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4 ``OVERSIGHT OF THE FEDERAL COMMUNICATIONS COMMISSION''

5 THURSDAY, DECEMBER 12, 2013

6 House of Representatives,

7 Subcommittee on Communications and Technology

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The subcommittee met, pursuant to call, at 10:10 a.m.,
11 in Room 2123 of the Rayburn House Office Building, Hon. Greg
12 Walden [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Walden, Latta,
14 Shimkus, Terry, Rogers, Blackburn, Lance, Guthrie, Gardner,
15 Kinzinger, Long, Ellmers, Barton, Upton (ex officio), Eshoo,
16 Matsui, Lujan, Dingell, DeGette, Matheson and Waxman (ex

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17 officio).

18 Staff present: Gary Andres, Staff Director; Ray Baum,
19 Senior Policy Advisor/Director of Coalitions; Sean Bonyun,
20 Communications Director; Matt Bravo, Professional Staff
21 Member; Andy Duberstein, Deputy Press Secretary; Gene
22 Fullano, Detailee, Telecom; Kelsey Guyselman, Counsel,
23 Telecom; Grace Koh, Counsel, Telecom; David Redl, Counsel,
24 Telecom; Charlotte Savercool, Legislative Coordinator; Tom
25 Wilbur, Digital Media Advisor; Jessica Wilkerson, Staff
26 Assistant; Shawn Chang, Democratic Chief Counsel for
27 Communications and Technology Subcommittee; Margaret
28 McCarthy, Democratic Professional Staff Member; Kara van
29 Stralen, Democratic Policy Analyst; and Patrick Donovan,
30 Democratic FCC Detailee.

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|
31 Mr. {Walden.} I will call to order the Subcommittee on
32 Communications and Technology, and it is a delight to welcome
33 all five members of the Federal Communications Commission,
34 fully installed, and bright and shiny faces and ready to go
35 today. We welcome you. And, Chairmen Wheeler and
36 Commissioner O'Rielly, we especially welcome you and look
37 forward to working with you to set the communications agenda
38 for the United States.

39 The Federal Communications Commission is the arm of our
40 government, tasked with fostering some of the most important
41 parts of our national economy, and among them, the
42 telecommunications industry, the video distribution
43 industries and the Internet.

44 Given the economic significance of these industries, the
45 changes from Congress--the charge from Congress to encourage
46 competition, license our national spectrum assets, and
47 facilitate technological advances, is one that must be
48 discharged with transparency, accountability and a long view
49 of the technological landscape. It is with this in mind that
50 this subcommittee has worked over the last 3 years on efforts

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51 to improve the Commission's processes. As the subcommittee
52 with jurisdiction over the Federal Communications Commission,
53 we take this task very seriously and with great care to
54 ensure the Commission not only remains a vital institution,
55 but one that can serve as an example for other federal
56 agencies of accountability and efficiency. A bipartisan
57 majority of this subcommittee is deeply committed to this
58 cause, and is proud to have reported out a bipartisan FCC
59 process reform bill to the full House of Representatives
60 yesterday.

61 Chairman Wheeler, it is clear you want to improve the
62 Agency. I have appreciated our conversations and your
63 comments, and I would like to commend you for turning your
64 attention to this task as one of your first roles as Chairman
65 by asking one of your top advisors to review the FCC process,
66 and submit recommendations for improvement by early 2014.

67 While there are a number of large proceedings currently
68 pending at the Commission, many of this we will talk about
69 today, I am particularly concerned with returning the
70 Commission to addressing some of its long-overdue
71 responsibilities. For example, despite multiple unsuccessful

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72 trips to the Third Circuit Court of Appeals, the Commission's
73 responsibility to address the Media Ownership proceeding
74 remains unfulfilled. Additionally, licensing, one of the
75 original reasons for the creation of the Commission, has
76 fallen woefully behind. Of particular note is the tragic
77 pace of processing of applications in the Commission's Media
78 Bureau.

79 Now, the AM Radio industry has been clamoring for the
80 ability to use FM translators to give new life to that
81 classic medium, and I certainly appreciate what Commissioner
82 Pai has done taking on this issue, and it is very good work,
83 and as a former licensee, I actually know firsthand the
84 Commission has been in no rush to address translator
85 applications. In fact, my own application sat unresolved at
86 the Commission for 10 years. To put this in context, while
87 the Commission considered my application, my wife and I
88 actually sold our radio stations, our son went off and
89 graduated from college, and every full-power television
90 station that--in the country converted from analog to digital
91 broadcasting.

92 Look, the Commission can do better than that. The

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93 Commission should do better than that, and I am hopeful that
94 our shared commitment will lead to improvement in that
95 bureau.

96 As the only one on the panel with the unique experience
97 of having been a licensee of commercial broadcast, and still
98 under your jurisdiction with my amateur radio license, which
99 I am set to renew for March, and hopefully it will get
100 approved within 10 years, I would like to offer two pieces of
101 advice for you as you move forward with your change. First,
102 where Congress has spoken, I urge you to heed the words in
103 statute, and reject calls to act in ways contrary to
104 congressional intent. For example, in the Incentive Auction
105 proceedings, some were calling on the Commission to exclude
106 bidders from participating in the auction. Others still are
107 calling for excessive guard bands in the attempt to end run
108 requirements to license reclaim TV band spectrum. I am just
109 saying both are bad ideas.

110 Second, I urge you to bear in mind that even seemingly
111 small changes in your rules can have significant impact on
112 the market. The Commission's recent decision to apply yet
113 incomplete rules to its UHF discount has effectively frozen

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114 many plans for broadcast mergers and acquisitions. The
115 problem here isn't that the Commission wants to update, or
116 needs to update the UHF discount rule; the problem is that,
117 absent a decision how and importantly when the Commission
118 will move forward, it has pressed pause for an indefinite
119 period of time. We all know that markets do not react
120 favorably to this kind of open-ended uncertainty.

121 On the other hand, I applaud the recent announcement on
122 the schedule for the Spectrum Incentive Auctions. Both the
123 broadcast and wireless industries are waiting with baited
124 breath to see how the FCC addresses this first-of-a-kind
125 auction, to say nothing of the public safety agencies that
126 are counting on the auction fund to fund FirstNet. The
127 certainty of a timetable is good for both stakeholders and
128 for the Commission.

129 Finally, turning to those large proceedings the
130 Commission has on its plate. We are looking forward to
131 working with you to tackle the tough issues like the IP
132 transition, universal service reform and media ownership.
133 Chairman Upton and I recently launched a large proceeding of
134 our own; an initiative to update the Communications Act.

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135 Each of you brings a unique perspective to your work on the
136 Commission; industry lobbyists, newspaper publisher, a couple
137 of lawyers, even some former legislative Hill staffers. That
138 experience combined with your expertise on the Federal
139 Communications Commission staff and your own work on the
140 Commission will be valuable in our efforts as we work
141 together to update and modernize the Communications Act.

142 So Congress--or, Chairman Wheeler, we wouldn't want to
143 demote you to the level of Congressman, Chairman Wheeler--
144 yeah, our numbers aren't that great. Commissioner O'Rielly,
145 we especially welcome you aboard the FCC. And Commissioners
146 Clyburn, Rosenworcel and Pai, welcome back, not only to the
147 Commission, but before our committee. We thank you all for
148 joining us today. We look forward to working together in
149 this very critical sector of America's economy to spur
150 further innovation of technology growth and jobs.

151 And with that, I will now yield to the ranking member of
152 the subcommittee, my friend, Ms. Eshoo, from California.

153 [The prepared statement of Mr. Walden follows:]

154 ***** COMMITTEE INSERT *****

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|
155 Ms. {Eshoo.} Thank you, Mr. Chairman, for holding this
156 hearing. It is wonderful to see a full Federal
157 Communications Commission before us. Welcome to each one of
158 you. A special welcome to the new Chairman. I think that
159 you start out with 100 percent goodwill with everyone that is
160 on this committee, I think our full committee, in fact, I
161 think the Congress.

162 We have--there have been many months where we didn't
163 have a full Commission. I want to once again thank
164 Commission Clyburn for her exceptional leadership during that
165 period of time. Welcome to each one of the Commissioners,
166 and, of course, to the newest Commissioner, Mike O'Rielly,
167 who served on the other side of that table. When I first
168 came to the committee, he was here when we began the Telecom
169 Act, and now, guess what, you get to trudge through that all
170 over again, according to the Chairman. So I guess there are
171 some things that we just never finish with.

172 As Chairman Wheeler announced last week, the Commission
173 has made the upcoming Incentive Auction of broadcast
174 television spectrum the top priority of the Commission, and I

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175 agree. This is a rare opportunity to auction beachfront
176 spectrum under 1 gigahertz, and the FCC has to structure
177 rules to promote a competitive wireless landscape, and ensure
178 carriers of all sizes, both regional and national, have an
179 opportunity to bid competitively for licensed spectrum, and
180 it has to be done right. It is the first time in the history
181 of the world that an auction has been structured this way,
182 and I appreciate, Mr. Chairman, and all the Commissioners,
183 your understanding the delicacy of this needing to be done
184 right, well and successfully.

185 Similarly, recognizing the enormous economic and
186 societal benefits of an unlicensed spectrum, which is tucked
187 away in one corner of my Telecom heart, the FCC has an
188 opportunity to structure a band plan that ensures a
189 nationwide block of spectrum under 1 gigahertz dedicated for
190 unlicensed innovation. With unlicensed spectrum being a
191 critical tool to bring broadband to unserved areas, including
192 rural America, this opportunity really must be seized.

193 In addition to the important role the FCC has in freeing
194 up more spectrum for mobile broadband, I would like to
195 highlight four issues that the Commission make a top priority

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196 in 2014, and I think you are going to.

197 First, during the 3 months since I released draft
198 legislation, the message from individuals, communications
199 companies and consumer groups has been abundantly clear. Our
200 video laws are in need of reform. They are broken.
201 Independent of such legislation, the Commission does have an
202 important responsibility to promote competition, consumer
203 choice and localism across the video marketplace.

204 Second, I hope the Commission will continue its focus on
205 modernizing the e-Write Program to support the 21st century
206 digital needs of our schools and libraries. In June,
207 together with Commissioner Rosenworcel, we called for such an
208 update, and I am pleased that the Whitehouse and the FCC
209 agree with us and have made this issue a key priority. We
210 have to stay on it. We have to move, and we have to make it
211 much better. It has got to be a 21st century plan.

212 Third, the Commission should uphold, I think, the goals
213 of Section 629, and ensure a vibrant, competitive retail Set-
214 Top Box market. The successor to the current cable card
215 regime, whether by FCC rule or, more preferably, a voluntary
216 industry agreement, will usher in a new generation of

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217 technologies that will give consumers greater choice and
218 ensure that innovation flourishes.

219 Finally, I am pleased that the Commission has made the
220 transition to next-generation 911, as well as improving the
221 indoor location accuracy of 911 calls a key priority. In
222 fact, later today, it is my understanding that the Commission
223 will vote on an Order to improve the reliability of 911, and
224 I look forward to continued updates as the Commission
225 proceeds with the implementation of Next Gen 911.

226 Mr. Chairman, thank you for holding this morning's
227 hearing. I look forward to the important testimony of
228 Chairman Wheeler and each of the Commissioners. Most
229 importantly, I pledge to work with each of you to make
230 America's communications sector the most effective and the
231 most admired in the world.

232 And with that, I yield back.

233 [The prepared statement Ms. Eshoo follows:]

234 ***** COMMITTEE INSERT *****

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235 Mr. {Walden.} Gentlelady yields back.

236 The Chair now recognizes the chairman of the full
237 committee, Mr. Upton, from Michigan, I believe.

238 The {Chairman.} Great State of Michigan.

239 Mr. {Walden.} Not Ohio.

240 The {Chairman.} Thank you, Mr. Chairman.

241 Now, today we welcome a fully-constituted FCC back to
242 the Energy and Commerce Committee. The last time that we
243 heard from the full Commission was in July of 2012. So the
244 FCC has regulatory authority over a sector of our economy
245 that is critical to innovation, jobs and our Nation's global
246 leadership in technology. The communications sector is also
247 an integral part of our daily lives, connecting us to loved
248 ones, alerting us to natural disasters, and entertaining and
249 educating us every single day.

250 As the regulatory agency of these industries, the FCC
251 has the immensely-important task of promoting growth and
252 competition. Our hearing today will examine actions that the
253 FCC has taken since the last Commission last appeared and set
254 expectations for the Agency's future. As the oversight

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255 authority for the Commission, our committee works hard to
256 ensure that the FCC functions for the benefit of American
257 consumers as well as companies. And we also want to make
258 sure that this Agency functions efficiently and transparently
259 as all government agencies should.

260 I am glad to say that this is not a partisan concern.
261 Bipartisan majority on a voice vote of the full committee
262 reported an FCC Process Reform Bill yesterday that will help
263 the FCC operate more openly and effectively, and we expect it
264 to be on the House floor in the not-too-distant future. And
265 the bill is needed. There are several stalled proceedings
266 and ambiguous projects at the Commission that caused concern
267 to me and other members of the committee. We have sent a
268 number of letters in the past months regarding media
269 ownership proceedings. Subcommittee Vice Chair Latta has
270 gone to the extent of drafting a bill to end the Cable Set-
271 Top Box Integration Ban, a bill that seems to make a lot of
272 sense, and which perhaps the FCC should have considered doing
273 a while ago. My concern and hope is that we can start a
274 productive dialogue today with our esteemed witnesses on
275 these and the many other important issues pending at the

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276 Commission.

277 Commissioner O'Rielly, I would like to welcome you back
278 to the Energy and Commerce Committee, a committee you know
279 well, having once served here as staff. And, Chairman
280 Wheeler, though you are from, Ohio, this is often known as
281 the Big House, now the Dingell Room. Hope you appreciate the
282 green-and-white décor. And, yes, we were first party.
283 Welcome back.

284 And I yield to other members--Republican members.

285 [The prepared statement of Mr. Upton follows:]

286 ***** COMMITTEE INSERT *****

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|
287 Mr. {Walden.} The Chairman now recognizes the vice
288 chair on subcommittee communications, Mr. Latta, from Ohio,
289 home of the Speaker of the House. More importantly, number
290 two.

291 Mr. {Latta.} Thank you very much for yielding, Mr.
292 Chairman, and thank you very much to our Commissioners for
293 being with us today, and welcome to our newest members of the
294 Commission. I really appreciate you--having you here with us
295 today.

296 The communications and technology industry has been a
297 consistent bright spot in the U.S. economy, it has created
298 millions of American jobs, spurred significant investment and
299 innovation, and most importantly, empowered consumers, who
300 are the driving force behind robust competition in the
301 communications marketplace.

302 As U.S.-based businesses lead the world in technological
303 advances, we have a responsibility to ensure the FCC fosters
304 continued growth and development in the communications
305 sector. This can be achieved by the FCC incorporating more
306 transparency and accountability in its processes, operating

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307 without the bounds of the statutory authority, and acting
308 upon legislation according to Congressional intent.

309 I look forward to continuing working with Chairman Upton
310 and the members of this committee, and also Congressman
311 Green, on my H.R. 3196, which is the legislation to eliminate
312 the integration ban on Set-Top Boxes, and allow the
313 marketplace to get to the next generation of innovation
314 without the regulatory barriers being put in front of it.

315 I look forward to the hearing and hearing the testimony
316 today. And, Mr. Chairman, I yield back.

317 [The prepared statement Mr. Latta follows:]

318 ***** COMMITTEE INSERT *****

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|

319 Mr. {Walden.} Thank you.

320 Chair recognizes the gentlelady from Tennessee, the vice
321 chair of the full committee, for the remaining 40 seconds, if
322 she wants.

323 Mrs. {Blackburn.} And I thank the Chairman. I want to
324 welcome all of our Commissioners, and publicly commend
325 Commissioner Clyburn for the wonderful work that she did when
326 she served as the Acting Chair. We appreciate that
327 leadership. And, Chairman Wheeler, we look forward to having
328 you continue and to work in a collaborative manner to find
329 results for the private sector. We would hope that the
330 Commission will be proactive, not get beyond its mission, but
331 to stay focused on your core mission. Pay attention to
332 economic analysis, look at cost-benefit analysis, and make
333 certain that you don't suffer mission creep, which is casting
334 a shadow over the private sector.

335 With that, I yield back.

336 [The prepared statement Mrs. Blackburn follows:]

337 ***** COMMITTEE INSERT *****

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338 Mr. {Walden.} The gentlelady yields back.

339 Chair recognizes the ranking member of the full
340 committee, Mr. Waxman.

341 Mr. {Waxman.} Thank you very much, Mr. Chairman. I
342 want to welcome the members of the Commission, Chairman
343 Wheeler and all the Commissioners, and I also want to join in
344 commending Commissioner Clyburn for the incredible job she
345 did as Acting Chairwoman from the industry agreement on
346 interoperability, to long-overdue reforms on prison phone
347 rates. Your brief chairmanship will remember--will be
348 remembered for the remarkable amount you accomplished.

349 Let me welcome Chairman Wheeler and Commissioner
350 O'Rielly. I congratulate you on your appointment and
351 confirmation, and we are pleased to have you here. You join
352 the FCC at a time when our country is undergoing dramatic and
353 perhaps fundamental transformations in communications,
354 networks and technologies, and the decisions you make at the
355 Commission will no doubt have lasting impact on our nation's
356 communications landscape.

357 At the top of the FCC agenda is the Spectrum Auctions

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358 authorized by the Public Safety and Spectrum Auction Act last
359 year, and I am pleased to see that the FCC is moving ahead to
360 conduct the H Block Auction in January, in addition to
361 allocating new wireless spectrum to address our nation's
362 spectrum shortage. This auction will provide significant
363 down-payment for the nationwide Interoperable Public Safety
364 Network.

365 I also support, Chairman Wheeler, your recently-
366 announced timetable for the Incentive Auction. This auction
367 has many layers of complexity, and I applaud your commitment
368 to getting the technical issues right.

369 Congress gave the FCC the tools to unleash the economic
370 opportunities for both licensed and unlicensed spectrum,
371 revolutionized public safety communications, ensure a vibrant
372 and competitive wireless market, all the while protecting
373 consumer access to free, over-the-air television. And I
374 think the FCC must remain faithful to these goals as you
375 implement the law.

376 You also must bear in mind the principles undergirding
377 the Communications Act as we consider the next evolution in
378 our nation's wireless networks. Our values do not change

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379 with each successive generation of technology. Whether the
380 infrastructure is copper or fiber optics, the Commission's
381 charge is to protect and promote the longstanding goals of
382 competition, universal access and consumer protection.

383 Chairmen Upton and Walden recently called for a multi-
384 year examination of possible updates to the Communications
385 Act, and I welcome the opportunity for a bipartisan
386 consideration of these issues, and I hope the Commission will
387 be a partner in this endeavor.

388 In 2010, the Commission and this committee spent many
389 hours working to preserve the principle of an open Internet.
390 That process led to a sensible set of rules governing the
391 broadband market that was supported by a diverse group of
392 stakeholders, and provided the foundation for the FCC's Open
393 Internet Order. I believe the Open Internet Order will be
394 upheld in the court, but whatever the outcome, I will be
395 looking to you to ensure that the Internet remains an open
396 platform for innovation and economic growth.

397 I want to, at this point, yield the balance of my time
398 to my fellow Californian and good friend, Congresswoman
399 Matsui.

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400 [The prepared statement Mr. Waxman follows:]

401 ***** COMMITTEE INSERT *****

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|
402 Ms. {Matsui.} Thank you very much, Ranking Member
403 Waxman, for yielding me time. It is wonderful to see the
404 full complement of the Commission here today. I want to join
405 in welcoming Chairman Wheeler and--who brings a wealth of
406 knowledge and experience to the FCC, and I would also like to
407 congratulate and welcome Commissioner O'Rielly, and I also
408 would like to commend Commissioner Clyburn for her leadership
409 during the interim period. Thank you very much.

410 Mr. Chairman, the subcommittee is working diligently to
411 find bipartisan solutions for smart and sound spectrum policy
412 for our nation. We work to create a path for DOD to
413 reallocate the 7055 to 7080 megahertz band. DOD and the
414 broadcasters should be applauded for their leadership on a
415 landmark sharing agreement. Moreover, I joined with
416 Representative Guthrie to introduce H.R. 3674, the Federal
417 Spectrum Incentive, which passed this committee yesterday in
418 a bipartisan manner. The bill is first of its kind that
419 offers a fresh approach that would create a Federal Spectrum
420 Incentive Auction.

421 I look forward to working closely with my colleagues and

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422 the Administration in moving this bill to the floor.

423 There are tough decisions ahead, and I want to encourage

424 also the FCC to move it forward with the USF reform efforts.

425 Modernizing the USF for broadband, particularly the Lifeline

426 Program, will provide a path towards universal broadband

427 adoption in this country.

428 And with that, I yield back the balance of my time.

429 [The prepared statement of Ms. Matsui follows:]

430 ***** COMMITTEE INSERT *****

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|

431 Mr. {Walden.} The gentlelady yields back the balance of
432 her time.

433 All time has been consumed. We will now go to our
434 witnesses, and again, we thank you very much for being here
435 today, and the public service work you are all undertaking.

436 And, Mr. Wheeler, as Chairman of the FCC, we are going
437 to lead off with you. So pull that microphone close, turn on
438 the button, and you are good to go, sir.

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|
439 ^STATEMENTS OF THE HONORABLE TOM WHEELER, CHAIRMAN, FEDERAL
440 COMMUNICATIONS COMMISSION; THE HONORABLE MIGNON CLYBURN,
441 COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; THE
442 HONORABLE JESSICA ROSENWORCEL, COMMISSIONER, FEDERAL
443 COMMUNICATIONS COMMISSION; THE HONORABLE AJIT PAI,
444 COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; AND THE
445 HONORABLE MICHAEL O'RIELLY, COMMISSIONER, FEDERAL
446 COMMUNICATIONS COMMISSION

|
447 ^STATEMENT OF TOM WHEELER

448 } Mr. {Wheeler.} Thank you very much, Mr. Chairman, Ms.
449 Eshoo, other members of the committee. It is a privilege to
450 be before you today, and a privilege to be joining my
451 colleagues here, the full component of the Commission. I
452 think we will make a great team, and I know that all of us
453 are honored to be able to work with the quality men and women
454 that make up the FCC.

455 Today is my 39th day on the job, and I have enjoyed the
456 informal discussions that I have been able to have with many

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457 of you in the interim, and look forward to today having even
458 more complete discussions and to working with you afterwards.

459 As I think everybody in their statements has indicated,
460 we are in a very exciting time, in the midst of a great
461 network revolution. The lesson of history is that
462 revolutions like that come chock full of challenges, and we
463 are going to have to work together on how we address those
464 challenges.

465 We have tended to look at those challenges through three
466 prisms, if you will, and to say, okay, how do we make sure
467 first of all that what policies we adopt promote economic
468 growth and maintain national leadership, and clearly, at the
469 root of those are issues such as competition and maintaining
470 the necessary assets, such as Spectrum.

471 The second prism is what we have begun to call the
472 network compact. There has, for a century, developed a set
473 of values that represent the relationship between those who
474 operate networks and those who use networks. Those values
475 must be preserved regardless of the type of the technology
476 used in the network.

477 And thirdly is the goal that networks work for everyone,

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478 that it is not what broadband--it is not just the delivery of
479 broadband, but it is what broadband enables that is what
480 important. If we don't have 21st century education
481 capabilities, if we don't make sure that Americans with
482 disabilities have access to the capabilities of the new
483 technic network, if we don't make sure that the Tribal
484 Americans have opportunities to use the new networks, then we
485 have failed in our goal.

486 So those three things; economic growth, the network
487 compact and what networks enable, are the three pillars of
488 policy, but at the heart of them is competition. It has
489 become a joke, at least in my office, that everybody keeps--
490 that I keep saying competition, competition, competition, but
491 that is very much what we believe.

492 Let me do a quick look at the three areas where the
493 Commission is keeping pace with innovation--that innovative
494 economy. First is process reform. The committee's
495 bipartisan effort yesterday is significant and is noted and
496 appreciated. On my second day, Mr. Chairman, as you noted, I
497 began a process that will produce a report in 60 days. We
498 are going to look at how to enhance accountability through

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499 deadlines and tracking systems, how to expedite the licensing
500 process like you referenced, how to shorten the processing
501 time of applications for review. And Commissioner Pai has an
502 interesting idea in that regard, how to streamline consumer
503 complaint collection and a searchable database, which
504 Commissioner Rosenworcel has been a champion of, and how to
505 attack the backlog, as Commissioner Clyburn did when she was
506 Chairwoman. We also want to weed-out outdated regulations,
507 incorporate performance and incorporate performance measures.

508 The second focus is going to be, as you have all
509 appropriately said, the Spectrum Auctions, especially the
510 Incentive Auction. This committee, working with MTIA and
511 DOD, has provided great leadership on the 1755 to 1780 band,
512 and we look forward to moving forward on that and moving that
513 to auction. The Guthrie-Matsui Bill, which you all moved
514 yesterday, which has been referenced, it takes the Incentive
515 Auction idea and applies it to federal agencies, and that is
516 a great step forward. And then speaking of incentives, we
517 have the Incentive Auction coming up. We are going to have--
518 we have established a schedule now, we are going to have
519 policy recommendations in January, we are going to have

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520 consideration and discussion of that until spring when we
521 will be making a decision, and we will have an auction in
522 the--in mid-2015.

523 But while we are discussing spectrum and regulatory
524 process, I would be remiss if I didn't bring up an item we
525 will be considering today; a proposal to ask for comments on
526 a rule to reflect the realities of new onboard aircraft
527 technology. And there have been lots of misconceptions about
528 that, and let me just see if I can address these right up
529 front. One, we are going to continue--we are proposing to
530 consider to continue the ban on mobile devices that can
531 interfere with terrestrial networks, but where there is new
532 onboard technology that eliminates that potential for
533 interference, then there is no need for an interference rule.
534 This is the responsible thing to do. Where the rationale for
535 a rule doesn't exist, the rule shouldn't exist. We are the
536 expert technical agency, and new technology removes the
537 technical justification of this rule. In that regard, I
538 should mention that I have spoken with Transportation
539 Secretary Fox this morning, and he has told me that, yes, the
540 FCC is the technical agency, and that the Department of

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541 Transportation is the aviation agency, and that they will be
542 moving on a rule to address voice calls on airplanes. I am
543 the last person in the world who wants to listen to somebody
544 talking to me while I fly across the country, but we are the
545 technical agency, and we will make the technical rules that
546 reflect the way the new technology works.

547 Finally, item three, you have all talked about the IP
548 transition--transitions, I should say because it is not just
549 one transition, it is a multifaceted process. And at today's
550 meeting, we are going to hear a report from the Technology
551 Transitions Policy Taskforce, which will lay out a schedule
552 including plan for a January order that will invite
553 experiments in the field, real-life experiments, recommend
554 data collection, and create a framework for policy decisions.

555 So we have a full agenda, as you have all said. It is a
556 privilege to be here, to be able to work with all of you, and
557 I look forward to doing that in the time coming.

558 [The prepared statement of Mr. Wheeler follows:]

559 ***** INSERT 1 *****

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|

560 Mr. {Walden.} Chairman Wheeler, thank you for your
561 public service, and thank you for recognizing our concerns on
562 the subcommittee and full committee.

563 And now we will switch to, I guess once a Chairman,
564 always a Chairman, right? Highest title. Former Chairwoman
565 Clyburn. We are delighted to have you back before the
566 committee. Thanks for your work publicly and please go ahead
567 with your opening statement.

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|

568 ^STATEMENT MIGNON CLYBURN

569 } Ms. {Clyburn.} Thank you, Chairman Walden, Ranking
570 Member Eshoo and members of the committee. Thank you again
571 for allowing me to appear before you today.

572 Since our last visit, I have had an incredible
573 opportunity to serve as Acting Chair, and I am glad to note
574 that with the support of my colleagues and the assistance of
575 a skilled and dedicated staff, we were able to move a number
576 of important items which clearly advanced the public
577 interest.

578 This hearing comes at a critical stage in our
579 communications policy continuum. We are experiencing
580 tremendous technological change that affects every aspect of
581 our lives. And as we look ahead to the challenges of
582 tomorrow, I believe it is important to understand the terrain
583 over which we have traveled. We have reached a voluntary
584 interoperability industry solution and the lower 700
585 megahertz ban to address an issue that, for years, had been
586 impeding the deployment of valuable spectrum. We launched a

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587 proceeding to modernize the FCC's schools and libraries
588 program, known E-rate, to ensure that our children have the
589 resources and connectivity they need to support digital
590 learning and become the leaders of tomorrow. We adopted an
591 Order to address rule call completion because it is
592 unacceptable in today's work that calls to non-urban areas
593 are not being completed. We adopted an Order to reform
594 inmate calling services to finally provide relief to millions
595 of families who have been paying unreasonably-high rates to
596 stay connected with loved ones. We enabled the H Block
597 Spectrum Auction, and the AWS-3 Proposal to take major steps
598 forward on government and commercial spectrum sharing, and we
599 have made ongoing reforms to Lifeline, and proposed
600 significant forfeitures to companies not following the FCC's
601 rules.

602 With Chairman Wheeler and my fellow Commissioners, I
603 look forward to building on the progress we have made. As
604 Chairman Wheeler has made clear, the voluntary incentive
605 auction proceeding continues to be a top Commission priority.
606 For those broadcast television licensees who want to continue
607 to use their spectrum, the Act mandates that the Commission

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608 make all reasonable efforts to preserve the coverage area and
609 population served. The Act also has clear directives for the
610 proceeds from the Forward Auction, which includes much-earned
611 contributions to the Public Safety Trust Fund and the
612 national deficit.

613 Congress also gave the Commission authority to propose a
614 ban plan with an appropriate balance of unlicensed and
615 licensed spectrum. Unlicensed spectrum plays a critical role
616 in advancing more efficient use of spectrum, and commercial
617 wireless carriers are increasingly using unlicensed Wi-Fi
618 services to offload their smartphone traffic. In addition to
619 spectrum, Chairman Wheeler has also announced that the
620 Commission will consider an Order next month to launch trials
621 regarding the ongoing technology transitions.

622 I do believe that trials, instructed properly, can
623 produce helpful insights into how best to approach reform,
624 and I will be keeping a keen eye on how the trials and future
625 reforms affect all consumers. Process reform is where we
626 have an opportunity to develop an even more efficient Agency.

627 Yesterday, the committee passed a Federal Communications
628 Commission Process Reform Act of 2013. I am pleased that the

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629 proposed modifications to The Sunshine Act would facilitate
630 federal commissioners' participation on the Federal State
631 Joint Boards and the Joint Conference.

632 I would also encourage you to review the Paperwork
633 Reduction Act and how it can be improved. For example, the
634 FCC is using its Web site to better inform consumers and
635 industry, yet, to obtain voluntary feedback on our Web site,
636 the PRA requires OMB approval. As a result, the Commission
637 cannot be as responsive to users without engaging in a
638 lengthy OMB approval process.

639 So as you can see, Mr. Chairman, and distinguished
640 members of the committee, we have both challenges and
641 opportunities ahead. I look forward to working with each of
642 you to address our evolving communications landscape.

643 I appreciate your attention this morning, and would be
644 glad to answers any questions you may have.

645 [The prepared statement of Ms. Clyburn follows:]

646 ***** INSERT 2 *****

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|

647 Mr. {Walden.} Thank you for your work, your testimony,
648 your recommendations.

649 And we will now go to Commissioner Rosenworcel. Thank
650 you for being here this morning. We are delighted to have
651 you back, and please go ahead.

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|

652 ^STATEMENT OF JESSICA ROSENWORCEL

653 } Ms. {Rosenworcel.} It is good to be back.

654 Good morning, Chairman Walden, Ranking Member Eshoo, and
655 members of the subcommittee. It is an honor to appear before
656 you today in the company of my colleagues, new and old, at
657 the FCC.

658 By some measures, communications technologies account
659 for as much as 1/6 of our economy. No wonder. These are the
660 networks that carry all aspects of our modern, commercial and
661 civic life. They are changing at a breathtaking pace.
662 Keeping up requires taking a fresh look at our policies.
663 Informed by the policies of the past, we have to think boldly
664 about the future.

665 Now, in the weeks ahead we will do this as we wrestle
666 with the upcoming transition to Internet protocol, and think
667 about Spectrum Auctions, including Incentive Auctions, but I
668 think we make a mistake if we focus only on networks
669 themselves. After all, there is great beauty and power in
670 what we can do with them.

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671 Our new networks can change the ways we connect, create
672 and conduct commerce. They can change the ways we learn and
673 seek security. So in my brief time before you today, this is
674 what I want to talk about; how the broadband beneath us and
675 the airwaves all around us can improve education and improve
676 public safety.

677 First, I want to talk about the E-rate Program. E-rate
678 helps connect schools and libraries across the country to the
679 Internet. It is a byproduct of the Telecommunications Act of
680 1996. Remember 1996? Probably everyone in this room called
681 the Internet the Information Super Highway. It was a long
682 time ago.

683 In 1996, only 14 percent of public schools were
684 connected to the Internet. Today, thanks to the E-rate, that
685 number is north of 95 percent, which sounds good. It sounds
686 like the job is done, but nothing could be further from the
687 truth, because the challenge today is not connection, it is
688 capacity. Too many of our E-rate schools access the Internet
689 at speeds as low as 3 megabits. That is too slow for high-
690 definition video, it is not fast enough for the most
691 innovative teaching tools, and it is definitely not fast

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692 enough to prepare the next generation with the STEM skills
693 that are so essential to compete.

694 Contrast this with efforts underway in some of our world
695 neighbors. In South Korea, 100 percent of schools are
696 connected to high-speed broadband, and all schools are
697 converting to digital textbooks by 2016. Ireland will have
698 all schools connected to 100 megabits next year. Finland
699 will have all schools connected to 100 megabits the year
700 after that. Meanwhile, in both Turkey and Thailand, the
701 government is seeking a vendor to supply tablet computers to
702 millions of students for a new era of broadband-enabled
703 digital learning.

704 Now, we can wait and see where the status quo takes us
705 and let other nations lead the way, or we can choose a future
706 where all American students have the access to the broadband
707 they need to compete, no matter who they are, where they live
708 or where they go to school. I think it is time to compete.
709 I think it is time for E-rate 2.0. The FCC has a rulemaking
710 proceeding underway to reboot and recharge the E-rate
711 Program. I think we need to make it a high priority. I
712 think we need to find ways to bring 100 megabits to all

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713 schools in the near-term, and 1 gigabit to all schools in the
714 long-term. While we are at it, we must find ways to reduce
715 the bureaucracy of this program, and make it easier for small
716 and rural schools to participate.

717 Second, I want to talk about a number all of us know by
718 heart but none of us ever hopes to use. I want to talk about
719 911.

720 In my time at the FCC, I have visited 911 call centers
721 all across the country. I am always struck by the steely
722 calm of those who answer the phones and help ensure that help
723 is on the way. I am also struck by how many emergency calls
724 now come in from wireless phones. In fact, nationwide, more
725 than 70 percent of calls made to 911 are made from wireless
726 phones. That is more than 400,000 calls per day.

727 Now, if you use your wireless phone to call 911 from
728 outdoors, your location is reported, sometimes to within 50
729 meters, under FCC location accuracy standards. But if you
730 use your wireless phone to call 911 from indoors, you had
731 better cross your fingers because no FCC location accuracy
732 standards apply. I think this is an unacceptable gap in
733 public safety communications. It deserves your attention and

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734 ours, because no matter where you are when you call 911, you
735 want first responders to find you.

736 Moreover, as our networks evolve and the ways we use
737 them change, we must make sure our public safety policies
738 keep pace. In fact, our approaches to networks, both wired
739 and wireless, need to evolve as markets evolve, but in our
740 efforts, we must not lose sight of why networks matter
741 because they can do more than connect us, they can
742 strengthen, education and enhance our security, and, of
743 course, grow our economy in new and exciting ways.

744 Thank you. I look forward to answering any questions
745 you might have.

746 [The prepared statement of Ms. Rosenworcel follows:]

747 ***** INSERT 3 *****

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|

748 Mr. {Walden.} Ms. Rosenworcel, thank you for your work
749 and your testimony and your suggestions.

750 We go now to the--Commissioner Pai. Thank you for being
751 here, and thank you for all the work you have been doing, and
752 please go ahead with your opening statement.

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753 ^STATEMENT OF AJIT PAI

754 } Mr. {Pai.} Thank you, Mr. Chairman. Chairman Walden,
755 Ranking Member Eshoo, members of the subcommittee. Thank you
756 for holding this hearing.

757 It has been exactly one year since I last appeared
758 before you, and much has happened in the time since. Most
759 notably, we have lost two colleagues and we have gained two
760 new ones. Chairman Wheeler and Commissioner O'Rielly have
761 gotten off to strong starts, and I am pleased that we are
762 finally back at full strength.

763 Over the past year, we have made progress in a number of
764 different areas, but there is much more to be done. This
765 morning, I will touch on two of the issues that I find most
766 pressing; the Incentive Auction and E-rate reform. A fuller
767 list of FCC priorities, from cable forbearance to AM radio,
768 is detailed in my written testimony.

769 First, the Incentive Auction. And perhaps the most
770 daunting challenge the Commission faces is the looming
771 spectrum crunch. To meet this challenge, we are focused on

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772 implementing the responsibilities that Congress gave us in
773 the Spectrum Act, especially with respect to the Broadcast
774 Incentive Auction.

775 The Incentive Auction is the Commissions' best chance to
776 push a large amount of spectrum, well suited for mobile
777 broadband, into the commercial marketplace. I support
778 Chairman Wheeler's recent announcement, setting the middle of
779 2015 as our new target. It is more important to get the
780 Incentive Auction done right than it is to get it done right
781 now. If, for example, any part of our software were to fail
782 during the Incentive Auction, like another government Web
783 site that shall not be named, the Commission, by law, would
784 not get a second bite at the apple.

785 My greatest worry about the Incentive Auction, however,
786 is not with its technology, it is about participation. In
787 order for the Incentive Auction to be successful, we will
788 need robust participation by both broadcasters and wireless
789 carriers. So the Commission must avoid choices that will
790 deter participation in both the Reverse Auction and the
791 Forward Auction.

792 For the Reverse Auction, prices paid to broadcasters

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793 should be determined by the market, not set by administrative
794 fiat. Any attempt to restrict payments to broadcasters,
795 including a complicated scoring scheme, will deter
796 broadcasters' participation and risk causing the Incentive
797 Auction to fail.

798 For the Forward Auction, the Commission should not limit
799 carriers' ability to participate, such as by setting a
800 spectrum cap or narrowing the spectrum screen. This would
801 result in less spectrum for mobile broadbands, less revenue
802 to fund national priorities that this committee has
803 identified, and a greater chance for a failed auction.

804 Another issue that will impact participation in the
805 Forward Auction is the size of the geographic licenses to be
806 offered. RNPRM proposed using economic areas, but some
807 argued that this would make it too difficult for smaller
808 carriers to participate in the auction. Our goal should be
809 to allow as many carriers as possible to bid, whether they be
810 nationwide, regional or rural. So I am pleased to see
811 alternative proposals for license sizes, such as the newly-
812 coined partial economic areas. If technically feasible,
813 these proposals deserve serious consideration.

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814 Aside from the Incentive Auction, there are many other
815 opportunities when it comes to spectrum; from the H Block
816 Auction next month to the possible clearing of AWS-3, to the
817 greater unlicensed use in the 5 gigahertz band. Consistent
818 with my all-of-the-above approach, I hope we seize all of
819 these opportunities in the near-term.

820 The second issue I will discuss is the Universal Service
821 Fund's Schools and Libraries Program, better known as E-rate.

822 In many ways, E-rate has been a success, as my colleague
823 has pointed out, but it also has had difficulties. The
824 funding process can stretch for years. Many schools and
825 libraries feel compelled to hire outside consultants to
826 handle all the complexities. Others don't bother applying at
827 all. Services like paging are prioritized over services like
828 connecting classrooms, and there is no meaningful
829 transparency into either the amount or the impact of E-rate
830 spending.

831 To solve these problems, I proposed a Student-Center E-
832 rate Program. This means an upfront allocation of funding
833 and a matching requirement so that applicants know how much
834 money they can spend, and have greater incentives to spend

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835 that money wisely. This means simplifying the application
836 process. This means targeting funding and next-generation
837 technologies, while still letting local schools set their own
838 priorities, and this means making all funding and spending
839 decisions accessible on a central Web site that everyone can
840 see.

841 In its first year, a student-centered approach would
842 provide an extra \$1 billion for next-generation services, all
843 without collecting an extra dime from the American people.
844 Accordingly, I believe it would be premature to increase the
845 program's budget, and under no circumstances should we do so
846 without finding corresponding savings in other parts of the
847 Universal Service Fund. We cannot ask Americans to pay even
848 more in their monthly phone bills, especially when median
849 household income in this country is now lower than it was in
850 2007.

851 Thank you once again to Chairman Walden and Ranking
852 Member Eshoo for holding this hearing, and I look forward to
853 answering your questions, and to continuing to work with you
854 and my colleagues in the months to come.

855 [The prepared statement of Mr. Pai follows:]

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856 ***** INSERT 4 *****

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857 Mr. {Walden.} Thank you, Commissioner Pai. We
858 appreciate your thoughtful testimony and your
859 recommendations.

860 We will now go to Commissioner O'Rielly. Welcome aboard
861 the Federal Communications Commission. Welcome back before
862 this committee. And you know how the rules work, so please
863 go ahead, and again, thank you for being here today.

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|
864 ^STATEMENT OF MICHAEL O'RIELLY

865 } Mr. {O'Rielly.} Thank you to the Chairman and ranking
866 member, and members of the subcommittee.

867 In respect of the time to the subcommittee members, I
868 would like to make five points and then move on to answer
869 your questions.

870 Point 1. I am truly honored to be before the
871 subcommittee. I had the pleasure of working in front of the
872 full committee staff for 8 years, and it was one of the
873 greatest jobs I will ever have. The breadth of knowledge and
874 command of the diverse policy issues by the members of this
875 committee are of the highest quality.

876 Point 2. The FCC is an independent agency, not part of
877 the Executive Branch. It was created by Congress and serves
878 to implement the statutes enacted by Congress. I firmly
879 believe that our role is to follow the statute as written,
880 and not substitute our thoughts for your work. The
881 Commission has no right or authority to ignore a statute or
882 statutory deadlines. Thankfully, I have worked on most

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883 communication policy statutes over the last 20 years, and
884 have firsthand knowledge of the intent behind many key
885 provisions.

886 Point 3. The Commission has difficult but exciting work
887 ahead. If done correctly, it can have a significant positive
888 impact on U.S. domestic product and on national productivity.
889 Our communications companies are extremely important to the
890 U.S. economy, and we must allow them to flourish in the world
891 marketplace. The Commission's overall focus, however, must
892 remain on the consumer.

893 Point 4. In terms of specific items, my particular
894 focus and attention will be on the immediate work before the
895 Commission. In the big picture, the FCC must finish rules
896 on--for the Incentive Auctions, continue USF reform, proceed
897 with the IP transition trials, and complete our immediate
898 ownership proceeding.

899 Point 5. Part of the role of the FCC Commission is to
900 conduct outreach and provide information to the public. I
901 take this function seriously, and it is why I am choosing to
902 spend some time on the issue of distracted driving caused by
903 wireless device users. Drivers need to put away their

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904 wireless phones and focus their eyes on the drive. Let me be
905 clear. My view is the wireless industry is doing yeoman's
906 work to get out the message. They are aware of the problem,
907 they are dedicating considerable resources to finding
908 solutions and education, and they are working hard to prevent
909 the horrible tragedies caused by texting, viewing, emailing,
910 Tweeting, mapping, posting, among others, while driving. It
911 does not appear that more government regulation will be
912 helpful in this space. Instead, I am talking to my other
913 colleagues to find ways to use our voice in non-regulatory,
914 non-costly ways to educate the public and prevent senseless
915 accidents.

916 Thank you.

917 [The prepared statement of Mr. O'Rielly follows:]

918 ***** INSERT 5 *****

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|
919 Mr. {Walden.} You win the prize. Two minutes and 37
920 seconds return. No, we want to thank you all--

921 Mr. {O'Rielly.} I'm familiar with this committee very
922 well.

923 Mr. {Walden.} Yeah, that is right. Yes indeed. Some
924 will learn along the way. We appreciate all your testimony
925 and your recommendations, and it is just good to have all
926 five Commissioners in place, or four Commissioners and Chair
927 in place. As Commissioner Pai said, it has been a year to
928 the day, I think, since we had the Commissioners here, so
929 welcome aboard.

930 I know we all have a lot of questions. I am going to--I
931 have learned at the heels of the former Chairman, Mr.
932 Dingell, about trying to get answers at a relatively rapid
933 rate, so I am going to try and pose some of these, not as
934 skillfully as he does, in a yes-or-no format, but the extent
935 to which you can address them rapidly, and that would be
936 good.

937 And I want to start, Mr. Wheeler, with you as Chairman.
938 I know you all are voting on this NPRM today. I do want to

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939 stress, it would be helpful if public got to see that. As
940 far as I know, you and your staff are the only ones who see
941 it in advance. That is one of the process issues I hope you
942 will break through, and this maybe will be the last NPRM that
943 is not public first. But the Commission--I want to follow up
944 and figure out how you are going to permit, as your testimony
945 indicates, airlines to choose whether to allow voice calls,
946 and here is why I ask it. Is the Commission planning to
947 waive either the common carrier obligation to complete calls,
948 or the net neutrality rules on blocking void packets? Both
949 would seem to be necessary in order to prevent voice calling
950 from aircraft.

951 Mr. {Wheeler.} So thank you, Mr. Chairman.

952 So first to your point that the NPRM that we are
953 considering today will be complete in listing the rule--the
954 words of the rule--

955 Mr. {Walden.} Right.

956 Mr. {Wheeler.} --that we are considering. In light
957 with the philosophy that--

958 Mr. {Walden.} Right.

959 Mr. {Wheeler.} --you and I share, which is let us get

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960 it out there so people can see it.

961 Mr. {Walden.} Right.

962 Mr. {Wheeler.} The purpose of this is to do just that;
963 to put the language out so people can see it and give us
964 their comments on it.

965 Now, to your specific question, the Open Internet Order
966 specifically provides what is called the premises exemption,
967 and that means that coffee shops, bookstores and airlines
968 mentioned by name, are exempted from the Order in that, under
969 the definition of reasonable network management, which is one
970 of the tools that are allowed for premises owners, which
971 include airlines, there is the ability to pick and choose
972 exactly what comes over.

973 Mr. {Walden.} All right. We will follow up more on the
974 other piece that you might have to deal with as well.

975 I want to ask you about Title II. You have a--you
976 haven't, but there has been a proceeding open at the
977 Commission for a long time that would--the reclassification
978 docket. Are you planning to keep that open or are you
979 planning to close it?

980 Mr. {Wheeler.} So I think we are in a situation right

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981 now where we are waiting for a court opinion on exactly what
982 our authorities are on a broad sense, and that there is no
983 rush between now and then to make a decision on Title II. I
984 will note, however, that, as you mentioned, this docket has
985 been open for a long time, and it has not had the threatened
986 chilling effect that some had worried about on investment in
987 wireless and broadband infrastructure. This is an issue that
988 clearly is going to have to be dealt with--

989 Mr. {Walden.} Right.

990 Mr. {Wheeler.} --and we will start with the court
991 decision.

992 Mr. {Walden.} Sorry, I have about three more questions
993 I want to try and get in here.

994 We understand the FCC has launched a study, a
995 multimarket study, of critical information needs. Apparently
996 the study includes a qualitative media analysis which would
997 require interviewing reporters and editors to figure out how
998 the media decide what news stories to run. Are these the
999 kinds of questions that government entities should be asking
1000 of the news media? And with somebody with a journalism
1001 degree, I do get a little chill up my spine thinking about

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1002 the government asking how these decisions are made. Doesn't
1003 it have an effect on the media that the regulatory body is
1004 even asking these questions, and how does it help you fulfill
1005 your Section 257 mandate fund which is predicated?

1006 Mr. {Wheeler.} So I think this goes back to the root of
1007 the discussion you and I were having a moment ago about
1008 making sure that the public understands what is going on.
1009 The 257 requirement mandates lowering barriers to access to
1010 media for minorities, women, small business and other
1011 identified groups.

1012 In order to make that kind of a judgment, you have to
1013 have facts. In order to have facts, you do studies. And
1014 what we did was, there is a study that has been proposed by a
1015 consulting firm that we were working with, and we put that
1016 out for public notice to exactly get the kind of input--

1017 Mr. {Walden.} All right.

1018 Mr. {Wheeler.} --that you are suggesting--

1019 Mr. {Walden.} All right, I--

1020 Mr. {Wheeler.} --and--but it is not, and this is--I--
1021 this is not an effort to influence the media.

1022 Mr. {Walden.} Well, I am going to interrupt you just a

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1023 second because when you are spending somewhere between
1024 \$209,918, and some of the questions of the media personnel
1025 include what is the news philosophy of the station, who
1026 decides what stories are covered, what are the demographics
1027 of news management staff, have you ever suggested coverage of
1028 what you consider to be a story with critical information or
1029 consider its use, what was the reason given for the decision,
1030 these seem like really internal journalistic issues.

1031 Now, I need to move on to 1 other because I am actually
1032 over, but it is a very important question. The quantile
1033 regression analysis, QRA, approach to provide universal
1034 support for world companies, that was part of the
1035 Commission's USF reform efforts, has had a negative impact,
1036 negative impact, on investment and the deployment of
1037 broadband services in rural America. Mr. Pai, you have been
1038 an advocate for the need to address this problem, to ensure
1039 that rural Americans are not left behind. What do you
1040 recommend, Commissioner Pai, needs to be done with regard to
1041 the application of the QRA?

1042 Mr. {Pai.} Well, thank you for the question, Mr.
1043 Chairman.

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1044 I have seen the problems on paper. The Obama
1045 Administration's Department of Agriculture, for example, have
1046 reported earlier this year that some 37 percent of funds from
1047 our U.S. are sitting on the table because there is so much
1048 uncertainty among rural carriers. And I have seen it in
1049 person from my home state of Kansas to carriers in rural
1050 Alaska. Because they are uncertain about what the future
1051 portends, because of the QRA, they are not making additional
1052 investments in terms of broadband, and that creates a digital
1053 divide that we won't be able to bridge.

1054 Mr. {Walden.} So, Chairman Wheeler, if I might, given
1055 the negative impact of the QRA that it is having on broadband
1056 development, especially in rural America, do you intend to
1057 reconsider its application?

1058 Mr. {Wheeler.} Yes. As a matter of fact, I have asked
1059 the Bureau to draft and let me see what--an Order that I
1060 could share with my colleagues, would be to eliminate the QRA
1061 and to return to the high-cost loop support model.

1062 Mr. {Walden.} I appreciate that. I have got other
1063 issues obviously with the FM translators for AM, and delay in
1064 the rulemaking, dealing with cable operators and the groups

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1065 utilized by them, and so maybe we can follow up afterwards,
1066 but the committee has been kind to let me overextend my
1067 questioning, but we are usually fairly flexible on that here.

1068 So I will now turn it over to the ranking member from
1069 California, Ms. Eshoo.

1070 Ms. {Eshoo.} That is great. So I have 7 minutes,
1071 right, Mr. Chairman?

1072 Mr. Chairman, you said that it is your 39th day. What I
1073 would like to add to that is that I think your adult lifetime
1074 of work has brought you to this. So it is not just really
1075 the 39th day--

1076 Mr. {Wheeler.} It has been a long lifetime I think.

1077 Ms. {Eshoo.} --it is a wonderful path that has prepared
1078 you for this position.

1079 I have a whole list of niche issues, which is really the
1080 way we deal with all of these things.

1081 First of all, do you think you are going to get a deal
1082 on cell phone unlocking by the end of this year?

1083 Mr. {Wheeler.} I hope that we will be presenting to the
1084 Commission today, matter of fact I know that we will be
1085 presenting to the Commission today, the voluntary agreement

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1086 that has been reached with the wireless industry. And so the
1087 answer to your question is strongly yes.

1088 Ms. {Eshoo.} That is just terrific. My second question
1089 to you, Mr. Chairman, is last week, as you know, I joined
1090 with my colleagues, Representatives Doyle and Matsui, to ask
1091 you to take action to prevent AT&T from implementing a
1092 significant rate hike for their special access customers. I
1093 appreciate what you have done in terms of the suspension, but
1094 I think that there is much more than needs to be done on
1095 special access reform.

1096 Can we expect further action on special--

1097 Mr. {Wheeler.} I--

1098 Ms. {Eshoo.} --access reform?

1099 Mr. {Wheeler.} I apologize, Ms. Eshoo, but I am
1100 currently recused from that--

1101 Ms. {Eshoo.} Okay.

1102 Mr. {Wheeler.} --proceeding, and so--

1103 Ms. {Eshoo.} I see. So how will it happen?

1104 Mr. {Wheeler.} It is--it moves ahead with the other
1105 members of the Commission.

1106 Ms. {Eshoo.} I see. Well, I am just going to assume

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1107 that they are going to--that this area is going to be
1108 examined because we really have to have a--reasonable rates
1109 for this important service.

1110 On--Commissioner Rosenworcel, thank you for your
1111 testimony. I love the way you present things. It is so
1112 clear. You can feel the sense of urgency and why it is
1113 urgent.

1114 How are you going to pursue getting this done at the
1115 Commission? The whole issue of E-rate, everything that is
1116 attached to it, you have presented an eloquent case, and I
1117 think that you gave a fantastic speech last week on 911 and
1118 the problems that we have between indoor and outdoor. So on
1119 both that and the E-rate, maybe I should be asking the
1120 Chairman what he plans to do on E-rate. I know what you want
1121 to do, but maybe we should just switch over to Chairman
1122 Wheeler.

1123 Mr. {Wheeler.} Well, I think on E-rate, that there is a
1124 leader in this Commission, and that Commissioner--

1125 Ms. {Eshoo.} We only need five.

1126 Mr. {Wheeler.} What?

1127 Ms. {Eshoo.} We only need five.

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1128 Mr. {Wheeler.} The--but I am--I--as you all say, I
1129 would like to associate myself with the remarks of--

1130 Ms. {Eshoo.} Good. Good.

1131 Mr. {Wheeler.} --Ms. Rosenworcel.

1132 Ms. {Eshoo.} Well, we will look forward to you joining
1133 her in that effort, and maybe the next time the Commission
1134 comes before us, you can tell us the steps that you are going
1135 to take. On the--

1136 Mr. {Wheeler.} Let me--if I can do one thing. I am--we
1137 are going to put out a schedule, just like we have for the
1138 Incentive Auction and the IP transition, to address this
1139 issue.

1140 Ms. {Eshoo.} That is terrific. On the challenge of the
1141 indoor versus outdoor and wireless and 911, what is your plan
1142 to address this?

1143 Ms. {Rosenworcel.} Well, as the old saying goes, you
1144 may only make one 911 call in your life, but it will be the
1145 most important call--

1146 Ms. {Eshoo.} Right.

1147 Ms. {Rosenworcel.} --you will ever make.

1148 Ms. {Eshoo.} Um-hum.

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1149 Ms. {Rosenworcel.} And right now, if you make that call
1150 from your wire line phone, your first responder knows exactly
1151 where you are.

1152 Ms. {Eshoo.} Right.

1153 Ms. {Rosenworcel.} If you make that call outdoors, in a
1154 field, using your wireless phone, we have location accuracy
1155 standards so that first responder--

1156 Ms. {Eshoo.} Well, I am asking--

1157 Ms. {Rosenworcel.} --can find you.

1158 Ms. {Eshoo.} ---what you want to do about where the
1159 challenge lies.

1160 Ms. {Rosenworcel.} So--

1161 Ms. {Eshoo.} We know what is working.

1162 Ms. {Rosenworcel.} --indoors--

1163 Ms. {Eshoo.} Um-hum.

1164 Ms. {Rosenworcel.} --is the problem. We have no
1165 standards. And increasingly, household are cutting the cord.
1166 More than 1/3 of households rely exclusively on their
1167 wireless phones. So I don't think it is acceptable that when
1168 people make emergency calls, first responders can't find
1169 them.

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1170 Ms. {Eshoo.} Um-hum.

1171 Ms. {Rosenworcel.} I have recommended in that speech

1172 that you mentioned that we start a rulemaking to address

1173 this, because we have heard both from carriers--

1174 Ms. {Eshoo.} Um-hum.

1175 Ms. {Rosenworcel.} --and from public safety officials

1176 on the frontline that this is an issue that--

1177 Ms. {Eshoo.} Well, good for you for identifying this

1178 and taking it up, because I think one of the things that I

1179 taught my children from their earliest memory was 911, and

1180 putting their little fingers on the keypad so that they would

1181 understand that, and I think--

1182 Ms. {Rosenworcel.} Me too.

1183 Ms. {Eshoo.} --you are absolutely right. On--

1184 Commissioner Pai, you made a wonderful comment, something

1185 about not one dime more on phone bills. I want to raise

1186 something with the Chairman, going back to it, about below-

1187 the-line fees. Representatives Doyle, Lujan, Matheson,

1188 myself, we wrote to the--our Nation's leading wire--wireless

1189 and wire line providers and we asked them about their

1190 practice of applying below-the-line fees on monthly bills. I

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1191 agree with Commissioner Pai. That is why I, you know, we
1192 wrote. We have a concern about what people are paying.
1193 These things are hidden. They think that they are--they
1194 think everything on their bill is a tax. And I have to tell
1195 you, I brought my bills in. I couldn't tell what the heck
1196 they were. Who was doing what to whom and what it was for.
1197 So tell me what you think the Agency, or if you have--I know
1198 there is a long list of big challenges, but these are still
1199 important issues for consumers. What steps can the Agency
1200 take under existing statute to ensure that consumers know
1201 exactly how much they are paying each month, especially prior
1202 to signing up for their service, and this whole issue of
1203 below-the-line fees?

1204 Mr. {Wheeler.} Yeah. Ms. Eshoo, this is a very
1205 legitimate concern. The specific one I believe you are
1206 referencing is a re-transmission consent--

1207 Ms. {Eshoo.} That too.

1208 Mr. {Wheeler.} --the charge--

1209 Ms. {Eshoo.} Yeah.

1210 Mr. {Wheeler.} --that cable operators have just begun
1211 putting on--

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1212 Ms. {Eshoo.} Right.

1213 Mr. {Wheeler.} --the bill.

1214 Ms. {Eshoo.} Right.

1215 Mr. {Wheeler.} And I say just begun, and I am trying to
1216 get our arms around that and figure out just exactly what our
1217 authorities are to answer your question. It does, however,
1218 strike me that it fits right in, the broader issue that the
1219 Chairman and Mr. Upton and others have talked about in terms
1220 of the kinds of issues that need to be addressed in a Telecom
1221 Act rewrite here, is just what is going on. If they are--

1222 Ms. {Eshoo.} Yeah, but that will be like 7 years from
1223 now.

1224 Mr. {Wheeler.} Well, no, but I--

1225 Mr. {Walden.} Oh, no.

1226 Ms. {Eshoo.} Well, yeah.

1227 Mr. {Wheeler.} I won't speak--

1228 Ms. {Eshoo.} Let us see.

1229 Mr. {Walden.} I won't get crosswise between you and the
1230 Chairman.

1231 Ms. {Eshoo.} Okay. Yeah, no. Thank you. Thank you,
1232 Mr. Chairman, and thank you Chairman Walden.

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1233 Mr. {Wheeler.} Thank you.

1234 Ms. {Eshoo.} And thank you to the entire Commission. I
1235 want to say also a welcome to the whole new team that has
1236 come in, and we wish you well, we really do. And the
1237 Chairman and the Commission will operate at a higher level
1238 because of the high level of people that have come in to
1239 support the work. So congratulations to each one of you.

1240 Mr. {Walden.} We will now move on to the vice chair of
1241 the full--of the subcommittee, Mr. Latta, from Ohio from 5
1242 minutes.

1243 Mr. {Latta.} Thank you very much, Mr. Chairman. Again,
1244 thanks very much for our Commission members for being with us
1245 today.

1246 And this is a question I would like to ask all of you,
1247 and this question is, the Incentive Auction legislation
1248 prohibits the FCC from excluding qualified bidders from the
1249 auction. And fortunately, while the Incentive Auction
1250 process works its way up to the Commission, it appears that
1251 the Wireless Bureau is simultaneously working on the spectrum
1252 aggregation docket to achieve--spectrum caps. Will you
1253 commit to allowing any interested bidder that complies with

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1254 the statutory requirements to participate fully in the
1255 auction. And, Chairman, if I can start with you, because I
1256 notice in your testimony on page 6 that you talk about the
1257 Incentive Auction, you had said that you are looking at a
1258 voluntary market oriented approach, so if I could start with
1259 you.

1260 Mr. {Wheeler.} The statute is quite explicit in that
1261 regard that the Commission may not exclude somebody from
1262 participating.

1263 Mr. {Latta.} And also, and I am just aggregating, so it
1264 would be like it would be wide open for everyone to be
1265 involved in that?

1266 Mr. {Wheeler.} Well, it is interesting with the--what
1267 has been developing here. I mean the CEO of AT&T recently
1268 came out with a statement saying, wait a minute, I think I
1269 would like to have rules to make sure that not one party can
1270 run away with all the spectrum. So I think there is--in
1271 between those positions is where reality exists, but the
1272 statute, I agree, is quite clear. The statute says that you
1273 will not exclude anybody, and the statute also says that the
1274 Commission will design and auction so as to promote economic

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1275 opportunity and competition and consumer choice to sustain a
1276 healthy wireless marketplace, and we will do both.

1277 Mr. {Latta.} Madam Clyburn.

1278 Ms. {Clyburn.} Yes, Section 6404 is clear that any
1279 party that abides or obeys the rules, that they are qualified
1280 to participate. It also makes clear that the Commission has
1281 the authority to enforce and introduce general--rules of
1282 general applicability that will allow for spectrum
1283 aggregation in order to promote competition. So again, my
1284 colleague mentioned that, you know, part of the reason for, I
1285 think for some of the robust participation and the type of
1286 ideas that we are seeing is because we took a dual path on
1287 the same day we released the rules, or recent--released the
1288 notice of opposed rulemaking on Incentive Auction, we also
1289 released a notice of proposed rulemaking on trying to glean
1290 information about this dual path. So I think that this, in
1291 the long run, will help and improve our information and
1292 information dissemination and our acquisition and rulemaking
1293 once we decide on a clear path forward.

1294 Mr. {Latta.} Thank you. Commissioner?

1295 Ms. {Rosenworcel.} The Middle-Class Tax Relief and Job

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1296 Creation Act says that we can have rules of general
1297 applicability, but we cannot exclude anyone from
1298 participation in the auction. I think it is easy and simple;
1299 we just have to follow the law.

1300 Mr. {Latta.} Commissioner Pai?

1301 Mr. {Pai.} I would agree with my colleague, and I would
1302 also point out that if you look at the end goal which is to
1303 have a successful auction that pushes out a lot of spectrum,
1304 it yields sufficient revenue to fund national priorities, and
1305 that provides a fairness to all parties involved, then we
1306 should not preclusively deter participation from wireless
1307 carriers by adopting unduly strict spectrum policies.

1308 Mr. {Latta.} Commissioner O'Rielly?

1309 Mr. {O'Rielly.} I want to thank my colleagues for
1310 saying--stating that the statute is clear because, as many
1311 people who worked on it, it was an effort to give the
1312 Commission some authority in this space when members couldn't
1313 come to agreement. I am extremely hesitant to impose
1314 limitations on spectrum aggregation because we have certain
1315 obligations under the statute otherwise. We--in a nice way,
1316 I mean the money has already been spent. We have already

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1317 spent the money from the Spectrum Act, and so we have
1318 obligations to provide \$7 billion for FirstNet, and we have
1319 deficit reduction numbers that have already gone out the
1320 door. So I am worried about anything that would depress
1321 auction revenues. I am certainly aware of the statute and I
1322 want to remain open to considering, but I am hesitant at this
1323 time to impose any type of limitation.

1324 Mr. {Latta.} Thank you. And many of you know that
1325 rural call completion has been an ongoing issue in my
1326 district, and I commend the FCC for producing the November 8
1327 Order and further notice of proposed rulemaking to improve
1328 the Commission's ability to monitor the delivery of calls to
1329 rural areas by mandating certain recording, retention and
1330 reporting requirements from carriers. And, Commissioner Pai,
1331 do you believe the November 8 Order will resolve the call
1332 completion problem or does more need to be done?

1333 Mr. {Pai.} Congressman, I certainly hope that it will,
1334 whether it is Toledo or Topeka, we need to figure out where
1335 the kink in the system is, whether it is intermediate
1336 providers, whether it is last-mile, at what point in the
1337 network it is failing, and then if it is a technical problem,

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1338 then we can take steps to fix that technical problem, but if
1339 it is something else, that the FCC needs to be empowered to
1340 take corrective actions. So I certainly support taking the
1341 appropriate actions sooner rather than later on that issue.

1342 Mr. {Latta.} Thank you very much.

1343 Mr. Chairman, I see my time has expired and I yield
1344 back.

1345 Mr. {Walden.} Thank the gentleman.

1346 We now turn to the ranking member of the full committee,
1347 Mr. Waxman, for 5 minutes.

1348 Mr. {Waxman.} Thank you very much, Mr. Chairman.

1349 I just want to indicate that under the Act, the FCC may
1350 not single out a specific provider for exclusion from a
1351 system of competitive bidding. At the same time, the FCC is
1352 permitted to adopt and enforce rules of general applicability
1353 that promote competition. Even AT&T recently acknowledged
1354 they would support rules that limit the amount of spectrum
1355 any one company could acquire as long as the rules applied
1356 evenly to all auction participants.

1357 Chairman Wheeler, as you know, I am a strong supporter
1358 of the FCC's open Internet rules because I believe the

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1359 Internet must remain an open platform for innovation and
1360 commerce. You have emphasized the importance of the Open
1361 Internet Order. At the same time, you recently made comments
1362 suggesting that an Internet service provider could charge a
1363 content provider, such as Netflix, a fee in order to
1364 guarantee the best available transmission speed. Do you see
1365 these type of business arrangements as consistent with the
1366 FCC's open Internet rules that you support?

1367 Mr. {Wheeler.} Thank you, Mr. Waxman, for raising that
1368 issue because it gives me an opportunity to get more specific
1369 than I was in Ohio.

1370 I am a strong supporter of the open Internet rules, full
1371 stop. The rules were written in such a way as to envision
1372 opportunities for innovation and experimentation, and to
1373 impose on them a balance between protecting the open
1374 Internet, protecting consumers and stimulating innovation.
1375 New ideas under the Open Internet Order, new ideas such as
1376 those you have referenced, in a wireless environment
1377 particularly, are not prohibited, but there is a clear
1378 responsibility for the Commission to make sure that what
1379 takes place does not interfere with Internet access, is not

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1380 anticompetitive, and does not provide preferential treatment,
1381 and we will enforce that. We will maintain the balance
1382 between innovation and assuring there is an open Internet.

1383 Mr. {Waxman.} I appreciate your expanding on that
1384 issue. While network infrastructure and technology have
1385 changed since the passage of the 1996 Telecommunications Act,
1386 the values embedded in the Act have not. And, Mr. Chairman,
1387 I know that the Commission will soon begin a process to
1388 collect real-world information and data on the IP
1389 transitions. How will the Commission continue to advance the
1390 longstanding goals of competition, universal access and
1391 consumer protection throughout this transition process?

1392 Mr. {Wheeler.} You know, Mr. Waxman, there are many
1393 people who have described the trials--the IP trials as a
1394 technology trial. I don't think they are a technology trial.
1395 We know how to build IP networks. They are exactly what you
1396 just phrased. They are a values trial. They are how do we
1397 make sure that the values that, for 100 years, Americans have
1398 come to expect from their networks continue even after the
1399 way in which that network operates changes. And that is what
1400 we are going to be looking for in these trials. It is not

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1401 whether the guzintas and the guzouttas wash. We know that
1402 can get taken care of. It is what are the values--what--how
1403 do you preserve the values in the new technological
1404 environment.

1405 Mr. {Waxman.} Commissioner Rosenworcel, do you want to
1406 add anything to that?

1407 Ms. {Rosenworcel.} I think there are so many exciting
1408 things that can come with new networks, and I think we should
1409 embrace the future rather than reject it. So I think
1410 experimenting in these kind of trials is a smart way to go,
1411 but as we move into the future, what we do has to be informed
1412 by the values that have always been a part of communications
1413 policy. NIC-4, public safety, universal access, competition
1414 and consumer protection.

1415 Mr. {Waxman.} Okay. Commissioner O'Rielly--

1416 Mr. {O'Rielly.} Yes, sir.

1417 Mr. {Waxman.} --I appreciate your appeal to
1418 bipartisanship in your testimony, and I know you played an
1419 important role in helping us get bipartisan legislation in
1420 the passage of the Public Safety and Spectrum Act last year,
1421 because you helped negotiate the provisions and the

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1422 availability of unlicensed spectrum in the Broadcast
1423 Incentive Auction.

1424 What is your perspective on unlicensed spectrum
1425 generally, and do you think the Commission is on the right
1426 track in balancing the availability of unlicensed and
1427 licensed bands?

1428 Mr. {O'Rielly.} Yes, I am a strong proponent of
1429 unlicensed spectrum. I am always amazed what the innovators
1430 and the experimenters can do with unlicensed spectrum. I
1431 think there is great opportunity in 600 megahertz for more
1432 unlicensed spectrum. We--the NPRM that was put out in this
1433 situation proposed a number of different ideas where
1434 unlicensed could fit. They proposed Channel 37, the guard
1435 bans, if there are going to be guard bans, depending on what
1436 our ban plan looks like. We talked about wireless
1437 microphones. There's going to be still white space at least
1438 in the 500, maybe in the 600 as well. And then there is
1439 going to be residual conversions depending if you are talking
1440 about converting from 6 megahertz broadcast channels to 5
1441 megahertz wireless channels. So there should be
1442 opportunities in the Incentive Auction after our rules are

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1443 complete for unlicensed spectrum, and I am strongly
1444 supportive of those.

1445 Mr. {Waxman.} Thank you.

1446 Mr. {O'Rielly.} The only difficulty is figuring out how
1447 big those guard bands should be.

1448 Mr. {Waxman.} Okay, thank you. And my last question is
1449 to Commissioner Pai. You stated in your testimony that 92
1450 percent of Americans now can choose from 10 or more wireline
1451 competitors. If that number is accurate, doesn't it
1452 demonstrate that the procompetitive policies of the '96
1453 Telecom Act are working, and don't you believe we should
1454 continue to support a marketplace that gives non-incumbents a
1455 fair chance to compete?

1456 Mr. {Pai.} Congressman Waxman, thank you for the
1457 question. I think what the multiplicity of choices that
1458 consumers enjoy today demonstrates is that in the IP
1459 environment where you have what--conversions, something that
1460 we only dreamed about during the '96 Act, where you have, you
1461 know, telephone companies competing with cable companies,
1462 competing with wireless companies and others to provide the
1463 same services, that we can now rely in a way we could not in

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1464 1996 on the marketplace and technological innovation to drive
1465 consumer choice. And so to the extent that there are values
1466 of competition embedded in the 1996 Act, I, of course,
1467 embrace those, but I think we also need to be mindful in the
1468 fact that technology can quite often outpace where laws and
1469 regulations are, and that appears to be where we are with
1470 respect to the IP transition.

1471 Mr. {Waxman.} Yeah, but do you think we should support
1472 a marketplace that gives non-incumbents a fair chance to
1473 compete?

1474 Mr. {Pai.} Absolutely. I think the marketplace should
1475 give every competitor a fair chance to compete.

1476 Mr. {Waxman.} Thank you. Thank you, Mr. Chairman.

1477 Mr. {Walden.} Now turn to the gentleman from Michigan,
1478 Mr. Rogers.

1479 Mr. {Rogers.} Thank you very much, and as the
1480 representative of Michigan State University, I want to say
1481 thank you for giving me a great weekend. I appreciate that.
1482 I do find it suspicious, however, that my phone has not
1483 worked since the game.

1484 Mr. {Wheeler.} Yeah.

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1485 Mr. {Rogers.} I wonder if you might be looking into
1486 that for me, Mr. Chairman.

1487 The FCC's recent Communications Security Reliability and
1488 Interoperability Council meeting--

1489 Mr. {Wheeler.} Right.

1490 Mr. {Rogers.} --I understand you talked about the need
1491 to apply metrics and evaluate cyber security. Can you
1492 elaborate on that for me?

1493 Mr. {Wheeler.} Yeah, I--the CSRIC, which is the
1494 shorthand for the group you are talking about, has done a
1495 terrific job in using the multi-stakeholder process to come
1496 up with rules on botnets, on DNSSEC, on router security,
1497 important kinds of network security issues, but it is not
1498 enough just to say, okay, here are the rules, and then walk
1499 away. The question is, are the rules working. And so what I
1500 had asked CSRIC to do, not for us to impose but they--in the
1501 multi-stakeholder process, is to say how do you establish
1502 metrics to know if this is working, because that is the, you
1503 know, this is trust-but-verify kind of a situation.

1504 Mr. {Rogers.} Well, how do you find those--how are
1505 they--how are you working through that process to define

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1506 metrics in threats that change literally by the hour?

1507 Mr. {Wheeler.} But the--so on those 3 issues, for
1508 instance, on botnets, for instance, how can you track the
1509 movement of where botnets are going, they seem to have moved
1510 into data centers, for instance, and what do we know about
1511 that and what might that suggest, and what are we seeing in
1512 terms of results of the implementation of the kinds of things
1513 that CSRIC has suggested. That is what we need to know.

1514 Mr. {Rogers.} All right, so--and if you find that out,
1515 and you find that you are in some disagreement with industry
1516 on those--meeting those standards, do you foresee a
1517 regulatory scheme?

1518 Mr. {Wheeler.} Well, I wouldn't want to, you know, to
1519 presume a hypothetical. I would hope that we would be
1520 working with industry to identify what needs to be done, and
1521 much like we are going to announce today on cell phone
1522 unlocking when we sat with industry and said, here is a
1523 problem, it has to be solved, and by the way we will have
1524 metrics on that. I think that is the preferable first
1525 approach, and that is the approach that we are taking with
1526 CSRIC.

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1527 Mr. {Rogers.} But when you say that, does that mean--if
1528 I hear you correctly, that means you are at least
1529 contemplating a regulatory scheme of some sort, beyond just
1530 the voluntary here is our metrics, try to--

1531 Mr. {Wheeler.} Yeah, that is--

1532 Mr. {Rogers.} --meet those metrics.

1533 Mr. {Wheeler.} --that is the right question but it is
1534 not--the key word is contemplating. I have talked repeatedly
1535 about what I call the seesaw, the regulatory seesaw. You do
1536 this, we don't need to do this. And so what CSRIC is doing
1537 is saying, okay, here are the kinds of things that need to be
1538 done. Saying let us measure them, make sure that is going
1539 because the result is that we don't. If the seesaw has to
1540 tip, it has to tip, but it only tips on the basis of need,
1541 not the basis of theory.

1542 Mr. {Rogers.} If I understood your answer, I--there is
1543 a possibility you could regulate.

1544 Mr. {Wheeler.} There is always the possibility, sure.

1545 Mr. {Rogers.} Yeah, okay, that is--we should have lots
1546 of conversations on that. I worry that by the time you have
1547 processed your regulatory framework, you are too late, you

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1548 have missed the boat, the threat changes--

1549 Mr. {Wheeler.} I--

1550 Mr. {Rogers.} --they have moved down the--okay.

1551 Mr. {Wheeler.} I could not agree more. The challenge
1552 of networks and the reason why the multi-stakeholder process
1553 is preferred--

1554 Mr. {Rogers.} Um-hum.

1555 Mr. {Wheeler.} --is because it is much more dynamic,
1556 much more flexible, moves much quicker than a regulatory
1557 process can, and then can stay flexible.

1558 Mr. {Rogers.} Okay.

1559 Mr. {Wheeler.} And that is why I am trying to say, yes,
1560 this is the preferred process to deal with.

1561 Mr. {Rogers.} So you are not going to move away from
1562 the council?

1563 Mr. {Wheeler.} I am sorry?

1564 Mr. {Rogers.} You are not going to move away from the
1565 council model for regulation, you are going to continue to
1566 try to use that.

1567 Mr. {Wheeler.} The multi-stakeholder process--

1568 Mr. {Rogers.} Yes.

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1569 Mr. {Wheeler.} --on this is the right way to go.

1570 Mr. {Rogers.} Perfect. Can you talk about Team

1571 Telecom? It is an important compliment to the Citius

1572 process--

1573 Mr. {Wheeler.} Right.

1574 Mr. {Rogers.} --in terms of preventing investments or

1575 IT equipment purchases to prevent, certainly, a threat to our

1576 national security interests, like Chinese attempts to gain

1577 control of IT and telecommunication notes in the United

1578 States. Can you walk us through where you are at on that to

1579 give us some idea where you are--what you are thinking?

1580 Mr. {Wheeler.} Well, when issues come before the

1581 Commission relative to mergers, acquisitions, whatever the

1582 case may be, the input from Team Telecom is always sought and

1583 taken into account, and is crucially important.

1584 Mr. {Rogers.} Yeah. Do you see an improvement to that

1585 process? Can we do something different? You have a limited

1586 set of--once that report comes back, you have a limited set

1587 of decisions you can make. You are either in, you are out--

1588 Mr. {Wheeler.} Correct.

1589 Mr. {Rogers.} --or you disagree with the decision. Is

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1590 there something better we should be doing there, providing
1591 some authority for you all to be, given again, the nature of
1592 the changing technology and how fast the changes--

1593 Mr. {Wheeler.} I would--I have not had to live through
1594 one of these yet, so I am probably not qualified to opine
1595 here on the fly. I would love to look into this and to have
1596 a discussion with you about it.

1597 Mr. {Rogers.} We are looking at some reforms to Citius
1598 to try to make sure we are keeping up, and I look forward to
1599 that dialog.

1600 Mr. {Wheeler.} Great. I will look forward to that.

1601 Mr. {Rogers.} Thank you very much for being here.

1602 Mr. {Walden.} Thank you, gentlemen.

1603 We will now turn to committee chairman emeritus, Mr.
1604 Dingell, for--also from Michigan, I believe, for 5 minutes.
1605 Go ahead, Mr. Dingell.

1606 Mr. {Dingell.} Mr. Chairman, I commend you for this
1607 very important hearing, and I have no comments on football or
1608 other matters.

1609 I want to welcome my old friend, Chairman Wheeler, to
1610 the committee. We look forward to great things from you. I

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1611 am satisfied you will serve with distinction. I want to also
1612 welcome Commissioner O'Rielly, and I want to commend
1613 Commissioner Clyburn for her fine service as Acting
1614 Chairwoman. Quite frankly, your daddy would be very proud.

1615 My questions this morning are going to be directed
1616 solely at Chairman Wheeler, and will elicit, as you not be
1617 surprised to hear, yes or no responses.

1618 Chairman, I would like to start with the Reverse Auction
1619 of Broadcast Frequencies, authorized by the Middleclass Tax
1620 Relief and Job Creation Act. I note you recently announced
1621 that the Commission will not conduct such auctions until
1622 2015. That gives you an extra year. In the meantime, do you
1623 expect to complete negotiations concerning the relocation of
1624 broadcast frequencies with Canada, Mexico and our border
1625 areas, yes or no?

1626 Mr. {Wheeler.} No, but, am very hopeful that we will be
1627 able to move it forward, and as DTV showed, you don't have to
1628 have the signature on the page.

1629 Mr. {Dingell.} And you know that that can cause an
1630 awful lot of viewers to lose service, and an awful lot of
1631 screens to go dark in our part of the country. Chairman

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1632 Wheeler, similarly, paragraph 15 of the Commission's notice
1633 of proposed rulemaking for the Incentive Auction states,
1634 ``the Commission expects interested parties will have an
1635 opportunity for meaningful comment on all specific
1636 repackaging methodologies it is considering before it makes a
1637 decision.'' Does the Commission publicly commit to sharing
1638 with the public the broadcast frequency repackaging
1639 methodology it adopts, as well as the variables and other
1640 inputs it may use to predict repackaging results, yes or no?

1641 Mr. {Wheeler.} I will go beyond yes and say absolutely.

1642 Mr. {Dingell.} Now, Mr. Chairman, let us move on to the
1643 Forward Auction of Broadcast Frequencies. Section 6403(C) of
1644 the Middleclass Tax Relief and Job Creation Act provides the
1645 Commission may not grant licenses through Forward Auction,
1646 reassigned or reallocated broadcast frequencies, or revoke
1647 spectrum usage right unless it proceeds--unless the proceeds
1648 of the Forward Auction are greater than the following 3
1649 factors combined. First, the total amount of compensation
1650 the Commission must pay successful bidders in the Reverse
1651 Auction, the costs of conducting a Forward Auction, and the
1652 estimated costs for the Commission to pay for broadcaster

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1653 reallocations. In addition, it is in the public interests
1654 that the Commission ensure the auction raises a significant
1655 amount of money in order to help build out of the FirstNet.
1656 Together, these constitute a significant pressure on the
1657 Commission to raise sufficient revenues to accomplish these
1658 objectives. Do they not, yes or no?

1659 Mr. {Wheeler.} Yes.

1660 Mr. {Dingell.} Now, Mr. Chairman, at the end, will the
1661 Commission adopt transparent and simple rules to encourage
1662 participation by the broadest group of wireless providers in
1663 the Forward Auction, yes or no?

1664 Mr. {Wheeler.} Yes.

1665 Mr. {Dingell.} Mr. Chairman, it is--let us focus our
1666 attention on intelligent transportation systems. This is of
1667 considerable importance to my part of the country and our
1668 principle industries, and the 5 gigahertz band. Given that
1669 the Commission licensed ITS almost 15 years ago, it is--is it
1670 reasonable to say that it would be premature for the
1671 Commission to authorize unlicensed use of the 5850-5925
1672 megahertz band before the studies are completed, that conform
1673 such use would not cause harmful interference with ITS

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1674 services and other incumbent users, yes or no?

1675 Mr. {Wheeler.} Yes, and let me go further. We will not
1676 authorize if there is harmful interference.

1677 Mr. {Dingell.} I am very comforted that you are here
1678 this morning, Mr. Chairman. Now, Chairman Wheeler, do you
1679 believe that the Commission should approve unlicensed use of
1680 the 5850-5925 megahertz band before definitively establishing
1681 no risk of harmful interference with ITS systems or practical
1682 strategies to mitigate such risk, yes--

1683 Mr. {Wheeler.} No, and I repeat, will do nothing that
1684 causes harmful interference.

1685 Mr. {Dingell.} Now, Mr. Chairman, alternately, is the
1686 Commission considering moving forward with rulemaking opening
1687 up only the 5350 megahertz band for unlicensed use, yes or
1688 no?

1689 Mr. {Wheeler.} So this is where I need to just ask a
1690 question, sir. The answer is yes, if it is are we
1691 considering. The answer is no, if we have decided.

1692 Mr. {Dingell.} Now, Mr. Chairman, I would like to
1693 commend you for your work in advancing the transition to IT-
1694 based networks. Will the Commission consider an Order in

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1695 January 2014 that will address geographic trials, as well as
1696 how to protect in the best way consumers using IT-based
1697 networks, yes or no?

1698 Mr. {Wheeler.} Yes.

1699 Mr. {Dingell.} Mr. Chairman, you have been most
1700 gracious to me, and I thank you for this.

1701 Mr. Chairman, your comments have been most enlightening
1702 and helpful. I want to thank you and the members of the
1703 Commission for your presence and assistance throughout this
1704 morning. Thank you, Mr. Chairman.

1705 Mr. {Walden.} Thank you very much. The gentleman
1706 yields back, and the Chair now recognizes for 5 minutes Mr.
1707 Guthrie.

1708 Mr. {Guthrie.} Thank you, Mr. Chairman. I appreciate
1709 that.

1710 Chairman Wheeler, and welcome to the FCC also, Mr.
1711 O'Rielly.

1712 Mr. {Wheeler.} Thank you, sir.

1713 Mr. {Guthrie.} I appreciate having you here. And,
1714 Commissioner Clyburn, again, I echo the good work that you
1715 did in your time as Chairwoman.

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1716 But there seems to have been a lot of progress being
1717 made, this is to Chairman Wheeler, a lot of progress been
1718 made to free-up the 1755 to 1780 hertz band for commercial
1719 use, megahertz band, and I know the FCC has already sought
1720 comment on how this band should be used for commercial
1721 purposes. Is the FCC on track to auction the 1755 to 1780
1722 band paired with the 2155, 2180 band, and if so, when will it
1723 occur?

1724 Mr. {Wheeler.} So the answer is yes, we are on track.
1725 There are some issues that still have to be worked out with
1726 NTI and DOD and some--

1727 Mr. {Guthrie.} Are there some impediments--

1728 Mr. {Wheeler.} --details, but I think--I am sorry,
1729 what?

1730 Mr. {Guthrie.} Are there some impediments that you can
1731 identify that are--that you are on track, but you say there
1732 are some impediments?

1733 Mr. {Wheeler.} Yeah, I think these are just
1734 implementational kinds of things in their agreement, but to
1735 be specific to your question, would hope that we could do it
1736 in the September time frame.

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1737 Mr. {Guthrie.} September time frame, great. And then
1738 you spent some time in the wireless industry I know, and have
1739 seen firsthand how spectrum demand has grown exponentially.
1740 I realize that a lot of our short-term focus is on the
1741 Incentive Auction on the 1755 to 1780 megahertz, but looking
1742 forward, what is the FCC doing to plan for future spectrum
1743 demand, and how can the FCC ensure that there continues to be
1744 a pipeline on new spectrum to satisfy what consumers--an
1745 insatiable demand for bandwidth anywhere, any time. So to
1746 look at again, how do you plan for future spectrum demand
1747 beyond this? What kind of thoughts do you have--

1748 Mr. {Wheeler.} Sure.

1749 Mr. {Guthrie.} --beyond this--

1750 Mr. {Wheeler.} Sure.

1751 Mr. {Guthrie.} --Forward Auction?

1752 Mr. {Wheeler.} Well, first we say yay and verily to
1753 what you and Ms. Matsui have done. Applying the Incentive
1754 Auction concepts to government spectrum, I am a believer that
1755 by the time that you peel everything away, it comes down to
1756 economics no matter who you are. Right? And the economics
1757 of an agency where they can get cash to help them fulfill

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1758 their mission is an important kind of decision they should
1759 make. And you have created--with Ms. Matsui, have created a
1760 structure where this can happen.

1761 Mr. {Guthrie.} Well, we looked at that in our working
1762 group, and it is just--it is a lot of work for these agencies
1763 to do that. It is not something you can just wish away, as I
1764 learned more and more about it. And I always say I didn't
1765 run around Kentucky saying, send me to Washington and I will
1766 deliver you spectrum. And so you get--you learn things when
1767 you get elected that you never thought you would deal with,
1768 and I have found this fascinating because, as I said, my
1769 consumers--my constituents demand it. They want and fast
1770 and--the fast bandwidth. So--

1771 Mr. {Wheeler.} But it is also--

1772 Mr. {Guthrie.} --but it is--

1773 Mr. {Wheeler.} It is interesting--

1774 Mr. {Guthrie.} --but it is true that we have to--if we
1775 were looking at it just by law say, by Fiat say, you have to
1776 release spectrum, I mean you could get numbers, well, it is
1777 going to cost this, it is going to cost that, and so it does
1778 give them a reason to go in and make this happen.

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1779 Mr. {Wheeler.} And the interesting thing is, so I was
1780 involved in the negotiation for AWS-1 back in the year 2000,
1781 and the first negotiation with the Department of Defense, and
1782 we kept saying to them, but you are going to get money, and
1783 they kept saying, but we can't spend it because it goes to
1784 the General Treasury.

1785 Mr. {Guthrie.} Right.

1786 Mr. {Wheeler.} And so what you have done is set up a
1787 structure to help compensate people, and the beauty of it is
1788 that what it does is that it creates a cash flow for them to
1789 be able to meet their new needs, and to be able to upgrade
1790 their equipment, and so it is a winning situation all around.

1791 Mr. {Guthrie.} That is like, Ms. Matsui, she said--I
1792 think yesterday you said, win, win, win, I think is what it
1793 does for the consumers, for the agencies and for the
1794 taxpayers. So beyond--so I--so in the future, what are you
1795 kind of looking at, do you think should happen, just for
1796 bandwidth and more spectrum as we all move into the future?

1797 Mr. {Wheeler.} I am sorry, sir?

1798 Mr. {Guthrie.} Well, I must just as we move on into
1799 the--beyond the immediate auctions and things, what other

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1800 things do you think we can do to free spectrum?

1801 Mr. {Wheeler.} Well, I think we have--I mean--so first
1802 of all, we are constantly looking at how do you get the more
1803 efficient--most efficient use out of the spectrum. One of
1804 the interesting things that we are going to be running a test
1805 on is what do you do with spectrum sharing, because there is
1806 probably not--there is, in a digital world, the opportunity
1807 to share spectrum, but our spectrum allocations were set up
1808 with analog assumptions.

1809 Mr. {Guthrie.} Um-hum.

1810 Mr. {Wheeler.} And so if we can share it, reuse it, it
1811 is a great opportunity and we need to be pursuing that as
1812 well.

1813 Mr. {Guthrie.} Yeah, a great metaphor of that I always
1814 thought was you don't have a lane on a highway dedicated just
1815 for emergency vehicles, but when emergency vehicles come down
1816 the highway, people get out of the way.

1817 Mr. {Wheeler.} Good point.

1818 Mr. {Guthrie.} And I think that is a great metaphor for
1819 that.

1820 Well, Mr. Chairman, I will yield back 15 seconds.

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1821 Mr. {Walden.} Chair recognizes the gentlelady from
1822 California for 5 minutes.

1823 Ms. {Matsui.} Well, thank you very much, and let me
1824 just follow up on my partner's questions here.

1825 I know back in the day, you were looking at the use of
1826 federal spectrum, and I think it is a concept now that has
1827 finally come to the point where we can actually do something
1828 about it. And I believe that this is a way to really
1829 encourage the federal agencies to relinquish a non-critical
1830 spectrum, and as Congressman Guthrie says, it is not easy to
1831 do, but we worked with DOD and we made a lot of progress.

1832 Now, I am also looking at what Commissioner Rosenworcel
1833 has also always said about using the carrot-and-stick
1834 approach regarding the federal spectrum holders, and having
1835 them relinquish their spectrum. Now, in your view, and I
1836 also want Chairman Wheeler to comment on this too, are the
1837 financial incentives identified in the bill adequate to
1838 encourage federal agencies to relinquish non-critical
1839 spectrum? And I think I will go you first, Chairman Wheeler.

1840 Mr. {Wheeler.} I don't know the answer to that because
1841 I haven't market-tested it, you know, and I think that the,

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1842 is this enough incentive, is a market-test question. So I am
1843 going to, with all due respect, punt. What is important is
1844 the concept that has been developed, and it would seem to me
1845 that once that concept is codified, that then making sure
1846 that incentives are adequate is frankly the easier lift on
1847 the whole exercise.

1848 Ms. {Matsui.} All right, thank you. Commissioner
1849 Rosenworcel?

1850 Ms. {Rosenworcel.} Thank you for the question. I think
1851 first of all that the legislation that you and Congressman
1852 Guthrie have introduced is terrific. The demand on our
1853 airwaves is going up and the supply of unencumbered spectrum
1854 is going down. It is time to be creative. This legislation
1855 is creative. As far as the incentives go, I think it is a
1856 good starting point for conversation because right now,
1857 federal agencies, by some measures, have veto control over
1858 about 60 percent of our airwaves. They use their spectrum,
1859 their mission focus, to protect our national defense, to keep
1860 our planes in the sky, to tell us what weather patterns are
1861 coming, but they don't have structural incentives to be
1862 efficient with it. Your bill is a start of a conversation

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1863 about how we should apply those incentives, and once we get
1864 them right, we will have a catalyst for a lot more spectrum
1865 from new mobile broadband uses, which would be a terrific
1866 thing for the economy.

1867 Ms. {Matsui.} Great. Thank you very much.

1868 Chairman Wheeler, you have emphasized how important it
1869 is for you to lead the FCC in fact-based decision-making. In
1870 the 5 gigahertz proceeding, for example, this committee is
1871 looking to the FCC's engineering expertise to determine the
1872 conditions under which Wi-Fi can use a band in a way that
1873 protects the missions of federal systems and commercial
1874 systems. How are you and your staff planning on responding
1875 to the challenge, and is this proceeding a priority for the
1876 Commission?

1877 Mr. {Wheeler.} So as Commissioner O'Rielly said, I
1878 would associate myself with his comment that he is a strong
1879 supporter of unlicensed. The key, of course, you need to
1880 make sure that there is no harmful interference, as I have
1881 discussed with Mr. Dingell, but I believe that if you take a
1882 look at the 5 gigahertz, and you look at block 1, NII-1, that
1883 we should be moving to rulemaking on that, which is something

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1884 that Commissioner Pai has often suggested, that when you look
1885 at band 2 which is DOD, and band 4 which is ITS, that we have
1886 to address the questions that I was addressing with Mr.
1887 Dingell, and that is to make sure there is no harmful
1888 interference, and there is nothing in the record that really
1889 gets to that at this point in time, but we need to build that
1890 record.

1891 Ms. {Matsui.} Okay, fine, thank you very much. And I
1892 have to ask a broadband-adoption question here. The FCC has,
1893 Chairman Wheeler, implemented broadband adoption as part of
1894 the Lifeline reform measures. Can you explain what the FCC
1895 plans to do here--

1896 Mr. {Wheeler.} Yes.

1897 Ms. {Matsui.} --and what is the goal of these pilot
1898 projects?

1899 Mr. {Wheeler.} So there are 14 projects that are taking
1900 place around the country that we are funding with some of the
1901 savings that we have had in other parts of the program, and
1902 we are going to be looking at, for instance, what is the
1903 impact of a Lifeline-like subsidy on broadband adoption, and
1904 we are going to be looking at what are the kinds of training

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1905 issues to help people understand what broadband can do for
1906 them, and the kinds of things that they can do once they get
1907 on the Internet, because those seem to go part and parcel.
1908 It is not just that you can access it, but also that you can
1909 use it and you understand why you ought to be using it.

1910 Ms. {Matsui.} So are you going to use this information
1911 to develop a responsible permanent broadband adoption
1912 program?

1913 Mr. {Wheeler.} That is the goal. We are--this is--
1914 these are trials to inform our future actions, and broadband
1915 --wireless broadband and broadband adoption are kind of the
1916 sine qua non of what the Agency does.

1917 Ms. {Matsui.} Okay. I want to thank you.

1918 I yield back my time.

1919 Mr. {Walden.} The gentlelady yields back her time.

1920 And the Chair recognizes the gentleman from Texas for 5
1921 minutes.

1922 Mr. {Barton.} Thank you, Mr. Chairman, and I want to
1923 make a comment on the audience. This one is a lot bigger
1924 than the one upstairs with the joint hearing, and they seem
1925 to be more interested too. So I guess that is a credit to

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1926 the subcommittee and the FCC Commissioners. We have the
1927 NRCC--not NRC, NRC.

1928 Mr. {Walden.} I think you need to be clear on that one.

1929 Mr. {Burton.} That would be news, wouldn't it, if Greg
1930 Walden was testifying upstairs? Anyway, I just have one
1931 question.

1932 The Middleclass Tax Relief and Job Creation Act requires
1933 repackaging and auctioning of the 65 megahertz of spectrum,
1934 and the low-powered TV stations, of which there are hundreds
1935 if not thousands, are not guaranteed continued existence, but
1936 Chairman Walden, this subcommittee, myself, have a bill that
1937 we hope to introduce very soon. While it doesn't guarantee
1938 them any additional rights, it does create, I hope, a pathway
1939 so that they may continue to exist. As the new Chairman of
1940 the Commission, Mr. Wheeler, do you have any thoughts on what
1941 might be done to give our low-powered TV industry a chance to
1942 continue to exist?

1943 Mr. {Wheeler.} Thank you, Mr. Burton. Yes, and that
1944 would probably fall in three buckets. One, there has been a
1945 lot of talk following the statute, and as you point out, the
1946 statute says that LPTV translators are secondary surfaces and

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1947 we--that is what the statute says. Second is we have
1948 actually opened a public notice on the delivery of the
1949 content of LPTV's. How do we make sure that the content, and
1950 this ends up being more of a digital technology question than
1951 anything else, and how do you use digital technology to get
1952 the content out, because that is the consumer protection
1953 issue here, to make sure the consumer gets the content. And
1954 then the third point here is that there may be a safeguard in
1955 the reality that rural areas don't have that great a demand
1956 for spectrum for wireless services to begin with, and so they
1957 may be operating in areas where there will be less pressure
1958 to get spectrum, but we will find out as we go through this
1959 process.

1960 Mr. {Burton.} Okay. Mr.--Commissioner O'Rielly, you
1961 are the new kid on the block, so to speak. You haven't had a
1962 chance publicly to comment on this issue. Do you have any
1963 thoughts about low-powered TV and what might be done to help
1964 them continue to exist?

1965 Mr. {O'Rielly.} Well, the Chairman is right in the
1966 sense, and you are as--right to introduce legislation, and
1967 working for the members on Spectrum Act, there was a decision

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1968 made by the members to not protect low-power and translators,
1969 and you have legislation, I would defer to your legislation
1970 to whether that may resolve that. You--I know you and I had
1971 a chance to talk. I know some of the low-power
1972 representatives have argued it may be beneficial financially
1973 to the government to participate. I am not sure, and I don't
1974 know if it is accurate, but we have heard that argument as
1975 well, and it is probably something we have to explore.

1976 Mr. {Burton.} Okay.

1977 That is my only question, Mr. Chairman. With that, I
1978 yield back.

1979 Mr. {Walden.} The gentleman yields back the balance of
1980 his time.

1981 The Chair now recognizes the gentleman from Utah for 5
1982 minutes.

1983 Mr. {Matheson.} Thank you, Mr. Chairman. I appreciate
1984 all the Commissioners taking the time to be here today. I
1985 think this is a very informative hearing.

1986 First, Chairman Wheeler, in my city, Utah, we have over
1987 750 active translators that relay signals to many rural
1988 communities that rely on broadcast television to obtain their

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1989 newscast, their public service announcements, their
1990 entertainment. Now, with the increased reliance on mobile
1991 data, there is no doubt that we need to take steps to move
1992 forward with making more spectrum available--concerns that
1993 the spectrum repackaging that could result from the Incentive
1994 Auctions could have a negative impact on those rural
1995 communities that tend to be more dependent on broadcast
1996 television.

1997 What steps is the FCC taking to protect these viewers
1998 from possible negative impacts?

1999 Mr. {Wheeler.} Well, Congressman, the first issue is
2000 how threatened should they feel, and the fact that they are
2001 living in rural areas where there is less of a demand for
2002 mobile spectrum may end up being a de facto shield for them.

2003 Mr. {Matheson.} All right.

2004 Mr. {Wheeler.} Secondly is, as the statute says, this
2005 is a secondary surface, it does not have protection. So the
2006 question is how do you protect consumers, as you are
2007 suggesting, who rely on it, and that is why we have had a
2008 public notice and are seeking comments on the question of how
2009 do you get what the translator or LPTV station does in terms

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2010 of content out, and how does new technology fit into that,
2011 such as digital use of the airwaves or whatever the case may
2012 be. But this is clearly an issue where we need to be
2013 focusing on what is the effect on the consumer--

2014 Mr. {Matheson.} Right.

2015 Mr. {Wheeler.} --rather than what is the effect on the
2016 transmission media, because you have told us how we should
2017 look at that transition media.

2018 Mr. {Matheson.} Right. I appreciate that response.
2019 There has been a lot of back-and-forth on how the Incentive
2020 Auction should be structured, and I think most would agree it
2021 is imperative we maximum participation, both in the Reverse
2022 Auctions and the Forward Auctions, but, Chairman Wheeler, I
2023 was wondering, what do you see is the best way for us to
2024 maximum participation and also revenue for the federal
2025 government in both of these auctions?

2026 Mr. {Wheeler.} You know, I--before I took this job, I
2027 was in the business of doing business deals--

2028 Mr. {Matheson.} Um-hum.

2029 Mr. {Wheeler.} --and I think that is what we are
2030 talking about here.

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2031 Mr. {Matheson.} Right.

2032 Mr. {Wheeler.} This is a business transaction that
2033 someone who has a license needs to make a business decision
2034 about, and how do you do that. Well, I--and what is our
2035 role. First of all, we need to make sure that we are getting
2036 relevant information on a timely basis into the hands of
2037 those parties to make that decision, and that is why we have
2038 scheduled the auction plan. We are saying in January, we are
2039 going to begin laying out exactly what that kind of
2040 information needs to be. Secondly, I think it is incumbent
2041 on us to have an outreach program--

2042 Mr. {Matheson.} Um-hum.

2043 Mr. {Wheeler.} --in which we make sure that small and
2044 large broadcasters understand how the program is going to
2045 work, what the economics could be, and maybe even begin to
2046 think in terms of what economic models might look like,
2047 because at the end of the day, what we are really doing is we
2048 are saying we want the marketplace to make a decision as to
2049 what is the highest and best use of spectrum, and the
2050 marketplace can't make that kind of decision until it is
2051 informed. So it is incumbent upon us to make sure that that

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2052 kind of information is in a timely manner available to those,
2053 and to help them with that process.

2054 Mr. {Matheson.} Commissioner Rosenworcel, I have a
2055 question for you about the ConnectED Program you mentioned
2056 briefly in your opening testimony. You also mentioned that
2057 the current E-rate program had some bureaucratic
2058 inefficiencies built into it right now. What can the
2059 Commission do to maximize efficiency to get more bang for the
2060 buck, what can you do with your existing authority, or what
2061 do you need for Congress to do to change it to also increase
2062 those efficiencies?

2063 Ms. {Rosenworcel.} Thank you very much for the
2064 question. I think this program is really important, and
2065 reinvigorating it is really important for education,
2066 infrastructure and the economy. I think we can do more with
2067 this program just as it is. As my colleague, Commissioner
2068 Pai, noted, we do subsidize a whole bunch of old-fashioned
2069 services right now. We should phase those out over time and
2070 focus instead on capacity and band width. And like you
2071 mentioned, we need to reduce bureaucracy. Bureaucracy gets
2072 in the way of small and often rural schools from

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2073 participating in this program. I would like to see us
2074 encourage greater use of consortia to improve bulk buying
2075 power, and also have multiyear applications to reduce the
2076 administrative burden on schools that do participate.

2077 Mr. {Matheson.} I appreciate that.

2078 Mr. Chairman, I yield back.

2079 Ms. {Walden.} The gentleman yields back.

2080 And the Chair now recognizes for 5 minutes the gentleman
2081 from Nebraska.

2082 Mr. {Terry.} Thank you, Mr. Chairman. And let me begin
2083 with by thanking former Acting Chair Clyburn, and during your
2084 tenure as Acting Chair, you finished the low-power FM, and
2085 you guys did a wonderful job on it, you really did, and I
2086 want to thank all of you for that.

2087 But Acting Chair--former Acting Chair, just now Member
2088 Clyburn--

2089 Ms. {Clyburn.} The Commissioner--

2090 Mr. {Terry.} Commissioner, yes.

2091 Ms. {Clyburn.} --formerly known as.

2092 Mr. {Terry.} Yeah, that works, and you can have a sign
2093 for your name now, but you were extremely communicative. I

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2094 love the way you reach out to us and, frankly, you are so
2095 extraordinary that I think every Chairman, including the new
2096 one, should model themselves after that. We don't--it is
2097 very rare that we see that level of communication, so I just
2098 want to thank all of you. This really is a great Board. You
2099 guys are really serious about the real issues, and I like how
2100 you filter out the politics that surrounds all of this. Keep
2101 it up.

2102 The next--I know that the quantile regression analysis
2103 has already been discussed to some point, but I just want to
2104 let that I--that has been a long-time concern for me. I
2105 think some of this--the concerns that we had that it could
2106 actually displace or retard capital investment in rural
2107 America, when this is all about getting cheap resources and
2108 capital into rural America because of its high cost. And so
2109 it really needs to be reviewed, and, Chairman Wheeler, I
2110 appreciate--I have been told--your comments on the record
2111 here today is that you understand this problem. I will
2112 invite you and all of the Commissioners out to rural
2113 Nebraska. You land in my district, then we go there. But it
2114 really is becoming a problem. I have--there is one provider

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2115 in Diller, Nebraska, that we have used as the model for
2116 responsible rural telecom, because there are businesses there
2117 that now have high speed, and they are using it to monetize
2118 their businesses there, where they truly are a worldwide
2119 business, not just the two blocks at Diller, Nebraska. But
2120 there is a wind farm that they are having trouble. The wind
2121 farm that wants to go there, that needs a broadband hookup,
2122 and they are saying, with our cap, we don't have the money.
2123 We aren't allowed to use that money in that way. So it is
2124 having serious effects. It is just not that one house that
2125 is 30 miles aback and, you know, line in and out, it is
2126 really hurting rural economic development.

2127 So I want to go ahead. And then in my 2 minutes left, I
2128 want to ask the real question and to Chairman Wheeler, and
2129 either of the Commissioners wish to step in, but I want to
2130 ask about a rule that concerns the video market. Many of us
2131 are concerned that the price of cable subscriptions, and I
2132 will tell you that is an often and frequent call to my
2133 Congressional Office. And the current market for video is
2134 seeing an expansion in the scope of current law wasn't
2135 necessarily intended to address. That is the FCC has defined

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2136 buying group of NVPD's for the purpose of program access
2137 rules in a way that excludes the NCTC, essentially the only
2138 buying group out there. So are there plans by the Commission
2139 to look into this, to maybe change it, do you think that the
2140 NCTC should be excluded from this process, Chairman Wheeler?

2141 Mr. {Wheeler.} Thank you, Mr. Terry. I have just
2142 become aware of the issues that have been raised about this,
2143 and want to get all over it and would ask that we be able to
2144 get back to you, but the answer is we are now aware and will
2145 be dealing with it.

2146 Mr. {Terry.} Any of the Commissioners have concerns
2147 about the NCTC being excluded from this rule? Hearing none,
2148 Mr. Pai, you actually had an expression.

2149 Mr. {Pai.} No good expression goes unpunished.

2150 Mr. {Terry.} Yeah.

2151 Mr. {Pai.} No, I mean I supported the notice that teed-
2152 up a lot of the questions, and we teed-up a lot of different
2153 questions, as you know, paragraphs 84 to 100 of that Order
2154 listed all the issues under consideration, and I look forward
2155 to working with Chairman Wheeler and my colleagues to ensure
2156 that the FCC takes the appropriate action to ensure that

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2157 buying groups or other--

2158 Mr. {Terry.} Great.

2159 Mr. {Pai.} --entities are able to compete.

2160 Mr. {Terry.} And others nodded.

2161 Mr. {O'Rielly.} Right.

2162 Mr. {Terry.} Mr. O'Rielly?

2163 Mr. {O'Rielly.} I am sorry, I didn't express a facial--

2164 Mr. {Terry.} Also known as the new guy.

2165 Mr. {O'Rielly.} The new guy, yes. I would have to

2166 agree with Chairman Wheeler. I don't have as much

2167 information on this, and I look to get up-to-speed on it, so

2168 I apologize that I don't.

2169 Mr. {Terry.} Yield back.

2170 Mr. {Walden.} The gentleman yields back the balance of

2171 his time.

2172 And the Chair now recognizes the gentleman from New

2173 Mexico for 5 minutes.

2174 Mr. {Lujan.} Mr. Chairman, thank you very much. And,

2175 Chairman Wheeler, welcome today. To all the Commissioners,

2176 welcome. Again, as we are announcing former positions in

2177 post, Commissioner Clyburn, I know that you are very welcome

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2178 here today. I--it is great to hear the recognition from my
2179 colleagues with your leadership and your work, and I don't
2180 want to speak for former Public Utility Commissioner Ray Baum
2181 either, but I am going to invoke his name a bit. It is good
2182 to have another fellow Utility Commissioner here and a
2183 leader. For those of you that aren't aware, myself and Ray
2184 served at the same time on Utility Commissions as
2185 Commissioner Clyburn. We had a chance to do some great
2186 things together, and it is great to have you again in that
2187 leadership capacity, Commissioner Clyburn.

2188 Chairman Wheeler, I appreciate very much the
2189 conversation about quantile regression analysis. I think you
2190 will see that there are many rural members of Congress, or
2191 members that represent rural parts of America, that are on
2192 this committee. As we look at this encouraging investment in
2193 rural America, I hope that, through all these deliberations
2194 and rulemaking, that we don't lose sight of the fact that if
2195 we can make a mobile call from an airline, that we should be
2196 able to make it anywhere in rural America. And if technology
2197 is allowing for that to occur, I don't want to hear that we
2198 are not able to anymore. So thank you again for looking at

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2199 this and making sure that rural America will not be left out,
2200 Mr. Chairman.

2201 With that being said, I would also encourage and was
2202 encouraged by the fact that, in a recent report, there was
2203 some conversation about the Tribal--and would encourage that
2204 that is critically important as we roll out the re-evaluation
2205 of the QRA. And lastly, I want to let you know that I am
2206 planning on introducing a piece of legislation to include the
2207 elevation of the National Tribal Recognition of ONAP as a
2208 permanent office, and I would hope that we might be able to
2209 work with our colleagues to elevate that--reports directly to
2210 the Chairman, especially with the evolution of what we are
2211 seeing with the extension of utilities across rural America,
2212 including tribal lands.

2213 Mr. Chairman, I am intrigued very much by the
2214 conversation around the IP transition. I think Chairman
2215 Rogers, Chairman of the Intelligence Committee, was asking
2216 about the importance of security in networks, that we not
2217 lose the facts of--lose sight of the fact of the importance
2218 of protection of consumers and network security. As we are
2219 looking forward into future technologies, sometimes things

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2220 that we have read about in fiction or we have seen in
2221 television, there has been a lot of concern recently about
2222 security of networks, about the infringement on individuals,
2223 peering eyes, if you will, sometimes into consumer
2224 information, and I am intrigued by your direction to move
2225 onward with real-world experiments that will be coming
2226 forward. I would like your thoughts on anything that you are
2227 aware of, or that the FCC may be looking at with laser-based
2228 quantum encryption, point-to-point work that is happening
2229 right now with our national labs, it has been written about,
2230 I know it makes some people nervous but it seems to me that
2231 as we are looking to protect consumer information and
2232 intellectual property, that the more advanced that we can
2233 make our networks with technology that is currently available
2234 that we may take to the commercial marketplaces, something
2235 that I would like to encourage and see and just like to get
2236 your thoughts on that.

2237 Mr. {Wheeler.} I just learned quantile regression
2238 analysis, and now you want me to know laser-based quantum
2239 encryption.

2240 Mr. {Lujan.} Yes, sir.

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2241 Mr. {Wheeler.} I look forward to learning a lot about
2242 that. I don't mean to be light, but the--let me be specific
2243 on what I can comment on. Our networks need to be secure,
2244 period. What I was trying to say to Mr. Rogers is that the
2245 best way for attacking that is through the multi-stakeholder
2246 process and moving with dispatch, because the bad guys sure
2247 figure out a way to get around things, and that we need to
2248 make sure that our responses are flexible. We are working,
2249 obviously, with the President's Executive Order and the
2250 various steps that he is taking, or the Executive agencies
2251 are taking, in that regard, but I happen to believe that 2
2252 challenges of the IP transition is going to be the security
2253 of the networks and the privacy of the information. And if
2254 you go back to the comment that I was making, I believe, to
2255 Mr. Waxman about the trials need to be about measuring
2256 values, then we need to be addressing both of those issues
2257 inside that trial, and I look forward to learning more about
2258 how laser quantum can help that.

2259 Mr. {Lujan.} I appreciate it, Chairman. And if I may,
2260 Mr. Chairman, you know, it wasn't too long ago that when the
2261 same idea was presented, that we may be able to move data

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2262 over lights and lasers--

2263 Mr. {Wheeler.} Right, exactly.

2264 Mr. {Lujan.} --there were a lot of discouraging
2265 thoughts that were associated with that, but as we are moving
2266 now away from copper as a new medium where even the ability
2267 to move data on fiber can't keep up with our processing
2268 speeds. If laser-based quantum encryption is good enough to
2269 keep national security secrets preserved, I would certainly
2270 hope that we find a way to extend these protections to
2271 consumers as well. And again, with the real threats that are
2272 taking place with theft, with intellectual property, right
2273 now we know that it works point-to-point, but there are ways
2274 to make this work with--what we have available. This is a
2275 serious area that I have tried to take up with the
2276 Intelligence Committee. They were very cautious with their
2277 conversations with me until I presented with them with
2278 publications that have talked about this in open source and
2279 an unclassified way. So I am hoping that we might be able to
2280 look into this more, and have a serious attempt to
2281 incorporate this into our day-to-day lives.

2282 Thanks again, Mr. Chairman, for that latitude.

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2283 Mr. {Walden.} The gentleman yields back.

2284 And the Chair now recognizes the gentleman from Colorado
2285 for 5 minutes.

2286 Mr. {Gardner.} Thank you, Mr. Chairman. And I want to
2287 commend all the Commissioners for being here today, and
2288 congratulations on your new role and your newly-retired-from
2289 role. Thank you for your service. And, Commissioner Pai, I
2290 want to thank you for your work on the quantile regression
2291 analysis, and the comments that you made at the beginning of
2292 this--your testimony was--the question of Chairman Walden, I
2293 guess, was something that I have dealt with each and every
2294 day in a district bigger than the State of South Carolina. I
2295 have a number of rural telecom, rural utilities that continue
2296 to face the uncertainty as you have mentioned about the QRA,
2297 and I appreciate it. And so, Chairman Wheeler, thank you
2298 very much for your comments on that as well, and I look
2299 forward to following up with you as those conversations and
2300 decisions move forward.

2301 I wanted to ask a quick question to Commissioner Pai
2302 about the issue of ConnectED and the E-rate Program. Who is
2303 responsible for policing to make sure the E-rate Program is

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2304 being used as it--as appropriately, making sure there is no
2305 abuse of the program?

2306 Mr. {Pai.} Congressman, thanks for the question. In
2307 theory, the Universal Service Administrative Company,
2308 overseen by us, monitors it, but in practice, given the
2309 limited resources that USAC has and given the limited
2310 resources the FCC has to oversee USAC, there is not a great
2311 deal of transparency and accountability in the system.

2312 Mr. {Gardner.} A question I had with that is twofold.
2313 Number 1, how do we ensure that there is no overlap of
2314 private sector service with E-rate funding and programs to
2315 make sure that we are not adding to government competition of
2316 the private sector, but number two, if USAC has identified a
2317 problem with an E-rate contract or recipient, is there a way
2318 to police or perhaps are there bar--you know, disbarment
2319 issues that you can talk about, because I know one of the
2320 issues in Colorado is that there has been a company that is
2321 involved, and has been morphed into a new company, that has
2322 had significant issues with E-rate violations and is now
2323 involved in another company in Colorado that is providing
2324 services to schools.

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2325 Mr. {Pai.} Yes. USAC has taken actions to let us--such
2326 as the type you have indicated, and as well of the Department
2327 of Justice and prorate cases can take action where it
2328 suspects that something fraudulent has occurred. And I know
2329 that--I am quite sure I speak for my colleagues when I say
2330 that the FCC has no interests in doing anything but enforcing
2331 the rules against people who abuse the E-rate system. With
2332 respect to the first part of your question, I think it is
2333 critical as we think about reforming the E-rate Program, in
2334 addition to restructuring the basic planks of it, that we
2335 ensure that at the end of day we don't supply E-rate funds to
2336 supplant or add to the problems of competitors who have, you
2337 know, taken the risk and invested private capital in
2338 deploying networks.

2339 Mr. {Gardner.} And, Commissioner Rosenworcel, I know
2340 you talked about this as well. I don't know if you have
2341 anything to add.

2342 Ms. {Rosenworcel.} You know, I would echo largely the
2343 sentiment of my colleague. I--we wouldn't want government
2344 funds to displace private sector funds. We want to be
2345 efficient with the limited dollars we have, and make sure we

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2346 reach as many schools, at as high speed as possible,
2347 including in rural Colorado. And with respect to oversight,
2348 we could always benefit from more oversight. When we find
2349 bad actors in a program, we have to take efforts to get them
2350 out.

2351 Mr. {Gardner.} Great. Thank you. And Commissioner--
2352 or, Chairman Wheeler, a question I have, and this may be
2353 something that you need to get back to me on, are you
2354 familiar with a report on next-generation 911 that is being
2355 put together by the National Highway Traffic Safety
2356 Administration in connection with a Blue Ribbon Panel that
2357 was convened by, let me get the name here, the FCC's
2358 Communications Security Reliability and Interoperability
2359 Council?

2360 Mr. {Wheeler.} Right. That is CSRIC, yes.

2361 Mr. {Gardner.} Yes, CSRIC. Are you familiar with a
2362 report that is about to come out in January?

2363 Mr. {Wheeler.} I am not familiar with a report that is
2364 about to come out.

2365 Mr. {Gardner.} There was the--the Blue Ribbon Panel
2366 that was put together at--

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2367 Mr. {Wheeler.} Right, I know that, right. Yes.

2368 Mr. {Gardner.} Right, CSRIC. Apparently, there is a
2369 Blue Ribbon Panel--the report is coming out in January, and
2370 there are some questionable findings in this report, and I
2371 would hope that perhaps the FCC, because I believe some of
2372 the findings are not in-line with FCC ideas at all. If you
2373 could take a look at that report before it is issued and
2374 public to make sure that when we issue a report that has the
2375 stamped seal of approval of the federal government, that it
2376 is in-line with the FCC directives, and believes that--

2377 Mr. {Wheeler.} You can consider that done.

2378 Mr. {Gardner.} Thank you very much. And a final
2379 question in my time, regarding the IP transition issues,
2380 heading in a good direction but--and there are significant
2381 strides being made to transition to IP but, you know, it is--
2382 talking about rural America again, how do we further
2383 encourage this transition in a way that ensures consumers
2384 remain served in the long-run and particularly in rural
2385 America?

2386 Mr. {Wheeler.} I am sorry, that consumers would be
2387 served in the long-run?

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2388 Mr. {Gardner.} In the long-run, particularly in rural
2389 America.

2390 Mr. {Wheeler.} Yeah, I--again, it is going to be very
2391 important, for instance, in these trials that we have trials
2392 in rural areas to begin to answer those kind of questions. I
2393 mean you can't go to New York City or, you know, some place
2394 like this and run a trial and say that it applies, you know,
2395 in cities in your district. And so that is going to be one
2396 of the criteria that we are looking at.

2397 Mr. {Gardner.} Thank you.

2398 Yield back my time.

2399 Mr. {Walden.} Thank you. The gentleman yields back.

2400 And the Chair recognizes the gentleman from Missouri for
2401 5 minutes.

2402 Mr. {Long.} Thank you, Mr. Chairman. And, Chairman
2403 Wheeler, I came to Congress with a 30-year background in the
2404 auction business, so that is how--was my profession for 30
2405 years before I got here, so I have a great interest, and any
2406 time that we try to conduct an auction for anything, and it
2407 is certain to me about this Reverse Auction thing, because I
2408 am not sure exactly how that is supposed to work, but can you

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2409 provide us with a timeline of actions that need to occur
2410 before the Incentive Auctions would begin?

2411 Mr. {Wheeler.} Yes, sir. We are going to--and we are
2412 going to, in January, which--in next month's open meeting, we
2413 are going to have a presentation that is going to lay out
2414 both the timeline and the policy issues that need to be
2415 decided, and some recommendations on those. Then in the
2416 spring, we are going to be voting on a report and Order that
2417 solicits offers to do trials, sets up a measurement scheme
2418 for them, and begins to address the kinds of policy issues
2419 that will be tangential to all of that, and then we will go
2420 forth with trials.

2421 Mr. {Long.} Can you also tell me what the FCC is doing
2422 to ensure that the maximum amount of revenue will be
2423 generated through these auctions, which was always a concern
2424 of mine as an auctioneer?

2425 Mr. {Wheeler.} The--and believe me, one of ours as
2426 well, because we have the responsibility not only to fund
2427 FirstNet and the auction activities themselves, but also to
2428 contribute to pay down the federal deficit. And I think the
2429 key to how you can maximize revenue, it comes down to

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2430 multiple things. One is, we have got to be able to attract
2431 broadcasters. We have got to have something, as I was saying
2432 previously, that are rules that are understandable, are rules
2433 that we are actually being aggressive and helping people
2434 understand the economic impact of them, because there is, as
2435 you know, you are only going to bid to the point that your
2436 spreadsheets say it is going to be making sense. So that is
2437 the first thing, that we have to attract broadcasters. We
2438 also have a--this--we have this perverse challenge here that
2439 we also have to be freeing up spectrum.

2440 Mr. {Long.} Have to be what?

2441 Mr. {Wheeler.} Freeing up spectrum.

2442 Mr. {Long.} Which requires people to put spectrum--

2443 Mr. {Wheeler.} Which--there is the--

2444 Mr. {Long.} --end of the auction.

2445 Mr. {Wheeler.} There is the key. So you have to
2446 provide the appropriate incentive to get them to--for--to
2447 free-up--

2448 Mr. {Long.} And do you foresee that happening? From
2449 what I have talked to, and people I have talked to, I don't
2450 know if that is going to happen in as large a way as what

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2451 we--

2452 Mr. {Wheeler.} So the Congress told us to make it
2453 happen, and we are going to do our damndest to deliver on
2454 those instructions, and I believe that we will be able to
2455 fulfill the challenge that we have been given. And in no
2456 way, shape or form do I underestimate the magnitude of it. I
2457 have spent more time on this issue in the last 39 days than
2458 any other issue. And I know my colleagues all feel the same
2459 way on this. We understand that we are biting off a huge
2460 chunk here.

2461 Mr. {Long.} And there is an article where you were
2462 speaking in Ohio, and to quote out of the article, ``the
2463 protection of competition Mr. Wheeler said would apply to the
2464 coming auctions of additional airwaves or spectrum for mobile
2465 broadband. In April, the Justice Department told the FCC
2466 that it could help to protect competition by ensuring that
2467 the two largest companies, AT&T and Verizon, were not allowed
2468 to use their financial might to buy up all the available
2469 spectrum being auctioned, shutting out smaller carriers.''
2470 So how do you balance that? How do you decide I want to get
2471 the most money for my product over here, but I want to limit

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2472 my bidders over here, how does that--

2473 Mr. {Wheeler.} I also think that--and as you know, the
2474 more people that get to the auction, presumably, the better
2475 result. And so we want to make sure that we are creating an
2476 auction marketplace that will attract as many people as
2477 possible, not--and not just the giants. As a former
2478 entrepreneur, we want to make sure that we have smaller
2479 wireless companies, we want to make sure there are
2480 entrepreneurial opportunities in here, and that is one of the
2481 things that is most interesting about what we recently put
2482 out for public notice, the proposal from the Competitive
2483 Carriers Association, the Rural Carriers Association and the
2484 NTCA, the Rural Wireline Association, on talking about
2485 smaller economic areas so that they could bid for a smaller
2486 piece of geography, rather than a humungous piece, because
2487 four entrepreneurs, four smaller carriers, they can target
2488 their activities, they can take something that is a
2489 consumable bite, rather than be forced to go out and not
2490 compete.

2491 Mr. {Wheeler.} But they also have to put together a
2492 patchwork quilt of--to make their system work, correct, but

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2493 they can buy through the auction, they have to be able to--

2494 Mr. {Wheeler.} So they can buy their areas, they can

2495 buy other smaller areas, rather than having to buy--this is

2496 not--and this is not a decision, I just want to be clear,

2497 this is--we have put this out for comment, but it is a--

2498 certainly a very interesting idea--

2499 Mr. {Long.} But if they made A, B and C, and they get A

2500 and B but then they can't get C, then A and B weren't worth

2501 anything.

2502 Mr. {Wheeler.} But that is kind of the history of the

2503 wireless industry. I have been--we are about to conduct our

2504 96th auction, and I have been in them from the outset, and

2505 traditionally, that kind of situation has occurred, and then

2506 an aftermarket then develops in which various players say,

2507 okay, how can I reorganize for the most efficiency.

2508 Mr. {Long.} Okay. I am beyond my time by quite a

2509 little bit, so if I had any time, I would yield it back.

2510 Mr. {Walden.} The gentleman's time has expired.

2511 And the Chair now recognizes the gentlelady from North

2512 Carolina for 5 minutes.

2513 Mrs. {Ellmers.} Thank you, Mr. Chairman. And thank you

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2514 to the Commissioners for being here today.

2515 Commissioner Clyburn, I am going to direct my questions
2516 to you. I have a--an issue that has been raised from my
2517 sheriffs back home in North Carolina, and it has to do with
2518 one of the points that you made in your opening testimony,
2519 and I will just read from your opening statement. We adopted
2520 an Order to reform inmate calling services to finally provide
2521 relief to millions of families and 2.7 million children who
2522 have been paying unreasonably-high rates to stay connected
2523 with incarcerated loved ones. My sheriffs back home do have
2524 some concerns on this issue, and so they would like me to
2525 pose some questions to you on this issue in regard to
2526 security measures that they will now be putting in place.
2527 Certainly, they want to be able to provide, you know, access
2528 and information and the ability to communicate with family
2529 members, but they are concerned that this Order or reform,
2530 regulation, is saying that basically their ability to put
2531 forward call blocking through the prison, is that an issue,
2532 is that looked upon as something that we want to veer away
2533 from?

2534 Ms. {Clyburn.} So let me start again. Thank you, and

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2535 it is a pleasure meeting a Carolinian.

2536 Mrs. {Ellmers.} Absolutely, yes.

2537 Ms. {Clyburn.} Right. We might argue a bit about

2538 which--

2539 Mrs. {Ellmers.} Yeah.

2540 Ms. {Clyburn.} Right.

2541 Mrs. {Ellmers.} That is okay though. We are brothers,
2542 cousins, sisters.

2543 Ms. {Clyburn.} Absolutely.

2544 Mrs. {Ellmers.} That is right.

2545 Ms. {Clyburn.} So let me start with the latter in terms
2546 of the call blocking concerns that some of the sheriffs and
2547 persons who run jail facilities have mentioned. So as it
2548 relates to that particular item, I want to assure you that
2549 nothing within anything that we have delivered in this Order
2550 prevents any type of security in--security needed type of a
2551 blocking. So if it is--if--you know, a judge or a witness or
2552 something--

2553 Mrs. {Ellmers.} Um-hum.

2554 Ms. {Clyburn.} --you know, is potentially at risk--

2555 Mrs. {Ellmers.} Um-hum.

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2556 Ms. {Clyburn.} --then yes, these providers can block
2557 calls. The call blocking comes into play when there is not a
2558 business relationship with--if someone is doing business with
2559 somebody else, and then the supplier--

2560 Mrs. {Ellmers.} Um-hum.

2561 Ms. {Clyburn.} --is blocking them, that is when we have
2562 some disconnects with our rules, but when it comes to
2563 security protocols, that is in place. So you mentioned what
2564 is at the epicenter of our reasoning for reform--

2565 Mrs. {Ellmers.} Um-hum.

2566 Ms. {Clyburn.} --that family members, that--those who
2567 represent those who are incarcerated, not everybody
2568 incarcerated is guilty--

2569 Mrs. {Ellmers.} Um-hum.

2570 Ms. {Clyburn.} --and those who are trying to help
2571 rehabilitate those inmates have complained to us for a number
2572 of years, for well over 10 years, that the ability to
2573 communicate was just financially outrageous, that it was an
2574 unaffordable regime. So what we did, after 10 long years,
2575 was act.

2576 Mrs. {Ellmers.} Um-hum.

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2577 Ms. {Clyburn.} And we looked at, and reminded ourselves
2578 with the Communications Act in terms of universal service
2579 principles put forward--

2580 Mrs. {Ellmers.} Um-hum.

2581 Ms. {Clyburn.} --that is the providing of just and
2582 reasonable rates for all. And so we put in a mechanism that
2583 will provide that, and what we also did, not only providing a
2584 means for just and reasonable rates for those families and
2585 others who use the phone service, but providing the means for
2586 a just and reasonable rate of return--

2587 Mrs. {Ellmers.} Um-hum.

2588 Ms. {Clyburn.} --for those carriers. At the same time,
2589 built in those--that just and reasonable rate of return for
2590 carriers--

2591 Mrs. {Ellmers.} Um-hum.

2592 Ms. {Clyburn.} --is the amount of money needed to
2593 provide state-of-the-art security protocols.

2594 Mrs. {Ellmers.} Um-hum.

2595 Ms. {Clyburn.} So nothing within the framework in terms
2596 of what we, you know, put forth in terms of the Order and the
2597 further Order that will deal with intrastate rates, will

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2598 compromise security protocols, but it will bring more
2599 certainty and more, I guess, I would--again, just
2600 affordability for those--

2601 Mrs. {Ellmers.} Um-hum.

2602 Ms. {Clyburn.} --who are making calls to the
2603 incarcerated.

2604 Mrs. {Ellmers.} There are also concerns about the cost
2605 involved and, you know, if you can give some guidance in
2606 anticipation of the costs that they will have to incur as a
2607 result of this. Certainly, again, wanting to make sure that
2608 everyone is protected--

2609 Ms. {Clyburn.} Right.

2610 Mrs. {Ellmers.} --and the security is there, that--and
2611 also would you consider at the local level, the local jails,
2612 maybe being exempt until they can, you know, come up with a
2613 plan of action?

2614 Ms. {Clyburn.} So one of the things that we have put
2615 forth in this engagement is the capacity for any provider
2616 that is under distress--

2617 Mrs. {Ellmers.} Um-hum.

2618 Ms. {Clyburn.} --they can apply for a waiver process,

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2619 you know, for a full waiver. And so that capacity is within
2620 means, and so they do have the ability to do so, but one of
2621 the things that I wanted to emphasize is when we came up with
2622 this particular rate structure, we looked at a number of cost
2623 studies--

2624 Mrs. {Ellmers.} Um-hum.

2625 Ms. {Clyburn.} --and cost models that included a wide
2626 array of facilities, and came up actually with a cost
2627 structure that was much higher than some of the petitioners
2628 wanted us to--

2629 Mrs. {Ellmers.} Um-hum. Um-hum.

2630 Ms. {Clyburn.} --but we thought that we needed to take
2631 into account facilities, large and small, in order to come up
2632 with a rate structure that we think it strikes the right
2633 balance.

2634 Mrs. {Ellmers.} Well, thank you very much. And I look
2635 forward to, and certainly will be working with my law
2636 enforcement back home, working with the Commission on this
2637 issue and the subcommittee, so thank you so much. I look
2638 forward to that.

2639 Ms. {Clyburn.} Thank you, ma'am.

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2640 Mrs. {Ellmers.} And I yield back the remainder of my
2641 time.

2642 Mr. {Latta.} [Presiding] The gentlelady yields back.
2643 And seeing no other members to ask questions, I want to thank
2644 the Commission for being with us today, and I know that
2645 Chairman Walden does the same, and I also want to thank the
2646 Commission for changing your time today for your meeting to
2647 be able to be here, and I understand your meeting is at 2
2648 o'clock, so we appreciate you accommodating the committee to
2649 appear before us today.

2650 And seeing no further business to come before the
2651 committee, the committee stands adjourned.

2652 [Whereupon, at 12:30 p.m., the Subcommittee was
2653 adjourned.]