

FCC Commissioner Jessica Rosenworcel
House Committee on Energy and Commerce’s Subcommittee on Communications and
Technology
“FCC Reauthorization: Oversight of the Commission”
March 19, 2015

Attachment—Additional Questions for the Record

The Honorable Greg Walden

1. I understand that Ethernet and fiber services are better, faster technologies rapidly displacing demand for special access services. A recent analyst report points out that there are many Ethernet providers, and cable companies are major competitors. Time Warner Cable, Comcast and Cox are three of the top seven Ethernet providers – and they specifically market their services as replacements for special access. Doesn’t this demonstrate a healthy, competitive market?

I agree that competition is the best way to promote the development of better products and better prices. Moreover, it is important to promote competition not just at the national market level, but also at the local level.

With regard to special access services, in 1999 the Commission put in place a series of pricing flexibility triggers designed to serve as a proxy for competitive conditions within a local market. Where these proxies were met, the Commission relaxed its rules governing special access services. When proposed, this was a good and sensible system. But time and the evolution of technology has rendered these proxies increasingly ill-suited to discern between competitive and noncompetitive markets at the local level. Consider, for instance, that under existing policies Flint, Michigan has been granted a higher level of pricing flexibility than New York City. This suggests our proxies for local competition in the special access marketplace are both overbroad and underbroad at the same time. As a result, among others, the Small Business Administration, Government Accountability Office, and American Petroleum Institute have criticized Commission policies designed to assess special access competition in local markets.

In response, in 2012 the Commission launched a process to review its rules governing special access. In doing so, the agency acknowledged “widespread agreement across industry sectors that these rules fail to accurately reflect competition in today’s special access markets[,]” and were “not working as predicted.” As part of this effort, the Commission suspended its rules in order to collect data and conduct a market analysis that would “aid . . . in granting deregulation in areas where actual and potential competition is sufficient to constrain prices.”

Earlier this year, parties provided data to the Commission to assist with market analysis. I understand that staff is currently compiling this data, which I look forward to reviewing. I am hopeful that it will provide insights into competition in the current marketplace and take into consideration the Ethernet and fiber services you describe.

2. The January 31, 2012, Lifeline reform Order states the Commission will determine an appropriate budget for the Lifeline program within a year of order. It has been over three years since this Order was adopted and the Commission has yet to adopt a budget for the Lifeline program. When will the Commission follow through on its order and adopt an appropriate budget for the program and what will that budget be?

On January 31, 2012, the Commission adopted the Lifeline Reform Order, which made a series of changes designed to improve the program, including efforts to reduce waste and abuse. In this decision the Commission suggested that going forward it would “monitor . . . the impact of [its] fundamental overhaul of the program,” and as a result would eventually be in a position to “determine an appropriate budget for Lifeline and its appropriate duration.”

To this end, on May 28, 2015, Chairman Wheeler announced that at the June 18, 2015 Commission meeting the agency will consider a rulemaking concerning further reforms to the Lifeline program. I anticipate that this rulemaking will seek comment on efforts to modernize the Lifeline program and on the need for a budget, which will be informed by what the agency has learned about the program since adoption of the Lifeline Reform Order.

The Honorable Brett Guthrie

1. A concern has been raised with me by some of my local video distributors about the definition of the term “buying group” as it relates to program access rules. As a result of the restrictive definition, I understand that many multichannel video programming distributors are unable to avail themselves of the program access protections intended by statute since they negotiate the bulk of their programming agreements through their buying group, the National Cable Television Cooperative.

My understanding is that the Commission has been reviewing for a few years now a pending Further Notice of Proposed Rulemaking, which contained a tentative conclusion that the definition of buying group should be updated as it applies under the program access rules. Since no final decision has yet been rendered, what is the status of this rulemaking? Will the Commission take up this issue by the end of the summer?

On October 5, 2012 the Commission adopted a rulemaking seeking comment on a broad range of issues associated with its program access policies. Among other things, the Commission solicited comment on modifications to the program access rules relating to buying groups. In particular, the Commission acknowledged that buying groups for smaller multichannel video programming distributors play an important role in the market for video programming distribution. Furthermore, the Commission noted that these groups are often able to obtain lower license fees for members than they could through direct deals with programming entities.

I continue to review the record in this proceeding. The decision to circulate and request a vote on this matter is at the sole discretion of the Chairman. However, if a draft decision is circulated by the Chairman to my office, I would strive to vote it in a timely manner.

The Honorable Anna Eshoo

1. In remarks you made earlier this year, you suggested that Congress should take a fresh look at how we account for our airwaves. Specifically, you pointed out that the legislative process has overlooked the value of unlicensed in favor of licensed spectrum. What would you propose be done to ensure that the legislative process recognizes the enormous economic value of unlicensed?

Good spectrum policy requires both licensed and unlicensed spectrum. With respect to the latter though, I think it is time we take a fresh look at how we account for its value.

Traditionally, the legislative process has overlooked the value of unlicensed spectrum and favored licensed spectrum. This is not due to a great industry dispute. Nor is it the result of a partisan divide regarding our airwaves. It is simply because when the Congressional Budget Office does their job, they assign the greatest value to spectrum when it is licensed and sold at auction. As a result, bills that direct the Commission to sell spectrum get high grades, while legislation that creates more unlicensed spectrum for Wi-Fi gets low marks.

This accounting method is outdated. It puts an antiquated premium on the ability to sell a license for exclusive use of our airwaves. It also fails to take into account the more than \$140 billion in economic activity unlicensed spectrum generates each year. I believe that wireless economic activity can grow—if we find a new way to put unlicensed spectrum on the books. So I think it's time to develop a multiplier that accounts for the billions of dollars of activity that new unlicensed spectrum can generate in the economy—and encourage the Congressional Budget Office to use such a multiplier in its review. I think an effort like this would help Congress think differently about the value of unlicensed spectrum—and consumer and economic benefits would surely follow.

The Honorable John Yarmuth

1. The free exchange of information is at the heart of our democracy. All of us are well aware that television and radio political advertisements have saturated the airwaves since the Citizens United, SpeechNow, and McCutcheon decisions. Our constituents deserve to have as much information about these ad buys as possible. First, I want to commend the Commission for their ongoing work to expand the online public political file.

The FCC's online political ad files have received approximately 5 million views, which shows that the public clearly has an interest in seeing who is spending money in politics. However, much of the data in the political ad files is not sortable/searchable. While projects like Political Ad Sleuth have done an effective job at making the data more accessible, I believe the FCC could significantly improve the usability of the files so that millions of Americans could more easily view the information.

Will you commit to improving the political ad file to ensure that its data is fully searchable and sortable so that the public knows who is trying to influence them during election season?

I fully support the Commission's efforts to transition the traditional public files of broadcasters to an online database. As you note, political files, which are a component of public files, have received roughly 5 million views to date. This demonstrates real interest in who is buying time on public airwaves and who is spending money on political advertisements.

However, I share your frustration that the data in these files are not easily sortable or searchable. This problem is not unique to the Commission's public files, but I hope, over time, we can improve this situation and make more public data from the Commission available to the public in a meaningful way. Accordingly, I will support measures to make public information, including the political file, available with better sorting and searching capabilities.

The Honorable Yvette Clarke

1. Commissioner Rosenworcel, I want to hear more about this idea of the “Homework Gap” that can be solved by leveraging more Wifi in low-income communities. While the FCC has established new reforms to the use of Wifi, how do you suppose that this type of access will get directly to the home? Wouldn't this be counterproductive to competition and what standards for bandwidth would be prescribed to ensure it adequately meets the needs of students and safeguards their privacy?

The Homework Gap is the cruelest part of the digital divide. Today, as many as seven in ten teachers assign homework that requires access to broadband. But data from the Commission suggest that as many as one in three households do not subscribe to broadband service.

Where those numbers overlap is what I call the Homework Gap—and according to the Pew Research Center the Homework Gap is real. Five million households of the 29 million with school-aged children are falling into this gap.

If you are a student in one of these households, just getting basic schoolwork done is hard. Applying for a scholarship is challenging. In fact, according to a recent study by the Hispanic Heritage Foundation and Family Online Safety Institute, nearly 50 percent of students say they have been unable to complete a homework assignment because they didn't have access to the Internet or a computer. On top of that, 42 percent of students say they received a lower grade on an assignment because they didn't have access to the Internet.

I believe we need to do better for our children and our shared economic future.

There are several steps we can take to help close the Homework Gap, including promoting the availability and use of unlicensed spectrum and Wi-Fi. This is because Wi-Fi is an essential onramp to Internet connectivity. More than half of us online have relied on public Wi-Fi. But for many low-income households it is their only means of getting online. So having more Wi-Fi in more places will mean more opportunities for students to get their schoolwork done.

Stories abound about Wi-Fi helping kids to do their homework. In New York, for instance, the public library system has launched an innovative program that will allow library patrons to check out 10,000 hotspots for library users to take home and connect to the Internet via Wi-Fi. This

will allow kids without the Internet at home to get online and do their homework. Another compelling story comes from Coachella, California, which has wired some of its school buses with Wi-Fi so that students can do their homework on their bus rides to and from school. These examples go to show how Wi-Fi can be used to help close the Homework Gap.

Finally, it is important to note that Wi-Fi is an air interface for unlicensed spectrum. Wi-Fi does not itself set policies for bandwidth usage or privacy. These policies are set by those who deploy or operate networks and networked devices that use Wi-Fi. Those that do so should adhere to our laws designed to protect children, including the Children's Internet Protection Act and the Children's Online Privacy Protection Act, where applicable.