

**CONCURRING 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 Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 11-186.

This comprehensive report provides data and information about the current state of the wireless industry and demonstrates that the mobile sector continues to thrive in today's challenging economic times. As a result of competition, American consumers are benefitting from the innovative service offerings provided by wireless providers and experience greater choice at lower prices than ever before. America has *always* led the world in the wireless sector and this report illustrates that we still do.

Furthermore, this report shows the continued strides made by wireless providers to build out broadband networks. In fact, capital investment grew from \$24.9 billion in 2010 to \$25.3 billion in 2011 as wireless providers continue to upgrade and expand networks to meet the needs and demands of Americans. As of October 2012, 82 percent of the U.S. population has a choice of at least four wireless broadband providers and approximately 92 percent of Americans are served by three or more providers. These percentages have increased from 68 percent and 82 percent, respectively, in August 2010. In rural areas, the percentage of the population served by three or more wireless broadband providers has increased from 38 percent in August 2010 to 65.4 percent in October 2012. In short, the raw data throughout this report clearly demonstrates a vibrant and competitive market where consumers enjoy a tremendous array of options.

This report also demonstrates that consumer choice extends beyond the selection of service providers. The industry offers a wide selection of service plans, ranging from high-end and thrifter prepaid options to traditional postpaid plans with various levels of voice minutes, data amounts and financing for the latest innovative devices. In fact, this report details that consumers can choose among more than 20 manufacturers offering more than 250 handsets. Today, approximately 55 percent of American mobile consumers carry smartphones running on different operating systems to download their choice of more than one million available applications.

The Commission's report does not conclude, despite the wealth of evidence before us, "whether or not there is effective competition," as the statute requires.¹ Instead, the report "focuses on presenting the best data available on competition throughout this sector of the economy and highlighting several key trends in the mobile wireless industry." Congress, however, tasked us with making a finding as to whether this sector is *competitive*. Clearly, it is. For this reason, I vote to concur to the *Sixteenth Mobile Wireless Competition Report*, as I have for the last two reports.

Additionally, I continue to be concerned about the Commission's continued determination to differentiate spectrum above and below 1 GHz. Different spectrum bands have distinct propagation characteristics and present contrasting benefits and challenges. Nonetheless, frequencies both above and below 1 GHz are being used to provide the same mobile voice and data services, and LTE is successfully being deployed from 700 MHz to above 2 GHz. The "apples to oranges" distinctions of yore are quickly

¹ 47 U.S.C § 332(c)(1)(C).

disappearing thanks to new technologies. Our public policy decisions should reflect these marketplace realities. The Commission should not continue to gaze at today's dynamic trends through yesterday's lenses.

Moreover, as we go forward, we must ensure that the economic growth displayed in this report continues. Last year, U.S. wireless providers employed 238,071 workers. The wireless sector overall supported 3.8 million jobs, directly and indirectly, and accounted for a \$146.2 billion boost to the U.S. gross domestic product.

This shining star of the American economy has succeeded precisely *because* the government has largely kept its hands off of it. Recent overtones emanating from the Commission, however, foreshadow that the days of regulating the wireless sector with a "light touch" may be coming to an end. Increasing government control of this freedom-enhancing economic engine would only slow it down and undermine America's global competitiveness. No regulation is cost-free. Adding more rules could put American consumers at a disadvantage compared to their international counterparts. The Commission should not allow this to happen.

I thank the dedicated staff of the Wireless Telecommunications Bureau for all of the hours spent compiling this data. I am grateful for your efforts.