

**Opening Statement of the Honorable Greg Walden
Subcommittee on Communications and Technology
Hearing on “Oversight of the Federal Communications Commission”
November 17, 2015**

(As Prepared for Delivery)

As you know, it's our job on this subcommittee to not only initiate innovative legislation and work with each of you on various legislative and policy proposals, but also to conduct rigorous and appropriate oversight of the FCC, as we will do today.

Sadly, it's clear by various actions of this and previous commissions, Congress has delegated too much flexibility and authority to the FCC. And it seems that regardless of what our clear legislative intent is, too often that clear intent is misunderstood, or worse, obfuscated or obstructed. So colleagues, we have to do a better job when we write these bills so as to limit FCC authority, not expand it.

This committee has placed an emphasis on improving the FCC's processes when it comes to conducting the people's business. The full House has concurred with our work multiple times, including as recently as last night when the House passed the FCC Process Reform Act of 2015 by voice vote. This effort arises from complaints and suggestions from the public and from various commissioners over the years under various chairs. Better process at the FCC will result in more transparent decision-making where all the commissioners have a meaningful opportunity to participate.

And Chairman Wheeler, while you have made important improvements – you've reduced backlogs, implemented a new complaint process among other items – members of your own commission are driven to publicly express their frustrations with the bigger, decision-making process. It's distressing to hear of the bitter divisions.

Now, let me give you three, specific issues that concern us:

- Our lawyers believe the FCC has disregarded the clear directive in the STELA Reauthorization Act of 2014 and expanded the scope of the DSTAC working group beyond what was ever intended;
- The FCC has promulgated rules designed to preempt state laws regarding municipal broadband absent congressional authority to do so;
- and, of course, the FCC continues its eight-year-long failure to complete its required quadrennial review of media ownership rules. (I wonder what penalties would befall a licensee of the commission that so failed to follow the law?)

And that's just the list of things that have already happened. The commission has a number of pending proceedings that threaten to walk the same tired path of partisan, predetermined outcomes:

- The commission has announced a rulemaking to "clarify the FCC's expanded privacy authority under the new Internet rules." Even some cheerleaders for Title II, common carrier regulation of Internet access are coming to realize just how wide a net this self-granted authority casts over the Internet. If IP addresses are equivalent to phone numbers under Title II, just how will commerce flow in a broadband world? What's the FCC's definition of "privacy" under a law designed for hand-cranked telephones?
- The commission appears poised to move forward on an item to redefine "multichannel video programming distributor" or "MVPD" to include linear over the top video providers. This is billed as a way to promote online video as a competitor to traditional cable and satellite providers – yet, many over-the-top providers assert that government intervention is not warranted and that will

chill investment and innovation in the nascent and growing sector.

- The commission appears ready to move forward to expand the scope of the Universal Service Lifeline program without adopting controls to prevent ballooning costs. While the commission has taken some steps to reduce waste, fraud and abuse, much work remains in these areas, and the program still lacks meaningful spending controls. This despite the fact that the contribution factor for universal service -- the percentage of consumers' bills that the FCC collects each month to support USF programs -- will rise to 18 percent in January, an all-time high.
- Serious concerns about the misguided management and reward system of the Enforcement Bureau have risen to the point that Chairman Upton, Vice Chairman Latta and I have asked the Government Accountability Office to conduct an independent investigation into how decisions are made, how fines are determined and how employee performance is assessed.

In addition to these concerns, many stakeholders have expressed overarching concern that the FCC is adopting and applying its rules in an arbitrary fashion, singling out certain companies or industries for asymmetric regulation. This concern is buttressed by so many 3-2 votes.

With the spectrum auction less than four months away, I would also like to get your assurance that the FCC will fully and faithfully implement the law, that broadcasters will not be forced to participate, and that the commission will make all reasonable efforts to preserve broadcasters coverage areas so that consumers can continue to enjoy over-the-air viewing.

Two final notes. First, congratulations to the FCC for your October 23rd, unanimous vote to adopt the AM Radio Revitalization Order providing needed relief to the struggling AM radio industry -- to quote the NAB press release "a great day for AM radio and for millions of listeners across America." I commend Commissioner Pai for his leadership on this issue and all of you for coming together and finally getting that done. And I want to also congratulate Commissioners Rosenworcel and O'Rielly for their bipartisan efforts on 5G wireless -- keep it up.

There is no lack of leadership or ability among the five people sitting before us today. You are all accomplished, recognized leaders. Our job is to change the system so that each of you is a full participant in these incredibly important and complex decisions in the rapidly changing communications world.

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