

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL**

*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 Commercial Mobile Services, Twelfth Report, WT Docket No. 07-71*

I am pleased that we have documented and are showcasing today the real and tangible consumer benefits that continue to flow from America's robustly competitive wireless industry. There is a great deal of good news here.

Our report shows that more than 95 percent of the U.S. population lives in areas with at least three mobile telephone operators competing to offer service, and more than half of the population lives in areas with at least five competing operators. More simply, the average American has a choice of at least five wireless carriers. Furthermore, no single competitor has a dominant share of the American marketplace. Concentration in the U.S. wireless market actually declined between 2005 and 2006. Just as exciting, the increase of 28.8 million U.S. wireless subscribers added during this same period represents the largest absolute yearly increase ever. Today, almost 250 million Americans are served by more than 150 wireless service providers.

Such explosive competition has yielded wonderful innovation – far beyond anyone's expectations. For example, during 2006 and 2007, wireless providers have continued to deploy mobile broadband networks. As of December 31, 2006, 21.9 million mobile wireless devices capable of accessing the Internet at broadband speeds were in use in the U.S. versus 3.1 million at the end of 2005. This represents a staggering 730 percent increase. Moreover, in the past year alone, the industry has launched MediaFLO live TV service, the Apple iPhone, and myriad location-based services that improve consumers' ability to find and purchase goods and services, and pinpoint their friends' whereabouts.

I have heard others cite the European and Asian wireless marketplaces as ones the U.S. should emulate. Consistent with last year's report, we again conclude that U.S. mobile subscribers lead the world in average voice usage by a wide margin. Western European subscribers average only 150 minutes per month and Japanese subscribers average 145 minutes per month, compared to an average of over 700 minutes per month in the U.S. We also conclude, yet again, that mobile calls are significantly less expensive on a per minute basis in the U.S. (about \$0.07) than in Western Europe (\$0.20 on average) and Japan (\$0.26). In addition, the percentage of mobile subscribers who use their mobile handsets to browse the Internet is slightly higher in the U.S. (10.7 percent) than in many Western European nations (less than 10 percent in Italy, Spain, France, and Germany). Finally, today's report concludes that the U.S. mobile penetration rate is now, for the first time, on par with those in Japan and part of Western Europe.

In fact, I am delighted that the international community has similarly taken notice of the benefits associated with the robust American mobile telephony market. In its own November

2007 report, THE INTERNATIONAL COMMUNICATIONS MARKET 2007, the United Kingdom's Office of Communications (OFCOM) notes the rise of mobile voice, growth of non-SMS mobile data services, and the emergence of mobile broadband across the international telecommunications markets. Like today's report, the OFCOM report also concludes that the U.S. has the least concentrated mobile marketplace, and concludes that the recent rapid growth in mobile subscriptions has put the U.S. ahead of Japan in terms of mobile concentration. In addition, OFCOM's report notes that Americans are the most satisfied with the speed of their broadband connections (85 percent), whereas Japanese consumers are the least satisfied (41 percent).

2006 also saw the continued increased availability of mobile handsets with Wi-Fi data service capability. Our report describes the efforts of two carriers who launched dual-mode cellular-Wi-Fi handsets designed to make voice calls on cellular GSM networks and at Wi-Fi hot spots (both at home and in public) using voice-over-Wi-Fi technology, with seamless handoff between the two types of networks. More recently, in early November 2007, the Open Handset Alliance introduced Android, a Linux-based software stack that consists of an operating system, middleware, a user interface and applications. The Android kit, which has been in development since 2006 and is expected to be released early next year, will allow software entrepreneurs to freely access the source code and customize applications for their individual purposes. Most recently, and after almost a year in the making, the two largest wireless carriers each announced initiatives to allow customers to use any wireless device and to employ elective applications on their respective networks.

Given the timing of all of these positive developments – which began sprouting in 2006 and even earlier – I question the assertion made by some that the government can claim credit for spurring device and application portability. Indeed, certain discussions set forth in this report appear to apply a shiny new gloss on the Commission's very recent, and as yet untested, open access regulations in the 700 MHz spectrum band. I continue to be concerned that the Commission may have imposed an artificial ceiling that will hamper ongoing market-driven innovation and creativity. I also question the Commission's unwillingness to admit that the wireless industry is (and has been) responding to consumer demand, not prospective regulatory fiat. In sum, I strongly caution against attempts to “spin” the data contained in this report into an *ex post facto* justification of regulatory mandates.