

**Office of General Counsel Presentation to Commissioners
January 2021 Open Meeting
Thomas Johnson, General Counsel**

Mr. Chairman, at this my 40th Open Meeting as General Counsel of the FCC, it is my honor to share with you some of the incredible accomplishments of my Office since January 2017. I would first like to thank you, Mr. Chairman, for the trust you reposed in me to serve the American people as the FCC's chief legal officer. It has been the privilege of my professional career to defend against legal challenge all the work the FCC has done to promote the deployment of 5G wireless services, streamline burdensome and unnecessary regulations, and close the digital divide so that more Americans can have access to broadband services. I would also like to thank all the Commissioners for their support of me and my Office over the past three years.

Let's start with some high-level numbers:

Slide 1

Over the past 4 years, we have conducted a legal review of over 650 Commission-level items and many more staff-level items. We worked with OMD to process nearly 3,000 public records requests under FOIA and cut the average response time in half. And our ethics team has played an indispensable role in responding to thousands of staff inquiries and reviewing thousands of financial disclosure reports.

Slide 2

Meanwhile, our Transactions, Bankruptcy and Fraud team have created enormous value for the economy and the American taxpayer. Their work includes reviewing applications for transactions valued at over \$100 billion, securing over \$5 million in bankruptcy for the U.S. Treasury and federal programs, and recovering over \$200 million in funds for the Universal Service Program.

Slide 3

Our Litigation team, in turn, won in whole or in substantial part 28 out of 31 appeals (or 90%) filed against the agency. We achieved these results despite being challenged on several of this administration's highest-profile items. When we restored a light-touch regulatory framework to broadband in the *Restoring Internet Freedom Order*, we were challenged in court. Yet, after our defense of the Order—in which I participated in a marathon 5 ½ hour oral argument on a snowy February day following a government shutdown—the D.C. Circuit upheld our reclassification of broadband as a Title I information service. When we modernized our approach to state and local infrastructure siting requirements to accelerate American leadership in 5G deployment, we were challenged in court. But after no fewer than three of my attorneys defended our 5G infrastructure orders before the Ninth Circuit, the court upheld nearly all of our reforms. When we took an innovative and thoughtful approach to reallocating critical “C-Band” spectrum for 5G services, we again were challenged in court. But the D.C. Circuit in short order rejected all legal challenges to our C-Band Order, clearing the way for a record-breaking auction of the spectrum.

We also made history in the long-running media ownership litigation that has played out for the past 17 years in the Third Circuit. When we repealed decades-old media ownership rules to help struggling local news outlets survive in today's diverse and highly competitive media environment, we were challenged in court, and the Third Circuit for the fourth time in 17 years remanded the case back to the agency. But this time, we were undaunted. With the DOJ's support, we persuaded the U.S. Supreme Court to review the Third Circuit's repeated remands, and oral argument in that case will take place next week.

Slide 4

I am equally proud of work that my tireless Agenda Review and General Law attorneys have done to support the Commission's mission. In coordination with the Office of Economics and Analytics, we put in place a legal framework for the Commission to better incorporate economic analysis into its decision-making processes. As our FCC community faced unique challenges, from office relocation to government shutdown to adjusting to remote telework, our Ad Law attorneys were there to tackle all the thorny fiscal, personnel, and other legal issues that arose. My attorneys also volunteered their time above and beyond their normal duties to assist with reviewing applications for CARES Act funding and other issues that arose due to COVID-19.

All these accomplishments belong to the hardworking attorneys and staff that work within my Office. While I cannot name each one individually, I can recognize them by putting up the following slides.

Slide 5

Over the past three years, we have shared in each others' victories, celebrated each others' milestones, and consoled each other when tragedy struck. The thing I will miss most about leaving this position is losing the opportunity to work each day with this exceptional group of lawyers, colleagues, and friends.

There are a few names that deserve special mention. First, my deputies: Litigation Deputy and former Administrative Law Deputy and Acting General Counsel Ashley Boizelle; my current Administrative Law Deputy Michael Carlson; my deputy for Fraud, Transactions, and Bankruptcy Michele Ellison; and former Litigation Deputy David Gossett. I would also like to thank my tireless assistants Natalie Martinez and Shannon Hyatt, without whom literally nothing in our office—let alone the trains—would run on time.

Slide 6

I would like to specially recognize the contributions of two attorneys who sadly passed away during my time as General Counsel—nearly 50-year appellate attorney fixture Grey Pash and 20-year veteran of our transactions and fraud group, Neil Dellar.

I would also like to take a moment to celebrate the remarkable career of Richard Welch, who last month announced his retirement from the FCC after 32 years of service. Due to his decades of devoted work, from his early days in the old Common Carrier Bureau to his current role as Division Director for Litigation, Richard is a walking treatise of communications law history and precedents. We wish him and his family the very happiest time in retirement. But he will be sorely missed by his colleagues and by this agency.

Finally, I would like to thank my wife Katherine and baby girl, Commissioner-in-training Caroline Lucy, without whose steadfast love and support this dream would not have been possible.

Mr. Chairman, as a federal agency, we are required to take into account expert opinion in making predictive judgments about the future effect of the rules we put in place. Accordingly, I would like to conclude with the expert opinion of noted inventor and “student of all sciences” Dr. Emmett Brown, who famously said in *Back to the Future*, “Roads? Where we’re going, we don’t need roads.” At the end of our journey together, I can firmly predict that the policies we have put in place will lead to a more innovative, more empowering, and more connected future. Thank you.