

**Opening Statement of the Honorable Greg Walden
Subcommittee on Communications and Technology
Hearing on “Oversight of the Federal Communications Commission”
March 22, 2016**

(As Prepared for Delivery)

I want to start this morning with two points of personal privilege. First: Would you all join me in wishing Commissioner Clyburn a very joyous and happy birthday today. What a present to her to get to spend time here! Thanks for your service to our great country and may you have many, many more wonderful birthdays ahead.

Second, today is the last hearing that my good friend of nearly 30 years, and extraordinary counselor, Ray Baum will serve as member of our committee staff. Our parents were friends back in 30s, Ray and I won back the seats that our fathers had both held – and been defeated in – when we were elected the Oregon legislature in 1988. He followed me as Majority Leader of the Oregon House, and then Ray went on to serve as a member of the Oregon Public Utility Commission, then as its chairman—both appointments by Democratic governors. And he served as the state chair of the Federal-State Joint Board on Universal Service, as well. He’s given us more than the five years he committed when I convinced him to come to Washington...and I hope we all will wish him well as he begins a new journey with the broadcasters. Ray...thanks for decades of strong, fair and effective public service for Oregonians and all Americans. Godspeed, my friend.

We are entering what will most likely be – if tradition holds – the final chapter in the history of this FCC under Chairman Wheeler’s leadership. As the record clearly shows, while we have worked together on many public policy issues, we’ve also been at odds at times on process and policy.

While the Commission began with a commitment to reform the agency from within, we know that the Commission has implemented only half of recommendations of the 2014 FCC Process Reform Working Group. This is why I believe true reforms require changes in law that can transcend any particular chairman or commission. The public deserves no less. Unfortunately, sharp divisions within the Commission are widely known. With the rapidly changing communications marketplace, we’ve never needed this independent agency to work together for the public interest more than now.

And, I have to admit; there are times when I’ve expressed my displeasure with the FCC’s actions and its failure to adhere to the will and intent of Congress. For example, notwithstanding passage of bipartisan legislation requiring that existing JSAs be grandfathered from the FCC’s controversial revisions to the ownership rules, the FCC’s media bureau recently terminated a JSA in spite of this restriction – evoking a strong bipartisan rebuke. And the recent Senate report on how the Chairman and his General Counsel capitulated to White House demands and cooked the record in the net neutrality proceeding illustrates without question the willingness of agency leadership to subvert fair and open process to political pressure from the White House. But that’s not all.

- I am very concerned about the FCC’s actions regarding set top boxes and what that means for copyrighted programming and consumer privacy. While the FCC has wrapped its proposal in pro-competition and pro-consumer bunting a broad range of stakeholders

including content providers, program distributors large and small, and civil rights groups have emerged pointing out that the proposal raises serious concerns about its downside.

- Meanwhile, the Chairman has circulated a proposal to impose privacy rules on ISPs modeled on those for the old telephone network. Instead of making the proposal public for all to see, all the public gets is a fact sheet. Words matter (to quote my ranking subcommittee member.) Mr. Chairman, I call on you to make the proposal available for all to see and comment upon.
- And the Chairman has circulated his plan to expand the Lifeline program to subsidize mobile and fixed broadband Internet access – and contemplates increasing spending by \$750 million. Again, because the proposal is not public we have only the FCC’s fact sheet to guide our understanding, While it appears that Chairman Wheeler has proposed a “budget mechanism” – certainly a necessary step – and reforms to combat, waste, fraud and abuse -- the devil is in the details as to whether they are meaningful – details which we cannot see until the item is adopted and released. Notably absent from the FCC’s marketing materials is a discussion of the financial impact of the proposal on the families that pay each month through fees on their phone bills to support the program.

These are significant matters that will define how we communicate for years to come. It will not serve the American people if they are resolved in a manner that ignores opposing views, discredits opposing input on its face, and gives short shrift to collaboration in favor of expediency. Good process – openness, transparency, and accountability – honest policy debate, and compromise are the catalyst for balanced, sustainable, outcomes.

Finally, let me end with this note. If all goes as planned, and it appears that it will, the incentive auction will begin on March 29th. I consider the legislation that got us here some of the most important work to have come out of our Subcommittee – legislation that reflected bipartisan agreement – reached through debate and compromise. We all hope that the auction is a success. And of course, only time will tell. But Mr. Chairman, as you have recognized this is only the beginning of a very complex endeavor. I was pleased to see that your staff has already turned to the post-auction repack. There are, of course, controversies about the sufficiency of the 39-month timeline and the \$1.75 billion set aside to fund it. In addition, I remain concerned about keeping translators and low power television stations on the air. I remind the FCC of the age-old requirement that licensed stations supersede unlicensed uses of broadcast spectrum. Know that we take these issues seriously and will continue to work closely with you and your team as this phase of the post auction proceeds to make sure that the intent of the law is followed and that free over the air broadcast programming is not adversely affected.

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