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Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee, thank you for inviting me to testify at this oversight hearing. I have been honored to meet recently with many of you, and it is a privilege to make my first appearance before you in my capacity as a Commissioner at the Federal Communications Commission. It is my hope that our recent exchanges augur the beginning of a fruitful and collaborative relationship working on issues of mutual concern.

At my Senate confirmation hearing, I testified that a good Commissioner must be a good listener. During my first seven weeks in office, I have tried to be just that. I have held over eighty meetings with representatives of communications companies, public interest groups, and trade associations; Members of Congress; and others. Everyone, of course, has distinct views on what the FCC is doing well and where it is falling short. But there is a common refrain: the FCC needs to become more nimble in discharging its responsibilities.

I have been struck by how many parties have complained to me that the Commission has unreasonably delayed taking action in a particular proceeding—for months, for a year, or even for the better part of a decade. We must act with the same alacrity as the industry we regulate. Delays at the Commission have substantial real-world consequences: new technologies remain

on the shelves; capital lies fallow; and entrepreneurs stop hiring or, even worse, reduce their workforce as they wait for regulatory uncertainty to work itself out. If companies do not know the rules of the road, they stop investing, and job creation in the communications industry grinds to a halt. And while the Commission should not rush its processes, inaction may be just as prejudicial as haste given that injured parties often cannot seek judicial review until the Commission acts on their petitions.¹ None of these outcomes benefits the American economy or the American consumer.

That is why one of the Members of this Subcommittee recently advised me that the thing that was most needed from the FCC was speed. Consistent with that thinking, I believe that the FCC should more frequently employ “shot clocks” and sunset clauses. The former measure sets deadlines for Commission action; the latter requires periodic re-evaluation of existing regulations.² In different ways, each ensures timelier decision-making and a regulatory framework better calibrated to a dynamic communications marketplace.

¹ Similarly, delay may moot a party’s concerns entirely. For example, the Commission mandated that cable operators be able to receive emergency alerts from the Federal Emergency Management Agency in the Common Alerting Protocol format by June 30, 2012. *See* Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief; Randy Gehman Petition for Rulemaking, EB Docket 04-296, *Fifth Report and Order*, 27 FCC Rcd 642 (2012). Earlier this year, the Commission established a waiver process to accommodate cable operators lacking a physical broadband connection. Concerned that the waiver process would unduly burden small cable operators, the American Cable Association, which represents such operators, timely petitioned for reconsideration on April 20, 2012 seeking a streamlined waiver process. Rather than putting out the request for comment immediately—given the pending compliance deadline—the FCC’s Public Safety and Homeland Security Bureau waited more than a month until May 25, 2012 to do so; *Federal Register* publication followed two weeks later on June 8. These cumulative delays meant that the pleading cycle on the petition for reconsideration was not scheduled to close until July 3, 2012—*three days after the EAS alert requirements were scheduled to go into effect*. On June 11, 2012, the ACA decided to withdraw its petition, stating: “the comment cycle for the *Petition for Reconsideration* will extend beyond the June 30, 2012 EAS CAP compliance deadline [T]he *Petition for Reconsideration* cannot now result in meaningful relief for ACA member companies and, from ACA’s perspective, it is therefore moot.” Whatever the merits of a petition, a party before the Commission deserves better—it deserves an answer to its request, even if it’s “no.”

² In addition to sunset clauses, I have advocated for a more robust implementation of the Commission’s statutory responsibility to conduct a biennial review of its regulations. *See* 47 U.S.C. § 161 (requiring the Commission to review all of its regulations applicable to telecommunications service providers in every even-numbered year); *see*

Speed is important for the small things, and especially so for the big ones. For example, we must act with greater dispatch to get additional spectrum out into the marketplace. In my college chemistry class, I learned the concept of a “rate-limiting step,” which is the stage in a chemical reaction that determines the rate at which the entire reaction will come to completion. For the communications industry, putting more spectrum in commercial hands is the rate-limiting step. Whatever products are developed and whatever services are conceived, they will be useless if the wireless pathways are clogged, inefficiently used, or off-limits altogether.

The FCC has done a good job of identifying the looming spectrum crunch and developing a strategy for addressing it. In March 2010, the National Broadband Plan set two targets: 300 MHz in additional spectrum should be made available for mobile broadband by 2015; and 500 MHz should be made available by 2020.

Unfortunately, we are not on track to meet these goals. The National Broadband Plan forecast that the FCC would be able to dedicate to mobile broadband spectrum bands comprising 180 MHz by the end of 2011. It is now the middle of 2012, and still *none* of the identified bands can be utilized effectively for mobile broadband. We must act quickly to turn this situation around.

One near-term opportunity is the 40 MHz of spectrum in the AWS-4 or 2 GHz band. Earlier this year, the Commission issued a Notice of Proposed Rulemaking on establishing service, technical, and licensing rules in this band to facilitate its use for terrestrial broadband. The comment cycle has ended, and we should issue such rules no later than the end of September. Over the next two-and-a-half months, we should roll up our sleeves, hammer out the

also Statement of Commissioner Ajit Pai on FCC’s Final Plan for Retrospective Analysis of Existing Rules (May 18, 2012) (calling for Commission-level review, rather than Bureau-level recommendations, of regulations deemed no longer necessary in the public interest), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0518/DOC-314165A1.pdf.

necessary details, and get this done. In baseball, it is often said that the first run of the game is the most difficult one for a team to score. Similarly, if we are able to complete work for the first time on a band identified in the National Broadband Plan and put 40 MHz of spectrum up on the scoreboard, it could set the stage for future spectrum successes.

Over the longer term, we need an “all-of-the-above” approach to spectrum policy. There is no one solution to our spectrum challenges. We must allocate and encourage the efficient use of any and all bands that can be utilized by commercial wireless broadband services. We must work with the National Telecommunications & Information Administration to facilitate the relinquishment of federal spectrum. We must expedite our consideration of secondary market transactions. We must remove regulatory barriers that stand in the way of spectral efficiency.³ And we must encourage unlicensed use of spectrum where appropriate.

Incentive auctions hold the greatest promise of increasing the stock of commercial spectrum for wireless broadband in the intermediate term. Earlier this year, Congress passed spectrum legislation that this Subcommittee played a pivotal role in shaping.⁴ It’s an exciting opportunity, but also a challenging one—no nation has ever held a more complex set of auctions. The Chairman has enlisted an able team to implement a broadcast incentive auction. My office has met with them and others outside the agency to work through some of the issues involved, including the complicated issues of international coordination that come into play with respect to repacking in markets such as San Diego and Detroit. The task at hand is daunting, but we need

³ See, e.g., *Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees; Request for Declaratory Ruling that the Commission’s Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817–824/862–869 MHz Band*, WT Docket Nos. 12-64, 11-110, Report and Order, FCC 12-55 (rel. May 24, 2012), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0524/FCC-12-55A1.pdf.

⁴ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 *et seq.*

to get going and commence the rulemaking process no later than this fall to make sure we don't fall behind.

Aside from spectrum, the Commission must recognize that the country is moving from copper-wire networks formerly dominated by incumbents to a competitive world of IP networks. We need the right regulatory framework to encourage the deployment of fiber, to strengthen facilities-based competition, and to spur investment in next-generation infrastructure. Billions of dollars in potential capital investment are sitting on the sidelines because of uncertainty over how the Commission intends to regulate IP networks. And I am worried that recent hints about the direction of special access regulation—not to mention the still-open Title II proceeding—are only going to further chill investment. These proposals send a clear signal to the private sector that the legacy economic regulations originally developed for monopoly copper-wire telephone networks are very much on the table when it comes to regulating IP networks. Going down that path will only depress infrastructure investment and discourage job creation.

Moving to the issue of process reform, I want to thank this Subcommittee for offering good ideas to improve the Commission's work. We do not have to wait, however, for many of these proposals to be enacted into law. Rather we could, and I believe we should, incorporate better processes into our rules right now. To give just a couple of examples, the adoption of new regulations always should be predicated upon the Commission's determination that their benefits outweigh their costs. Indeed, if a regulation's cost is greater than its benefit, why would we possibly want to adopt it? Also, in the context of reviewing transactions, the agency, starting today, could and should stop imposing conditions and insisting upon so-called "voluntary commitments" by parties that are extraneous to the transaction and not designed to remedy a transaction-specific harm.

In conclusion, my overarching goal is to work with the Chairman and my fellow Commissioners to take the steps that will bring communications regulation fully into the 21st century. The FCC needs to be a nimble agency that acts quickly to remove barriers to technological innovation and infrastructure investment, for it is innovation and investment that will result in better services at lower prices for consumers, economic growth, and job creation. And should Congress decide that it is necessary to modernize the Communications Act to assist the Commission in this task, I stand ready to do whatever I can to help you.

Thank you once again for affording me the chance to appear before you today. I am eager to work with you and your staff on the challenging issues facing the Commission, and I look forward to your questions.