

## SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

*Re: Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities; Universal Service Obligations of Broadband Providers, CC Docket No. 02-XXXX.*

I write separately to underscore the broad bases upon which I vigorously support adoption of this *Notice*.

### **Broadband Deployment is the Central Communications Policy Objective**

As we policymakers are all quick to acknowledge, broadband deployment is the central communications policy objective in America. There is a clear consensus forming around this view as evidenced by recent statements of TechNet, the outstanding report by the National Academy of Science, the Computer Systems Policy Project, and others.<sup>1</sup> Many of these commenters have been calling, in particular, for the Commission to provide regulatory certainty and clarity in the provision of broadband Internet access services by limiting unnecessary or unduly burdensome regulatory costs on service providers.

It is now time for fewer words and more action. With today's decision, among several others, we have stopped just talking about promoting broadband and started acting.

### **The Greatest Challenge in Promoting Broadband is Deciding How To Stimulate The Enormous Investment Required To Turn The Promise of Broadband Into Reality**

As we policymakers transform our words into action, we are faced with the grim reality that the government likely will not, and probably cannot, cover much of the hefty price tag associated with building out one or more broadband networks that can eventually serve all Americans. Thus, our greatest challenge in promoting broadband is deciding how best to stimulate enormous private sector investment. In order to overcome this challenge, we must:

- Limit the Risk and Uncertainty of Regulation
  - The FCC has stood back long enough, up until now making pronouncements in this area in piecemeal fashion. These decisions often lacked analysis of either the relevant statutory language or of the ways in which the 1996 Act requires or suggests that we diverge from

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<sup>1</sup> See, e.g., Computer Science and Telecommunications Board, National Research Council, *Broadband: Bringing Home the Bits* at 24-25, 167-177; Computer Systems Policy Project, *Building the Foundation of the Networked World*; TechNet, *A National Imperative: Universal Availability of Broadband by 2010*; Letter from Matthew J. Flanigan, President, Telecommunications Industry Association, to the Honorable George W. Bush, President of the United States of America, Oct. 4, 2001.

requirements adopted before 1996. We must now clarify the regulatory classification and treatment of these new services, so companies—incumbents and competitors alike—know what to expect and can make prudent decisions to build and enter these new markets.

- Lower the Cost of Infrastructure Investment
  - Because the capital for infrastructure investment will have to come primarily from the private sector, the FCC must try to minimize the cost of bringing broadband services to the public by minimizing regulatory costs. These regulatory costs can be just as significant a barrier to deployment as the challenge of raising capital in the dark of a recession.
  - Nearly every responsible group that has commented on broadband deployment has cited the need to remove regulatory barriers to deployment. More importantly, Congress squarely anticipated the need to do so, as revealed by section 706 of the Act. Section 706 implores the Commission to encourage and accelerate deployment by “removing barriers to infrastructure investment. . .”

### **For A National Commitment To Broadband Deployment To Bear Fruit, Many Others Will Have To Take Action, As Well**

As is often the case under the legal and policy framework governing regulation of communications and related industries, the FCC does not hold all the tools necessary to promote broadband deployment in its toolkit. There needs to be a clear and productive regulatory environment at the state and federal level. For example, companies providing wireline broadband Internet access will need fair access to rights of way. I commend NARUC for pushing for a dialogue on this with local municipalities. Broadband deployment will also require the nation’s governors to see this effort as a vital means of economic development. And it will require content and application developers to deliver on the technological promise that broadband capability makes possible.

### **For Its Part, The FCC Will Act**

We have put on the tracks the vehicles that will now allow us to answer the heretofore unanswered questions. We will clarify and simplify the regulatory framework for these promising services. In so doing, we will do our part to contribute to the nation’s collective effort to promote broadband deployment. Yes, our decisions will have far-reaching implications, but, as we are often reminded, so, too, will broadband have far-reaching implication.

This is *not* the time for timidity. The Commission for too long has cracked open the door, but frightened by the dark, slammed it shut again. The market is crying out for a new regulatory passageway, and consumers are frustrated as they continue their long

wait for policymakers' rhetoric and hoopla to shift into tangible actions that bring into being this promising new chapter in the history of communications and information.

The time now is for action. That is what this item represents, and what we will do.