

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Mobility Fund, WT Docket No. 10-208

A lot of folks bet we couldn't get here today. They said Universal Service was too complicated and Intercarrier Compensation too convoluted ever to permit comprehensive reform. Universal Service was sadly out of step with the times, Intercarrier Comp was broken beyond repair. Yet here we are this morning, making telecommunications history with comprehensive reform of both Universal Service and Intercarrier Compensation. The first thing I want to do is congratulate Chairman Genachowski for the leadership he brought to bear in getting us to a place where no previous Chairman has managed to go. Today, thanks to his leadership, we build a framework to support the Twenty-first century communications infrastructure our consumers, our citizens and our country so urgently need. So mighty praise is due the Chairman, and even those who may take exception to parts of what we approve today will join me in thanking him for his commitment, courage and herculean effort to make this happen.

In the face of the complex systems we modernize today, it is all too easy to forget the simple, timeless goal behind our policies: all of us benefit when more of us are connected. The principle of Universal Service is the life-blood of the Communications Act—a clarion call and a legislative mandate to bring affordable and comparable communications services to *all* Americans—no matter who they are, where they live, or the particular circumstances of their individual lives. So it is altogether fitting as we move away from support designed primarily for voice to support for broadband, that we bear witness to the accomplishments USF has made over the years to connect America with Plain Old Telephone Service. The Fund has achieved truly laudable success. Thanks to both high cost support and low income assistance, we now have voice penetration rates in excess of 95% nationally. No other infrastructure build-out has done so much to bind the nation together. Additionally it has enabled millions of jobs and brought new opportunities to just about every aspect of our lives. Some stark challenges remain, of course, particularly in Native areas. The shocking statistic in Indian Country is a telephone penetration rate that at last report hovers in the high 60th percentile. Getting voice service and broadband to Indian Country and other Native areas is a central challenge to implementing the reforms we launch today. Bringing Universal Service into the Twenty-first century is the only way we can extend the full range of advanced communications services to places those services will not otherwise go.

The big news here, of course, is that Universal Service is finally going broadband. This is something I have advocated for a long, long time. It is something a decade and more overdue and a step that the Joint Board on Universal Service strongly backs. These new tools of advanced communications technologies and services are essential to the prosperity and well-being of our country. They are the essential tools of this generation like the hoe and the plow, the shovel and the saw were to our forebears. No matter if we live in city or hamlet, whether we work in a factory or on a farm, whether we are affluent or economically-disadvantaged, whether we are fully able or living with a disability—*every citizen* has a need for, and a right to, advanced communications services. Access denied is opportunity denied. That applies to us as individuals

and as a nation. America can't afford access denied—unless we want to consign ourselves and our children to growing, not shrinking, digital divides. We are already skating around the wrong side of the global digital divide in many ways, when we should have learned by now that the rest of the world is not going to wait for America to catch up. But here's the good news. If we seize the power of this technology, and build it out to every corner of the country and make it truly accessible to every American, there's no telling what we can accomplish. America would be back at the front of the pack.

The current system, for all the good it accomplished, has outlived its time. It has strayed from what Congress intended and consumers deserve. Inefficiencies and waste crept in where efficiency and ongoing oversight should have been standard operating procedure. As problems arose they were too often minimized or allowed to compound. At best, we settled for band-aids that never managed to stanch the hemorrhage. Sometimes we didn't even try band-aids. And the Commission more than once made things worse by calling communications technologies and services things that they were not, engaging in linguistic exegesis with a fury that even the most intense biblical scholars of old were incapable of achieving. In sum, we lost sight of the original purposes of both the Telecommunications Act of 1996 in general and the Universal Service Fund in particular.

Whatever the causes, and we could debate them for hours, our current USF and Intercarrier Compensation regimes are broken. Legacy access rates encourage carriers to maintain yesterday's technology instead of reaping the benefits of today's IP based networks. The hidden manipulations of intercarrier payments cost consumers billions of dollars each year. We reimburse some carriers for whatsoever they choose to invest in certain parts of their networks, regardless of whether a lesser amount was all that was needed to provide service to their customers. In some areas of the country, we subsidize four or more wireless carriers based on the costs of a wireline network. All of this excess is reflected in inflated monthly rates that consumers pay. The old saying is, "If it ain't broke, don't fix it." Well, it's broken. And we are left with no real option short of a major fix. No tinkering around the edges is capable of putting these systems back on a solid footing.

Some will claim we attempt too much today. But we would not have to overhaul these programs so fundamentally had the Commission been attentive to its duty to address these problems as they arose and worsened through the years. It's not that we didn't see the writing on the wall. Many people did. Years ago, as just one example, I proposed putting Universal Service funds to work supporting broadband build-out, like other countries were doing. Four years ago, four of my colleagues here were ready to vote to put USF on a new broadband footing, including a pilot program for competitive auctions. On Intercarrier Compensation, we four were ready to vote at the same time for lowered rates and an end to traffic pumping and phantom traffic. Commissioner McDowell will remember this well because we worked closely together on it.

What we are doing today is repairing two broken systems and putting in place a more credible and efficient framework that will benefit consumers, carriers and the country. We are approving a framework for allocating limited resources to mitigate serious communications shortfalls. It is a framework that should give all stakeholders a clearer picture of how these systems will work going forward and that will provide predictability for rate-payers, businesses and policy-makers. I would have much preferred a higher budget for the Fund—a budget that I believe consumers would accept because of its importance to putting the nation back to work and providing our kids with the tools they need for their futures. That being said, we set out down a good and welcome road here with steps that will make a huge difference, and that is why I am

able to approve the item even though it is not, in several respects that would come as a surprise no one, the precise item I would have written.

Our focus is on support targeting the unserved areas that need it most. There is much to be said for this approach at this time because of the harsh budget realities the nation faces and because of the perceived need to limit Universal Service, but I hope and expect that our actions today will have spill-over effects in *under-served* areas, too—because America won't be broadband-sufficient until the under-served become fully-served, too. Inner cities can be just as handicapped as more remote regions. Here, too, access denied is opportunity denied. So I welcome the new approach that takes us from scatter-gun support of voice based largely on the size of carriers and focuses instead on where private investment for broadband refuses to go. This means targeting money for areas where consumers would not otherwise have service, and I believe this is the first time we can really say that about the Fund.

Acting on another long standing recommendation of the Joint Board, we are for the first time creating a specific funding mechanism to support mobility. This is an historic accomplishment. Clearly there are areas—many areas—where mobile broadband providers are doing very well in delivering services and profiting handsomely and where support isn't needed. But there are other areas that are strangers to reliable mobile voice coverage and where the market will otherwise not go.

The mechanism through which we propose to do this—reverse auctions—is a new tool for the Commission. While we have considerable experience with spectrum auctions, this is in many ways a new species of auction and we will need to be very careful in how we approach and evaluate it. I hope it will live up to the high expectations parties have for it and truly become an efficient way to expend our limited USF dollars to reach unserved areas. I expect we will learn a lot from the first such auction and apply those lessons to the future. Let me also say how much I appreciate the item's prohibition on nation-wide package bidding in the Mobility Fund. I believe this is an important safeguard against gamesmanship and even further consolidation in the industry and that it can only redound to the benefit of rural consumers.

I am also pleased that we are adopting another safeguard to encourage stability during the transition to the new regime for mobile support. The course we adopt today has two auction phases, with the second installment of mobility support dependent upon further Commission decision-making. Understanding the need for maximum predictability throughout these transitions, we will halt reductions in legacy support if for some unlikely and unanticipated reason the second auction phase does not take place as planned.

Given the financial constraints we impose on USF, I also am pleased we were able to grow the Mobility Fund from the initial proposal. I would have supported, and I actively encouraged, a larger number given the scope of the challenges we face, but the increase can at least be seen as an important down-payment on further deployment. I appreciate the Chairman's support for this and particularly commend the leadership of my friend Commissioner Clyburn.

I am also encouraged that we launch a Tribal Mobility Fund specifically to target support for mobile service in Tribal areas. The state of broadband in Indian Country is a national disgrace—somewhere in the embarrassingly low single digits. Again, getting this right will take more money than is being proposed in today's proceedings, but it also hinges on more than money alone. It hinges also on the Commission taking prompt action on other proceedings and spectrum issues pending before us. Even in addition to all this, there are a host of confidence-building and cooperation-building challenges confronting us. I do believe the current

Commission is on the right path to rebuilding our consultative mechanisms with Native Nations. We have new dialogues taking place, new inputs being shared, and new commitments to work together. We are also moving toward a fuller appreciation of what tribal sovereignty means and of the need to accord tribes the fuller and more active role they must have in order to ensure the best and most appropriate deployment and adoption strategies for their areas and populations. I feel encouraged that we are at long last positioning ourselves to make progress by working more closely and creatively together. The sad history here, as we all know, is many promises made, many promises broken. We need to turn the page, and I think we are beginning to do that now.

I also applaud the strong-build out benchmarks that will be a condition of receiving Mobility Fund dollars, and indeed support from any of our new programs, with meaningful enforcement and clawback consequences if providers do not meet their obligations to consumers. This injects much-needed discipline into the system. It is another really important component of our actions today and, strongly enforced, one that will inspire more confidence in the new system than we ever had in the old.

Today is also historic because we finally take on the challenge of Intercarrier Compensation. We take meaningful steps to transform what is badly, sadly broken. This item puts the brakes on the arbitrage and gamesmanship that have plagued ICC for years and that have diverted private capital away from real investment in real networks. By some estimates, access stimulation costs nearly half a billion dollars a year, and phantom traffic affects nearly one fifth of the traffic on carriers' networks. Today, we say "no more." We adopt rules to address these arbitrage schemes head on. And, very importantly, we chart a course toward a bill-and-keep methodology that will ultimately rid the system of these perverse incentives entirely.

My enthusiasm here is tempered by the fact that end-user charges (under the label of "Access Recovery Charges") are allowed to increase, albeit incrementally, for residential consumers. My first preference was to prevent any increase. Alternatively, we could require individual carriers to demonstrate their need for additional revenues before imposing the ARC. Perhaps some of the largest and most profitable companies should not be able to charge the ARC. However, the Commission does adopt some important measures to protect consumers even as it allows additional charges. In particular, consumers already paying local phone rates of \$30 or more cannot be charged the ARC. The use of this ceiling recognizes that some early adopter states have already tackled intrastate access rates, and their citizens may already be footing a reasonable part of the bill. In the end, I am grateful that, at the very least, additional charges to end-users are not as great as they might have been, are spread over a longer period of time, and should be offset (and hopefully more than matched) by savings and efficiencies realized because of the more rational programs we begin to put in place. And I am hopeful the Commission will do everything it can to assure that these savings are passed on to consumers, although I continue to lament that the fact that we don't have a more competitive telecommunications environment that would better ensure consumer-friendly outcomes.

While "The Inside-the-Beltway" crowd and the armies of industry analysts and assorted other savants will be parsing today's items with eyes focused exclusively on which company or industry sector is up or down, who gains the most or least, and on all the other issues that will cause forests to be chopped down and vats of ink drained, I hope we can keep the focus on the consumer benefits of what we are doing. I would not—could not—support what we do today unless the expected consumer benefits are real enough to justify the effort—and, yes, the risks—of so sweeping a plan. Much will depend upon our implementation and enforcement—and I am sure some mid-course corrections—but I believe there are real and tangible consumer benefits in the framework items before us. More broadband for more people is at the top of the list. As just

one example, we anticipate significant new investment with over seven million previously-unserved consumers getting broadband within six years. That means more service, more jobs, more opportunities.

Building critical infrastructure—and broadband is our most critical infrastructure challenge right now—has to be a partnership. The states are important and essential partners as we design and implement new USF and ICC programs. I have been a strong advocate for closer federal-state regulatory partnerships since I arrived here more than ten years ago. I have had the opportunity to serve on the Joint Boards with our state colleagues, to be a part of their deliberations, to appreciate the tremendous expertise and dedication they bring to their regulatory responsibilities, and to have learned so much from them. It is just plain good sense to maximize our working relationships with them. More even than my personal preference, which is deeply-held, this is the mandate of the law. Section 254 of the Act is clear—the states have a critical role in the preservation and advancement of Universal Service. While I understand the need for predictability in an ICC regime, I am pleased that my colleagues have retained a key role for states, including arbitrating interconnection agreements; monitoring intrastate access tariffs during the transition to bill-and-keep; and helping to implement our Universal Service Fund as well as, in many cases, their own state universal service funds. State regulators are by definition closer to the needs of their consumers than federal regulators ever can be, and they retain their role as the likely first venue for consumer complaints. Additionally, I have urged the entire team here, and all stakeholders, to think creatively about how to *expand* the state role as we implement the new systems. I would hope that carriers would see the benefits of this federal-state cooperation, too. But it is unfortunate, and highly counter-productive to consumers, when some companies exercise their huge lobbying machines to encourage state legislatures to effectively cut state public utility commissions out of telecommunications oversight. This makes everyone's job—except the industry giants'—more difficult. And it harms the nation.

On the legal front, some of the calls made in this item are unnecessarily and unfortunately more circuitous than I believe they need to be. We ought to be long past declaring that IP-to-IP interconnection obligations are required under the Act. We had the chance to do this and to declare that VoIP is a telecommunications service back in 2002 and 2005, and our failures to do so have had tangibly perverse consequences. Avoiding action not only harms competition and delays the more efficient build-out of our information infrastructure—it ensures that America will continue to be down the global broadband rankings in a world where that just doesn't cut it for us. We need to *lead* the world not so we can pin a medal on our chest. We need to lead the world to regain our prosperity, our competitiveness and our capacity to provide jobs and opportunity to every one of our citizens.

Broadband adoption is as great, or greater, a challenge than deployment. I will continue to push for doing more on adoption, but we are limited here by the reality that today's emphasis is on reforming infrastructure deployment in high cost areas. That said, I have worked to include adoption in this proceeding. I am pleased that carriers that receive funding will be expected to connect community anchor institutions that they pass. These entities are often the places where unconnected consumers get their first exposure to broadband and learn how to use it. I am similarly pleased that all Universal Service programs now include a real and enforceable requirement for affordability. It is only logical, and indeed consistent with the mandate of section 254, that carriers whose networks are funded by federal Universal Service support should be required to offer service at affordable rates. That said, much of the important adoption items are still ahead of us. We have an imminent opportunity to update our Lifeline and Link-Up programs, and I expect we will be able to accomplish that before the sun sets on the year 2011.

So there is still much work to be done. The success of today's framework depends heavily on the Commission getting related and integral policy calls right. We must revisit our long-overdue special access proceeding, something critical to small businesses and anchor institutions. This is a situation with huge spill-over effects on the excessive rates consumers are forced to pay. It is a problem that needs to be resolved by Report and Order in the next few months because it has simply waited years too long.

Similarly, we must act on contributions methodology. The *distribution* of funds is only part of the broadband challenge. Of equal importance is the *contribution* of funds going into USF. I would have preferred to see such an item in front of us today. There is inherent inequity in a system that funds the deployment of broadband off of assessments on interstate telephony. Once we ensure that double, triple and quadruple play services that benefit from Universal Service bear their fair share, we will not be subject to the unnecessary financial constraints that our current approach imposes. We also need spectrum management decisions that avoid putting still more spectrum in too few hands. Among other good results, that would drive better mobility auctions.

Successful implementation of the steps we present today will demand a degree of stakeholder cooperation that we have not seen in many years. Consumers, states, businesses, the FCC, Congress and the Administration each has a vital role to play. But, as you have heard me say before, stakeholder partnering is how we managed to build America's infrastructure over the past two-and-a-quarter centuries, from those early post roads, bridges and canals right up through our super-highways and rural electricity. Now is the time to practice that American Way one more time. I believe the process has started off commendably. Everyone has had an opportunity for input. When we approved the NPRM in February, I remarked that everyone would be asked to give up a little so that the country could gain a lot. That spirit of shared sacrifice has made today's action possible. The process has generally—if not perfectly—worked. Stakeholders stepped up to the plate. Their analyses were important, many of their suggestions creative and helpful. Discussions were held between not only likely players, but some unlikely ones, too, and I applaud that process. I have no illusions about what perils may await us, but I do want to suggest how much better off we will all be if our efforts going forward focus on working together to implement these new frameworks, and working constructively to make changes where they may be called for, rather than spending precious time that the country doesn't have on litigation or legislative end-runs that seek to advantage single private interests at the expense of the greater public good. If the generally cooperative spirit of the past several months serves as our guide going forward, we can avoid those pitfalls.

Lots of people made heroic efforts to get us today's historic achievement. I've already mentioned the leadership of Chairman Genachowski. Our internal team, put together by the Chairman, worked mightily and expertly on a whole host of unbelievably complex issues. Zac Katz and the dedicated experts in the Wireline and Wireless Bureaus, Sharon Gillett, Carol Matthey, Rebekah Goodheart, Ruth Milkman, Rick Kaplan and Jim Schlichting, spent many hours answering our questions and discussing our requests, and they were backed up by dozens of our typically brilliant and dedicated FCC Team. My Commissioner colleagues spent weeks and months immersed in the tall weeds, taking hundreds of meetings, talking with one another and developing constructive proposals, and the Eighth Floor advisers, including Angie Kronenberg on Commissioner Clyburn's staff and Christine Kurth on Commissioner McDowell's, worked long days, nights and week-ends to make this happen. In my own office, Margaret McCarthy and Mark Stone provided not only great analysis but creative suggestions for getting us to better outcomes. And, I should note, *ALL* my staff felt the weight of this and all performed at the stardom level. It

has been a highly professional effort by a world-class agency of which I am proud to be a member.