

STATEMENT SUMMARY: FCC COMMISSIONER ROBERT M. McDOWELL
July 24, 2007

Wireless

In March, I supported our action to classify wireless broadband Internet access service as an information service and, therefore, create regulatory parity and ensure that the market-driven framework established by Congress is fully realized as wireless services continue to flourish and evolve. With respect to spectrum license applicants, following the rulemaking adopted in April, the Chairman recently circulated a draft order setting forth service rules and other policies pertaining to the 700 MHz band. As a result, I am currently actively considering many ideas intended to stimulate meaningful opportunities, including, for instance, geographic market sizes, construction requirements, and possible incentives for the private sector to partner with public safety agencies. With respect to unlicensed spectrum operators, at this time, the Commission's Office of Engineering & Technology (OET) is completing its rigorous testing of a number of protocol devices developed for unlicensed use in the spectrum located in between the TV channels. I understand that OET is on-track for reporting these testing results later this month, and that the Chairman intends that the Commission finalize rules this fall.

Media

I was pleased to support several Commission actions taken to further the digital transition for television and radio. We provided a progress report on the digital TV transition, proposed deadlines and procedures to facilitate the broadcasters' final steps toward meeting the February 17, 2009 deadline, and required that retailers disclose to consumers that analog-tuner televisions will not be able to receive over-the-air broadcast signals without a converter box after the transition. For radio, we adopted rules for in-band, on-channel technology that will expedite the transition to terrestrial digital radio and provide higher quality audio, diverse programming and innovative data services to the public on free, over-the-air stations. We also made strides toward regulatory parity among competitors in the multichannel video distribution marketplace by opening a proceeding on exclusive contracts for video service in multiple dwelling units and issuing an order on building access for such providers.

Wireline

We solicited comments on the Universal Service Joint Board recommendation to adopt an interim cap on support for competitive eligible telecommunications carriers and will work to find a solution to the crisis facing the Universal Service Fund. I supported a request for parties to refresh the record in the special access proceeding so that a full record is developed for timely decision on appropriate special access policy. We also initiated an inquiry into the state of the market for broadband services to determine whether additional regulation is warranted beyond the principles in our *Policy Statement* adopted in 2005.

Public Safety and Homeland Security

In addition to considering the public safety matters related to the 700 MHz band, I recently voted to approve a rulemaking that invites comment and debate on a proposal that would require licensees subject to our Enhanced 911 rules to satisfy a more stringent location accuracy requirement. In addition, I supported the recent steps to increase the reliability, security and efficacy of the nation's Emergency Alert System (EAS) network to enable federal and state authorities to communicate rapidly with the public in times of crisis. Finally, I voted to move forward on a number of the recommendations made by the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks.

Satellite

In April, I was pleased to support a constructive step forward to create new opportunities for more competition in the satellite industry. Because of our light regulatory touch, this action will ease the ability of diverse entrants to introduce exciting new multi-media services to residential and business subscribers living not only in the continental United States, but in Alaska and Hawaii as well.

**STATEMENT
of
COMMISSIONER ROBERT M. McDOWELL
FEDERAL COMMUNICATIONS COMMISSION**

**Before the
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES**

July 24, 2007

Good morning Mr. Chairman and distinguished members of the Subcommittee. Thank you for providing us with this opportunity to appear before you this morning. Since we last met in March, the Commission has taken a number of important actions that I would like to highlight for you.

Wireless

We have been busy on the wireless front. This year in particular the Commission is in an excellent position to ensure that the wireless marketplace is open to a wide variety of entities. We have been working hard to create new windows of opportunity for all types of spectrum license applicants, as well as unlicensed operators.

In March, I supported our action to classify wireless broadband Internet access service as an information service and, therefore, create regulatory parity. This determination, which the Commission had previously taken for Internet access over cable modem, wireline and power line facilities, will maximize innovation and consumer benefits by ensuring that the market-driven framework established by Congress is fully realized as wireless services continue to flourish and evolve.

With respect to spectrum license applicants, following the Further Notice of Proposed Rulemaking adopted in April, the Chairman recently circulated a draft order setting forth service rules and other policies pertaining to the 700 MHz band. As you know, Congress has mandated that this spectrum be auctioned no later than January 28, 2008. As a result, I am currently actively considering many ideas intended to stimulate meaningful opportunities, including, for instance, geographic market sizes, construction requirements, and possible incentives for the private sector to partner with public safety

agencies. As always, I am interested in hearing your views regarding this important proceeding, and I am pleased to have an opportunity to do that in person today.

With respect to unlicensed spectrum operators, at this time, the Commission's Office of Engineering & Technology (OET) is completing its rigorous testing of a number of protocol devices developed for unlicensed use in the spectrum located in between the TV channels. I understand that OET is on-track for reporting these testing results later this month, and that the Chairman intends that the Commission finalize rules this fall. Of course, the technology innovation spurred by the Commission's leadership in the white spaces proceeding plays a critical role in the in the wireless marketplace, including fostering job growth and related business opportunities. I am optimistic that technological innovation in this area will yield progress toward many of the public policy goals being discussed today.

I am hopeful that our work to prepare for the 700 MHz auction and future deployment in the white spaces, along with the certainty created by our action to classify wireless broadband Internet access service as an information service, will broaden the opportunities available to entities seeking to enter the global wireless marketplace, whether as licensees or as unlicensed service providers.

Media

In the media sector, we have made several strides forward as well, particularly with respect to the digital transition for both television and radio, as well as taking steps toward regulatory parity among competitors in the multichannel video distribution marketplace.

In March, we adopted a historic order for the radio industry. In the order, we adopt service rules and other licensing and operational requirements for terrestrial digital radio using in-band, on-channel (IBOC) technology. Our rules provide both the regulatory certainty and the flexibility that the broadcasting industry needs to expedite the transition to digital radio and to provide higher quality audio, diverse programming and innovative data services to the public on free, over-the-air stations. Our Order enables broadcast entrepreneurs to bring to the marketplace this powerful new technology – which enables a single station to provide multiple streams of programming – to the benefit of all American consumers.

In April, I was pleased to support several Commission actions taken to further the digital television transition. First, in a Notice of Proposed Rulemaking, we provided a progress report on the digital transition and proposed deadlines and procedures to ensure that the February 17, 2009 transition date is met and to offer regulatory flexibility to broadcasters to facilitate their construction of digital facilities by the deadline. Since Congress established the transition deadline, the Commission has moved beyond simply ensuring that stations were capable of operating in digital to focus on facilitating broadcasters' construction of their final, post-transition channel facilities. In this Notice, we analyze and consider the specifics on when stations may and must cease analog operations, when they may and must begin operating on their post-transition digital channel and what regulatory flexibility we can provide to ensure that the complicated, coordinated switch to DTV becomes a reality.

To address the issue of consumer education about the DTV transition, we also issued an order that requires that retailers disclose, at the point of sale, that televisions

that include only an analog tuner will not be able to receive over-the-air broadcast signals without a converter box after February 17, 2009. The disclosure requirements we adopted will ensure that consumers have this material information before they make a purchase. One of the biggest challenges the Commission faces over the next two years is moving our nation from analog to digital television with minimal consumer disruption. Consumer education about the transition to DTV has been limited so far. This order takes a big step forward to educate consumers.

Given Congress' DTV deadline for broadcast stations, the natural next step for the Commission is to review how cable operators will carry the broadcasters' digital signals. In April, I was pleased to support a notice of proposed rulemaking in which we seek comment on the obligations of cable operators, after the conclusion of the digital transition, to ensure that the digital signals of "must carry" stations are not materially degraded and are viewable by all cable subscribers, as required by law. Even though broadcasters will be all digital by the deadline, some analog cable equipment will remain in cable systems and in the homes of cable subscribers. Accordingly, we must address how to ensure that cable subscribers are able to view the higher quality signals provided by the broadcast stations in their communities. The notice initiates our review.

The Commission also has been working to achieve regulatory parity between incumbent telephone companies, incumbent cable companies and new entrants into the voice, video and data markets. To help create an environment where investment, innovation and competition can flourish, it is imperative that government treat like services alike, preferably with a light regulatory touch. With the advent of the "triple play" of video, voice and high-speed Internet access services being offered by cable,

telephone and other companies, it is important that the Commission's regulations treat all competitors the same when possible.

In March, we issued a notice of proposed rulemaking to uncover whether there is a need for the Commission to regulate exclusive contracts for the provision of video services to multiple dwelling units (MDUs) and whether the Commission has the authority to craft such regulations. In the notice and in an order adopted in May on access to wiring inside MDUs, we examine building access issues in a platform neutral manner with respect to all video providers, be they telephone companies, incumbent cable providers, over-builders or others. I hope that competition for all services, and across all platforms, does not stop, literally, at the doorstep of apartment and office buildings across America.

Public Safety and Homeland Security

In addition to considering the public safety matters related to the 700 MHz band, which I discussed earlier, I have supported a number of recent actions in support of public safety and homeland security efforts. First, in May, I voted to approve a Notice of Proposed Rulemaking that invites comment and debate on a proposal that would require licensees subject to our Enhanced 911 rules to satisfy a more stringent location accuracy requirement. Certainly it is of paramount importance that E911 service satisfies the needs of public safety personnel, as well as the expectations of America's wireless consumers, and I am hopeful that our inquiry will serve as a positive start to a challenging task.

Also in May, the Commission took steps to increase the reliability, security and efficacy of the nation's Emergency Alert System (EAS) network to enable federal and

state authorities to communicate rapidly with the public in times of crisis. Specifically, we adopted an order that: requires EAS participants to accept messages using Common Alerting Protocol (CAP) when CAP is approved by FEMA; requires common carriers providing video service to participate in EAS as broadcasters and cable and satellite providers already do; and permits the transmission of state-level EAS alerts that are originated by governors or their designees. This Order establishes a framework for the next generation of EAS, which through innovative technologies will provide a redundant, more resilient system for delivering emergency alerts. The upgraded EAS that CAP will enable also will ensure better outreach to all Americans, including non-English speakers and persons with hearing and vision disabilities.

I also supported our action to move forward on a number of the recommendations made by the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks. I found that this action to be particularly constructive in that our efforts regarding emergency preparedness have broad applicability, given the need to plan for not only natural disasters such as hurricanes, but also for incidents like terrorist attacks, influenza pandemic outbreaks and industrial accidents. Any of these emergencies could result in sudden and significant shortages of personnel, a surge in communications traffic, possible disruptions to communications networks (due to increased telecommuting during an influenza pandemic, for example), and lack of manpower to immediately repair affected communications networks. I am pleased that we have built upon the lessons learned from the Hurricane Katrina disaster to promote more effective, efficient response and recovery efforts, as well as heightened readiness and preparedness.

Satellite

In April, I was pleased to support a constructive step forward to create new opportunities for more competition in the satellite industry. The services offered in the 17/24 GHz band will include standard-definition and high-definition formats, and will provide a mix of advanced, multi-media services to residential and business subscribers located not only in the continental United States, but in Alaska and Hawaii as well. I am particularly pleased that these new rules require operators to construct each satellite to accommodate the provision of service to Alaska and Hawaii in the event the satellite reaches, or is moved to, an orbital location that would provide this coverage. Because of our light regulatory touch, this action will ease the ability of diverse entrants to introduce exciting new services to American consumers living in urban, rural and insular areas.

Wireline

We have received the Federal-State Joint Board on Universal Service recommendation to adopt an interim, emergency cap on the amount of universal service high-cost support that competitive eligible telecommunications carriers receive. The Joint Board is considering more fundamental reform recommendations to the Universal Service Fund which we expect to receive sometime this fall. Now that comments on the interim cap recommendation have been filed with the Commission, I look forward to working with my fellow Commissioners to forge a solution to the crisis facing the Universal Service Fund.

On July 9, the Commission requested parties to refresh the record in the special access proceeding. I support this opportunity for parties to supplement their comments to reflect the mergers and the GAO Special Access study so that we will have a complete

record to determine the best approach. I would support an effort to make a decision at a time when the Chairman sees fit.

In March, I supported a Notice of Inquiry that asks broad questions about the state of the market for broadband and related services, whether abuses are occurring in the market that affect the offering of content on the Internet or the development of new technologies, and the ultimate effect on consumers. This gives parties who fear market failure an opportunity to present evidence, of which we have none. It also gives those who argue that the market is working well and no further regulation is needed to make their case. Now that comments have been filed, I am reviewing the record to see whether additional policies related to regulating the Internet are warranted.

Conclusion

In summary, I continue to be optimistic that our nation's communications future holds great potential for consumers. I look forward to working with my fellow Commissioners, with your continued guidance, to bring new technologies to the marketplace.