Ensuring Strength in Communications

Remarks of FCC Commissioner Kathleen Abernathy Before the Conference on Homeland Defense: Mobile and Wireless Communications December 11, 2001

As prepared for delivery.

Thank you for inviting me to join you this afternoon. The challenges presented by the events of September 11 across the government and private sector are immense, novel, and complex. Over the past three months, they have forced us to look at our public policy in new ways and focus our energies in new directions.

This is particularly true for the communications sector and more specifically the wireless space. I spent a number of years as a public policy advocate for the fast growing and ever changing wireless and satellite industries. That industry background gave me a very real appreciation for the difficulty regulators encounter when trying to keep pace with technological change. So when I arrived at the Commission, one of my goals was to regulate with an eye towards remaining relevant in a rapidly evolving economic and technological marketplace.

Yet even that sensitivity could not prepare me for the "stop on a dime" transformation that occurred in Washington post September 11 attacks in New York and Washington. Perhaps no single event has so dramatically and unexpectedly altered the entire context and focus of the public policy debate.

Given this change, I thought I would take this opportunity to elaborate on the FCC's role in Homeland Security. While some of the issues I discuss have always been important to the Commission – and certainly were among my highest priorities when I took office six months ago – they are now far more prominent on the national policy stage than previously anticipated.

In this regard, I want to emphasize that although September 11 drove home the heroic efforts of our nation's police, fire, and emergency care workers – its important to remember that their heroism both preceded September 11 and will continue long after we have rebuilt from the rubble of ground zero. Similarly the public safety radio licensees all around the country deserve our appreciation and support for their everyday commitment to ensuring that our police fire and emergency medical personnel are in the right place at the right time to save lives. As an FCC Commissioner I think is particularly important for me to keep their critical work in mind as I carry out my responsibilities.

Before I get into the details of our wireless policy issues, I also wanted to focus on the scope of the Commission's authority in this area. We have jurisdiction over non-federal government spectrum ONLY. Nancy Victory and her excellent staff at NTIA coordinate spectrum issues on the federal government's side of this equation.

Moreover it's important to recognize that the Commission does not work alone in a vacuum. First and foremost, the Commission is an independent agency subject to the constraints imposed by the Act. And we work with congressional leaders to ensure that the FCC fulfills its homeland security responsibilities. We will also be working with our colleagues in the Administration – in the Office of Homeland Security, the Critical Infrastructure Protection Board, NTIA, the Department of Justice, the FBI, and the Departments of Defense, Energy and Transportation.

In addition, the Commission relies on the public safety community itself to inform our efforts and ensure that our decisions accurately reflect their priorities as well. In this regard, the Commission is particularly fortunate to have solid cooperative working relationships with the leaders of various associations representing the public safety community including APCO, NENA, NASNA, PSWN, and NPSTC. Their input is vital to the FCC's decision-making process.

We must reach out to industry as well – our rules must reflect the technical and market realities in the field – and we must develop policy goals that maximize public welfare based on those realities.

We do face some difficult policy issues in the coming months regarding homeland security. To help tackle these issues and to lend some uniformity and consistency to the decision making process, the Chairman has named his Chief of Staff, Marsha MacBride to lead the Commission's Homeland Security Initiative efforts. I applaud the Chairman on this fine choice – and look forward to working with Marsha and her team.

Although there are many issues to tackle in the homeland security arena, I thought it would be most appropriate to focus today on spectrum policy issues. As for other aspects of Homeland Security, including network reliability and Enhanced 911, be assured that the Commission is hard at work on these issues as well. But since I have limited time – I thought it best to focus on spectrum issues.

There are really two types of spectrum relevant to homeland security: First, spectrum dedicated to public safety and second, commercial spectrum used by critical personnel. We are likely to see activity on both sides of this coin – and both are important.

I. Public Safety Spectrum

With regard to public safety spectrum, I want to touch on three issues – (1) interference issues in the 800 MHz band, (2) the vital need for interoperability between users of public safety spectrum, and (3) the importance of a public safety allocation that will allow for broadband data applications.

A. 800 MHz

There are serious interference issues between public safety and commercial wireless operations in the 800 MHz bands. This is because, years ago, the Commission crafted a band

plan at 800 MHz that interspersed public safety wireless licensees, with private and commercial wireless operations – and then subsequently situated cellular licensees in adjacent bands. Although well intentioned and rational at the time, today it is not working well today – public safety operations are, at times, jeopardized by interference, particularly when operating in close proximity to commercial base stations. So we have a problem that needs to be solved. For almost two years, the Commission staff has been working with representatives from the public safety and CMRS communities to come up with solutions to the 800 MHz interference problem. Although the Task Force produced a "Best Practices Guide" to avoid interference – the group has also been looking for longer-term solutions. In addition, APCO has recently launched its Project 39 to explore possible solutions to these interference issues.

Most recently, Nextel, a wireless service provider, came forward with a proposal to address this dilemma. Nextel's proposal is a welcome one in that it starts the dialog on how best to move from where we are today– to where we need to be – an environment where public safety licensees are able to operate free from harmful interference. In this regard, it is my hope that the FCC can promptly generate an NPRM that looks at the interference issues at 800 and outlines various possible solutions. This is particularly important in that consolidation of public safety licensees in the 800 MHz band also offers the potential to expand on our ongoing efforts to create some national interoperability bands and provides additional spectrum for public safety. Although I support starting a proceeding that incorporates the evidence and options presented by Nextel, that is not to say that I fully endorse the Nextel proposal: Significant concerns have been raised about the idea of "compensatory" spectrum being provided from the 2 GHz MSS bands and I will need to look closely at the record regarding our approach to incumbent private wireless operators in the band (particularly that spectrum utilized by critical infrastructure licensees). But the bottom line is that the interference issues at 800 MHz need to be solved – and Nextel has, to its credit, offered one possible solution.

B. Interoperability

This brings me to a discussion on interoperability spectrum. Perhaps nothing is more important in times of cataclysmic events than the ability of various public safety entities to speak to one another. My chief of staff, Bryan Tramont, recently attended the Public Safety National Coordination Council meeting in New York that focused on the lessons learned from September 11. As an initial matter I want to thank, on behalf of the Commission and the American people, the NCC for their fine work in establishing a band plan for a new spectrum allocation that will promote interoperability. After the New York meeting, Bryan reported back to me that one of the most important lessons of September 11 is the critical need to continue to get interoperability spectrum into use as soon as possible. Although the heroes of September 11 made the system work – by cobbling together an effective communications infrastructure – they should not have to do that again.

The FCC has a vital mission to complete – to make available the congressionally mandated 24 MHz of public safety spectrum currently used by television licensees in the channel 60-69 band. Only one thing stands in the way of this spectrum being used by public safety: the incumbent broadcasters – who have a statutory right to remain in the band until 2006 or when HDTV achieves an 85% penetration level – whichever is later. Faced with this obstacle and

absent a statutory change, the Commission has limited alternatives available. What we have done is craft rules that facilitate private commercial transactions between commercial wireless providers (who will eventually occupy 30 MHz of this band) and the broadcasters. We hope these private deals will create incentives for the broadcasters to leave the band early. Public safety would benefit because the band is cleared of broadcasters at no cost to them. The wireless providers benefit because they can use the commercial allocation in this band sooner to provide their services. In addition, the broadcasters benefit because the additional financial resources should ease the costs of the digital transition. Although I understand the concerns raised about paying broadcasters to move, I continue to believe that based on our existing statutory authority and the limited options available a policy that promotes voluntary commercial transactions to clear this band is the best approach. We simply cannot further delay the availability of this spectrum for public safety.

I want to note one other important aspect of the so-called 60-69 band – its role internationally. The issues of interoperability are not limited to domestic operations. And global interoperability issues must be resolved in international forums – in this case, through the International Telecommunications Union. By gaining some global consistency in spectrum planning – manufacturers can gain the scale and scope necessary to provide innovative and lower cost communication technologies to public safety operators and the operators will be able to communicate with one another in times of crisis. The idea of globally identified public safety bands is on the agenda for the 2003 World Radio Conference in Caracas Venezuela. If the WRC is to designate international public safety bands, I believe it is essential that the 60-69 band be at least one of the ones identified. Manufacturers for American licensees will also benefit from the market scale and scope and thus develop and maintain equipment that performs at a high level. And finally, if a global allocation is approved, American public safety entities should be able to communicate with their international brethren on this band.

C. Broadband Applications

Now that I have discussed interference issues in the 800 MHz band and the importance of interoperability, let me speak very briefly about broadband data applications. Another important piece in the public safety dedicated spectrum puzzle is a spectrum allocation that would permit public safety entities to transmit broadband data – particularly at the emergency scene. I recently visited Motorola Headquarters in Schaumberg, Illinois and saw first hand the important potential applications of such a broadband solution. It allows for a staged, coordinated rescue effort that goes beyond what can be done today. There is a proposal to make 50 MHz available in the 4.9 GHz band for this purpose. In light of this very real need by fire, police, and rescue workers for such a capability, I strongly support making this allocation to public safety as soon as practicable.

II. Commercial Spectrum

Finally, in addition to spectrum dedicated to public safety users, we must also examine what the FCC should do to facilitate the use of commercial spectrum in times of crisis. Two issues have come to the fore in this area – priority access and ultrawideband applications.

A. Priority Access

First, in the area of priority access, we have two petitions (Verizon, Voicestream) pending regarding priority access to commercial networks – both seeking waivers of our existing priority access rules. As many of you know, priority access refers to a system whereby certain pre-designated "priority" users gain preferred access to a commercial wireless network in times of emergency. I certainly support a flexible approach to the pending waiver requests. However, to the extent the requests reflect a larger problem – that is, shortcomings in our rules, I believe we may need to take another look at those rules. These are difficult issues – how does priority access interact with E911? And what other spectrum management issues are implicated? We should not keep rules on the books if they don't make sense – and if we receive a constant flow of waiver requests that may indicate a need for changes. For now, I believe the carriers and the government users are still "feeling their way" in determining the best approach to priority access. The FCC should stand ready to facilitate such access once the nature of the need crystallizes.

B. Ultrawideband

Finally, ultrawideband. I think it is very important for the Commission to look at how new commercial technologies can be facilitated that may provide significant additional capabilities for the public safety community. In this regard, I am very interested in providing enhanced flexibility to public safety users of ultrawideband devices. This technology may well be able to save lives in the real world – for example, by tracking firefighters during a fire. However, significant concerns have been raised regarding potential interference to GPS systems by ultrawideband devices. But it is the FCC's responsibility to balance those concerns against the very real public interest benefits to public safety that could be derived from its use. The Commission is very close to a decision on the extremely complicated technical issues surrounding ultrawideband – and I look forward to that first step in getting this technology out into the marketplace.

Not surprisingly, there is no set of issues that are more significant at today's FCC than homeland security. Chairman Powell, my colleagues, and I are deeply committed to giving prompt well-informed policy responses to these difficult public policy questions. And although the questions are inherently complex, I think we all recognize that the stakes have never been higher - and our resolve stronger. I am very privileged to be playing a very small part in responding to the challenges we have encountered as a nation post September 11 and never have I been prouder to be a public servant.

With that I would be happy to take some questions.

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For more information on the speech above, or any of the Commissioner's past remarks, please email Bryan Tramont at btramont@fcc.gov.