.

When polled, 86 percent of Americans said they support net neutrality. But in December 2017, over my objection, the agency voted to roll back our net neutrality rules. The decision put the agency on the wrong side of history, the American public, and in some key respects, the law.

That's why on October 1, 2019, the DC Circuit Court remanded key elements of the FCC's decision back to us. In particular, the court decision took the agency to task for trying to block states from stepping in to protect net neutrality. It also criticized the agency for failing to consider how its decision might undermine public safety, Lifeline service, and broadband infrastructure.

Last month, the agency quietly released a public notice seeking comment on the issues the court sent back to us. It did everything in its power to make sure no one noticed. The agency buried the document on our website. It made sure the words "net neutrality" were nowhere to be found. It titled the document in legalese that only an FCC lawyer could decipher. It looks a lot like the agency is trying to hide from the public.

Under the law, it is our duty to seek public comment, not hide from it. It is our duty to be transparent about what we are doing, not try to slip major actions out the door when no one is looking. I fear we're intentionally trying to quiet the voices of the American public who want to weigh in on the decisions we're making. I don't think this is the way good government operates. Whatever your stance on the net neutrality debate, this process should concern you. It's not right.

Finally, I think it's time for the FCC to talk about coronavirus disruption and how technology can help. Nationwide we are going to explore the expansion of telework, telehealth, and tele-education. In the process, we are going to expose hard truths about the digital divide. The FCC should be convening broadband providers right now to prepare. It should be identifying how it can use its universal service powers to support connected care for quarantined patients and wi-fi hotspots for loan for students whose schools have shut and classes have migrated online.

Chairman Quigley, Ranking Member Graves, and Members of the Subcommittee, thank you once again for holding this hearing. Thank you for providing me with the opportunity to offer my views. When the FCC is appropriately funded and focused, there is a lot we can do to harness the power of communications technology for good. We can improve access to scarce resources, streamline the delivery of important services, improve quality of life, and grow the economy. And we can make sure that the United States leads in the next generation of wireless technology just like it did in the last. I look forward to any questions you may have and to working with you and your staff in the days ahead.