

**Statement of
Tom Wheeler
Chairman
Federal Communications Commission
Before the
Subcommittee on Communications and Technology
United States House of Representatives**

**Hearing on
“Oversight of the Federal Communications Commission”
March 22, 2016**

INTRODUCTION

Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee, thank you for this opportunity to join with my colleagues to discuss our work at the Federal Communications Commission.

It’s been roughly four months since I last testified before this Subcommittee. Since then, I am proud to report that the Commission has made significant progress in our ongoing efforts to maximize the benefits of communications technology. Our agenda continues to be guided by the priorities I laid out at the beginning of my Chairmanship: facilitating dynamic technological change to enable economic growth and ensuring that our communications networks reflect our core values like universal access, public safety, and consumer protection. Preserving and promoting competition remains the underlying foundation of our agenda.

Today, I’ll highlight some of our most significant actions since we last met, and also preview some of the issues we will be focused on moving forward.

Incentive Auction

Next week, the FCC will make history when it launches the world’s first Incentive Auction. Getting to this point represents the culmination of four years of hard work at the Commission, following the groundbreaking work of this Committee and Congress in enacting the Spectrum Act. It has required tireless efforts by our auction task force and multiple bureaus and offices, the active involvement of my fellow Commissioners, and input from stakeholders and public interest groups representing the full range of opinions. Certainly we would not be where we are today without Chairman Walden’s steadfast support and leadership on this issue.

We are encouraged by the strong interest that we have seen both from broadcasters interested in selling their spectrum and the broad assortment of parties interested in buying it.

Our key goal is to repurpose as much spectrum for mobile broadband as the market demands to meet growing consumer needs, and that means deploying networks using these frequencies in a timely manner. To ensure preservation of service for broadcast viewers and timely network deployment, we have been focused on post-auction planning for over a year,

including the release of the draft relocation reimbursement form and a reimbursement cost catalog, and we've already begun to pivot and to accelerate our planning for the post-auction transition.

I recognize that getting the transition right is as important as getting the auction itself right. Like the auction, the transition will be a complex, multi-disciplinary effort that will span several years. The task force approach has served us well in designing and implementing the auction, and I believe it is the appropriate structure for ensuring that the transition has the focus and attention it requires. I therefore intend to maintain the task force when the auction is complete; as we move forward, its mission will evolve from auction to transition.

Spectrum Frontiers – 5G

Just as bipartisan support helped enable the incentive auction, there is growing bipartisan interest in the next big thing in spectrum policy: 5G. With very fast speeds, scale to support billions of sensors, and reduced latency, 5G will allow us to realize the full potential of so many promising, yet nascent broadband-enabled breakthroughs. It won't just improve existing commercial and government uses, but also applications still on the horizon, like Internet of Things and connected cars.

Fundamentally, we're approaching 5G as we have with previous generations of wireless by adopting a flexible use policy and assuring that spectrum is available to be deployed when the private sector has arrived at the requisite technical standards and network architectures. This approach made us successful as global leaders in 4G LTE.

At this point, none of us knows exactly what 5G will be, but we can be certain that the spectrum requirements will be dynamic and ever-changing. Accordingly, our spectrum policy must be equally dynamic to address a wireless reality that is still evolving. We must continue to employ flexible use policies that encourage private-sector innovation and investment, while increasing our commitment to spectrum sharing, opening new bands for broadband, and establishing smart approaches to wireless infrastructure.

We can also facilitate investment in 5G technology by removing barriers to infrastructure deployment. Commissioner Pai has been a strong advocate for eliminating barriers to wireless infrastructure deployment, and I look forward to working with him and the other Commissioners on this important issue moving forward. Rest assured that spurring 5G innovation and deployment is one of the Commission's highest priorities.

In fact, the Commission launched what we call our Spectrum Frontiers rulemaking to explore the use of millimeter wave spectrum – the airwaves at 24 GHz and above – for 5G. I was disappointed that one of the bands the FCC identified for possible 5G use – 28 GHz – was rejected for study by the International Telecommunication Union at last year's World Radio Conference in Geneva. While international coordination is preferable, I believe we should move forward with exploration of the 28 GHz band, and we plan to act on the Spectrum Frontiers proceeding this summer.

In February, I attended the Mobile World Congress in Barcelona, where 5G was the primary object of interest. Commissioner Rosenworcel spoke eloquently at that meeting about the need for 5G spectrum and how it will improve the quality of mobile services and enable new, heretofore unknown services. My bi-lateral meetings with foreign regulators in Barcelona made it clear – they are looking pointedly at the United States, watching our 5G-related initiatives very closely.

Privacy

At the direction of Congress, the FCC has worked for years to implement laws that protect the privacy of consumers when they use communications networks and services, notably with rules based on Section 222 of the Communications Act, which, as its title explains, focuses on “Privacy of Consumer Information.” We need to make sure our policies are keeping up as communications technology continues to evolve.

The Open Internet Order expressly determined that privacy protections of Title II should be applied to broadband providers and, in fact, the provisions of Section 222 apply to broadband providers right now. But we have a responsibility under the Communications Act to consider whether specific guidance and consideration by the Commission could better protect the privacy of consumers.

After months of talks with stakeholders, I have circulated a Notice of Proposed Rulemaking (NPRM) to ensure consumers have the tools they need to make informed choices about how and whether their data is used and shared by their broadband providers. This proposal is based on three core principles: consumer choice, transparency, and security.

To be clear, this NPRM is narrowly focused on personal information collected by network providers. It does not cover the privacy policies of websites, which is the jurisdiction of the Federal Trade Commission.

During the March 31 Open Meeting, the Commission will vote on this proposal. If approved, all Americans will have the opportunity to weigh in and have their voices heard. We want to listen and learn from the public and all stakeholders before we adopt final, enforceable rules of the road.

Lifeline Modernization

The Commission’s March Open Meeting will also feature consideration of an Order to modernize the Lifeline program. At a time when our economy and lives are increasingly happening online -- just consider job applications, math homework, or neighborhood listserves -- it doesn’t make sense for Lifeline to remain focused only on 20th century narrowband voice service. Competing and thriving in the 21st century economy requires affordable broadband.

The proposed Order will recast Lifeline for the broadband era, allowing the program to support both fixed and mobile broadband service. It will establish minimum standards of service that Lifeline providers must deliver to receive funds. It will also improve Lifeline’s management

and design to get to the heart of the historic issues that have undermined this program's efficiency. It will streamline the requirements to become a Lifeline provider and take a hard look at the burdens we place on those providers in order to make it easier for carriers to participate in the Lifeline program. Too many of our country's leading service providers as well as many local, innovative, small providers do not provide Lifeline service. The more service providers we can encourage to participate, the better that service will become.

This Order builds on earlier reforms adopted under Chairman Genachowski and Chairwoman Clyburn that cracked down on waste, fraud, and abuse and weeded out over a billion dollars in payments to ineligible recipients.

Commissioner Clyburn deserves special recognition for her tireless efforts to craft this Order and to create a more efficient and effective Lifeline program.

Rate-of-Return Modernization

Lifeline reform is part of a comprehensive effort to make sure all of the Commission's universal service programs are effectively addressing challenges of the broadband era.

In recent months, I've had the privilege of visiting Kentucky and Montana to learn first-hand about digital opportunities and connectivity challenges in rural communities. On my recent visit to eastern Kentucky I visited two towns being reshaped by the broadband revolution: McKee, or as some call it, "Silicon Holler," where there is now fiber to every home and business in the county, and Hazard, where I had the privilege to meet a former coal miner who is now working as a coder in the innovation economy. It was a striking reminder that the Commission's work can be a critical component to renewed economic growth. Our 21st century economy demands nothing less than vigorous broadband connections for rural, urban and suburban communities alike.

The Commission has a Congressional mandate to preserve and advance universal service so that all Americans have access to reasonably comparable communications services at reasonably comparable rates. Promoting universal access to communications is not just a statutory obligation; it's smart public policy. Expanding Internet access opens up new opportunities for economic growth, job creation, education, healthcare, public safety, and many other national challenges.

In 2011, the Commission voted unanimously to expand rural broadband access by modernizing the Universal Service Fund. The Commission took an inefficient program for delivering telephone service and created the Connect America Fund to support expanded broadband connectivity in rural America. These reforms have already delivered significant benefits. CAF-supported projects are in the process of connecting 1.7 million Americans in 45 states, and, over the next six years, CAF is poised to invest \$9 billion and leverage private investment to deliver broadband to 7.3 million rural Americans. In addition, universal service reforms have dramatically reduced waste within the program.

Last year, I pledged that we would bring forth a solution for the next phase of universal service modernization: reforming support for “rate-of-return” carriers. As the result of months of arduous efforts by Commissioners Clyburn and O’Rielly and their staffs, we recently circulated a bipartisan Order to fulfill that promise.

The proposed Order sets forth a package of reforms to address rate-of-return issues that are fundamentally intertwined—the need to modernize the program to provide support for stand-alone broadband service; the need to improve incentives for broadband investment to connect unserved rural Americans; and the need to strengthen the rate-of-return system to provide certainty and stability for years to come. The proposed Order will help to ensure that federal universal service funds are spent wisely, for their intended purpose, and takes concrete steps to bring broadband to the millions of rural Americans who remain unserved today.

I hope and expect the Commission will approve this proposal with a bipartisan vote this week.

Network Resiliency

We not only need to make sure our communications networks are accessible to all Americans, we are committed to making sure they are reliable and resilient, especially in times of emergency. Winter Storm Jonas, with its record snowfalls, offered the latest major test to the communications infrastructure of many states along the east coast. The Commission was in constant contact with carriers during this event, and, considering the magnitude of the storm, there were surprisingly few outages. The Commission and industry’s disaster preparations for Jonas and other storms include multiple strategies to ensure backup power availability, strategically positioning backup equipment should facilities go out of service, and guidance to the public on how to stay connected.

I know that network resiliency is a priority for many Members of this Subcommittee. I want to thank Representative Pallone in particular for his leadership in helping to bring much needed attention to this issue. His Securing Access to Networks in Disasters Act put forth constructive ideas to help ensure our citizens stay connected when disaster hits. Moving forward, I hope to work with Congress, industry, and other stakeholders to improve network resiliency and ensure the public is protected in times of emergency.

Next-Generation 911

I remain committed to working with Congress and other stakeholders to improve our 911 system. Public safety is one of the primary and essential missions of the Commission, and it cannot be left behind in this technological revolution. But, in too many communities, the communications technology behind the 911 system is dangerously out of date. Too many Public Safety Answering Points have been unable to incorporate Next Generation capabilities and functions into their operations. PSAPs also face constant challenges to maintain adequate funding for ongoing operations.

We at the FCC are committed to doing everything in our power to make the NG911 transition happen. We have taken action on such issues as improving 911 location accuracy, pushing the deployment of text-to-911, and improving the reliability of legacy, transitional, and Next Generation 911 networks. We have also convened our PSAP Task Force, which has recently come back with great recommendations on how to build the Next Generation architecture for PSAPs. Modernizing the nation's 911 system will take work from many stakeholders and I am encouraged by the recent creation of a coalition to lead a national effort to successfully implement NG911 for all states and territories by the end of 2020.

I know that public safety is also a priority of this Committee, and I would urge its Members to do all in their power to make sure our nation's PSAPs have the tools and resources they need to accelerate the transition to NG911.

Competition/Set-Top Boxes

Going back to my nomination hearing, the most consistent theme of my messages to Congress – or any audience – has been that “competition, competition, competition” is the most effective tool for driving innovation and consumer benefits.

One area where competition is virtually non-existent and consumers are literally paying the price is the set-top box marketplace. Today, 99 percent of pay-TV customers lease set-top boxes from their video providers, paying an average of \$231 a year. Even when the company has recovered the cost of the box, consumers must continue to pay a rental fee month after month. Collectively, these consumers are spending \$20 billion annually. Representative Eshoo and others on this subcommittee deserve recognition for shining a spotlight on this issue.

Last month, the Commission launched a proceeding to introduce competition into the set-top box marketplace, as Congress mandates. Specifically, we propose establishing open standards for video navigation devices like set-top boxes, the same way we have standards for cell phones and Wi-Fi routers. The new rules would set the stage to provide device manufacturers, software developers and others the information they need to introduce innovative new ways for consumers to access and enjoy their favorite shows and movies on their terms, while at the same time maintaining strong security, copyright and consumer protections.

This proposal will *not* require changes in the programming business practices of pay-TV providers; it will *not* require consumers to purchase new boxes; and it will *not* harm minority programming opportunities. What it will do is maintain copyright protections, maintain existing privacy protections, and create choice for consumers.

Pirate Radio

The Commission remains committed to pirate radio enforcement. Since I became Chairman, we've taken more than 300 pirate enforcement actions. Twenty percent of the Enforcement Bureau's activities were directed to pirate radio last year, more than any other area of enforcement. We have also shifted from our historic "whack-a-mole" enforcement approach to focus on the worst actors -- pirates that are repeat offenders, that cause interference to licensed

broadcasters, that run advertisements, and that operate at high power. And when we catch them, we're pursuing every enforcement option available against these individuals -- from initial warning letters, to monetary forfeitures, to equipment seizures. And we'll continue to go after them until they are off the air.

As you know, Commissioner O'Rielly has been a leader on these issues. Earlier this month, all five Commissioners signed a letter addressed to local officials as well as real estate and advertiser groups whose members may provide support to pirates, whether knowingly or unknowingly. The letter and a separate Enforcement Advisory explained the very real harms caused by pirate radio and asked those groups for their assistance in addressing the problem.

But we could use Congress' help here. We need to ensure that there are legal consequences for the landlords who look the other way because helping pirates puts money in their pockets. Congress could make it illegal to aid or abet pirate radio operations. Doing so would put pirates on the run and help us put them out of business.

CONCLUSION

The Commission has focused on harnessing the power of communications technology to grow our economy and enhance U.S. leadership, while preserving timeless values like universal service. As my testimony reflects, we have made significant progress toward these goals to the benefit of the public. And, to be clear, this is not an all-inclusive list. We continue to work on efforts to remove barriers to infrastructure deployment, empower Americans with disabilities, and improve the agency's internal operations, to name a few.

I look forward to discussing these actions with the Committee today and working with you and my fellow Commissioners to build on this progress and seize the opportunities of communications technology for the American people.